



Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

2 November 2023

## **360Edge submission on the Legalising Cannabis Bill 2023**

### About 360Edge

360Edge is Australia's leading specialist alcohol and other drugs consultancy. We provide a full suite of policy and practice advisory services across the spectrum of alcohol and other drug use, as well as allied areas such as mental health, justice and education, supporting governments and frontline services to improve policy and practice in line with the latest evidence.

Our four core programs are Workforce Development, Service Improvement, Evaluation and Health Systems Modelling. 360Edge also supports the development and implementation of workplace alcohol and other drug policy through its WorkEdge program and alcohol and other drug prevention in schools through our Schools of Substance program.

CEO, Professor Nicole Lee, is an international leader in alcohol and other drug responses, with 33 years' experience in policy and practice implementation. She is also Adjunct Professor at the National Drug Research Institute, Curtin University; CEO of Hello Sunday Morning; and Board Member of The Loop Australia. She is a member of the Australian National Council on Alcohol and other Drugs (ANACAD), Australia's key expert advisory council to the Australian Government on alcohol and other drugs, which provides policy advice directly to the Health Minister and their Department.

Professor Nicole Lee has provided advice to Australian, State and Territory governments as well as international governments across South East Asia, New Zealand and the Pacific Islands. She has worked on alcohol and other drug policy with major international organisations such as the World Health Organization and the United Nations Office on Drugs and Crime.

## Overview

*Thank you for the opportunity to make a submission to the inquiry into the Legalising Cannabis Bill 2023 (the Bill).*

*Cannabis is widely used in Australia, with 38.1% of people having used it in their lifetime. Over 40% of Australian believe that cannabis should be legal.*

*Australia's official policy on alcohol and other drugs promotes a harm minimisation approach, yet many of the harms arising from cannabis use are a direct consequence of its illegality.*

*Whether you think people should be using cannabis or not, the reality is that the current criminalisation of cannabis has done nothing to reduce harms or use. There is no evidence that criminalisation achieves the outcomes even those that support prohibition are seeking. And these laws disproportionately and unfairly affect the most marginalised people in Australia.*

*We believe the proposed Bill effectively incorporates the evidence about risks and harms associated with both highly commercialised and overly restricted legal cannabis markets to strike a balance that is unlikely to increased use, will improve public health and social outcomes and will generate significant revenue and savings.*

## Cannabis use, perspectives and harms in Australia

Cannabis is the most widely consumed illicit drug in Australia, with 38.1% of Australians aged over 18 having used it in their lifetime and 11.8% having used it in the past 12 months in 2019.<sup>[1]</sup> The vast majority of cannabis users are adults, with people aged between 40 and 49 being most likely to have used it in their lifetime (49.4%) and people aged between 20 and 29 being most likely to have used it in the past 12 months (23.8%).<sup>[1]</sup> Only 9.9% of adolescents aged between 14 and 17 having used it in their lifetime.<sup>[1]</sup> The average age of people who have used cannabis in the past 12 months is 34.9 and most used it only once every few months or once or twice a year.<sup>[1]</sup>

The acceptance of cannabis among the Australian community has risen rapidly in recent years. In 2019, 19.6% of people aged 14 and over approved the regular use of cannabis by adults, more than doubling since 2010 (8.1%).<sup>[1]</sup> The majority of Australians (78.5%) believe that the possession of cannabis for personal use should not be a criminal offence and 41.1% believe that cannabis should be legalised, a significant increase from 24.8% in 2010.<sup>[1]</sup> It is clear that the Australian public are supportive of the removal of criminal penalties and the legalisation of cannabis.

Cannabis use is not without its harms; however, the adverse health outcomes of cannabis use are limited, especially relative to legal drugs.<sup>[2]</sup> Despite persistent misconceptions, only 3% or less of the burden of schizophrenia, anxiety disorders, road traffic injuries and depressive disorders in Australia are attributable to cannabis use.<sup>[3]</sup> Studies ranking the harms of drugs across the UK, Europe, New Zealand and Australia have consistently ranked alcohol as the most harmful drug to both users and others by a large margin.<sup>[4-7]</sup> On average, alcohol was ranked to be three times as harmful as cannabis.<sup>[4-7]</sup> The Australian study ranked cannabis to be the 13th most harmful of 22 legal and illegal drugs.<sup>[7]</sup>

The Australian Burden of Disease Study links 41 diseases to tobacco use, 29 to alcohol use and only 7 to cannabis use.<sup>[8]</sup> It is clear that cannabis, which remains illegal, is significantly less harmful than the legal drugs alcohol and tobacco.

## Australia's current approach to cannabis policy

The National Drug Strategy 2017-2026, Australia's official policy on alcohol and other drugs, is founded on the principle of harm minimisation.<sup>[9]</sup> The objective of a harm minimisation framework should be to achieve a net reduction in harm, yet some of the most significant harms from cannabis are a result of its illegal status.

The illegal status of recreational cannabis has created a thriving, unregulated black market, incurring substantial health and social costs. The quality, safety and potency of cannabis circulating in the black market is unknown, substantially raising risks to users compared to if cannabis was regulated. There are no barriers preventing the sale of cannabis to minors. Because cannabis is illegal, the public is not properly educated on safe consumption and potential health risks.<sup>[10]</sup> The stigmatisation associated with using an illegal drug deters people from accessing help for problematic use or health concerns.<sup>[10]</sup>

There is strong evidence that excessive expenditure on law enforcement has done little to contain the black market and its associated health harms, while incurring significant costs and subjecting vulnerable Australian populations to the harms of the criminal justice system.<sup>[10]</sup> In 2015-16, the estimated social cost of cannabis use was \$4.5 billion, of which \$2.4 billion was related to the criminal justice system.<sup>[3]</sup> The criminalisation of cannabis use can significantly damage the lives of those who receive a criminal record, posing barriers to employment, housing and education and disproportionately affecting those from vulnerable communities.<sup>[10]</sup>

## The Legalising Cannabis Bill 2023: A sensible approach to cannabis regulation

Regulating cannabis through legalisation, as proposed in the Legalising Cannabis Bill 2023, would significantly minimise the risks associated with cannabis use and benefit public health, in line with the National Drug Strategy 2017-2026.

The proposed Bill offers a regulatory framework that strikes an optimal balance between the commercialised private market approach of the US, the 'hybrid' approach of Canada (promoting public health through regulations but allowing the participation of large corporations in the cannabis market) and the highly restrictive approach of Uruguay in which consumers must be registered.<sup>[2,11-12]</sup> The Bill negates the risks of commercialisation, learning from the private market experience of some US states and Canada<sup>[12, 14]</sup>, while also avoiding overly restrictive regulation that poses supply problems and drives cannabis users back to the black market, such as in Uruguay.<sup>[12, 14]</sup>

### Lessons from commercial legalisation in the US and Canada

The approach taken by the Legalising Cannabis Bill 2023 effectively draws on the learnings from the private, for profit, commercialised models seen in the US and Canada which incentivise the sale of cannabis with profit, leading to large corporations seeking to expand the market, promote heavy use and circumvent public health regulations.<sup>[12, 16]</sup> Evidence from the US demonstrates that a commercial approach to the cannabis market leads to the cannabis industry manipulating regulations through political influence, lobbying and public relations to maximise sales, leading to adverse public health outcomes.<sup>[11, 15-16]</sup>

In the US, the commercial cannabis market has led to reductions in prices and increases in availability, high potency products and cannabis related hospitalisations.<sup>[11, 14]</sup> Canada's initially tightly regulated model was not associated with significant increases in cannabis use and

health harms. As the Canadian market became more commercialised, there were increases in cannabis related hospitalisations and the burden of cannabis on the health system.<sup>[13]</sup> This quite clearly demonstrates that many of the adverse impacts claimed to be associated with legalisation in general are in fact specifically impacts of a commercial model.

### A public health oriented approach

The current Bill proposes the establishment of the 'Cannabis Australia National Agency' (CANA), a regulatory body that would be responsible for licensing and regulation with an objective to 'maximise safety and to minimise harm'. The proposed licensing system restricts participation in the cannabis industry to individuals and nonprofit cooperatives, with CANA having the power to expand these criteria in the future. Importantly, The Bill prevents corporations, as well as persons involved in the alcohol, tobacco and pharmaceutical (excluding medicinal cannabis) industries from capitalising on the cannabis market, which would largely prevent the commercialisation of cannabis.

CANA will also establish strict regulations on testing, labelling, packaging and storage; 360Edge is in strong support of establishing plain packaging regulations in line with a public health approach.<sup>[11]</sup> Advertising and promotion are prohibited under the Bill, excluding point of sale and online advertising by license holders, subject to regulations to be prescribed by CANA. These measures will significantly reduce the harms of cannabis use by ensuring that consumers know what they are consuming and ensuring quality control while preventing the risk of commercialisation leading to increased use and harms.<sup>[10]</sup>

An important aspect of the Bill is the establishment of a Responsible Service of Cannabis (RSC) scheme by CANA. In the US, cannabis retail staff are often not required to undertake any training. Training programs currently in place are generally not focused on consumer safety but on product attributes, legal compliance, customer service and business practices.<sup>[11, 17]</sup> This is an outcome of the commercial model which prioritises maximising sales over consumer health.<sup>[17]</sup> Similar to the Responsible Service of Alcohol scheme, an RSC scheme would positively benefit consumers by placing health and safety at the front and centre of training, providing health and dosage advice to consumers and minimising risks of excessive consumption and driving under the influence of cannabis.<sup>[17]</sup>

The Bill will also allow people to cultivate up to six plants at home and socially share homegrown cannabis without payment. Home cultivation policies have been found to be of a low risk and high benefit to cannabis users. Home cultivation policies globally are associated with no increases in use, no impact on potency levels, reduced presence of pesticides and harmful chemicals, reduced criminal justice costs and increased access to information about cannabis.<sup>[18]</sup> Importantly, allowing social sharing could also potentially reduce the size of the cannabis black market.<sup>[18]</sup>

The Parliamentary Budget Office estimates that \$28 billion of public revenue can be generated in the first 9 years of legalisation. These funds could then be allocated to alcohol and other drug treatment services, education, healthcare and human services, further benefiting the health and wellbeing of the Australian population.

A prominent argument against the legalisation of cannabis is that it would increase use. Evidence from legal jurisdictions now proves that this is largely not true.<sup>[2, 11, 13, 19]</sup> The vast majority (78.7%) of Australians aged over 14 reported that they would not use cannabis even if it were legal and available and only 2.9% reported that they would use it more frequently.<sup>[1]</sup> With regulations in place to prevent the commercialisation of cannabis, it is unlikely that legalisation would lead to a significant increase in use. Under the proposed Bill, a slight



increase in cannabis use would be accompanied by strong regulation encompassing product control, taxation revenue, public health campaigns and surveillance and monitoring, leading to reduced health harms compared with a lower rate of use in an unregulated market.<sup>[20]</sup>

Importantly, the Bill is designed to take a public health approach with strict regulations from the outset, which was not seen in Australia's alcohol and tobacco industries.<sup>[20]</sup> The social, health and economic harms arising from the commercialisation of alcohol and tobacco would not be repeated with the legalisation of cannabis under the Bill.<sup>[20]</sup>

### Changes to the online sales and advertising approach

360Edge supports an amended Bill that prohibits online sales and advertising. Online sales pose a risk to users because they increase availability and promote heavier use; are more difficult to regulate; and online age verification processes are typically inadequate to prevent the sale to minors.<sup>[15, 21]</sup> Online advertising has presented a significant challenge to US jurisdictions, in which young people are exposed to the promotion of cannabis products through social media.<sup>[11]</sup>

The purpose of allowing online sales is to promote equitable access, however this may be achieved through other routes, such as by removing license fees for regional, rural and remote applicants. Online sales may be introduced if evidence emerges that access to cannabis products in Australia is inequitable without them, however they must be subject to rigorous regulations.

## Conclusion

The Bill takes a public health oriented approach, regulating product quality, strength and safety; promoting small scale, community based operations; and placing strict limitations on promotion. In doing so, legalising cannabis under the Bill will likely substantially minimise the health risks and harms associated with cannabis, generate significant revenue and savings to the criminal justice system that can support funding to the health and education sectors, all while circumventing the risks associated with a commercial cannabis market.

Thank you for the opportunity to provide feedback on this important and significant Bill.

360Edge are specialists in alcohol and other drug policy and can be called upon to provide further advice if required.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nicole Lee', followed by a period.

**Professor Nicole Lee**  
*Founder and CEO*

## References

1. Australian Institute of Health and Welfare. National Drug Strategy Household Survey 2019. Drug statistics series no. 32. PHE 270. Canberra: AIHW; 2020. Available from <https://www.aihw.gov.au/reports/illicit-use-of-drugs/national-drug-strategy-household-survey-2019/contents/summary>
2. Fischer B, Daldegan-Bueno D, Boden JM. Facing the option for the legalisation of cannabis use and supply in New Zealand: An overview of relevant evidence, concepts and considerations. *Drug Alcohol Rev.* 2020 May 20;39(5):555-67. Available from <https://doi.org/10.1111/dar.13087>
3. Australian Institute of Health and Welfare. Alcohol, tobacco & other drugs in Australia. PHE 221. Canberra: AIHW; 2023. Available from <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/drug-types/cannabis>
4. Nutt DJ, King LA, Phillips, LD. Drug harms in the UK: a multicriteria decision analysis. *Lancet.* 2010 Nov 1;376(9752):1558-65. Available from [https://doi.org/10.1016/S0140-6736\(10\)61462-6](https://doi.org/10.1016/S0140-6736(10)61462-6)
5. van Amsterdam J, Nutt D, Phillips L, van den Brink W. European rating of drug harms. *J. Psychopharmacol.* 2015 Jun 1;29(6):655-60. Available from <https://doi.org/10.1177/0269881115581980>
6. Crossin R, Cleland L, Wilkins C, Rychert M, Adamson S, Potiki T et al. The New Zealand drug harms ranking study: A multi-criteria decision analysis. *J. Psychopharmacol.* 2023 Jun 23;37(9):891-903. Available from <https://doi.org/10.1177/02698811231182012>
7. Bonomo Y, Norman A, Biondo S, Bruno R, Daglish M, Dawe S et al. The Australian drug harms ranking study. *J. Psychopharmacol.* 2019 May 13;33(7):759-68. Available from <https://doi.org/10.1177/0269881119841569>
8. Australian Institute of Health and Welfare. Australian Burden of Disease Study: Impact and causes of illness and death in Australia, 2015. BOD 22. Canberra: AIHW; 2019. Available from <https://www.aihw.gov.au/reports/burden-of-disease/burden-disease-study-illness-death-2015/summary>
9. Department of Health and Aged Care. National Drug Strategy 2017-2026. Canberra: Australian Government; 2017. Available from <https://www.health.gov.au/resources/publications/national-drug-strategy-2017-2026?language=en>
10. Legislative Council Legal and Social Issues Committee. Inquiry into the use of cannabis in Victoria. Victoria: Parliament of Victoria; 2021. Available from <https://apo.org.au/sites/default/files/resource-files/2021-08/apo-nid313452.pdf>
11. Subritzky T, Lenton S, Pettigrew S. Practical lessons learned from the first years of the regulated recreational cannabis market in Colorado. In: Decorte T, Lenton S, Wilkins C, editors. *Legalizing cannabis: Experiences, lessons and scenarios.* London: Routledge; 2020; p. 39-61.

12. Queirolo R. Uruguay: the first country to legalize cannabis. In: Decorte T, Lenton S, Wilkins C, editors. *Legalizing cannabis: Experiences, lessons and scenarios*. London: Routledge; 2020; p. 116-30.
13. Myran DT, Pugliese M, Tanuseputro P, Cantor N, Rhodes E, Taljaard M. The association between recreational cannabis legalization, commercialization and cannabis-attributable emergency department visits in Ontario, Canada: an interrupted time-series analysis. *Addiction*. 2022 Feb 17;117(7):1952-60. Available from <https://doi.org/10.1111/add.15834>
14. Barata PC, Ferreria F, Oliveira C. Non-medical cannabis use: international policies and outcomes overview. An outline for Portugal. *Trends Psychiatry Psychother*. 2022 May 27;44:e20210239. Available from <https://doi.org/10.47626/2237-6089-2021-0239>
15. Barry RA, Glantz S. A public health framework for legalized retail marijuana based on the US experience: Avoiding a new tobacco industry. *PLoS MED*. 2016 Sep 27;39(9):e1002131. Available from <https://doi.org/10.1371/journal.pmed.1002131>
16. Barry RA, Glantz SA. Marijuana regulatory frameworks in four US states: An analysis against a public health standard. *Am J Public Health*. 2018 Jul;108(7):914-23. Available from <https://doi.org/10.2105/ajph.2018.304401>
17. Lange JE, Moyers SA, Croff JM. Responsible cannabis sales: A narrative review considering interventions for dispensary staff to address cannabis harms. *Public adm. q*. 2023;47(3):374-91. Available from <https://doi.org/10.37808/paq.47.3.7>
18. Belackova V, van de Ven K, Roubalova M. "More than just counting the plants": different home cannabis cultivation policies, cannabis supply contexts and approaches to their evaluation. In: Decorte T, Lenton S, Wilkins C, editors. *Legalizing cannabis: Experiences, lessons and scenarios*. London: Routledge; 2020; p. 154-79.
19. Mosher C, Akins S. Recreational marijuana legalization in Washington State: benefits and harms. In: Decorte T, Lenton S, Wilkins C, editors. *Legalizing cannabis: Experiences, lessons and scenarios*. London: Routledge; 2020; p. 62-88.
20. Law Reform, Road and Community Safety Committee. *Inquiry into drug law reform*. Victoria: Parliament of Victoria; 2018. Available from <https://new.parliament.vic.gov.au/4a4da7/contentassets/fffc669016444ef4b8ef1f95227787f9/inquiry-into-drug-law-reform--final-report.pdf>
21. Colbert S, Wilkinson C, Thornton L, Feng X, Campain A, Richmond R. Cross-sectional survey of a convenience sample of Australians who use alcohol home delivery services. *Drug Alcohol Rev*. 2023 Feb 28;42(5):986-95. Available from <https://doi.org/10.1111/dar.13627>