

**Submission
No 105**

**INQUIRY INTO IMPACT OF THE REGULATORY
FRAMEWORK FOR CANNABIS IN NEW SOUTH WALES**

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Preface

As a cannabis advocate, lobbyist and advisor, I have worked with multiple government officials, ministers, and cabinet members to advise on various aspects of cannabis policy, including medicinal, industrial hemp, and adult use. Although a considerable portion of my submission pertains to South Australia, the information is applicable to other jurisdictions in Australia. Where relevant, I have sourced information from other jurisdictions to support the general view that Australia and its states should move towards a regulated availability model, allowing for personal cultivation, possession, and commercial trade of cannabis products under strict and robust regulatory guidelines. This submission is not designed to be exhaustive as the topic of cannabis legalisation in NSW and other jurisdictions expands beyond the terms of reference provided.

The historical development and implementation of the regulatory framework for cannabis

As countries, provinces, and states across major global regions – notably, North America and Europe – boldly move forward with the legalisation of medicinal and recreational cannabis, we find ourselves at the precipice of significant socio-economic transformations. With pioneers like Canada paving the way, the global stage has been embroiled in heated debates, fuelled by the tension between the anticipated economic gains and the potential societal repercussions. The crux of the matter? Evaluating whether the economic windfall from the taxation of legal cannabis sales can truly offset potential socio-economic challenges.

To ensure that cannabis legalisation gains acceptance and approval among Australians, confidence and transparency in the legalisation process is paramount. This encompasses a transparent approach to legalisation, robust engagement with the community and stakeholders, and clear communication of the positive socio-economic, social, and health impacts cannabis can offer. While cannabis has been saddled with misconceptions, largely due to historical negativity from political and regulatory perspectives, evidence suggests its legalisation can be beneficial on multiple fronts. The public must be made aware of these findings.

The socioeconomic impact of the current regulatory framework for cannabis

The socio-economic factors and impacts realised by the legalisation of cannabis include the interactions of social and economic factors; such as how social development will progress (or regress) economic development in Australia and New South Wales. Likewise, these impacts will demonstrate how economic factors associated with the legalisation of cannabis in New South Wales impact social wellness, and social development. The factors that will be primarily included in this submission will include the social demand for adult-cannabis, the potential change in detention and law enforcement, the changes in the number of arrests and the impact on the justice system. This section will also include an analysis of potential impacts on social and economic productivity. Collectively, these factors will provide a comprehensive illustration of the socio-economic impact of adult-use cannabis legalisation in New South Wales.

I will use a comparative example in South Australia where 91% of arrests pertaining to cannabis are the arrest of consumers. This means that, despite the spending and best efforts of law enforcement

groups throughout South Australia, efforts and finances are being thrown at a relatively small percentage of Australians and South Australians. This illustrates that the legalisation of cannabis would largely solve these socio-economic problems caused by disproportionate enforcement with no measurable impact on organised criminal activities pertaining to distribution or trafficking of cannabis.

One source, which depicts many of the potential surrounding the legalisation of cannabis in South Australia is that from Single, Christie and Ali (1999). This study—although from the late 90's—demonstrates many of the impacts, concerns, and challenges that are associated with the legalisation of cannabis. This study is highly relevant to this research, because it provides a case study of the socio-economic impacts of cannabis criminalisation in South Australia. In this source, it is stated that the impact of cannabis legalisation came with many concerns, and a tremendous number of benefits.

This source cites that following the South Australian Cannabis Expiation Notice (South Australia CEN) of 1987), many of the concerns promoting the criminalisation of cannabis stated that if cannabis was legal, money could be saved throughout the state. These savings would come from fewer arrests, lower law enforcement, and lower fines for minor cannabis possession. The thought process was that: if cannabis is illegal, minor possession would be dissuaded among the public; and, law enforcement agencies (including detention, arrests and fines) would only be focused on major, and large-scale, possession cases. However, as is later illustrated in this study, these are counter-intuitive measures, as it was found that the detention of offenders, and general efforts of law enforcement surrounding cannabis products heavily focused on these minor possession cases that were thought to be dispelled. It was found that drug task forces in South Australia, and other sectors of law enforcement were over-encumbered with the number of minor arrests, and issuing of fines for minor possession cases, creating a negative socio-economic impact. It also led to many criminal groups exploiting gaps that were found in the legal system. As a result, this study determined that in the late 1990's, the total cost to employ this prohibition and criminalisation of cannabis would cost upwards of \$2 million – whereas revenues were not anticipated to exceed \$1 million. Adjusted for inflation to 2023 values, this cost would be approximately \$4.6 million, whereas revenues would not be anticipated to exceed \$2.3 million.

A recent FOIA request from South Australia obtained information that on average 8 people were arrested and incarcerated for trafficking of cannabis and 80 for the possession of cannabis every year. This is in stark comparison to the approximate 6,500 to 8,000 CENs issued. This highlights a failed policy towards the war on cannabis users in South Australia.

An additional socio-economic impact that cannabis legalisation would have on any jurisdiction is the change in productivity among employees and businesses throughout Australia. It has widely been assumed that cannabis impairs a person's mental function – and makes them lethargic and 'mentally slow'. Whereas cannabis products with extremely high THC contents may indeed have this effect on some people, these concerns are unfounded when it comes to most recreational (adult-use) cannabis products, and with medicinal cannabis. The effect on the user from a health standpoint is based on the physiology of the individual user, the chemical composition of the plant, the type of product consumed and a range of other related aspects surrounding production and manufacture. However, productivity is a socio-economic factor because it impacts both the social welfare, and economic performance of individuals and businesses.

Although there is no national data from Australia or South Australia there are sources which discuss this socio-economic impact of cannabis from Canada. Two sources in particular have both conducted

studies regarding the impact of cannabis on individual and business productivity and found similar results. The first of these studies found that 74% of businesses find that cannabis use in employee's personal time has no impact on productivity; and, 71% state that cannabis use has shown no increase in absenteeism. These promising statistics, however, come with an asterisk. Over 80% of businesses stated that they do not allow employees to use cannabis while at work. Thus, this source shows that: so long as employees do not use cannabis while they are at work, there is a minimal impact on productivity.

These sources demonstrate that the legalisation of cannabis in South Australia and other jurisdictions such as NSW will not have a negative impact on productivity and business performance; and will create an overall positive socio-economic impact. As a result of the fact that many employees may find improved mental health, better absenteeism rates, and improved productivity, they are benefiting from positive social impacts of cannabis, while contributing to positive economic impacts of cannabis as well.

Ian Hamilton (2020). "Cannabis use after work doesn't affect productivity – new research", The Conversation, <https://theconversation.com/cannabis-use-after-work-doesnt-affect-productivity-new-research-144780>

Eric Single, Christie, P., Ali, R. (1999). "The impact of cannabis decriminalisation in Australia and the United States", <https://www.researchgate.net/publication/12438429>

The historical, current and future financial cost of cannabis prohibition to the Government and the economy

The historical cost of cannabis enforcement is often difficult to measure with State Police forces rolling cannabis enforcement activities into other adjoining line items which is found from examples in South Australia. The future forecast is difficult to obtain and is general in number with a figure of approximately \$200m with a population size of 1.69m South Australians. If extrapolated to NSW based on population figures, this could be a five-fold increase and would approximate \$1bn dollars' worth of enforcement, judicial and incarceration activities. For example, Western Australia is estimated to be spending approximately \$100m every year on enforcement actions and Queensland is spending approximately \$500m every year on cannabis law enforcement. The Queensland Productivity Commission found that the Queensland government would save \$850m if it decriminalised cannabis alone. There was no available figure for cannabis legalisation.

Another source poignantly discusses the negative socio-economic impact that cannabis criminalisation has throughout Australia. Firstly, this source provides the evidence that "cannabis possession justifies a massive drawdown of resources", using over half of Australia's drug war budget. This immense expense (accounting for approximately \$600 million of the \$1.1 B budget) is often spent on the detention, police and legal time, processing, arrest, and fines that cannabis users are faced with. Unfortunately, those users that are getting caught are not criminals; rather, it is more often people growing a single cannabis plant, or who have extremely low quantities of the substance on their person. Thus, this source provides the conclusion that the legalisation of cannabis would provide tremendous socio-economic benefit, because it would not only save money in the long-run; but it would also allow for the reallocation of financial resources towards well-being counsellors, social workers, addiction counsellors, and nurses – or towards efforts to minimise the impacts of more harmful substances like cocaine, heroin, and amphetamines.

Mike F. (2020). "Driving On Cannabis: The Aussie Guide", Pondering Pot: Australian Cannabis News,

Peter Pullicino (2019). "Removing cannabis from the equation", https://www.drugpolicy.org.au/removing_cannabis_from_the_equation

David Collins & Lapsley, H.M. (1996). "The social costs of drug abuse in Australia in 1988 and 1992", *National Drug Survey*, no. 30, https://www.researchgate.net/publication/252250147_The_Social_Costs_of_Drug_Abuse_in_Australia_in_1988_and_1992

Cannabis Law Report (2019). "Australia: Queensland's Productivity Commission Report Says legalise cannabis & MDMA", <https://cannabislaw.report/australia-queenslands-productivity-commission-report-says-legalise-cannabis-mdma/>

Mary Stohr, et al. (2020). "Effects of Marijuana Legalization on Law Enforcement and Crime: Final Report", <https://www.ncjrs.gov/pdffiles1/nij/grants/255060.pdf>

<https://www.ponderingpot.com.au/national/driving-on-cannabis-australia/#SA>

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.

There is also some contentious discussion around the cost of cannabis due to a perceived increase in driving fatalities or increased road traffic incidents and the economic toll this may have on any given jurisdiction.

However, this negative social impact is also met with some speculation and inaccuracy. A key fact in determining the prevalence of THC in the body of someone who is involved in a motor vehicle accident is a urine test. Furthermore, an important issue for such types of drug testing is the "ability to distinguish recent cannabis use from residual drug excretion". This source provides sufficient and compelling evidence to support the fact that many urine tests that show 'positive' results of THC in a person's body are in fact false positives, and simply contain residual levels of THC that have absolutely no impact on a driver's mental state, cognition, or ability to drive. Support for this stems from the fact that this study has concluded that THC and cannabinoids may last in a person's body on average 3 days after consumption, and even up to two weeks after consumption, and in some extreme cases up to 92 days. This is long after the substance has been ingested. This source simply states that—even though cannabis-related motor vehicle accidents do occur—the social detriment of impaired driving fatalities is not statistically accurate – based on current testing methods. Thus, this also demonstrates a need for future investment in more accurate testing methods, which may in fact completely dispel this negative social impact.

Furthermore, evidence to support this has been known for more 26 years, since 1998. Evidence to support this stems from a 1998 South Australia Rural Road Strategy Meeting from the Environment, Resources and Development Committee. In this strategy session, **Dr. Spencer M. White was quoted in stating that "people who had cannabis in their blood were no more likely to be responsible for the crash than people who had no drugs or alcohol in their blood", and that "cannabis [was] not a causal factor in [motor vehicle] crashes"**.

What this means is that it has been long-known among members of the South Australian parliament, and among doctors that the impaired driving risk posed by cannabis consumption is skewed to over-represent the number of cannabis-related accidents. Whereas, in reality, individuals who do test positive for cannabis consumption only show trace amounts in their blood system, and are not truly impaired while driving.

Although it may not be as severe as drunk driving, driving while intoxicated still poses a public risk; as a person's motor skills, reactions, and mental cognition may (in some cases) be affected while using cannabis. In South Australia, 24% of road fatalities occurred involving a person who tested positive for THC, Methamphetamine or MDMA, between 2012 and 2016. As a result of this, South Australia has some of the toughest penalties for those caught driving with THC, MDMA or Methamphetamines

in their system. This also illustrates that a negative social impact in South Australia for the legalisation of cannabis is indeed the potential risk of increased road fatalities from driving high.

The study referenced above doesn't break down data into just THCs impact on road fatalities, however a recent study by UNSW in 2020 found that from the same data, none of the road crashes / deaths were directly caused by just THC alone.

Use Statistics

Using available information from other jurisdictions where it is more socially acceptable to disclose cannabis use information without additional fears of prejudice or otherwise. Canadians were recently surveyed about their cannabis use over the past year. Notably, there are variances across provinces and territories, with usage rates ranging from 18% to a significant 41%. Of those aged 16 and above, 27% reported having used cannabis in the past 12 months, marking an increase from the 25% recorded in the previous year. It is important to consider that due to the data collection methodology of the CCS, the reported prevalence estimates for cannabis use might appear higher than figures from other Canadian surveys.

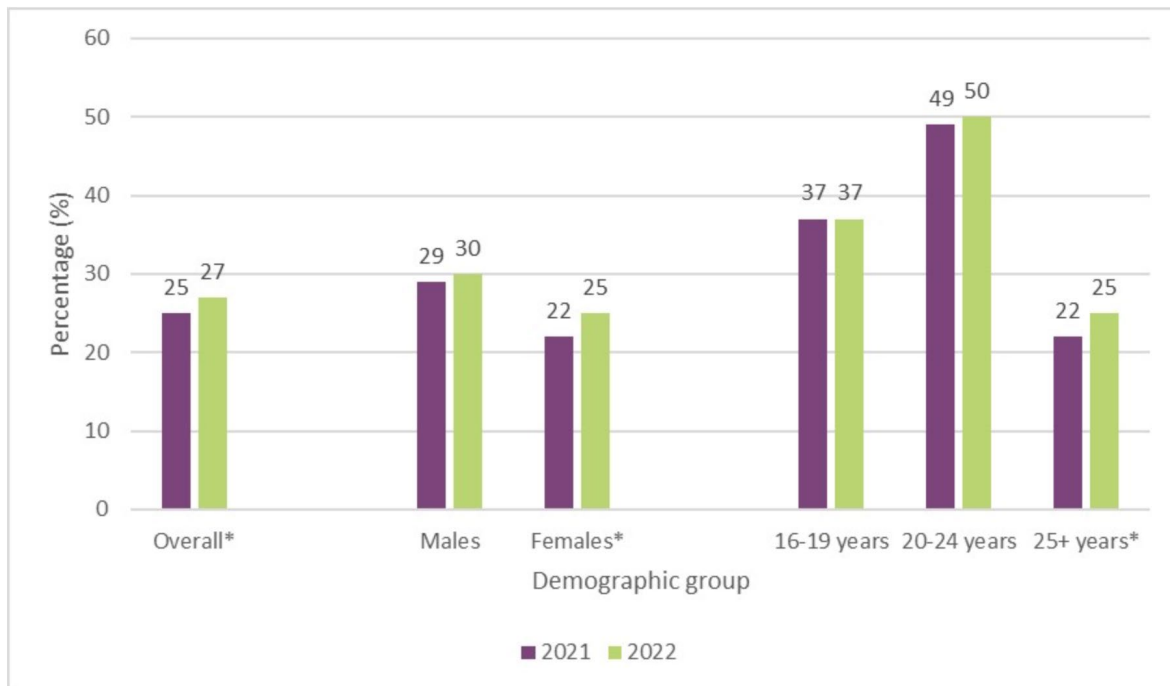
Breaking this data down by demographic:

Youth and Young Adults: Among the youth and young adult demographics, cannabis use was most prevalent among those aged 20-24, with half (50%) admitting to use in the past year. This is followed by the 16-19 age group at 37%. It is significant to note that the figures for these two younger age groups remained consistent when compared to data from 2021.

Older Adults: For Canadians aged 25 and older, there was a rise in reported cannabis use. The figure increased went up from 22% in 2021 to 25% in 2022, showcasing a slight but noticeable uptick in use for this older demographic.

Gender Differences: When considering gender, males (at 30%) reported a higher percentage of cannabis use in the past year than females (at 25%). Intriguingly, while the usage rate among males remained unchanged from 2021 to 2022, there was an increase in reported cannabis use among females during this period.

These updated statistics underscore that while cannabis use remains most prominent among the younger age brackets, particularly those aged 20-24, its acceptance and utilisation span a broad age range and is growing among certain demographics, especially older adults and females. This evolution speaks to the increasingly diverse profile of cannabis users in Canada.



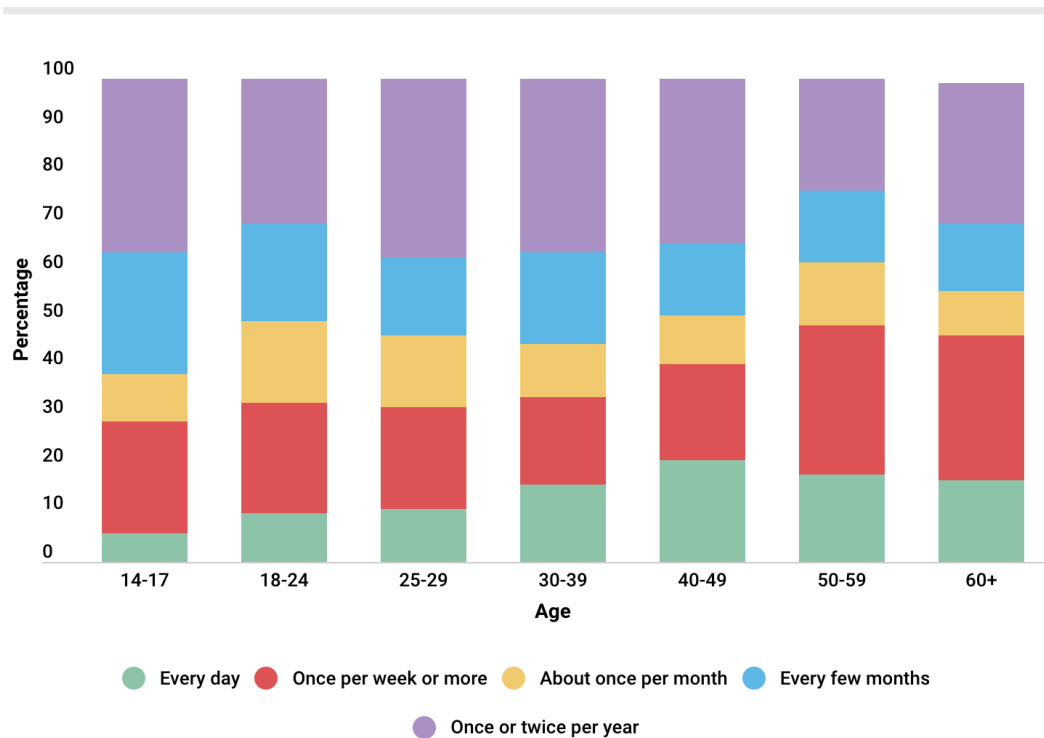
Demographic Data for User of Cannabis in Australia 2021-2022

Across Australia as a whole (as demonstrated previously) usership of cannabis within the past 12 months is centred primarily around those under the age of 30 (as young as 14); and use of cannabis at one point-in-time is most common for those aged 25 to 50. In addition to this, NADK the Australian Alcohol and Drug Knowledgebase states that daily or more frequent cannabis use is common among groups aged between 18 and 60; whereas infrequent use is extremely common among youths aged 14 to 17, and among those aged 25 to 40.

However, taking into account National Australian statistics, and statistics from Canadian cannabis markets, it is seen that the majority of cannabis users in South Australia will most likely (and, often do) fall between the ages of 18 and 60. However, a more narrow age bracket-range of for cannabis usership would fall between 30 and 59, as this is the most common age group in Australia and Canada that would apply to South Australia markets. Exceptions to this key demographic group are made among seniors, who tend to only use cannabis products for medicinal purposes.

A depiction of this is extrapolated from Australian statistics, shown in the figure below.

Frequency of use by Australians who used cannabis in the past 12 months (by age)



Environment, Resources and Development Committee (1998), "South Australian Rural Road Safety Strategy", Official Hansard report

National Drug and Alcohol Research Centre (NDARC). "Motor vehicle accidents leading cause of cannabis-related deaths, new study finds." <https://ndarc.med.unsw.edu.au/news/motor-vehicle-accidents-leading-cause-cannabis-related-deaths-new-study-finds>.

Robert Goodwin, et al. (2009). "Urinary Elimination of 11-Nor-9-carboxy-9-tetrahydrocannabinol in Cannabis Users During Continuously Monitored Abstinence", *Journal of Analysis of Toxicology*, 10.1093/jat/32.8.562

Government of Canada, "Canadian Cannabis Survey 2022", <https://www.canada.ca/en/health-canada/services/drugs-medication/cannabis/research-data/canadian-cannabis-survey-2022-summary.html#s2-2>

Australian Government Department of Health. "National Health Dashboard." <https://dashboard-data.health.gov.au/single/?appid=f330a1c6-d805-4c64-a6ef-76a69d32d8b7&sheet=a7cdc199-1658-4c94-87d0-9a3b76c520eb&select=clearall>.

National Alcohol and Drug Knowledgebase (NADK). "Cannabis Use Patterns." Flinders University. <https://nadk.flinders.edu.au/kb/cannabis/use-patterns>.

The impact of the regulatory framework for cannabis on Aboriginal, LGBTIQ+, regional, multicultural, and lower socioeconomic communities

While my research does not contain any obvious impacts on the LGBTIQ+ community it does however detail significant impacts on the Aboriginal and lower socio economic communities and is detailed as follows. Information from the Australian Criminal Intelligence Commission has shown that regional communities are often the biggest consumer of cannabis in Australia and in particular in South Australia.

An additional social benefit that is realised as a result of cannabis legalisation is the reduced race

based disproportionate number of arrests and incarcerations in the justice system, with respect to Aboriginal cannabis-related offences. Although this does apply to both socio-economic and social impacts, the fact that this impact is felt because of social constructs, it is included in this section of the research. In 2023 cannabis was the most used illicit drug for Aboriginal and Torres Strait Islander people, followed by analgesics and sedatives for non-medical use. This means that legalisation of cannabis would greatly reduce the number of race-based arrests and legal penalties as a result of the use in these communities.

In Australia (and, South Australia) cannabis possession, and cannabis use, results in an unequal proportion of Aboriginals being placed in custody. One source illustrates that this disparity may be as 1 in 4 (meaning, for every non-Aboriginal person in custody, four Aboriginals are in custody). This source also states that incarcerations for Aboriginals have increased nearly 90% in the last decade, while non-Aboriginal incarcerations have increased less than 30%. Although it is unclear whether or not the majority of these incarcerations are as a result of illegal cannabis possession, it is generally stated that a large number of incarcerations come as a result of illicit drug possession among Aboriginals. Furthermore, such sources also state that the same penalties (i.e. incarcerations) for minor offences committed by Aboriginals are not felt by non-Aboriginals. Rather, non-Aboriginals simply receive fines or more minor consequences for similar crimes. Similar trends and patterns are also found in South Australia.

Anon (2020). "Social consequences", Indiana University School of Public Health, https://iprc.indiana.edu/training/courses/marijuana/a_03_04_01.html

<https://www.indigenoushpf.gov.au/measures/2-17-drug-other-substance-use-including-inhalants>

Indigenous Health Performance Framework (IHPF). "2.17 Drug and other substance use including inhalants." <https://www.indigenoushpf.gov.au/measures/2-17-drug-other-substance-use-including-inhalants>.

Andrea MacRea, Horeau, J. (2016). "Review of illicit drug use among Aboriginal and Torres Strait Islander people", Analysis & Policy Observatory, <https://apo.org.au/node/64485>

Jens Kroff (2020). "Aboriginal prison rates", <https://www.creativespirits.info/aboriginalculture/law/aboriginal-prison-rates>

Australian Law Reform Commission (2020). "Disproportionate Incarceration Rate", <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/executive-summary-15/disproportionate-incarceration-rate/>

ACIC (2020). "National wastewater drug monitoring program reports", Australian Criminal Intelligence Commission, <https://www.acic.gov.au/publications/national-wastewater-drug-monitoring-program-reports>

Alternative approaches to the regulatory framework for cannabis in other jurisdictions

While many other jurisdictions have varied approaches to cannabis, the only solution I foresee is a regulated availability model which appears to be the consensus to any jurisdiction legislating for legalisation as decriminalisation or quasi legalisation often incurs significant pitfalls and does not go far enough to address the points raised above.

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

The definitions appear to be slightly convoluted as "cannabis" and "cannabis leaf" cover both plant and/or part of the plant.

I will propose the below definitions to make it clear for the general reader and prevent any doubt or misinterpretation by the enforcer:

Cannabis means the leaf and flower of the plant, containing a psychoactive ingredient, and in the form of flowers and leaves.

It is commonly known that these are the main parts of the plant that people are consuming for medicinal and recreational purposes. It also addresses a very common definition for “cannabis” that is widely used across the cannabis industry, public and other jurisdictions to prevent any doubt.

Cannabis plant means the growing plant in its entirety and complete physical form, that is, flower, leaf, stalk, seed, and root, not separated, and being of the genus Cannabis.

This definition is also prevalent across the cannabis industry and public, and makes it clear exactly what is being referenced. It is specifically relevant to the items in the Act pertaining to the number of plants allowable for growing.

It is also relevant – although possibly not intentional – to the gifting of “cannabis”. Currently, the definition of “cannabis” relates to cannabis leaf and plant. I say it may not be intentional because, in many cases, clones and seedlings weigh under 50g per clone/seedling. Is it therefore intended that there is comfort in someone being able to gift up to 50g of clone/seedling/plant to someone? If not, there would be need to include limitation on the gifting of plants specifically.

It would be intended that the two above definitions replace the current and amended definitions:

Cannabis

Cannabis Leaf

Cannabis Plant

The main anomaly that is still apparent is, if someone is ONLY carrying leaf material, that under the Federal legislation (Narcotic Drug Act) this is allowable. On that basis, this inconsistency could be challenged by Federal legislation, which may take precedence (s109 Cth Constitution). There should be consideration for whether it is even beneficial to include reference to “leaf” in the definition of “cannabis” – i.e. instead only referring to the flowering tops which is consistent with Federal legislation and the most common part of the plant that people consume for the psychoactive component.

Any other related matters.

This is a summary of my research and opinions, and I have a great deal of information to be shared with the committee if you wish to seek my testimony, I am willing to make my time available to this important topic. Many cannabis myths are prevalent in the community such as the ‘gateway drug’ and ‘cannabis use causes psychosis’ which can be debunked by providing studies and additional testimony which show no increase in cannabis use by vulnerable populations in jurisdictions post-legalisation. Additionally long term twin studies that show no link between cannabis use and the increased likelihood of developing psychosis.