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

**Organisation:** Students for Sensible Drug Policy Australia

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Submission Regarding: Inquiry into the impact of the regulatory framework for cannabis in NSW
Submitted by: Students for Sensible Drug Policy Australia

# Impacts of the cannabis regulations in New South Wales

Dear Secretary,

Students for Sensible Drug Policy Australia (SSDP Australia) thanks the NSW Parliament for the invitation to submit to this Inquiry and supports its decision to review the impacts of cannabis regulations in New South Wales (NSW). We (SSDP Australia) will comment generally on all of the terms of reference, with a specific focus on (D) regarding the impact of the current regulatory framework for cannabis on young people.

SSDP Australia is Australia's only national youth- and student-led community organisation that empowers and represents young people to bring change to drug policy. Young people are the most likely age group to use illicit drugs,[1] and the most likely to want drug policy reform,[2] yet we are the least likely to be involved in decision-making about drug-related policies and programs. We represent a grassroots network of students, young people, and their allies working towards meaningful drug policy reform grounded in evidence, compassion, and human rights. Our network is made up of young people and students involved with our national organisation, and our affiliated clubs formed at university campuses around Australia, including at the University of Western Sydney. We belong to an international network of young people and students working towards health and human rights-based drug policies, and have continued involvement on an international level with the Australian Civil Society Committee on United Nations Drug Policy, the UNODC, and the Commission of Narcotic Drugs.

SSDP Australia neither condemns nor condones drug use. As an organisation, we understand the complexities associated with drug use and policy matters, and are informed by the evidence of what works and does not work, and the expertise of the communities with lived and living experience of drug use. Students and young people who use drugs face challenges overcoming stigma and discrimination in accessing health, education, and platforms for advocacy. By empowering the collective capacity of students and young people to keep themselves safe and advocate for change, we hope to improve the lives of young people and shift political, policy, and community perspectives.

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[1] Australian Institute of Health and Welfare (AIHW) (2020) National Drug Strategy Household Survey (NDSHS) 2019. Drug Statistics series no. 32, PHE 270, Canberra AIHW. Available here.
[2] Lancaster C, Ritter A & Matthew-Simmons F (2013) Young people's opinions on alcohol and other drugs issues. National Drug and Alcohol Research Centre, University of New South Wales. Available here.

In this submission, we discuss the impacts of and alternative approaches to cannabis regulation and required reforms to drug driving laws, and make the following key policy recommendations:

1. The NSW Government should **immediately remove criminal penalties** for the **personal use** of cannabis.
2. The NSW Government should **commit to the responsible legal regulation of cannabis**, prioritising **equitable market access, social justice**, and **public health.**
3. The NSW Government should provide **appropriate funding** for **community consultation and research** to explore different **models of cannabis legalisation.**
4. The NSW Government should conduct a **cost-benefit analysis** of the **economic and social benefits of legalising cannabis**.
5. Upon *de jure* decriminalisation and/or legalisation, the NSW Governments should **automatically expunge criminal records for low-level cannabis offences**.
6. Any **decriminalisation or legalisation** model should permit adults to **cultivate a limited amount** of their own cannabis (i.e., home growing).
7. **Current drug education and harm reduction programs** around cannabis should be **reviewed and updated**. New programs should include **culturally relevant and relatable health promotion materials**, be **tailored towards multiple platforms,** and be **co-designed and delivered** with the communities they are trying to reach.
8. The NSW Government should ensure **adequate funding for cannabis research**, prioritising research that (a) is **co-designed and led by people with lived and living experience** of cannabis use, and (b) explores both **harms and benefits** of cannabis.

## Cannabis regulation: impacts and alternative approaches

Young people are frequently subjected to heightened policing of substance use, particularly given NSW regulations of youth leisure spaces (for example, nightlife and festivals). We acknowledge the psychological, physical, and social impacts that involvement with the criminal system has for all young people, and for people who use drugs, and note that these impacts are compounded for young people who are swept into the justice system through the policing and charges laid for drug consumption/possession. For no other substance is this currently more contentious across local and global climates than for cannabis, with shifts towards medicalisation occurring in NSW and globally, alongside depenalisation measures, and widespread public support for regulations and responses to cannabis use to be outside the remit of the criminal justice sphere.[3] While there is demonstrated increasing public and expert support for all currently illicit drugs to be treated in this manner, we acknowledge that this is outside of the scope of the current Inquiry.

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[3] Australian Institute of Health and Welfare (AIHW) (2024) *National Drug Strategy Household Survey 2022–2023*, Canberra, AIHW, Australian Government. Available here.

SSDP Australia firmly believes that it is time to legalise cannabis and that governments need to explore models for legalisation that can begin to repair the harms of criminalisation and maximise the benefits of cannabis. SSDP Australia views the continued prohibition of cannabis products for personal use as continuing to cause avoidable harms. We acknowledge the therapeutic and medicinal value of cannabis, and strongly advocate for reform that enables adults to consume cannabis for personal and therapeutic reasons without punishment.

SSDP Australia understands that legalising cannabis has the potential to reduce many harms related to cannabis, including but not limited to:
- legal and social harms experienced by people who use cannabis as a result of their use being criminalised,
- stigma experienced by people who use cannabis (including stigma from medical professionals, friends and family, and workplaces),
- criminal activity and related harms of illegal drug markets,
- harms related to the unknown content and quality of cannabis products, and
- physical and psychological harms related to cannabis use that can be reduced and prevented through meaningful education and harm reduction messaging.

Currently, young people who use cannabis are disproportionately impacted by the harms of cannabis policing and stigma towards cannabis. Cannabis reform should focus on reducing the harms caused by criminalisation and stigmatisation, with investment in relevant and meaningful education and support services that reflect a commitment to human rights and public health. We strongly advocate for greater investment in harm reduction initiatives and investment in research on the harms and benefits of cannabis, and the impacts of any regulatory changes.

In consultation with young people and students, including those with lived and living experience of cannabis use (including recreational, prescribed, and non-prescribed for medicinal purposes), we recommend the following changes to cannabis regulation and response:

1. The NSW Government should **immediately remove criminal penalties** for the **personal use** of cannabis.

People who choose to consume cannabis should not incur criminal charges.[4] Prohibition does not effectively decrease supply, and cannabis is a commonly used drug at the present time for both therapeutic and recreational purposes. Reform is desperately needed to reduce the harms of criminalisation and stigmatisation, with a reinvestment of funding towards community education and support to foster a healthier and happier society.

The National Drug Strategy Household Survey (NDSHS) reported that in 2022/23, 40.6% of people (or about 8.8 million Australians) aged 14 and over had used cannabis in their lifetime; with 11.5% reporting recent use (i.e., in the previous 12 months).[5] People aged between 20 and 29 continued to be the most likely to have used cannabis recently, with 23.0% of this age group reporting recent use, compared to an average of 10.5% across all other age groups. Similarly, Triple J's 2019 'What's Up In Your World?' survey - one of the largest regular surveys of young Australians aged 18-29 - reported that 53% of their respondents reported consuming cannabis in the past 12 months.[6]

Particularly relevant to point (C) of this inquiry, in June 2020, the National Drug Research Institute published a ground-breaking report titled, 'Quantifying the Social Costs of Cannabis Use to Australia in 2015/16'. They calculated that:

> *"The largest cost domain for cannabis was the criminal justice system, comprising police, courts, corrections and victims of crime, with a total impost of $2.4 billion. While the outlay on imprisonment accounted for nearly half of all the crime costs attributable to cannabis, there were estimated impacts on individuals (victims of personal crime) and on households (victims of property crime).*[7]

Additionally, between 2020 to 2021, cannabis accounted for the greatest proportion of national illicit drug arrests (47%), with 66,285 Australians arrested for cannabis.[8] We note that **90% of all cannabis arrests were for consumption.** With the recent outcry for interstate police officers to join the NSWPF by Premier Chris Minns, the cost of policing and resources for the criminalisation of personal use cannabis defies logic. Mark Ryan, Minister for Police and Corrective Services and Minister for Fire and Emergency Services in Queensland noted an average of 9 hours in police time processing a minor drug offence.[9]

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[4] Students for Sensible Drug Policy Edith Cowan University (2019) Submission to: Alternative approaches to drug policy in Western Australia. Available here.

[5] Australian Institute of Health and Welfare (AIHW) (2024) *National Drug Strategy Household Survey 2022–2023*, Canberra, AIHW, Australian Government. Available here.

[6] Triple J (2019) 'Climate change has replaced jobs and housing as the number one issue for young Australians, survey shows'. Available here.

[7] Whetton S et al (2020) 'Quantifying the Social Costs of Cannabis Use to Australia in 2015/16', In: Tait RJ & Allsop S (Eds.), Perth, WA, *National Drug Research Institute (NDRI), Curtin University*. Available here.

[8] Australian Criminal Intelligence Commission (ACIC) (2023) Illicit Drug Data Report 2020–21. Commonwealth of Australia. Available here.

[9] Queensland Government (2024) 'New approach to save lives', Media Statement. Available here.

In 2021, NSW Police recorded 16,099 possession and/or use charges in relation to cannabis. This accounts for 57% of all drug possession proceedings. Applying this to the average 9 hours noted in QLD, a staggering 144,891 police working hours (at minimum) are currently dedicated to punishing cannabis consumption.[10]

2. The NSW Government should **commit to the responsible legal regulation of cannabis.**

Regarding ToR (F) of this Inquiry, there are many alternatives to the current regulatory framework in NSW. We strongly believe that cannabis use should not incur criminal **or civil** charges, or any involvement with the criminal system, which is common in many decriminalisation models. There are many different models of legalisation, and research on these models has highlighted key considerations and challenges for each (see table below).[11,12,13,14] In our previous work, we have highlighted the importance of learning from other countries and jurisdictions (including the ACT and South Australia) to develop and refine different models of reform.[15]

SSDP Australia supports the 'Principles for the responsible legal regulation of cannabis' proposed by the International Drug Policy Consortium (IDCP),[16] including the importance of reforms that:
- protect the health and human rights of people who use drugs;
- advance social justice by seeking to repair the harms of punitive policies;
- ensure that communities most affected by prohibition can transition into the legal market; and
- advance economic inclusion, sustainable development, and climate justice.

SSDP Australia firmly believes that a government monopoly on cannabis sale, and strict market regulation, are not ideal models due to their potential to limit the sale of cannabis to only government-owned shops and restrict other avenues such as cannabis social clubs, community trusts, and small businesses that can benefit communities. Instead, we advocate for models that enable home growing, social sharing, community-controlled supply, and light

[10] Bureau of Crime Statistics and Research (2021) *Drug possession recorded by the NSW Police Force: 2017 to 2021: Incidents.* NSW. Available here.
[11] Wilkins C (2018) A "not-for-profit" regulatory model for legal recreational cannabis: Insights from the regulation of gaming machine gambling in New Zealand. *International Journal of Drug Policy 53*: 115-122. Available here.
[12] Decorte T (2018) *Regulating cannabis: A detailed scenario for a non-profit cannabis market*. Bloomington, IN: Archway Publishing. Available here.
[13] Caulkins JP et al (2015) *Options and Issues Regarding Marijuana Legalization*. RAND Corporation. Available here.
[14] Wilkins C et al (2022) Assessing options for cannabis law reform: A Multi-Criteria Decision Analysis (MCDA) with stakeholders in New Zealand. *International Journal of Drug Policy 105*. Available here.
[15] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.
[16] The Internaional Drug Policy Consortium (2020) 'Principles for the responsible legal regulation of cannabis.' *Advocacy Note.* Available here.

market regulation.[17] We also recognise the benefits of facilitating consumer access to knowledgeable vendors to foster informed decision-making. Furthermore, we believe that the NSW Government should be incredibly wary of corporate market dominance, monopoly, or over-commercialisation,[18,19] and as an example, we specifically note the implications of the alcohol and tobacco industries for public health.

If a commercial model is chosen, we believe that regulation can and should provide oversight to avoid monopolisation of the cannabis industry and encourage small businesses to engage in responsible trade.[20] We share concerns that rigid or expensive requirements for legal trading may discourage smaller manufacturers or businesses from obtaining a license to legally supply cannabis.[21] As with all industry reform, we argue that cannabis regulation should "empower communities affected by cannabis prohibition, and feature strong environmental standards, labour protection, and inclusive and democratic models."[22,23]

**Table 1**
New Zealand cannabis policy reform options.

| Reform option | Brief description |
|---|---|
| Prohibition with criminal penalties | Current New Zealand policy. Use and supply is a criminal offence with the possibility of conviction and in rare circumstances imprisonment |
| Prohibition with fines ("like a speeding ticket") | Commonly known as "decriminalization'. Use and growing a small number of plants for personal use is a civil offence ordinarily resulting in a fine. |
| Cannabis social clubs and home grow | Home growing of small number of plants for personal use and social sharing is legal (no sales). Individual plant provisions can be combined for members of a social club. |
| Government monopoly and home grow | Cannabis is sold from government owned shops. There are age limits, no advertising and promotion, high excise taxes, restrictions on potency, plain packaging, mandated health warnings and limited number of outlets. A set number of plants are permitted to be grown at home for personal use. |
| Not-for-profit trusts with home grow | Community elected trusts sell cannabis and are required to spend a proportion of the revenue on community services, such as sport and arts. There are age limits, restricted advertising and promotion, high excise taxes, packaging restrictions, mandated health warnings and limits on number of outlets. A set number of plants are permitted to be grown at home for personal use. |
| Strict market regulation ("like tobacco") and home grow | Cannabis is commercially sold with a high excise tax, age restrictions, no advertising or promotion, plain packaging, some restrictions on potency, mandated health warnings, and sales from licensed sellers only. A set number of plants are permitted to be grown at home for personal use. |
| Light market regulation ("like alcohol") and home grow | There is largely a commercial cannabis market with limited restrictions on advertising and promotion, a small excise tax, age restrictions and some licensing and product labelling requirements. A set number of plants are permitted to be grown at home for personal use. |
| Unrestricted market ("like soft drinks") and home grow | There is a commercial market for cannabis with only generic consumer goods regulation around product safety and retail selling. There is no excise tax, restrictions on advertising and promotion, restrictions on potency, limited labelling requirements, and no limits on number of outlets. A set number of plants are permitted to be grown at home. |

[17] Wilkins C et al (2022) Assessing options for cannabis law reform: A Multi-Criteria Decision Analysis (MCDA) with stakeholders in New Zealand. *International Journal of Drug Policy 105*. Available here.
[18] Rogeberg O (2018) Prohibition, regulation or laissez faire: The policy trade-offs of cannabis policy. *International Journal of Drug Policy 56*: 153-161. Available here.
[19] Getting to Tomorrow (2024) 'Considering alternative drug policies: decriminalization and legal regulation'. Available here.
[20] Gomis B (2021) Cannabis regulation: Lessons from the illicit tobacco trade. *International Drug Policy Consortium*. Available here.
[21] Gomis B (2021) Cannabis regulation: Lessons from the illicit tobacco trade. *International Drug Policy Consortium*. Available here.
[22] Gomis B (2021) Cannabis regulation: Lessons from the illicit tobacco trade. *International Drug Policy Consortium*. Available here.
[23] See also: Decorte T (2018) *Regulating cannabis: A detailed scenario for a non-profit cannabis market*. Bloomington, IN: Archway Publishing. Available here.

SSDP Australia further recommends that:[24]

### 2.1. A legalisation model should include **age restrictions** on cannabis sales.

We support models that place age restrictions on commercial cannabis sales.[25] However, we encourage further cross-cultural research on how age-based substance restrictions may facilitate or restrict use among adolescents and youth, as well as shape social and familial conversations around safer use.

### 2.2. Any **taxes and duties acquired** through a legal cannabis market should be allocated towards **public health** campaigns, **education** initiatives, and **health** and **harm reduction** services.

### 2.3. **Equity in market access** within any regulated cannabis market should be promoted to ensure that those disproportionately impacted by prohibition are not locked out of opportunities emerging from reforms.

### 2.4. A legalisation model should allow **adults** to **gift small quantities** of cannabis to other adults.

Young people may engage in casual sharing with friends, in much the same way people might chip in for someone to buy alcohol for the group.[26] Often, people engaging in social supply do not consider themselves 'dealers'.[27] Additionally, people who cannot grow their own plants under a home cultivation model may benefit from social and communal sharing of plants. We suggest looking into models that allow adults to gift small quantities of cannabis to other adults, as has been enacted in Massachusetts' cannabis laws.[28]

### 2.5. A legalisation model should permit the establishment of **community-regulated practices** such as **Cannabis Social Clubs,**[29] which facilitate non-profit communal cultivation for the personal use of club members.

We recommend exploring the emergence of Cannabis Social Clubs in Spain, which were established through the grassroots (bottom-top) movements in the early 1990s,

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[24] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.
[25] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.
[26] Duffy M et al (2008) Cannabis supply and young people: How do young people obtain cannabis? A snapshot view from a large city and rural villages. *Joseph Rowntree Foundation.* Available here.
[27] Lenton S et al (2015) The social supply of cannabis among young people in Australia. Trends & issues in crime and criminal justice no. 503. Canberra: Australian Institute of Criminology. Available here.
[28] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.
[29] Students for Sensible Drug Policy Edith Cowan University (2019) Submission to: Alternative approaches to drug policy in Western Australia. Available here.

and spread to Belgium and several other countries in Europe by activists in Spain.[30] Cannabis Social Clubs provide spaces for cannabis use, build and foster a supportive community, offer education, and contribute to positive social and economic impacts.

## 2.6. A regulated cannabis market should provide **options for alternative** cannabis **consumption methods,** such as edibles, and vaping products.

We believe that cannabis regulation should include products that enable alternative consumption methods. Any commercial cannabis products (including vapes) should be subject to quality control measures to ensure products are as safe as possible to use. Smoking cannabis, especially when mixed with tobacco, has a greater potential for harm than alternative ingestion methods.[31] Alternative consumption methods of cannabis, notably vaporising and 'edible' forms of cannabis,[32] are associated with a reduced propensity for harm when compared to smoking cannabis.[33]

Alternative forms of cannabis consumption are already popular, with 2022-2023 NDSHS data indicating that of people aged 14 and over who had recently used cannabis, 62.8% had ever smoked cannabis in the form of joints, 46.0% had ever eaten it (e.g. baked into 'edibles'), 46.0% had ever smoked cannabis and tobacco mixed together, and 25.8% has ever used a vaporising device.[34] Supplying alternative cannabis consumption methods through a regulated market could help to further reduce harm through promoting the availability of products associated with less consumption-related harms.

## 2.7. A regulated cannabis market in Australia should include **labelling requirements** for products such as **safe and plain packaging,** clear labelling, mandated **health warnings,** and other important health information.

Legalisation models with more relaxed regulations around packaging have been estimated to increase health and social harms (see Table 1 and 2).[35] We acknowledge that medicinal cannabis products should be subject to stricter regulations around quality and content, than products sold commercially for non-medical reasons. This will ensure that people accessing cannabis for therapeutic or medicinal purposes can

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[30] Decorte T et al (2017) Regulating Cannabis Social Clubs: A Comparative Analysis of Legal and Self-Regulatory Practices in Spain, Belgium and Uruguay. *International Journal of Drug Policy 43*: 44–56. Available here.
[31] Hindocha C et al (2016) No smoke without tobacco: a global overview of cannabis and tobacco routes of administration and their association with intention to quit. *Frontiers in psychiatry 7*: 104. Available here.
[32] Green Goddess Collective (2021) *Edible Dosage: What to Expect from Your Cannabis Consumables.* [Image]. Available here.
[33] Tashkin DP (2015) How beneficial is vaping cannabis to respiratory health compared to smoking?. *Addiction 110*(11): 1706-1707. Available here.
[34] Australian Institute of Health and Welfare (AIHW) (2024) *National Drug Strategy Household Survey 2022–2023*, Canberra, AIHW, Australian Government. Available here.
[35] Wilkins C et al (2022) Assessing options for cannabis law reform: A Multi-Criteria Decision Analysis (MCDA) with stakeholders in New Zealand. *International Journal of Drug Policy 105*. Available here.

obtain high-standard products for their healthcare, without limiting non-medical access.

3. The NSW Government should provide **appropriate funding** for **community consultation and research** to explore different **models of cannabis legalisation.**

For reform to be effective and meaningful for cannabis consumers and wider communities, any policy change should be explored alongside communities affected by current policy and potential changes.

4. The NSW Government should conduct a **cost-benefit analysis** of the **economic and social benefits of legalising cannabis.**

As SSDP Australia has highlighted in our previous work,[36] the prohibition of cannabis ensures criminal organisations profit from the sale of cannabis on an unregulated market. The legal and illegal cannabis market in Australia was estimated at $3.89 billion in 2019,[37] and it has been estimated that a legalisation model of cannabis could generate $204 million in tax revenue annually in Victoria.[38] SSDP Australia believes that reform that recognises both the economic and social benefits of cannabis, and normalises the responsible use of cannabis, will lead to the unlocking of large therapeutic and recreational markets, while reducing strain on current health and social services through appropriate justice reinvestment.

**Table 2**
Cannabis policy reform options and projected outcomes.

| POLICY OPTIONS | Health and social harm | Reduce arrests | Reduce size of illegal market | Earn tax revenue | Expand drug treatment services |
|---|---|---|---|---|---|
| **Prohibition with criminal penalties (current approach)** | No change, $1.3b harm | No change, 10,500 arrested | No change, $500m illegal market | None | No change, 50% of people who want treatment receive it |
| **Prohibition with fines and home grow** | No change, $1.3b harm | Small reduction in arrests, e.g. down to 9,000 | Small reduction, e.g. $450m illegal market | None | Small increase, 60% of people who want treatment receive it |
| **Cannabis social clubs and home grow** | No change, $1.3b harm | Small reduction in arrests, e.g. down to 9,000 | Small reduction, e.g. $450m illegal market | None | Small increase, 60% of people who want treatment receive it |
| **Government monopoly and home grow** | Small decrease, e.g. $1.2b harm | Medium reduction, e.g. down to 5,000 arrests | Medium reduction, e.g. $250m illegal market | Very large revenue, e.g. $350m | Very large increase, 100% of people who want treatment receive it |
| **Not-for-profit trusts and home grow** | No change, $1.3b harm | Medium reduction, e.g. down to 5,000 arrests | Medium reduction, e.g. $250m illegal market | Large revenue, e.g. $250m | Large increase, 85% of people who want treatment receive it |
| **Strict market regulation and home grow** | Small increase, e.g. $1.4b harm | Medium reduction, e.g. down to 5,000 arrests | Medium reduction, e.g. $250m illegal market | Large revenue, e.g. $250m | Large increase, 85% of people who want treatment receive it |
| **Light market regulation and home grow** | Medium increase, e.g. $1.6b harm | Large reduction, e.g. down to 3,000 arrests | Large reduction, e.g. $200m illegal market | Medium revenue, e.g. $200m | Medium increase, 75% of people who want treatment receive it |
| **Unrestricted market and home grow** | Large increase, e.g. $1.8b harm | Very large reduction, e.g. down to 1,500 | Very large reduction, $100m illegal market | Medium revenue, e.g. $200m | Small increase, 60% of people who want treatment receive it |

[36] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.
[37] Boulougouris C & Crichton S (2019) 'The Australian Cannabis Market.' MinisterEllison. Available here.
[38] Parliamentary Budget Office (2018) *Decriminalise illicit drugs and legalise and regulate cannabis*. Victoria. Available here.

The current costs of criminalisation demonstrate the need for sensible reform.[39] As shown in the table above,[40] recent research has clearly demonstrated the potential economic outcomes of different models. We strongly suggest that the social and health benefits of cannabis reform should be integrated into future modelling.

5. Upon *de jure* decriminalisation and/or legalisation, the NSW Governments should **automatically expunge criminal records for low-level cannabis offences**.

6. Any **decriminalisation or legalisation** model should permit adults to **cultivate a limited amount** of their own cannabis (i.e., home growing).

In 2019, 3.9% of all recent cannabis users (illegally) grew their own cannabis.[41] Legalisation should permit individuals to cultivate their own cannabis, as is currently permitted in the ACT under decriminalisation legislation,[42] thus bypassing cannabis consumers' need to use the unregulated market. Legalising home growing could further reduce harms and criminal activities associated with legally obtaining cannabis, as well as creating more general societal benefits.[43,44,45]

7. **Current drug education and harm reduction programs** around cannabis should be **reviewed and updated.** New programs should include **culturally relevant and relatable health promotion materials,** be **tailored towards multiple platforms,** and be **co-designed and delivered** with the communities they are trying to reach.

Students and young people perceive current public health initiatives about illicit drugs as frequently ineffective, even misinformative, in their representation of people using drugs, particularly younger users.[46] Health promotion and education campaigns should be educational rather than fear-driven, and should be based on evidence to avoid being misinformative and perpetuating stigma.

[39] Ritter A, McLeod R & Shanahan M (2013) Government Drug Policy Spending In Australia - 2009/10. *Drug Policy Modelling Program Monograph Series, National Drug and Alcohol Research Centre.* Available here.
[40] Wilkins C et al (2022) Assessing options for cannabis law reform: A Multi-Criteria Decision Analysis (MCDA) with stakeholders in New Zealand. *International Journal of Drug Policy 105*: 5. Available here.
[41] Australian Institute of Health and Welfare (AIHW) (2020) *National Drug Strategy Household Survey (NDSHS) 2019.* Drug Statistics series no. 32, PHE 270, Canberra AIHW. Available here.
[42] Richards CM (2020) A.C.T. 'legalised' cannabis and the sky is yet to fall in. *Independent Australia.* Available here.
[43] Wilkins C et al (2022) Assessing options for cannabis law reform: A Multi-Criteria Decision Analysis (MCDA) with stakeholders in New Zealand. *International Journal of Drug Policy 105*: 5. Available here.
[44] Bartle J & Lee N (2019) 'Legal highs: arguments for and against legal cannabis use in Australia.' *The Conversation.* Available here.
[45] *Australian beginners grow guide.* [Image]. Available here.
[46] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.

Research has suggested that abstinence-based programs provide little support to young people actively engaged in substance use, and that young people are capable of understanding complex messaging.[47] Educational campaigns should target the platforms and spaces currently accessed by different communities, such as online platforms for younger generations,[48] and community health care services for wider populations of people who use drugs. Harm reduction messaging utilising facts, humour, and interaction (especially online) may be more successful at reaching younger demographics than television commercials based on fear and negative messaging.[49] Additionally, perceived credibility and trustworthiness of the sources of public health information can shape whether people access or listen to information.[50] Research on the effective methods of disseminating information is needed to further refine current practices and ensure that messages are reaching their target audiences.

8. The NSW Government should ensure **adequate funding for cannabis research.**

The illicit status of cannabis inhibits researchers from collecting accurate data on consumption and drug effects. Studies often rely on self-reporting data collection methods that hold little or no control over the strain or dose that is being consumed, and are likely to hold inaccuracies based on the way questions are asked and participant memory recall.[51] Research should prioritise longer-term studies with larger sample sizes.[52]

We further recommend that:

8.1. Research should be **co-designed** and **co-conducted** in **partnership with communities**, including people with lived and living experience of cannabis use.

8.2. Research should be adequately funded to explore the **harms and benefits** of cannabis use, and the **impacts of any regulatory changes.**

8.3. A coordinated **system should be established to monitor trends in rates and methods of consumption.**

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[47] McBride N, Farringdon F, Midford R, Meuleners L & Phillips M (2004) Harm minimization in school drug education: final results of the School Health and Alcohol Harm Reduction Project (SHAHRP). *Addiction 99*(3): 278-291. Available here.
[48] Australian Bureau of Statistics (2018) 8146.0 - Household Use of Information Technology, Australia, 2016-17. Available here.
[49] Rice ES, Haynes E, Royce P & Thompson SC (2016) Social media and digital technology use among Indigenous young people in Australia: a literature review. *International journal for equity in health 15*(1): 1-16. Available here.
[50] Farah B (2020) Just Say Know: Exploring Associations between Sources of Drug Information and Drugwise Music Festival Attendees. [Honours Thesis, Australian National University].
[51] National Academies of Science, Engineering and Medicine (2017) 'The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research', Ch. 15, Challenges and Barriers in Conducting Cannabis Research. Available here.
[52] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.

## Drug driving and cannabis

In addition to responding to cannabis use through a health and social lens (rather than criminal), recent reforms for medicinal cannabis require drug driving laws to be brought into line with other prescription medications, and indeed highlight the need for an overhaul of drug driving laws to test impairment - as is the case with alcohol - rather than presence of a drug in a person's system. There is no doubt that driving while impaired by any substance increases risks related to road safety, as is suggested in ToR (D), and yet current legislation does not discern between prescription medications and currently illicit drugs. Cannabis can be stored in lipid cells of the body and is detectable in trace amounts for weeks after ingestion, long after any impairment has passed.[53] Under the current legislation, should any of these patients undergo a roadside drug test (RDT) it is likely they would lose their licence and be fined a significant sum, regardless of their impairment.

We note that currently, other prescription substances capable of impairment such as benzodiazepines, or other illicit substances such as psychedelics or ketamine are not detected on RDTs, therefore highlighting massive inconsistencies in current policy. This has two key consequences: first, people who are impaired by prescribed medications are largely 'permitted' to drive while impaired as their substance use is not policed (i.e., targeted, or measured with current saliva swabs); second, people who are prescribed cannabis cannot drive without fear of losing their license and legal consequences, regardless of whether they are impaired by cannabis at the time of driving, given that cannabis use is targeted in roadside drug testing practices.

These discrepancies highlight how current drug driving laws are ineffective in improving road safety and reproduce perceptions of prescribed drugs as 'safe' and illicit drugs as 'dangerous'. The implications of current drug driving laws replicate those of the *Drugs Misuse and Trafficking Act* through the compounded criminalisation of and discrimination against people who use drugs (including *prescription* cannabis). The intention of all legislation relating to drug driving was designed to bring drug driving laws in line with alcohol driving laws. However, zero tolerance alcohol laws only apply to drivers on their provisional licence, with a threshold limit of 0.05BAC in all Australian jurisdictions for full-licence holders. The zero-tolerance legislation in place for drug driving offences is therefore excessively punitive and not proportionate to the harm that it is seeking to reduce.

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[53] Brands B, Mann RE, Wickens CM, Sproule B, Stoduto G, *et al.* (2019) Acute and residual effects of smoked cannabis: Impact on driving speed and lateral control, heart rate, and self-reported drug effects. *Drug and Alcohol Dependence, 205*: 107641. Available here.

This approach means that unimpaired people can be charged with drug driving offences for having traces of a substance in their system, even if that substance was consumed days or weeks ago. This currently sits contrary to the intention of the legislation, which is improving road safety and reducing the number of traffic incidents where drug intoxication is a contributing factor.[54,55,56,57] This 'punishment without proof of impairment' has led some academics and people who use drugs to question whether these laws are based on moral attitudes to drug use rather than an evidence-based relationship to risk.[58,59] As described by Professor Alison Ritter:

> "…if this is about road safety, and we need to assess impairment or the likelihood of a risk of causing an accident or having an accident, and the presence of drugs in a bodily fluid, whether that is saliva or blood, is not associated inevitably with having an accident…It makes a mockery of road safety laws."[60]

Having trace amounts of drugs in your system does not impact your ability to drive as there is no inebriation or impairment, and thus should not exclude people from operating a motor vehicle. We suggest that a threshold RDT test would be a far more reliable and effective indicator of impairment, and would bring the legislation in line with alcohol legislation, which allows a maximum BAC of 0.05 in all Australian jurisdictions. With respect to medicinal cannabis, exemptions should be made in circumstances where a positive RDT is registered and the driver is a medicinal cannabis patient who is not currently inebriated. The test of inebriation should be supported through legislated (*de jure*) threshold limits, to avoid empowering the discretionary powers of police in establishing impairment.

> "I am prescribed an opioid pain medication and medicinal cannabis to help manage severe endometriosis. Despite long term health implications of continued use of opioids, I have to rely on the opioid medication as I am unable to ever be certain that I will not register a positive result roadside, whether two days, or five days after using medicinal cannabis. This punitive and discretionary approach defies logic and does not consider actual impairment." - Young adult living in NSW

[54] McDonald D (2005) Drugs and driving: From RBT to RDT. *Of Substance: The National Magazine on Alcohol, Tobacco and Other Drugs 3*(2): 22-23. Available here.

[55] McDonald D (2009) The policy context of roadside drug testing. *Journal of the Australasian College of Road Safety 20*(1): 6. Available here.

[56] Prichard J, Matthews AJ, Bruno R, Rayment K & James H (2010) Detouring civil liberties? Drug-driving laws in Australia. *Griffith Law Review 19*(2): 330-349. Available here.

[57] Quilter J & McNamara LJ (2017) 'Zero tolerance' drug driving laws in Australia: A gap between rationale and form? I*nternational Journal for Crime, Justice and Social Democracy 6*(3): 47-71. Available here.

[58] Quilter J & McNamara LJ (2017) 'Zero tolerance' drug driving laws in Australia: A gap between rationale and form? I*nternational Journal for Crime, Justice and Social Democracy 6*(3): 47-71. Available here.

[59] Wilson L (2011) Perceptions of Legitimacy and Strategies of Resistance: Melbourne Illicit Drug Users and Random Roadside Drug Testing. *Current Issues in Criminal Justice 23*(2): 183-201. Available here.

[60] Parliament of Victoria (2018) *Inquiry into Drug Law Reform: Final Report.* Law Reform, Road and Community Safety Committee: 253. Available here.

SSDP Australia strongly advocates that drivers with a **valid medicinal cannabis prescription** should be afforded the **same rights as any other prescription medicine**. Current drug driving laws unjustly impact people with chronic health conditions, older people, and those who consume cannabis medicinally for pain management, as well as people who live or work in rural or regional locations or locations without sufficient public transport infrastructure. Moreover, differences in testing practices and equipment (e.g., saliva swabs) between Australian jurisdictions mean that some states already test *and account for* whether a drug is prescribed or used illicitly (for example, morphine in NSW, dexamphetamine in TAS, and heroin in TAS and the NT).[61] We are of the view that anyone charged under these current laws for having the presence of cannabis in their system while holding a valid prescription should be expunged. However, if legislation were reformed on the basis of impairment and/or thresholds, we acknowledge that the current methods of assessing drug driving through saliva testing do not produce substantial evidence to support expunging criminal records for all historical charges.[62]

## Final comments

Drug consumption is not a criminal issue, and the criminalisation of drugs and people who use them has devastating effects on communities while not achieving the goal of reducing drug use. In absence of a regulated cannabis market, funds from the criminal system should be redirected towards health, education, and social welfare programs, as well as policing unregulated supply chains and related organised crime. However, with a legal and regulated market, the NSW Government will see far greater efficiency and effectiveness in policing criminal activity and providing social and public health support for its citizens. The NSW Government has an opportunity to continue moving in the right direction, away from the failed War on Drugs, towards a society that reduces harms and maximises the benefits (as we have seen with medicinal cannabis) of different substances through intentional and smart policy decisions.

We are grateful to the Committee for their efforts in setting up this Inquiry and respect the complex challenges confronting this type of law reform. We recognise that mainstream understandings and skewed media dialogue can present barriers to change and obstruct policy change, and encourage the NSW Parliament to take another step towards addressing potential harms associated with cannabis use without creating more through continued criminalisation and poor policy choices. We imagine that the results from this Inquiry will highlight concerns around the risks associated with substance use as well as clarifying that the hold these fears have on community and government attitudes are rooted in moralistic attitudes towards people who use drugs, rather than being representative of an actual 'threat' posed. We do not need to reproduce the harms of the War on Drugs and ignore the evidence of what does and does not

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[61] Moxham-Hall V & Hughes C (2020) *Drug driving laws in Australia: What are they and why do they matter?* Drug Policy Modelling Program, UNSW Social Policy Research Centre, UNSW Sydney. No 29. Available here.
[62] Students for Sensible Drug Policy Australia (2020) Submission to the Inquiry into the use of cannabis in Victoria. Available here.

work, and we urge the NSW Parliament to envision a future where our policy landscape is not established to punish people for consuming a plant, whether that be for their leisure or their health. We hope the Committee will carefully consider the evidence presented to the Inquiry and that the final report will be able to help shape inspired change in the future.

SSDP Australia welcomes the opportunity to elaborate on this submission and to provide a verbal presentation to Inquiry committee members.

Yours sincerely,

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