MEDICAL CANNABIS USERS ASSOCIATION OF AUSTRALIA

PO BOX 1507 Beenleigh QLD 4207 mcua.australia@gmail.com
www.facebook.com/mcuaa mcuainc.org.au

10th June 2021

To: The National Transport Commission

Re: **The suitability of the changes in the updated draft guidelines Assessing Fitness to Drive (AFTD) for commercial and private vehicle drivers – public consultation phase. 11th June, 2021**

The Medical Cannabis Users Association of Australia (MCUA) Inc welcomes the opportunity to provide public feedback on the draft guidelines for Assessing the Fitness to Drive Review 2021. We note that the last review of these guidelines was in 2016, the same year that cannabis was first made legal for medicinal use in Australia. As such, this is the first time that cannabis has been significantly included in this type of review.

We believe that there are multiple issues that urgently need addressing - at a federal level - regarding the recommendations for prescription drugs and driving, especially in relation to medicinal cannabis. We also believe that it is wrong and discriminatory that Australians, legally prescribed cannabis for medicinal purposes should be forced to choose between taking their medicine or keeping their legal right to drive. We advocate that road safety will only be significantly improved when our laws are based upon carefully-gained scientific knowledge.

MCUA represents the growing number of Australian patients who are using cannabis for medicinal purposes. The role of MCUA is two-fold. We are a not-for-profit, patient-oriented organisation that has been working since 2014 to raise awareness about the many health benefits of cannabis. We educate, inform and guide patients. In addition, a large part of our focus is to educate and lobby governing officials and policy-makers about the urgency for law reforms in this area.

Medicinal cannabis is a fast-growing industry throughout Australia. Despite this, politicians, policy-makers and front-line health professionals are often lacking up-to-date information about cannabis. Common negative beliefs about cannabis are often based on propaganda. The stigmatisation surrounding cannabis is fuelled by poor-quality studies that are often designed to support current negative thinking. For example, it is common to see Australian studies that purport the harms associated with cannabis use, <u>without any controls for confounding factors</u> such as alcohol use, poly-drug use (including pharmaceuticals), mental health issues and/or factors often associated with low-socio-economic areas!

Cannabis has been legal in Australia, for medicinal use, for over 5 years. It has also been legal for recreational use and/or home-grown medicinal use throughout the ACT, for over 1.5 years. **It is time to address the harsh and discriminatory laws that apply to cannabis use, especially regarding patients using legal medicinal cannabis.**

This matter cannot wait another 5 years.

The proposed changes to Assessing Fitness to Drive are NOT appropriate, fair or reasonable.

By the time the next review of these guidelines comes around, there could be at least half a million Australian patients legally accessing prescribed cannabis for medicinal purposes.

The AFTD report acknowledges that most adults consider their driver's license to be critical for their continued independence, employment and recreation. **Why are these same personal rights not afforded to patients of medicinal cannabis?**

Under our current laws, patients treated with medicinal cannabis are being forced to choose between taking their prescribed medicine (to improve their health) and keeping their legal rights to drive. Most are forced to live with the daily stress of breaking the law, so that they are able to meet their normal adult obligations. Alternatively, patients using prescribed cannabis can choose to maintain their legal rights to drive and not follow the advice of their health professional and not improve their health! This has devastating impacts on the lives of an increasing number of Australians and action needs to be taken with urgency. The current laws are not evidence-based and are highly discriminatory.

Many patients using cannabis as prescribed, are able to reduce or stop taking opioids and benzodiazepines - drugs that are far more impairing - yet **not** included in the RDT saliva testing regime. Some patients have had to go back to these strong and addictive medications so they can continue to drive without fear of being caught in the RDT net.

The current laws do not target the drugs that are most commonly associated with road accidents. Subsequently, road accidents are not being minimised. The bias towards socially-acceptable drugs such as alcohol and common pharmaceuticals is reflected in your Fitness to Drive Submission. For example, the draft AFTD (page 22) says that "Alcohol should be avoided when taking medicinal cannabis due to the significant additive effects and the increased risk of having a crash".

Incredibly, these warnings regarding the additive effects of alcohol are not mentioned in the benzodiazepines or the opioids section, despite the fact that alcohol, benzodiazepines and opioids are all drugs that depress the central nervous system, slowing down messages between the brain and body, and impairing concentration and reaction times. Instead the AFTD (page 23) states that, "tolerance to the sedative effects of the longer acting benzodiazepines used to treat anxiety gradually reduces their adverse impact on driving skills."

Despite mentioning that "antidepressants are one of the more commonly detected drug groups in fatally injured drivers" it states in this draft AFTD that this simply reflects their wide use in the community. Could it also reflect that many Australians forget the significant additive effects of combining alcohol with these popular pharmaceuticals? Could it also reflect that general practitioners (who most commonly prescribe these drugs during 10-15 minute consultations) are not appreciating the combined effects of multiple depressant drugs and are not educating their patients? Instead it states on page 24 that "antidepressants can reduce the psychomotor and cognitive impairment caused by depression and return mood towards normal. This can improve driving performance." The statistics, gleaned from many years, seem to indicate that driving performance is not usually improved. Why are these issues not mentioned or addressed in this current AFTD review?

Most Australians believe that illicit drugs are the cause of most accidents and deaths on our roads, as these are what our police test for. The social-acceptance of the side-effects of common pharmaceuticals needs to be urgently addressed given these are the drugs most associated with deaths both on and off our roads.

The Australian National Coronial Information System (NCIS) investigates all road deaths and they publish yearly fact sheets regarding drug-related deaths in Australia. Cannabis did not even warrant a mention over any of the years!

In 2014 the coroners found that alcohol was the most significant drug related to secondary causes of deaths such as vehicle accidents. This was followed by amphetamines, benzodiazepines and opioids (in that specific order). These statistical conclusions were consistent across many years and their most recent data from 2018 is no exception.
https://www.ncis.org.au/wp-content/uploads/2019/10/NCIS-fact-sheet-Mortality-data-series-2014-Drugs.pdf https://www.ncis.org.au/wp-content/uploads/2021/05/NCIS-fact-sheet-Mortality-data-series-2018-Drugs.pdf

If road safety is the ultimate objective, why are these pharmaceutical drugs not being targeted for road-safety campaigns? Why is it legal for someone to drive if they are taking daily antidepressants, plus anti-anxiety medication, plus sleeping tablets (and then be allowed to drink up to the 0.05 limit) given it has been common knowledge, for many years that these are the drugs most often involved with vehicle crashes? Why are people allowed to legally drink alcohol plus take benzodiazepine medication and/or opioids given they are well known to cause increased depression to the central nervous system, resulting in significant sensory impairment?

A complacency has developed regarding the belief surrounding the safety of regularly prescribed pharmaceutical drugs. The AFTD could do a lot more in educating and reminding healthcare professionals about the safety risks (on and off our roads) that come with these pharmaceutical drugs - drugs that are taken by an enormous number of people across Australia.

It would seem appropriate that the revised AFTD be used to remind healthcare professionals that:

"Opioids can be harmful if misused or combined with other central nervous system depressants. There were 18,246 opioid-related deaths reported to an Australian coroner from 2001 to 2018. Opioid-related deaths more than doubled during this period from 609 deaths in 2001 to 1393 deaths in 2018. The seven most commonly identified opioid drugs contributing to death were morphine, codeine, heroin, methadone, oxycodone, tramadol and fentanyl. Opioid-related deaths frequently involved other drug classes such as sedatives and hypnotics, and antidepressants and antipsychotics."
https://www.ncis.org.au/publications/ncis-fact-sheets/opioid-related-deaths-in-Australia/

Medical Cannabis and Random Roadside Drug Testing.

1. There is currently a Zero Tolerance level for THC under the drug driving laws.

This is not compatible with the medical cannabis scheme, nor with the mounting evidence from international studies that shows people who use cannabis on a regular basis are NOT a threat to other road users [8]. This law discriminates against patients who are legally prescribed and it is

unfair, unjust and unreasonable to expect patients to stop driving or cease their medication, "in case" they are **randomly** tested for presence of THC but not necessarily impaired by it.

A recent Australian study by Lambert Initiative at the University of Sydney found that *regular cannabis users became less affected by THC than those who used cannabis occasionally*. This is not surprising and is the same for most other drugs.

People taking daily, prescribed cannabis fit into this “less affected” category.

These researchers discovered that users were impaired for between 3 and 10 hours after taking moderate to heavy doses of THC. However, THC can and is detected in the body for weeks after cannabis consumption - meaning users face fines, loss of licence and sometimes also loss of job, despite being unaffected and not impaired by the cannabis.[8,18]

(See References 8 – 12 for additional international studies on Cannabis and driving impairment.)

2. "*The most* defining element *of Australia’s overall approach to drug driving is* deterrence."

The National Drug Driving Working Group in their 2018 review of drug driving found "*the medical "marijuana" issue to be* non-problematic *in terms of current legislation*." [15]

How can the Drug Driving Working Group come to the conclusion that the current laws are non-problematic to the growing number of adult Australians being prescribed cannabis to treat their medical conditions?

This issue is extremely problematic for legally prescribed cannabis patients, especially as Random Drug Testing also involves a quota system that increases every year and is often targeted to certain areas, e.g. 200,000 tests required to be carried out in NSW in 2020 [2] and over 500,000 nationally.

Every day, medically approved cannabis patients are being caught in the RDT net and are losing their rights to drive. Deterrence should not be an issue for legally prescribed cannabis users. **Why do patients being treated with legal cannabis have less rights than all other patients?**

We don't deter patients using prescribed benzodiazepines, amphetamines or opioids from driving by taking their license and having them charged with a criminal offence even though these are the very drugs (other than alcohol) that are most commonly associated with road accidents.

3. Using NSW as an example, there are no statistics to show drug driving laws have had any downward impact on the road toll. [3]

The road toll in 1970 was 28.9 deaths per 100,000 population.

In 2014 it was reduced to just 4.1 deaths per 100,000 population.
This profound drop in road fatalities was due to the introduction of RBT for alcohol; seat belts; airbags and helmets; speed cameras and significant upgrades to highway and road infrastructure during that time.

In contrast, random drug testing increased substantially in 2015 in NSW but has had little if any impact on deaths per 100,000 of the population - 4.59 in 2015; 4.91 in 2016; 4.99 in 2017; 4.35 in 2018; 4.35 in 2019. Aside from small fluctuations between 2015 and 2019 there has been no significant drop in the road toll since expensive roadside drug testing was amped up in 2016, taking thousands of drivers off the roads.

Drug test statistics using NSW as an example: 5 years apart.
2015 62,247 tests with 9123 tested positive and 75 deaths attributed to (all) drugs
2019 166,350 tests with 9446 tested positive and 74 deaths attributed to (all) drugs

4. Faulty, unreliable equipment

Researchers from the University of Sydney have raised concerts over the reliability of mobile drug testing on drivers after 2 devices used by NSW Police were found to have produced inaccurate results when testing for cannabis.

Drivers first have their saliva tested using a "Securetec Drug-Wipe" if a positive reading is detected, drivers have a second saliva sample reviewed by the Draeger DrugTest 5000.

The study found the Securetec DrugWipe gave a **false positive reading 5% of the time** and gave a **false negative result 16% of the time.**

The Draeger DrugTest 5000 gave a **false positive reading 10% of the time** and a **false negative 9% of the time.** **(13,18)**

This is also reflected in anecdotal evidence from patients.
A current survey by MCUA of legally prescribed patients is showing around 10% of patient respondents have been tested randomly, **and** out of that 10%:

- **3.34% have lost their license for the presence of THC (cannabis)**
- 5.57% tested negative
- 0.56% have had their charges dismissed by a judge

64.54% of respondents indicated that being caught by random roadside testing and losing their license was their biggest fear/problem. In addition to the legal consequences, there are also insurance implications for patients who are convicted of drug driving offences. These fears are very real and carry significant, life-long consequences.

These types of fears are not experienced by any other patients using any other medicines, despite other medication groups being highly correlated with road accidents. Why are patients who are being treated with medicinal cannabis not afforded the same rights as all other patients who take legally prescribed medicine?

Some **patients have no option but to drive themselves,** especially if they live in regional areas where public transport is limited or non-existent and/or they live alone. They have to either stop taking their cannabis medication for an unstipulated amount of time (as everyone is different) or run the gauntlet every time they get behind the wheel, especially in areas that are targeted more heavily by police. When patients are forced to stop taking prescribed medication, in particular, for pain, epilepsy or anxiety, their driving skills are affected more by their condition than by the cannabis they take.

Conflicting information abounds on test results. In evidence given by Dr Judith Pearl of the police's Impaired Driving Research Unit in Lismore Court,she said:

> ***'****if it is ingested it will disappear out of the oral fluid very rapidly, or if it is ingested in a capsule form it will not even be detected [at all]'. If you take THC orally by capsule*

or by suppository then it is not possible to have a level of THC detectable in oral fluid"

Magistrate commented: So, criminal liability depends on the mode of intake. This also means that someone could be significantly affected by cannabis, but escape detection by police because they had taken a capsule, while a person who had smoked cannabis 24 hours earlier and was no longer affected, would face prosecution. [17]

Patients are increasingly being prescribed cannabis "flower" for vaporising. Therefore, if what Dr Pearl says is correct, then they are more likely to test positive at an RDT. So much police time and court time could be saved if patients who are taking legally prescribed cannabis could be waved through RDT operations, after showing police their approval and/or prescription documents at roadside, or having an exemption noted on their license. It would also save an enormous amount of stress and heartache for the growing number of Australian patients that are prescribed cannabis by their health professionals.

In your draft AFTD you acknowledge that currently it is not legal anywhere in Australia for medicinal cannabis patients to legally drive with THC in their system. Despite this, medicinal cannabis products carry the same label that is applied to drugs like many other pharmaceuticals that have potentially impairing side-effects i.e., "*This medication may cause DROWSINESS and may increase the effects of alcohol. If affected. do not drive a motor vehicle or operate machinery*". This in itself is rather misleading and confusing for some medicinal cannabis patients.

5. The new AFTD guidelines need to recognise and reflect that there are a growing number of people who use Cannabis on prescription and allowances must be made.

By contrast, patients taking prescribed amphetamines appear to be excused under the current guidelines [6] (i) and in the review document [7] (ii)

(i) 7.2.10 Other psychiatric conditions
Specialist advice may need to be sought regarding drivers who have conditions such as attention deficit hyperactivity disorder (ADHD) or, if a person is prescribed stimulants (e.g. dexamphetamine) for treating ADHD, ***this should be stated in the advice provided to the driver licensing authority, in case the person is subject to drug testing when driving in the future.***

This type of "exemption" needs to be applied to prescribed cannabis patients.

NO other legally prescribed medication carries a warning that a patient must stop taking their medication for an unspecified length of time before driving or they could lose their license, be fined and convicted of a criminal offence if swept into an RDT operation. Most mood altering pharmaceutical medications leave driving choice up to the discretion of the patient. These drugs carry warnings on the pack but NO threat of police action if they do drive or operate machinery.

One of our members, a truck driver for over 30 yrs with a clean driving record, had used cannabis for quite a number of years to reduce his back pain, enabling him to drive for long hours pain free. He decided to go the legal route and when he showed his boss his approval, he was sacked on the spot due to this zero tolerance rule. The repercussions of these current drug driving laws have devastating impacts on patients. The only employment this man had ever had was driving related. If he had been on opioids, amphetamines or benzodiazepines, this would not have happened!

Cannabis straddles both the illicit and legal market.

The AFTD draft report mentions that, "Possible drug-seeking behaviour in those directly requesting cannabis as an alternative to, or to supplement, medicinal cannabis should be kept in mind. Medically prescribed cannabis is distinct from other sources of cannabis that people may access for illicit or unregulated medicinal purposes." The AFTD report does not acknowledge the problems associated by many Australians in relation to legally accessing medicinal cannabis nor does it acknowledge that it is legal for Australians that live in the ACT to grow their own cannabis medicine.

All medicinal cannabis groups and associations regularly report that Australians are commonly self-treating medical conditions with illegally sought cannabis due to the high costs and difficulty of access, that is common in the legal pathways. "*The high cost of legal medicinal cannabis products in Australia should be considered a significant barrier to access, causing legitimate patients to seek illicit cannabis for therapeutic use"*
Current barriers to patient access to medicinal cannabis in Australia Submission 7 www.aph.gov.au

How could the document and support materials be improved?

Consideration needs to be given to the way in which prescribed cannabis users are treated at RDT. Current legislation is NOT considering the rights or the needs of patients who are treated with cannabis. To punish all medical users interferes with their mobility and independence and takes away their right to drive in a blanket way, not by fair and just means.

*"While many drugs have effects on the central nervous system, **most**, with the exception of benzodiazepines, tend **not** to pose a significantly increased crash risk when the drugs are used as prescribed and once the patient is stabilised on the treatment …"*

Cannabis is no different to other medications. Patients using cannabis as prescribed, should be given the same legal rights as other prescription drug users.

With so much evidence mounting and prescribed cannabis use on the rise, rules must change to reflect that evidence. Unfortunately our governments are ignoring this evidence and Bills to change the drug driving rules put forward have been rejected or held over in NSW and Vic and one is currently pending in SA. On 26th May this year, Federal Qld National Party MP and ex police officer Llew O'Brien spoke out in Parliament about the need for medical cannabis patients to be granted exemption from RDT as there is no legal defence available to them when caught in the net of RDT operations.

A guideline review such as this AFTD, may be the only chance for real evidence-based changes to be made that will reduce the adverse impact of current laws on legally prescribed cannabis patients.

The guidelines in the medical cannabis section mention:

> *Strategies to mitigate or manage THC impairments include a 'start low, go slow' approach to treatment and administration during periods when an individual is unlikely to drive (e.g. at night before sleep).*

This *start low, go slow* is always the strategy when commencing treatment with cannabis, however it is not a common strategy used when prescribing other pharmaceutical drugs that are known to produce sensory impairment.

The guidelines regarding "using THC only *at night before sleep"* may not be practical to maintain its medicinal effect for people who need it during the day and does not mean that the patient would receive a negative result if tested by an RDT.

The guidelines also suggest that: *"A period of restricted or non-driving, generally a minimum of four weeks, may be considered while adaptation to medication and treatment outcomes are determined."* [6,7]

This "restricted driving" seems to be a reasonable compromise. It could be implemented as a possible course of action when high THC products are prescribed, **especially for novice users.** As o*nset and duration of impairing effects will be different for each individual* it could be introduced on a case by case basis.

Random roadside drug testing is aimed at punishing drivers by finding the presence of cannabis (in trace amounts) and this does not equate to impairment. Alternative approaches could ensure that patients who are prescribed cannabis are not punished under roadside drug testing.

When it comes to Insurance issues, that is a matter for insurance companies and much too big an issue for me to comment on here, other than to say that medically prescribed cannabis should be treated in the same way as all other pharmaceutical drugs if the patient is involved in or is responsible for an accident.

What support or training could be provided to healthcare professionals to increase usage and knowledge of the guidelines?

The Australian Institute of Health and Welfare state that drug induced deaths are more likely to be due to prescription drugs, rather than illegal drugs. They also state that prescription rates have increased (between 2015 and 2020) for antipsychotic drugs, antidepressants and psychostimulants and that 82.7% of these medications are being prescribed by general practitioners [during 10-15 minute consultations] , as opposed to [longer consultations] with psychiatric specialists.
https://www.aihw.gov.au/reports/mental-health-services/mental-health-services-in-australia/report-contents/mental-health-related-prescriptions/prescriptions
https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/impacts/health-impacts

General Practitioners need more education and procedures that remind them of the large amount of evidence that points to commonly prescribed pharmaceutical drugs being the drug groups most responsible for accidents and deaths, both on and off our roads. It would seem that healthcare professionals need more education regarding the impairment risks that are associated with the drug groups amphetamines, benzodiazepines and opioids. Given it is common for patients to be prescribed multiple drug types that suppress the central nervous system, the evidence suggests that guidelines need to be tightened in these areas.

The Australian cannabis industry is thriving and evidence is mounting about the safety and efficacy of cannabis as a medication to treat many physical and mental health conditions.

The number of people who are being prescribed cannabis has increased dramatically in the last 12 months and over 100,000 approvals have now been issued by the TGA[(1)]. This number will grow exponentially as more doctors come on board to prescribe.

These guidelines are important, especially as medicinal cannabis is still relatively new in Australia and many healthcare professionals are still learning about its therapeutic uses. Healthcare professionals, insurance companies, patients and all other road users need to be reassured that Australians who are prescribed medicinal cannabis do not pose any increased threats to road safety. This would be achieved by changes in our laws surrounding medicinal cannabis users and drug driving. Medicinal cannabis patients need their licenses like all other patients and they should not need to live with the daily stress of potentially losing their licenses, as well as their livelihoods.

Please see below reference list and additional information.

Thank you for the opportunity to provide feedback on this very important review and we hope that we have successfully demonstrated the urgency for reforms in these areas. .

Yours Sincerely

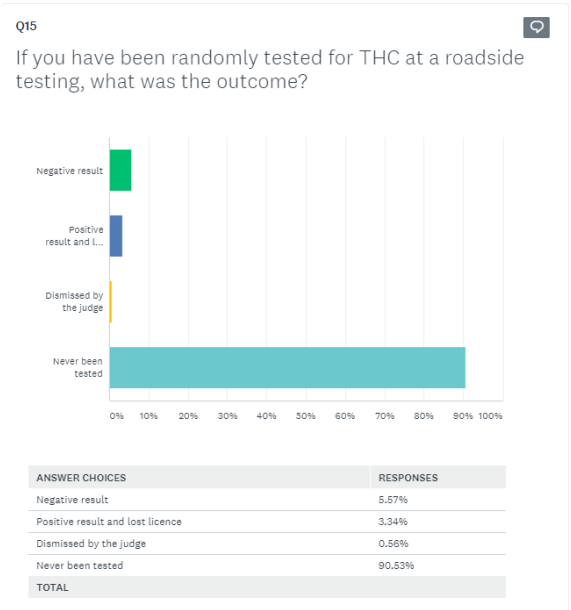
REFERENCE LIST

1 The Therapeutic Goods Administration (TGA) has approved **100,000 prescriptions** for medicinal cannabis in Australia. The study also found regular cannabis users became less affected by THC than those who used cannabis occasionally. *And David Helpern quotes* https://www.abc.net.au/news/2021-04-11/new-research-reveals-how-long-cannabis-impairment-lasts/100056998?fbclid=IwAR2PBl0__PhnpF86bkHICol-hqgRzlGIxhY5NO8ocW5h-jHZGPdVEZcNHFs

2 "MDT can be conducted at roadside operations along with random breath testing (RBT), or by NSW Police in vehicles patrolling our roads. MDT has been increasing and by the end of **2020 police will have doubled the number of roadside drug tests to 200,000 per** year. https://roadsafety.transport.nsw.gov.au/stayingsafe/alcoholdrugs/drugdriving/index.html

3 **Road toll**
https://roadsafety.transport.nsw.gov.au/statistics/index.html
https://www.smh.com.au/national/nsw/nsw-police-increases-roadside-drug-testing-20200910-p55uha.html

4 Crash Fatality Rates After Recreational Marijuana Legalization in Washington and Colorado
Three years after recreational marijuana legalization, changes in motor vehicle **crash fatality rates** for Washington and Colorado were not statistically different from those in similar states without recreational marijuana legalization.
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5508149/?fbclid=IwAR03nBxDM174YPvxWggULPgpObdzh80E7NxpyQZJS5cgCz_CTvOPufuwWhQ

5 

ANSWER CHOICES	RESPONSES
Negative result	5.57%
Positive result and lost licence	3.34%
Dismissed by the judge	0.56%
Never been tested	90.53%
TOTAL	

6 Current AFTD guidelines 2017
https://austroads.com.au/__data/assets/pdf_file/0022/104197/AP-G56-17_Assessing_fitness_to_drive_2016_amended_Aug2017.pdf

7 Draft AFTD Guidelines 2021

https://www.ntc.gov.au/sites/default/files/assets/files/DRAFT_AFTD%202021_Public%20consultation_0.pdf

8 The LAMBERT initiative study also found **regular cannabis users became less affected by THC than those who used cannabis occasionally. THC can be detected in the body for weeks after cannabis consumption**, meaning users can face fines and loss of their licence, despite being unaffected by the drug.

https://www.abc.net.au/news/2021-04-11/new-research-reveals-how-long-cannabis-impairment-lasts/100056998?fbclid=IwAR09yQc0JYGoOHCEVY2riZ6GT_IwtA7BvzdRAp5eUPuKinRZwDLpkk5GQm8

9 The first study to analyze the effects of cannabis on driving performance found that it caused almost no impairment. The impairment that it did cause was similar to that observed under the influence of a legal alcohol limit. ….Researchers at the University of Iowa's National Advanced Driving Simulator carried out the study, sponsored by National Highway Traffic Safety Administration, National Institute of Drug Abuse, and the Office of National Drug Control Policy… In fact, some would argue that it makes them drive safer or slower.

https://now.uiowa.edu/2015/06/ui-studies-impact-marijuana-driving

10 According to a newly released study (November 2019) subjects who consumed cannabis typically decrease their driving speed and demonstrated few other significant changes. The study, titled *Acute and residual effects of smoked cannabis: Impact on driving speed and lateral control, heart rate, and self-reported drug effects,* was published in the journal *Drug and Alcohol Dependence.* https://pubmed.ncbi.nlm.nih.gov/31678833/

11 Drivers who test positive for the presence of THC in blood are no more likely to be involved in motor vehicle crashes than are drug-free drivers, according to a federally sponsored case-control study involving some 9,000 participants. The study, published by the United States National Highway Traffic Administration (NHTSA), is the first large-scale case-control study ever conducted in the United States to assess the crash risk associated with both drugs and alcohol use by drivers. https://www.nhtsa.gov/press-releases

12 There appears to be a poor and inconsistent relationship between magnitude of impairment and THC concentrations in biological samples, meaning that per se limits **cannot** reliably discriminate between impaired from unimpaired drivers. There is a **pressing need to develop improved methods of detecting cannabis intoxication and impairment**. https://pubmed.ncbi.nlm.nih.gov/33544004/

13 Researchers from the University of Sydney have raised **concerns over the reliability of mobile drug testing** on drivers after two devices used by NSW Police were found to have produced inaccurate results when testing for cannabis https://www.smh.com.au/national/nsw/mobile-cannabis-tests-on-drivers-gave-inaccurate-results-researchers-say-20190912-p52qm6.html

14 If the quick screening result and the lab result match, you have a true positive or true negative result. If the quick screening result and the lab result don't match, you have a false positive or false negative result. https://www.**securetec**.net/en/news-drugwipe-5-min-en/

15 **Calls renewed for NSW Police to ditch faulty roadside drug tests amid detection quotas …** study found that the Securetec DrugWipe gave a **false positive reading …** https://www.smh.com.au/national/nsw/calls-renewed-for-nsw-police-to-ditch-faulty-roadside-drug-tests-amid-detection-quotas-20200628-p5570d.html

16 The most defining element of Australia's overall approach to drug driving is deterrence. Over the past fifteen years, Australia has pioneered this model of deterrence via the development of the largest roadside drug screening and testing program in the world. Operationally, this strategy is built around a high-visibility and high-volume mass roadside-screening program. This approach is deliberately designed to create a roadside environment that is at odds with an individual's belief that they are unlikely to be apprehended. Unlike many other international jurisdictions, which are vastly different in context, a program of this size and nature can only be undertaken via oral fluid testing.

One of the present and near future **issues that needs to be considered, is the introduction of medical marijuana, which may contain THC** as the active component. The Working Group found the **medical marijuana issue non-problematic in terms of current legislation.** The Working Group agreed that driving with THC above the specified limit is an offence and should remain so. Subsequently, the Working Group recognised the need for education programs around medical marijuana use to include information about drug driving. https://www.infrastructure.gov.au/roads/safety/publications/2018/pdf/second_gen_approach_roadside_drug_testing.pdf

17 https://www.echo.net.au/2019/04/roadside-drug-testing-flaws-exposed-local-court-case/

18 Our panel of experts discusses a range of issues with cannabis and driving in Australia. https://www.youtube.com/watch?v=GlDikWOshbc

19 Hansard, Medicinal Cannabis Mr LLEW O'BRIEN (Wide Bay) Wednesday, 26 May 2021 HOUSE OF REPRESENTATIVES Page 105

https://parlinfo.aph.gov.au/parlInfo/download/chamber/hansardr/c5509ccf-1b03-458d-b5b3-5fa0819c14fb/toc_pdf/House%20of%20Representatives_2021_05_26_8792.pdf;fileType=application%2Fpdf

20 The Truth: Roadside Drug Testing Doesn't Reduce Road Trauma https://www.drivechangemc.org.au/the-truth-roadside-drug-testing-does-not-impact-road-trauma/?utm_source=facebook.com&utm_medium=referral&utm_campaign=drug-detection-trauma&fbclid=IwAR23F9Qg83eJzaSs5ZgUfRVURDeWnBu1nwR71zgnGim7BiBkQEiosdGyetg

The text below is from Hansard Wednesday, 26 May 2021; HOUSE OF REPRESENTATIVES

Medicinal Cannabis

Mr LLEW O'BRIEN (Wide Bay—Deputy Speaker) (19:55): As a former police officer, I know only too well the devastation that driving while impaired by drugs can have on people, their families, first responders and communities. It can be devastating. As a member of parliament, I have been made aware of some remarkable improvements in the quality of life when people have been prescribed medical cannabis by a doctor for certain conditions. In both of these jobs, I've witnessed the real and serious repercussions that a loss of a drivers licence can have on a person. It can cause isolation and cut them off from vital services.

In Australia, we have a dichotomy, where thousands of patients are finding relief due to the introduction of medical cannabis as a result of the work of advocates, researchers and government but, in finding this relief, these people discover a new problem. You see, patients prescribed some form of medical cannabis products are not allowed to drive under state and territory laws. Indeed, regional magistrate David Heilpern from Northern New South Wales resigned for this reason. He enforced a law where people who had consumed cannabis and driven a car many days after consuming it would front the court and lose their licence. Often, as a result of this, they would lose jobs and, eventually, relationships because, as the law stands today, someone with any trace of tetrahyrdocannabinol, THC, in their system, who may not have any impairment and present no risk to themselves or other road users, can face prosecution. Up to 75 per cent of patients using medicinal cannabis, nearly 50,000 Australians, are at risk of prosecution when they drive..

A law that penalises people on the basis of safety when there is no impairment can only serve to undermine vital traffic laws. The University of Sydney's Lambert Initiative has published world-leading research on cannabis effects on driving, including magnitude and duration of impairment following various doses of formulations of THC and CBD. Lead researchers informed me about the lack of high-quality scientific evidence around medicinal cannabis effects on drivers. Every study to date has been performed using healthy volunteers. When cannabis is used to alleviate a debilitating medical condition under careful supervision, they believe it may have minimal effects on driving. A controlled clinical trial examining this could provide clinical evidence to inform debate and pave a rational path for legislative reform that may allow patients a reasonable exemption to drive under certain conditions.

These laws penalise regional patients who don't have access to public transport and who have to travel long distances to go to work, to go shopping and to access services. These existing laws are a major barrier for patients who need and benefit greatly from medicinal cannabis but can't take it because it means they can't drive. Every month there are about 10,000 new approvals to the medicinal cannabis scheme across Australia. Every year in New South Wales alone, there are 100,000 roadside drug tests. These result in about 10,000 court appearances and, as more patients turn to medicinal cannabis and regional transport remains inaccessible, these numbers will get higher.

Other drugs are known to impair driving performance but our legislative approach is very different. Patients using opioids or benzodiazepines are permitted to drive so long as they don't feel impaired. The legislative approach of Australia is the most severe of any country in the world that has legal access to medicinal cannabis. Unlike alcohol, there is no simple correlation between blood or oral fluids, THC concentration and impairment. We urgently need more research like that proposed by the Lambert Initiative to inform change that is safe, that is fair and that maintains confidence in our traffic laws and addresses what is and will continue to be a growing problem.

https://parlinfo.aph.gov.au/parlInfo/download/chamber/hansardr/c5509ccf-1b03-458d-b5b3-5fa0819c14fb/toc_pdf/House%20of%20Representatives_2021_05_26_8792.pdf;fileType=application%2Fpdf