

Australian Greens additional comments

- 1.1 If you wanted to intentionally create an unregulated market driven system to maximise profits for organised and transnational crime you would create Australia's illicit drug market.
- 1.2 While many of the majority report's recommendations are supportable and, if implemented, would provide useful modest steps towards a more evidence based national drug policy, this report is a missed opportunity for a more honest and frank assessment of the structural failures in Australia's policing of drugs.
- 1.3 The majority report celebrates that in FY 2022/23 the Australian Federal Police (AFP) seized 26.8 tonnes of illicit drugs and precursors domestically. What was the result of this? Other than for extremely short term localised spikes the availability and price of drugs in Australia did not alter as a result of any of these activities.
- 1.4 The most recent National Wastewater study that was undertaken just two months after the end of the 2022/23 FY found a 17% increase overall in methamphetamine, cocaine, heroin and MDMA use from previous years. The estimated 10.4 tonnes of drugs that were consumed had a market cost of some \$12.4 billion with 85% of this market being methamphetamine.
- 1.5 What we can say for certain when looking at these figures is that pillar one of the *National Drug Strategy 2017–2026*, 'supply reduction' is failing. So too is pillar two 'demand reduction' and as a result pillar three 'harm minimisation' has also toppled over.
- 1.6 Of course some interest groups do benefit from these failures. As the Australian Criminal Intelligence Commission (ACIC) said in delivering the latest wastewater study:

This [the \$12.4 billion] is money laundered domestically and out of Australia to line the pockets of serious organised crime bosses offshore.¹
- 1.7 These organised crime bosses no doubt regularly praise the aggressive and doomed policing efforts pushed by both Labor and the Coalition that keep demand solid, treatment hard, prices high and profits ensured. The majority report will leave them comforted that nothing will change and their ongoing super-profits are as solid as ever.
- 1.8 The scale of the profits is immense and entirely created by the illegal market structure adopted by state and federal jurisdictions. As the ACIC made clear:

¹ Australian Criminal Intelligence Commission (ACIC), *Report 21 of the National Wastewater Drug Monitoring Program*, 13 March 2024, p. 2.

There is a significant mark-up in the price of the 4 major illicit drugs once they reach the Australian border. For example, Mexican cartels currently pay Colombian farmers US\$1,000 per kilogram for dried coca leaf. This price almost doubles once processed into cocaine and by the time it reaches Australia, cocaine can be sold for more than A\$300,000 per kilogram.²

1.9 The ACIC's evidence was that such enormous profits are reaped from a single successful shipment to Australia that multiple police interdictions and repeated losses will not change the basic dynamics in the market or slow supply because the:

... most sophisticated serious and organised crime syndicates will factor in losses of entire shipments as part of their business model, knowing they have more ventures on the water on the way to Australia.³

1.10 When it comes to cannabis there was no cogent evidence provided to the committee of the value of the Australian market. The scale of use evidenced in the National Wastewater study, which has a distinctly rural and regional bias, would suggest that it is well north of \$10 billion a year. This drug is largely grown domestically with a market dominated by bikie gangs and organised crime. Again they will no doubt be pleased that the majority report indicates their future returns are also secure.

1.11 Not only does this market structure keep organised crime income assured it also assures ongoing resources for the police, lawyers, courts and jails used to process the largely small scale users and players who are caught in the net. It is a system where all the engaged and powerful players gain resources with the cost paid for by society at large and individual users in particular.

1.12 A deeply disturbing statistic provided to the committee by the ACIC showed there were 122,824 individual drug arrests for personal use in FY 2020-21.⁴ This is a wave of harm, pain and punishment to people who have no control over the market and too often are facing addiction and other challenges. This is the pointy end of the national drug strategy and it is wrong.

1.13 It was not just in the spheres of crime, policing and health that this produces harm. The evidence is that it is also corrupting and subverting other parts of government and the economy. The Department of Home Affairs and the Australian Border Force (ABF) made this clear in their evidence to the committee. Home Affairs informed us that Operation Ironside had 'confirmed that criminal infiltration within supply chains had reached a scale of national

² ACIC, *Submission 54*, pp. 2-3.

³ Ms Virginia Hartley, Acting Deputy Chief Executive Officer, Intelligence, ACIC, *Committee Hansard*, 26 September 2023, p. 38.

⁴ ACIC, *Illicit Drug Data Report 2020-21*, October 2023, p. 149.

concern'.⁵ The ABF gave some clearer understanding of the scale of this corruption stating that 'about a thousand individuals that we've identified and a hundred businesses across the supply chain that we're concerned are involved in illicit activities'.⁶

- 1.14 Society should be deeply troubled by a business-as-usual approach that sees billions of dollars in policing spent shoring up an illegal market that in turn creates tens of billions of profit for criminals who supply into an entirely unregulated industry and corrupt our economy and government agencies in the process.
- 1.15 These fundamental failures should be the subject of serious and considered review when the new National Drug Strategy is negotiated in the coming two years. It must start with an honest assessment that the current strategy has failed and that failure was inevitable given its aggressive reliance on policing.
- 1.16 A new national drug strategy should look to the international evidence of the benefits of legalising cannabis as a first step in disempowering organised crime. That alone would free up policing resources to address urgent needs like family and domestic violence and fresh investment into drug treatment and community resilience programs. This will simultaneously take billions in profits out of organised crime. These are things we know will work, just as we know the continued policing of cannabis will fail.
- 1.17 The new National Drug Strategy should also look at de-criminalising personal use and possession of all drugs and at ways to provide greater assistance for people who use drugs with readily available rehabilitation services, widespread pill testing and real time information on identified dangerous products in circulation. This will in turn allow fewer policing resources to be used and for policing to be focused on disrupting commercial supply and fighting the transnational criminal networks that will continue to target Australia.
- 1.18 The overwhelming evidence before the committee supported the strategies and responses identified above. A fair viewing of that evidence by the majority would have led to quite different recommendations to those adopted by the majority report from the committee.
- 1.19 There is however merit in the broad brush strokes contained in each recommendation, even if the manner in which the majority considers they should be progressed differs from the approach of the Greens.
- 1.20 In regard the seven recommendations made in the majority report the Australian Greens respond as follows:

⁵ Department of Home Affairs, *Submission 63*, p. 8.

⁶ Mr Tim Fitzgerald, Acting Commissioner, Australian Border Force, *Committee Hansard*, 26 September 2023, p. 21

Recommendation 1

6.15 The committee recommends that the Australian Government re-establish a governance structure under the National Cabinet architecture, bringing together representatives with responsibility for law enforcement and health across the Commonwealth, states and territories, to oversee the implementation of the National Drug Strategy.

- 1.21 This recommendation, if implemented in good faith, would be a sensible way of starting a national review of drug policing and drug policy. The role of health professionals must be at least co-equal with law enforcement and organisations such as the NSW Users and AIDS Association that represent people with lived experience, should also have a seat at the table.

Recommendation 2

6.19 The committee recommends that the Australian Government undertake a comprehensive evaluation of the *National Drug Strategy 2017–2026* as a matter of priority to measure the successes and shortfalls of the existing Strategy and inform the development of the next National Drug Strategy.

- 1.22 Again this recommendation, if implemented in good faith, should assist in formulating a new National Drug Strategy based on global best evidence. It goes without saying that unless an honest assessment of the failures of the current strategy is undertaken any new plan will inevitably fail.

Recommendation 3

6.23 The committee recommends that the evaluation of the *National Drug Strategy 2017–2026* (recommendation 2 above), include a review by the Australian Government, in consultation with state and territory governments, of the current resourcing for the three pillars of the Strategy. Should the differences still be substantial, consideration should be given to increasing funding for demand and harm reduction measures. Any additional allocation in funding should not come at the expense of funding for law enforcement's supply reduction efforts.

- 1.23 The concept of further investment in demand and harm reduction measures is supported and a rational response to the evidence before the committee. However it is unconscionable to continue with the aggressive national policing strategy that sees over 120,000 people a year criminalised for personal use of drugs.
- 1.24 There are very clear benefits to be had from reducing funding for law enforcement's policing of individuals for drug use and possession. Those savings should then be redirected in accordance with the principles of justice reinvestment. This would deliver significant resources to help lift up and empower the communities that are hardest hit by current drug policies with drug rehabilitation services and community resilience programs.

Recommendation 4

6.46 The committee recommends that the Australian Criminal Intelligence Commission undertake research to clarify what proportion of people arrested for possession of illicit drugs are concurrently charged with another criminal offence and would not have come to law enforcement attention but for the concurrent (non-drug related) offence.

- 1.25 Understanding how aggressive policing of drug possession drags people more deeply into the criminal justice system is important for policy makers to understand the impacts of our current law. Whether this work is undertaken by the ACIC or if they are best co-operating with academics or other stakeholders is an open question. It is likely a collaborative approach to this research would be most successful and it should be done with alacrity to help inform the next national drug strategy.

Recommendation 5

6.51 The committee recommends that the Australian Government commission research to understand the impacts of decriminalisation in Australian and international jurisdictions where reforms have been implemented. Such research should, where possible, evaluate the longitudinal impacts on individuals, communities and law enforcement agencies to provide an evidence base to inform future policy decisions.

- 1.26 The committee had multiple submissions supporting decriminalisation and legalisation of certain drugs based on the now very considerable international experience. While further study is always useful it is critical this research be undertaken by a genuinely independent body and that it also consider the reality of the current illegal market. No legalised or decriminalised market will remove all harms from drug use. The appropriate comparator therefore is not a never-to-be-achieved state of zero drug use but rather the existing levels of illegal unregulated drug use and the multiple harms that causes.
- 1.27 This is the study that should be undertaken and the government should commit to publicly releasing the study and acting on its recommendations.

Recommendation 6

6.56 The committee recommends that the Australian Government support research to develop an effective roadside cannabis impairment test to be used by law enforcement, including the current work being undertaken in Victoria.

- 1.28 Every submission on drug driving and cannabis made it clear the current system is broken. People are losing their licence, often their jobs and sometimes their liberty not because they are impaired while driving but because they have the smallest detectable amount of cannabis in their system.
- 1.29 There is an urgent need to establish a system of drug testing for cannabis that is based on impairment not presence and there is a strong case to extend this work to include common prescription drugs such as benzodiazepines that are often identified as causative of road trauma.

Recommendation 7

6.68 The committee recommends that future drug awareness campaigns run by the Australian Federal Police be evidence-based and subject to evaluation.

- 1.30 The uniform evidence before the committee was that the ‘faces of meth’ campaign run by the AFP was a failure. This campaign entrenched stigma, it failed to reduce use and it cost significant sums of public money. It is useful that the AFP have committed to only using evidence based communication methods going forward.
- 1.31 This is a matter that the responsible ministers, in this case a series of Attorneys-General, should have identified if they had oversighted the agency with due diligence before now. It shows the need for far closer parliamentary oversight of the AFP in its use of public funds.

Senator David Shoebridge
Greens Senator for New South Wales