



## Australian Government

### Department of Health and Aged Care

## Impact of the regulatory framework for cannabis in New South Wales - Post hearing responses

Response to Questions on notice from the Department of Health and Aged Care to the  
PORTFOLIO COMMITTEE NO. 1 – PREMIER AND FINANCE

Thank you to the Committee for the opportunity to appear on 2 April 2025 before the inquiry into the impact of the regulatory framework for cannabis in New South Wales. Please find below our responses to the questions raised:

### 1. Question (transcript page 14):

The Hon. SUSAN CARTER: You've answered it, in a sense, because we understand that there are risks associated with anything that we take or use. There are studied risks in relation to TGA-approved products, but there would be other forms of cannabis that would be used recreationally. I'm just trying to get an understanding of where the evidence base is for the risk profile associated with those recreational products that are not TGA approved.

ROBYN LANGHAM: As I mentioned, the vast majority of medicinal cannabis that's available and accessed in Australia is not evidenced, as it has not gone through an evidence process. When you're talking about legalisation, broadly, of all cannabis products, I guess the best evidence we have is the experience of international jurisdictions who've gone through that process. One of the best available experiences is that of Canada, who have noticed, since legalisation, that cannabis use is higher. I think their quoted figures are something like around 22 to 25 per cent of Canadians over the age of 15 are using cannabis on a POINT study basis. They've also noticed that, although their cannabis-related drug offences dropped and more Canadians were obtaining their cannabis legally, there were some effects in terms of safety and hospitalisation data. I don't have that data with me. I can certainly take that on notice and provide that to you later, in terms of the after-effects, if you like, in jurisdictions that have moved to broad decriminalisation.

The Hon. SUSAN CARTER: If you could do that, I'd be very grateful.

ROBYN LANGHAM: Happy to.

### Response:

Canada has allowed medically prescribed cannabis since 2001, and in 2018 changed the law to create a fully legal, regulated market for recreational use. Retail cannabis is now available in all Canadian jurisdictions, with some provinces and territories using government operated retailers and others using licensed private providers.

While Canada implemented mechanisms intended to minimise increases in cannabis-related harms, both the use of cannabis and the number of emergency department presentations rose following the legalisation of cannabis in Canada.

- Since the legalisation of cannabis in 2018, the percentage of Canadians over the age of 16 that have used cannabis for non-medical purposes in the past 12-months has increased from 22% (2018) to 26% (2024).<sup>1</sup>
- The number of emergency department presentations for recreational cannabis related reasons has increased among young adults since the legalisation of cannabis in Canada.<sup>2</sup>
- An increase in child presentations to the emergency department relating to accidental ingestion of cannabis products was also noted since the sale of edible cannabis products was allowed in October 2019.<sup>2,3</sup>

Although an increase in overall cannabis use and emergency department presentations relating to recreational cannabis is evident, cannabis-related drug offences have dropped since its legalisation. Total cannabis-related offences fell overall, and under the new Canadian legislation, most offences are related to illicit importation and exportation. For example, in 2022, two-thirds (67%) of the 10,824 total cannabis offences were for illicit importation and exportation, and 12% of cannabis-related offences were for possession.<sup>4</sup>

## 2. Question (transcript page 14):

The Hon. SUSAN CARTER: If cannabis were to be legalised in New South Wales, are there mechanisms and is the TGA involved to stop the diversion of medicinal cannabis for recreational purposes?

### Response:

As noted during the hearing, the Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, does not support the legalisation of recreational cannabis. Accordingly, any moves to legalise drugs in Australia would need to be considered in the context of Australia being a signatory to this international drug control convention.

Additionally, without knowing further specific detail on any proposed legislation in New South Wales (NSW) in relation to legalising cannabis, we cannot speculate what actions the Office of Drug Control (ODC) and the Therapeutic Goods Administration (TGA) would take in response.

From a Commonwealth perspective, the current legal framework with respect to medicinal cannabis (i.e., the *Therapeutic Goods Act 1989*, *Criminal Code Act 1995*, *Narcotic Drugs Act 1967* (ND Act) and Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958) would continue to apply.

In terms of preventing diversion, that would primarily be through the operation of the Criminal Code in conjunction with the provisions under the ND Act. Whether the Criminal

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<sup>1</sup> Government of Canada (2024) *Canadian Cannabis Survey 2024: Summary*. Available at: <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/research-data/canadian-cannabis-survey-2024-summary.html> (Accessed 16 April 2025)

<sup>2</sup> Hall W, Stjepanovic D, and Leung J. 2022. Cannabis legalisation in Canada: a brief history, policy rationale, implementation, and evidence of early impacts. *The University of Queensland*. <https://doi.org/10.14264/a494332>

<sup>3</sup> Yeung MEM, Weaver CG, Hartmann R, et al. 2021. Emergency department pediatric visits in Alberta for cannabis after legalization. *Pediatrics*. <https://doi.org/10.1542/peds.2020-045922>

<sup>4</sup> Government of Canada (2023) *Five years since legalization, what have we learned about cannabis in Canada?* Available at: <https://www150.statcan.gc.ca/n1/daily-quotidien/231016/dq231016c-eng.htm> (Accessed 16 April 2025)

Code would still apply would depend on how cannabis is legalised in NSW. If it does apply, then it would be a matter for Attorney-General's Department to advise on.

**3. Question (transcript page 16):**

The CHAIR: Do importers have to license a facility as well? Do the distributors of the cannabis and the handlers in the logistics chain all have to be licensed as a processing facility, in terms of importation?

EDWINA VANDINE: From where they're exporting from, they have to meet their obligations in that country, and that will be governed by the convention as well. The country from which it's been exported has to meet the requirements of the convention. Often they'll incur any of the fees at that point. Once it's imported, once it's cleared the border, it then moves into the State and Territory regulations.

The CHAIR: And so the ODC has no role in regulating or licensing facilities or logistics across the country?

EDWINA VANDINE: No, but I'll correct if that is incorrect.

**Response:**

In addition to these two responses given at the hearing, please note the following:

Importers of controlled drugs are licenced under Regulation 5 of the Customs (Prohibited Imports) Regulations 1956. Under the regulations, licenced importers are required to hold the relevant State/Territory medicines licence to supply the imported medicinal cannabis. The ODC does not have jurisdiction on suppliers of imported cannabis other than supply by the licenced importer.

A licence under the *Narcotic Drugs Act 1967* would only be required by a licenced importer if cannabinoid extraction was being undertaken on the imported cannabis, or if the licence holder was importing seeds, cuttings etc. to be used for medicinal cannabis propagation.

**4. Question (transcript page 16):**

The CHAIR: How many of those [cultivators and producers] are in New South Wales?

**Response:**

We note the question was answered during the hearing – that is, as of 28 February 2025, in NSW, there are 4 entities that hold a medicinal cannabis cultivation and production permit, and 2 entities that hold a medicinal cannabis manufacture permit, under the *Narcotic Drugs Act 1967*.