



Attorney-General and Minister for Justice  
Minister for Women and Minister for the Prevention of  
Domestic and Family Violence

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8 APR 2021

Mr Neil Laurie  
The Clerk of Parliament  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Laurie *Neil*

I refer to e-Petition 3411-20 tabled in the Legislative Assembly on 9 March 2021 titled *Cannabis law reform*.

I note the petitioners request to ensure consumers have safe access to cannabis. In Queensland, cannabis is a dangerous drug under the *Drugs Misuse Act 1986* (Drugs Misuse Act) and the *Drugs Misuse Regulation 1987* (Drugs Misuse Regulation). Any person unlawfully possessing, producing, supplying, or trafficking in cannabis commits a criminal offence. Section 4 of the Drugs Misuse Act defines 'unlawfully' as meaning without authorisation, justification or excuse by law.

As you would be aware, the Queensland Productivity Commission (QPC) publicly released its report *Inquiry into Imprisonment and Recidivism* on 31 January 2020. You can find the Government's response in full at: <https://www.qpc.qld.gov.au/inquiries/imprisonment/>.

Petitioners will note, in response to recommendation five – Reducing the stock of criminal offences – the Queensland Government agreed with the QPC that there was value in examining whether the state's criminal law is best positioned to deliver on the objectives of increased community safety and the upholding of community standards. The Government committed to exploring opportunities to increase the capacity of the criminal justice system to provide a broader range of available responses to low-harm offending and that the system concentrates the resources of courts and prisons on the most serious matters.

The Queensland Government has a proud record of evidence-based policy concerning low-harm offending and notes the following:

*Queensland Police Drug Diversion Program (PDDP)*

The Queensland Police Drug Diversion Program (PDDP) was established in 2001, with over 148,000 people being diverted from the criminal justice system into a health-based brief intervention and assessment program since the PDDP began.

The PDDP does not decriminalise or legalise the possession or use of cannabis in Queensland.

The purpose of the PDDP is to reduce the number of people appearing before the courts for minor drugs offences involving cannabis only. The PDDP provides people with access to health interventions to assist them to address the underlying behaviours leading to their drug use and to reduce the demand for and harms associated with the use of dangerous drugs in Queensland.

The PDDP is supported by a legislative scheme in Chapter 14, Part 4 of the *Police Powers and Responsibilities Act 2000* which requires police officers to offer eligible persons the opportunity to participate in a drug diversion assessment program with an approved Queensland Health program provider, as an alternative to prosecution.

### *Court Programs*

In response to recommendations made by the *Queensland Drug and Specialists Courts Review: Final Report* (November 2016), the Palaszczuk Government provided funding to reinstate the Queensland Drug and Alcohol Court (QDAC), after it was abolished by the former LNP Government and to establish Court Link.

QDAC operates in Brisbane and provides a response to adult defendants with severe drug and/or alcohol use directly associated with their offending. Participants are sentenced to undertake treatment to address their drug and alcohol dependencies and criminal behaviour, with the goal of reducing future offending. Any Magistrate in Queensland may refer a defendant to QDAC, as long as the defendant is facing charges at a Magistrates Court and resides within the district of the Brisbane Magistrates Court.

Court Link is an integrated court assessment, referral and support program. Court Link addresses underlying contributors to offending behaviour and provides individualised case management support to eligible participants.

Court Link's purpose is to provide support and assistance to people in accordance with their risk of re-offending and their needs, including access to Alcohol and Other Drug treatment services. Court Link is operational in Brisbane, Cairns, Southport, Ipswich, Redcliffe, Maroochydore, Caboolture and Mount Isa.

In the Redcliffe, Maroochydore and Caboolture Court Link locations, Queensland Health provides a dedicated Alcohol and Other Drug treatment service and access to rehabilitation for participants.

In addition to QDAC and Court Link, the Illicit Drug Court Diversion (IDCD) program and Drug and Alcohol Assessment Referrals (DAAR) are programs offered across the State to defendants appearing in Magistrates Courts to address drug use in its early stages and reduce further drug related offending.

The IDCD program is for defendants who plead guilty to eligible minor drug offences and are required to attend a drug assessment and education session, as a condition of a recognisance order imposed, instead of a traditional fine.

The DAAR program is available to defendants who identify substance use as a contributing factor in their offending behaviour but who may not be drug and/or alcohol dependent. Further information on court-based programs can be found on the Queensland Courts website at: <https://www.courts.qld.gov.au/courts/drug-court>.

### *Regulation of the cannabis hemp industry*

The industrial cannabis (hemp) industry in Queensland is regulated under the Drugs Misuse Act and Drugs Misuse Regulation. The Department of Agriculture and Fisheries (DAF) is responsible for managing the licensing framework for the commercial production of industrial cannabis in accordance with Part 5B of the Act.

Part 5B of the Drugs Misuse Act provides the licensing framework for industrial cannabis and allows for commercial production and research into the production of industrial cannabis fibre and seed. Industrial cannabis (*Cannabis sativa*) is defined under the Drugs Misuse Act as a cannabis plant with a tetrahydrocannabinol (THC) concentration in its leaves and flowering heads of not more than 1%.

Under the Drugs Misuse Act, a licence is required to lawfully conduct authorised activities associated with industrial cannabis, including:

- the commercial production of industrial cannabis plants for fibre and seed;
- conducting research into the use of industrial cannabis for commercial purposes; and
- storing, supplying and handling industrial cannabis seed.

The carrying out of licenced activities authorised under Part 5B of the Drugs Misuse Act is considered lawful for the purposes of sections 5, 6, 8, 8A and 9 of the Act. The licence activities are lawful only while the licensee performs these activities in accordance with the Act, the conditions of the licence and for a purpose consistent with Part 5B. The Commonwealth Department of Health, via the Office of Drug Control is responsible for administering the medicinal cannabis licensing framework under the *Narcotics Drugs Act 1967* (Cth).

### *Medicinal cannabis*

Medicinal cannabis products are regulated as medicines in Australia, therefore medicinal cannabis is regulated under both state legislation and the Commonwealth's *Therapeutic Goods Act 1989*. Approval from the Commonwealth Therapeutic Goods Administration (TGA) must first be obtained to allow lawful access and use of unapproved/ unregistered medicinal cannabis in Australia.

All medicinal cannabis products in Australia must also meet the standards set by the TGA for minimum quality requirements and microbiological standards. To ensure safe prescription and dosage decisions by doctors, medicinal cannabis products need to be consistent, contaminant free and high quality.

In Queensland,

- Any registered medical practitioner can prescribe medicinal cannabis for any patient with any condition, if they believe it is clinically appropriate and have obtained the required Commonwealth approval.
- Medicinal cannabis products are classified as either Schedule 4 or Schedule 8 controlled substances, most products are not listed on the Australian Register of Therapeutic Goods (ARTG).



- In circumstances where patients need access to therapeutic goods that are not included in the ARTG, a Therapeutic Goods Administration approval is required in order for the medicine to be prescribed. These approvals are provided under the Commonwealth Special Access or Authorised Prescriber schemes.
- As of 1 July 2019, the *Public Health (Medicinal Cannabis) Act 2016* (Qld) was repealed and amendments to the *Health (Drugs and Poisons) Regulation 1996* mean that a Queensland approval is no longer required for Schedule 8 or Schedule 4 medicinal cannabis products. A separate Queensland approval is only required if the person is a drug dependent person.
- Medicinal cannabis products can be supplied in Queensland where a Commonwealth Department of Health approval/authorisation is in place.
- The cultivation, manufacture and wholesaling of medicinal cannabis products is tightly regulated by a combination of Commonwealth and Queensland Government schemes. In Queensland, medicinal cannabis wholesaling is regulated through the *Health (Drugs and Poisons) Regulation 1996*.
- To manufacture or wholesale scheduled medicines (including Schedule 4 and Schedule 8 medicinal cannabis) a controlled drug or restricted drug manufacturer or wholesaler licence is required under the *Health (Drugs and Poisons) Regulation 1996*.
- To use scheduled substances for non-therapeutic purposes a Queensland Health approval is required under the *Health (Drugs and Poisons) Regulation 1996*. There are also storage and record keeping obligations for scheduled substances that must be complied with as part of this Approval.
- On commencement of the new Medicines and Poisons Act 2019, there will no longer be a requirement for this approval as persons authorised under other laws (e.g. the *Narcotic Drugs Act 1967* (Cth)) will not commit an offence against this Act to the extent the person acts under the related authority. The *Medicines and Poisons Act 2019* is proposed to commence in the second half of 2021.

#### *Commonwealth Senate inquiry on barriers to medicinal cannabis access*

For your reference, a copy of the Queensland Government submission to the Commonwealth Senate Community Affairs References Committee (Committee) inquiry into current barriers to patient access to medicinal cannabis in Australia is available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Medicinalcannabis/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Medicinalcannabis/Submissions).

The Australian Government response to the Committee report: *Inquiry into Current barriers to patient access to medicinal cannabis in Australia* is also available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Medicinalcannabis/Government\\_Response](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Medicinalcannabis/Government_Response)).

I note the Narcotic Drugs Amendment (Medicinal Cannabis) Bill 2021 was introduced to Federal Parliament on 3 February 2021. This Bill will amend the *Narcotic Drugs Act 1967* (Cth) to support the implementation of a number of the recommendations of the Final Report of the Review of the *Narcotic Drugs Act 1967* (Cth) carried out by Professor John McMillan AO.

The Queensland Government supports that medicines manufacture should be underpinned by appropriate processes and standards that can ensure patients, health professionals and governments have confidence in the safety and efficacy of products being used for the treatment of often complex medical conditions.

There are well-established pathways for accessing both registered and unregistered medicines in Australia. The Queensland Government believes that these pathways in combination with existing Commonwealth Department of Health oversight adequately manages the risks associated with prescribing medicinal cannabis.

Recreational or unregulated cannabis products are not overseen by a doctor and they remain outside of the treatment plan, there may be potentially dangerous drug interactions that are not known to either the doctor or patient. Using recreational or unregulated cannabis does not guarantee that these products are safe and effective for patients to use. Recreational or unregulated cannabis products would not be able to be used by healthcare professionals in hospital settings, so when patients are admitted to hospital there is no capacity to continue their use.

I trust this information is of assistance and I thank the petitioners for bringing their concerns to the attention of the House.

Yours sincerely



**Shannon Fentiman MP**

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

Member for Waterford