



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE

# Impact of the regulatory framework for cannabis in New South Wales

## Final report



Report 66

June 2025

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Portfolio Committee No. 1 - Premier and Finance

# **Impact of the regulatory framework for cannabis in New South Wales**

Final report

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Impact of the regulatory framework for cannabis in New South Wales

"June 2025"

Chair: Hon Jeremy Buckingham MLC



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## Terms of reference

1. That Portfolio Committee No. 1 - Premier and Finance inquire into and report on the impact of the regulatory framework for cannabis in New South Wales, including:
  - (a) the historical development and implementation of the regulatory framework for cannabis
  - (b) the socioeconomic impact of the current regulatory framework for cannabis
  - (c) the historical, current and future financial cost of cannabis prohibition to the Government and the economy
  - (d) the impact of the current regulatory framework for cannabis on young people, the health system, personal health, employment, road safety, crime and the criminal justice system
  - (e) the impact of the regulatory framework for cannabis on Aboriginal, LGBTIQ+, regional, multicultural and lower socioeconomic communities
  - (f) alternative approaches to the regulatory framework for cannabis in other jurisdictions
  - (g) the provisions of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023, and
  - (h) any other related matters.
2. That the committee report by 20 June 2025.<sup>1</sup>

The terms of reference were self-referred by the committee on 20 March 2024.<sup>2</sup>

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<sup>1</sup> The original reporting date was 26 September 2024 (*Minutes*, NSW Legislative Council, 20 March 2024, p 1017) and was then extended to 21 November 2024 (*Minutes*, NSW Legislative Council, 8 August 2024, p 1393), and then to 8 April 2025 (*Minutes*, NSW Legislative Council, 18 September 2024, p 1495). The reporting date has been subsequently extended to 20 June 2025 (*Minutes*, NSW Legislative Council, 12 February 2025, p 1991).

<sup>2</sup> *Minutes*, NSW Legislative Council, 20 March 2024, p 1017.

## Committee details

### Committee members

<b>Hon Jeremy Buckingham MLC</b>	Legalise Cannabis Party	<i>Chair</i>
<b>Hon Robert Borsak MLC</b>	Shooters, Fishers and Farmers Party	<i>Deputy Chair</i>
<b>Ms Cate Faehrmann MLC*</b>	The Greens	
<b>Hon Dr Sarah Kaine MLC</b>	Australian Labor Party	
<b>Hon Stephen Lawrence MLC</b>	Australian Labor Party	
<b>Hon Natasha Maclaren-Jones MLC*</b>	Liberal Party	
<b>Hon Jacqui Munro MLC*</b>	Liberal Party	
<b>Hon Cameron Murphy*</b>	Australian Labor Party	
<b>Hon John Ruddick*</b>	Libertarian Party	

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- \* Ms Cate Faehrmann MLC is a participating member from 22 March 2024 for the duration of the inquiry.
- \* The Hon Natasha Maclaren-Jones MLC substituted for the Hon Damien Tudehope MLC from 28 March 2024 for the duration of the inquiry.
- \* The Hon Jacqui Munro MLC substituted for the Hon Chris Rath MLC from 27 March 2024 for the duration of the inquiry.
- \* The Hon John Ruddick MLC is a participating member from 25 March 2024 for the duration of the inquiry.
- \* The Hon Cameron Murphy MLC substituted for the Hon Bob Nanva MLC from 2 August 2024 for the duration of the inquiry.

### Secretariat

Kara McKee, Principal Council Officer

Alice Wood, Senior Council Officer

Reeti Pandharipande, Administration Officer

Alex Stedman, Director

## Chair's foreword

I am pleased to present the committee's final report into the impact of the regulatory framework for cannabis in New South Wales. This inquiry has been critical in shining a light on the harms of our current cannabis laws. It has highlighted that these laws are not achieving their purpose and must be changed.

In the first report, the committee made a number of findings and recommendations, urging the Government to consider a range of reforms as part of its Drug Summit. To date, there has been no Government response to this Drug Summit.

The findings and recommendations in the first report stand. These focussed on reform to criminal offences, police powers, sentencing and traffic laws for medicinal cannabis patients. They also suggested a trial of administrative non-enforcement of cannabis possession laws, and the introduction of an expiation scheme. These are clear and sensible reforms which would reduce the harms of cannabis regulations which continue to impact our community. I note that in this final report the committee has recommended that the Government immediately implement the depenalisation measures recommended in the first report.

The committee has built on the ideas, findings and recommendations of the first report. This final report delves into evidence about cannabis use and driving, public health issues, federal regulations and organised crime.

Looking at federal regulation, it has been suggested that importers of cannabis face less regulatory burden than local producers. This is unfair – our local medicinal cannabis industry must be supported. The committee has recommended reforms which seek to prioritise and incentivise local production.

Turning to cannabis use and driving, the committee found that the presence of cannabis in a person's system does not necessarily indicate that they are impaired. The continued criminalisation of people who drive unimpaired with cannabis in their system, particularly medicinal cannabis patients, is unacceptable.

The legalisation of medicinal cannabis in 2016 was a significant step forward in recognising the medical benefits of cannabis. However, the availability of medicinal cannabis has also led to 'non-medicinal' and 'mixed purpose' uses of cannabis. Unfortunately, one of the impacts of this is that a person's criminal status depends on whether they can afford a prescription. The continued criminalisation of cannabis is contributing to this inequitable and arbitrary distinction.

Having canvassed a number of issues with cannabis regulation throughout this inquiry, it is abundantly clear that law reform is needed. As a first step, the Government should remove the possibility of custodial sentences for possession of small quantities of cannabis. The majority of the committee consider the two-year maximum penalty for this offence to be draconian and out of touch with community standards. Building on this reform, the Government should decriminalise the use and possession of cannabis. Following assessment and review of decriminalisation, the Government should then consider reforms towards a safe, regulated legalised cannabis market.

Currently before the Upper House is the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023. This Bill proposes sensible reforms to make lawful low-level possession, gifting and cultivation of cannabis. The Government should prioritise this legislation.

New South Wales has a wealth of information from this inquiry, interjurisdictional examples, and extensive research developed over the years on effective models of cannabis regulation. The majority of committee members are persuaded that the Government should progress staged law reform process towards a legalised, regulated model for cannabis in New South Wales.

Hon Jeremy Buckingham MLC  
**Committee Chair**

## Recommendations

- Recommendation 1** **41**  
 That the NSW Government advocate to the Commonwealth Government to reduce the volume of imported medicinal cannabis products by prioritising and incentivising the supply of domestically cultivated and manufactured products, ensuring Australian patients have access to high-quality, locally produced cannabis medicines.
- Recommendation 2** **41**  
 That the Government establish targeted programs and industry supports - such as grants, regulatory streamlining, and access to clinical trial funding - to develop and expand the domestic medicinal cannabis sector, including cultivation, processing, and manufacturing operations.
- Recommendation 3** **42**  
 That the Government prioritise parliamentary debate and facilitate passage of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 as a key step towards evidence-based cannabis law reform in New South Wales.
- Recommendation 4** **43**  
 That the Government decriminalise personal use and possession of cannabis.
- Recommendation 5** **44**  
 That the Government, following an assessment and review of the impact of decriminalisation, further engage in a staged process of reform and review and consider legislating to legalise the use of cannabis by adults in a manner that eliminates the illicit market so far as is possible and creates a safe, regulated and accessible statewide market for legal cannabis.
- Recommendation 6** **44**  
 That the Government, in the period before these decriminalisation and legalisation reforms, immediately act to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, by amending section 10 of the *Drug (Misuse and Trafficking) Act 1985* (NSW), to provide that the maximum penalty for such possession is a fine, as is the case in Victoria pursuant to section 73(1)(a) of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic).
- Recommendation 7** **44**  
 That the Government should immediately consider implementing the depenalisation measures recommended in the first report of this committee.

## Findings

- Finding 1** 38  
That the presence of cannabis in a person's system does not necessarily indicate that a person is impaired.
- Finding 2** 40  
That the cost of clinical trials to support the registration of medicinal cannabis on the Australian Register of Therapeutic Goods is preventing the medicinal cannabis industry pursuing data to support registration.
- Finding 3** 42  
The current criminal regulation of cannabis is not achieving its ostensible purpose of reducing use, and noting evidence that decriminalisation in other jurisdictions has not led to a material increase in use, is causing significant harm, criminalising users and forcing them to access cannabis through an illicit market that fuels organised crime.
- Finding 4** 42  
That if cannabis is legalised in an overly burdensome way, with unnecessarily high taxation and regulation on cultivation, distribution and sale, it will be impossible to eradicate the illicit market and consequent harms will continue to be occasioned
- Finding 5** 43  
That the decriminalisation and legalisation of cannabis can be done in a way that does not materially increase cannabis related harms and reduces the significant harms associated with the current criminal regime.
- Finding 6** 43  
The committee found that Canada offers the most useful model for the legalisation of cannabis and the Government should closely assess what has occurred there and elsewhere, but ultimately craft a model suitable for New South Wales.
- Finding 7** 45  
Irrespective of the merits of decriminalisation and legalisation, it is absurd, draconian and antiquated that in New South Wales the maximum penalty for the possession of a small quantity of cannabis is two years imprisonment. This degree of criminalisation, which has persisted for many decades, is irrational and an affront to the community's sense of justice and can be remedied by the Parliament in a way consistent with the policy position of the Government.
- Finding 8** 45  
The widespread availability of medicinal cannabis in New South Wales is welcome, but is facilitating widespread 'non-medicinal' and 'mixed purpose' use of cannabis. This highlights the inequitable and arbitrary nature of the current criminalisation of cannabis, whereby the criminal status of a person now depends on their capacity to obtain a prescription from a doctor.

## Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 20 March 2024.

The committee received 360 submissions and six supplementary submissions.

The committee held five public hearings: four at Parliament House in Sydney and one in Goonellabah.

The committee also conducted a site visit to Cymra Life Sciences.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.



# Chapter 1 Background

The committee tabled its first report for this inquiry on 31 October 2024. This chapter provides a brief overview of the outcomes of the first report and the government's response to its recommendations. The chapter finishes by outlining topics where evidence was received following the first report. These topics are then considered in further detail later in this final report.

## Outcomes of the first report

- 1.1** Following three public hearings and a site visit, the committee tabled its first report on 31 October 2024. The first report set out the current regulatory framework for cannabis in New South Wales and considered its effectiveness. It also focussed on:
- public health considerations regarding cannabis use
  - social and economic implications of the current regulatory framework
  - workplace regulations and policies surrounding cannabis
  - regulation of medicinal cannabis
  - regulatory models for cannabis in other jurisdictions
  - the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023.<sup>3</sup>
- 1.2** The first report contained two recommendations and twelve findings. The recommendations called on the Government to consider, including as part of the 2024 Drug Summit, a range of reform to cannabis regulation. The first was an omnibus recommendation seeking reform across of variety of areas including:
- the offences of possession, supply and deemed supply of cannabis
  - police powers
  - sentencing
  - the Cannabis Cautioning Scheme
  - traffic offences for medicinal cannabis patients.<sup>4</sup>
- 1.3** This recommendation also suggested introduction of an expiation scheme for cannabis offences and a trial of administrative non-enforcement of cannabis possession laws.<sup>5</sup>

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<sup>3</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024).

<sup>4</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp ix-x.

<sup>5</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p ix.

- 1.4 The second recommendation called for an evaluation of the proposed reforms, contained in recommendation one, and for a whole of Government response to be provided Parliament within 12 months of these changes.<sup>6</sup>
- 1.5 The findings collectively addressed similar issues. They also considered medicinal cannabis regulation and accessibility, and the costs of the criminalisation of cannabis.<sup>7</sup>

### **The NSW Government's response to the first report**

- 1.6 The Government responded to the recommendations by agreeing that matters related to drug policy be considered in the context of the Drug Summit. The Government further said it would consider the issues in the first report and its recommendation as part of its response to the Drug Summit.<sup>8</sup> At the time of reporting, the Government has not released its response to the Drug Summit.

### **The focus for the final report**

- 1.7 Following the tabling of the first report, the committee held two subsequent hearings in December 2024 and April 2025. The purpose of these hearings was to hear from government agencies involved in the policy development, enforcement and regulation of cannabis, academics, a medicinal cannabis association and a cannabis advocate. Evidence from these hearings is considered in the following chapter, including:
- cannabis use and driving
  - cannabis and public health issues
  - federal regulation of cannabis
  - organised crime
  - the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023
  - Cannabis Cautioning Scheme – updated guidelines.
- 1.8 Throughout consideration of these topics, the report uses the terms 'THC' and 'CBD'. THC refers to delta-9-tetrahydrocannabinol which is a psychoactive cannabinoid found in some types of cannabis.<sup>9</sup> The psychoactive effects of THC vary depend on a number of factors, but may include feelings of relaxation and euphoria, increased sociability, increased appetite, and for larger amounts, memory impairment and slowed reflexes, increased heart rate and anxiety or

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<sup>6</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p ix.

<sup>7</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp xi-xii.

<sup>8</sup> Correspondence from Attorney General Michael Daley MP to the Clerk of the Parliaments, providing government response to the inquiry into the impact of the regulatory framework for cannabis in New South Wales first report, 11 February 2025.

<sup>9</sup> Alcohol and Drug Foundation, *What is cannabis?* (7 March 2025), <https://adf.org.au/drug-facts/cannabis/>.

paranoia.<sup>10</sup> CBD refers to the non-psychoactive cannabidiol.<sup>11</sup> CBD does not produce a 'high' or have an intoxicating effect.<sup>12</sup> It may be used for pain relief, reduced anxiety, treatment for some illnesses and possible improvement in sleep.<sup>13</sup> Throughout this report, cannabis and THC are used interchangeably, unless specified otherwise.

### *Cannabis use and driving*

- 1.9** A number of inquiry participants spoke about the relationship between the presence of THC in a person's system and impairment while driving.<sup>14</sup> This relationship was assessed through fatal crash statistics, various impairment measurements and the regulation of medicinal cannabis and other prescription medications.<sup>15</sup> Inquiry participants also outlined medicinal use of cannabis as a defence to traffic offences, and emerging research in relation to medicinal cannabis use and driving.<sup>16</sup>

### *Cannabis and public health issues*

- 1.10** The public health issues arising from cannabis use was considered throughout the inquiry. In particular, the committee heard about the relationship between the regulation of medicinal cannabis and health outcomes, telehealth prescriptions of medicinal cannabis and impacts on mental health of cannabis use.<sup>17</sup>

<sup>10</sup> Alcohol and Drug Foundation, *What is cannabis?* (7 March 2025), <https://adf.org.au/drug-facts/cannabis/>.

<sup>11</sup> Alcohol and Drug Foundation, *What is Cannabidiol (CBD)?* (6 June 2024), Alcohol and Drug Foundation, <https://adf.org.au/drug-facts/cannabidiol/>.

<sup>12</sup> Alcohol and Drug Foundation, *What is Cannabidiol (CBD)?* (6 June 2024), Alcohol and Drug Foundation, <https://adf.org.au/drug-facts/cannabidiol/>.

<sup>13</sup> Alcohol and Drug Foundation, *What is Cannabidiol (CBD)?* (6 June 2024), Alcohol and Drug Foundation, <https://adf.org.au/drug-facts/cannabidiol/>.

<sup>14</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 18; Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24; Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, pp 5-6; Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>15</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 2 April 2025, p 34; Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 28-29; Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 36.

<sup>16</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, pp 13-14; Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 27; 30-31.

<sup>17</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, pp 2-3; Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24; Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

### *Federal regulation of cannabis*

- 1.11 The committee heard from federal agencies about the regulation and oversight of medicinal cannabis. This included the licensing and permit processes for medicinal cannabis, quality oversight, approval of medicinal cannabis products and the role of international law.<sup>18</sup>

### *Organised crime*

- 1.12 Law enforcement agencies in New South Wales spoke about the role of organised crime networks in cannabis production and distribution.<sup>19</sup> The impacts of such organised criminal networks and the effects on organised crime of different models of cannabis regulation was also explored.<sup>20</sup>

### *The Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023*

- 1.13 The Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 seeks to make lawful cannabis possession, use, cultivation or gifting in some circumstances.<sup>21</sup> A number of inquiry participants expressed their support for the bill.<sup>22</sup> Stakeholders also advocated for decriminalisation measures relating to cannabis in New South Wales.<sup>23</sup>

### *Cannabis Cautioning Scheme – updated guidelines*

- 1.14 The Cannabis Cautioning Scheme guidelines for police were updated in April 2024.<sup>24</sup> The updates were raised by Karen Webb APM, Commissioner of Police.<sup>25</sup>

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<sup>18</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, pp 15-18; Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>19</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2; Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 46.

<sup>20</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2; Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, pp 46-48; Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 3; Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, pp 21-22.

<sup>21</sup> Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023.

<sup>22</sup> Evidence, Ms Liz Barrett, Research Officer, Drug Policy Modelling Program, Social Policy Research Centre, UNSW, 1 August 2024, p 23; Evidence, Ms Keelin O'Reilly, Research Officer, Drug Policy Modelling Program, Social Policy Research Centre, UNSW, 1 August 2024, p 24; Evidence, Mr Robert Taylor, Manager – Policy and Engagement, Alcohol and Drug Foundation, 1 August 2024, p 44.

<sup>23</sup> Submission 90, Legal Aid NSW, p 19; Submission 139, New South Wales Bar Association, p 5; Submission 102, NSW Council for Civil Liberties, p 3.

<sup>24</sup> NSW Police Force, 'Cannabis Cautioning Scheme Guidelines for Police – State Crime Command' (April 2024).

<sup>25</sup> Correspondence from Karen Webb APM, Commissioner of Police, to Chair, 1 May 2025.

## Committee comment

- 1.15** The purpose of the committee's first report was to examine the effectiveness of cannabis regulation in New South Wales. It did this through considering public health issues, social and financial factors, workplace policies and medicinal cannabis regulation. It also looked at regulatory models for cannabis in other jurisdictions, and the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023. After three public hearings and a site visit, the committee tabled its first report, containing two recommendations and twelve findings.
- 1.16** The committee notes that the Government responded to the first report by indicating it would consider the issues documented and its recommendations as part of their response to the Drug Summit. Given the Government has not yet released its response to the Drug Summit, the committee is not in a position to comment on the Government's intended approach to these matters.
- 1.17** Subsequent to the first report, two further public hearings were held. The committee heard from government agencies responsible for policy development, oversight, administration and enforcement of cannabis regulation. It also heard from academics, a medicinal cannabis association and a cannabis advocate. This chapter has briefly touched on the key policy topics discussed by these inquiry participants. These will be explored further in the next chapter.



## Chapter 2 Further public policy considerations

Public policy issues relating to medicinal and recreational cannabis are often complex and nuanced, as highlighted by the evidence received by this inquiry. This chapter begins by considering the relationship between THC and impairment in the context of driving. Next, it assesses public health factors relating to cannabis use. These include the impact of cannabis regulation on health outcomes, concerns with the use of telehealth prescriptions for medicinal cannabis, as well as cannabis use and mental illness. The chapter goes on to consider the federal regulation of cannabis, outlining the oversight and administration of the licensing and permit arrangements for medicinal cannabis, and the role of international law. It then discusses the role of organised crime in cannabis production and distribution. After this, it considers the the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023, including stakeholder views on the bill and decriminalisation. The chapter concludes by outlining updates to the Cannabis Cautioning Scheme.

### Cannabis use and driving

- 2.1** Cannabis can contain psychoactive and non-psychoactive cannabinoids.<sup>26</sup> Delta-9-tetrahydrocannabinol (THC) is generally the relevant cannabinoid when discussing cannabis use and driving as it is psychoactive.<sup>27</sup>
- 2.2** The two key traffic offences relating to cannabis use and driving are:
- driving with the presence of a prescribed illicit drug in a person's oral fluid, blood or urine<sup>28</sup>
  - driving under the influence of alcohol or any other drug.<sup>29</sup>
- 2.3** The offence of driving with the presence of a prescribed illicit drug in a person's oral fluid, blood or urine does not require a person to be impaired by THC, it only needs to be detected in their system.<sup>30</sup> Conversely, for the driving under the influence of alcohol or any other drug offence, a person must be impaired by cannabis (or alcohol or another drug) while driving.<sup>31</sup>
- 2.4** During the inquiry, concerns were raised regarding the regulation of cannabis use and driving. While some of these issues were considered in the first report,<sup>32</sup> further evidence was received

<sup>26</sup> Submission 93, Australian Industry Group (AiGroup), p 12; Alcohol and Drug Foundation, Cannabis (6 June 2024), Alcohol and Drug Foundation, <https://adf.org.au/drug-facts/cannabis/>.

<sup>27</sup> *Road Transport Act 2013*, ss 4, 111; Submission 93, Australian Industry Group (AiGroup), p 12; Alcohol and Drug Foundation, Cannabis (6 June 2024), Alcohol and Drug Foundation, <https://adf.org.au/drug-facts/cannabis/>.

<sup>28</sup> *Road Transport Act 2013*, s 111.

<sup>29</sup> *Road Transport Act 2013*, s 112. See also *Road Transport Act 2013*, s 111A, presence of both prescribed illicit drug in person's oral fluid, blood or urine and prescribed concentration of alcohol in person's breath or blood.

<sup>30</sup> *Road Transport Act 2013*, s 111.

<sup>31</sup> *Road Transport Act 2013*, s 112.

<sup>32</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 37-40.

about the relationship between the presence of THC in a person's system, and impairment of their driving. This is explored in greater detail below.

## **Impairment**

**2.5** During the inquiry various inquiry participants spoke to the complexity of the relationship between the presence of THC in a person's system and impairment while driving.<sup>33</sup> This complexity is explored through the following topics:

- the impact of cannabis on driving ability
- fatal crash statistics and the presence of cannabis in a person's system
- commentary on the relationship between the levels of cannabis in a person's system and impairment
- the regulation of other prescription medications compared with medicinal cannabis
- other options for measuring impairment
- medicinal use of cannabis as a defence or exemption to some driving offences
- emerging research.

### ***Impact of cannabis on driving ability***

**2.6** Inquiry participants generally agreed that THC use can impair driving ability.<sup>34</sup>

**2.7** Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW advised that research shows THC can impact driving skills.<sup>35</sup>

**2.8** Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney also commented on impairment from THC in the context of driving. She noted that the Lambert Initiative test impairment and crash risk through driving simulation tasks, which indicate cannabis can impact driving.<sup>36</sup>

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<sup>33</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 11 December 2024, p 11; Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 18; Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24; Evidence, Dr Santiago Vazquez, Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service, 2 April 2025, p 5; Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, pp 5-6; Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>34</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 11 December 2024, p 11; Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>35</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 11 December 2024, p 11.

<sup>36</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

*Fatal crash statistics and the presence of cannabis in a person's system*

- 2.9** Transport for NSW provided statistics on the presence of THC in a person's system in fatal crash data. Medicinal cannabis and recreational cannabis are not distinguished in the crash data.<sup>37</sup>
- 2.10** Transport for NSW stated that eight per cent of fatal crashes between 2019 to 2023 involved a driver or rider with the presence of THC in their system. These drivers or riders had no illegal levels of alcohol or other illicit drugs in their system.<sup>38</sup> These statistics include any driver or rider involved in a fatal crash, and do not distinguish between those at fault and those not at fault for a crash.<sup>39</sup>
- 2.11** Dr McCartney from the Lambert Initiative commented on fatal crash statistics involving drivers and riders who had the presence of THC in their system, stating that they do not 'say a lot about the causative role of THC in the accident'.<sup>40</sup> As an example of this, Dr McCartney noted that 'young males are more likely to be in traffic accidents and they're also more likely to use cannabis ... in order to separate those two things, you need more information than the percentage of people in a road accident that have cannabis in their blood'.<sup>41</sup>
- 2.12** In relation to fault, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW explained that fault is established through police investigation, charges and the court process.<sup>42</sup> However, Transport for NSW do 'identify a key vehicle in a crash ... generally the vehicle that initiates the movement that results in a crash'.<sup>43</sup> Ms Higgins-Whitton confirmed that the key vehicle driver is 'not a direct indicator of fault, but it's a good proxy'.<sup>44</sup>
- 2.13** The committee heard evidence about the key vehicle in a crash, including the prevalence of convictions for the prescribed illicit drug in oral fluid, blood or urine offence, compared with other driving offences.<sup>45</sup> Ms Higgins-Whitton explained that 'the drug presence offences represent a small proportion of the offences following a fatal crash'.<sup>46</sup> She continued by noting

<sup>37</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 14.

<sup>38</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 2 April 2025, p 34.

<sup>39</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 11 December 2024, p 18; Evidence, Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 39.

<sup>40</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 25.

<sup>41</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 26.

<sup>42</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 39.

<sup>43</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 39.

<sup>44</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 39.

<sup>45</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, pp 39-40.

<sup>46</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 40.

that these offences are 'typically in combination with another serious offence and involve the key vehicle controller'.<sup>47</sup>

***Commentary on the relationship between the levels of cannabis in a person's system and impairment***

- 2.14** Inquiry participants generally agreed that there is no consensus on a level of THC that correlates with impairment.<sup>48</sup>
- 2.15** Mr Carlon from the Centre for Road and Maritime Safety confirmed that 'there's no scientific consensus on an acceptable THC level in blood that indicates a degree of impairment, being crash risk, as there is for alcohol'.<sup>49</sup> Further to this, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW recognised that '[w]e don't have that piece of evidence showing that, as the volume of THC in oral fluid goes up, it's directly linked back to an escalation in crash risk'.<sup>50</sup>
- 2.16** Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association (AMCA), similarly stated that '[t]here's no accepted quantitation of how much THC will actually cause impairment'.<sup>51</sup>
- 2.17** NSW Health also commented on the relationship between THC presence and impairment. Dr Santiago Vazquez, Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service, acknowledged that it is 'difficult from a lab perspective to determine whether someone's impaired or not ... we don't really comment as a lab on the level of impairment'.<sup>52</sup>
- 2.18** Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission claimed that they 'do have a reasonable understanding of the relationship between how much is in the blood and how the brain is affected'.<sup>53</sup> However, Professor Martin outlined how this relationship can become complex:

[S]hort-term use versus long-term use can actually affect that relationship ... because the drug distributes round all of the fat in the body ... [and] if you have used it long term, that relationship actually becomes less clear.<sup>54</sup>

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<sup>47</sup> Evidence, Ms Louise Higgins, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 40.

<sup>48</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 18; Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24; Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>49</sup> Evidence, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW, 11 December 2024, p 11.

<sup>50</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 18.

<sup>51</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24.

<sup>52</sup> Evidence, Dr Santiago Vazquez, Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service, 2 April 2025, p 5.

<sup>53</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 5.

<sup>54</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, pp 5-6.

**2.19** Dr McCartney argued that 'there's not a particularly good relationship between THC concentrations in blood, oral fluids and metabolites in urine, and impairment'.<sup>55</sup> She continued by explaining that the Lambert Initiative 'looked at the correlations – comparing the concentrations to the degree of impairment observed – and found not a lot present'.<sup>56</sup> Dr McCartney concluded by noting that 'low concentrations of THC can persist in blood for extended periods of time after cannabis use, and we know that at that point in time impairment has resolved'.<sup>57</sup>

**2.20** However, where there is a fatal crash and there is presence of alcohol or other drugs in a person's system, there is an analysis of whether that presence indicates impairment for criminal law proceedings.<sup>58</sup> To make this determination, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, explained that, 'the blood sample is analysed at ... NSW FASS health lab' and 'the results of that analysis go through to a pharmacologist at New South Wales police for consideration of whether any charges should be laid'.<sup>59</sup>

***Regulation of other prescription medications compared with medicinal cannabis***

**2.21** In the context of traffic offences, the committee heard that medicinal cannabis is regulated differently to other prescription medications. This is explored by considering:

- the regulatory framework for medicinal cannabis compared with other prescription medications for traffic offences
- crash risk and impairment of other prescription medications.

**2.22** For the offence of driving with the presence of a prescribed illicit drug in a person's oral fluid, blood or urine, 'prescribed illicit drug' includes THC, methylamphetamine, ecstasy and cocaine.<sup>60</sup> Currently, there is no distinction between recreational THC and prescribed medicinal THC.<sup>61</sup>

**2.23** However, other prescription medications are not routinely tested in roadside drug testing.<sup>62</sup> According to the National Drug Strategy Household Survey 2022-2023, 2.2 per cent of people

<sup>55</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>56</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>57</sup> Evidence, Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney, 11 December 2024, p 23.

<sup>58</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 38.

<sup>59</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 38.

<sup>60</sup> *Road Transport Act 2013*, ss 4, 111.

<sup>61</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, pp 44-45.

<sup>62</sup> *Road Transport Act 2013*, ss 4, 111.

have illegally used pain relievers and opioids.<sup>63</sup> Illicit use of such drugs refers to using the drug for recreational purposes, or in a way that was not prescribed or recommended.<sup>64</sup>

**2.24** For the driving under the influence of alcohol or any other drug offence, a person must be impaired by alcohol or another drug (including prescription medications) while driving.<sup>65</sup> Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, noted that misused prescription medications, such as opiates or benzodiazepines, 'can be enforced at the roadside where a driver is deemed to be under the influence under our current laws'.<sup>66</sup>

**2.25** There was also evidence received about the crash risk of other prescription and non-prescription medications.

**2.26** Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology compared the crash risk from cannabis with other medications. Dr Arkell claimed that antidepressants and antihistamines have a similar crash risk to cannabis,<sup>67</sup> and explained the effects of other common medications on driving:

Common over-the-counter things like Phenergan, which is promethazine, and diphenhydramine, which is Benadryl—very common things that people might use for allergies or for short-term sedation—do have a very similar crash risk to what we see with cannabis. These numbers aren't perfect; they're estimates based on studies that are often done in certain parts of the world.<sup>68</sup>

**2.27** Ms Higgins-Whitton raised that there are 'repeated research studies [which] have found that there are elevated risks associated with misusing opiates, with misusing benzodiazepines and with mixing those substances, particularly with alcohol'.<sup>69</sup> Ms Higgins-Whitton continued by claiming that this 'definitely elevates the risk of a crash or of a driver being culpable in the event of a crash, so there are certainly risks associated with those drugs'.<sup>70</sup>

**2.28** In relation to crash statistics reporting, Ms Higgins-Whitton advised 'we currently haven't looked in depth in terms of aggregating the impact and the prevalence of, say, benzodiazepines

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<sup>63</sup> Australian Institute of Health and Welfare, *National Drug Strategy Household Survey 2022-2023* (29 February 2024), Australian Institute of Health and Welfare, <https://www.aihw.gov.au/reports/illicit-use-of-drugs/non-medical-pain-relievers-opioids>.

<sup>64</sup> Australian Institute of Health and Welfare, *National Drug Strategy Household Survey 2022-2023* (29 February 2024), Australian Institute of Health and Welfare, <https://www.aihw.gov.au/reports/illicit-use-of-drugs/non-medical-pain-relievers-opioids>.

<sup>65</sup> *Road Transport Act 2013*, s 112.

<sup>66</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 36.

<sup>67</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, p 29.

<sup>68</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, p 29.

<sup>69</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 36.

<sup>70</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 36.

in our trauma as well as opiates'.<sup>71</sup> She further noted '[i]t's an area that we've identified as needing further work, because raw data does sit there and there is a need for us to do further analysis of that piece'.<sup>72</sup>

**2.29** However, Transport for NSW provided some data on the prevalence of benzodiazepines and opioids found in a person's system following a fatal crash. Between 2019 to 2023, 349 motor vehicle controllers (MVCs) involved in fatal crashes had an illicit drug present, in comparison to 572 who had 'other drugs' present.<sup>73</sup> In this 'other drug' category, nine per cent of MVCs had benzodiazepines present, and six per cent had opioids present.<sup>74</sup> This means 15 per cent of MVCs had benzodiazepines or opioids present.<sup>75</sup> This compares with 12 per cent of MVCs with THC present.<sup>76</sup> Of those with benzodiazepines present:

- 18 per cent had illegal levels of alcohol
- 41 per cent had illicit drugs present
- 49 per cent had no other illicit drug or illegal levels of alcohol.<sup>77</sup>

**2.30** For those with opioids present:

- 8 per cent had illegal levels of alcohol
- 33 per cent had illicit drugs present
- 62 per cent had no other illicit drug or illegal levels of alcohol present.<sup>78</sup>

**2.31** Transport for NSW clarified that detailed analysis of this data is difficult, as it is unclear whether a drug has been prescribed or illicitly consumed, or taken at a therapeutic level or misused. Some

<sup>71</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 37.

<sup>72</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 37.

<sup>73</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 5.

<sup>74</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 6.

<sup>75</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 6.

<sup>76</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 6.

<sup>77</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 6.

<sup>78</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 6.

of these drugs may also be administered post-crash and be caught up in the data.<sup>79</sup> They also clarified that this data may not be complete, and that robust categorisation would need to be undertaken by a pharmacologist before any proper analysis could be undertaken.<sup>80</sup>

**2.32** Looking at reform in this space, Ms Higgins-Whitton outlined that Transport for NSW is considering a framework for this data which may justify a different approach to prescription medications and driving:

We are looking at providing a framework for looking at those drug classes that would enable us to then better understand the extent to which opioids and benzos are actually contributing to the trauma problem, which may then justify some reform in that space in a different approach other than the DUI approach, which has applied for a long time.<sup>81</sup>

### *Other options for measuring impairment*

**2.33** The committee heard evidence about other options to assess impairment from THC or other drugs while driving.

**2.34** Transport for NSW explained the sobriety assessment used in Colorado.<sup>82</sup> There are different levels of testing procedures where police can be trained, with the following framework in place since 2009:

- Standardised Field Sobriety Assessment (SFST) – physical signs and symptoms assessment, all police are trained to conduct this
- Advanced Roadside Impaired Driving Enforcement (ARIDE) – looking at pupil eye function, walking tests, Romberg test, lack of eye convergence and other physical signs, about 40 per cent police officers are trained to conduct this
- Drug Recognition Expert (DRE) – a twelve step procedure to assess drug impairment undertaken after a failed SFST, only 1 per cent of police are trained to conduct this.<sup>83</sup>

**2.35** Transport for NSW commented specifically on the efficacy of DREs, claiming that '[a]lthough DREs can generally identify the presence of a drug, assessing impairment is somewhat limited'.<sup>84</sup>

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<sup>79</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 5.

<sup>80</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 May 2025, p 5.

<sup>81</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 2 April 2025, p 37.

<sup>82</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, pp 15-16.

<sup>83</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 15 January 2025, p 5.

<sup>84</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 15 January 2025, p 6.

Other limitations include availability, expense, onerous training for police and the requirement for blood or urine samples to support the DRE assessment.<sup>85</sup>

**2.36** In relation to impairment tests more generally, Ms Higgins-Whitton raised that while there are tests available, 'they are complex and they do vary from jurisdiction to jurisdiction'.<sup>86</sup> She continued by adding that '[t]here are some challenges with them, in terms of picking up more subtle signs of impairment ...'.<sup>87</sup>

**2.37** Dr Arkell from Swinburne University of Technology outlined a situation where oral fluid screening devices could be used in conjunction with impairment assessments. Dr Arkell suggested that oral fluid devices could be useful as confirmation of impairment by cannabis after other evidence of impairment, such as erratic driving:

It [impairment testing] would probably be used in a much more targeted way and probably in conjunction with oral fluid screening. I don't think that that's a bad route to go down, to have those two things together .... If there was evidence that someone was driving erratically, they'd be pulled over—and impairment assessment showed that there were grounds for that. You then may use oral fluid testing as a way to say, "Okay, that's most likely due to cannabis." To me, that's actually quite a sensible use of the device. I think those two things could work in tandem. But that is appropriate for targeted traffic stops, not for random mass roadside screening obviously.<sup>88</sup>

**2.38** Dr Nicoletti from the AMCA argued that the approach for managing impairment of other prescription medications should be replicated for medicinal cannabis:

There are many drugs that could be potentially impairing. In relation to those drugs, other than morphine under our State legislation, for which there is an excuse if someone has a medical prescription, there are many other drugs—not just morphine but other opioids, benzodiazepines and some of the antipsychotics—which are quite impairing. Those drugs contain information in their product information or consumer medicines information that states that a patient should not be driving or should take caution when driving or operating machinery. But there are no prohibitions, as such. I can't see why the same cannot be held for medicinal cannabis.<sup>89</sup>

### *Medicinal use of cannabis as a defence or exemption to some driving offences*

**2.39** In its first report, the committee noted that medicinal cannabis patients are not exempt from the offence of driving with the presence of a prescribed illicit drug in a person's oral fluid, blood

<sup>85</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 15 January 2025, p 6.

<sup>86</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 15.

<sup>87</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 15.

<sup>88</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 28-29.

<sup>89</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 May 2025, p 21.

or urine, if cannabis is found in their system while driving.<sup>90</sup> The committee included in its omnibus recommendation that "the NSW Government considers, including as part of the Drug Summit, the following law reform measures: ... a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis such as is legislated for in Tasmania but ensuring that the mixing of cannabis and alcohol is the express subject of an aggravating factor of the relevant criminal offence".<sup>91</sup>

- 2.40** The committee also found that "people who drive unimpaired after consuming medicinal cannabis are unfairly criminalised and legislative reform that does not jeopardise road safety should be considered".<sup>92</sup>
- 2.41** Subsequent to this report, the committee heard further evidence about medicinal cannabis use defences to driving offences.
- 2.42** Ms Higgins-Whitton from Transport for NSW commented on the challenges of determining the difference between therapeutic and illegal cannabis use in this context. She noted that the THC in therapeutic products and in illegal cannabis is the same substance.<sup>93</sup> Therefore, '[o]ne of the challenges for any defence is being able to understand that the person has taken their substance as it has been prescribed and in the way that is being prescribed by the doctor'.<sup>94</sup> She said that oral fluid samples on the roadside cannot make that determination.<sup>95</sup>
- 2.43** Ms Higgins-Whitton also raised that in Tasmania, a charge isn't progressed if a person can provide a prescription. Therefore, '[t]here isn't any validation in Tasmania that the drug has been taken in accordance with the prescription'.<sup>96</sup>
- 2.44** Transport for NSW provided some information about whether there have been adverse road safety outcomes when jurisdictions have legalised driving with medicinal cannabis in a person's system. Transport for NSW stated there is not strong evidence in currently published research of causal associations between negative overall road safety (crash) outcomes and the legalisation of medically prescribed cannabis only.<sup>97</sup>

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<sup>90</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 38-39.

<sup>91</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p x.

<sup>92</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p xi.

<sup>93</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 13.

<sup>94</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 13.

<sup>95</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, p 13.

<sup>96</sup> Evidence, Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 11 December 2024, pp 13-14.

<sup>97</sup> Answers to questions on notice, Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW and Ms Louise Higgins-Whitton, Director Road Safety Policy, Transport for NSW, 15 January 2025, p 3.

- 2.45** Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology raised that there is limited association between introducing medical cannabis laws and crashes, however noted such statistics can take time to emerge:

There doesn't seem to be any association between the introduction of medical cannabis laws and the number of people being involved in crashes or fatally injured in crashes. I will say that these statistics can take a long time to emerge. I'm not sure that we have a great picture of this yet. It's relatively new in Canada. Certainly, in some US states it has been around for a while, but it takes quite a while before trends begin to—you often, for example, see an artificial spike in the first couple of years. That may be accompanied by changes in law enforcement efforts. But, over time, that starts to settle down and you start to get, I suppose, a better sense of whether there is any relationship between the two things. But it certainly looks like medical cannabis laws in and of themselves have absolutely no impact on road safety.<sup>98</sup>

### *Emerging research*

- 2.46** Dr Arkell outlined a study into medicinal cannabis patients and impairment being conducted by Swinburne University.<sup>99</sup>
- 2.47** Dr Arkell explained that the testing process will involve medicinal cannabis patients driving before using their medicinal cannabis, then at two different time points after taking their prescribed dose.<sup>100</sup> There are two driving tracks being utilised, one to measure highway driving performance, and one to measure urban driving performance.<sup>101</sup> Dr Arkell explained the benefits of using these two tracks:

Between those two tracks, what we're trying to do is get a sense of the different kinds of situations in which people may be driving and really better understand whether there is any change in driving performance at all when we compare someone before to after they've used their prescribed cannabinoid medication.<sup>102</sup>

- 2.48** Research vehicles will track at a granular level how a driver is operating, including 'everything about the engine state, whether the indicators are on, speed in real time, braking force; basically everything you could imagine that you could possibly suck out of car we are getting', Dr Arkell explained.<sup>103</sup>

<sup>98</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, p 27.

<sup>99</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 30-31.

<sup>100</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 30-31.

<sup>101</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 30-31.

<sup>102</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 30-31.

<sup>103</sup> Evidence, Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology, 11 December 2024, pp 30-31.

## Cannabis and public health issues

**2.49** In its first report, the committee considered evidence about public health and cannabis use.<sup>104</sup> Subsequent to this report, inquiry participants continued to explore this issue. The following topics are considered in this section:

- the relationship between the regulation of medicinal cannabis products and health outcomes
- issues with medicinal cannabis prescriptions obtained through telehealth
- cannabis use and mental illness.

### **Relationship between the regulation of medicinal cannabis products and health outcomes**

**2.50** Inquiry participants raised that the regulatory environment for medicinal cannabis can create some challenges for the health sector. In this context, the following topics are considered:

- medicinal cannabis products and the Australian Register of Therapeutic Goods (ARTG)
- availability of high potency delta-9-tetrahydrocannabinol (THC) products
- challenges to obtaining ARTG registration
- advertising laws and impacts on accessibility of medicinal cannabis.

**2.51** The Therapeutic Goods Administration (TGA) explained that most of the hundreds of medicinal cannabis products available in Australia are considered unregistered or unapproved products.<sup>105</sup> The TGA approves practitioners to prescribe medicinal cannabis products, rather than the products themselves.<sup>106</sup>

**2.52** As noted by Dr Nicoletti, Chair of the Australian Medicinal Cannabis Association (AMCA), the TGA also requires suppliers of medicinal cannabis to comply with Therapeutic Goods Order 93 (TGO 93).<sup>107</sup>

**2.53** Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission explained that approved TGO 93 products comply with 'a very baseline set of conditions, such as how much of the heavy metals would be able to be tolerated in a human ... how much pesticide or microbe on the plant is tolerated'.<sup>108</sup>

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<sup>104</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 21-35.

<sup>105</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>106</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>107</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>108</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 2.

- 2.54** This can be compared with those listed on the Australian Register of Therapeutic Goods.<sup>109</sup> At this stage, there are only two medicinal cannabis products on the ARTG – Epidiolex and Sativex, which are used for 'either a rare form of paediatric epilepsy or for spasms in multiple sclerosis', explained Professor Langham.<sup>110</sup>
- 2.55** From a health perspective, Professor Martin commented that products on the ARTG are preferable, as 'our regulator has ensured ... proper manufacturing work [has been] done'.<sup>111</sup> In addition, they 'have safety data not just for a population, but across all the populations that are likely to be using the drug'.<sup>112</sup> Finally, Professor Martin said that '[t]hey also have efficacy data, particularly information on doses and different responses'.<sup>113</sup>
- 2.56** Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, commented on the outcomes of the availability of high-potency THC, suggesting that people with 'high potency ones [cannabis plants] tend to use a lot less than the people with weak cannabis'.<sup>114</sup> He compared this with alcohol, noting that 'people titrate their dose according to the strength of the product'.<sup>115</sup> Specifically, he referred to a medico-legal study in Canada around the transportation industry, which found that 'people don't use high-THC products the way they use low-THC products'.<sup>116</sup>
- 2.57** Professor McGregor acknowledged that this is not relevant for vulnerable populations, noting that 'young populations or people who are determined to get intoxicated ... you obviously have concerns that people are vaporising 80 per cent THC fluid, and they're going to get very, very intoxicated on that'.<sup>117</sup> However he concluded by suggesting that 'most experienced cannabis uses are quite exquisite judges of the doses that they prefer and act accordingly'.<sup>118</sup>
- 2.58** Regarding the registration process for the ARTG, Dr Nicoletti of the AMCA, outlined that 'the dossiers that are required to be submitted need to establish quality, safety and efficacy'.<sup>119</sup> Dr

<sup>109</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>110</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>111</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 3.

<sup>112</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 3.

<sup>113</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 3.

<sup>114</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>115</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>116</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, pp 23-24.

<sup>117</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>118</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>119</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 26.

Nicoletti continued by explaining the challenges and barriers of these requirements for the medicinal cannabis industry to obtain ARTG registration:

Quality can be established. That includes the manufacturing process and the demonstration of quality through a range of production batches. It is the safety and efficacy that is the problem. The only way to establish safety and efficacy sufficiently to support registration is through clinical trials. Clinical trials are very expensive. We are talking millions of dollars to generate the data required to support registration. That is the main barrier to the medicinal cannabis industry investing in generating data to support registration. If you are a company operating in this sector and the Government has created a regulatory framework that allows commercial supply—de-facto commercial supply, even though it's through the Special Access Scheme or the Authorised Prescriber Scheme—why would you then invest in generating clinical trials? They can effectively continue to supply the product to hundreds of thousands of patients.<sup>120</sup>

- 2.59** Mr Alec Zammit, Cannabis Advocate, commented on the impacts of advertising restrictions for medicinal cannabis. Mr Zammit argued that '[b]ecause of such poor and such strict advertising restrictions placed upon the medical industry, they can't advertise to people that are already consuming black market cannabis...'.<sup>121</sup> He said that he has met '...a lot of black market consumers who didn't know that medicinal cannabis was available to them'.<sup>122</sup> While some are still restricted by cost, he claims that others 'once they find out it's available to them, head on and do it the right way and go through the proper process and obtain it that way'.<sup>123</sup>

### **Issues with medicinal cannabis prescriptions obtained through telehealth**

- 2.60** In its first report, the committee briefly considered issues and benefits of obtaining medicinal cannabis prescriptions through telehealth.<sup>124</sup> This issue was raised again by inquiry participants after the first report.
- 2.61** Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health argued that most medicinal cannabis is prescribed through telehealth clinics:

[S]ince medicinal cannabis could become available, from 2017 onwards, there has been the growth of third-party telehealth clinics springing up all over Australia, and the reality is that a lot of this medicinal cannabis is actually being prescribed via this telehealth model'.<sup>125</sup>

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<sup>120</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 26.

<sup>121</sup> Evidence, Mr Alec Zammit, Cannabis Advocate, 2 April 2025, p 30.

<sup>122</sup> Evidence, Mr Alec Zammit, Cannabis Advocate, 2 April 2025, p 31.

<sup>123</sup> Evidence, Mr Alec Zammit, Cannabis Advocate, 2 April 2025, p 31.

<sup>124</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 28-29, 31.

<sup>125</sup> Evidence, Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health, 2 April 2025, p 4.

- 2.62** Mr Battye claimed that '[t]hose clinics are set up not to provide whole-of-health care for the patient but to supply one product only ...'.<sup>126</sup>
- 2.63** NSW Health argued that this can raise safety issues. Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission commented that 'some of the safety that we have around the use of drugs, generally, we don't necessarily have for the cannabis products'. This is because it may be prescribed by doctors other than the patient's usual doctor, 'who may not be interacting with that patient's mental health team, [or] with the other doctors that the patient sees for their other conditions'.<sup>127</sup>
- 2.64** Professor Martin further explained the issues with medicinal cannabis being prescribed by practitioners other than a person's general practitioner:
- [T]he GP is the font of all knowledge in terms of knowing what the patient has, what's happened to them in the past and the other drugs that they're on. So whenever that doctor will start a medication, they'll be checking for interactions and asking the patient to drop the dose of another therapy, for example. Following on, again, from that, the toxicity of drugs is often well known by a patient's GP, so they'll know that, when they've used something in the past that hasn't worked, they won't use it again. Once you break that communication up, and that model of care, then you lose that safety check for patients.<sup>128</sup>
- 2.65** Professor Martin also commented on drug interactions with medicinal cannabis and other medications. She raised that a significant proportion of medicinal cannabis is prescribed for people with chronic pain and anxiety.<sup>129</sup> This means that people are often co-prescribed a number of other drugs like opioids, antidepressants and other therapies.<sup>130</sup>

### **Cannabis use and mental illness**

- 2.66** In its first report, the committee heard evidence about cannabis use and mental illness.<sup>131</sup> Subsequent to this report, further evidence was received about whether there are increasing links between medicinal cannabis use and mental illness.
- 2.67** NSW Health referred to the Royal Australian and New Zealand College of Psychiatrists submission, which referenced a large cohort study from the United States which found there was no statistically significant difference in the rates of psychosis-related diagnoses or prescribed

<sup>126</sup> Evidence, Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health, 2 April 2025, p 4.

<sup>127</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 2.

<sup>128</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 9.

<sup>129</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 2.

<sup>130</sup> Evidence, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, 2 April 2025, p 2.

<sup>131</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 24-26.

antipsychotics in states with medical or recreational cannabis policies compared to states without such policies.<sup>132</sup>

**2.68** Dr Teresa Nicoletti, Chair of the AMCA claims that the 'information that we've [AMCA] obtained is that there doesn't seem to be any evidence of additional cases coming to emergency departments that relate to psychosis or other adverse effects of cannabis'.<sup>133</sup> However, she raised that 'the AMA recently implored the Government to consider restrictions on medicinal cannabis use on the basis that patients were presenting to emergency departments with a range of concerns, such as psychosis'.<sup>134</sup> However, '[o]ne thing we have asked for repeatedly is evidence that this is happening'.<sup>135</sup>

**2.69** Dr Nicoletti also said that there can be issues with establishing a causal relationship between medicinal cannabis use and mental health presentations based on emergency department presentations:

[W]e don't have any evidence as to whether their psychosis was causally related to medicinal cannabis—that is, was cannabis the only medication they were taking? That would tend to support a causal relationship. Were they taking multiple other medications such as morphine, oxycodone or benzodiazepines? We don't have that information either. AMCA has asked for this information and AMCA would welcome the opportunity to work with the AMA [Australian Medical Association] and any other representative bodies if there is actual evidence that this is occurring. We would be the first to step in line and say, "How do we address it?"<sup>136</sup>

**2.70** Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney commented on the relationship between mental illness and cannabis use. He noted that 'people who have schizophrenia who use cannabis often get great relief from their anxiety and their symptoms as a result of their cannabis use'.<sup>137</sup> Therefore, '[t]here's a strong statistical association between cannabis use and psychosis as a result of that self-medication'.<sup>138</sup>

**2.71** Further, Professor McGregor raised that the odds of psychosis of someone who's THC positive are probably doubled.<sup>139</sup> However, 'the literature at the moment, despite many very interesting

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<sup>132</sup> Answers to questions on notice, Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission, Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health and Dr Santiago Vazquez, Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service, 29 April 2025, p 1, referencing Submission 296, The Royal Australian and New Zealand College of Psychiatrists (RANZCP), p 7.

<sup>133</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>134</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>135</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>136</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 24.

<sup>137</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

<sup>138</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

<sup>139</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

large-scale, expensive studies, is still a little bit unsure about the causality versus self-medication hypotheses'.<sup>140</sup>

**2.72** Professor McGregor continued, outlining studies that show cannabidiol (CBD) may be an effective treatment for some mental illness:

... CBD is now emerging as a very interesting new treatment for psychosis. We're involved in ... two trials ... where very high doses of CBD seem to be able to put a break on psychotic symptoms. The study in Brisbane is with the very worst cases of schizophrenia—what they call clozapine-resistant schizophrenia—where basically all existing prescription drugs have failed. There seem to be some very promising results with very high doses of CBD in that population. So some cannabinoids may actually be very beneficial for schizophrenia.<sup>141</sup>

## Federal regulation of cannabis

**2.73** In its first report the committee examined the effectiveness of the regulation of medicinal cannabis in New South Wales. It considered the regulation of imported versus domestic products, quality control requirements and accessibility of medicinal cannabis products.<sup>142</sup> It also outlined evidence about the regulation of cannabis as a human rights issue and considered relevant international law frameworks.<sup>143</sup>

**2.74** Subsequent to this report, the committee heard about the federal regulatory regime for medicinal cannabis from the Office of Drug Control (ODC) and the Therapeutic Goods Administration (TGA). This section explores this regime through the following topics:

- the respective roles of the ODC and the TGA
- cultivation, production, manufacture and supply of medicinal cannabis
- oversight of medicinal cannabis quality
- approval of medicinal cannabis products
- international law and different models of cannabis regulation.

### Office of Drug Control

**2.75** Australia is a signatory to the Single Convention on Narcotic Drugs 1961 (Single Convention). Ms Edwina Vandine, Assistant Secretary, ODC, outlined that the ODC is the 'national competent authority' in line with this convention.<sup>144</sup> The Single Convention, and related

<sup>140</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

<sup>141</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 21.

<sup>142</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 60.

<sup>143</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 53-54.

<sup>144</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 13.

conventions, are overseen by the United Nations Commission on Narcotic Drugs.<sup>145</sup> The International Narcotics Control Board (INCB) is an independent and quasi-judicial monitoring body for the implementation of such United Nations drug conventions.<sup>146</sup> Ms Vandine explained that these international conventions aim to:

- enable the availability of controlled narcotic drugs and psychotropic substances for medical and scientific purposes
- prevent controlled substances diverting into illicit channels.<sup>147</sup>

**2.76** Cannabis is considered a schedule 1 substance under the Single Convention, meaning it is considered to have a serious risk for abuse.<sup>148</sup>

**2.77** To support Australia's obligations under international conventions, Ms Vandine advised that the ODC regulates and provides advice on:

- the import, export and manufacture of controlled substances, including medicinal cannabis
- cultivation, production and manufacture of cannabis for medicinal or scientific purposes.<sup>149</sup>

### **Therapeutic Goods Administration**

**2.78** Professor Robyn Langham, Chief Medical Adviser, TGA explained the TGA's role in relation to medicinal cannabis is to:

- enable the access to unapproved medicinal cannabis products under the Special Access Scheme and the Authorised Prescribers Scheme
- oversee quality requirements for medicinal cannabis products imported or supplied in Australia through the Therapeutic Goods Order 93
- address unlawful advertising of medicinal cannabis products.<sup>150</sup>

**2.79** Most of the hundreds of medicinal cannabis products available in Australia are considered unregistered or unapproved products.<sup>151</sup> The TGA approves practitioners to prescribe medicinal cannabis products, rather than the products themselves.<sup>152</sup>

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<sup>145</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 13.

<sup>146</sup> International Narcotics Control Board, *The International Narcotics Control Board*, INCB, <https://www.incb.org/incb/en/about.html>.

<sup>147</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 13.

<sup>148</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 13.

<sup>149</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 13.

<sup>150</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 13.

<sup>151</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>152</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

**2.80** As outlined in the first report, the Special Access Scheme allows a clinician to prescribe medicinal cannabis on a case-by-case basis to a single patient. The Authorised Prescriber Scheme allows a registered medical practitioner to apply to become an authorised prescriber of medicinal cannabis, allowing them to prescribe directly to multiple patients on a needs-assessment basis.<sup>153</sup>

**2.81** As outlined at 2.53, Therapeutic Goods Order 93 (TGO 93) is a standard that specifies minimum quality requirements for medicinal cannabis products.<sup>154</sup> Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health stated that that TGO 93 products are not assessed for quality, safety and efficacy by TGA but for contaminants and other substances such as mould.<sup>155</sup>

### **Cultivation, production, manufacture and supply of medicinal cannabis**

**2.82** The ODC discussed the licensing and permit process for medicinal cannabis.<sup>156</sup> Ms Vandine advised that the role of the ODC is to administer and oversight the:

- permit process for domestic cultivators, producers and manufacturers of medicinal cannabis
- import and export licences and permits for medicinal cannabis.<sup>157</sup>

**2.83** Broadly speaking, applicants must apply for a licence and permit under the *Narcotic Drugs Act 1967* (Cth). A licence can authorise a person to then apply for a permit to:

- cultivate cannabis plants (for the purpose of producing cannabis or cannabis resin, for medicinal or scientific purposes)
- produce cannabis or cannabis resin (for medicinal or scientific purposes)
- manufacture a cannabis drug (for one or more permitted supplies).<sup>158</sup>

<sup>153</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 27.

<sup>154</sup> Therapeutic Goods Administration, *Complying with the quality requirements for medicinal cannabis* (14 October 2024), Australian Government Department of Health and Aged Care, Therapeutic Goods Administration, <https://www.tga.gov.au/resources/guidance/complying-quality-requirements-medicinal-cannabis>.

<sup>155</sup> Evidence, Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health, 2 April 2025, p 4.

<sup>156</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 15.

<sup>157</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 15.

<sup>158</sup> Office of Drug Control, *Application process for licences and permits under the Narcotic Drugs Act 1967* (9 July 2024), Australian Government, Department of Health, Disability and Ageing, Office of Drug Control, <https://www.odc.gov.au/resources/publications/application-process-licences-and-permits-under-narcotic-drugs-act-1967>.

- 2.84** A medicinal cannabis licence must be granted before an applicant can apply for a permit.<sup>159</sup> There are two types of permits:
- cultivation and/or production permit
  - manufacture permit.<sup>160</sup>
- 2.85** These permits set limitations on the types of drugs allowed to be obtained or produced, and are time-limited.<sup>161</sup>
- 2.86** Ms Vandine explained the differences between the licensing process for domestic producers, compared with importers, of medicinal cannabis.<sup>162</sup>
- 2.87** For an import licence, the applicant must be importing from another country that is a signatory to the Single Convention.<sup>163</sup> The applicant must 'either have a medicinal cannabis licence or permit under the Narcotic Drugs Act or hold a State-relevant licence to be able to import', explained Ms Vandine.<sup>164</sup> They must indicate whether they are importing for the special access scheme, or clinical trials.<sup>165</sup> Importers must also meet the obligations in the country they are importing from, which 'will be governed by the convention as well ... [as] [t]he country from which it's been exported has to meet the requirements of the convention', Ms Vandine said.<sup>166</sup>
- 2.88** On the domestic side, the ODC administers the licences and permits for cultivation, production and manufacturing.<sup>167</sup> The ODC will consider whether the applicant is a fit and proper person to hold a licence, and once the licence is obtained, 'they can actually start investing and building their facilities'.<sup>168</sup> Once ready to start either cultivation, production or manufacturing, they must apply for a permit which is valid for 12 months.<sup>169</sup>
- 2.89** In its first report, the committee noted evidence from medicinal cannabis producers in Australia who argued that it is more difficult to produce medicinal cannabis in Australia than to import it

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<sup>159</sup> Office of Drug Control, *Application process for licences and permits under the Narcotic Drugs Act 1967* (9 July 2024), Australian Government, Department of Health, Disability and Ageing, Office of Drug Control, <https://www.odc.gov.au/resources/publications/application-process-licences-and-permits-under-narcotic-drugs-act-1967>.

<sup>160</sup> Office of Drug Control, *Application process for licences and permits under the Narcotic Drugs Act 1967* (9 July 2024), Australian Government, Department of Health, Disability and Ageing, Office of Drug Control, <https://www.odc.gov.au/resources/publications/application-process-licences-and-permits-under-narcotic-drugs-act-1967>.

<sup>161</sup> Office of Drug Control, *Application process for licences and permits under the Narcotic Drugs Act 1967* (9 July 2024), Australian Government, Department of Health, Disability and Ageing, Office of Drug Control, <https://www.odc.gov.au/resources/publications/application-process-licences-and-permits-under-narcotic-drugs-act-1967>.

<sup>162</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>163</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>164</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>165</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>166</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>167</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>168</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>169</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

due to regulatory burden.<sup>170</sup> Inquiry participants also suggested that a significant portion of medicinal cannabis is imported, which can cause oversupply issues.<sup>171</sup>

- 2.90** Ms Vandine explained that 51 per cent of medicinal cannabis was imported from Canada, and 37 per cent was from Australia in 2023.<sup>172</sup> Ms Vandine was asked about concerns raised by domestic manufacturers that imports may be leading to an oversupply in Australia that disadvantages local producers. She claimed that 'the data doesn't suggest that there is enough being cultivated in Australia to meet the demand'.<sup>173</sup> She noted that historically, permit holders have produced nearly 50 per cent of what they are approved to.<sup>174</sup>
- 2.91** Ms Vandine advised that in Australia, as of 28 February 2025, there are 82 licence holders. She explained that 'not all of them will hold a permit, so we actually have 29 entities [that] hold a cultivation and production permit, and 10 hold a manufacture permit as well'.<sup>175</sup> In Australia in 2023, 42 tonnes of medicinal cannabis were imported and over 2 tonnes exported.<sup>176</sup> Domestically, 26 tonnes of dried flower was produced.<sup>177</sup>
- 2.92** In relation to NSW, there are four permit holders for cultivation and production, and two permit holders for manufacturing of medicinal cannabis.<sup>178</sup>

### Oversight of medicinal cannabis quality

- 2.93** Professor Robyn Langham, Chief Medical Adviser, TGA detailed her organisation's role in the oversight of the quality of medicinal cannabis in Australia.
- 2.94** Medicinal cannabis products that are imported, exported or supplied must comply with TGO 93.<sup>179</sup> As mentioned at 2.53, TGO 93 is a standard specifying minimum quality requirements for medicinal cannabis products.<sup>180</sup> Regarding compliance testing, Professor Langham stated the

<sup>170</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 60-63.

<sup>171</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 60-63.

<sup>172</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>173</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 15.

<sup>174</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 15.

<sup>175</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>176</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 18.

<sup>177</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 18.

<sup>178</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 16.

<sup>179</sup> Therapeutic Goods Administration, *Complying with the quality requirements for medicinal cannabis* (14 October 2024), Australian Government Department of Health and Aged Care, Therapeutic Goods Administration, <https://www.tga.gov.au/resources/guidance/complying-quality-requirements-medicinal-cannabis>.

<sup>180</sup> Therapeutic Goods Administration, *Complying with the quality requirements for medicinal cannabis* (14 October 2024), Australian Government Department of Health and Aged Care, Therapeutic Goods Administration, <https://www.tga.gov.au/resources/guidance/complying-quality-requirements-medicinal-cannabis>.

TGA 'perform inspections of the manufacturing sites rather than do an audit ... of the products that come to hand'.<sup>181</sup>

**2.95** These inspections occur domestically and internationally. Professor Langham said that the TGA has done 'eight inspections of overseas medicinal cannabis manufacturing sites: three in Canada, two in the US, two in Colombia, one in Lesotho'.<sup>182</sup> The TGA will issue certificates on the basis of those inspections as evidence of 'GMP compliance for the purpose of TGO 93', she said.<sup>183</sup> GMP refers to the 'good manufacturing process', a set of standards written by manufacturers to adhere to TGA regulations.<sup>184</sup>

**2.96** Dr Nicoletti of the AMCA commented on quality control of medicinal cannabis. She raised that the AMCA has received concerns about quality of medicinal cannabis, more so for imported than domestically produced medicinal cannabis.<sup>185</sup> Dr Nicoletti claimed that TGO 93 is not always complied with, and argued that the TGA should undertake more quality checking:

All suppliers of medicinal cannabis need to comply with therapeutic goods order 93, as Professor Langham stated. Whether that is happening, though, is another question. In relation to some of the reports that AMCA has received, we're of the view that it isn't happening in all circumstances—that is, suppliers aren't ensuring compliance with TGO 93 in all circumstances. The only way to try and address that would be for—and the TGA is not going to like my saying this, but I feel that there should be some quality checking of products that are being imported and also of domestic product, because that would then create more of an impetus for companies to ensure that they do comply.<sup>186</sup>

**2.97** The TGA explained that they regulate medicinal cannabis products, and do not give clinical guidance or advice.<sup>187</sup> Professor Langham said that '[d]ecisions about prescribing, about suitability, about potential side effects and about understanding the current evidence for their use, all of that rests with the prescribing clinician'.<sup>188</sup>

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<sup>181</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>182</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>183</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>184</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 61.

<sup>185</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>186</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 23.

<sup>187</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 19.

<sup>188</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

### Approval of medicinal cannabis products

- 2.98** As outlined at 2.51, most of the hundreds of medicinal cannabis products available in Australia are unregistered or unapproved.<sup>189</sup> During the inquiry, evidence was received about the challenges of the medicinal cannabis approval process.
- 2.99** If a medicinal cannabis product is approved, it will be put on the Australian Register of Therapeutic Goods (ARTG).<sup>190</sup> To apply for this, the sponsor must 'submit a dossier to the TGA that demonstrates safety, efficacy and quality', explained Professor Langham, Chief Medical Adviser of the TGA.<sup>191</sup> Sponsors pay for the application for registration.<sup>192</sup>
- 2.100** As discussed at 2.54, there are only two medicinal cannabis products on the ARTG. Professor Langham advised there have been no further medicinal cannabis products presented for approval.<sup>193</sup>
- 2.101** Dr Teresa Nicoletti, Chair of the AMCA commented on the challenges with obtaining registration on the ARTG. She said that the dossiers to be submitted must establish quality, safety and efficacy.<sup>194</sup> Safety and efficacy are challenging, as these are established by expensive clinical trials.<sup>195</sup> Dr Nicoletti claims the cost is 'millions of dollars to generate the data required to support registration'.<sup>196</sup> She suggests that this 'is the main barrier to the medicinal cannabis industry investing in generating data to support registration'.<sup>197</sup>

### International law and different models of cannabis regulation

- 2.102** As mentioned in the first report, Australia is a signatory to three United Nations conventions relating to drugs:
- the Single Convention (as amended by the 1972 Protocol)
  - the Convention on Psychotropic Drugs (1971)
  - the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).<sup>198</sup>

<sup>189</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>190</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 14.

<sup>191</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>192</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>193</sup> Evidence, Professor Robyn Langham, Chief Medical Adviser, Therapeutic Goods Administration, 2 April 2025, p 15.

<sup>194</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 26.

<sup>195</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 26.

<sup>196</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 27.

<sup>197</sup> Evidence, Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association, 2 April 2025, p 27.

<sup>198</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 53-54.

- 2.103** In its first report, the committee noted that while the agencies responsible for these conventions take a prohibitionist approach to illicit drugs, some of these agencies had softened their language around drug regulation.<sup>199</sup> Further, that United Nations agencies have suggested that a prohibitionist approach to drug policy can conflict with other international treaties, including responsibility for provisions of health and harm reduction initiatives.<sup>200</sup>
- 2.104** Further evidence was received following the first report about the international law implications of different models of cannabis regulation.
- 2.105** Ms Edwina Vandine, Assistant Secretary, ODC was asked whether the Single Convention is the main international instrument that obligates Australia to criminalise cannabis. In response, Ms Vandine said that the Single Convention is 'open to other measures as well, not just criminalisation'.<sup>201</sup> She continued, saying that '[t]here is a large focus on education, also measures for decriminalisation and depenalisation for personal use as well as possession, but not for the cultivation of cannabis or the commercialisation'.<sup>202</sup>
- 2.106** When asked about whether there are prohibitions in international instruments which would prevent decriminalisation of cannabis, Ms Vandine commented that the INCB have 'made it clear in their report that they are open to measures of decriminalisation and depenalisation'.<sup>203</sup> Ms Vandine also confirmed that they are open to diversion of users from the criminal justice system for personal use.<sup>204</sup> The Report of the INCB for 2022, states the Board's position on decriminalisation and depenalisation of small quantities of illicit drugs:
- The Board has consistently explained that, within these limits, measures to decriminalize or depenalize the personal use and possession of small quantities of drugs are consistent with the provisions of the drug control conventions.<sup>205</sup>
- 2.107** In relation to variation of conventions, including to change the prohibition on cultivation for recreational purposes, Ms Vandine confirmed that '[i]t would need to be taken to the convention and then agreed by all'.<sup>206</sup>

## Organised crime

- 2.108** During the inquiry, the committee heard about the role and impacts of organised crime in cannabis production and distribution. Evidence was also received about the implications for organised crime if cannabis was decriminalised or legalised.

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<sup>199</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 54.

<sup>200</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 54.

<sup>201</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 17.

<sup>202</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 17.

<sup>203</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 17.

<sup>204</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 17.

<sup>205</sup> International Narcotics Control Board, *Report 2022* (9 March 2023), p 9 [https://unis.unvienna.org/unis/uploads/documents/2023-INCB/INCB\\_annual\\_report-English.pdf](https://unis.unvienna.org/unis/uploads/documents/2023-INCB/INCB_annual_report-English.pdf).

<sup>206</sup> Evidence, Ms Edwina Vandine, Assistant Secretary, Office of Drug Control, 2 April 2025, p 18.

**2.109** Relating to these areas, this section considers the following topics:

- the landscape of organised crime in cannabis production and distribution
- impacts of organised crime operations
- models of cannabis regulation and effects on organised crime.

### **Landscape of organised crime in cannabis production and distribution**

**2.110** The NSW Crime Commission and NSW Police detailed the environment in which organised criminal networks produce and distribute illegal cannabis.

**2.111** Commissioner Michael Barnes of the NSW Crime Commission outlined that 14 tonnes of cannabis is consumed annually, which is a 'street value of approximately \$340 million'.<sup>207</sup> Commissioner Barnes explained the types of cannabis production and distribution:

- production by people who consume it themselves or distribute in small ways to family and friends
- production and distribution by small-time commercial operators
- production by serious organised crime figures and distribution by organised criminal networks.<sup>208</sup>

**2.112** Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force also commented on this landscape. He noted that illicit cannabis, other illicit drugs, illicit tobacco and illicit vapes are examples of commodities that organised criminal networks pursue to make a profit.<sup>209</sup> He stated that organised criminal networks do not focus on one commodity, '[t]hey will take any opportunity to make a profit, depending upon what opportunities present themselves to them'.<sup>210</sup>

### **Impacts of organised crime operations**

**2.113** Evidence was received about the social and economic impacts of organised crime production and distribution of cannabis.

**2.114** Commissioner Michael Barnes from the NSW Crime Commission argued that organised criminal networks produce 'huge amounts of marijuana, which is sold for tens, if not hundreds, of millions of dollars each year'.<sup>211</sup> Commissioner Barnes outlined some of the harms of organised crime production and distribution of illicit cannabis, including impacts on the economy, violent crime and abuse of migrant worker schemes:

<sup>207</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2.

<sup>208</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2.

<sup>209</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 46.

<sup>210</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 46.

<sup>211</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2.

They engage in extreme violence to maintain the security of their production facilities and their market share. They launder their profits using professional money launderers, avoiding tax and other financial regulations. They abuse migrant worker schemes and the workers themselves. They occupy productive farmland that could otherwise be used for food production. Their profits distort the economy by competing unfairly with the lawful producers of other products.<sup>212</sup>

- 2.115** Deputy Commissioner Hudson APM also commented on the impacts of organised crime in the cannabis context. The Deputy Commissioner argued that smaller scale cannabis supply can lead to supply of more serious drugs:

Cannabis has certainly been seen as a precursor to potentially the supply of more serious drugs. Once an individual crosses that threshold of criminality ... it's not a long stretch to escalate for greater profitability within that environment, if the opportunities are there for those criminals.<sup>213</sup>

### **Models of cannabis regulation and effects on organised crime**

- 2.116** As mentioned in the committee's first report, in NSW recreational cannabis is criminalised (with some depenalisation schemes), and medicinal cannabis is legalised with heavy regulation.<sup>214</sup> Evidence was received during the inquiry about the possible impacts on organised crime if cannabis were to be decriminalised or legalised. This section considers the following topics:

- factors contributing to the creation of illegal markets of commodities
- commentary on the impacts of different types of cannabis regulation on organised crime.

#### ***Factors contributing to the creation of illegal markets of commodities***

- 2.117** The committee heard about the factors contributing to the black market for various substances, with comparisons to cannabis.
- 2.118** Deputy Commissioner Hudson APM argued that '[w]hen any commodity is decriminalised—made legal—it becomes expensive in a legal framework as well'.<sup>215</sup> He continued, observing that '[t]he illicit product is a lot cheaper than the valid legal product, so we've seen organised crime enter into that market'.<sup>216</sup> As an example, he commented that '[t]obacco is driven largely by taxation and the price of legal cigarettes'.<sup>217</sup>

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<sup>212</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2.

<sup>213</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 46.

<sup>214</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 19; see generally Drug Misuse and Trafficking Act 1985, ss 10, 12, 25(1), 23(1)(a); the Narcotic Drugs Amendment Act 2016 (Cth) amended the Narcotic Drugs Act 1967 (Cth) to legalise and regulate medicinal cannabis.

<sup>215</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 44.

<sup>216</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 44.

<sup>217</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 48.

- 2.119** Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission suggested that the price of tobacco 'has reached a point now where a lot of people can't afford to smoke legally.'<sup>218</sup> He argued that as the price point of tobacco has increased, 'that's led to a thriving black market that's operating both in terms of illegally imported cigarettes and basically homemade cigarettes'.<sup>219</sup>
- 2.120** Deputy Commissioner Hudson noted that 'some evidence from one of our intelligence agencies [suggests] that by next year illicit tobacco will be sold in higher quantities than legal tobacco in this country'.<sup>220</sup>
- 2.121** Commissioner Barnes compared illegal tobacco markets with cannabis, asserting that 'there's no basis to assume that legalising cannabis would lead to the eradication of these industrial-scale producers'.<sup>221</sup>
- 2.122** Deputy Commissioner Hudson compared illegal tobacco with vapes, arguing that '[t]hat is not the case with vapes... organised crime are taking advantage of that total prohibition on vapes to get them into the country and sell them'.<sup>222</sup>
- 2.123** While there was evidence about black markets for tobacco and vapes, Mr Bennett claimed that he has never seen any intelligence that there is a black market for the production of alcohol.<sup>223</sup> Commissioner Barnes also agreed there is '[n]ot large-scale commercial. There are individual ethnic groups who understandably and appropriately like to indulge, but I'm not aware of any commercial operations'.<sup>224</sup>

***Commentary on the impacts of different types of cannabis regulation on organised crime***

- 2.124** The inquiry heard about possible impacts on organised crime should cannabis remain criminalised, be legalised or decriminalised.
- 2.125** In relation to cannabis use under the current regulatory regime, Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, argued that '[t]here is zero evidence – and I mean zero evidence – that the law has any impact on the usage of cannabis ... It does not deter'.<sup>225</sup>

<sup>218</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 3.

<sup>219</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 2.

<sup>220</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 44.

<sup>221</sup> Evidence, Commissioner Michael Barnes, NSW Crime Commission, 11 December 2024, p 2.

<sup>222</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 48.

<sup>223</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 4.

<sup>224</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 4.

<sup>225</sup> Evidence, Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, 1 August 2024, p 10-11.

- 2.126** Mr Jonathon Paff, Criminal Solicitor and Coffs Harbour Summary Courts Manager, Legal Aid NSW, spoke to the consequences of continued criminalisation of cannabis, arguing that '[i]f cannabis remains illegal, it would be my view that it is more likely that people who are seeking cannabis will come into interaction with people who are able to provide other drugs.' He continued, noting that from his 'point of view, if it does remain that way, there's always the risk that someone is interacting with rather serious criminals.'<sup>226</sup>
- 2.127** Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission suggested there are a number of factors which might contribute to the continuation of a black market should cannabis regulation change. These included 'pricepoint', 'ready availability' and 'established markets that exist now', to which he commented 'why would they change?'<sup>227</sup> He also suggested selling cannabis to children would be another factor contributing to continuing illegal markets.<sup>228</sup>
- 2.128** The NSW Crime Commission referred to the legalisation of cannabis in California. Mr Darren Bennett of the NSW Crime Commission raised that police in California had said '[t]here's still a thriving black market [in cannabis] because the compliance and regulatory costs of selling it legally are so high'.<sup>229</sup> He raised that there were more users of cannabis as it was no longer an offence to possess, which means 'the black market is actually bigger now, according to the police I speak to, than it was before it was legalised'.<sup>230</sup>
- 2.129** In relation to cannabis use following decriminalisation, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, commented on the experience in the ACT. He referred to a report from ACT Health, noting that 'wastewater analysis to show the amount of THC had been used in the community ... didn't change, as far as I understand, as a result of these changes'.<sup>231</sup> He also tended to endorse the views that decriminalisation does not lead to an increase in use of cannabis.<sup>232</sup> Further, that any increases in cannabis use following legalisation were offset by the harms reduced by decriminalisation and legalisation.<sup>233</sup>
- 2.130** Deputy Commissioner Hudson APM raised that he was unsure the impact on the black market should cannabis be decriminalised or legalised, but suggested that organised crime would take any opportunity to profit:

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<sup>226</sup> Evidence, Mr Jonathon Paff, Criminal Solicitor and Coffs Harbour Summary Courts Manager, Legal Aid NSW, 1 August 2024, p 10.

<sup>227</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 4.

<sup>228</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 4.

<sup>229</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 3.

<sup>230</sup> Evidence, Mr Darren Bennett, Executive Director, Operations, NSW Crime Commission, 11 December 2024, p 3.

<sup>231</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, p 22.

<sup>232</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, p 22.

<sup>233</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, pp 21-22.

If cannabis is decriminalised, I am not too sure what that would look like in New South Wales. I am not too sure what the price would be. I am not too sure how that would be regulated as it is in other countries to a certain degree still. I would be guessing as to what that would look like. But I will say that organised crime will take advantage of any opportunity to make a profit where they can.<sup>234</sup>

## The Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023

- 2.131** The Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 was discussed by the committee in its first report. It was introduced by the Hon Jeremy Buckingham MLC in the Legislative Council on Wednesday 29 November 2023.<sup>235</sup>
- 2.132** As summarised in the first report, the bill seeks to amend the *Drug Misuse and Trafficking Act 1985* to make lawful particular conduct relating to cannabis in New South Wales. The bill would allow adults to cultivate up to six cannabis plants, possess up to 50 grams of cannabis leaf for personal use and gift up to 50 grams of cannabis leaf to another adult. It would also remove the power of New South Wales Police to seize a cannabis plant or cannabis leaf possessed under the above circumstances.<sup>236</sup>
- 2.133** The first report outlined that several stakeholders supported the bill. For example, that the bill:
- is 'a sensible and practical policy that reduces inequities that result from current policing of cannabis, but also avoids the hazards of a commercial for-profit cannabis market, including increased consumption and harms'<sup>237</sup>
  - is 'a great first step' and was 'unlikely to increase use and may address some parts of the black market as well'<sup>238</sup>
  - would 'remove the harms that criminalisation of cannabis currently causes in New South Wales, which are significant and disproportionately affect certain communities'.<sup>239</sup>
- 2.134** Inquiry participants also spoke to the benefits of decriminalisation. As mentioned in the first report, decriminalisation removes criminal sanctions for certain behaviours, however these behaviours can be coupled with administrative regulation like civil sanctions such as fines.<sup>240</sup>

<sup>234</sup> Evidence, Deputy Commissioner David Hudson APM, Deputy Commissioner, Investigations and Counter Terrorism, NSW Police Force, 2 April 2025, p 48.

<sup>235</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 84-85.

<sup>236</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 84-85.

<sup>237</sup> Evidence, Ms Liz Barrett, Research Officer, Drug Policy Modelling Program, Social Policy Research Centre, UNSW, 1 August 2024, p 23.

<sup>238</sup> Evidence, Ms Keelin O'Reilly, Research Officer, Drug Policy Modelling Program, Social Policy Research Centre, UNSW, 1 August 2024, p 24.

<sup>239</sup> Evidence, Mr Robert Taylor, Manager – Policy and Engagement, Alcohol and Drug Foundation, 1 August 2024, p 44.

<sup>240</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 19.

- 2.135** Legal Aid NSW commented that decriminalisation would result in significant savings to the criminal justice system, including savings on court and legal resources and reductions in prison overcrowding.<sup>241</sup> They also suggested that decriminalisation would reduce the interactions between Aboriginal people with police and the criminal justice system. This would help address targets on the National Agreement on Closing the Gap aiming to reduce the rate of Aboriginal and Torres Strait Islander adult incarceration.<sup>242</sup>
- 2.136** Decriminalisation was endorsed by the New South Wales Bar Association, who commented on 'the ineffectiveness and the harms caused by criminalisation'.<sup>243</sup>
- 2.137** The NSW Council for Civil Liberties advocated for decriminalisation coupled with regulation of cannabis, noting the 'consistent evidence that decriminalisation doesn't encourage drug use or increase drug taking in the community'.<sup>244</sup> They continued, arguing that 'decriminalisation may have the opposite effect, as more people are able to access advice, support and treatment for any problematic health issue resulting from drug use'.<sup>245</sup>
- 2.138** Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney commented on the high level of community support for decriminalisation of cannabis, stating 'I think it's about 80 per cent, which is unprecedented in recent history'.<sup>246</sup> He commented on the tension between government policy and community sentiment, and suggested reform is likely in this space:

We obviously have a situation in New South Wales where the Government and police policy are at odds with the community. That tension means that it is inevitable that eventually something will have to be done to bring legislation into line with community expectations. I'm really quite enthusiastic that that will occur as a result of this inquiry and other initiatives.<sup>247</sup>

## **Cannabis Cautioning Scheme – updated police guidelines**

- 2.139** The Cannabis Cautioning Scheme (CCS) was considered by the committee in its first report.<sup>248</sup>

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<sup>241</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), p 56, referencing Submission 90, Legal Aid NSW, p 20.

<sup>242</sup> Submission 90, Legal Aid NSW, p 19.

<sup>243</sup> Submission 139, New South Wales Bar Association, p 5.

<sup>244</sup> Submission 102, NSW Council for Civil Liberties, p 3.

<sup>245</sup> Submission 102, NSW Council for Civil Liberties, p 3.

<sup>246</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>247</sup> Evidence, Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney, 11 December 2024, p 24.

<sup>248</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 14-15; 40-44.

- 2.140** The committee notes that the NSW Police updated the 'Cannabis Cautioning Scheme Guidelines for Police' in April 2024.<sup>249</sup> These were updated to remove the following requirements:
- that individuals admit to the offence to consent to the caution when being issued a cannabis caution
  - that individuals must contact the Alcohol and Drug Information Service (ADIS) upon receipt of a second caution.<sup>250</sup>
- 2.141** As outlined in the first report, the committee heard that it is problematic to require a person to admit to offending in order to receive a cannabis caution.<sup>251</sup>
- 2.142** In correspondence to the committee, Karen Webb APM, Commissioner of Police, stated that '[f]ollowing the introduction of the Early Drug Diversion Initiative (EDDI) on 29 February 2024, the CCS was changed to align it with the EDDI and widen diversion opportunities'.<sup>252</sup>
- 2.143** The EDDI enables NSW Police to issue a penalty notice for drug possession for low-level drug offences, rather than charging them with a criminal offence. A person who receives a fine under the EDDI can either pay the fine or speak to a nominated health professional over the phone. EDDI is not drug decriminalisation. It is still an offence to possess and use illicit drugs.<sup>253</sup>

## Committee comment

- 2.144** The committee heard from inquiry participants on a broad number of topics relevant to the regulatory framework for cannabis in New South Wales. The comment that follows considers cannabis use and driving; public health and cannabis use; federal regulation of cannabis; organised crime and the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023.

### Cannabis use and driving

- 2.145** The committee considered the offence of driving with the presence of a prescribed illicit drug in oral fluid, blood or urine with respect to cannabis in its first report. A person does not need to be impaired to be found guilty of this offence. Following assessment of the evidence received, the committee found that "people who drive unimpaired after consuming medicinal cannabis

<sup>249</sup> NSW Police Force, 'Cannabis Cautioning Scheme Guidelines for Police – State Crime Command' (April 2024); Correspondence from Karen Webb APM, Commissioner of Police, to Chair, 1 May 2025.

<sup>250</sup> NSW Police Force, 'Cannabis Cautioning Scheme Guidelines for Police – State Crime Command' (April 2024); Correspondence from Karen Webb APM, Commissioner of Police, to Chair, 1 May 2025.

<sup>251</sup> Portfolio Committee No. 1 – Premier and Finance, NSW Legislative Council, *Impact of the regulatory framework for cannabis in New South Wales first report* (2024), pp 43-44.

<sup>252</sup> Correspondence from Karen Webb APM, Commissioner of Police, to Chair, 1 May 2025.

<sup>253</sup> NSW Government, *Early Drug Diversion Initiative*, NSW Government, <https://www.nsw.gov.au/money-and-taxes/finances-and-fees/support-and-community-services/early-drug-diversion-initiative>; Submission 90, Legal Aid NSW, pp 12-13.

are unfairly criminalised and legislative reform that does not jeopardise road safety should be considered".

- 2.146** With respect to medicinal cannabis use and driving the committee recommended "a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis such as is legislated for in Tasmania but ensuring that the mixing of cannabis and alcohol is the express subject of an aggravating factor of the relevant criminal offence".
- 2.147** Following the first report, the committee further examined the relationship between the presence of cannabis in a person's system and impairment while driving.
- 2.148** It is clear that cannabis use can impair a person's driving ability. However, the challenge lies in identifying a method to determine if a person is impaired, and if such impairment is from cannabis consumption.
- 2.149** The fatal crash statistics provided by Transport for NSW in relation to the presence of cannabis are noted. For example, eight per cent of fatal crashes between 2019 to 2023 involved a driver or rider with the presence of THC in their system. This statistic accounts for people with no other illicit drugs or illegal levels of alcohol in their system.
- 2.150** There is a lack of information as to other factors about the people included in this statistic which may contribute to their involvement in a fatal crash. This statistic does not distinguish if drivers or riders were at fault for a crash. In light of these limitations, the committee cannot draw any conclusions about the causative role of THC in fatal crashes based on this evidence.
- 2.151** It was clear from the evidence that there is no defined level of cannabis which correlates with crash risk or impairment. Transport for NSW acknowledged that they do not have a piece of evidence showing that as the volume of cannabis in a person's oral fluid increases so does the escalation in crash risk. As there is no accepted quantified level of how much THC will cause impairment, the committee finds that the presence of cannabis in a person's system does not necessarily indicate that a person is impaired.
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### **Finding 1**

That the presence of cannabis in a person's system does not necessarily indicate that a person is impaired.

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- 2.152** It is acknowledged these issues are complex and unresolved. Therefore, it was promising to hear of Swinburne University's research into medicinal cannabis patients and impairment while driving. The committee hopes such research will contribute to legislative reform to address the unfair criminalisation of medicinal cannabis patients.
- 2.153** Medicinal cannabis is treated differently to other prescription medications in the offence of driving with the presence of a prescribed illicit drug in oral fluid, blood or urine. Prescription medications such as opioids and benzodiazepines are not specified as 'illicit drugs' in this offence. Unlike cannabis, opioids and benzodiazepines are not routinely tested for at roadside drug tests. Such separate treatment is concerning, given that 2.2 per cent of people in 2022-2023
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illegally used pain relievers and opioids. Further, 15 per cent of fatal crashes had motor vehicle controllers with opioids or benzodiazepines in their system, compared to 12 per cent with cannabis. The committee does acknowledge the evidence of Transport for NSW that this data may not be complete, and that robust categorisation would need to be undertaken by a pharmacologist before any proper analysis could be undertaken.

- 2.154** There is also no medical exemption or defence available for medicinal cannabis patients to the drive with prescribed illicit drug in oral fluid, blood or urine offence. This is despite evidence showing there is limited causal association between the legalisation of medicinal cannabis and negative road safety outcomes. As outlined in the first report, the committee has recommended reform in this space.

### **Cannabis and public health issues**

- 2.155** Public health issues relating to cannabis use were considered in the committee's first report, culminating in findings that:
- cannabis has a range of medicinal purposes, but more research is required to understand the full scope of its potential benefits
  - there needs to be further investigation of reported barriers to accessing medicinal cannabis in New South Wales, including high prices, low coverage in regional and rural areas, and a complex system that is difficult to navigate
  - the barriers to accessing medicinal cannabis are forcing some people with genuine medical needs to acquire cannabis from the illicit market
  - the medicinal cannabis scheme is likely being used to facilitate both medicinal and recreational use of cannabis, potentially leading to an arbitrary distinction between those who lawfully possess cannabis and those who do so in breach of the criminal law.
- 2.156** Following this report, further evidence was received about public health and cannabis.
- 2.157** The committee acknowledges evidence from NSW Health that medicinal cannabis products on the Australian Register of Therapeutic Goods (ARTG) are preferable to prescribe and manage for health practitioners, in comparison to unregistered or unapproved products.
- 2.158** It was concerning to hear that unregistered or unapproved products can have high-potency THC in them which can be associated with poor health outcomes. It seems that these products are more problematic for vulnerable populations. Experienced cannabis users are more likely to adjust their dose to prevent negative health outcomes.
- 2.159** In light of the evidence that ARTG products are preferable to prescribe and manage, it was alarming to discover the challenges of registration faced by the medicinal cannabis sector. In particular, that the cost of clinical trials to support the registration of medicinal cannabis on the ARTG is preventing the medicinal cannabis industry pursuing data to support registration.

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**Finding 2**

That the cost of clinical trials to support the registration of medicinal cannabis on the Australian Register of Therapeutic Goods is preventing the medicinal cannabis industry pursuing data to support registration.

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- 2.160** Concerns about medicinal cannabis being prescribed through telehealth are acknowledged. A person's general practitioner has knowledge of a person's medical history, previous medication use and can give advice about possible drug interactions. Telehealth with a doctor other than a usual general practitioner can prevent such holistic and integrated care.
- 2.161** However, the committee notes the issues in the first report about accessibility of medicinal cannabis. There is limited availability of healthcare providers who prescribe medicinal cannabis, particularly in rural and regional areas. As such, telehealth does expand access to medicinal cannabis. Any reform to the prescription regime must equally balance the concerns of telehealth with its accessibility benefits.
- 2.162** The committee considered cannabis use and mental illness in its first report. It was acknowledged there can be a link between cannabis use and mental illness, particularly for vulnerable population groups.
- 2.163** A study was reported showing no statistically significant difference in the rates of psychosis-related diagnoses between jurisdictions with medicinal or recreational cannabis policies, compared to those without. No firm conclusions can be drawn about the relationship between medicinal cannabis legalisation and mental illness.
- 2.164** The committee does recognise that some people use cannabis to self-medicate for mental disorders, which can lead to a conflation of cannabis use with mental disorders.

**Federal regulation of cannabis**

- 2.165** Federal regulation of medicinal cannabis is complex. It includes the oversight of licensing and permit regimes for importers and domestic manufacturers, management of schemes for accessing medicinal cannabis and assessment of quality of medicinal cannabis products.
- 2.166** The committee acknowledges the challenges faced by the medicinal cannabis industry who cultivate, produce and manufacture product in Australia. This industry is often competing with imported medicinal cannabis product. To this end, the committee urges the NSW Government to advocate to the Commonwealth Government to reduce the volume of imported medicinal cannabis products by prioritising and incentivising the supply of domestically cultivated and manufactured products, ensuring Australian patients have access to high-quality, locally produced cannabis medicines.

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### **Recommendation 1**

That the NSW Government advocate to the Commonwealth Government to reduce the volume of imported medicinal cannabis products by prioritising and incentivising the supply of domestically cultivated and manufactured products, ensuring Australian patients have access to high-quality, locally produced cannabis medicines.

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- 2.167** The regulatory requirements for the Australian medicinal cannabis industry are burdensome, and impact the ability for the industry to thrive. To support and strengthen the industry, the committee recommends that the Government establish targeted programs and industry supports - such as grants, regulatory streamlining, and access to clinical trial funding - to develop and expand the domestic medicinal cannabis sector, including cultivation, processing, and manufacturing operations.
- 

### **Recommendation 2**

That the Government establish targeted programs and industry supports - such as grants, regulatory streamlining, and access to clinical trial funding - to develop and expand the domestic medicinal cannabis sector, including cultivation, processing, and manufacturing operations.

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- 2.168** Australia is also a signatory to the Single Convention on Narcotic Drugs 1961 (Single Convention). While this Single Convention generally has a prohibitionist approach to drug policy, evidence suggested that it is open to alternative regulatory approaches to cannabis. It is promising to hear that international law is beginning to recognise the value of harm minimisation reforms, and is seemingly open to decriminalisation and depenalisation.

### **Organised crime**

- 2.169** The committee recognises that organised criminal networks dealing in illicit cannabis cause significant harms to the economy, individuals and the community.
- 2.170** It is noted that a black market still exists in California despite legalisation, largely due to the higher cost of legal products. Similarly, the very high cost of legal tobacco is associated with the Australian tobacco black market. However, no similar market for alcohol exists on a large scale. As such, it is unclear what will happen to black markets should cannabis be legalised or decriminalised. Reform to cannabis regulation should, at the very least, be alert to any potential unintended consequences.
- 2.171** The committee considered the current criminalisation of cannabis and its impacts on organised crime. To this end, the committee finds that the current criminal regulation of cannabis is not achieving its ostensible purpose of reducing use, and noting evidence that decriminalisation in other jurisdictions has not led to a material increase in use, is causing significant harm, criminalising users and forcing them to access cannabis through an illicit market that fuels organised crime.
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**Finding 3**

The current criminal regulation of cannabis is not achieving its ostensible purpose of reducing use, and noting evidence that decriminalisation in other jurisdictions has not led to a material increase in use, is causing significant harm, criminalising users and forcing them to access cannabis through an illicit market that fuels organised crime.

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- 2.172** The purported link between the high cost of tobacco leading to large black markets is acknowledged. In this vein, the committee finds that if cannabis is legalised in an overly burdensome way, with unnecessarily high taxation and regulation on cultivation, distribution and sale, it will be impossible to eradicate the illicit market and consequent harms will continue to be occasioned.
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**Finding 4**

That if cannabis is legalised in an overly burdensome way, with unnecessarily high taxation and regulation on cultivation, distribution and sale, it will be impossible to eradicate the illicit market and consequent harms will continue to be occasioned.

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**The Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023**

- 2.173** The committee received a range of evidence regarding the social and economic impacts of the criminalisation of possession and cultivation of small quantities of cannabis. A number of stakeholders argued that the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 would address some of the inequalities and harms arising from this criminalisation.
- 2.174** Having considered and weighed this evidence, the committee recommends the Government prioritise parliamentary debate and facilitate passage of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 as a key step towards evidence-based cannabis law reform in New South Wales.
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**Recommendation 3**

That the Government prioritise parliamentary debate and facilitate passage of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 as a key step towards evidence-based cannabis law reform in New South Wales.

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- 2.175** The passage of the bill would make lawful the possession, cultivation and gifting of cannabis in some circumstances.
- 2.176** Should the bill not pass, the committee urges legislative reform to decriminalise cannabis possession. There is support from inquiry participants for decriminalisation.
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- 2.177** The committee acknowledges the argument that decriminalisation would ameliorate some of the harms of criminalisation, including social inequalities and costs to the criminal justice system. Therefore, the committee recommends that the Government decriminalise personal use and possession of cannabis.

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**Recommendation 4**

That the Government decriminalise personal use and possession of cannabis.

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- 2.178** Having weighed the evidence before the inquiry the committee notes that the status quo of criminalising cannabis has to change and can change for the better. The committee finds that the decriminalisation and legalisation of cannabis can be done in a way that does not materially increase cannabis related harms and reduces the significant harms associated with the current criminal regime.

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**Finding 5**

That the decriminalisation and legalisation of cannabis can be done in a way that does not materially increase cannabis related harms and reduces the significant harms associated with the current criminal regime.

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- 2.179** The first report outlined Canada's approach to cannabis legalisation, noting its policy of significant restrictions on advertising and using industry profits to help finance an education and prevention fund . The committee finds that Canada offers the most useful model for the legalisation of cannabis and the Government should closely assess what has occurred there and elsewhere, but ultimately craft a model suitable for New South Wales.

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**Finding 6**

The committee found that Canada offers the most useful model for the legalisation of cannabis and the Government should closely assess what has occurred there and elsewhere, but ultimately craft a model suitable for New South Wales.

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- 2.180** It is acknowledged that a staged approach to reforming cannabis laws is beneficial. To this end, the committee recommends that the Government, following an assessment and review of the impact of decriminalisation, further engage in a staged process of reform and review and consider legislating to legalise the use of cannabis by adults in a manner that eliminates the illicit market so far as is possible and creates a safe, regulated and accessible statewide market for legal cannabis.

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**Recommendation 5**

That the Government, following an assessment and review of the impact of decriminalisation, further engage in a staged process of reform and review and consider legislating to legalise the use of cannabis by adults in a manner that eliminates the illicit market so far as is possible and creates a safe, regulated and accessible statewide market for legal cannabis.

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- 2.181** The committee argues that possible custodial sentences for small quantities of cannabis possession is unacceptable. It is therefore recommended that the Government, in the period before these decriminalisation and legalisation reforms, immediately act to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, by amending section 10 of the *Drug (Misuse and Trafficking) Act 1985* (NSW), to provide that the maximum penalty for such possession is a fine, as is the case in Victoria pursuant to section 73(1)(a) of *the Drugs, Poisons and Controlled Substances Act 1981* (Vic).
- 

**Recommendation 6**

That the Government, in the period before these decriminalisation and legalisation reforms, immediately act to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, by amending section 10 of the *Drug (Misuse and Trafficking) Act 1985* (NSW), to provide that the maximum penalty for such possession is a fine, as is the case in Victoria pursuant to section 73(1)(a) of *the Drugs, Poisons and Controlled Substances Act 1981* (Vic).

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- 2.182** The committee recommended a suite of reforms in its first report. The committee recommends that the Government should immediately consider implementing the depenalisation measures recommended in the first report of this committee.
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**Recommendation 7**

That the Government should immediately consider implementing the depenalisation measures recommended in the first report of this committee.

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- 2.183** In its first report, the committee considered the maximum penalties for cannabis possession and other related offences. The committee finds that irrespective of the merits of decriminalisation and legalisation, it is absurd, draconian and antiquated that in New South Wales the maximum penalty for the possession of a small quantity of cannabis is two years imprisonment. This degree of criminalisation, which has persisted for many decades, is irrational and an affront to the community's sense of justice and can be remedied by the Parliament in a way consistent with the policy position of the Government.
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**Finding 7**

Irrespective of the merits of decriminalisation and legalisation, it is absurd, draconian and antiquated that in New South Wales the maximum penalty for the possession of a small quantity of cannabis is two years imprisonment. This degree of criminalisation, which has persisted for many decades, is irrational and an affront to the community's sense of justice and can be remedied by the Parliament in a way consistent with the policy position of the Government.

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- 2.184** In the first report, the committee noted evidence about economic barriers to medicinal cannabis leading to people to acquire cannabis illegally. The committee finds that the widespread availability of medicinal cannabis in New South Wales is welcome, but is facilitating widespread 'non-medicinal' and 'mixed purpose' use of cannabis. This highlights the inequitable and arbitrary nature of the current criminalisation of cannabis, whereby the criminal status of a person now depends on their capacity to obtain a prescription from a doctor.
- 

**Finding 8**

The widespread availability of medicinal cannabis in New South Wales is welcome, but is facilitating widespread 'non-medicinal' and 'mixed purpose' use of cannabis. This highlights the inequitable and arbitrary nature of the current criminalisation of cannabis, whereby the criminal status of a person now depends on their capacity to obtain a prescription from a doctor.

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## Appendix 1 Submissions

No.	Author
1	Mr Matthew Hendry
2	Name suppressed
3	Mr Peter Foster
4	Name suppressed
5	Name suppressed
6	Confidential
7	Robin Dennerley
8	Name suppressed
9	Name suppressed
10	Name suppressed
11	Name suppressed
12	Ms Louise Schachter
13	Name suppressed
14	Mr Jarra Hyland
15	Name suppressed
16	Mr Eric Bathe
17	Mr Steven Bridge
18	Name suppressed
19	Mr Jeff Tarrant
20	Name suppressed
21	Confidential
22	Name suppressed
23	Name suppressed
24	Name suppressed
25	Mr James Furness
26	Name suppressed
27	Name suppressed
28	Name suppressed
29	Mr Alexander Kreisler
30	Mr Kenny Collins
31	Mr Daniel Ross
32	Confidential

<b>No.</b>	<b>Author</b>
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34	Name suppressed
35	Confidential
36	Name suppressed
37	Name suppressed
38	Mr Peter Butler
38a	Mr Peter Butler
38b	Mr Peter Butler
39	Mr Peter Godfrey
40	Mr Seyed Hossein Mir Karimi
41	Mrs Veronica Fallon
42	Confidential
43	Mrs Kerry-Ann Taylor
44	Name suppressed
45	Name suppressed
46	The Hon Jason Blake
47	Mr Zachary McGill
48	Cannabis Psychedelics
49	Mr Patrick Hutchinson
50	Mr Frank Lindner
51	Mr Garry Mahony
52	Name suppressed
53	Ted Tatam
54	Mr Michael Balderstone
55	Mr Dean Connolly
56	Mr Caleb Sandercock
57	Mr Brian Bollard
58	Ms Sarah Taylor
59	Mr Dez Hoy
60	Name suppressed
61	Mr Thomas Sanders
62	Mr Marcus Hoskin
63	Name suppressed
64	Mr Ryan Garner
65	Name suppressed

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68	Name suppressed
69	Dr Keith Bolton
70	Ms Joanne Symonds
71	Name suppressed
72	Ms Alex Pelli
73	Name suppressed
74	Name suppressed
75	Mr Gilbert Grace
76	Name suppressed
77	Mr Mark Howells
78	Mr Langdon Brown
79	Name suppressed
80	Name suppressed
81	Name suppressed
82	Name suppressed
83	Name suppressed
84	Mr Matthew Woloszuk
85	Andrew Ongley
86	Dr James Moylan
87	Name suppressed
88	Confidential
89	Sophie Watkins
90	Legal Aid NSW
91	Mr Wayne Wilkins
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93	Australian Industry Group (Ai Group)
94	Name suppressed
95	Andrew Fenwick
96	Miss Tihema Elliston
97	Name suppressed
98	Name suppressed
99	Name suppressed
100	Mr Jim Billington

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103	Positive Life NSW
104	Mr John Ruddick
105	Mr Matthew Rowland
106	Professor Nicholas Lintzeris
107	Alcohol and Drug Foundation
108	Confidential
109	Australian Lawyers Alliance (ALA) NSW
110	Drug Policy Modelling Program, SPRC, UNSW
111	Penington Institute
112	NSW Users and AIDS Association (NUAA)
113	Transport Workers' Union of New South Wales
114	Mid North Coast Legal Centre
115	Students for Sensible Drug Policy Australia
116	Cannabis Policy Project
117	Mr Walter Scragg
118	Confidential
119	Jonathan Soady
120	Mr Wayne Craft
121	Name suppressed
122	Name suppressed
123	Ms Louise Whyte - McDonnell
124	Marc Selan
125	Confidential
126	Name suppressed
127	Name suppressed
128	Mr Benn Banasik
129	Dr Ben Mostyn
130	Unharm
131	Name suppressed
132	Mr Donald Fuggle
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144	Mr Neil Mccosh
145	Name suppressed
146	Name suppressed
147	Name suppressed
148	Mr Michael Combley
149	Mr Steven Cassell
150	Name suppressed
151	Mr David Seidel
152	Mr James Harris
153	Name suppressed
154	Name suppressed
155	Name suppressed
156	Name suppressed
157	Name suppressed
158	Mr Bevan McBride
159	Mr Donald Campey
160	Name suppressed
161	Name suppressed
162	Mrs Michelle Hugginson
163	Name suppressed
164	Miss Mikayla Ryan
165	Name suppressed
166	Mr Warwick Botfield
167	Mr Terence Mahony
168	Mr Hayden Bueno
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173	Mr Jamie Wrigley
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177	Name suppressed
178	Name suppressed
179	Name suppressed
180	Name suppressed
181	Ms Penny Lomax
182	Name suppressed
183	Mr Kyle Buchanan
184	Mrs Jenny McFadden
185	Name suppressed
186	Mr James Ewan
187	Mr Adrian Norman
188	Name suppressed
189	Mr Joel Love
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191a	Name suppressed
192	Name suppressed
193	Mr Jared Weston
194	Name suppressed
195	Name suppressed
196	Name suppressed
197	Ms Frances Lightfoot
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201	Name suppressed
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<b>No.</b>	<b>Author</b>
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206	Craig McGarry
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208	Name suppressed
209	Name suppressed
210	Name suppressed
211	Name suppressed
212	Mr Bradley McMillan
213	Mr Darren Lloyd
214	Name suppressed
215	Name suppressed
216	Mr Peter Watson
217	Mr Kenneth Gillett
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218	Mr Clayton Tattersall
219	Name suppressed
220	Name suppressed
221	Dr Stefahn Dunn
222	Redfern Legal Centre
223	Name suppressed
224	Jose Paz Vermal
225	Mrs Heather Gladman
226	Name suppressed
227	Name suppressed
228	Name suppressed
229	Name suppressed
230	Name suppressed
231	Brett McInnes
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233	Name suppressed
234	Name suppressed
235	Name suppressed
236	Name suppressed
237	Mr James Provoost
238	Mr Peter Hajenko

<b>No.</b>	<b>Author</b>
239	Mr Steven Minch
240	Mr Glen Millar
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242	Mr Anthony Roy Poynton
243	Name suppressed
244	Elly Hes
245	Mr Harald Steingruber
246	Mr Paul Wallis
247	Name suppressed
248	Mr Sassall Sola
249	Name suppressed
250	Name suppressed
251	Name suppressed
252	Mr Lee Smith
253	Dr Andrea Leong
254	Name suppressed
255	Name suppressed
256	Ms Elissa Smith
257	Name suppressed
258	Name suppressed
259	Name suppressed
260	Name suppressed
261	Confidential
262	Name suppressed
263	Name suppressed
264	Confidential
265	Adam Nelson
266	Name suppressed
267	Mrs Linda Schicht
268	Name suppressed
269	Name suppressed
270	Mr Kit Laughlin & Associates
271	Name suppressed
272	Mr Adrian Keefe
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275	Name suppressed
276	Name suppressed
277	Name suppressed
278	Name suppressed
279	Name suppressed
280	Mr Andrew Putnam
281	Mr Rodney Jenkins
282	Mrs Mariah Fraser
283	Name suppressed
284	Mr Adam Yarnold
285	Australian Natural Therapeutics Group (ANTG)
286	Ms Michele Lacroix
287	Confidential
288	Name suppressed
289	Name suppressed
290	Name suppressed
291	Name suppressed
292	Name suppressed
293	Name suppressed
294	Mr Jake Standing
294a	Mr Jake Standing
295	Name suppressed
296	The Royal Australian and New Zealand College of Psychiatrists (RANZCP)
297	Ms Margaret Holles
298	Meaghan Morrison
299	Mrs Susan Bonaccorsi
300	Kim McMillan
301	Miss Elizabeth Grant
302	Name suppressed
303	Name suppressed
304	Mr Antony Zbik
305	Name suppressed
306	Name suppressed

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307	Name suppressed
308	Name suppressed
309	Name suppressed
310	Name suppressed
311	Name suppressed
312	Name suppressed
313	Name suppressed
314	Anthony George
315	Name suppressed
316	Name suppressed
317	Name suppressed
318	Name suppressed
319	Name suppressed
320	Name suppressed
321	Name suppressed
322	Name suppressed
323	Name suppressed
324	Name suppressed
325	Name suppressed
326	Name suppressed
327	Name suppressed
328	Name suppressed
329	Confidential
330	Mr Joshua Pomfrett
331	Name suppressed
332	Name suppressed
333	Mr Andrew Murphy
334	Ms Rebecca Chenoweth
335	Mrs Melinda Jane Wilson
336	Name suppressed
337	Mrs Joan Chenoweth
338	Ted Noffs Foundation Ltd
339	Name suppressed
340	Confidential
341	360Edge

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342	Mr Derek Pyrah
343	Confidential
344	Name suppressed
345	Mr Mark Hoskins
346	Name suppressed
347	Mr Timothy Harris
348	Mr Daniel Dryden
349	Name suppressed
350	Mrs Crystal White
351	Mr Mark Smith
352	Mrs Gail Hester
353	Mr Seppy Pour
354	Montu Group Pty Ltd
355	Justice Action
356	Drug Policy Australia
357	South Asian Research and Advocacy Hub (SARAH)
358	Unions NSW
359	TRACEE
360	KAYF Industries Pty Ltd

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## Appendix 2 Witnesses at hearings

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Thursday, 1 August 2024 Macquarie Room Parliament House, Sydney</b>	Mr Nicholas Cowdery AO, KC	Past President, NSW Council for Civil Liberties
	Mr Jonathon Paff	Criminal Solicitor & Coffs Harbour Summary Courts Manager, Legal Aid NSW
	Mr Greg Barns SC	Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance
	Dr Ben Mostyn	Academic Fellow, The University of Sydney Law School
	Professor Nicholas Lintzeris	Conjoint Professor in Addiction, Medicine, The University of Sydney
	Ms Liz Barrett	Research Officer, Drug Policy Modelling Program, SPRC, UNSW
	Ms Keelin O'Reilly	Research Officer, Drug Policy Modelling Program, SPRC, UNSW
	Ms Tracey Browne	Manager – National WHS and Workers' Compensation, Australian Industry Group (Ai Group)
	Mr Scott Barklamb	Principal Adviser, Workplace Relations Policy, Australian Industry Group (Ai Group)
	Dr Will Tregoning	CEO, Unharm
	Mr Andrew Heslop	Senior Health Promotion and Peer Navigation Manager, Positive Life
	Dr Mary Ellen Harrod	CEO, NSW Users and AIDS Association
	Ms Alice Pierce	Director of Programs, NSW Users and AIDS Association
	Mr Robert Taylor	Manager – Policy & Engagement, Alcohol and Drug Foundation
Mr Benn Banasik	Individual with lived experience	

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Monday, 19 August 2024 Macquarie Room Parliament House, Sydney</b>	Mr Nicholas Broadbent	Secretary, NSW Bar Association
	Ms Samantha Lee	Supervising solicitor, Redfern Legal Centre
	Dr Robert May	Chair of Addiction Psychiatry for the NSW Branch of The Royal Australian and New Zealand College of Psychiatrists (RANZCP)
	Dr Thomas Lu	General Practitioner, the Royal Australian College of General Practitioners
	Mr Michael Whaites	Assistant General Secretary, NSW Nurses and Midwives' Association; Assistant Branch Secretary, Australian Nursing and Midwifery Federation NSW Branch
	Ms Michala Kowalski	Postdoctoral Research Fellow, National Drug and Alcohol Research Centre
	Professor Don Weatherburn	Professor, National Drug and Alcohol Research Centre
	Mr Matthew Cantelo	Chief Executive Officer, Australian Natural Therapeutics Group
	Mr James Gaskell	Chief Operating Officer, Australian Natural Therapeutics Group
	Mr Edward Strong	Head of Government Relations, Montu Group Pty Ltd
	Matthew McCrone	Industry and Government Engagement Lead, Montu Group Pty Ltd
	Ms Alice Salomon	Head of Media and Advocacy, Uniting NSW/ACT
Dr Marianne Jauncey	Medical Director, Uniting Medically Supervised Injecting Centre, Uniting NSW/ACT	

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Tuesday, 20 August 2024</b> <b>Invercauld House</b> <b>Goonellabah, NSW</b>	Mr Joel Hardy	Chief Executive Officer and Co-founder, Cymra Life Sciences
	Dr James Moylan	Law Reform Activist
	Mr David Michael Heilpern	Dean of Law, Southern Cross University
	Dr Keith Gordon Edward Bolton	Founding Director, Water Operations Division Supervisor, Ecotechnology Australia Pty Ltd
	Mr Patrick Hourigan	Assistant Principal Solicitor, Mid North Coast Legal Centre
	Mr Michael Balderstone	Individual with lived experience
	Mr Marc Selan	Individual with lived experience
	Mr Matt Noffs	Chief Executive Officer, Ted Noffs Foundation
	Mr Kieran Palmer	Director of Clinical Services, Ted Noffs Foundation
<b>Wednesday, 11 December 2024</b> <b>Macquarie Room</b> <b>Parliament House, Sydney</b>	Commissioner Michael Barnes	New South Wales Crime Commission
	Mr Darren Bennett	Executive Director Operations, New South Wales Crime Commission
	Mr Bernard Carlon	Chief of the Centre for Road and Maritime Safety, Transport for NSW
	Ms Louise Higgins	Director Road Safety Policy, Transport for NSW
	Professor Iain McGregor	Academic Director, Lambert Initiative, University of Sydney
	Dr Danielle McCartney	Research Fellow, Lambert Initiative, University of Sydney
	Dr Thomas Arkell	Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology

<b>Date</b>	<b>Name</b>	<b>Position and Organisation</b>
<b>Wednesday, 2 April 2025 Macquarie Room Parliament House, Sydney</b>	Professor Jennifer Martin	Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission
	Mr Bruce Battye	Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health
	Dr Santiago Vazquez	Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service
	Ms Edwina Vandine <i>(via videoconference)</i>	A/g Assistant Secretary, Office of Drug Control
	Professor Robyn Langham <i>(via videoconference)</i>	Chief Medical Adviser, Therapeutic Goods Administration
	Dr Teresa Nicoletti	Chair, Australian Medicinal Cannabis Association
	Mr Alec Zammit	Cannabis advocate
	Mr Bernard Carlon	Chief of the Centre for Road and Maritime Safety, Transport for NSW
	Ms Louise Higgins	Director Road Safety Policy, Transport for NSW
Deputy Commissioner David Hudson APM <i>(via videoconference)</i>	Deputy Commissioner, NSW Police Force	

## Appendix 3 Minutes

### Minutes no. 23

Friday 5 April 2024

Portfolio Committee No. 1 – Premier and Finance

Via videoconference 10.05 am

#### 1. Members present

Mr Buckingham *Chair*

Dr Kaine

Mr Lawrence

Mrs Maclaren-Jones (substituting for Mr Tudehope)

Ms Munro (substituting for Mr Rath)

Mr Nanva

Mr Ruddick (participating)

#### 2. Apologies

Mr Borsak *Deputy Chair*

Ms Faehrmann

#### 3. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 22 March 2024 – Email from Ms Cate Faehrmann MLC requesting to participate on the Inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 25 March 2024 – Email from the Office of the Hon John Ruddick MLC requesting to participate on the Inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 27 March 2024 – Email from the Opposition Whip's Office advising that the Hon Jacqui Munro MLC will substitute for the Hon Chris Rath MLC for the during of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 19 March 2024 – Letter from the Hon Mark Latham MLC to the Chair, requesting the committee follow up Ms Abigail Boyd MLC regarding discussion during the Budget Estimates Legislature hearing on 4 March 2024
- 25 March 2024 – Letter from Ms Abigail Boyd MLC to the Chair, responding to the Chair's letter regarding the Budget Estimates Legislature hearing on 4 March 2024
- 28 March 2024 – Email from the Opposition Whip's Office advising that the Hon Natasha Maclaren-Jones MLC will substitute for the Hon Damien Tudehope MLC for the during of the inquiry into the impact of the regulatory framework for cannabis in New South Wales.

##### *Sent*

- 22 March 2024 – Letter from the Chair to Ms Abigail Boyd MLC, requesting Ms Boyd to produce documentation as raised in the Budget Estimates Legislature hearing on Monday 4 March 2024.

#### 4. Inquiry into the impact of the regulatory framework for cannabis in New South Wales

##### 4.1 Terms of reference

The committee noted the referral on 20 March 2024 of the following terms of reference:

- (1) That Portfolio Committee No. 1 - Premier and Finance inquire into and report on the impact of the regulatory framework for cannabis in New South Wales, including:
  - (a) the historical development and implementation of the regulatory framework for cannabis,
  - (b) the socioeconomic impact of the current regulatory framework for cannabis,

- (c) the historical, current and future financial cost of cannabis prohibition to the Government and the economy,
- (d) the impact of the current regulatory framework for cannabis on young people, the health system, personal health, employment, road safety, crime and the criminal justice system,
- (e) the impact of the regulatory framework for cannabis on Aboriginal, LGBTIQ+, regional, multicultural and lower socioeconomic communities,
- (f) alternative approaches to the regulatory framework for cannabis in other jurisdictions,
- (g) the provisions of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023, and
- (h) any other related matter.

(2) That the committee report by 26 September 2024.

## 5. Conduct of the inquiry into the impact of the regulatory framework for cannabis in New South Wales

### 5.1 Closing date for submissions

Resolved, on the motion of Mr Nanva: That the closing date for submissions be Friday 17 May 2024.

### 5.2 Stakeholder list

Resolved, on the motion of Mrs Maclaren-Jones: That the secretariat circulate to members the Chair's proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

### 5.3 Approach to submissions

Resolved, on the motion of Dr Kaine: That, to enable significant efficiencies for members and the secretariat while maintaining the integrity of how submissions are treated, in the event that 200 or more individual submissions are received, the committee may adopt the following approach to processing short submissions:

- All submissions from individuals 250 words or less in length will:
  - have an individual submission number, and be published with the author's name or as name suppressed, or kept confidential, according to the author's request
  - be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice
  - be channelled into one single document to be published on the inquiry website
- All other submissions will be processed and published as normal.

### 5.4 Hearing dates and proposed regional travel

Resolved, on the motion of Ms Munro: That hearing dates and regional travel be determined by the committee after the submission closing date and following consultation with members regarding their availability.

## 6. Inquiry into Budget Estimates 2023-2024

Resolved, on the motion of Mr Nanva: That a brief paragraph discussing the exchange of correspondence between Mr Latham and Ms Boyd regarding The Legislature hearing on 4 March 2024 be circulated to the committee via email for consideration prior to inclusion in the Chair's draft report.

## 7. Adjournment

The committee adjourned at 10.22 am, *sine die*.

Kara McKee  
Committee Clerk

**Minutes no. 25**

Friday 28 June 2024

Portfolio Committee No. 1 – Premier and Finance

Via videoconference, 10.32 am

**1. Members present**Mr Buckingham, *Chair*

Mr Borsak, Deputy Chair

Dr Kaine

Mr Lawrence (from 10.34 am)

Mr Nanva

Mr Ruddick (participating)

**2. Apologies**

Mr Tudehope

**3. Previous minutes**

Resolved, on the motion of Mr Borsak: That draft minutes no. 23 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 19 June 2024 – Email from the Office of the Hon. John Ruddick MLC requesting to participate on the Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024.

**5. Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024****5.1 Terms of reference**

The committee noted the following terms of reference referred by the House on 18 June 2024:

That:

- (a) The Alcohol Consumption in Public Places (Liberalisation) Bill 2024 be referred to Portfolio Committee No. 1 – Premier and Finance at the conclusion of the mover's second reading speech in the Council, and
- (b) The committee report by 20 September 2024.

**5.2 Proposed timeline**

Resolved, on the motion of Mr Nanva: That the committee adopt the following timeline for the administration of the inquiry:

- Submissions close – Friday 19 July 2024
- Hearing – Monday 12 August 2024
- Report deliberative – Friday 13 September 2024

**5.3 Stakeholder list**

Resolved, on the motion of Mr Lawrence: That:

- the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make a submission
- members have two days from when the Chair's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

#### 5.4 Approach to submissions

Resolved, on the motion of Mr Borsak: That, to enable significant efficiencies for members and the secretariat while maintaining the integrity of how submissions are treated, in the event that 50 or more individual submissions are received, the committee may adopt the following approach to processing short submissions:

- All submissions from individuals 250 words or less in length will:
  - have an individual submission number, and be published with the author's name or as name suppressed, or kept confidential, according to the author's request
  - be reviewed by the secretariat for adverse mention and sensitive/identifying information, in accordance with practice
  - be channelled into one single document to be published on the inquiry website
- All other submissions will be processed and published as normal.

#### 5.5 Online questionnaire

Resolved, on the motion of Mr Lawrence: That the committee use an online questionnaire to capture individuals' views, and that the draft questions be as follows:

1. Name

2. Email address

3. Postcode

4. The object of the Bill is to remove restrictions and prohibitions on the consumption of alcohol in public places, other than in public places prescribed by the regulations that are of cultural or religious significance, or where a person is intoxicated or disorderly. What is your position on the Alcohol Consumption in Public Places (Liberalisation) Bill 2024? Select one of these options:

a. Support

b. Partially support

c. Support with amendments

d. Oppose

5. Please explain why you support/partially support/support with amendments/oppose the bill. (max 300 words)

6. What amendments, if any, would you like incorporated?

7. Do you have any other comments? (max 300 words)

Resolved, on the motion of Mr Lawrence: That:

- the committee not accept proformas
- the media release announcing the establishment of the inquiry and emails to stakeholders note that there will be an online questionnaire to capture individuals' views
- that the following wording be included on the committee's website:
  - **Submissions**  
Individuals are invited to submit their comments on the terms of reference [here](#) This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.

Resolved, on the motion of Mr Lawrence: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns
- individual responses be kept confidential on tabling.

**5.6 Provision of documents to participating members**

Resolved, on the motion of Dr Kaine: That Mr Ruddick, who has advised the committee that he intends to participate for the duration of the inquiry into Alcohol Consumption in Public Places (Liberalisation) Bill 2024, be provided with copies of meeting papers and unpublished submissions.

**6. Inquiry into the impact of the regulatory framework for cannabis in New South Wales****6.1 Submissions**

Resolved, on the motion of Mr Borsak: That the committee re-open submissions until Wednesday 31 July 2024.

**6.2 Participating members**

Resolved, on the motion of Mr Borsak: That Ms Faehrmann and Mr Ruddick, as participating members for the duration of the Impact of the regulatory framework for cannabis in New South Wales be provided with copies of all committee papers and that all costs associated with their participation in the inquiry be covered by the committee.

**6.3 Lismore travel**

Resolved, on the motion of Mr Borsak: That the committee agree to:

- travel to Lismore on Tuesday 20 August 2024 to Wednesday 21 August 2024
- conduct a hearing in Lismore
- conduct a site visit to the Cymra Life Sciences Medicinal Cannabis facility in Alstonville, subject to the agreement of the facility
- an indicative costing of \$18,000 for this regional travel.

**6.4 Extension of reporting date**

Resolved, on the motion of Mr Borsak: That the Chair seek a resolution from the House to extend the reporting date for the Cannabis inquiry to Thursday 21 November 2024.

**7. Adjournment**

The committee adjourned at 10.45 am, until 10.00 am on Friday 5 July 2024, Room 1043, Parliament House, Sydney (report deliberative – Artificial Intelligence (AI) in New South Wales).

Alex Stedman

**Committee Clerk**

**Minutes no. 29**

Thursday 1 August 2024

Portfolio Committee No. 1 – Premier and Finance

Macquarie Room, Parliament House, Sydney at 9.01 am

**1. Members present**

Mr Buckingham, *Chair*

Dr Kaine (from 9.14 am)

Mr Lawrence (until 3.58 pm)

Mrs Maclaren-Jones (until 9.50 am, and from 2.15 pm)

Ms Munro (from 9.11 am)

Mr Murphy (substituting for Mr Nanva via videoconference)

Mr Ruddick (participating) (from 9.30 am until 1.00 pm)

**2. Apologies**

Mr Borsak

Ms Faehrmann

### 3. Previous minutes

Resolved, on the motion of Mr Lawrence: That draft minutes no. 25 be confirmed.

### 4. Correspondence

The committee noted the following items of correspondence:

#### *Received*

- 12 April 2024 – Email from Ms Jackie Fitzgerald, BOSCAR, to the secretariat, in response to stakeholder invitation for submission to the Inquiry into the impact of the regulatory framework for cannabis in New South Wales, noting that BOSCAR does not ordinarily make submissions, but BOSCAR could receive questions from the committee
- 8 May 2024 – Email from the Mental Health Coordinating Council to the Chair, advising they do not have sufficient resources to provide a submission, and would like to be informed as to the progress of the Inquiry into the impact of the regulatory framework for cannabis in NSW
- 31 May 2024 – Email from Mr Avi Rebera, Office of Drug Control, Australian Government Department of Health and Aged Care, to the Chair, in response to the stakeholder invitation for submission to the Inquiry into the impact of the regulatory framework for cannabis in New South Wales, referring to submissions to other inquiries by the Department of Health and Aged Care and providing some background information on the International, Federal and State legislative scheme surrounding cannabis
- 6 June 2024 – Email from Ms Marianne Kearney, Office of the Advocate for Children and Young People, advising that due to competing priorities the Advocate will not be making a submission to the inquiry into the impact of the regulatory framework for cannabis in NSW
- 18 June 2024 – Email from Professor Nicholas Lintzeris to secretariat, declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability, noted available to attend a hearing after 2 July 2024
- 18 June 2024 – Email from Dr Ben Mostyn, declining the invitation declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability, noted interest in appearing at a future hearing
- 19 June 2024 – Email from Ms Paris Dounoukos, Alcohol and Drug Foundation to secretariat, declining the invitation declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability, noted interest in appearing at a future hearing
- 20 June 2024 – Email from Mr Andrew Heslop, Positive Life NSW, to secretariat, requesting that the NSW Users and AIDS Association be invited to the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024
- 21 June 2024 – Email from Ms Elenore Levi, Australian Lawyers Alliance to secretariat, declining the invitation declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability, noted interest in appearing at a future hearing
- 22 June 2024 – Email from Mr Daniel Peric, Transport Workers' Union of NSW to secretariat, declining the invitation declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability
- 24 June 2024 – Email from Ms Naiomi Levack-Payne, Royal Australian College of General Practitioners to secretariat, declining the invitation declining to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis on Friday 28 June 2024 due to unavailability
- 24 June 2024 – Email from Ms Peta Waller-Bryant, Office of the Hon. Penny Sharpe MLC, in response to emails from the secretariat advising that the NSW Government does not intend to make a submission to the inquiry into the impact of the regulatory framework for cannabis
- 9 July 2024 – Email from Mr Anthony Roy Poynton to secretariat, requesting that his supplementary submission replace his published submission in relation to the inquiry into the impact of the regulatory framework for cannabis in NSW
- 11 July 2024 – Email from Mr Thomas Mortimer, Australian Workers' Union, confirming the Australian Workers' Union will not be making a submission to the inquiry for the impact into the regulatory framework for cannabis in NSW

- 18 July 2024 – Email from Mr Daniel Peric, Transport Workers' Union of NSW, declining the invitation to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis in NSW on 1 August 2024
- 25 July 2024 – Email from Ms Naiomi Levack-Payne, Royal Australian College of General Practitioners, declining the invitation to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis in NSW on Thursday 1 August 2024, as they are unable to find an appropriate representative.

## 5. Inquiry into the impact of the regulatory framework for cannabis in New South Wales

### 5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1, 3, 7, 12, 14, 16-17, 19, 25, 29-31, 38, 38a, 38b, 39-41, 43, 46-51, 53-59, 61-62, 64, 66, 69-70, 72, 75, 77-78, 84-86, 89-93, 95-96, 100-107, 109-115, 117, 119-120, 123-124, 129-130, 132, 134-141, 143-144, 148-149, 151-152, 158-159, 162, 164, 166-168, 171-176, 181, 183-184, 186-187, 189, 197, 202-203, 206, 212-213, 216-217, 217a, 218, 221-222, 224-225, 231, 237-240, 242, 244-246, 248, 252-253, 256, 265, 267, 270, 272, 272a, 280-282, 284-286, 294, 294a, 296-301 and 314.

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and replace submission no. 242 with supplementary submission 242a as per the request of the author.

### 5.2 Partially confidential submissions

Resolved, on the motion of Mr Murphy: That the committee keep the following information confidential, as per the request of the author, names and/or identifying information in submissions nos. 2, 4-5, 8-11, 13, 15, 18, 20, 22-24, 26, 28, 33-34, 36, 44-45, 52, 60, 63, 65, 67-68, 71, 73-74, 76, 79-83, 87, 94, 97-98, 121, 126-127, 131, 142, 145-147, 150, 153-157, 160-161, 163, 165, 169, 177-180, 182, 185, 188, 190-192, 194-196, 198-201, 204-205, 207-211, 214-215, 219-220, 223, 226-230, 233-236, 241, 243, 247, 249-251, 254-255, 257-260, 263, 266, 268-269, 271, 273, 275-279, 283, 288-293, 295, 302-303, 305-313.

Resolved, on the motion of Mrs Maclaren-Jones: That:

- The committee authorise the publication of submission nos. 37, 116, 128, 262 and 304 with the exception of identifying and/or sensitive information which is to remain confidential as per the recommendation of the secretariat.
- the committee authorise the publication of submission no. 122 with the exception of sensitive and/or identifying information which is to remain confidential as per:
  - the recommendation of the secretariat (page 1 of the submission)
  - the request of the author (page 3 of the submission).

### 5.3 Confidential submissions

Resolved, on the motion of Mr Lawrence: That the committee keep submission nos. 6, 21, 32, 35, 42, 88, 108, 118, 125, 133, 170, 232, 261, 264, 274 and 287 confidential, as per the request of the author as they contain identifying and/or sensitive information.

### 5.4 Lismore regional travel

Resolved, on the motion of Mr Lawrence: That the committee agree to conduct a hearing on Tuesday 20 August 2024 in Lismore at Invercauld House, 163 Invercauld Road, Goonellabah, NSW, from approximately 12 pm to 6.30 pm – 7 pm.

### 5.5 Public hearing

#### *Sequence of questions*

Resolved, on the motion of Mr Lawrence: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the media and the public were admitted at 9.15 am.

The following witness was sworn and examined:

- Mr Nicholas Cowdery AO, KC, Past President, NSW Council for Civil Liberties

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Jonathon Paff, Criminal Solicitor & Coffs Harbour Summary Courts Manager, Legal Aid NSW
- Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Ben Mostyn, Academic Fellow, The University of Sydney Law School
- Professor Nicholas Lintzeris, Conjoint Professor in Addiction, Medicine, The University of Sydney

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Liz Barrett, Research Officer, Drug Policy Modelling Program, SPRC, UNSW
- Ms Keelin O'Reilly, Research Officer, Drug Policy Modelling Program, SPRC, UNSW

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Tracey Browne, Manager – National WHS and Workers' Compensation, Australian Industry Group (Ai Group)
- Mr Scott Barklamb, Principal Adviser, Workplace Relations Policy, Australian Industry Group (Ai Group)

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Will Tregoning, CEO, Unharm
- Mr Andrew Heslop, Senior Health Promotion and Peer Navigation Manager, Positive Life
- Dr Mary Ellen Harrod, CEO, NSW Users and AIDS Association
- Ms Alice Pierce, Director of Programs, NSW Users and AIDS Association

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Robert Taylor, Manager – Policy & Engagement, Alcohol and Drug Foundation

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Benn Banasik, Individual with lived experience

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.29 pm. The public and the media withdrew.

## 6. Adjournment

The committee adjourned at 4.29 pm until Monday 19 August 2024, Parliament House, Sydney (Inquiry into the impact of the regulatory framework for cannabis in New South Wales – public hearing).

Alice Wood  
**Committee Clerk**

### **Minutes no. 31**

Monday 19 August 2024  
 Portfolio Committee No. 1 – Premier and Finance  
 Macquarie Room, Parliament House, Sydney at 8.53 am

#### **1. Members present**

Mr Buckingham, *Chair*  
 Mr Borsak, *Deputy Chair* (until 12.02 pm)  
 Ms Faehrmann (participating from 9.41 am)  
 Dr Kaine (via videoconference)  
 Mr Lawrence (from 9.14 am)  
 Mrs Maclaren-Jones (from 8.56 am until 9.43 am, and from 1.28 pm)  
 Mr Murphy (substituting for Mr Nanva for the duration of the inquiry into the impact of the regulatory framework for cannabis in New South Wales)  
 Mr Ruddick (participating from 9.16 am)

#### **2. Apologies**

Ms Munro

#### **3. Previous minutes**

Resolved, on the motion of Mr Murphy: That draft minutes no. 29 be confirmed.

#### **4. Correspondence**

The committee noted the following items of correspondence:

##### ***Received***

- 31 July 2024 – Email from Mr Adam Nelson to the committee, attaching submission of Mr Michael White to the Road Safety Strategy, in relation to the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 2 August 2024 – Email from the Office of the Hon Bob Nanva MLC to secretariat, advising that the Hon Cameron Murphy MLC will substitute for the Hon Bob Nanva MLC for the duration of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 2 August 2024 – Email from Dr James Moylan to secretariat, requesting that he and Mr Michael Balderstone attend the hearing in Lismore on 20 August 2024 for the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 12 August 2024 – Email from Mr Edward Strong, Montu Group Pty Ltd, requesting to appear individually, rather than on a panel with Australian Natural Therapeutics Group for the hearing on 19 August 2024 for the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 13 August 2024 – Email from Ms Kate Renehan, Aboriginal Legal Service NSW/ACT declining invitation to attend the hearing on 19 August 2024 for the inquiry into the impact of the regulatory framework for cannabis in New South Wales due to lack of capacity.

#### **5. Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

##### **5.1 Public Submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 330, 333-335, 337-338, 341-342, 345, 347-348, 350-355.

## 5.2 Partially confidential submissions

Resolved, on the motion of Mr Murphy: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos. 191a, 315-325, 327-328, 331-332, 336, 339, 344, 346 and 349.

## 5.3 Confidential submissions

Resolved, on the motion of Mr Murphy: That the committee keep submission nos. 329, 340 and 343 confidential, as per the request of the author.

## 5.4 Lismore regional travel

The committee noted the itinerary for the Lismore regional travel from Tuesday 20 August 2024 to Wednesday 21 August 2024.

## 5.5 Public hearing

Resolved, on the motion of Mr Murphy: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the media and the public were admitted at 9.00 am.

The following witness was sworn and examined:

- Mr Nicholas Broadbent, Secretary, NSW Bar Association

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Ms Samantha Lee, Supervising solicitor, Redfern Legal Centre

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Robert May, Chair of Addiction Psychiatry for the NSW Branch of The Royal Australian and New Zealand College of Psychiatrists (RANZCP)

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Thomas Lu, General Practitioner, the Royal Australian College of General Practitioners

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Michael Whaites, Assistant General Secretary, NSW Nurses and Midwives' Association; Assistant Branch Secretary, Australian Nursing and Midwifery Federation NSW Branch

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Michala Kowalski, Postdoctoral Research Fellow, National Drug and Alcohol Research Centre
- Professor Don Weatherburn, Professor, National Drug and Alcohol Research Centre

Professor Don Weatherburn tendered the following document:

- Don Weatherburn, Professor, National Drug and Alcohol Research Centre, University of New South Wales, 'Problems with current policy responses to cannabis'.

Dr Michala Kowalski tendered the following document:

- 'NSW residents who completed the GCCRC ICCQ2 Alternative Policies Module'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Matthew Cantelo, Chief Executive Officer, Australian Natural Therapeutics Group
- Mr James Gaskell, Chief Operating Officer, Australian Natural Therapeutics Group

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Edward Strong, Head of Government Relations, Montu Group Pty Ltd
- Matthew McCrone, Industry and Government Engagement Lead, Montu Group Pty Ltd

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Alice Salomon, Head of Media and Advocacy, Uniting NSW/ACT
- Dr Marianne Jauncey, Medical Director, Uniting Medically Supervised Injecting Centre, Uniting NSW/ACT

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 3.48 pm. The public and the media withdrew.

## 6. **Tendered documents**

Resolved, on the motion of Mr Lawrence: That the committee accept and publish the following documents tendered during the hearing:

- Don Weatherburn, Professor, National Drug and Alcohol Research Centre, University of New South Wales, 'Problems with current policy responses to cannabis'
- 'NSW residents who completed the GCCRC ICCQ2 Alternative Policies Module'.

## 7. **Adjournment**

The committee adjourned at 3.49 pm until 6.30 am on Tuesday 20 August 2024, Departure Gate, Sydney Airport (inquiry into the impact of the regulatory framework for cannabis – Lismore regional travel).

Kara McKee

**Committee Clerk**

### **Minutes no. 32**

Tuesday 20 August 2024

Portfolio Committee No. 1 – Premier and Finance

Departure Gate, Sydney Airport at 6.30 am

#### 1. **Members present**

Mr Buckingham, *Chair*  
 Ms Faehrmann (participating)  
 Dr Kaine (via videoconference until 3.45 pm)  
 Mr Lawrence  
 Mrs Maclaren-Jones  
 Ms Munro  
 Mr Murphy

#### 2. **Apologies**

Mr Borsak

Mr Ruddick

### **3. Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

#### **3.1 Election of Deputy Chair**

The Chair noted the absence of the Deputy Chair for the meeting.

The Chair called for nominations for Deputy Chair.

Mr Lawrence moved: That Mrs Maclaren-Jones be elected Deputy Chair of the committee for the purposes of the meeting.

There being no further nominations, the Chair declared Mrs Maclaren-Jones Deputy Chair for the purposes of the meeting.

#### **3.2 Public hearing – Invercauld House, Goonellabah**

Resolved, on the motion of Mrs Maclaren-Jones: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the media and the public were admitted at 12.00 pm.

The following witness was sworn and examined:

- Mr Joel Hardy, Chief Executive Officer and Co-founder, Cymra Life Sciences

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr James Moylan, Law Reform Activist

Dr Moylan tendered the following documents:

- Pertinent legal advice: Australia is in breach of its civil rights obligations
- Immediately required actions
- Dr James Moylan – presentation
- Dr James Moylan – slides

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr David Michael Heilpern, Dean of Law, Southern Cross University

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Keith Gordon Edward Bolton, Founding Director, Water Operations Division Supervisor, Ecotechnology Australia Pty Ltd

Dr Bolton tendered the following document:

- Submission by Keith Bolton: inquiry into impact of the regulatory framework for Cannabis in NSW

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Patrick Hourigan, Assistant Principal Solicitor, Mid North Coast Legal Centre

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Michael Balderstone, Individual with lived experience

Mr Balderstone tendered the following document:

- Further statement from Michael Balderstone

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Marc Selan, Individual with lived experience

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Matt Noffs, Chief Executive Officer, Ted Noffs Foundation
- Mr Kieran Palmer, Director of Clinical Services, Ted Noffs Foundation

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 6.30 pm. The public and the media withdrew.

#### 4. **Tendered documents**

Resolved, on the motion of Mrs Maclaren-Jones: That the committee accept and publish the following documents tendered during the hearing:

- Pertinent legal advice: Australia is in breach of its civil rights obligations
- Immediately required actions
- Dr James Moylan – presentation
- Dr James Moylan – slides
- Keith Bolton: inquiry into impact of the regulatory framework for Cannabis in NSW
- Further statement from Michael Balderstone.

#### 5. **Adjournment**

The committee adjourned at 6.32 pm until 8.30 am on Wednesday 21 August 2024, Invercauld House, Goonellabah (inquiry into the impact of the regulatory framework for cannabis – site visit to Cymra Life Sciences).

Kara McKee

**Committee Clerk**

#### **Minutes no. 33**

Wednesday 21 August 2024

Portfolio Committee No. 1 – Premier and Finance

Invercauld House, Goonellabah at 8.45 am

#### 1. **Members present**

Mr Buckingham, *Chair*

Ms Faehrmann (participating)

Mr Lawrence

Ms Munro

Mr Murphy

#### 2. **Apologies**

Mr Borsak  
Dr Kaine  
Mrs Maclaren-Jones  
Mr Ruddick

### **3. Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

#### **3.1 Site visit – Cymra Life Sciences**

The committee travelled by bus to Cymra Life Sciences to observe the cultivation and manufacture of medicinal cannabis. The committee met with Cymra Life Sciences staff including:

- Mr Joel Hardy, CEO and Co-founder, Cymra Life Sciences
- Mr Simon Pettinger, COO and Co-founder.

### **4. Adjournment**

The committee adjourned at 5.25 pm to 8.45 am on Wednesday 28 August 2024, Macquarie Room, Parliament House, Sydney (Portfolio Committee No. 1 – Budget Estimates Premier public hearing).

Kara McKee  
**Committee Clerk**

#### **Minutes no. 40**

Friday 13 September 2024

Portfolio Committee 1

Room 1136, Parliament House, Sydney at 2.00 pm

#### **1. Members present**

Mr Buckingham, *Chair* (via videoconference)  
Dr Kaine  
Mr Lawrence (via videoconference)  
Ms Munro  
Mr Nanva (via videoconference)  
Mr Rath  
Mr Ruddick (participating)

#### **2. Apologies**

Mr Borsak, *Deputy Chair*

#### **3. Previous minutes**

Resolved, on the motion of Mr Nanva: That draft minutes no. 30 be confirmed.

### **4. Inquiry into the impact of the regulatory framework for cannabis New South Wales**

#### **4.1 Interim report and extension of reporting deadline**

Resolved, on the motion of Mr Lawrence: That:

- the committee hold an interim report deliberative on Friday 25 October 2024.
- the Chair seek a resolution from the House to:
  - table an interim report in the House for the inquiry on Thursday 31 October 2024, and
  - extend the reporting deadline for the inquiry to Tuesday 8 April 2025.

### **5. Inquiry into the Alcohol Consumption in Public Places (Liberalisation) Bill 2024**

#### **5.1 Answers to questions on notice**

The committee noted that the answers to questions on notice from Mr David Reynolds, Executive Officer, Local Government NSW, received 10 September 2024, were published by the committee clerk under the authorisation of the resolution appointing the committee.

Resolved, on the motion of Mr Lawrence: That:

- the answers to questions on notice from Ms Donna Ausling, Director Planning and Sustainability, Narrabri Shire Council, received 13 September 2024, be published, with the exception of the document entitled 'Crime and Crime Prevention in Narrabri Shire Research Results: Internal Use' which is to remain confidential, as per the request of the author.

## 5.2 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Alcohol Consumption in Public Places (Liberalisation) Bill 2024*, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Dr Kaine: that the following new paragraphs be inserted at paragraph 2.1:

'Current restrictions on the public consumption of alcohol

Local Government NSW explained that 'there is a misconception that alcohol is prohibited in all parks and public places'. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, Chief Executive, Local Government NSW, 10 September 2024, p 1.] They clarified the existing general freedom to consume alcohol in public places, and the process in which restrictions can be imposed:

It is important to acknowledge that in most parks and outdoor public places across NSW it remains perfectly legal to responsibly consume alcohol. In a limited number of cases, councils and other public land holders have consulted with their communities to determine where outdoor alcohol restrictions may be appropriately applied, and in many cases the restriction applies only overnight, or during special events. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, p 2.]

When questioned about the current number of alcohol-free zones in New South Wales, Local Government NSW responded that there is 'no central register of outdoor alcohol restrictions', and stated that they are not aware of the number of restrictions across NSW. [FOOTNOTE: Answers to questions on notice, Mr David Reynolds, p 2.]

Resolved, on the motion of Dr Kaine: that footnote 37 be amended by omitting 'Committee members queried the number of restrictions across NSW, and whether they are increasing. At the time of reporting, the Committee does not have details of the full extent of public alcohol restrictions in place across NSW, and whether there is a publicly available register of restrictions' after 'Submission 11, NSW Government, p 1'.

Resolved, on the motion of Dr Kaine: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House,
- The transcripts of evidence, tabled documents, submissions, correspondence, responses and summary report to the online questionnaire, and answers to questions taken on notice be tabled in the House with the report,
- Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence, responses and summary report to the online questionnaire, and answers to questions taken on notice be published by the committee, except for those documents kept confidential by resolution of the committee,
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting,
- The secretariat to table the report on Friday 20 September,
- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

## 6. Adjournment

The committee adjourned at 2.09 pm, *sine die*.

Verity Smith

**Committee Clerk**

### Minutes no. 41

Friday 25 October 2024

Portfolio Committee No. 1 – Premier and Finance

Room 1043, Parliament House, Sydney at 10.02 am

#### 1. Members present

Mr Buckingham, *Chair*

Mr Donnelly (substituting for Dr Kaine)

Mr Lawrence

Mrs Maclaren-Jones

Ms Munro

Mr Murphy

#### 2. Apologies

Mr Borsak, *Deputy Chair*

Ms Faehrmann (participating)

Mr Ruddick (participating)

#### 3. Previous minutes

Resolved, on the motion of Mr Murphy: That draft minutes nos. 31, 32 and 33 be confirmed.

#### 4. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 6 August 2024 – Email from Mr Robert Taylor, Alcohol and Drug Foundation, providing transcript corrections following his appearance at the hearing on 1 August 2024 for the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 19 August 2024 – Email from Dr Will Tregoning, Unharm, providing transcript corrections following his appearance at the hearing on 1 August 2024 for the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 22 August 2024 – Email from Mr Macizza Macpherson to the committee, regarding models of cannabis regulation, in relation to the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 27 August 2024 – Email from Mr Macizza Macpherson to the committee, attaching 'International guidelines on human rights and drug policy' and an appraisal of Christian doctrinal and ethical positions on drug policy, in relation to the inquiry into the impact of the regulatory framework for cannabis in New South Wales

- 29 August 2024 – Email from Mr Keith Bolton confirming he has no transcript corrections following his appearance as a witness in relation to the inquiry into the impact of the regulatory framework for cannabis in New South Wales, and requesting the committee pass on his expression to participate in the NSW Drug Summit 2024.

**Sent:**

- 16 August 2024 – Letter from the Chair to the Hon Janelle Saffin MP, notifying Ms Saffin of the committee's visit to Lismore for the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 26 August 2024 – Letter from the Chair to Mr Joel Hardy, Cymra Life Sciences, thanking him for facilitating a site visit at Cymra Life Sciences for the inquiry into the impact of the regulatory framework for cannabis in New South Wales.

## 5. Inquiry into the impact of the regulatory framework for cannabis in New South Wales

### 5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 193, 356, 357 and 358.

### 5.2 Partially confidential submissions

Resolved, on the motion of Mr Lawrence: That the committee keep the following information confidential, as per the request of the author: names and/or identifying in submissions nos. 27, 99 and 326.

### 5.3 Answers to questions on notice

The committee noted the following answers to questions on notice and additional information were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Ms Liz Barrett, Research Officer and Ms Keelin O'Reilly, Research Officer, Drug Policy Modelling Program UNSW, received Tuesday 27 August 2024
- answers to questions on notice from Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, received Tuesday 27 August 2024
- answers to questions on notice from Ms Tracey Browne, Manager, National WHS and Workers' Compensation and Mr Scott Barklamb, Principal Adviser, Workplace Relations Policy, Australian Industry Group, received 3 September 2024
- answers to questions on notice and additional information from Mr Joel Hardy, Chief Executive Officer and Co-founder, Cymra Life Sciences, received 3 September 2024
- answers to questions on notice from Ms Samantha Lee, Supervising Solicitor, Redfern Legal Centre, received 11 September 2024
- answers to questions on notice from Mr Michael Whaites, Assistant General Secretary, NSW Nurses and Midwives' Association; Assistant Branch Secretary, Australian Nursing and Midwifery Federation NSW Branch, received 19 September 2024
- answers to questions on notice from Dr Michala Kowalski, Postdoctoral Research Fellow and Professor Don Weatherburn, Professor, National Drug and Alcohol Research Centre, received 16 September 2024
- answers to questions on notice from Mr Edward Strong, Head of Government Relations and Mr Matthew McCrone, Industry and Government Engagement Lead, Montu Group Pty Ltd, received 16 September 2024
- answers to questions on notice from Mr Patrick Hourigan, Assistant Principal Solicitor, Mid North Coast Legal Centre, received 26 September 2024.

### 5.4 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Impact of the regulatory framework for cannabis in New South Wales – First report*, which, having been previously circulated, was taken as being read.

## Chapter 2

Resolved, on the motion of Mr Lawrence: That Finding 2 be omitted: 'There are barriers to accessing medicinal cannabis in New South Wales, including high prices, low coverage in regional and rural areas, and a complex system that is difficult to navigate,' and the following new finding be inserted instead:

'There needs to be further investigation of reported barriers to accessing medicinal cannabis in New South Wales, including high prices, low coverage in regional and rural areas, and a complex system that is difficult to navigate.'

Resolved, on the motion of Mr Lawrence: That the following new finding be inserted after Finding 3:

**'Finding X**

The medicinal cannabis scheme is likely being used to facilitate both medicinal and recreational use of cannabis, potentially leading to an arbitrary distinction between those who lawfully possess cannabis and those who do so in breach of the criminal law.'

**Chapter 3**

Mrs Maclaren-Jones moved: That paragraph 3.139 be omitted: 'The committee notes the lack of distinction between supplying for commercial gain and non-commercial supply of cannabis, or gifting, in supply offences. Supplying cannabis for commercial gain, or 'dealing' in cannabis, is more serious criminal conduct than gifting or sharing cannabis amongst adult friends or family. The committee finds that there are sufficient grounds to distinguish between supply for commercial gain and non-commercial supply of cannabis or gifting in cannabis related offences.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That Finding 4 be omitted: 'That there are sufficient grounds to distinguish between supply for commercial gain and non-commercial supply of cannabis or gifting in cannabis related offences.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That the following paragraph be inserted after paragraph 3.142:

'The committee heard evidence there is a challenge in determining the precise role of cannabis in impaired driving due to the lack of medicinal-specific studies on the effects of medicinal cannabis on driving ability. Therefore, before implementing changes it is necessary to invest in further studies if the relationship between medicinal cannabis and driving impairment can be properly assessed.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That Finding 5 be omitted: 'That people who have been prescribed medicinal cannabis and are unimpaired when driving are unfairly criminalised and there are grounds for legislative change,' and the following new finding be inserted instead:

'That further investigation be undertaken to determine the relationship between prescription medicinal cannabis and driving impairment, including the assessment of impairment, to ensure work and road safety is not jeopardised.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Resolved, on the motion of Mr Lawrence: That paragraph 3.142 be amended by:

- a) inserting 'likely' before 'unreasonably criminalising'
- b) inserting at the end of the paragraph: 'However, the committee is yet to conclude its considerations of this issue and will be taking further evidence from witnesses expert in road safety and in the experience in Tasmania where a medicinal cannabis use defence has been legislated for. The committee is acutely aware of the need to ensure that road safety is not jeopardised'.

Resolved, on the motion of Mr Lawrence: That Finding 5 be omitted: 'That people who have been prescribed medicinal cannabis and are unimpaired when driving are unfairly criminalised and there are grounds for legislative change,' and the following new finding be inserted instead:

'That people who drive unimpaired after consuming medicinal cannabis are unfairly criminalised and legislative reform that does not jeopardise road safety should be considered.'

Mrs Maclaren-Jones moved: That Finding 7 be amended by omitting 'significant' before 'psychological harm.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mr Lawrence moved: That the following new finding be inserted after paragraph 3.149:

**'Finding X**

That searching of persons on account of a mere suspicion of the possession of a small quantity of cannabis is likely to be often unjustified and inconsistent with community expectations in a free society and that the widespread availability of medicinal cannabis may make it increasingly difficult for police to form the requisite state of mind to conduct searches'.

Question put.

The committee divided.

Ayes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Noes: Mrs Maclaren-Jones, Ms Munro.

Question resolved in the affirmative.

Mrs Maclaren-Jones moved: That Finding 8 be amended by omitting the words 'can cause considerable harms' and insert instead 'may cause considerable harms'.

Question put and negatived.

Mrs Maclaren-Jones moved: That:

- a) paragraph 3.151 be amended by omitting 'cannabis criminalisation are unreasonably high' and inserting instead 'cannabis criminalisation are high'.
- b) Finding 9 be amended by omitting 'cannabis criminalisation are unreasonably high' and inserting instead 'cannabis criminalisation are high'.

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That:

- a) paragraph 3.153 be omitted: 'The upcoming NSW Drug Summit is an important step towards much needed drug law reform in New South Wales. The committee welcomes the summit and urges the NSW Government to utilise the opportunity provided by the summit to develop cannabis law reform.'
- b) paragraph 3.154 be omitted: 'With this in mind, the committee recommends that the NSW Government and its Drug Summit consider and further develop a first tranche of cannabis law reforms designed to relax, but not eliminate, at least initially, the criminalisation of cannabis. Wide consultation should occur on the proposals.'
- c) Recommendation 1 be omitted: 'That the NSW Government and its Drug Summit:
  - o consider and further develop a first tranche of cannabis law reforms designed to relax, but not eliminate, at least initially, the criminalisation of cannabis, and
  - o wide consultation should occur on the proposals.

and the following new recommendation be inserted instead:

'That further investigation be undertaken before making formal recommendations to government.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That:

- a) paragraph 3.155 be omitted: 'In relation to this first tranche, the committee recommends a range of reforms for the NSW Government to consider and develop, including:
  - o a reduction in the maximum penalty for possession of cannabis so that it is a fine only offence, or carries a maximum term of imprisonment of no more than three months
  - o amendment of cannabis related offences so that non-commercial supply of cannabis or gifting, is treated as cannabis possession rather than supply

- removing deemed supply measures that reverse the onus of proof
  - amendment of police powers so that police cannot stop and search a person where the only suspicion is that the person has a small quantity of cannabis in their possession
  - introducing a presumption that a person being sentenced for possession of a small quantity of cannabis will receive a section 10 dismissal under the *Crimes (Sentencing Procedure) Act 1999*
  - reform to the Cannabis Cautioning Scheme to remove police discretion to apply the scheme, and make relevant amendments to the eligibility criteria to expand its use
  - conducting trials in certain geographical areas of administrative non-enforcement of cannabis possession laws
  - introducing a medicinal use defence for the drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in relation to cannabis.'
- b) paragraph 3.156 be omitted: 'It is further recommended that this first tranche of reforms be monitored and evaluated by suitable government agencies for a period of at least 18 months and the New South Wales Parliament be informed of progress.'
- c) Recommendation 2 be omitted: 'That the NSW Government in its policy development process in this first tranche law reform package involve consideration of at least the following measures, or some combination of them:
- reduction of the maximum penalty for the possession of cannabis to either a fine only offence or a maximum term of imprisonment of no more than three months
  - amendment of cannabis related offences to ensure non-commercial supply of cannabis or gifting, is treated as possession and not supply
  - removal of deemed supply measures that reverse the onus of proof
  - amendment of the *Law Enforcement (Powers and Responsibilities) Act 2002* to provide that police may not exercise any stop and search powers on account of only holding a suspicion that a person possesses a small quantity of cannabis for personal use
  - amendment of relevant legislation to provide a presumption that a person will receive a section 10 dismissal under the *Crimes (Sentencing Procedure) Act 1999* so will not be convicted when sentenced for the possession of a small quantity of cannabis
  - reform of the Cannabis Cautioning Scheme (CCS) that remove police discretion and amends the criteria to make it to more available for use
  - trials in certain defined geographical areas of administrative non-enforcement of cannabis possession laws
  - a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis.

That the operation of this first tranche of reforms be monitored and evaluated by suitable government agencies for a period of at least 18 months and the New South Wales Parliament be informed of progress' and the following new recommendation be inserted instead:

'That the committee continue consultation with important stakeholders who have not yet been given an opportunity to comment publicly, including public service agencies, or answer questions from committee members regarding their submissions.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Resolved, on the motion of Mrs Maclaren-Jones: That paragraph 3.158 be amended by omitting 'evidence indicates that' and inserting instead 'evidence received indicates that.'

Mrs Maclaren-Jones moved: That paragraph 3.158 be amended by omitting at the end: 'This calls into question the value of continuing to criminalise minor cannabis offences. The committee finds that the criminal sanctions for minor cannabis do not deter individuals or the community from using cannabis'.

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Resolved, on the motion of Mr Lawrence: That paragraph 3.158 be amended by inserting at the end: 'and this **is particularly** so in respect of people most vulnerable to cannabis related harm'.

Resolved, on the motion of Mrs Maclaren-Jones: That paragraph 3.158 be amended by inserting at the end: 'However, the committee will be taking further evidence from witnesses'.

Mrs Maclaren-Jones moved: That Finding 10 be omitted: 'That criminal sanctions for minor cannabis offences do not deter individuals or the community from using cannabis.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Question resolved in the negative.

Resolved, on the motion of Mr Lawrence: That Recommendation 1 be omitted: 'That the NSW Government and its Drug Summit:

- consider and further develop a first tranche of cannabis law reforms designed to relax, but not eliminate, at least initially, the criminalisation of cannabis, and
- wide consultation should occur on the proposals.'

Mr Lawrence moved: That Recommendation 2 be omitted:

'That the NSW Government in its policy development process in this first tranche law reform package involve consideration of at least the following measures, or some combination of them:

- reduction of the maximum penalty for the possession of cannabis to either a fine only offence or a maximum term of imprisonment of no more than three months
- amendment of cannabis related offences to ensure non-commercial supply of cannabis or gifting, is treated as possession and not supply
- removal of deemed supply measures that reverse the onus of proof
- amendment of the *Law Enforcement (Powers and Responsibilities) Act 2002* to provide that police may not exercise any stop and search powers on account of only holding a suspicion that a person possesses a small quantity of cannabis for personal use

- amendment of relevant legislation to provide a presumption that a person will receive a section 10 dismissal under the *Crimes (Sentencing Procedure) Act 1999* so will not be convicted when sentenced for the possession of a small quantity of cannabis
- reform of the Cannabis Cautioning Scheme (CCS) that remove police discretion and amends the criteria to make it to more available for use
- trials in certain defined geographical areas of administrative non-enforcement of cannabis possession laws
- a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis.

That the operation of this first tranche of reforms be monitored and evaluated by suitable government agencies for a period of at least 18 months and the New South Wales Parliament be informed of progress', and the following new recommendation be inserted instead: 'That the NSW Government considers, including as part of the Drug Summit, the following law reform measures:

- a reconsideration of the amount classifications in Schedule 1 of the *Drug Misuse and Trafficking Act 1985* in respect of cannabis generally and particularly what amounts of cannabis should be considered a 'small quantity' and a 'trafficable quantity noting the committee is of the view the threshold for these quantities may be too low'
- reduction of the maximum penalty for the possession of cannabis (i.e. the offences of being in possession not for the purposes of supply, cultivating no greater than a small quantity of cannabis plant and using cannabis all of which currently carry a maximum penalty of 2 years imprisonment on summary disposition under the *Drug Misuse and Trafficking Act 1985*) to either a fine only offence or a maximum term of imprisonment of no more than three months
- amendment of cannabis related offences to ensure non-commercial supply of cannabis or gifting, is treated as possession and not supply to align the offences with the policy choice embodied in Chapter 9 of the *Criminal Code 1995 (Cth)* whereby non-commercial supply is treated as possession
- removal of deemed supply measures that reverse the onus of proof such as section 29 of the *Drug Misuse and Trafficking Act 1985*, in respect of cannabis possession
- amendment of the *Law Enforcement (Powers and Responsibilities) Act 2002* to significantly limit the circumstances in which persons can be searched by police in respect of a small quantity of cannabis not possessed for the purposes of supply. This objective could be achieved by a) amendments providing that police may not exercise any stop and search powers on account of only holding a suspicion that a person unlawfully possesses a non-trafficable quantity of cannabis for personal use and/or b) that such searches only instead be permitted where police hold a **reasonable belief** as to the requisite circumstances
- amendment of relevant legislation to provide a presumption that a person will receive a section 10 dismissal under the *Crimes (Sentencing Procedure) Act 1999* so will not be convicted when sentenced for the possession of a small quantity of cannabis displaced only if the court is satisfied there are special circumstances and a conviction is appropriate, or a test to similar effect
- reform of the Cannabis Cautioning Scheme (CCS) to limit police discretion and creates a presumption of diversion that operates irrespective of criminal history or prior cautions and is only displaced where the police officer is satisfied there are special and exceptional circumstances or a test to similar effect and amends the criteria to make it to more available for use including by applying it to larger amounts of cannabis not possessed for supply

- an expiation scheme for cannabis offences such as exists in South Australia, with wide criteria and a presumption of administrative diversion, allowing small cannabis matters to be finally disposed of without court proceedings, for presumed use where persons are not diverted pursuant to the Cannabis Cautioning scheme
- changes to police standard operating procedures to ensure police do not unnecessarily target, including in random place-based search operations, persons suspected of possession of a small quantity of cannabis not for the purposes of supply
- trials in certain defined geographical areas of administrative non-enforcement of cannabis possession laws
- a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis such as is legislated for in Tasmania but ensuring that the mixing of cannabis and alcohol is the express subject of an aggravating factor of the relevant criminal offence.

Question put.

The committee divided.

Ayes: Mr Buckingham, Mr Donnelly, Mr Lawrence, Mr Murphy.

Noes: Mrs Maclaren-Jones, Ms Munro.

Question resolved in the affirmative.

Resolved, on the motion of Mr Lawrence: That the following new recommendation be inserted after Recommendation 2:

**'Recommendation X**

That implementation of these reforms, and any others, be monitored and evaluated and that a whole of Government response be provided to Parliament within 12 months of these changes'.

Resolved, on the motion of Mr Lawrence: That:

- the draft report as amended be the report of the committee and that the committee present the report to the House;
- the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- the committee secretariat be authorised to update any committee comments where necessary to reflect changes to findings, recommendations or new findings or recommendations resolved by the committee;
- dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- the secretariat table the report on Thursday 31 October 2024;
- the Chair advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

## 6. Adjournment

The committee adjourned at 11.18 am, until Wednesday 11 December 2024, Macquarie Room, Parliament House (public hearing – inquiry into the impact of the regulatory framework for cannabis in New South Wales).

Emma Rogerson  
**Committee Clerk**

**Minutes no. 43**

Tuesday 26 November 2024  
 Portfolio Committee No. 1 – Premier and Finance  
 Room 813A, Parliament House, Sydney at 11.00 am

**1. Members present**

Mr Buckingham, *Chair*  
 Dr Kaine  
 Mr Lawrence  
 Mr Nanva  
 Mr Rath  
 Mr Tudehope

**2. Apologies**

Mr Borsak, *Deputy Chair*

**3. Previous minutes**

Resolved, on the motion of Mr Lawrence: That draft minutes no. 41 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- 21 November 2024 – Letter from Mr Damien Tudehope, Mr Jeremy Buckingham and Mr Robert Borsak, requesting a meeting of Portfolio Committee No. 1 to consider a proposed self-reference into the application of the contractor and employment agent provisions in the *Payroll Tax Act 2007*.

**5. Consideration of terms of reference**

The Chair tabled a letter proposing the following terms of reference for an inquiry into the application of the contractor and employment agent provisions in the *Payroll Tax Act 2007*:

That Portfolio Committee 1 - Premier and Finance inquire into and report on the application of the contractor and employment agent provisions in the *Payroll Tax Act 2007*, and in particular:

- a) the provisions in Division 7 of Part 3 of the *Payroll Tax Act 2007* on contractors,
- b) the provisions in Division 8 of Part 3 of the *Payroll Tax Act 2007* on employment agents,
- c) revenue rulings and Commissioner's practice notes issued by Revenue NSW addressing the contractor and employment agencies provisions in the *Payroll Tax Act 2007*,
- d) decisions of courts in cases involving the application of the contractor and employment agencies provisions in the *Payroll Tax Act 2007*,
- e) the impact of the contractor and employment agent provisions in the *Payroll Tax Act 2007* on particular industries, and
- f) any other related matter.

Resolved, on the motion of Dr Kaine: That the terms of reference be amended by:

- omitting 'impact' and inserting instead 'applicability' in item (e)
- inserting at the end of item (e) 'including the on-demand and gig economy'.
- Resolved, on the motion of Dr Kaine: That the committee adopt the terms of reference as amended.

**6. Conduct of the inquiry into the contractor and employment agent provisions in the *Payroll Tax Act 2007*****6.1 Closing date for submissions**

Resolved, on the motion of Mr Rath: That the closing date for submissions be Friday 7 February 2025.

## 6.2 Stakeholder list

Resolved, on the motion of Mr Tudehope:

- the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make a submission
- members have two days from when the Chair's proposed list is circulated to make amendments or nominate additional stakeholders
- the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

## 6.3 Hearing dates

Resolved, on the motion of Mr Tudehope: That the committee hold hearings in March 2025 the dates of which are to be determined by the Chair after consultation with members regarding their availability.

## 7. Adjournment

The committee adjourned at 11.06 am, until Wednesday 11 December 2024, Macquarie Room, Parliament House (public hearing – inquiry into the impact of the regulatory framework for cannabis in New South Wales).

Anthony Hanna  
**Committee Clerk**

### Minutes no. 44

Wednesday 11 December 2024

Portfolio Committee No. 1 – Premier and Finance

Macquarie Room, Parliament House, Sydney at 9.00 am

#### 1. Members present

Mr Buckingham, *Chair*  
Dr Kaine  
Mr Lawrence  
Mrs Maclaren-Jones  
Ms Munro (from 9.07 am)  
Mr Murphy

#### 2. Apologies

Mr Borsak, *Deputy Chair*  
Ms Faehrmann (participating)

#### 3. Previous minutes

Resolved, on the motion of Mr Murphy: That draft minutes no. 41 be confirmed.

#### 4. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 31 October 2024 – Email from Mr Terry Koschel to the committee responding to the release of the impact of the regulatory framework for cannabis in New South Wales – First report
- 1 November 2024 – Email from Mr Peter Hejenko to the committee responding to the release of the impact of the regulatory framework for cannabis in New South Wales – First report

- 13 November 2024 – Email from Mr Herschel Baker, Drug Free Australia to the secretariat, responding to the release of the impact of the regulatory framework for cannabis in New South Wales – First report including information about health impacts of cannabis use and attaching supporting material
- 19 November 2024 – Email from Ms Lyria Bennett Moses, UNSW School of Law, Society and Criminology, declining the invitation to attend the hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales, due to a lack of expertise and capacity
- 20 November 2024 – Email from Ms Lyvia Devine, NSW Police to secretariat, declining the invitation on behalf of NSW Police to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 11 December 2024
- 20 November 2024 – Email from Mr Clark Cooley, Uniting NSW.ACT to secretariat, declining to provide answers to questions on notice following a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales due to capacity issues
- 27 November 2024 – Email from Ms Katie Lockie, Australian Criminal Intelligence Commission, declining the invitation on behalf of the Australian Criminal Intelligence Commission to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 11 December 2024
- 28 November 2024 – Email from Ms Lyvia Devine, NSW Police, declining the re-issued invitation to NSW Police to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 11 December 2024
- 29 November 2024 – Email from Ms Mel Fyfe, Co-founder & Chief of Market Development, TRACEE to secretariat, outlining the work of TRACEE and offering to provide advice on cannabis frameworks for NSW
- 29 November 2024 – Email from Ms Edwina Vandine, Director of Medicinal Cannabis Section, Office of Drug control to secretariat, declining the invitation to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 13 December 2024.

***Sent:***

- 25 November 2024 – Letter from the Chair to Ms Lyvia Devine, NSW Police, re-issuing the invitation to NSW Police to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 11 December 2024, noting the committee's power to issue a summons should NSW Police decline again to attend.

## **5. Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

### **5.1 Public submissions**

The committee noted that submission 359 was published by the committee clerk under the authorisation of the resolution appointing the committee.

### **5.2 Answers to questions on notice and supplementary questions**

The committee noted the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Dr Thomas Lu, General Practitioner, The Royal Australian College of General Practitioners (RACGP), received 7 October and 25 October 2024
- answers to questions on notice from Mr Matthew Cantelo, Chief Executive Officer, and Mr James Gaskell, Chief Operating Officer, Australian Natural Therapeutics Group, received 18 November 2024.

### **5.3 Witness decline to attend hearing**

The committee noted that it previously agreed via email on Monday 25 November 2024 to re-issue an invitation to NSW Police to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales, noting the power of the committee to issue a summons.

Resolved, on the motion of Mrs Maclaren-Jones: That:

- the committee hold a short public hearing in early 2025 and invite NSW Police to attend
- the public hearing date be confirmed by the Chair after canvassing member availability.

#### 5.4 Answers to questions on notice and supplementary questions due date

Resolved, on the motion of Dr Kaine: That witnesses from the hearing on Wednesday 11 December 2024 be required to provide answers to questions on notice/supplementary questions within 15 business days from the date on which the questions are forwarded to the witness excluding the Parliament's Christmas Closedown period of 23 December 2024 to 3 January 2025 inclusive.

#### 5.5 Public hearing

Resolved, on the motion of Mr Murphy: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

The Chair made an opening statement regarding parliamentary privilege and other matters.

Witnesses, the media and the public were admitted at 9.15 am.

The following witnesses were sworn and examined:

- Commissioner Michael Barnes, New South Wales Crime Commission
- Mr Darren Bennett, Executive Director Operations, New South Wales Crime Commission.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW
- Ms Louise Higgins, Director Road Safety Policy, Transport for NSW.

The evidence concluded and the witness withdrew.

The following witnesses was sworn and examined:

- Professor Iain McGregor, Academic Director, Lambert Initiative, University of Sydney
- Dr Danielle McCartney, Research Fellow, Lambert Initiative, University of Sydney.

Professor Iain McGregor tabled the following document:

- Draft Manuscript 11/12/2024 – 'An analysis of the cultivation, consumption and composition of home-grown cannabis following decriminalisation in the Australian Capital Territory' Cilla Zhou, Isobel Lavender, Rebecca Gordon, Danielle McCartney, Richard C. Kevin, Miguel A. Bedoya-Perez, Iain S. McGregor.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Dr Thomas Arkell, Research Fellow, Centre for Human Psychopharmacology, Swinburne University of Technology.

The evidence concluded and the witness withdrew.

The public hearing concluded at 12.25 pm. The public and the media withdrew.

## 6. Tendered documents

Resolved, on the motion of Mr Murphy: That the committee accept and publish the following document tendered during the public hearing:

- Draft Manuscript 11/12/2024 – 'An analysis of the cultivation, consumption and composition of home-grown cannabis following decriminalisation in the Australian Capital Territory' Cilla Zhou, Isobel Lavender, Rebecca Gordon, Danielle McCartney, Richard C. Kevin, Miguel A. Bedoya-Perez, Iain S. McGregor.

## 7. Adjournment

The committee at 12.26 pm until 9.00 am on Friday 13 December 2024, Macquarie Room, Parliament House, Sydney (inquiry into the impact of the regulatory framework for cannabis – public hearing).

Kara McKee  
Committee Clerk

### Minutes no. 52

Wednesday 2 April 2025

Portfolio Committee No. 1 – Premier and Finance

Macquarie Room, Parliament House, Sydney, 9.00 am

#### 1. Members present

Mr Buckingham, *Chair*

Mr Borsak, *Deputy Chair* (until 9.25 am, from 10.32 am until 11.39 am, and from 2.01 pm)

Mrs Carter (substituting for Mrs Maclaren-Jones)

Ms Faehrmann (participating from 10.34 am until 12.03 pm, and from 12.16 pm until 3.02 pm)

Dr Kaine (until 10.18 am, from 12.10 pm until 12.39 pm, and from 2.29 pm)

Mr Lawrence

Mr Murphy

#### 2. Previous minutes

Resolved, on the motion of Mr Lawrence: That draft minutes no. 44 be confirmed.

#### 3. Correspondence

The committee noted the following items of correspondence:

##### *Received*

- 7 December 2024 – Email from Macciza Macpherson to Chair, requesting the committee hear from a particular NSW Police officer as part of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 15 January 2025 – Letter from Mr Bernard Carlon Chief Centres for Road Safety & Maritime Safety, Transport for NSW to the Chair, clarifying his evidence provided at the Portfolio Committee No. 1 Inquiry into the impact of the regulatory framework for cannabis hearing on 11 December 2024
- 31 January 2025 – Letter from Ms Gillian White, Deputy Secretary – Social Policy and Intergovernmental Relations, the Cabinet Office NSW Government to the Chair and Clerk of Parliaments, advising that the NSW Government response to the Inquiry into the impact of the regulatory framework for cannabis in New South Wales – First Report will be delayed
- 11 February 2025 – Letter from the Hon Michael Daley MP, Attorney General, providing the government response to the first report of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 11 February 2025 – Email from Mr Keith Bolton to the Chair, responding to the government response to the first report of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 11 February 2025 – Email from Mr Langdon Brown to the Chair, responding to the government response to the first report of the inquiry into the impact of the regulatory framework for cannabis in New South Wales
- 11 February 2025 – Email from Mr Terry Koschel to the Chair, responding to the government response to the first report of the inquiry into the impact of the regulatory framework for cannabis in New South Wales

- 18 March 2025 – Email from Ms Lyvia Devine, NSW Police to the Chair, advising that NSW Police decline the invitation to attend a hearing for the inquiry into the regulatory framework for cannabis in NSW on 2 April 2025, noting the report of the NSW Drug Summit has not been released.

***Sent***

- 21 March 2025 – Letter from the Chair to Ms Lyvia Devine, NSW Police, re-issuing the invitation to NSW Police to attend a hearing for the inquiry into the impact of the regulatory framework for cannabis in New South Wales on 2 April 2025, noting the committee's power to issue a summons should NSW Police decline again to attend.

Resolved, on the motion of Mr Borsak: That the committee:

- publish the correspondence dated 15 January 2025 from Mr Bernard Carlon Chief Centres for Road Safety & Maritime Safety, Transport for NSW, providing a clarification to his evidence at the Portfolio Committee No. 1 Inquiry into the impact of the regulatory framework for cannabis hearing on 11 December 2024
- insert a footnote at the relevant point in the transcript of 11 December 2024 noting that correspondence clarifying the evidence had been received and providing a hyperlink to the published correspondence.

#### **4. Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

##### **4.1 Answers to questions on notice and supplementary questions**

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Commissioner Michael Barnes and Mr Darren Bennett, New South Wales Crime Commission, received on 10 January 2025
- answers to questions on notice from Mr Bernard Carlon and Ms Louise Higgins, Transport for NSW, received on 15 January 2025
- answers to questions on notice from Professor Iain McGregor and Dr Danielle McCartney, Lambert Initiative, University of Sydney, received on 24 January 2025
- answers to questions on notice from Dr Thomas Arkell, Swinburne University of Technology received on 31 January 2025.

##### **4.2 Extension of reporting date**

The committee noted that it previously agreed via email on 19 December 2024 that the Chair seek an extension in the House for the report tabling date to 20 June 2025 which was subsequently agreed to by the House on 12 February 2025.

##### **4.3 Public hearing**

Resolved, on the motion of Mr Lawrence: That the allocation of questions to be asked at the hearing be left in the hands of the Chair.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding parliamentary privilege and other matters.

The following witnesses were sworn and examined:

- Professor Jennifer Martin, Clinical Pharmacology Chair, NSW Health State Formulary, Clinical Excellence Commission
- Mr Bruce Battye, Director, Pharmaceutical Operations, Pharmaceutical Services Unit, Ministry of Health
- Dr Santiago Vazquez, Operations Director, Forensic & Environmental Toxicology, NSW Health Pathology, Forensic & Analytical Science Service.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Edwina Vandine (via videoconference), A/g Assistant Secretary, Office of Drug Control
- Professor Robyn Langham (via videoconference), Chief Medical Adviser, Therapeutic Goods Administration.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Teresa Nicoletti, Chair, Australian Medicinal Cannabis Association.

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Alec Zammit, Cannabis advocate.

The evidence concluded and the witness withdrew.

The following witnesses were examined on their former oath:

- Mr Bernard Carlon, Chief of the Centre for Road and Maritime Safety, Transport for NSW
- Ms Louise Higgins, Director Road Safety Policy, Transport for NSW.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Deputy Commissioner David Hudson APM (via videoconference), Deputy Commissioner, NSW Police Force.

The evidence concluded and the witness withdrew.

The public hearing concluded at 3.17 pm. The public and the media withdrew.

## 5. Adjournment

The committee adjourned at 3.17 pm until 10.30 am on Wednesday 11 June 2025, Room 1043 (inquiry into the impact of the regulatory framework for cannabis in NSW – report deliberative).

Kara McKee  
Committee Clerk

### Draft minutes no. 53

Wednesday 11 June 2025  
Portfolio Committee No. 1 – Premier and Finance  
Room 1043, Parliament House, Sydney, 10.30 am

#### 1. Members present

Mr Buckingham, *Chair*  
Mr Borsak, Deputy Chair  
Mr Lawrence  
Mrs Maclaren-Jones (via videoconference)  
Ms Munro  
Mr Murphy  
Mr Ruddick (participating)  
Ms Suvaal (substituting for Dr Kaine via videoconference)

#### 2. Previous minutes

Resolved, on the motion of Mr Lawrence: That draft minutes no. 52 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence:

#### *Received*

- 3 April 2025 – Letter from Mr Scot MacDonald, General Manager, Policy and Advocacy, Exercise & Sports Science Australia, noting proposed reforms of the NSW Workers Compensation Scheme to respond to mental health injury claims, and welcoming collaboration with Portfolio Committee No. 1 on legislative review of these proposed reforms
- 7 April 2025 – Email from Mr Macciza Macpherson to the committee, raising an alternate perspective to the evidence of a witness at a hearing for the inquiry into the impact of the regulatory framework for cannabis in NSW, and requesting to discuss the matters with the committee
- 1 May 2025 – Letter from Commissioner Karen Webb APM, Commissioner of NSW Police to the Chair, raising parts of the first report of the inquiry into the impact of the regulatory framework for cannabis in NSW contain errors relating to the Cannabis Cautioning Scheme
- 2 June 2025 – Letter from the Hon Natasha Maclaren-Jones MLC to the Chair, enclosing a parliamentary research paper on drug-related road incidents, requesting the committee consider the correspondence and the tabling of the enclosed research paper at its next meeting.

#### *Sent:*

- 8 May 2025 – Letter from the Chair to Commissioner Karen Webb APM, Commissioner of Police, responding to correspondence received on 1 May 2025, outlining the committee's response to errors relating to the Cannabis Cautioning Scheme in the first report of the inquiry into the impact of the regulatory framework for cannabis in New South Wales.

Resolved, on the motion of Ms Munro: That the committee keep the correspondence from Mr Macciza Macpherson, regarding an alternate perspective to the evidence of a witness at a hearing for the inquiry into the impact of the regulatory framework for cannabis in NSW, dated 7 April 2025, confidential, as per the recommendation of the secretariat, as it contains potential adverse mention.

### 4. Inquiry into the Workers Compensation Legislation Amendment Bill 2025

#### 4.1 Updated Cannabis Cautioning Scheme (CCS) Guidelines

Resolved, on the motion of Mr Lawrence: That the committee formally note that, in response to correspondence received from Commissioner Karen Webb APM of NSW Police on 1 May 2025 it took the following actions:

- responded to Commissioner Webb, apologising for the error in the first report relating to the Cannabis Cautioning Scheme and noting the context in which it occurred
- published Commissioner Webb's correspondence on the website
- acknowledged in its final report that changes were made to the CCS in April 2024 and that these changes seek to address some of the concerns the committee heard in evidence about the CCS.

#### 4.2 Public submissions

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no 360.

#### 4.3 Answers to questions on notice and supplementary questions

The following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Professor Jennifer Martin, Mr Bruce Battye and Dr Santiago Vazquez, NSW Health received 29 April 2025
- answers to questions on notice from Ms Edwina Vandine, Office of Drug Control and Professor Robyn Langham, Therapeutic Goods Administration received 30 April 2025
- answers to questions on notice from Mr Bernard Carlon and Ms Louise Higgins, Transport for NSW received 2 May 2025

- answers to questions on notice from Deputy Commissioner David Hudson, NSW Police received 29 April 2025
- answers to questions on notice from Dr Teresa Nicoletti, Australian Medicinal Cannabis Association received 6 May 2025.

#### 4.4 Consideration of Chair's draft report

##### Chapter 2

Mrs Maclaren-Jones moved: That the following new paragraph be inserted after 2.10:

"The 2024 NRMA report "Driving, high, the need to detect drug drivers", referred to Transport NSW data for 2019-2023, which stated that drug driving was considered a contributing factor in 24% of NSW road fatalities, with THC detected in 69% of the fatal crashes involving illicit substances" [FOOTNOTE: <https://www.mynrma.com.au/-/media/files/nrma-driving-high.pdf>, p 9].

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

Mrs Maclaren-Jones moved: That paragraph 2.143 be amended by omitting 'the committee found' and instead inserting 'the majority of committee members found'.

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

**2.185** Mrs Maclaren-Jones moved: That paragraph 2.144 be omitted: "With respect to medicinal cannabis use and driving the committee recommended "a medicinal use defence to the offence of drive with 'presence of a prescribed illicit drug in oral fluid, blood or urine' offence in respect of cannabis such as is legislated for in Tasmania but ensuring that the mixing of cannabis and alcohol is the express subject of an aggravating factor of the relevant criminal offence".

##### **2.186**

Question put and negated.

Mrs Maclaren-Jones moved: That paragraph 2.147 be amended by omitting 'For example, eight per cent of fatal crashes between 2019 to 2023 involved a driver or rider with the presence of THC in their system. This statistic accounts for people with no other illicit drugs or illegal levels of alcohol in their system' and inserting instead 'Using data from Transport for NSW, the 2024 NRMA report "Driving high, the need to detect drug drivers", found that during 2019-2023, the most common illicit drug involved in fatal crashes by drivers or motorcycle riders was cannabis (69%), followed by methylamphetamine (43%), cocaine (7%) and MDMA (5%). [FOOTNOTE: <https://www.mynrma.com.au/-/media/files/nrma-driving-high.pdf>, p 9]'.

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

**2.187** Mrs Maclaren-Jones moved *in globo*:

- (1) That paragraph 2.149 be omitted: 'It was clear from the evidence that there is no defined level of cannabis which correlates with crash risk or impairment. Transport for NSW acknowledged that they do not have a piece of evidence showing that as the volume of cannabis in a person's oral fluid increases so does the escalation in crash risk. As there is no accepted quantified level of how much THC will cause impairment, the committee finds that the presence of cannabis in a person's system does not necessarily indicate that a person is impaired.'
- (2) That Finding 1 be omitted: 'That the presence of cannabis in a person's system does not necessarily indicate that a person is impaired.'

Question put.

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

**2.188** Mrs Maclaren-Jones moved *in globo*:

- (1) That paragraph 2.164 be amended by omitting: ' to reduce the volume of imported medicinal cannabis products by prioritising and incentivising' and inserting instead ' take active steps to support'.
- (2) That Recommendation 1 be amended by omitting: to reduce the volume of imported medicinal cannabis products by prioritising and incentivising' and inserting instead ' take active steps to support'.

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

Mrs Maclaren-Jones moved *in globo*:

- (1) That paragraph 2.165 be amended by omitting: '– such as grants, regulatory streamlining, and access to clinical trial funding –'.

- (2) That Recommendation 2 be amended by omitting: '– such as grants, regulatory streamlining, and access to clinical trial funding –'.

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

Mr Borsak left the meeting.

Mrs Maclaren-Jones moved *in globo*:

- (1) That the following new paragraph be inserted after 2.168:

'Having considered the impact organised criminal networks have on society and their role in the supply of cannabis, which can lead to the supply of more serious drugs, the committee recommends the Government take action to stop the illegal drug trade run by organised criminal networks'.

- (2) That the following new recommendation be inserted after 2.168:

**'Recommendation X**

The Government notes the role of organised criminal networks in the supply of cannabis, which can lead to the supply of more serious drugs, and that the Government take action to stop the illegal trade run by organised criminal networks.'

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

Mr Borsak returned to the meeting.

Resolved, on the motion of Mr Lawrence:

- (1) That paragraph 2.124 be amended by inserting 'remain criminalised,' before 'be legalised or decriminalised'.
- (2) That the following new paragraphs be inserted after paragraph 2.124:

'In relation to cannabis use under the current regulatory regime, Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, argued that '[t]here is zero evidence – and I mean zero evidence – that the law has any impact on the usage of cannabis ... It does not deter. [FOOTNOTE: Evidence, Mr Greg Barns SC, Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, 1 August 2024, p 10-11]'

'Mr Jonathon Paff, Criminal Solicitor and Coffs Harbour Summary Courts Manager, Legal Aid NSW, spoke to the consequences of continued criminalisation of cannabis, arguing that '[i]f cannabis remains illegal, it would be my view that it is more likely that people who are seeking

cannabis will come into interaction with people who are able to provide other drugs.' He continued, noting that from his 'point of view, if it does remain that way, there's always the risk that someone is interacting with rather serious criminals. [FOOTNOTE: Evidence, Mr Jonathon Paff, Criminal Solicitor and Coffs Harbour Summary Courts Manager, Legal Aid NSW, 1 August 2024, p 10].'

Mr Lawrence moved: That the following new finding be inserted after 2.168:

**'Finding X**

The current criminal regulation of cannabis is not achieving its ostensible purpose of reducing use, and noting evidence that decriminalisation in other jurisdictions has not led to a material increase in use, is causing significant harm, criminalising users and forcing them to access cannabis through an illicit market that fuels organised crime'.

Ms Munro moved: That the motion of Mr Lawrence be amended by inserting 'and further notes that legalisation was found to increase use' after 'noting evidence that decriminalisation in other jurisdictions has not led to a material increase in use'.

Amendment of Ms Munro put.

The committee divided.

Ayes: Mr Borsak, Ms Munro.

Noes: Mr Buckingham, Mr Lawrence, Mrs Maclaren-Jones, Mr Murphy, Ms Suvaal.

Amendment of Ms Munro resolved in the negative.

Original question of Mr Lawrence put.

The committee divided.

Ayes: Mr Borsak, Buckingham, Mr Lawrence, Ms Munro, Mr Murphy, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Original question of Mr Lawrence resolved in the affirmative.

Mr Lawrence moved: That the following new finding be inserted after 2.168:

**'Finding X**

That if cannabis is legalised in an overly burdensome way, with unnecessarily high taxation and regulation on cultivation, distribution and sale, it will be impossible to eradicate the illicit market and consequent harms will continue to be occasioned'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Suvaal.

Noes: Mrs Maclaren-Jones, Ms Munro.

Question resolved in the affirmative.

Mrs Maclaren-Jones moved *in globo*:

- (1) That paragraph 2.170 be omitted: 'Having considered and weighed this evidence, the committee recommends the Government prioritise parliamentary debate and facilitate passage of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 as a key step towards evidence-based cannabis law reform in New South Wales.'
- (2) That Recommendation 3 be omitted: 'That the Government prioritise parliamentary debate and facilitate passage of the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 as a key step towards evidence-based cannabis law reform in New South Wales.'

The committee divided.

Ayes: Mrs Maclaren-Jones, Ms Munro.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Suvaal.

Question resolved in the negative.

Mrs Maclaren-Jones moved: 'That paragraph 2.172 be omitted: 'Should the bill not pass, the committee urges legislative reform to decriminalise cannabis possession. There is support from inquiry participants for decriminalisation.'

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Question resolved in the negative.

Resolved, on the motion of Mr Murphy: 'That paragraph 2.173 be amended by omitting: 'including to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, replacing these penalties with a modest, non-criminal fine intended as a deterrent but not as a financial burden'.

Mrs Maclaren-Jones moved: 'That paragraph 2.173 be omitted: 'The committee acknowledges the argument that decriminalisation would ameliorate some of the harms of criminalisation, including social inequalities and costs to the criminal justice system. Therefore, the committee recommends that the Government decriminalise personal use and possession of cannabis, including to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, replacing these penalties with a modest, non-criminal fine intended as a deterrent but not as a financial burden.'

Question put and negated.

Resolved, on the motion of Mr Lawrence: 'That Recommendation 4 be amended by omitting: 'including to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, replacing these penalties with a modest, non-criminal fine intended as a deterrent but not as a financial burden'.

Mrs Maclaren-Jones moved: 'That Recommendation 4 be omitted: 'That the Government decriminalise personal use and possession of cannabis, including to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, replacing these penalties with a modest, non-criminal fine intended as a deterrent but not as a financial burden.'

The committee divided.

Ayes: Mrs Maclaren-Jones.

Noes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Question resolved in the negative.

Mr Lawrence moved: That the following new finding be inserted after Recommendation 4:

**'Finding X**

That the decriminalisation and legalisation of cannabis can be done in a way that does not materially increase cannabis related harms and reduces the significant harms associated with the current criminal regime.'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Mr Lawrence moved: That the following new finding be inserted after Recommendation 4:

**'Finding X**

Canada offers the most useful model for the legalisation of cannabis and the Government should closely assess what has occurred there and elsewhere, but ultimately craft a model suitable for New South Wales.'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Mr Lawrence moved: That the following new recommendation be inserted after Recommendation 4:

'That the Government, following an assessment and review of the impact of decriminalisation, further engage in a staged process of reform and review and consider legislating to legalise the use of cannabis by adults in a manner that eliminates the illicit market so far as is possible and creates a safe, regulated and accessible statewide market for legal cannabis.'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Mr Lawrence moved: That the following new recommendation be inserted after Recommendation 4:

'That the Government, in the period before these decriminalisation and legalisation reforms, immediately act to permanently remove the possibility of custodial sentences for adults found in possession of small quantities of cannabis for personal use, by amending section 10 of the *Drug (Misuse and Trafficking) Act 1985* (NSW), to provide that the maximum penalty for such possession is a fine, as is the case in Victoria pursuant to section 73(1)(a) of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic).'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Mr Lawrence moved: That the following new recommendation be inserted after Recommendation 4:

'That the Government should immediately consider implementing the depenalisation measures recommended in the first report of this committee'.

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Mr Lawrence moved: That the following new finding be inserted after Recommendation 4:

'Irrespective of the merits of decriminalisation and legalisation, it is absurd, draconian and antiquated that in New South Wales the maximum penalty for the possession of a small quantity of cannabis is two years imprisonment. This degree of criminalisation, which has persisted for many decades, is irrational and an affront to the community's sense of justice and can be remedied by the Parliament in a way consistent with the policy position of the Government.'

The committee divided.

Ayes: Mr Borsak, Mr Buckingham, Mr Lawrence, Mr Murphy, Ms Munro, Ms Suvaal.

Noes: Mrs Maclaren-Jones.

Question resolved in the affirmative.

Resolved, on the motion of Mr Lawrence: That the following new finding be inserted after Recommendation 4:

'The widespread availability of medicinal cannabis in New South Wales is welcome, but is facilitating widespread 'non-medicinal' and 'mixed purpose' use of cannabis. This highlights the inequitable and arbitrary nature of the current criminalisation of cannabis, whereby the criminal status of a person now depends on their capacity to obtain a prescription from a doctor.'

Resolved, on the motion of Mr Murphy: That:

The draft report as amended be the report of the committee and that the committee present the report to the House;

- The transcripts of evidence, tabled documents, submissions, correspondence, and answers to questions taken on notice relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;
- Upon tabling, all unpublished transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations/findings or new recommendations/new findings resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- The secretariat is tabling the report at 11 am on 20 June 2025;
- The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

#### **5. Adjournment**

The committee adjourned at 11.32 am until Monday 23 June 2025, 10.00 am, Room 1043, Parliament House (report deliberative – Budget Estimates 2024-2025)

Kara McKee  
**Committee Clerk**

## Appendix 4 Dissenting statement

### Hon Natasha Maclaren-Jones MLC, Liberal Party of Australia (NSW Division)

This dissenting statement has been produced in response to concerns held about the recommendations and findings in the report.

#### **Driving whilst under the influence of Cannabis**

Evidence received from Transport for NSW showed that cannabis use impairs cognitive function, reduces reaction times, and distorts perceptions of time and speed, for this reason, I did not support Finding 1. I also moved to include the following paragraph, which is based on a report released by the NRMA in 2024 titled “Driving high, the need to detect drug drivers”, unfortunately, the committee members did not support this.

*Using data from Transport for NSW, the 2024 NRMA report found that during 2019-2023, the most common illicit drug involved in fatal crashes by drivers or motorcycle riders was cannabis (69%), followed by methylamphetamine (43%), cocaine (7%) and MDMA (5%).*

#### **Decriminalisation and legalisation**

Decriminalisation is often viewed as a progressive reform of harm minimisation and used as a soft pathway to the legalisation of illicit drugs, but evidence from international jurisdictions has shown that decriminalisation of cannabis can have unintended consequences. Evidence received from NSW Police Deputy Commissioner David Hudson, APM, noted international jurisdictions where decriminalised, or relaxed cannabis use and possession laws, increased drug-related crime and cannabis-related hospitalisations, child poisoning, cannabis abuse and dependence, and an uptake in younger people using cannabis. He also noted that due to this Portland had decided to reverse their decision and make cannabis illegal again.

The recommendations and findings moved by the Government ignored the evidenced presenting by Transport for NSW that cited a link between decriminalisation and legalisation in the United States and fatal collisions and motor vehicle accidents. Furthermore, the recommendations and findings put to the committee ignored the evidence presented by NSW Police linking cannabis decriminalisation and legalisation to “some horrific outcomes’ including increased illegal drug use, particularly by young people, mental health issues, unemployment, education problems, and greater engagement in crime, which places further strain on the NSW public service.

For these reasons, I did not support Recommendations 4,5,6, and 7 or Findings 3,4,5,6,7, and 8 put forward by the Government in support of decriminalisation and legalisation of cannabis in NSW.

#### **Organised crime and cannabis**

The Committee received evidence about the impact organised criminal networks have on society and their role in the supply of cannabis, which can lead to the supply of more serious drugs. Therefore, I moved to include additional comments in the report to reflect this and that the Government take action to stop the illegal drug trade run by organised criminal networks. Unfortunately, this was not supported, despite the evidence presented by NSW Police Deputy Commissioner David Hudson, APM, highlighting the significant harms that flow from the use, cultivation, and trafficking of cannabis, including increase in domestic and family violence, violence against women and children, criminal offending, and a greater association of drug users with antisocial peers. We also received evidence that once a drug is legalised the

product becomes more expensive than the illegal one, providing opportunities for criminal networks to sell the illegal drug on the black market, the current illegal tobacco crisis was cited as an example.

