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Member for Ginninderra

Mr Tom Duncan
Clerk
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

3 March 2026

Dear Mr Duncan 

Thank you for your letter concerning petition E-PET-046-25, lodged by Thomas Emerson MLA regarding ACT Drug Driving Law Reform for Medicinal Cannabis Patients.

The petition calls on the ACT Government to change the laws of the *Road Transport (Alcohol and Drugs) Act 1977* to no longer automatically suspend medicinal cannabis users' licences if they are found to have delta-9-tetrahydrocannabinol (THC) in their system and are not impaired. It also requests the ACT Government investigate how to test levels of impairment from THC for drug driving, rather than relying on the presence of THC in an individual's system.

The ACT Government recognises that medicinal cannabis use may bring significant benefits to patients, including increased independence. We agree that illness should not have to mean less outings from home, and we appreciate that in this sense a Zero Tolerance policy may limit the benefits of medicinal cannabis. However, in a road safety context we must balance this consideration against the risks and potential impacts on other road users and the community more broadly.

The ACT Government's approach to drug driving is informed by *Vision Zero*, which is a policy outlined in the *ACT Road Safety Strategy 2020-2025*. Vision Zero aims to achieve zero deaths or serious injuries on our roads. With this goal in mind, policy decisions must be based on the best available evidence that reflects consensus advice and appropriately balances community safety against road safety risk.

This means that an amendment to the *Road Transport (Alcohol and Drugs) Act 1977* of the nature the petitioners are seeking would only be pursued if it is supported by comprehensive evidence. It also means that while laws adopted in other jurisdictions will be reviewed as part of building an evidence base for reforms, the Government will only seek to introduce them in the ACT if they are proven to be effective in other jurisdictions.

We understand that THC impairs both cognitive and psychomotor function. For a driver this can result in decreased car handling performance, poor motor coordination, slower reaction times, reduced

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perceptive skills, impairment of time and distance perception, dulling of reflexes, and reduced capacity to respond in high-stress situations. The Austroads Assessing Fitness to Drive Guidelines identifies that “These deficits can begin at low doses and are highly individualised.”¹

Drug driving is a significant contributing factor to many serious and fatal crashes in the ACT, with 40% of all drivers involved in fatal collisions between 2010 and 2020 having either alcohol or a prescribed drug in their system, or both. In 2022 the Lambert Initiative for Cannabinoid Therapeutics, University of Sydney undertook a small study as part of the ACT Road Safety Fund Grants Program². The study considered the driving behaviours of ACT cannabis users, both prescription and illegal cannabis. The study found that medicinal cannabis users tend to have lower doses and more predictable tolerance build up to THC, which can reduce the likelihood of driver impairment compared to illegal cannabis use. An added benefit was that medicinal cannabis reduced conditions such as anxiety or pain, which can cause driver impairment. However, driver impairment was still found, and both groups were found to drive while impaired. The study also revealed all users underestimate the extent to which THC impairs their driving.

Recent evidence from elsewhere in Australia, suggests that drivers who have consumed THC are 1.9 times more likely to be the culpable driver when they are involved in a serious crash³. Further adding to this picture, a recent study in Victoria found that THC was the second-most prevalent drug found in drivers hospitalised following a crash at 11.1%⁴.

The ACT Government is closely monitoring the evolving evidence base and the approach taken in other jurisdictions. This includes the new laws in Victoria and the recently introduced private member’s bill in NSW.

The petition references amendments to the Victorian Road Safety Act 1986 (the Victorian Act) which came into effect on 1 March 2025. Before these amendments, the Victorian Act operated in the same way as the ACT’s Act; if a driver in Victoria was found to have THC in their blood or saliva, the courts were required to cancel an offender’s license. The Victorian amendments referred to in the petition do not change the nature of the offence but introduce discretion for the court not to cancel an offender’s licence if the drug present in their blood or saliva is a prescribed legal medicinal cannabis product used in accordance with the prescription.

Along with the ACT and Victoria, driving under the influence of prescribed THC is illegal in New South Wales, South Australia, Western Australia, Northern Territory and Queensland. Tasmania is the only jurisdiction which allows a person to drive with prescribed THC in their system, as long as the substance was obtained and administered in accordance with Tasmania’s Poisons Act 1971.

In NSW, the Legislative Council is considering the *Road Transport Amendment (Medicinal Cannabis—Exemptions from Offences) Bill 2025*. The Bill seeks to amend the Road Transport Act 2013 (NSW) to provide that the offences relating to driving while a prescribed illicit drug is present in a person’s oral fluid, blood or urine do not apply if the only drug present is THC and was obtained and administered for medicinal purposes. The defence is not proposed to be applicable to provisional or learner drivers.

In regard to testing for impairment, there are currently no roadside instruments that can reliably measure a driver’s THC impairment level, unlike alcohol breathalysers, which measure blood alcohol concentration as a valid measure of impairment.

¹ *Assessing Fitness to Drive 2022*, p 19 (2022).

² MacCartney, Daniella, et al. “Driving behaviours of ACT cannabis users following the decriminalisation of cannabis cultivation and possession” The Lambert Initiative for Cannabinoid Therapeutics, University of Sydney (2022).

³ Drummer, Olaf H., et al. “Odds of culpability associated with use of impairing drugs in injured drivers in Victoria, Australia.” *Accident Analysis & Prevention* p 135 (2020).

⁴ DiRago, Matthew, et al. “Prevalence of drugs in injured drivers in Victoria, Australia.” *Australian journal of forensic sciences* 53.2 (2021).

Initial roadside saliva tests in the ACT detect the presence of THC, in addition to the presence of three other prescribed drugs. However, impairment is not necessarily indicated by a positive test to the presence of THC. Additionally, the effects of impairment can differ between individuals.

It is the ACT Government's view that there is not yet a body of evidence capable of supporting an understanding of driver impairment following THC use, as is the case for alcohol. The current scientific consensus is that there is no means to consistently assess how specific amounts of THC impact any individual's driving ability. This applies regardless of whether the individual is consuming the drug in accordance with a prescription.

We acknowledge that cannabis is a legitimate medical treatment that improves the life of patients and will continue to closely monitor the scientific evidence as it evolves.

We also acknowledge the impact that zero tolerance policies have on individuals who rely on medicinal cannabis for their health and wellbeing and who may not be impaired when driving with THC detected in their system.

However, at this time the ACT Government's policy position is that presence-based drug driving offences remain the most sound means to achieve *Vision Zero*.

While I know this is not the outcome the petitioners were hoping for, I trust this information is useful.

Sincerely

A handwritten signature in blue ink, appearing to read 'Tara Cheyne', with a stylized flourish at the end.

Tara Cheyne MLA
Minister for City and Government Services