

The Minority Report Legislative Council Legal and Social Issues Committee Inquiry into the Use of Cannabis in Victoria Introduction (Liberal and National Party of Australia)

This minority report by the Liberal Party of Australia (Victorian Division) (the Liberals) and the National Party of Australia – Victoria (the Nationals) has been produced in response to concerns held about some of the findings and recommendations in the majority report on the Legislative Council Legal and Social Issues Committee’s (the Committee) Inquiry into the Use of Cannabis in Victoria (the Inquiry). Our report is informed by evidence provided to the Committee, primarily by Victoria Police and others who raised significant concerns around the legalisation of cannabis, lack of appropriate education to young people as to the effects of cannabis and the harms of drug use. The Liberals and Nationals overarching concerns about the majority report are as follows:

- The report considers legislation to be the preferred option for cannabis reform and does not adequately assess or consider concerns raised by Victoria Police;
- Too much emphasis is placed on allowing recreational users to access cannabis instead of reducing drug use;
- Some of the recommendations contradict each other in a way that cannot be resolved;
- Characterising cannabis use as solely a health issue ignores the very real criminal justice issues that must be addressed when it comes to illicit drug use; and
- There is an overarching theme in the majority report that because cannabis use is perceived to be wide-spread, it should just be legalised. The Harms of Cannabis The Liberals and Nationals believe despite the majority report noting the dangers of cannabis on mental and physical health, its recommendations to legalise cannabis exacerbate the very real risk to public health from cannabis use. Of particular note, are comments made by Victoria Police in their submission to the Inquiry. It was stated, “Victoria Police notes that cannabis use is particularly harmful for young people. Further, the most vulnerable young people in our community appear to be the most impacted by cannabis – these young people are more likely to use cannabis and to suffer consequential harms.”¹ Appearing before the Inquiry, Assistant Commissioner Glenn Weir, Drug Portfolio Holder, Victoria Police, provided evidence that, “Victorian crime stats, through the Crime Statistics Agency, indicate a link between cannabis use and other offending. Over the last five years approximately 40 percent of cannabis use or possession offences occurred in conjunction with another offence.”² ¹ Victoria Police’s Submission to the Inquiry, p. 3

[https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S901 - Victoria Police.pdf](https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S901_-_Victoria_Police.pdf) ² Assistant Commissioner Glenn Weir’s Evidence to the Inquiry, p. 2

https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210629/FINAL-CANNABIS-VicPol.pdf

Assistant Commissioner Glenn Weir also noted that, “illicit drug use, and cannabis in particular [is] a common feature in family violence and sexual offending.” However, it was clarified that whilst this “cannot be seen as the cause of family violence or violence against women and children”, it “may reinforce or exacerbate factors that contribute to the frequency or severity of that violence.” The Liberals and Nationals do not believe recreational cannabis should be viewed as being a ‘safe’ drug when the impacts of use are leading to some very serious outcomes as was highlighted by numerous witnesses to the Committee including Victoria Police. The Liberals and Nationals support Victoria Police’s Cannabis Cautioning Program which, “functions to reduce these potential harms from prohibition by providing the option to caution a person for possession or use of cannabis, rather than charge the person with a criminal offence.” 3 Victoria Police were also able to provide the Committee with a breakdown of mental health transfers to Emergency Departments that had been recorded in Victoria between 1 July 2014 and 30 June 2020. These had increased by 17.1% from 9,365 to 18,096 4 (though it should be noted that these statistics are prior to the extensive second lockdown and subsequent lockdowns which have been accompanied by more complex presentations to Emergency Departments as a result of mental health issues and substance abuse). In addition to the comments made by Victoria Police, the Committee heard evidence from Dr Kevin Sabet of Smart Approaches to Marijuana (SAM). Dr Sabet is a former adviser on drugs to the Clinton, Bush and Obama administrations in the United States and provided extensive insight into cannabis policy development and the impact of legalisation in various states of the United States. He highlighted the high potency of tetrahydrocannabinol (THC) – the active ingredient of cannabis – in contemporary cannabis products that is far stronger than was found in cannabis products last century, even 10 years ago. He stated that cannabis comes in a variety of forms, including, “edibles – the candies, the cookies – the vaporisers, the blowtorches, all the different things that are out there.”5 Dr Sabet commented that the rise in THC potency is threatening public health in a number of ways, including a rise in the prevalence of ‘cannabis use disorder’, also known as addiction. Dr Sabet made reference to research in New York that found, “one in three past-year users will have achieved cannabis use disorder,” with several factors contributing to this, such as “availability and access” and “the potency and strength of cannabis and the normalisation of it as well.”6 Victoria Police’s submission also referenced the effects of legalisation in certain states within the United States. They stated, “The quantity of cannabis consumed by adults in Colorado has increased steeply since legalisation.” They also said, “This is problematic as heavy and regular use of cannabis 3 Victoria Police’s Submission to the Inquiry, p. 15

https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S901_-_Victoria_Police.pdf 4 Victoria Police’s Response to Question on Notice, p. 3

https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/QONs/20211607_Response_to_QONs_web.pdf 5 Dr Kevin Sabet’s Evidence to the Inquiry, p. 11

https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210325/FINAL-USE_OF_CANNABIS-SMART.pdf 6 Dr Kevin Sabet’s Evidence to the Inquiry, p.

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https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210325/FINAL-USE_OF_CANNABIS-SMART.pdf Liberals and Nationals’

is associated with much higher risks of dependence, mental health problems and other chronic adverse health outcomes.” More concerningly, they stated, “Following legalisation in Colorado, cannabis-related hospitalisations have increased.”⁷ The Liberals and Nationals are concerned that legalisation of cannabis would likely result in an increase in the number of regular users and a rise in associated mental and physical health issues. The aim of this Inquiry is to improve public health and it would be counterintuitive for more cannabis to be made available in a bid to reduce overall use, particularly as evidence from other jurisdictions shows a rise in cannabis use after legalisation. Further to concerns about addiction, users of cannabis products in jurisdictions within the United States have been found to not store cannabis products in a safe manner. This has resulted in children being poisoned following ingestion of these products. Other issues such as second-hand smoke, which is widely recognised as being a health problem when it comes to cigarettes, require further study, but early indications are that second-hand smoke from cannabis products is unhealthy. ⁸ The Liberals and Nationals fundamentally believe that young people should not be exposed to these products and despite the majority report aiming to restrict use of cannabis products to those aged over 18, it is likely such products will make their way into the hands of children who do not understand the consequences and dangers of consuming such products. Whilst acknowledging that individuals will still access these products even if they are illegal, as they do already, the Liberals and Nationals still believe there must be some deterrent. Dr Sabet, in his evidence to the Inquiry, said the issue of cannabis is analogous to the speed limit, “[...] we know that many people will exceed the speeding limit, a lot of people will exceed the speeding limit—a lot of people can exceed the speeding limit safely, by the way—but do we want to get rid of the speeding limit and say that ‘Well, because people are speeding, let’s get rid of the speeding limit’? Whereas I would say, ‘The speeding limit probably has some value of discouraging.’ It does not mean that if you are caught speeding you should have your life ruined, but it means that we should have some kind of societal disapproval even though there may be a good percentage of people violating it.”⁹ In protecting public health, the Liberals and Nationals believe legalising cannabis only seeks to provide ready access to cannabis products; it does not provide a deterrent to stop people using the products in the first instance. This is supported by the experience of jurisdictions who have legalised cannabis. Furthermore, long-term data on cannabis use in jurisdictions where it is legal is still some time off as legalisation of cannabis is still in its infancy. The Liberals and Nationals are of the view that it is in the interests of all Victorians to be able to see some more evidence from the data coming from those jurisdictions and longitudinal studies that are being conducted before any steps are taken towards legalisation. ⁷ Victoria Police’s Submission to the Inquiry, p. 16 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S901_-_Victoria_Police.pdf ⁸ Dr Kevin Sabet’s Evidence to the Inquiry, p. 12 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210325/FINAL-USE_OF_CANNABIS-SMART.pdf ⁹ Dr Kevin Sabet’s Evidence to the Inquiry, p. 16 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210325/FINAL-USE_OF_CANNABIS-SMART.pdf Liberals and Nationals’

Distinction between Medicinal and Recreational Use of Cannabis It is important to avoid conflating medicinal use of cannabis with recreational use of cannabis. Whilst the majority report does make this difference known, it is important to reiterate this point. Medicinal cannabis products do have legitimate medical uses and medicinal cannabis products are regulated by the Therapeutics Goods Administration (the TGA) and use of medicinal cannabis products is regulated by the Drugs, Poisons and Controlled Substances Act 1981 (Vic). Many arguments for the legalisation of cannabis seem to refer to medicinal cannabis. That is a separate matter to this Inquiry and one which has already been legislated for. Legalising recreational use of cannabis, which the majority report seeks to do, is a very separate matter and goes beyond providing access for legitimate medical reasons. It should be noted that the Liberals and Nationals are supportive of medicinal cannabis being used in the treatment of patients who may have complex health needs and may be suffering from intolerable and ongoing pain, where it is prescribed. Driving whilst under the Influence of Cannabis As discussed by Victoria Police at a hearing of the Inquiry, whilst it is acknowledged that cannabis use impairs one’s driving ability, establishing a metric for the level of impairment is “really difficult”, and unlike the 0.05 BAC limit for alcohol, establishing a limit for cannabis and other drugs is not as easy for a variety of reasons.¹⁰ The Liberals and Nationals are supportive of drug driving campaigns however we are concerned that whilst the majority report acknowledges the danger of people driving with recreational cannabis in their system, it is more focused on drug driving education campaigns than preventing people from driving with cannabis in their system in the first instance. Victoria Police is also concerned by the dangers of driving whilst on cannabis. Assistant Commissioner Glenn Weir stated in his evidence that, “Collision stats indicate that the crash risk associated with cannabis is double that of driving without drugs.”¹¹ Victoria Police’s submission also highlighted serious concerns about young drivers who use cannabis and their lack of awareness of the danger their cannabis use poses to their driving. Victoria Police referred to, “[a] study involving participants aged between 15 and 25 years of age who had used cannabis in the month prior, found that 57 per cent believed cannabis did not increase their crash risk. Alarming, 12 per cent believed cannabis improved their driving by ‘increasing awareness and concentration.’”¹² The risk of cannabis when it comes to impaired driving is clear and the Liberals and Nationals believe existing driving offences should remain. ¹⁰ Assistant Commissioner Glenn Weir’s Evidence to the Inquiry, p. 5 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210629/FINAL-CANNABIS-VicPol.pdf ¹¹ Assistant Commissioner Glenn Weir’s Evidence to the Inquiry, p. 2 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Transcripts/20210629/FINAL-CANNABIS-VicPol.pdf ¹² Victoria Police’s Submission to the Inquiry, p. 5 https://parliament.vic.gov.au/images/stories/committees/SCLSI/Inquiry_into_the_use_of_Cannabis_in_Victoria/Submissions/S901_-_Victoria_Police.pdf

Drug Education, Diversion Programs and Support for Drug Users Reducing the number of young people using drugs and ensuring they are aware of the dangers of cannabis is important. The Liberals and Nationals support drug education programs in schools and elsewhere, as these have been demonstrated to reduce the incidence of young people using illicit substances, including cannabis. If young people don't begin using illicit substances there is a lower likelihood of them progressing to 'harder' drugs of dependence in future, including heroin and methamphetamine. Evidence provided by Ms Kerri Barnes, Project Manager, Finding Strength, The Centre for Continuing Education (Wangaratta) stated that "a majority" of their offenders "nominate cannabis as their gateway drug and a lot of that is normalised for them through their environment as they're growing up."¹³ As acknowledged in the majority report, there are several contributing factors that go into why people use cannabis and other drugs, including intergenerational substance abuse, mental health issues, disadvantage, and others. The Liberals and Nationals again reiterate the point that one of the purposes of this Inquiry is to stop young people accessing and using cannabis. We do not believe that legalising cannabis and therefore providing greater access to cannabis addresses this issue. Allowing individuals to grow their own cannabis does not prevent young people from accessing cannabis. The majority report refers to the limit of warnings that can be provided by Victoria Police when it comes to minor cannabis offences. It argues that such limits ought to be removed, effectively allowing users to indefinitely use products without any incentive whatsoever to stop using drugs. The Liberals and Nationals find this concerning. The Liberals and Nationals support drug education programs warning of the harms of illicit substances, we support diversion programs that help get people off drugs, and we support other support services for those addicted to drugs. However, we do not support legalising cannabis. ¹³ Ms Barnes' Evidence to the Inquiry, p. 24

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Recommendation 1: That the Victorian Government does not legalise cannabis for recreational use.

Recommendation 2: That the Victorian Government supports Victoria Police's submission and evidence to the Inquiry noting the lack of evidence from international jurisdictions on any longitudinal studies conducted on the mental, physical and social impacts as a result of the legalisation of cannabis.

Recommendation 3: That the Victorian Government reviews current drug education programs in schools to determine if they are effective in preventing young people from using cannabis and in informing them of the dangers posed by cannabis and other illicit substances.

Recommendation 4: That the Victorian Government considers whether broader public health campaigns are required to inform Victorians of the dangers of drug driving, particularly the dangers of cannabis consumption.

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