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Senate Legal and Constitutional Affairs Committee  
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## Submission Regarding The Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018

### Accelerating change.

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We welcome the opportunity to make a submission regarding the *Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018* ("the Bill") currently before the Senate Legal and Constitutional Affairs Committee.

360Edge is Australia's leading specialist alcohol and other drug consultancy, combining decades of academic research and clinical experience to provide effective evidence-based solutions to alcohol and drug related policy and responses.

In relation to the Bill, 360Edge supports the decriminalisation of possession and use of cannabis, as well as the legalisation of a regulated recreational cannabis market.

In particular, we agree with key propositions put in the Explanatory Memorandum of the Bill that:

- Cannabis is less harmful than alcohol and tobacco.
- Cannabis criminalisation puts unnecessary pressure on the criminal justice system and incentivises organised crime.
- Cannabis criminalisation is a barrier to successful treatment of cannabis dependence and other related harms.

The following will outline the key arguments for and arguments cannabis legalisation to assist policy makers in reaching a conclusion on the best course of action for Australia.

## Cannabis Policies Locally and Abroad

In Australia, cannabis possession and use is currently illegal. But in several states and territories (South Australia, ACT and Northern Territory) a small amount for personal use is decriminalised.<sup>1</sup> That means it's illegal, but not a criminal offence.

In all other jurisdictions cannabis is subject to discretionary or mandatory diversion usually by police (referred to as "depenalisation").<sup>2</sup>

Several jurisdictions around the world have now legalised cannabis, including Uruguay, Catalonia and nine states in the United States.<sup>3</sup>

Legalisation of cannabis is relatively recent in most jurisdictions so the long-term benefits or problems of legalisation are not yet known. However, one study found little effect of legalisation on drug use or other outcomes,<sup>4</sup> providing support for neither opponents nor advocates of legalisation. Other studies have shown no increase in use, even among teens.<sup>5</sup>

Canada is well underway to legalising cannabis, with legislation expected some time this year, and the New Zealand Prime Minister has flagged a referendum on the issue.

Full decriminalisation of cannabis along with all previously illicit drugs has occurred in Portugal, a move which has received considerable praise and support within drug policy circles. Portugal's drug decriminalisation approach has been shown to have increased the number of dependent users seeking treatment and drastically decreased drug-related harms.<sup>6</sup>

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<sup>1</sup> Hughes, C., Ritter, A., Chalmers, J., Lancaster, K., Barratt, M. & Moxham-Hall, V. (2016). Decriminalisation of drug use and possession in Australia – A briefing note. Sydney: Drug Policy Modelling Program, NDARC, UNSW Australia.

<sup>2</sup> Ibid.

<sup>3</sup> EMCDDA, 'Models for the legal supply of cannabis: recent developments' Published online May 2016 <http://www.emcdda.europa.eu/topics/pods/legal-supply-of-cannabis>.

<sup>4</sup> Cato Institute, Policy Analysis No.: 799, Angela Dills, Siete Goffard, and Jeffrey Miro: "Dose of Reality: The Effect of State Marijuana Legalization", September 16, 2016, p.3

<sup>5</sup> Choo, Esther K., Madeline Benz, Nikolas Zaller, Otis Warren, Kristin L. Rising, and K. John McConnell. "The Impact of State Medical Marijuana Legislation on Adolescent Marijuana Use." *Journal of Adolescent Health* 55, no. 2 (2014): 160–66

<sup>6</sup> Caitlin Elizabeth Hughes and Alex Stevens, "What Can We Learn from the Portuguese Decriminalization of Illicit Drugs?," *British Journal of Criminology* 50, no. 6 (2010): 999-1022.

In a 2015 opinion poll,<sup>7</sup> around 30% of Australians thought cannabis should be legal. Teenagers 14-17 years old were least likely to support legalisation (21% of that age group) and 18-24 year olds were most likely to support it (36% of that age group).

In the latest National Drug Strategy Household Survey, around a quarter of respondents supported cannabis legalisation and around 15% approved of regular use by adults for non-medical purposes.<sup>8</sup>

## Concerns About Cannabis Legalisation

Opponents of legalisation are concerned it will increase use, increase crime, increase risk of car accidents, and reduce public health – including mental health. Many are also concerned cannabis is a “gateway” drug.

The “gateway drug” hypothesis was discounted decades ago.<sup>9</sup> Although cannabis usually comes before other illegal drug use, the majority of people who use cannabis do not go on to use other drugs. In addition, alcohol and tobacco usually precede cannabis use, which if the theory were correct would make those drugs the “gateway”.<sup>10</sup>

There is also no evidence legalisation increases use.<sup>11</sup> But, studies have shown a number of health risks,<sup>12</sup> including:

- Around 10% of adults and one in six teens who use regularly will become dependent
- Regular cannabis use doubles the risk of psychotic symptoms and schizophrenia
- Teen cannabis use is associated with poorer school outcomes but causation has not been established
- Driving under the influence of cannabis doubles the risk of a car crash
- Smoking while pregnant affects a baby's birth weight.

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<sup>7</sup> Roy Morgan Research, 'To legalise or not to legalise? How Australians feel about marijuana' January 2015 <<http://www.roymorgan.com/findings/6026-how-australians-feel-about-marijuana-201501272145>>

<sup>8</sup> Ritter, A and Matthew-Simmons, F 'What does the research evidence tell us about what Australians think about the legal status of drugs?' DPMP Bulletin Number 21 <<https://ndarc.med.unsw.edu.au/resource/bulletin-no-21-what-does-research-evidence-tell-us-about-what-australians-think-about-legal>>

<sup>9</sup> A summary of recent can be found at Dave Levitan, 'Is Marijuana Really a 'Gateway Drug'?' FactCheck <<https://www.factcheck.org/2015/04/is-marijuana-really-a-gateway-drug/>>

<sup>10</sup> Ibid.

<sup>11</sup> Above at n4.

<sup>12</sup> Hall, W. What has research over the past two decades revealed about the adverse health effects of recreational cannabis use? *Addiction* 110, 19-35. <<https://onlinelibrary.wiley.com/doi/full/10.1111/add.12703>>



## Arguments For Legalisation

Arguments in favour of legalisation centre on reducing harms, reducing social costs, raising tax revenue and as well as civil liberties concerns.

### *Reducing harms*

Australia's official drug strategy is based on a platform of harm minimisation, including supply reduction, demand reduction (prevention and treatment) and harm reduction.<sup>13</sup> Arguably, policies should therefore have a net reduction in harm.

However, some of the major harms from using illicit drugs are precisely because they are illegal. A significant harm is having a criminal record for possessing drugs that are for personal use. This can negatively impact a person's future, including careers and travel. Decriminalisation of cannabis would also reduce these harms without requiring full legalisation.

### *Reducing crime and social costs*

A large proportion of the work of the justice system (police, courts and prisons) is spent on drug-related offences. Yet, as Mick Palmer, former AFP Commissioner, has noted "drug law enforcement has had little impact on the Australian drug market".<sup>14</sup>

Decriminalisation may reduce the burden on the justice system, but probably not as much as full legalisation because police and court resources would still be used for cautioning, issuing fines, or diversion to education or treatment.

Decriminalisation and legalisation both potentially reduce the involvement of the justice system and also of the black market growing and selling of cannabis.

### *Raising tax revenue*

Economic analysis of the impact of cannabis legalisation calculate the net social benefit of legalisation at A\$727.5 million per year.<sup>15</sup> This is significantly higher than the status quo at around A\$295 million (for

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<sup>13</sup>Australian Government, National Drug Strategy  
<<http://www.nationaldrugstrategy.gov.au/>>

<sup>14</sup> Palmer, M 'After 33 years, I can no longer ignore the evidence on drugs' *Sydney Morning Herald* 7 June 2012 <<https://www.smh.com.au/politics/federal/after-33-years-i-can-no-longer-ignore-the-evidence-on-drugs-20120606-1zwpr.html>>

<sup>15</sup> Shanahan M and Ritter A, 2014, 'Cost benefit analysis of two policy options for cannabis: Status quo and legalisation', *PLoS ONE*, vol. 9, 10

example from fines generating revenue, as well as perceived benefits of criminalisation deterring use).

The Parliamentary Budget Office estimates tax revenue from cannabis legalisation at around A\$259 million.<sup>16</sup>

### *Civil liberties*

Many see cannabis prohibition as an infringement on civil rights, citing the limited harms associated with cannabis use. This includes the relatively low rate of dependence and very low likelihood of overdosing on cannabis, as well as the low risk of harms to people using or others.<sup>17</sup>

Many activities that are legal are potentially harmful: driving a car, drinking alcohol, bungee jumping. Rather than making them illegal, there are guidelines, laws and education to make them safer that creates a balance between civil liberties and safety.

### Conclusion

Overall, although there is limited data from overseas legalisation policies there does appear to be a sufficient case to trial cannabis legalisation in Australia.

Moreover, there is an abundance of evidence to support the decriminalisation of the possession and use of cannabis.

Yours sincerely,



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<sup>16</sup> Parliamentary Budget Office Response to Senator Leyonhjelm, 17 December 2015

<sup>17</sup> Nutt, DJ, King, LA, Phillips, LD (2010) Drug harms in the UK: A multicriteria decision analysis. *Lancet* 376: 1558–1565.