

# **The Australian Lawful Use of Cannabis Alliance**

Submission to:

**‘Inquiry into the Regulator of Medicinal Cannabis Bill 2014’**

**Legal and Constitutional Affairs Legislation Committee,  
Senate of the Commonwealth of Australia**

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**Written in memory of all the warriors in the battle for cannabis law reform  
who are now gone.**

**When freedom in this regard finally comes, may it be your legacy.**

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## SYNOPSIS:

All around the world, communities are abandoning the prohibition of cannabis. These communities are undertaking cannabis law reform because the benefits outweigh the risks. Re-legalising cannabis in a comprehensive way has the potential to provide solace and remedy to the sick, bring jobs and enterprise to communities, whilst reducing the burden on public services. It would, in effect, spawn a whole new industry.

In the United States of America, the legal cannabis industry is now its fastest growing. It grew from just over \$1 billion (USD) in 2013, to more than \$2.4 billion (USD) in 2014. And, this upward trend shows no signs of stopping, with projections that the legal cannabis business in the US would be worth over \$35 billion (USD) by 2020.<sup>1</sup>

Yet, whilst all this is going on, Australians remain spectators. Our governments continue to delay, dither and dance with the truth about cannabis. The result is human suffering and economic damage in our community. We think it is time that we embark on the long overdue journey of cannabis law reform in this country.

The truth about cannabis is that there is a large body of scientific and medical evidence concerning the health benefits and therapeutic effects of consuming cannabis. Cannabis is also an excellent source of proteins, as well as a source of durable natural fibre. On top of all that, cannabis consumption can be a safe and enjoyable recreational activity.

This is exactly opposite to what the law in Australia currently says about cannabis. At present, cannabis is classified only as a dangerous and poisonous substance susceptible to misuse and abuse.

The reason, that the law, and science and medicine, are saying different things about cannabis, is because the prohibition of cannabis did not the result from a rational policy-making process.

It is our contention that one simple premise should inform our legal understanding of cannabis, that is: Cannabis is a multi-use plant that is best characterised and provided for in law according to its use.

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<sup>1</sup>Most of the above information about the US legal cannabis industry comes from '*The State of Legal Marijuana Markets – Third Edition*', [Arcview Market Research](http://www.arcviewmarketresearch.com/order/state-of-the-legal-marijuana-markets-2nd-edition). Available at:

<http://www.arcviewmarketresearch.com/order/state-of-the-legal-marijuana-markets-2nd-edition>

The following two articles also provide an interesting insight into the US legal cannabis industry:

- Magee, G., '*Venture Investors light Up Cannabis Startups*', [Venture Capital](#), (2014)
- Ingraham, C., '*The Marijuana Industry Could be Bigger than the NFL by 2020*', [The Washington Post](#), (21 October 2014)

**When this is understood, it becomes clear that Australia doesn't need piecemeal legislation at the Commonwealth/State/Territory levels that only address one aspect of the cannabis issue. What is truly needed in Australia is a comprehensive and nuanced legal regime that addresses and accommodates all its uses and intended uses in the community, including: medicinal, industrial, domestic and recreational.**

**If such a comprehensive and nuanced legal regime can be quickly achieved in Australia, Australia has a real opportunity to position itself as a world leader in the emerging cannabis marketplace.**

## FAQs:

### What is cannabis?

Cannabis is a herbaceous plant originally native to Central Asia, but now grown throughout the world.<sup>2</sup> According to the Integrated Taxonomic Information System, cannabis plants are generally divided into two distinct subspecies: *C. Sativa* and *C Indica*.<sup>3</sup>

Cannabis plants produce a resin containing a combination of psychoactive and non-psychoactive compounds, called cannabinoids.<sup>4</sup> The highest concentration of these cannabinoids is found in the female flowers of the cannabis plant.<sup>5</sup>

These cannabinoids interact with a part of the human body, called the endo-cannabinoid system.<sup>6</sup> Human beings have specific receptors that interact with cannabinoids in unique ways. These receptors are known as: “CB1” and “CB2” receptors.<sup>7</sup> It is the interaction between the cannabinoids and the human body’s endo-cannabinoid system that produces a range of therapeutic and psychotropic effects.<sup>8</sup>

Generally speaking, each of the two subspecies of the cannabis plant produces a distinctive combination of the cannabinoid compounds. *C. Sativa* tends to exhibit high concentrations of cannabidiol, cannabinol and cannabigerol.<sup>9</sup> On the other hand, *C. Indica* tends to exhibit high concentrations of tetrahydrocannabinol compounds.<sup>10</sup>

There is also another type of cannabis plant. You have probably heard of it, by the name “Hemp”. “Hemp” is a cannabis plant that produces a low amount of the cannabinoid compounds. That is the only distinction. In modern times, the prohibition of cannabis has meant that the relationship between hemp and cannabis has been artificially and contrivedly separated. In reality, hemp plants are cannabis plants that have used their

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<sup>2</sup> Kavalas, A., ‘*Medical Uses of Cannabis: An Australian Research Guide to Scientific Findings on The Medical Use of Cannabis*’, (May 2004)

<sup>3</sup> For more information about the Integrated taxonomic Information System’s Treatment of cannabis visit <http://www.itis.gov>

<sup>4</sup> Adams, I. B. and Martin, B. R. ‘*Cannabis: Pharmacology and Toxicology in Animals and Humans*’, Addiction Vol 91, No. 11 (1996), pp 1585-1614

<sup>5</sup> *ibid*

<sup>6</sup> Russo, E. B., ‘*Clinical Endocannabinoid Deficiency (CECD): Can This Concept Explain Therapeutic Effects of Cannabis in Migraine, Fibromyalgia, Irritable Bowel Syndrome and Other Treatment Resistant Conditions?*’ Neuroendocrinology Letters, (February/April 2004) Vol. 25, Nos 1/2

<sup>7</sup> Pertwee, R. G., ‘*Pharmacology of Cannabinoid CB1 and CB2 Receptors*’, Journal of Pharmacology & Therapeutics, (1997) 74 (2), pp. 129-180

<sup>8</sup> Pertwee, R. G., ‘*The Diverse CB1 and CB2 Receptor Pharmacology of Three Plant Cannabinoids: delta-9-tetrahydrocannabinol, cannabidiol, and delta-9-tetrahydrocannabivarin*’, British Journal of Pharmacology, (2008) Vol. 153, pp. 199-215

<sup>9</sup> Hillig, K. W. and Mahlberg, P. G., ‘*A Chemotaxonomic Analysis of Cannabinoid Variation in Cannabis (Cannabaceae)*’, American Journal of Botany, (2004) Vol. 91 (6), pp. 966-973

<sup>10</sup> Hillig, K. W. and Mahlberg, P. G., ‘*A Chemotaxonomic Analysis of Cannabinoid Variation in Cannabis (Cannabaceae)*’, American Journal of Botany, (2004) Vol. 91 (6), pp. 966-973

internal energies for fibrous production instead of cannabinoid production.<sup>11</sup> Hemp is an excellent source of strong natural fibre, and has been employed as such by humans domestically and industrially for almost 10,000 years.<sup>12</sup>

### Is cannabis a dangerous drug?

Cannabis is a relatively benign substance when properly used.

As explained above, cannabis plants produce a resin that contains a number of active compounds called cannabinoids. These cannabinoids interact with parts of the brain and body to produce physiological and psychotropic effects. These effects can include: mild palpitations, sweating, sedation, euphoria, anxiolytic effects, and appetite stimulation.<sup>13</sup> However, when cannabis is misused and abused over a long period of time, some of the following can exhibit: restlessness, anxiety, depression, paranoia, and in extreme cases psychosis.<sup>14</sup>

Cannabis is less addictive than tobacco, alcohol, barbiturates and heroin, as found by recent study found reported by Dr. David Penington in the Medical Journal of Australia.<sup>15</sup> Users develop a tolerance to it,<sup>16</sup> and don't suffer significant withdrawal effects from ceasing its use abruptly.<sup>17</sup>

It is not possible to fatally overdose on cannabis, as the receptors that interact with its active compounds are not located in areas that govern involuntary functions like the respiratory system and the cardiovascular functions.<sup>18</sup> Further, the human brain when stimulated by high-doses of the cannabinoid compounds begins to produce a natural hormone called "Pregnenolone", which counteracts their effects.<sup>19</sup>

Like consuming anything else that interacts with the body, moderation is the key. When cannabis is consumed in moderation, it can be both a therapeutic agent, and a pleasant experience.

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<sup>11</sup> West, D. P., '*Hemp and Marijuana: Myths & Realities*', North American Industrial Hemp Council, (1998)

<sup>12</sup> Chang, K. *The Archaeology of Ancient China*, 1968

<sup>13</sup> Hall, W. and Solowij, N., '*Adverse Effects of Cannabis*', The Lancet, (November 1998) Vol. 352, pp. 1611-1616

<sup>14</sup> Thomas, H., '*A Community Survey of Adverse Effects of Cannabis Use*', Drug & Alcohol Dependence, (November 1996) Vol. 42 (3), pp. 201-207

<sup>15</sup> Penington, D. G., '*Medical Cannabis: A Time for Clear Thinking*', Medical Journal of Australia, (February 2015) 202 (2) 2

<sup>16</sup> Mathre, M. L., '*Cannabis in Medical Practice: A Legal, Historical and Pharmacological Overview of the Therapeutic Uses of Marijuana*' (1997)

<sup>17</sup> *ibid*

<sup>18</sup> Herkenham et al, '*Cannabinoid Receptor Localization In The Brain*', Neurobiology (March 1990) Vol 87, pp 1932-1936

<sup>19</sup> Piazza et al, '*Pregnenolone Can Prevent the Brain from Cannabis Intoxication*', Science (3 January 2014) Vol. 343, No. 6166, pp 94-98



### Does using cannabis make you more likely to use other drugs?

A common fallacy is that a person who uses cannabis recreationally uses other types of recreational drugs as well. The story goes, that person using cannabis over time builds up a tolerance to cannabis and an adventurous spirit concerning recreational drug use, and begins using other types of drugs as well.

Like many anecdotal claims, the statistical data doesn't support it. Cannabis consumption does not inevitably lead on to a life of severe addiction and a vicious cycle of anti-social behaviour to support it. Published data from countries like Portugal<sup>20</sup> and Holland<sup>21</sup> who relegalised cannabis over 10 years ago, actually show a statistically significant decline in the use of stronger types of recreational drugs since cannabis was made legally available.

### Will legalising cannabis allow criminal elements a foothold in Australian society?

In the American states that have re-legalised cannabis there is no corresponding increase in crime activity or its severity, rather the opposite.<sup>22</sup> Re-legalising cannabis brings law and regulation to parts of society previously outside their remit. There is no reason that an Australian attempt at cannabis law reform will bring different results. A legally regulated cannabis industry in Australia should bring about improvements in the availability, quality, and price of cannabis in Australia.

### Does cannabis causes psychosis?

The relationship between cannabis and mental health is complicated.

Like many things, persistent misuse and abuse of cannabis has negative consequences. These negative consequences appear to exacerbate some existing mental health conditions. Accordingly, there is a persistent link in the medical literature between some of the cannabinoids compounds, namely the tetrahydrocannabinols, and mental disorders.<sup>23</sup>

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<sup>20</sup> Kain, E., 'Ten Years After Decriminalization, Drug Abuse Down By Half in Portugal' *Forbes Magazine* (7 may 2011) (Available at <http://www.forbes.com/sites/erikkain/2011/07/05/ten-years-after-decriminalization-drug-abuse-down-by-half-in-portugal/>)

<sup>21</sup> Reinerman, C., 'The Dutch example Shows that Liberal Drug Law Can Be Beneficial' (2000)

<sup>22</sup> Morris, et al, 'The Effect of Medical Marijuana Laws On Crime'

<sup>23</sup> Di Forti, et al, 'Proportion of Patients in South London with First-Episode Psychosis Attributable to Use of High Potency Cannabis: A Case-Control Study', *Lancet Journal of Psychiatry* (18 February 2015)

Many argue that this is a causal link. However, it is put into perspective when one considers a significant correlative relationship exists between people who have mental health issues and who consume tobacco.<sup>24</sup> Yet no one seriously suggests that it's a causal relationship.

The human body, and the human brain, are complicated. We don't yet understand the full extent of the relationship between cannabis and mental health. Having said that, there is emerging evidence that cannabis when used correctly, can actually be an aid to good mental health.

One of the active compounds in the cannabis plant, cannabidiol, appears to have anxiolytic, or anti-anxiety effects.<sup>25</sup> Another of the compounds, tetrahydrocannabinol, has been found to improve mood, lessen anxiety, and reduce depression.<sup>26</sup>

### Is it true that you can never know what is in cannabis?

Many experts are currently arguing that raw cannabis can never be a pharmaceutical medicine in Australia, because it can't be formulated into stable doses due to the variability in each cannabis plant's inherent combination and levels of active compounds.<sup>27</sup>

These claims are inaccurate. The truth is that a cannabis plant breeder with sufficient knowledge, skill and experience, can produce a cannabis plant breed whose inherent combination of cannabinoid compounds and levels thereof, remains stable from plant to plant across generations. In other words, we can now engineer cannabis plant breeds to exhibit any one of the many cannabinoid compounds to pretty much exactly the level we want. Indeed, once re-legalisation of cannabis occurs in Australia, this will be the business of the licensed cannabis plant breeder and cannabis plant grower.

Modern technologies like high-performance liquid chromatography and gas chromatography, provide a very accurate way to measure and confirm the levels of any cannabinoids in a given sample.

Other technological advances in the area of medicine have made it a relatively simple task to use nanotechnology delivery devices to deliver nano-particle sized drops of concentrated cannabinoids directly to specific target sites.<sup>28</sup>

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<sup>24</sup> Dr. A Mitchell, 'Smoking and Mental Health – A Review of the Literature', SmokeFree London Programme (December 2001)

<sup>25</sup> Schier, et al, 'Cannabidiol: A Cannabis Sativa Constituent, As an Anxiolytic Drug', Laboratory of Panic and Respiration, Institute of Psychiatry, Universidade Federal do Rio de Janeiro, Brazil, (June 2012) 34 Suppl. 1, pp 104-110

<sup>26</sup> Noyes, R.jr. and Baram, D. A., 'Cannabis Analgesia', Comparative Psychiatry, (November – December, 1974) Vol. 15 (6), pp 531-535

<sup>27</sup> Dr. David Penington makes this claim in his otherwise excellent recent article on cannabis law reform in Penington, D. G., 'Medical Cannabis: A Time for Clear Thinking', Medical Journal of Australia, (February 2015) 202 (2) 2

<sup>28</sup> Emeje, M. O., Obidike, I. C., Akpabio, E. I., and Ofoefule, S. I., 'Nanotechnology in Drug Delivery', Intech, (2012)

## SUBMISSIONS:

### Origins of Prohibition in Australia

The American model of prohibiting cannabis has been exported throughout the world, including to Australia. It depicts cannabis as a dangerous psychotropic drug susceptible to extreme misuse and abuse. What follows from this depiction of cannabis, are laws that prescribe cannabis with the most serious restrictions and sanctions.

It is not widely understood in Australia that the international prohibition of cannabis, started first in the United States of America with the enactment of the *Marihuana Tax Act of 1937*.<sup>29</sup> The ideas that informed its foundation, were almost solely the opinions of Commissioner Harry J. Anslinger of the Federal Narcotics Bureau, as provided to the House of Representatives, Ways and Means Committee Hearings on the Marihuana Tax Act of 1937.<sup>30</sup> There were no clinical trials or scientific studies that informed the proposed prohibition of cannabis at the time. Nor were the well expressed views of key stakeholders acknowledged.

It is also not widely recognised in Australia that the same Federal Bureau of Narcotics under Commissioner Anslinger, exported the word “marijuana” and the hype surrounding it to Australia, via a lurid tabloid style article in the *Smiths Weekly* in April 1938.<sup>31</sup> This was quickly picked up and circulated by the Prime Minister’s office, and cannabis was quickly prohibited in Australia.<sup>32</sup>

Accordingly in Australia, Cannabis is now listed as one of the most dangerous poisons on the Commonwealth Poisons Standard,<sup>33</sup> and its use even in exceptional circumstances is highly prescribed.<sup>34</sup> Accordingly, the Commonwealth/State/Territory criminal codes treat cannabis on par with substances like amphetamines, cocaine and heroin. Following on from this, the prohibition of cannabis forms a key part of the National Drug Strategy,<sup>35</sup> and as a result limited research funding is available concerning it.

One of the effects of this treatment of cannabis has been a scarcity of public funding and political support for research into cannabis and its derivatives. This has translated into a lack of scientific studies and clinical trials in Australia concerning the medical efficacy of

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<sup>29</sup> *Marihuana Tax Act of 1937*, Pub.238, 75<sup>th</sup> Congress, 50 Stat. 551, (Aug 2, 1937)

<sup>30</sup> McWilliams, J. C. “Unsung Partner in Crime: Harry J Anslinger and the Federal Bureau of Narcotics, 1930-1962”, *The Pennsylvania Magazine of History and Biography* (April 1989) Vol CXIII, No. 2

<sup>31</sup> Jiggins, J. L., ‘*Marijuana Australiana: Cannabis Use, Popular Culture, and the Americanisation of Drugs Policy in Australia, 1938-1988*’, Queensland University of Technology, (April 2004)

<sup>32</sup> *ibid*

<sup>33</sup> *Poisons Standard 2013* (Cth)

<sup>34</sup> *Therapeutic Goods Act 1989* (Cth)

<sup>35</sup> *National Drug Strategy: 2010 – 2015* (Cth)

cannabis. What does exist is mainly focused on articulating some of the negative effects that can accompany the long-term abuse of cannabis. This is the direct result of cannabis research funding being linked to the National Drug Strategy<sup>36</sup>, the National Cannabis Prevention and Information Centre<sup>37</sup> and the National Drug and Alcohol Research Centre.<sup>38</sup> This has meant that Australia's policy-makers have not had access to the full range of factual information concerning the nature and effects of cannabis.

This is likely to change, given the recent announcement by the NSW Government of \$9 million in public funding for three clinical trials concerning the medical efficacy of cannabis.<sup>39</sup> The announcement of the establishment of a Centre for Cannabinoid Research, to be sited at the University of Sydney, will also likely spark a series of resident studies.<sup>40</sup>

### Humans Have Been Using Cannabis Medicinally For Thousands of Years

Humans have been using cannabis medicinally for at least 5000 years, with the earliest recorded use by Chinese Emperor Sheng Nung in 2800 BCE.<sup>41</sup> Since, humanity's literature and medical discourse has been littered with references to cannabis use and consumption. As examples:

- Chinese surgeon Hua T'o in the 2nd century writes of using marijuana leaves and seeds to treat a range of medical conditions, and as an anaesthetic to perform invasive surgeries.<sup>42</sup>
- The Talmud of the Jewish faith makes reference to the cannabis plant in Medieval times.<sup>43</sup>
- Herodotus tells of the Scythians, a nomadic group from Siberia, who practiced a purification ritual which involved the dumping of marijuana seeds onto hot stones to produce a vapour.<sup>44</sup>
- The Romans adopted the habits of the Scythians, and employed its medical properties.<sup>45</sup> They also crushed marijuana seeds and used them in a soporific dessert.<sup>46</sup>

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<sup>36</sup> *National Drug Strategy: 2010 – 2015* (Cth)

<sup>37</sup> For more information about the National Cannabis Prevention and Information Centre visit

<https://ncpic.org.au>

<sup>38</sup> For more information about the National Drug and Alcohol Research Centre visit

<https://ndarc.med.unsw.edu.au>

<sup>39</sup> Hansen, J., 'NSW Government to Grow Cannabis for Trial into Medicinal Use for Children', (21 December 2014) *The Daily Telegraph*

<sup>40</sup> *ibid*

<sup>41</sup> Li, H. *An Archaeological and Historical Account of Cannabis in China* (1974)

<sup>42</sup> Li, H. *The Origin and Use of Cannabis in Eastern Asia*, (1975)

<sup>43</sup> *Abodah Zarah* 74b

<sup>44</sup> Herodotus, 'The History', (Trans) G. Rawlinson. Available at

<https://ebooks.adelaide.edu.au/h/herodotus/h4/>

<sup>45</sup> Dioscorides, *Materia Medica* (circa 70 BCE)

<sup>46</sup> Galen, *De Facultatibus Alimentorem*

- Arabic literature makes abundant reference to the smoking of “hashish” (A cannabis product): Legend has it that Hayder, the founder of the Sufi Order discovered hashish in 1155 CE.<sup>47</sup> There is also the Legend of the “Devoted Ones” who reportedly smoked hashish before committing assassinations for “The Old Man on the Mountain”<sup>48</sup>; and, “The Tale of the Hashish Eater” in The Thousand and One Nights.<sup>49</sup>
- The Hindu Vedas, ascribed Lord Shiva with the title “Lord of Bhang” in a legend where he consumes marijuana leaves during the heat of the day and receives refreshment from them.<sup>50</sup> As a result of the revered position ascribed to cannabis in their holiest texts, the consumption of “bhāṅg” or cannabis has developed into a common ritual, with commentators often referring to India as “A marijuana-oriented culture”.<sup>51</sup> The Indian Hemp Drugs Commission in 1893/94 reported:<sup>52</sup>  
*“To the Hindu the hemp plant is holy. A guardian lives in the bhāṅg leaf...To see in a dream the leaves, plant, or water of bhāṅg is lucky...No good thing can come to the man who treads underfoot the holy bhāṅg leaf. A longing for bhāṅg foretells happiness...Besides as a cure for fever, bhāṅg has many medicinal virtues...The supporting power of bhāṅg has brought many a Hindu family safe through the miseries of famine. To forbid or even seriously to restrict the use of so holy and gracious a herb as the hemp would cause widespread suffering and annoyance and to large bands of worshipped ascetics, deep-seated anger. It would rob the people of a solace in discomfort, of a cure in sickness, of a guardian whose gracious protection saves them from the attacks of evil influences...So grand a result, so tiny a sin!”*

Despite our long history of using cannabis for medicinal purposes, it was internationally prohibited in the 20<sup>th</sup> century as a dangerous psychotropic drug susceptible to misuse and abuse. This largely translated into a near total ban on its lawful use, including for medicinal purposes. This fact seems strange on its own, but is stranger still when one understands that the prohibition of cannabis wasn’t based on scientific or medical evidence, and was in fact enacted in the face of strong protests from within the medical professions. Dr. William C. Woodward, who represented the American Medical Association before the US Senate committee hearings that informed the Marihuana Tax Act Of 1937, was adamant that cannabis was not a “drug”, saying ***“No medical man would identify this bill with a medicine until he read it through, because marijuana is not a drug.”***<sup>53</sup>

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<sup>47</sup> Rosenthal, *The Herb*, (1971)

<sup>48</sup> ‘*The Travels of Marco Polo the Venetian*’ (ed) E. Rhys (London 1908)

<sup>49</sup> ‘*The Thousand and One Nights*’, (trans) E. W. Lane, (ed) E. S. Poole (London, Chatto and Windus)

<sup>50</sup> For a full-text version of the four Hindu Vedas visit <http://www.sacred-texts.com/hin/>

<sup>51</sup> Hasan, K. A., ‘*Social Aspects of Cannabis Use in India*’, (2012); and, Courtwright, D. T., ‘*Forces of Habit: Drugs and the Making of the Modern World*’, (2002, Harvard University Press), p. 40

<sup>52</sup> ‘*Report of the Indian Hemp Drugs Commission, 1894-1895*’ available at <http://digital.nls.uk/indiapapers/browse/pageturner.cfm?id=74908458>

<sup>53</sup> Excerpt from the Transcript of Proceedings of the House Of Representatives Ways and Means Committee, 75<sup>th</sup> Congress, First Session on N.R. 6385; April 27-30, May 4, 1937

### The U.S. About-face on Cannabis

In a strange twist of fate, in the United States of America, the international champion of the “War on Drugs”, there are now 24 states that have re-legalised access to cannabis for medical reasons. Even, the United States Surgeon General, Dr. Vivek Murthy, recently acknowledged the therapeutic value of cannabis, saying *“We have some preliminary data showing that for certain medical conditions and symptoms that marijuana can be helpful...So I think we have to use that data to drive policymaking and I’m very interested to see where that data takes us.”*<sup>54</sup>

The re-legalisation of cannabis in the United States hasn’t stopped with medicinal cannabis. There are now 5 states in the United States that have re-legalised the recreational use of cannabis. President Obama has publicly acknowledged this trend towards the complete re-legalisation of cannabis in the United States of America, saying *“What you are seeing now in Colorado, Washington through state referenda, they’re experimenting with legal marijuana...The position of my administration has been that we still have federal laws that classify marijuana as an illegal substance, but were not going to spend a lot of resources trying to turn back decisions that have been made at the state level...My suspicion is that you’re gonna see other states looking at this.”*<sup>55</sup>

### There is a Large Body of Scientific and Medical Evidence Concerning the Therapeutic Effects of Using Cannabis and Its Derivatives

The evidence that we do have concerning the medical efficacy of cannabis is largely from overseas; and, there is an abundance of it. The National Cancer Institute (US) publishes a *“Cancer Information Summary”*, a section of which outlines many of the therapeutic benefits of cannabis.<sup>56</sup> It summarises a range of studies indicating that various combinations of the cannabinoid compounds have significant anti-tumour effects for a broad range of tumours and cancerous growths. These effects included: the inducement of apoptosis, and anti-proliferative and anti-metastatic effects.<sup>57</sup>

Further, in respect of some cancers in sensitive tissue areas (ie: lung and breast tissue), cannabidiol (One of the active compounds in cannabis) has been shown to reduce cancer

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<sup>54</sup> As quoted in Chasmar, J., *“Surgeon General Says Medical Marijuana Can Be Helpful”*, The Washington Times (February 4, 2015)

<sup>55</sup> As quoted in Choksi, N., *“Obama on Marijuana Legalisation”*, The Washington Post (January 22, 2015)

<sup>56</sup> *‘Cannabis and Cannabinoids’, PDQ Information Summary, Health Professional Version, National Cancer Institute (US)* (Last updated 12 December 2014) available at <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0032740/?report=printable>

<sup>57</sup> Bifulco, M., Laezza, C., and Pisanti, S., et al, *‘Cannabinoids and Cancer: Pros and Cons of an Antitumor Strategy’*, *British Journal of Pharmacology*, (2006) Vol. 148 (2), pp. 123 - 135

cells, while boosting the internal defense mechanisms of surrounding healthy cells.<sup>58</sup> Studies have also shown that cannabidiol can increase the uptake of cytotoxic (chemotherapy) drugs in malignant cells, whilst at the same time reducing some of the nasty side-effects of chemotherapy (nausea and weight-loss).<sup>59</sup>

A patient case-study group reported improved mood, improved sense of well-being, and less anxiety, after being administered tetrahydrocannabinol compounds (One of the psychoactive compounds in cannabis).<sup>60</sup> The tetrahydrocannabinols have also proven successful in the treatment of pain.<sup>61</sup> Think about it, if you had a terminal illness and were battling extreme pain all day, wouldn't a bit of a relaxing psychoactive effect, be in order?

Where the therapeutic effects of cannabis are most pronounced, is in the treatment of the extreme and involuntary seizures experienced by many young children who suffer from a range of serious neurological disorders (ie: Dravet Syndrome). The effect of administering cannabis extracted oils in measured doses to many of these persons is measurably significant. The author has spoken to a number of parents of previously very ill children who had turned to cannabis treatment as a last resort, and whose children have now ceased daily seizures, and have over time regained motor function and speech function, and been able to start to school.<sup>62</sup>

This is why so many people who are leading the Movement for the Re-legalisation of Cannabis in Australia are the parents and carers of sufferers of these sorts of incurable and debilitating illnesses. The facts are that the cannabinoid compounds, when dosed correctly, have a real possibility of providing these people with relief, solace and in some cases a remedy.

#### There is Also a Large Emerging Body of Scientific and Medical Evidence Suggesting that the Cannabinoids Compounds Have General Preventative Effects and Protective Benefits

We are now beginning to understand, that the cause of many human ailments is related to deficiencies or imbalances in the levels of the body's own endogenous endo-cannabinoids, and that the cannabinoid compounds that occur naturally in the cannabis plant can

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<sup>58</sup> Guzman, M., 'Cannabinoids: Potential Anticancer Agents', Nature Reviews Cancer, (2003) Vol. 2 (10), pp. 745-755

<sup>59</sup> Velasco, G., Sanchez, C., and Guzman, M., 'Towards the Use of Cannabinoids as Antitumor Agents', Nature Reviews Cancer, (2012) Vol. 12 (6), pp. 436-444

<sup>60</sup> Noyes, R.jr. and Baram, D. A., 'Cannabis Analgesia', Comparative Psychiatry, (November – December, 1974) Vol. 15 (6), pp 531-535

<sup>61</sup> Walker, J.M., Hohmann, A. G., and Martin, W. J., et al, 'The Neurobiology of Cannabinoid Analgesia' Life Sciences, (1999) Vol. 65 (6/7), pp. 665-673

<sup>62</sup> The Australian Lawful Use of Cannabis Alliance is presently preparing a library of these cases-studies. Please contact the author to access some of these case-studies.

effectively assist and augment the body's endo-cannabinoid system.<sup>63</sup> *"Deficient cannabinoid levels may be the underlying cause of numerous conditions alleviated by cannabis."* wrote Dr Ethan Russo in his famous work on Clinical Endo-Cannabinoid Deficiency.<sup>64</sup>

For example, a clinical study in 2004 identified the crucial role played the body's endo-cannabinoid system in preventing colonic inflammation and other bowel diseases, and found that the cannabinoid compounds that occur naturally in cannabis plants also have the same properties.<sup>65</sup>

Other recent clinical research found that the tetrahydrocannabinol compounds were effective in preventing the onset of Alzheimer's disease. The research found that *"tetrahydrocannabinols...could be considerably better at suppressing the abnormal clumping of malformed proteins that is a hallmark of Alzheimer's disease than any currently approved medication;"*<sup>66</sup> And concluded *"...cannabinoid-based medications will be the new breakout medicine treatments of the near future."*<sup>67</sup>

#### Recreational Use of Cannabis As a Sub-set of Medicinal Use

The notoriety of cannabis largely stems from the psychoactive properties of some of the cannabinoid compounds, specifically: delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, 11-OH-tetrahydrocannabinol and tetrahydrocannabivarin.<sup>68</sup>

In many respects, the notoriety of the psychoactive compounds of the cannabis plant is exaggerated and contrived. Many Australians consume cannabis on a daily or weekly basis, most without harmful effect.<sup>69</sup> Indeed, many Australians who have consumed cannabis or its derivatives would argue that it is a pleasant and relaxing recreational activity.

Dr David Penington in the Medical Journal of Australia, recently highlighted the fact that compared to other substances used recreationally and similarly classified in law, cannabis is

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<sup>63</sup> Russo, E. B., 'Clinical Endocannabinoid Deficiency (CECD): Can This Concept Explain Therapeutic Effects of Cannabis in Migraine, Fibromyalgia, Irritable Bowel Syndrome and Other Treatment Resistant Conditions?' Neuroendocrinology Letters, (February/April 2004) Vol. 25, Nos 1/2

<sup>64</sup> Russo, E. B., 'Clinical Endocannabinoid Deficiency (CECD): Can This Concept Explain Therapeutic Effects of Cannabis in Migraine, Fibromyalgia, Irritable Bowel Syndrome and Other Treatment Resistant Conditions?' Neuroendocrinology Letters, (February/April 2004) Vol. 25, Nos 1/2

<sup>65</sup> Massa, F., Marsciano, G., and Hermann, H. et al, 'The Endogenous Cannabinoid System Protects Against Colonic Inflammation', Journal of Clinical Investigation, (2004) 113 (8), pp. 1202 - 1209

<sup>66</sup> Eubanks et al, 'A Molecular Link Between the Active Component of Marijuana and Alzheimer's Disease Pathology', Molecular Pharmaceutics, (2006) 3 (6), pp. 773-777

<sup>67</sup> *ibid*

<sup>68</sup> 'Drug Profile: Cannabis', European Monitoring Centre for Drugs and Drug Addiction (Accessed on 22 January 2015)

<sup>69</sup> For more information about the recreational drug consumption habits of Australians, visit [www.adf.org.au](http://www.adf.org.au)



less harmful and addictive.<sup>70</sup> Another recent study examining causes of death in Australia, determined that cannabis was 114 times safer to consume than alcohol or tobacco.<sup>71</sup>

The rapid development of vaporizing technologies, which use heat rather than combustion, also negates any argument that cannabis consumption is necessarily carcinogenic.

You wonder why all the fuss about cannabis as a dangerous drug, when you further understand that fatal overdoses of cannabis compounds cannot occur, due to the lack of CB1 and CB2 receptors in areas of the human body related to respiratory and cardiovascular functions.<sup>72</sup>

Despite all of the evidence of the therapeutic effects and protective benefits of using cannabis and its derivatives, and all the evidence of its relative safety, cannabis is still classified in Australia as a dangerous psychotropic drug susceptible to misuse and abuse. Accordingly, cannabis and its derivatives are classified as some of the most dangerous poisons on the Commonwealth Poisons Standard.<sup>73</sup>

It should be clear by now, that this classification of cannabis and its derivatives is out-dated and inaccurate. It should also be clear, that its persistence is causing human suffering and economic damage in our communities.

The reality is that cannabis consumption can be a safe and enjoyable recreational activity, when consumed by adults in moderation. The activity is probably best understood as a subset of medicinal use, as the reason most people consume cannabis is because it is a ready source of natural anxiolytics and relaxants, and because of its preventative effects and protective benefits.

According to section 3 of the *Therapeutic Goods Act 1989* (Cth), “*therapeutic use means use in or in connection with:*

- (a) *preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons; or*
- (b) *influencing, inhibiting or modifying a physiological process in persons; or*
- (c) *testing the susceptibility of persons to a disease or ailment; or*
- (d) *influencing, controlling or preventing conception in persons; or*
- (e) *testing for pregnancy in persons; or*
- (f) *the replacement or modification of parts of the anatomy in persons.*”<sup>74</sup>

<sup>70</sup> Penington, D. G. ‘*Medical Cannabis: A Time for Clear Thinking*’, Medical Journal of Australia, (February 2015) 202 (2) 2

<sup>71</sup> Lachenmeier, D. W. and Rehm, J. ‘*Comparative Risk Assessment of Alcohol, Tobacco, Cannabis, and Other Illicit Drugs Using the Margin of Exposure Approach*’, Scientific Reports Journal 5: 8126

<sup>72</sup> Herkenham et al, ‘*Cannabinoid Receptor Localization In The Brain*’, Neurobiology (March 1990) Vol 87, pp 1932-1936

<sup>73</sup> *Poisons Standard 2013* (Cth), specifically: Schedules 4, 6, and 9.

<sup>74</sup> *Therapeutic Goods Act 1989* (Cth), s3

It is our submission, that section 3(a) encompasses the recreational use of cannabis and its derivatives.

This point was articulated to perfection recently by Canadian District Court Judge Joanne Challenger who held the following whilst dismissing cultivation and possession of cannabis charges, “...Even if the only benefit the use of marijuana actually provides is hope, the emotional and, in turn, physical benefits could well be medically significant.”<sup>75</sup>

In light of the many potential therapeutic, as well as, preventative and protective effects of properly using cannabis and its derivatives, we want to know why only the sick and terminally ill be allowed access to it?

### The Continuation of Prohibition is Causing Human Suffering and Economic Damage in Our Communities.

All around Australia there are men, women and children who struggle valiantly against serious illness and disease, and their debilitating effects. Some of these effects, are so severe, that pain and suffering are the predominate feature of these people’s daily lives. Heart-wrenchingly, many of these people are young children suffering from severe, constant and uncontrollable seizures, sometimes up to hundreds per day.

That human beings suffer in this way, is indeed, a part of the story of human existence. What is also part of the human story is the fact that certain of the cannabinoid compounds are extremely effective in ameliorating some of the effects of these terrible conditions. In many cases the quality of life returned to the patient far out-weighs any potential side-effects.

Given the existence of these cases of measurable medical recovery due to cannabis use, many sick persons and their carers in Australia, are seeking out cannabis for medicinal purposes. They do this despite the serious classification given to cannabis and its derivatives on the Commonwealth Poisons Standard,<sup>76</sup> and despite the possibility of serious criminal sanction.

That such people should be criminalised for an act in search of solace and remedy for their suffering, is a wrong of the highest order. Equally wrong, is the continued prohibition of cannabis and its classification as only a dangerous psychotropic drug susceptible to misuse and abuse.

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<sup>75</sup> *R v Santos*, 2014 BCPC 266 (CanLII)

<sup>76</sup> *Poisons Standard 2013* (Cth), specifically: Schedules 4, 6, and 9.

Rational policy-making principles require past policies to be evaluated, from time-to-time.<sup>77</sup> The growing clamour for cannabis law reform presents an opportune time for Australia to examine the success of its policies, to date, in respect of cannabis.

From any perspective, the much vaunted “War on Drugs”, of which cannabis was a major target, has failed. In prosecuting this failed strategy, governments around the world have squandered scarce resources trying to halt the private choices of their citizens.<sup>78</sup> And in a perverse twist of fate, by securitizing the issue of recreational drug use, they have further entrenched its use in our society.<sup>79</sup>

Dr John Jiggins, a noted scholar on Australian drug policy, describes the effects of cannabis prohibition in Australia, thus: *“The major consequences of the war on cannabis were the criminal takeover of cannabis dealing, a massive increase in the price of cannabis, and the heroin plague. This seems to be the pattern of prohibition: a police crackdown causes a temporary disruption in supply; lack of supply forces prices up, increasing the value of the market and enticing more ruthless and organised criminals to take over. In this way, drug law enforcement acts as a multiplier for the drug market...”*<sup>80</sup>

The evidence of this is the ready availability of high-quality cannabis, in almost every city and town of Australia.

#### Australians Remain Spectators as the Rest of the World Re-legalises Cannabis.

All around the world, governments are commenced, or are commencing upon, processes of cannabis law reform. They have been compelled to do this by the growing body of scientific and medical evidence which casts doubt upon the central claims of the prohibition of cannabis.

Some countries, like Uruguay, Canada, Holland and Portugal have conducted rational policy-making processes which have resulted in the decriminalisation or re-legalisation of cannabis to some degree. The effect in these countries is a booming new economic sector, and declining crime statistics in key categories.

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<sup>77</sup> Sabatier, P., *‘Theories of the Policy Process’* (2007) Westview Press (2<sup>nd</sup> Edition)

<sup>78</sup> Dr. J. Jiggins, *‘The Cost of Drug Prohibition in Australia’*, A Paper Presented to the Social Change in the 21<sup>st</sup> Century Conference at the Centre for Social Change Research, Queensland University of Technology (28 October 2005)

<sup>79</sup> This perverse effect of “Securitization”, was identified and outlined in Buzan, B., et al, *‘Security: A New Framework for Analysis’*, (1998, Lynne Rienner Publishers)

<sup>80</sup> Dr. J. Jiggins, *‘The Cost of Drug Prohibition in Australia’*, A Paper Presented to the Social Change in the 21<sup>st</sup> Century Conference at the Centre for Social Change Research, Queensland University of Technology (28 October 2005)

In other countries like the United States of America, which has such a balanced and partisan political system, uniform cannabis law reform have been impossible to achieve. Instead, the prohibition of cannabis has been repealed at the state-level in a number of jurisdictions, whilst cannabis remains highly prescribed at the Federal level.<sup>81</sup> Though cannabis law reform is always welcome, such a model of re-legalising cannabis may prove unsustainable in the long-term. Especially, if the Federal government there, changes its mind about enforcing Federal prohibition of cannabis laws.<sup>82</sup>

Still other countries like Australia have yet to truly embark on a rational policy-making process in respect of cannabis law reform. Though there are some encouraging signs of political movement in this regard in Australia, such as the proposed *Regulator of Medicinal Cannabis Bill 2014* (Cth).

The Australian Community Expects their Political Representatives to Make Laws According to a Rational Process.

After almost a century of the prohibition of cannabis, Australia as a society needs to engage in a vigorous public debate about the extent of cannabis law reform appropriate for this country.

We do know that the Australian public is generally supportive of cannabis law reform. This is in evidence in the consistency of survey results on the topic. For example, a 2010 survey conducted by the Commonwealth Department of Health, found that 69% of respondents support medicinal cannabis use. A further 74% of respondents supported the holding of clinical trials concerning the medical efficacy of cannabis.<sup>83</sup> Similarly, Australian public support for maintaining criminal penalties for possession of cannabis stayed below 39% for the four *National Drug Strategy Household Surveys* conducted between 2001 and 2010.<sup>84</sup>

The existing research data about the size of the Australian “cannabis-consuming” community also confirms that a sizable proportion of the Australian population continues to consume cannabis on a regular basis. Below is a numerical snapshot of the Australian cannabis consuming community provided by the Australian Drug Foundation:

- 34.8% have consumed cannabis once or more in their lifetime;

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<sup>81</sup> ‘*Medical Cannabis: Issues Backgrounder*’, NSW Parliamentary Research Service, (June 2014) No. 5

<sup>82</sup> President B. Obama as quoted in Choksi, N., “*Obama on Marijuana Legalisation*”, *The Washington Post* (January 22, 2015), as saying that the federal government was choosing not to wind back state repeal of cannabis referenda.

<sup>83</sup> ‘*The National Drug Strategy Household Survey 2011*’, National Institute of health and Welfare, Australian Government, (2012, Canberra)

<sup>84</sup> Rogerson, J. A., ‘*Drug Policy Reform: Moving Beyond Strict Criminal Penalties For Drugs*’, Australian Drug Foundation (A Policy talk given in September 2012)

- 10.2% or 2.4 million have consumed cannabis in the last 12 months;
- 750,000 consume cannabis on a weekly basis; and,
- 300,000 consume cannabis on a daily basis.<sup>85</sup>

### The Proposed 'Regulator of Medicinal Cannabis Bill 2014 (Cth)'

During the current Commonwealth Parliamentary Session, one of Bills for consideration and decision is the proposed *Regulator of Medicinal Cannabis Bill 2014 (Cth)* ("the proposed Bill").<sup>86</sup> Many hope that this will be the first step on the journey towards total cannabis law reform in this country.

We at the Australian Lawful Use of Cannabis Alliance recognize the thoughtfulness and care that the sponsors of this Bill have brought to bear in its crafting, and on principle we commend it to our nation's leaders. We see it as the important first step towards achieving cannabis law reform in this country.

In keeping with Australia's international obligations, the proposed Bill seeks to establish a 'Regulator of Medicinal Cannabis' who will formulate rules for licensing the cultivation, possession, import/export, and supply of the cannabis plant and its derivatives.<sup>87</sup> The proposed Bill also seeks to establish a 'Register of Regulated Medicinal Cannabis Products'.<sup>88</sup>

The proposed Bill further seeks to establish a scheme for authorising patients and their carers to access medicinal cannabis products of certain standard without criminal sanction, and for authorised individuals to supply such a scheme.<sup>89</sup> As well, the proposed Bill makes provisions for a 'Medicinal Cannabis Licensing Scheme',<sup>90</sup> and an 'Experimental Cannabis Licensing Scheme'.<sup>91</sup>

We wholeheartedly support the proposed Bill for the following reasons:

1. The proposed Bill seeks to bring Australia's legal regime concerning cannabis into line with its international law obligations under the *United Nations Single Convention on Narcotic Drugs (1961)*;<sup>92</sup> and,
2. The proposed Bill genuinely seeks to establish a legal framework in this country that provides access to medicinal cannabis for those who most need it; and,

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<sup>85</sup> Smith, H. R., 'Legalising Medical Cannabis in Australia', *Australian Medical Student Journal* (2013) Vol. 13 (1)

<sup>86</sup> For more information about the progress of the *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, visit [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bld=s987](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s987)

<sup>87</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, ss28-30

<sup>88</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, s12

<sup>89</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, s19

<sup>90</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, s16

<sup>91</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, s20

<sup>92</sup> United Nations Single Convention on Narcotic Drugs (1961), Article 23

3. The proposed Bill provides a basic framework for the re-characterisation and reclassification of cannabis in this country.

By providing that the proposed Bill applies to the exclusion of the *Narcotic Drugs Act 1967* (Cth) and the *Therapeutic Goods Act 1989* (Cth),<sup>93</sup> cannabis will no longer be characterised in the law of this country as just a dangerous psychotropic drug susceptible to misuse and abuse requiring of the severest restrictions and sanctions.

There are however a few small matters of concern to us regarding the proposed Bill that we wish to bring to the committee's attention. They are:

Firstly, though the proposed Bill is broad in scope, it lacks a lot of fundamental detail. The proposed Bill instead provides for the 'Regulator of Medicinal Cannabis' to be given rule-making powers to give effect to its provisions.<sup>94</sup> Though understandable from a practical viewpoint, it makes it impossible to assess whether or not the proposed Bill is an unnecessary duplication of existing legal frameworks for evaluating and approving therapeutic goods. Likewise, it is also difficult to assess the extent to which the proposed Bill will actually enable the sick and terminally ill to gain easier access to medicinal cannabis products.

Second, the definition of "cannabis product" in the proposed bill includes synthetic cannabinoid compounds, "*cannabis product means...a synthetic version, that is intended for medicinal use, of a product derived from cannabis.*"<sup>95</sup> This is at odds with the definition of cannabis in the proposed Bill and in the *United Nations Single Convention on Narcotic Drugs (1961)*, which is as follows: "*'Cannabis' means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated. 'Cannabis plant' means any plant of the genus Cannabis, 'Cannabis resin' means the separated resin, whether crude or purified, obtained from the cannabis plant.*"<sup>96</sup> Accordingly, it is unclear to us, why the proposed Bill should include synthetic versions of cannabis products. It is our position that the evaluation and approval processes of the Therapeutic Goods Administration are more appropriate for determining the therapeutic effects of synthetic medicinal products.<sup>97</sup>

Thirdly, clause 8 of the proposed Bill stipulates that it is not intended to over-ride state or territory statutes dealing with medicinal cannabis. This is a reasonable intent on behalf of the drafters; However in reality a competent court would likely find that the

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<sup>93</sup> *Regulator of Medicinal Cannabis Bill 2014* (Cth), s16(4)

<sup>94</sup> *Regulator of Medicinal Cannabis Bill 2014* (Cth), s63

<sup>95</sup> *Regulator of Medicinal Cannabis Bill 2014* (Cth), s5, see "cannabis product".

<sup>96</sup> *United Nations Single Convention on Narcotic Drugs (1961)*, Article 1

<sup>97</sup> For more information about the evaluation and approval processes of the Therapeutic Goods Administration visit [www.tga.gov.au](http://www.tga.gov.au)

Commonwealth statute over-rides any state or territory statutes to the extent of any arising inconsistency. The legal uncertainty and inconsistency that this could engender, is a difficult foundation for a nascent legal medicinal cannabis industry in Australia. Of further concern, is the fact this state of affairs will likely pervade whilst the 'Regulator of Medicinal Cannabis' begins exercising its rule-making powers. This concern is exacerbated by the lack of detail in the proposed Bill.

Fourth, there are some issues with the stipulation in section 15 of the proposed Bill that cannabis products on the 'Register of Regulated Medicinal Cannabis Products' need to be separately listed if they:

*"(a) a different formulation, composition or design specification; 12 or 13*

*(b) a different strength or size (disregarding pack size); or 14*

*(c) a different dosage form or model; or 15*

*(d) a different name; or 16*

*(e) different indications; or 17*

*(f) different directions for use; or 18*

*(g) a different type of container (disregarding container size)."*<sup>98</sup>

These difficulties stem from the fact that typical medicinal cannabis treatments involve the consumption of varying doses via varying mediums over time.

That all being said, we at the Australian Lawful Use of Cannabis Alliance firmly believe that providing legal access to cannabis-based therapeutic products in Australia is important and overdue. But if we just leave cannabis law reform at that, in this country, we are missing out on a major opportunity. There may even be unexpected negative effects, if we do so.

If Australia only legalises access to medicinal cannabis, the laws will be as equally unenforceable as they are now. Further strain may also be placed on an already taxed public health system, as the result of people seeking medical access to cannabis for other reasons.

There are a number of other potentially beneficial areas of cannabis use, including domestic, industrial, and recreational. It is our hope that you, our political representatives, will recognize the need for and the opportunities inherent in undertaking cannabis law reform in this country, in a comprehensive and nuanced way.

One Simple Premise Should Inform Our legal Understanding of Cannabis, that is: Cannabis is a Multi-use Plant that is Best Characterised and Provided For in Law According to Its Use.

As a society, we need to stop conceptualising cannabis just as a dangerous psychotropic drug susceptible to misuse and abuse. Instead, cannabis needs to be recognized as a multi-

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<sup>98</sup> *Regulator of Medicinal Cannabis Bill 2014 (Cth)*, s15

use plant with a range of uses, including many that are productive, beneficial and therapeutic. This will assist us to better create a legal regime that addresses and provides for its full range of intended uses.

#### Australia Doesn't Need Piecemeal Legislation at the Commonwealth/State/Territory Levels That Only Address One Aspect of the Cannabis Issue in Australia.

What is truly needed in Australia is a comprehensive and nuanced legal regime that addresses and accommodates all its uses and intended uses in the community, including: medicinal, industrial, domestic and recreational.

Aside from immediately enacting the *Regulator of Medicinal Cannabis Bill 2014* (Cth), the following steps would need to be taken to appropriately accommodate and provide for our current scientific and medical understandings of cannabis:

1. Serious consideration should be given to making amendments to the *Therapeutic Goods Act 1989* (Cth) in order to streamline and simplify the evaluation and approval processes of the Therapeutic Goods Administration. Further, the *Therapeutic Goods Act 1989* (Cth) should be updated to accommodate probiotics, nutraceuticals, nanotechnology delivery devices, etc.
2. Cannabis should be reclassified on the Commonwealth Poisons Standard according to its combination of cannabinoid compounds and/or its intended use.
3. The criminal codes and statutes of the Commonwealth/States/Territories should be amended to reflect this reclassification of cannabis; and,
4. The next edition of the National Drug Strategy should refocus its cannabis policy on preventing misuse and abuse, rather than on enforcing prohibition.

#### Australia Has a Real Opportunity to Position Itself as a World Leader in the Emerging Cannabis Marketplace.

Stephen DeAngelo said this about the emerging cannabis industry: "*Cannabis is a gift from the hippies, like yoga and personal computers...When people look back at the early days of the marijuana business, they should be able to say that we didn't just create a new industry, but we created a new kind of industry.*"<sup>99</sup>

A new kind of industry, like Stephen is talking about, can only be built upon the foundation of a comprehensive and nuanced legal regime, and the support of informed policy-makers.

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<sup>99</sup> Stephen DeAngelo quoted in Garofoli, J. "*Ex-techies Have High Hopes for Investing in the Cannabis Field*", SF Gate, 27 January 2015 ([www.sfgate.com](http://www.sfgate.com))



If we embrace the opportunity of cannabis law reform, and change our laws to recognize the fact that the cannabis plant and its derivatives have numerous useful applications, health benefits and therapeutic effects, then Australia will be uniquely placed to benefit.

The global cannabis industry will likely be worth over \$100 billion dollars in the next 20 years, can Australia afford not to be a part of it? We think not.

Cannabis law reform can be a success story. The recent American experience is instructive in this regard. A similar experience could occur here in Australia, if cannabis law reform is undertaken boldly, with a focus on facts, and with reasonable timeliness.

## REFERENCES:

- *Abodah Zarah* 74b
- Adams, I. B., and Martin, B. R., '*Cannabis: Pharmacology and Toxicology in Animals and Humans*', Addiction, (1996) Vol 91, No. 11, pp 1585-1614
- Bifulco, M., Laezza, C., and Pisanti, S., et al, '*Cannabinoids and Cancer: Pros and Cons of an Antitumor Strategy*', British Journal of Pharmacology, (2006) Vol. 148 (2), pp. 123 - 135
- Buzan, B., et al, '*Security: A New Framework for Analysis*', (1998, Lynne Rienner Publishers)
- '*Cannabis and Cannabinoids*', PDQ Information Summary, Heath Professional Version, National Cancer Institute (US) (Last updated 12 December 2014)
- Chang, K. *The Archaeology of Ancient China*, 1968
- Chasmar, J., "Surgeon General Says Medical Marijuana Can Be Helpful", *The Washington Times* (February 4, 2015)
- Choksi, N., "*Obama on Marijuana Legalisation*", *The Washington Post* (January 22, 2015)
- Di Forti, et al, '*Proportion of Patients in South London with First-Episode Psychosis Attributable to Use of High Potency Cannabis: A Case-Control Study*', The Lancet Journal of Psychiatry, (18 February 2015)
- Dioscorides, *Materia Medica*, (circa 70 BCE)
- Emeje, M. O., Obidike, I. C., Akpabio, E. I., and Ofoefule, S. I., '*Nanotechnology in Drug Delivery*', Intech, (2012)
- Eubanks et al, '*A Molecular Link Between the Active Component of Marijuana and Alzheimer's Disease Pathology*', *Molecular Pharmaceutics*, (2006) 3 (6), pp. 773-777
- Galen, *De Facultatibus Alimentorem*
- Guzman, M., '*Cannabinoids: Potential Anticancer Agents*', Nature Reviews Cancer, (2003) Vol. 2 (10), pp. 745-755
- Hall, W. and Solowij, N., '*Adverse Effects of Cannabis*', The Lancet, (November 1998) Vol. 352, pp. 1611-1616
- Hansen, J., '*NSW Government to Grow Cannabis for Trial into Medicinal Use for Children*', (21 December 2014), The Daily Telegraph
- Hasan, K. A., '*Social Aspects of Cannabis Use in India*', (2012)
- Herkenham, et al, '*Cannabinoid Receptor Localization In The Brain*', Neurobiology, (March 1990), Vol. 87, pp 1932-1936
- Herodotus, '*The History*', (trans) G. Rawlinson
- Hillig, K. W., and Mahlberg, P. G., '*A Chemotaxonomic Analysis of Cannabinoid Variation in Cannabis (Cannabaceae)*', American Journal of Botany, (2004), Vol. 91 (6), pp. 966-973

- Ingraham, C., *'The Marijuana Industry Could be Bigger than the NFL by 2020'*, The Washington Post, (21 October 2014)
- Dr. J. Jiggins, *'The Cost of Drug Prohibition in Australia'*, A Paper Presented to the Social Change in the 21<sup>st</sup> Century Conference at the Centre for Social Change Research, Queensland University of Technology, (28 October 2005)
- Jiggins, J. L. *'Marijuana Australiana: Cannabis Use, Popular Culture, and the Americanisation of Drugs Policy in Australia, 1938-1988'*, Queensland University of Technology, (April 2004)
- Kain, E., *'Ten Years After Decriminalization, Drug Abuse Down By Half in Portugal'*, Forbes Magazine, (7 May 2011)
- Kavalas, A., *'Medical Uses of Cannabis: An Australian Research Guide to Scientific Findings on The Medical Use of Cannabis'*, (May 2004)
- Lachenmeier, D. W., and Rehm, J., *'Comparative Risk Assessment of Alcohol, Tobacco, Cannabis, and Other Illicit Drugs Using the Margin of Exposure Approach'*, Scientific Reports Journal 5: 8126
- Li, H., *An Archaeological and Historical Account of Cannabis in China*, (1974)
- Li, H., *The Origin and Use of Cannabis in Eastern Asia*, (1975)
- Magee, G., *'Venture Investors light Up Cannabis Startups'*, Venture Capital, (2014)
- Massa, F., Marsciano, G., and Hermann, H. et al, *'The Endogenous Cannabinoid System Protects Against Colonic Inflammation'*, Journal of Clinical Investigation, (2004) 113 (8), pp. 1202-1209
- Mathre, M. L., *'Cannabis in Medical Practice: A Legal, Historical and Pharmacological Overview of the Therapeutic Uses of Marijuana'*, (1997)
- McWilliams, J. C. *"Unsung Partner in Crime: Harry J Anslinger and the Federal Bureau of Narcotics, 1930-1962"*, The Pennsylvania Magazine of History and Biography (April 1989) Vol CXIII, No. 2
- *'Medical Cannabis: Issues Backgrounder'*, NSW Parliamentary Research Service, (June 2014), No. 5
- Dr. A Mitchell, *'Smoking and Mental Health – A Review of the Literature'*, SmokeFree London Programme, (December 2001)
- *'Drug Profile: Cannabis'*, European Monitoring Centre for Drugs and Drug Addiction
- Noyes, R.jr., and Baram, D. A., *'Cannabis Analgesia'*, Comparative Psychiatry, (November – December, 1974), Vol. 15 (6), pp 531-535
- Penington, D. G., *'Medical Cannabis: A Time for Clear Thinking'*, Medical Journal of Australia, (February 2015), 202 (2) 2
- Pertwee, R. G., *'Pharmacology of Cannabinoid CB1 and CB2 Receptors'*, Journal of Pharmacology & Therapeutics, (1997), 74 (2), pp. 129-180
- Pertwee, R. G., *'The Diverse CB1 and CB2 Receptor Pharmacology of Three Plant Cannabinoids: delta-9-tetrahydrocannabinol, cannabidiol, and delta-9-*

- tetrahydrocannabivarin*, British Journal of Pharmacology, (2008), Vol. 153, pp. 199-215
- Piazza et al, '*Pregnenolone Can Prevent the Brain from Cannabis Intoxication*', Science, (3 January 2014), Vol. 343, No. 6166, pp 94-98
  - Reinerman, C., '*The Dutch example Shows that Liberal Drug Law Can Be Beneficial*', (2000)
  - Rogerson, J. A., '*Drug Policy Reform: Moving Beyond Strict Criminal Penalties For Drugs*', Australian Drug Foundation, (A Policy talk given in September 2012)
  - Rosenthal, *The Herb*, (1971)
  - Russo, E. B., '*Clinical Endocannabinoid Deficiency (CECD): Can This Concept Explain Therapeutic Effects of Cannabis in Migraine, Fibromyalgia, Irritable Bowel Syndrome and Other Treatment Resistant Conditions?*' Neuroendocrinology Letters, (February/April 2004), Vol. 25, Nos 1/2
  - Sabatier, P., '*Theories of the Policy Process*', (2007), Westview Press, (2<sup>nd</sup> Edition)
  - Schier, et al, '*Cannabidiol: A Cannabis Sativa Constituent, As an Anxiolytic Drug*', Laboratory of Panic and Respiration, Institute of Psychiatry, Universidade Federal do Rio de Janeiro, Brazil, (June 2012), 34 Suppl. 1, pp 104-110
  - Smith, H. R., '*Legalising Medical Cannabis in Australia*', Australian Medical Student Journal, (2013), Vol. 13 (1)
  - Stephen DeAngelo quoted in Garofoli, J. "*Ex-techies Have High Hopes for Investing in the Cannabis Field*", SF Gate, 27 January 2015  
(Available at <http://www.sfgate.com/news/article/Ex-techies-have-high-hopes-for-investing-in-the-6044269.php>)
  - '*The National Drug Strategy Household Survey 2011*', National Institute of health and Welfare, Australian Government, (2012, Canberra)
  - '*The State of Legal Marijuana Markets – Third Edition*', Arcview Market Research.
  - '*The Thousand and One Nights*', (trans) E. W. Lane, (ed) E. S. Poole (London, Chatto and Windus)
  - '*The Travels of Marco Polo the Venetian*', (ed) E. Rhys, (London 1908)
  - Thomas, H., '*A Community Survey of Adverse Effects of Cannabis Use*', Drug & Alcohol Dependence, (November 1996), Vol. 42 (3), pp. 201-207
  - Transcript of Proceedings of the House Of Representatives Ways and Means Committee, 75<sup>th</sup> Congress, First Session on N.R. 6385; April 27-30, May 4, 1937
  - Velasco, G., Sanchez, C., and Guzman, M., '*Towards the Use of Cannabinoids as Antitumor Agents*', Nature Reviews Cancer, (2012), Vol. 12 (6), pp. 436-444
  - Walker, J.M., Hohmann, A. G., and Martin, W. J., et al, '*The Neurobiology of Cannabinoid Analgesia*', Life Sciences, (1999), Vol. 65 (6/7), pp. 665-673
  - West, D. P., '*Hemp and Marijuana: Myths & Realities*', North American Industrial Hemp Council, (1998)

## LEGISLATION, CONVENTIONS AND CASE-LAW CITED:

- *Commonwealth of Australia Constitution Act 1900 (Imp)*
- *Hemp Industry Act 2008 (NSW)*
- *Marihuana Tax Act of 1937, Pub.238, 75<sup>th</sup> Congress, 50 Stat. 551 (Aug 2, 1937)*
- *National Drug Strategy: 2010 – 2015 (Cth)*
- *Poisons Standard 2013 (Cth)*
- *Regulator of Medicinal Cannabis Bill 2014 (Cth).*
- *'Report of the Indian Hemp Drugs Commission, 1894-1895'*
- *R v Santos, 2014 BCPC 266 (CanLII)*
- *Therapeutic Goods Act 1989 (Cth)*
- *Therapeutic Goods Regulations 1990 (Cth)*
- *United Nations Convention Against Illicit Traffic in Narcotic Dangerous Psychotropic Substances (1988)*
- *United Nations Single Convention on Narcotic Drugs (1961)*

## INTERNET RESOURCES ACCESSED:

- [www.adf.org.au](http://www.adf.org.au)
- <http://www.arcviewmarketresearch.com/order/state-of-the-legal-marijuana-markets-2nd-edition>
- [www.dailytelegraph.com.au](http://www.dailytelegraph.com.au)
- <http://www.drugtext.org/Cannabis-and-Culture/social-aspects-of-the-use-of-cannabis-in-india.html>
- <https://ebooks.adelaide.edu.au/h/herodotus/h4/>
- <http://www.emodda.europa.eu/publications/drug-profiles/cannabis>
- <http://www.forbes.com/sites/erikkain/2011/07/05/ten-years-after-decriminalization-drug-abuse-down-by-half-in-portugal/>
- <http://www.gutenberg.org/files/34206/34206-h/34206-h.htm>
- [http://www.itis.gov/servlet/SingleRpt/SingleRpt?search\\_topic=TSN&search\\_value=19109#](http://www.itis.gov/servlet/SingleRpt/SingleRpt?search_topic=TSN&search_value=19109#)
- [http://www.naihc.org/hemp\\_information/content/hemp.mj.html](http://www.naihc.org/hemp_information/content/hemp.mj.html)
- <http://www.ncbi.nlm.nih.gov/pubmedhealth/PMH0032740/?report+printable>
- <https://ncpic.org.au>
- <https://ndarc.med.unsw.edu.au/>
- <http://www.sacred-texts.com/hin/>
- <http://www.sfgate.com/news/article/Ex-techies-have-high-hopes-for-investing-in-the-6044269.php>
- <http://www.stockjournal.com.au/blogs/out-of-the-shadow/come-to-terms-with-industrial-hemp/2721847.aspx>
- [www.tga.gov.au](http://www.tga.gov.au)
- <http://www.un.org/en/documents/udhr/history.shtml>
- <http://www.unodc.org/wdr2013/>
- <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/10/24/the-marijuana-industry-could-be-bigger-than-the-nfl-by-2020/>

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The Australian Lawful Use of Cannabis Alliance is lobbying for legal changes throughout Australia that allow the lawful use of cannabis and its derivatives