

TRANSCRIPT

LEGISLATIVE COUNCIL LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023

Melbourne – Friday 14 February 2025

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WITNESSES

Dr James Petty, Senior Policy and Research Officer, and

Dave Taylor, Advocacy Manager, Victorian Alcohol and Drug Association.

The CHAIR: Welcome back to the Legislative Council Inquiry into the Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023. Welcome to members of the public who are watching via the live broadcast. Joining us for this session we have got the Victorian Alcohol and Drug Association. Joining us we have Dr James Petty and Mr Dave Taylor.

Just before we continue I will read some information to you gentlemen. Regarding the information you provide today, all evidence taken is protected by parliamentary privilege as provided by the *Constitution Act 1975* and is further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded. You will be provided with a proof version of the transcript following the hearing. Transcripts will ultimately be made public and posted on the committee website.

Just for recording purposes, could you state your full name and the organisation you are representing, please, gentlemen.

James PETTY: Yes. My name is James Petty. I am from the Victorian Alcohol and Drug Association.

Dave TAYLOR: Dave Taylor, also from the Victorian Alcohol and Drug Association.

The CHAIR: Thank you. I understand you have already made a submission, but I will open the floor if you have got a quick opening statement before letting the committee ask you questions.

James PETTY: Sure. Thank you. Good morning and thank you for the opportunity to speak today. I would like to begin by acknowledging the traditional owners of the land on which we meet, the Wurundjeri people of the Kulin nation, and pay my respects to their elders past and present. I also recognise their ongoing connection to land, sky, waters and culture. Sovereignty of this land was never ceded. It always was and always will be Aboriginal land.

I would also like to acknowledge the expertise and lived experience of people who use alcohol and other drugs, those who have experienced AOD-related harms and those who have engaged with the treatment system. Their perspectives are invaluable, and VAADA appreciates their contributions. VAADA is a member-based peak body and health promotion charity representing organisations and individuals involved in prevention, treatment, rehabilitation, harm reduction and research related to alcohol and other drugs. VAADA welcomes this inquiry and supports legislative reform in the area of cannabis.

While we broadly support the measures outlined in the Bill, we have a couple of recommendations for minor amendments to strengthen its efficacy. Cannabis is the most commonly used illicit substance in Australia. Nearly half – 41 per cent – of Australians over the age of 14 have used cannabis in their lifetime. Surveys consistently show that cannabis is easy or very easy to obtain, and its price has also remained largely stable for more than three decades. It is clear that criminalisation has failed to suppress its use or availability.

Since the legalisation of medicinal cannabis in 2016 in Victoria, alongside shifts in the illicit market, cannabis has effectively become a de facto legal substance for many Australians and many Victorians. A person like me – white, middle-class, educated – can message a dealer and have cannabis home-delivered in a matter of hours. I can choose the strength, the strain and the form it comes in, or I can visit my GP for a prescription, or even easier, use a dedicated cannabis telehealth service, have a 5-minute chat with a nurse and walk away with a script. My options range from dry herb to smoke or vape, oils, capsules, sprays, creams, lozenges and others. However, this de facto legal status is not universal. If you are homeless, Aboriginal, from a culturally or linguistically diverse background, a young person, struggling with mental health or in contact with the criminal

justice system, the risk of arrest for cannabis possession is very real. This is a serious injustice. For some cannabis is functionally legal, while for others it remains a gateway to criminalisation and the significant hardships and disadvantages contact with the criminal justice system entails. While there are diversion programs, these are limited and underutilised. In the 2020–21 financial year Victoria recorded nearly 12,000 cannabis-related arrests, with 95 per cent of these for personal possession as opposed to trafficking.

There are harms associated with cannabis use, particularly for young people, but criminalisation is neither an effective nor a proportionate response to these harms. The social costs of cannabis in Australia have been estimated at \$4.5 billion annually, with more than half of that attributed to criminal justice costs, yet prohibition has not reduced demand, supply or harm. Criminalisation has strengthened the business model of organised crime groups and ensured that their business model remains profitable.

This Bill represents a modest but important step towards a more rational and evidence-based approach to cannabis regulation in Victoria. The risk that this Bill if passed would increase harm is minimal. The ACT, which introduced similar legislation in 2020, has not seen an increase in cannabis use or related harms. In fact cannabis-related arrests have reduced, as you would expect. Cannabis-related ambulance attendances and ED presentations have remained stable. Furthermore, a recent study – the Lambert study you mentioned before – of over 300 samples of cannabis cultivated at home under the ACT laws found it was on average milder than illicit cannabis, with an average THC concentration of 9 per cent, where 30 per cent would be considered very high strength cannabis.

In summary, VAADA strongly encourages the committee to support this Bill. It is based on best practice both locally and internationally and is a necessary step towards a more equitable and effective drug policy. We have suggested minor amendments clarifying the rights of tenants, ensuring people under the age of 18 do not continue to face criminal charges for possession, provision for evaluation of the laws and of the Bill if passed and a well-funded education campaign informing Victorians on the changes. Thank you. I welcome any changes from the committee.

The CHAIR: Thank you, Dr Petty. Mr Taylor, anything?

Dave TAYLOR: No, I am happy with that.

The CHAIR: Thank you for your opening statement. I will quickly have a question, and then I will open up to the rest of the committee. There are two questions I have from your submission. Question 1 is on your recommendation in your submission that included requiring the government to evaluate decriminalisation, including the potential of expanding legalisation to other cohorts of illicit substances. Could you just make some comment or expand on that in relation to what you meant by ‘other cohorts of illicit substances’?

James PETTY: Yes, absolutely. In the ACT they decriminalised cannabis in 2020, I believe, and then following that decriminalised possession of other illicit substances. Criminalisation is not just a bad policy in relation to cannabis, it is a bad policy in relation to most illicit substances, so I think VAADA really sees the Bill as a sensible first step in much-needed drug policy reform. For 50 years VAADA has supported evidence-based drug policy, and we would see decriminalisation and/or possession of small amounts of illicit substances as evidence-based.

The CHAIR: Okay. Thank you. Another thing in relation to your submission which I want to refer to is the paragraph in relation to the problem with criminalisation. You paint a picture in relation to First Nations people, migrant and refugee peoples, the cohort with disabilities and those experiencing poverty, mental health issues, substance dependence and homelessness. Unsurprisingly, they are very much subject to the hard end of the law. Through your submission you paint a very racist or discriminatory picture in relation to Australia. Is this something not foreseen by people trying to come to this country? In trying to paint this picture, I just wondered if you want to make some comments in relation to that.

James PETTY: Yes, sure. I mean, drug criminalisation has its origins in racism. Opioids – heroin – were first criminalised in Victoria in 1901 as part of the White Australia policy to clamp down on Chinese-run opium dens and to promote and protect the business model of Anglo-run pubs. So criminalisation started with racism. I am not saying that is the intention of politicians today or the intention of police today, but it has got its origins there, and we still see a flow-on effect of that.

Dave TAYLOR: We do see certain cohorts over-represented in policing statistics, and they are less insulated through disadvantage. Whether that is just inadvertent or otherwise, it is a stark reality.

The CHAIR: Okay. Thank you. Ryan.

Ryan BATCHELOR: Thanks, Chair. Thank you both for coming in. You mentioned in your opening that you can basically get cannabis on demand through the black market or you can get a prescription. To what extent do you think the provisions of this Bill, if passed, would affect that?

James PETTY: Are you asking if it would reduce demand?

Ryan BATCHELOR: I am asking how you think it would affect it.

James PETTY: It certainly will not reduce demand, nor will it reduce the accessibility. If this Bill is passed, someone like me could still message a dealer and access cannabis very easily through the illicit market. The model presented in the Bill – I do not think its purpose is to entirely supplant the black market, and I certainly do not think it will have that effect. The black market for drugs is longstanding, robust, very complex and very powerful. This Bill is a very modest step and will not be able to entirely supplant that. We certainly might see some people who currently access cannabis very easily through the black market cease to access it through the black market because they will start cultivating it themselves or have a relationship with someone who gifts it to them. So those would be the only effects I anticipate. The effects on the current mechanism of access or current demand for black market cannabis or medicinal cannabis – I do not see them having a huge effect.

Ryan BATCHELOR: Obviously, given your remit with respect to alcohol and other drugs, I am wondering if you have got any reflections on the current state of the alcohol market and/or the tobacco market and what you think we might need to do in thinking about the creation of a cannabis market – lessons we can learn from current issues associated with either or both of those.

James PETTY: It is an interesting question, and we could really talk about it all day, I think. There are definitely lessons and I think some warnings from the alcohol industry and the history of the tobacco industry. I think the tobacco industry is really interesting, because in the 60s, 70s and 80s they were promoting false evidence and suppressing good evidence about the harmful effects of smoking, and it took us a really long time to accept that and for it to become widespread public knowledge that –

Ryan BATCHELOR: Some argue they are still doing it.

James PETTY: Yes, absolutely. But Australia has taken a really, really strong stance against that influence, and as you know, Australia has some world-leading tobacco laws. We are arguably seeing a backlash against that or an undercutting of that with the rise in vaping and the crime associated with that, particularly in Victoria. So I think there are interesting warnings or interesting lessons to be learned there – I think lessons from under-regulating the industry and potentially lessons against over-regulating the industry if we established a for-profit cannabis industry in Victoria.

For alcohol I think the lessons primarily are about warding off against regulatory capture. Alcohol is in some ways well regulated. It is taxed – not very well and not very effectively. It is restricted to over-18s. The supply is well controlled. No-one drinks methanol in Australia; no-one gets poisoned by methanol in Australia. So on one hand alcohol is a relatively safe substance through regulation. On the other hand, we do see alcohol advertised widely. We do not see enough controls around outlet density. We see the alcohol industry shape or influence policy. For example, a few years ago there was an inquiry into the home delivery of alcohol. The Victorian government heard very detailed information about the association of rapid delivery of alcohol with suicide, with domestic and family violence and with a range of harms, and then the Victorian government proceeded to expand the hours and the licences for rapid home delivery of alcohol. I would view that as a form of regulatory capture, and I think that would be a warning against establishing a for-profit cannabis industry that then would see those for-profit interests seek to shape policy.

Ryan BATCHELOR: Thanks very much. Thanks, Chair.

The CHAIR: Thank you, Ryan. Ms Payne.

Rachel PAYNE: Thank you, Chair. Thank you to you both for your contribution and the submission and for presenting for us today. In your submission you talk about expungement and the recommendation there of expungement of prior criminal convictions for personal possession and use of cannabis. Can having a criminal record impact a person's access to AOD services and treatment? I would like you to expand on your thoughts around expungement as well.

James PETTY: It is an interesting question. Officially, no, having a criminal record should not impact a person's access to AOD treatment, but as we know, having a criminal record can be associated with other difficulties in housing, in employment and in a range of other areas and accessing other services. So while the relationship between having a criminal record and access to AOD services might not be direct in terms of people being turned away as soon as – 'Oh, come into our AOD treatment service. Oh, you've got a criminal record; get out.' I do not think we are seeing that. But in terms of the hardship people with criminal records face, that can make accessing AOD treatment more difficult.

There is something else to say about the forensic system, which is I suppose what we refer to. We refer to a portion of the AOD treatment system that is reserved for or specialised for people in contact with the criminal justice system, and it is a really important part of the system. However, there are challenges with it. It is underfunded, and we do see differential and inconsistent access to AOD treatment for people in contact with the criminal justice system. I am not sure if that sufficiently answers your question. Dave, do you have anything to say?

Dave TAYLOR: No, I think you have covered it pretty well.

Rachel PAYNE: And would you say that criminalisation precludes someone from accessing or having greater access to health provisions?

James PETTY: Yes. In terms of the challenges they face, we know people that face the kinds of challenges that people with criminal records face often are underserved in terms of health and welfare services, often get inconsistent access to those services and do not necessarily get the service they need. Someone with a criminal record but who is also experiencing other challenges might turn up to, say, a homelessness service – and active AOD use or active AOD dependence. They might turn up to a treatment system and be turned away because of their challenges, because of their complexity, or what might happen is they will turn up and say, 'I need to enter withdrawal and then a rehabilitation centre,' and what that service has to offer is case management and daily check-ins, which are really insufficient for the needs of that person that I have painted.

Dave TAYLOR: The other side of this is that if people are being criminalised for their drug use, then that generates a level of stigma and self-stigma. That will quite possibly contribute to people not wanting to engage in a service because they are not wanting to talk about something which they are feeling stigmatised about. So we find that the criminalisation of drug use can exacerbate stigma, which will reduce the likelihood of people engaging in help-seeking behaviour, which might mean in some cases, because they are not wanting to get help, some of the challenges they are facing progress and become worse, and then it may well end up that they need to engage in emergency services or they are compelled to go through the justice system at greater harm to themselves and greater burden to the state.

Rachel PAYNE: Thank you. Thank you, Chair.

The CHAIR: Thank you. Michael.

Michael GALEA: Thank you, Chair. Thank you. Good morning, both. I would also like to talk about the expungement of past and historical convictions for cannabis possession and use. You touched on in your answer to Mr Batchelor that there would still be a black market, and if I am quoting correctly from the *National Drug Strategy Household Survey 2022–23*, we know that in the ACT around 12.4 per cent of cannabis users grew their own plants under the model, which, though considerably higher than the national average, is still quite a small number. How would you determine what convictions would and would not be vacated? I guess the question is: how do you know that under an alternate reality they would have been growing their own cannabis and complying with the law or whether they would have still been utilising the black market, as many in the ACT are still doing now?

James PETTY: I would not equate the idea of expungement of previous convictions with the notion that these people would have been growing their own cannabis. What I would say is that the criminalisation of cannabis, of minor possession of cannabis, has produced injustices and that the expungement would be a means of redressing that. So I would not be seeking to expunge convictions for the 12.4 per cent of people who would have grown cannabis if they had had the option. I would be quite comfortable with extending that expungement to all people who had been charged with the minor possession of cannabis.

Michael GALEA: So for people who were to then – maybe to use the wrong word – reoffend, purchase off the black market, which would still remain an offence under this proposal, even though they would still be committing a criminal offence under these new laws, you would be expunging previous ones?

Dave TAYLOR: They would not have had the opportunity to grow plants lawfully in the old laws, so yes, we would be taking that approach. We would make the assumption that they either would have grown their own plants lawfully or they would have been gifted, given those circumstances did not exist previously.

Michael GALEA: Even though we can never really know, that would be the assumption that you would make.

James PETTY: But VAADA would support the expungement of those convictions regardless of whether those people continue to purchase illicit cannabis.

Michael GALEA: Thank you. The evidence we have heard, and I think you have touched on it as well, is that in the ACT, for example, there was not an increase in emergency healthcare demand, but there obviously is a very important role that services such as yours play, in particular at that early intervention point. Anecdotally we have heard that there has been some increased demand for services such as yours, and I would probably say that is a good thing for that early intervention approach. Under this model in Victoria, what resources would your sector need in order to successfully provide those supports to people under decriminalisation? And I guess in monetary terms as well, if you can define it.

James PETTY: I am probably not going to be able to come up with an exact dollar figure, but I would say that our services – sorry, just to clarify, VAADA does not actually provide any services. We are a peak body member organisation.

Michael GALEA: Your members, yes.

James PETTY: But we represent organisations that do provide services. The AOD sector in Victoria have been historically underfunded since inception, basically, so they would definitely need additional funding. In the ACT, which obviously is a very, very small territory, we did see AOD services receive dedicated and increased funding to respond to that increased demand, because, as Dave was saying, if stigma is removed from the possession or use of a substance, people can often feel much more confident and comfortable in presenting to a service. Dave, are you able to give a dollar figure?

Dave TAYLOR: I am not, but I think I would probably put it to the committee that the daily waitlist data for alcohol and drug treatment has increased from around 2400 at the start of the pandemic to over 4600 last year. I can provide the exact figures and the times when those surveys were taken on notice if that is desired.

Michael GALEA: That would be good. Thank you.

Dave TAYLOR: As James intimated, there is a significant lack of capacity to meet current demand. There is recent and strong research indicating nationally that there are a significant portion of Australians who would benefit from clinical treatment who are missing out. So there are already those demand pressures.

Michael GALEA: I realise I am over time. I am very sorry. If I can quickly ask: in rough terms of a percentage increase of demand, what would you expect to see under this model? Can you perhaps take that on notice as well? I realise I am putting you on the spot there.

Dave TAYLOR: We can take it on notice, but I think that it might be difficult to provide a clear figure. So we can take that on notice and provide you with a response of some sort, but I cannot guarantee that we will be able to just give you a number.

Michael GALEA: I appreciate that. Thank you.

Dave TAYLOR: I would love it if that level of evidence and research was out there.

Michael GALEA: It would be great if we had it, but even if you can give us a broad indication, that would be very helpful.

James PETTY: Just for context, lack of a robust and efficacious data system is something that has plagued the Victorian AOD sector for a long time. We simply do not have that data. People often also present to treatment, and maybe the reason they are presenting to treatment is the use of alcohol or maybe the use of methamphetamine but they are also using cannabis, and that might be not the first priority for treatment but one of the other priorities for treatment. Then also, just in relation to youth services, probably cannabis would be higher on their list of priorities than the average AOD treatment service. So yes, it is a complex picture.

Michael GALEA: Thank you.

Dave TAYLOR: And we only count those people who present to treatment. The figure I offered before is very much a conservative estimate of demand. It would be much higher if it were to capture people who are not engaging in treatment perhaps because of stigma or any other reason but may well benefit.

Michael GALEA: Thank you. Thank you, Chair.

The CHAIR: Thanks, Michael. David.

David ETTERS HANK: Thank you, Chair. Thank you for your very thoughtful contribution. An issue that has been bandied around a bit is the question of how the Bill should best treat under-18s. I wonder if you would like to share with the committee your thoughts on that issue and also the adequacy or inadequacy of the Bill in that regard.

James PETTY: In terms of that, VAADA, as we say in the submission, support provisions that reduce the access of young people to cannabis. I am not sure if that makes sense, but we want to limit the access that young people have to cannabis. We do not want to see that access increased. We do not want to see that access deregulated or proliferated, because there are some health concerns, in particular mental health concerns, for young people if they are using cannabis early or if they are using cannabis very intensely. But what we do not want to see is the continued criminalisation or increased criminalisation of young people for possessing cannabis. For example, under the proposed Bill, if a 17-year-old was caught with instructions about how to cultivate cannabis, they could be arrested and charged for that, and by 'instructions' I mean a text message or a YouTube video on their phone telling them how to cultivate cannabis. I am not saying that is necessarily likely. If it is not likely, it is not needed within the law, and I do not see any benefit coming out from a 17-year-old ending up being arrested and charged for possessing a text message or a YouTube video.

In terms of the Bill's adequacy, I think some people and certainly some of the other submissions we have read have talked about security and storage provisions, so maybe requiring people who are going to grow cannabis under the Bill to store it in a way that minimises access of youth to that cannabis. VAADA would support that. It would be very difficult to police, very difficult to enforce, and I am not quite sure about how to get around that. But I do think there could be good requirements for ensuring that there is not access to cannabis in a public space. If someone's house backs onto a walkway, a creek, public land or whatever, having your cannabis plants grow right over that fence I think is a bad idea. I think there can be provisions around limiting access to the public to the grown cannabis, the cultivated cannabis, and young people as well.

Dave TAYLOR: There are a couple of things I put to you on top of that, and I certainly appreciate James's comments. We do not have any rules and regulations for if I am a smoker or happen to enjoy having alcohol. I do not need to keep those things under lock and key, even though I have got young children. So we probably need to consider that. We are very supportive of measures that ensure that young people do not engage unnecessarily with the criminal justice system. We have already got a very much overburdened system, so where we can look at health-led responses or diversion or, importantly, early intervention programs: in place of, that is really important. One of the things we talk about is developing an education campaign in this submission. We would want to make sure that such a campaign was not, for instance, developed by the police – and we have seen a couple of examples where that missed the mark, being generous – but something that is

peer-led, so led by people who use drugs, by people from community who can really strongly relate and build a strong rapport with young people who may be seen as at risk. We would be very supportive of those sorts of measures. But certainly the example James offered at the start would be an unfortunate outcome, if that 17-year-old was drawn into a criminal justice response for having watched something on YouTube.

James PETTY: I will just say you cannot control for everything. Young people will continue to have contact with or have access to cannabis regardless of whether this Bill passes or not. Really what the goal should be around – the government’s goal and certainly our goal and the AOD sector’s goal – is providing young people the support and resources that they need, regardless of whether they are exposed or have access to cannabis, to still lead a healthy and happy life.

It brings to mind an evaluation of a prevention program that I read about that was run in Footscray in the Maribyrnong area probably 10 years ago now. It was an AOD prevention and early intervention program for young migrant and CALD background youth. It did not mention AOD at all. All it was was an after-school soccer program where you did not participate if you were drunk or high. After the soccer program they had local parents cooking dinner, and that was it. It was very effective. It is hard to measure exactly what it was preventing, but it was very effective. It had very high engagement. Unfortunately it was just a trial, and then it was defunded. But providing those kinds of resources is going to be much more effective than a provision in a Bill that defines how or where or what should be done to prevent access to cannabis by young people. Supports are much more important.

Dave TAYLOR: I know we are bouncing off each other here, but it needs to be premised with this Bill that what we have got now is deeply unsatisfactory, and so we are really looking at trying to enact policy that makes it a little bit less bad. We are not going to be able to eliminate drug use – that is simply a reality – and so we need to take that off the table. There are always going to be risks and for young people already – as James indicated at the start, drugs are easy or very easy to obtain. So we need to keep it in mind when we start questioning any risks associated with this Bill that those risks are already clearly evident and that it is very easy for young people to already procure these substances.

David ETTERSANK: Thank you.

The CHAIR: Thanks, David. Mr Puglielli.

Aiv PUGLIELLI: Thank you, Chair. Dave, I am going to follow straight on with what you were just talking about. As you have described it, the current laws we have are unsatisfactory. We often talk, with conversations about legislation like this, about risk associated with changing the laws. Can you tell me a bit more about what the risks and the harms associated are with not changing the laws we have now?

Dave TAYLOR: We have already mentioned the \$2.4 billion criminal justice burden on the state associated with what are predominantly prosecutions and policing activity toward people for consuming cannabis. So there is a significant impact there, there is the significant impact of having a criminal record and there is significant impact of deterring people from engaging in services due to stigma, to simply name a few. James, do you have anything to add?

James PETTY: Yes. It would just continue the status quo, I think. The current laws we have are insufficient, as is the status of the AOD treatment system or the funding of the AOD treatment system and its adequacy and its ability to meet demand. If we do not, none of these problems are easily solvable. We need multipronged approaches. This Bill is not going to solve everything, but I think that it is a step in the right direction and that there are really considerable risks of not doing anything. We will just continue with the same insufficient set of systems that fail a lot of people ad nauseam.

Dave TAYLOR: And the state has, at this point in time – and we have always got – scarce resources. I think it was 11,000 arrests for cannabis possession –

James PETTY: Close to 12,000.

Dave TAYLOR: There is a huge policing resource there, and I think that we would all welcome police being able to reprioritise some of their work and redirect it towards more serious crime. I am not sure that that is the best allocation of police resources, especially if we read the papers on any given day. So I think the status

quo is clearly unacceptable at a system, cost, health and stigma level across the community, and it has been that way for decades.

Aiv PUGLIELLI: Thank you. Often in these debates we will hear views put that if we follow this pathway of decriminalisation the sky will fall in, that it is going to be devastating to communities et cetera. Are you able to point to potentially some case studies from other jurisdictions, even other parts of the world, where they have followed this reform pathway and what benefits that pathway has had for those communities?

James PETTY: Yes. I mean, in South Australia cannabis has had a level of decriminalisation since 1987. In the ACT it has been since 1989. So that is nigh on 40 years of some level of decriminalisation – Northern Territory since 1996, I believe – and to use your words, the sky has not fallen in in those places. Again, what the Bill proposes is fairly modest. It is not a radical restructuring of our entire legal system or polity or anything. It is just a tweak, really, that we would support. The obvious international example is Portugal. Portugal decriminalised minor possession of more than just cannabis – heroin and other ‘harder’ drugs in 2001 – and it was described as a miracle because of the kinds of social, health and economic benefits from that policy. So I would really just emphasise that what is proposed here is not going to flip the entire world upside down.

Aiv PUGLIELLI: And for Portugal as the example, what does the before and after look like for that kind of reform?

James PETTY: The before is extensive heroin slums. They were just shantytowns full of heroin users. They had a really serious drug problem and a really serious poverty problem. They still have really serious poverty problems, but the –

Dave TAYLOR: HIV.

James PETTY: HIV – the spread of HIV was very extensive. Look, I do not have data to support this, but the anecdotal evidence is that heroin users in Portugal were committing crimes on purpose to be put into prison because they would get a hot meal, somewhere to sleep and they could buy better quality heroin in prison than out on the streets.

Decriminalisation: it was not just decriminalisation, it was part of a suite of responses which saw that really turn around and saw people not arrested for possessing minor amounts of heroin, saw them connected with health and welfare services and gradually, not overnight, saw those heroin slums, for want of a better word, reduce and eventually disappear. They have got a really strong health-led response now.

Aiv PUGLIELLI: Thank you.

James PETTY: No worries.

The CHAIR: Thank you, Aiv. Mr McCracken.

Joe McCracken: Thank you very much. It has been a very interesting conversation. Thanks, James and Dave, for the contribution so far. I am interested to pick up from where Trung started asking questions about the decriminalisation process. I think that you said the Bill should have aspects where we should have a process to evaluate decriminalisation and also explore extending that to other substances. What other substances do you think should be worthy of that exploration?

James PETTY: I would say probably the common illicit substances that people are often or regularly arrested for possessing. I would like to underline that we said ‘explore’ as opposed to –

Joe McCracken: I do not know all the different names of the substances. I am one of those people that has never done cannabis before, so I am probably an outlier there. But what are the names of the substances that you think are worthy of exploration – emphasis on ‘exploration’?

James PETTY: Yes, absolutely. So an emphasis on exploration: minor possession of MDMA, minor possession of amphetamines, minor possession of heroin or other opioids – things like that we would certainly encourage the government to explore decriminalisation of. I think there are certainly some substances that you do not want to decriminalise or that you want to maintain fairly high controls on – not that I want to see people in possession of minor amounts of those substances arrested necessarily. But there are substances – say, for

example, fentanyl, carfentanil, nitazenes – that you do not want to be criminalising people for low-level possession of, as in someone has bought what they thought was heroin or MDMA and it contains some nitazenes in it. But, yes, there are some substances that you do not want loosen regulatory control over, I suppose.

Dave TAYLOR: I think it is really important to premise this under the notion of general deterrence, which is one of the aspects of the *Sentencing Act* – offences relating to possession and use of small amounts of drugs. I am not sure there is a particularly strong evidence base that there is any sort of general deterrence aspect where people feel concerned they are going to get arrested and therefore will not use. I mean, the arrest rates and consumption rates suggest that that is not necessarily that effective. So considering this evaluation and considering that what worked for one substance might work for additional substances and going to what James said before, again under the notion of exploring, it would be an unfortunate circumstance if someone felt they could not procure heroin and so instead got on the dark web and purchased some nitazenes and fatally overdosed. We can sometimes see perverse outcomes occur from well-intentioned laws which are not well thought out.

James PETTY: Just one thing I would like to add is that earlier in my opening statement I said that someone like me could message a dealer on an app and pretty quickly obtain some cannabis from the illicit market. That extends to those drugs I mentioned – amphetamines, ketamine, heroin, MDMA. Those are readily available. The IDRS, which Paul and Michael, who you just heard from, run in Victoria, shows that access and availability of those drugs as well as cannabis remains very, very high. The majority of people list those as easy or very easy to obtain.

Joe McCracken: I think my time is up, unfortunately. I could probably ask more questions, but thank you for your response.

James PETTY: Thank you very much.

The CHAIR: Thank you, Mr McCracken. I know Michael is dying for one last question. I know time is up, but Michael, please.

Michael GALEA: Okay, I will be very quick then. Thank you. The ACT model, as you pointed out, from the late 80s went to a partial decriminalisation with the simple cannabis offence notice. To what extent do you think that played a role in the results of the 2019 decriminalisation being so positive?

James PETTY: I heard you ask this question before, and I would echo Michael and Paul's statement that it is really hard to predict. But I would say that drug law reform is a process and that if you start, the more evidence-based drug law reform you have, the easier additional evidence-based drug law reform becomes. So I think that partial decriminalisation with the notice probably did mean that the ACT was well positioned for those next steps. And we have two diversion programs in Victoria; they are also underutilised, like the SCON was.

Michael GALEA: It was underutilised in ACT?

James PETTY: Yes. Only about 25 per cent of people arrested for possession of cannabis accessed the SCON.

Michael GALEA: Good to know. Thank you.

The CHAIR: There is another question. David?

David ETTERS HANK: Do you see any danger in going straight to the proposed legislation, as opposed to some sort of gradual process through the old cannabis infringement notice? Is it overly brave to leap to the current Canberra model rather than –

Dave TAYLOR: James has indicated that our take on this is that it is a modest reform. I do not really see any reason why we would delay this. There are terms like 'decriminalisation' used that carry a level of meaning and depth in the community, but the reality of it is that it is a very modest and small reform. Probably one of the main benefits will be a reduction in justice interventions on a range of people who otherwise would have nothing to do with the justice system; a useful reallocation of policing resources to target more serious criminal

offending; a reduction in stigma, where we are going to see more people probably thinking, 'I'm more happy to talk to people about my cannabis use and seek help,' which is a really good thing; and potentially an increase in early intervention programs and a focus on these things where people can feel they can get help and it is safe to get help sooner. So I see a number of really positive benefits, and looking across this nation, I do not really see any risks.

James PETTY: I would just very quickly add that Canberra had the simple cannabis notice. Victoria has two diversion programs, one with police, one that sits within the courts. I think the proposed Bill is the next step. I do not think it is a leap; I do not think it is brave.

David ETTERS HANK: Thank you.

The CHAIR: Thank you, gentlemen. Our time is up. Thank you so much for coming in, for your submission and for your contribution today. We very much appreciate it.

Witnesses withdrew.