



**Rachel Stephen-Smith MLA**

Minister for Health

Minister for Families and Community Services

Minister for Aboriginal and Torres Strait Islander Affairs

Member for Kurrajong

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Mr Peter Cain MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

[scrutiny@parliament.act.gov.au](mailto:scrutiny@parliament.act.gov.au)

Dear Chair *Peter*

I write in response to Scrutiny Report 19, dated 1 August 2022, in relation to the proposed Government amendments to the Drugs of Dependence (Personal Use) Amendment Bill 2021 (the Bill). I thank the Committee for its thorough consideration of the proposed amendments.

I note the Committee's acknowledgement that the difference in approach for possession of multiple drugs for persons aged under 18 and those aged 18 and over reflects the difference in existing cannabis penalties for these groups following recent changes. The Government will continue to monitor these changes for any unintended consequences.

I acknowledge the Committee's concern about the proposal to include the list and amounts of illicit drugs that are eligible for a simple drug offence notice and a maximum penalty of one penalty unit in the Drugs of Dependence Regulation 2009, rather than in the *Drugs of Dependence Act 2009*, and that the basis for determining the drugs and amounts may be insufficiently explained.

I note it is common for lists of this nature to appear in regulations rather than in primary legislation. For example, the Criminal Code Regulation 2005 sets out quantities of controlled drugs relevant to serious drug offences. I also note that the list of drugs is limited at this time, reflecting the level of evidence available on the many other drugs included in the Criminal Code.

It may be appropriate in the future to add further drugs to the list as further evidence becomes available, in line with the Government's harm minimisation and health-based approach to illicit drug use. Including the list of drugs in regulation will facilitate any necessary changes, while still providing an appropriate level of oversight, as regulations are subject to disallowance or amendment by the Legislative Assembly.

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I note the version of the amendments and supplementary explanatory statement considered by the Committee did not include details relating to the list of drugs. The proposed revised supplementary explanatory statement for the amendments (enclosed) provides a detailed explanation of the process for determining the drugs and amounts, and I have included some further text in response to the Committee's concerns, noting that similar factors would be relevant to any consideration of changes to the list in the future, and adding further detail on the reasoning for including the list of drugs in regulation.

The amendments will ensure that the Bill can be implemented to achieve its goals – supporting people who have health needs to access the care that they need and reducing the stigma associated with illicit drug use to facilitate that access. I look forward to a robust debate on the Bill and amendments.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R. Stephen-Smith', with a stylized flourish at the end.

Rachel Stephen-Smith MLA  
3 August 2022

Encl (1)