

Submission to the inquiry into the impact of the regulatory framework for cannabis in New South Wales

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. Our work supports 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 our 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 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 impact of the regulatory framework for cannabis in New South Wales (NSW).

Cannabis is widely used in NSW with almost 40% of NSW residents having used cannabis in their lifetime. The current regulatory framework for cannabis in NSW takes a law enforcement oriented approach and treats cannabis use as a criminal issue rather than a health one. Many of the harms associated with cannabis use are a direct consequence of this approach and there is no evidence that the criminalisation of cannabis achieves the desired outcomes.

Removing criminal sanctions for the home cultivation, possession, and gifting of cannabis would be a small but positive policy move and minimise the risks of harm associated with cannabis use. Our submission responds to Terms of Reference (b), (c), and (g).

TOR (b): The socioeconomic impact of the current regulatory framework for cannabis

The illegal status of recreational cannabis in NSW has contributed to significant socioeconomic harms. Recreational cannabis is exclusively bought and sold through the thriving, unregulated black market. The quality, safety and potency of cannabis is unknown; there are no barriers to minors accessing cannabis; people who use cannabis face the risk of contact with the criminal justice system; and the stigma associated with using an illicit drug deters people from accessing health and social support related to cannabis use.

Eleven percent of NSW residents have used cannabis recently and almost 40% in their lifetime (1). The current unregulated model places no barriers on access to cannabis by minors; more than one in ten (13.1%) NSW youth aged 14–19 have used cannabis recently (1). The current regulatory framework for cannabis places an enormous number of NSW residents, including children, at risk of socioeconomic harms arising from recreational cannabis use.

While cannabis use generally carries a minimal risk of serious health harms for most people, the unknown potency and quality of cannabis circulated on the black market raises the risk of potential health harms (2). A 2013 analysis of the potency of recreational cannabis in NSW found that samples were generally of a high to very high THC potency and low CBD potency, raising the risk of adverse mental and physical health harms (2, 3). Furthermore, the uncontrolled environments that cannabis is grown in increases the risk of harmful contaminants such as bacteria and pesticides (4). While cannabis use is not risk free, the harms associated with cannabis are significantly lower compared to the legal substances alcohol and cigarettes (5). Because cannabis is unregulated, the potential risks of harm associated with high potency products and contaminants are raised.

Law enforcement approaches disproportionately target people who use cannabis rather than traffickers, dealers, and manufacturers, with 90% of cannabis arrests nationwide being for possession and use (6). In 2023, there were 14,644 incidents recorded by NSW Police for cannabis possession and, despite court diversion schemes being in place, 3,980 people were sentenced in court (7).

The socioeconomic impacts of a criminal record are substantially more harmful than those associated with the use of cannabis (8). A criminal record significantly and



persistently affects employment, education, and housing prospects; leads to significant social stigma and discrimination; and disproportionately impacts marginalised communities, including Aboriginal and Torres Strait Islander peoples and people who are culturally and linguistically diverse (8).

The stigma and discrimination experienced due to using an illicit drug further places people who use cannabis at risk of socioeconomic harms. People in jurisdictions with stricter cannabis policies are significantly more likely to experience stigma and discrimination compared to those in jurisdictions with more lenient policies (9). Experiences of stigma and discrimination place people at risk of social isolation and mental health concerns and deters people from accessing social support and healthcare (10).

TOR (c): The historical, current and future financial cost of cannabis prohibition to the Government and the economy

The most significant cost of cannabis prohibition to the NSW Government and economy is the cost of law enforcement and criminal justice.

Nationally, law enforcement is estimated to represent 64.3% of Australia's drug policy expenditure, with \$3.5 billion being spent on law enforcement in 2021–2022 (11). An analysis of the years 2015–2016 estimated the criminal justice costs of cannabis to be \$2.4 billion, representing more than half of the total social costs of cannabis use in Australia (12). Over the past decade, the weight of cannabis seizures nationally has increased by 47% and there were 55,199 cannabis seizures in 2020–2021 (6).

In the face of Australia's enormous expenditure on cannabis law enforcement, policing efforts have had no impact on the circulation and use of cannabis. The number of NSW residents who have used cannabis recently has increased by 15.8% since 2013 (1). Clearly, significant spending on law enforcement has incurred a massive cost to the Government and economy with no benefit, and this is not likely to improve if a prohibitive framework is maintained.

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

Removing criminal sanctions for the cultivation, possession, and gifting of cannabis for personal use would be an incremental but positive policy move.

Home cultivation and cannabis possession was legalised in the ACT in 2020 with limits of two plants per person and four per household and personal possession limits of up to 50 grams dried or 150 grams fresh cannabis (13). Among other changes, the new legislation also made it an offence to expose children or young people to cannabis smoke, store cannabis where it can be accessed by children, and grow plants where they can be accessed by the public (13). In the first year since the legislation was passed, there was a massive drop by 90% in cannabis offences and no change in rates of use, drug driving offences, and hospital visits (1, 14).

Legalising the home cultivation of cannabis can yield a range of potential benefits. Data from other jurisdictions supports that there would be no impact on rates of use (15). As seen in the ACT, there would also be significant savings to law enforcement and the criminal justice system (14, 15). Diverting people from illegally supplied to home grown cannabis can also potentially reduce the size of the black market (15). With 12.4% of



Canberrans growing their own cannabis in 2022–2023, the ACT saw an increase of 175% in home grow since before the legislation was passed (1).

Furthermore, allowing home cultivation can lead to the consumption of higher quality cannabis without harmful contaminants and facilitate better access to information and education regarding cannabis, reducing risks of harm (15).

A survey of 200 regular cannabis users across Australia found that 93% of people had shared cannabis with their friends in the past month (16). Removing criminal sanctions for gifting cannabis would be a sensible move, as socially sharing cannabis is already a common practice across Australia.

Conclusion

Many of the socioeconomic harms associated with cannabis use in NSW are directly related to the criminal justice approach taken by the current regulatory framework.

Criminalising cannabis possession and use promotes the circulation of harmful cannabis products through the black market, places thousands of NSW residents at risk of contact with the criminal justice system, and leads to stigma and discrimination that deters people from seeking help when they need it.

Excessive expenditure on law enforcement approaches have seen no impact on the illegal cannabis market or rates of use and has instead contributed to harms.

Removing criminal penalties for the personal possession, use and gifting of cannabis is a small but positive policy move.

As seen in the ACT, it will likely have no impact on rates of use, drug driving offences, or hospitalisations. It will instead divert people away from both the black market and criminal justice system, reduce the currently significant criminal justice costs, and allow people to consume their own homegrown cannabis of which they are aware of the strength and quality.

Thank you for the opportunity to provide a submission to this important inquiry.

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
CEO

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