



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES

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Submission Cover Sheet

Inquiry into Drugs of Dependence (Personal Cannabis
Use) Amendment Bill 2018

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Submission to the Standing Committee on Health, Ageing and Community Services – Inquiry into Drugs of Dependence (Personal Cannabis Use) Amendment Bill
Submission due 20 March 2018

Background

The Canberra Organic Growers' Society (“COGS”) was established in the ACT in 1977 when a community garden was established near the Cotter Road. There are now twelve gardens spanning the ACT, from Crace in the north to Kambah in the south. COGS has approximately 430 memberships comprising single people, couples and families who all hold plots in the various gardens.

Nine of the gardens are situated on land held by the ACT Government and licensed to COGS. Two of the remaining three are located at Colleges and one is on the site of a former tennis court adjoining a Church. COGS has a Constitution and overall rules and there are local garden rules, established by and for each garden. Of course, one of the principal points is that we expect that all COGS members to abide by the laws of the ACT.

The proposed amendment bill

We have seen there is a proposed amendment bill before the Assembly for consideration which, among other things, would enable a person over the age of 18 to cultivate up to 4 marijuana plants for personal use. As far as we can see there is no physical limitation to where the person might choose to cultivate the plants and therefore it seems that it may be open to a member of COGS to cultivate up to 4 marijuana plants in their plot in a COGS garden. (We have examined section 615 of the *Criminal Code 2002* which defines cultivate, but carries no reference to location, that we can see.)

If this is right (and we are happy to be corrected on this point) then we have serious and genuine concerns about lawful marijuana cultivation being undertaken in COGS gardens. We make two points:

- Safety of children; and
- Security of our gardens and gardeners.

Children

We have a number of families with small children who bring the entire family to work on their vegetables (many modern parents wish to teach their children about plant development etc.) We do think this may create a difficulty for some people if a gardening neighbour was growing marijuana on a near by plot or really anywhere in the garden. Parents would have to make sure their children didn't eat leaves or buds. This is not a problem with the normal fruits and vegetables, but ingesting cannabis can have ill effects. It is also the case that some of our family members have early teen children and putting marijuana plants in their vicinity may be too tempting for them or their friends.

We note that the proposed amendment bill introduces a new section 171AB to the *Drugs of Dependence Act* which penalise smoking cannabis within 20 meters of a child in a public place. We take this to mean that the Assembly is concerned with the effects of cannabis on any children and we think that the Assembly should also consider the effects of growing cannabis on children in a community garden.

We have no opinion about the rights or wrongs of allowing up to 4 marijuana plants to be cultivated by a person over 18, but we do see that there is a difference between someone growing in their private backyard or balcony and a shared community space like a COGS garden.

Now you may say that it is unlikely that anyone would use an open and public area like a community garden for such a crop and that may be so. We can tell you that one of our local garden convenors has already been approached to “ok” marijuana. So it seems it is possible.

Security

We are concerned about security of our gardens and gardeners at COGS gardens, most of which are located in areas some way from houses. Our gardens have been intermittently broken into, mainly to steal garden tools, but occasionally for sheer vandalism. We used to have a garden at Theodore which we had to close a number of years ago because it was continually vandalised. Therefore if, or when, people wanted to lawfully cultivate up to 4 marijuana plants then it seems to us that would represent an attractive and portable item which surely may attract potential thieves?

Taking that point further, if no one was injured or the only thing that was stolen were the marijuana plants then you could say that is simply a matter for the owner of the plants. But please bear in mind all of the gardens are fenced and gated so any damage to fences and gates would fall to COGS to cover. We can not guess how likely any potential break and enters would be, but we know COGS gardens have been broken into.

Our submission

We seek a specific exclusion of the operation of the amendments to a “community garden”. We also note at this point that there are other “community” gardens apart from those managed by COGS in the ACT. For example, the Canberra City Farm operates at Fyshwick and there were gardens at apartment blocks which successfully received community garden grants from the ACT government last year. We have not sought opinions from any of these parties; but thought it was useful to mention.

We also discussed whether the exclusion must be in the principal legislation but we think it should be, as it would be clear from the start that no marijuana plants can be grown in a community garden.

We would be happy to comment on the terms of any proposed amendment in the principal legislation.

