Amendment of industrial cannabis legislation
Consultation regulatory impact statement

May 2019

Queensland Government

This publication has been compiled by Biosecurity Queensland of Department of Agriculture and Fisheries.

Have your say

You are invited to have your say about possible changes to Queensland industrial cannabis legislation.

The proposed changes relate to the following:

- fees
- enabling other types of analysis
- inter-agency information sharing.

The regulatory impact statement (RIS) is been made open for consultation so that public comments can be considered before an option is finalised. The proposed changes will affect industry members the most, but all members of the community are welcome to comment. Feedback from industry and the community will help to ensure the legislation achieves the right balance between enabling the industry to grow and maintaining appropriate oversight by government. The Queensland Governments preferred options may change as a result of this consultation.

Submissions close 5pm on 2 July 2019.

If you want to make a written submission in response to this Consultation RIS, please ensure it is received by the Department of Agriculture and Fisheries by 2 July 2019.

You can send your response by post or email:

Mail: Drugs Misuse Legislation Reform (PB&PI)
Biosecurity Queensland
Department of Agriculture and Fisheries
GPO Box 46
Brisbane Qld 4001

Email: BiosecLegislation@daf.qld.gov.au

Under laws providing for freedom of information, your submission may be made available to others.

1 Summary

Background

Part 5B of the *Drugs Misuse Act 1986* (DM Act) provides the licensing framework for industrial cannabis and allows for commercial production and research into the commercial production of industrial cannabis fibre and seed. Growing cannabis outside of this licensing framework would generally be illegal under the DM Act.

Industrial cannabis contains such low levels of tetrahydrocannabinol (THC) that it presents little value as a narcotic. However, it is visually indistinguishable to the untrained eye from other varieties of cannabis. All varieties contain some level of this psychoactive compound, and could potentially be diverted to the recreational drug market. This risk is increased with research cannabis, due to licensees being authorised to possess cannabis with a THC content over 1 percent. There is an inherent risk of allowing an industry to research and commercially produce a crop that would otherwise be illegal.

While industrial cannabis presents little risk of illicit use due to its low THC levels, its cultivation can potentially be used as a cover for criminal activities involving the production of illicit cannabis. The industrial cannabis framework in Part 5B of the DM Act provides risk management controls to reduce any potential risks to the community, while facilitating legitimate industry development.

The industrial cannabis industry in Queensland is presently very small, currently occupying approximately 30 hectares of land predominantly in North Queensland on the Atherton Tableland. The current limited planting area reflects seasonal conditions and it is expected that the area planted will expand in the future. As at the date of publication, the industry is comprised of 21 licensed growers and 8 licensed researchers. However, international market research has shown that the estimated global market size for hemp-based foods is $215.8 million with a predicted growth rate of 20.3% per annum.

The most significant recent reforms to part 5B of the DM Act were contained in the *Hospital Foundations Act 2018* (Hospital Foundations Act) and focused on allowing the growing of industrial cannabis for food for human consumption. It is principally these reforms which have increased interest in the industry and provided the impetus for this Consultation Regulatory Impact Statement (Consultation RIS).

This Consultation RIS is unrelated to the growing of cannabis for medicinal purposes. The Australian Government has exclusive power to authorise the growing of cannabis for medicinal purposes.

Issues and options

This Consultation RIS has been prepared by the Queensland Department of Agriculture and Fisheries (the Department) to canvass options to address the following issues:

- Fees
- Enabling other types of analysis
- Information sharing for law enforcement and regulatory efficiency purposes.

These issues were raised during consultation on amendments to Part 5B of the DM Act which were included in the Hospital Foundations Act.

Fees

There are a number of issues with the current licensing fees for the Queensland industrial cannabis industry:

- The licence application and renewal fees do not cover the full cost of processing applications and administering licences for the full licence period (all licences are issued for 3 years) or the costs of undertaking random compliance monitoring activities and data management. The Queensland Government, and ultimately the taxpayer, is currently subsidising these costs
- Fees are not commensurate to the costs associated with each existing type of licence
- Appropriate fees have not yet been prescribed for the new ‘seed handler’ licence which will also have a licence term of 3 years. The new seed handler licence is established by amendments to Part 5B of the DM Act which were included in the Hospital Foundations Act

- Fees for other monitoring services are lower than fees which achieve full cost recovery for comparable services provided under the *Biosecurity Act 2014*
- The DM Act provides for licence amendments to be made upon payment of a fee, but no fee has been prescribed.

The two options considered to address these issues relating to fees are:

Option 1: maintain status quo

Option 2: revise and restructure fees to achieve full cost recovery

Option 1 does not achieve full cost recovery, meaning that the industry would continue to be subsidised by government and ultimately, the taxpayer.

Option 2 would recover the full direct cost to the government of services provided to the industry. This be more equitable, as Queenslander taxpayers would not be subsidising the private benefit licensees obtain from having a licence. Fees for each licence type would be commensurate to the level of resources required to process them.

Option 2 is the preferred option.

Enabling other types of analysis

The current legislation only allows analysis by an analyst authorised to test for THC levels and then only to the extent that it relates to determining the concentration of THC in the plant material. Some industry members have expressed a need for other types of analysis to ascertain plant health or other aspects of agronomy and genetic properties.

The three options considered to address this issue are:

Option 1: maintain the status quo

Option 2: amend the legislation to allow specified types of analysis

Option 3: amend the legislation to enable the chief executive to authorise entities to undertake other types of analysis

Option 1 fails to address industry concerns about the current restrictions on analysis limiting its growth.

Options 2 and 3 both address the current limitations on the type of analysis able to be carried out. They differ in how the risks associated with the supply of the plant material for off-farm analysis, which may include moving plant material interstate, would be managed.

The preference would be option 2. Although it is less flexible, it enables other types of analysis with less burden on industry and Government than option 3.

Information sharing for law enforcement and regulatory efficiency

The Queensland Police Service (QPS) has powers to enforce the whole DM Act, while DAF is responsible for regulating the industrial cannabis industry under Part 5B of the DM Act. Despite this overlap in responsibility, there is very limited provision for sharing of information. Part 5B of the DM Act currently allows the department to request the QPS to provide a written criminal history check of a licence applicant or licensee or their close associates but does not otherwise provide for proactive information sharing between these agencies.

The DM Act also does not provide for information sharing with agencies which regulate the industrial cannabis industry in other Australian jurisdictions. Reciprocal information sharing arrangements with these agencies would better inform regulatory decisions.

The *Information Privacy Act 2009* provides safeguards for the handling of personal information in the public sector. It allows information sharing only on limited grounds, including with consent or if the sharing would help law enforcement prevent or detect a crime. Proactive information sharing would improve efficiency by helping to target compliance monitoring, but this is currently limited by the requirement for consent.

The two options considered to address this issue are:

Option 1: maintaining the status quo

Option 2: amend the legislation to provide for information sharing

Option 1 would maintain the requirement to seek consent from licence applicants for the sharing of information which is not as certain or efficient.

Option 2 would enable the Queensland Police Service (QPS) and the department to use their resources more efficiently to enforce the law and regulate the industry. It would enable an applicant's or a licensee's details, including the names of employees, growing locations and locations of other licence activities, to be shared by the department with the QPS. It would enable the QPS to share intelligence with the department. It would also enable appropriate sharing of information with interstate agencies.

The preference would be option 2.

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2 Background

Part 5B of the *Drugs Misuse Act 1986* DM Act provides the licensing framework for industrial cannabis and allows for commercial production and research into the commercial production of industrial cannabis fibre and seed. Growing cannabis outside of this licensing framework would generally be illegal under the DM Act.

The development of a hemp industry in Queensland began in 1998 with the amendment of the DM Act to allow some controlled field trials and plant breeding research. The trial period was extended through to 2002 when the DM Act was further amended to allow for growing, processing and marketing of industrial cannabis for use as commercial fibre and seed products and their derivatives, other than as food and for research and for related research.

The entire industrial cannabis industry in Queensland is presently very small, currently occupying approximately 30 hectares of land predominantly in North Queensland on the Atherton Tableland. The current limited planting area reflects seasonal conditions and it is expected that the area planted will expand in the future.

As at the date of publication, there are 29 current licences to operate in the Queensland industrial cannabis industry. These comprise 21 grower licences and 8 research licences. All current licences are issued for a term of 3 years.

However, international market research has shown that the estimated global market size for hemp based foods is $215.8 million with a predicted growth rate of 20.3% per annum. Recent amendments to the legislation have enabled the growing of hemp seed for human food products, which has been anticipated to open up the industry to new market opportunities.

Industrial cannabis contains such low levels of tetrahydrocannabinol (THC) that it presents little value as a narcotic. However, it is visually indistinguishable to the untrained eye from other varieties of cannabis. All varieties contain some level of this psychoactive compound, and could potentially be diverted to the recreational drug market. This risk is increased with research cannabis, due to licensees being authorised to possess cannabis with a THC content over 1 percent. There is an inherent risk of allowing an industry to research and commercially produce a crop that would otherwise be illegal.

While industrial cannabis presents little risk of illicit use due to its low THC levels, its cultivation can potentially be used as a cover for criminal activities involving the production of illicit cannabis. The industrial cannabis framework in Part 5B of the DM Act provides risk management controls to reduce any potential risks to the community, while facilitating legitimate industry development.

While the Attorney-General and Minister for Justice administers most of the DM Act, the Minister for Agricultural Industry Development and Fisheries has responsibility for Part 5B. The DM Act is prescribed as a relevant law in the Police Powers and Responsibilities Regulation 2012, Schedule 2 which means that certain powers are available to police officers under the Police Powers and Responsibilities Act 2000 for use in ensuring compliance with the DM Act. Additionally, officers of the Department of Agriculture and Fisheries (DAF) may be appointed as inspectors under the DM Act to investigate, monitor and enforce compliance with Part 5B of the DM Act.

The DM Act is supported by the Drugs Misuse Regulation 1987 (DM Regulation). Part 4 of the DM Regulation, as well as schedules 7 and 8, contains provisions that support Part 5B of the DM Act.

The most significant recent reforms to part 5B of the DM Act and relevant provisions of the DM Regulation were contained in the *Hospital Foundations Act 2018* (Hospital Foundations Act) and focused on allowing the growing of industrial cannabis for food for human consumption. It is principally the reforms in the Hospital Foundations Act which have increased interest in the industry and provided the impetus for this Consultation RIS.

Some of the amendments in the Hospital Foundations Act commenced on assent while other amendments will commence on proclamation. Pending amendments include a rationalisation of researcher licence types and a head of power to charge a prescribed fee for monitoring activities. To facilitate the food supply chain and manage associated risks, the uncommenced amendments also require seed 'denaturers' and 'seed suppliers' to hold a 'seed handler' license. This will ensure appropriate regulatory oversight of viable seed and reduce the risk of its diversion or of lawful dealings with industrial cannabis seed being used as a front for marketing of seed that can be used to grow higher THC varieties.

The delay in the commencement of some of these amendments was to allow time for industry members to apply for the new licence. It has also allowed time for the Queensland Government to seek feedback from stakeholders through this Consultation RIS on a number of related areas of possible further reform.

A number of areas for further potential reform of the DM Act and DM Regulation were identified during development of the Hospital Foundations Act. Decisions on these proposals were deferred so that they could be informed by a full regulatory impact assessment through this Consultation RIS. These proposals broadly relate to the following issues:

- Fees
- Enabling other types of analysis
- Information sharing for law enforcement and regulatory efficiency purposes.

This Consultation RIS is unrelated to the growing of cannabis for medicinal purposes. The Australian Government has legislated to ensure it has exclusive power to authorise the growing of cannabis for medicinal purposes.

3 Fees

3.1 Issues

Current fees do not cover the full cost of services

The licence application and renewal fees do not recoup the full cost of processing applications and administering licences for the industry over the licence term (3 years).

Licence holders have exclusive access to participation in an industry that continues only because DAF undertakes certain activities to ensure the integrity of the regulatory arrangements, such as random checks on the activities of growers and researchers. Licence holders are currently making no contribution to the cost of these services that DAF undertakes to ensure the integrity of the industry.

Additionally, licence holders are currently making no contribution to the cost of maintaining and managing a database of industrial cannabis licence holders. The licence database is intended to provide for the generation of relevant statistical data when required, a bring-up system with specified data for inspections around harvesting and information that can be used when carrying out compliance and enforcement activities.

This shortfall in licence revenue means that Government and ultimately Queenslanders generally subsidise this industry. Although the industry is currently very small, growth of this industry, including as a result of the recent amendments to the DM Act to allow the growing of industrial cannabis for hemp seed food products, is likely to increase the size of this shortfall. An extrapolation of the amount of subsidisation based on industry growth is presented in Appendix 2.

Fees are not commensurate to the costs associated with each existing type of licence.

There are currently two types of licences under the DM Act - for growers and researchers. Pending amendments to the DM Act will establish a new type of licence for seed handlers.

The resource requirement, including time taken to assess and consider an application for a researcher licence, is higher than that required to assess an application for the issue of a grower licence. For example, current processing times for a researcher licence compared to a grower licence application are twice as long for administrative assessment and four times as long for technical assessment.

The indicative costs to Government of processing and administering various types of licences is illustrated in Appendix 3.

The current fees charged to assess each type of application are inequitable as they do not reflect these differing levels of service. The DM Regulation currently prescribes a single flat, application fee ($486.85 in 2018-19) for all licences issued under the DM Act. Similarly, a flat fee is payable for all renewal applications ($194.80 in 2018-19), regardless of the licence type.

Issue – a new fee is yet to be prescribed for the 'seed handler' licence

Fees are not currently payable for recognition as a 'seed supplier'. Crops produced to date have mostly been for fibre or certified cannabis seed supply, so no monitoring of seed suppliers' or denaturers' activities were undertaken.

When pending amendments to the DM Act commence, a seed supplier and/or denaturer will be required to hold a licence. Unless the structure of the fees is revised and separate fees are prescribed for a seed handler, the application and renewal fee for a seed handler licence, the term for which will be 3 years, will default to those currently prescribed for any licence under that the DM Act without any consideration having occurred as to whether it is appropriate for that type of licence.

Issue – fees for other monitoring services are lower than fees which have been found to achieve full cost recovery for comparable services provided under the Biosecurity Act 2014

Currently growers must notify DAF within 14 days of planting and prior to flowering and harvest of a crop and this triggers monitoring to check the THC level in the heads and flowering leaves. In contrast to the cost of random compliance checks, the cost of these planned monitoring activities is partially recovered directly from the relevant licence holder.

The uncommenced amendments to the DM Act will provide a clearer basis for charging these monitoring fees. They provide that they will be prescribed by regulation (rather than being required by way of a licence condition). However, currently no fees have been prescribed.

The fees that are currently charged for these planned monitoring activities ($223.90 per hour in 2018-19, charged in 15 minute increments) are currently lower than fees which achieve full cost recovery for comparable services provided under the Biosecurity Act 2014 ($302.60 per hour in 2018-19, charged in 15 minute increments). Some small additional costs associated with the monitoring of industrial cannabis, such as the costs of consumables and postage/courier costs involved in obtaining tests of samples taken by inspectors, are also borne by Government and are not recouped. Again, if the industry expands so too would the overall cost of this component.

Issue - no fee is currently prescribed for licence amendment

Section 70 of the DM Act provides for a fee to be prescribed for an application to amend a licence or licence condition. However, no such fee is currently prescribed in the DM Regulation. Consequently the Queensland Government is meeting all costs of amending licences, which apart from involving administration costs, can also include salaries of technical and/or field staff to make assessments of changes to area or activities.

3.2 Government's policy objective

The Queensland Government's aim with regard to fees is to ensure that they are set with consideration of the full cost of providing services and are equitable.

Since 2002, Australian Governments have progressively introduced requirements for agencies to set charges which recover all the costs of providing products or services. The *Queensland Government Principles for Fees and Charges*[1] includes the 'beneficiary pays' principle that those who benefit directly from the provision of a service should pay for it and that services provided to one client or group of clients should not be subsidised by fees and charges paid by others, unless there has been a deliberate decision by government.

Two options have been identified in relation to the issues involving fees.

Option 1—Retain existing fee arrangements (status quo)

This option preserves the status quo for the industry. The fees which are currently prescribed in the DM Regulation are listed in table 1.

Table 1 – Licence and other fees prescribed under the DM Act for 2018-2019

Fee	Amount
Applying for a licence – grower, researcher, seed handler	$486.85
Applying for renewal – grower, researcher,	$194.80
Applying for amendment of licence and/or licence condition	n/a
Monitoring activities, including, costs of analysts to determine THC concentration	At reasonable cost but no more than actual cost
Upon licence cancellation (where licensee fails to comply with direction)	Amount to recover costs in destroying or otherwise dealing with plants/seeds.

[1]Note: Refer to the Queensland Government's policy statement "Full Cost Pricing Policy" published by Queensland Treasury 2010

A single flat fee for a licence application and a single flat fee for a licence renewal would continue to be charged regardless of the licence type.

Fees under option 1 would continue to be subject to annual indexation adjustments as determined by government policy.

Option 2 (Preferred option) – fees revised to achieve full cost recovery and charged differently based on licence type

Under option 2, fees would increase to achieve full cost recovery. Table 2 lists the fees that would be prescribed to recover the total costs as calculated in Appendix 3.

Table 2 – Fees proposed under option 2 for 2018-2012[1]

Fee	Amount
Applying for a licence – grower	$1231.50
Applying for a licence – researcher	$1833.58
Applying for a licence – seed handler	$411.15
Applying for renewal – grower licence	$1000.31
Applying for renewal – researcher licence	$1484.29
Applying for renewal – seed handler licence	$411.15
Applying for amendment of licence and/or licence	$277.11

[2] Note: Some of the fees in Table 2 might be slightly higher under some options enabling analysis

condition – grower, researcher, seed handler	
Monitoring activities, including, costs of analysts to determine THC concentration	$ 302.60 per hour charged in 15 min increments plus the actual costs associated with any THC analysis undertaken
Upon licence cancellation (where licensee fails to comply with direction)	Amount to recover costs in destroying or otherwise dealing with plants/seeds.

Under option 2, different licence fees would be charged for different licence types and a fee would be prescribed for applications to amend licences and conditions. The fees for each licence type would be commensurate to the regulatory costs associated with the different types of applications.

Under option 2, a fee would be prescribed for crop monitoring before harvest. It would be set to match the fees charged for comparable services provided under the Biosecurity Act 2014 which achieve full cost recovery plus the actual costs associated with any THC analysis which may be undertaken.

Non-scheduled compliance monitoring costs would be apportioned to each licence holder and recovered as a component of every new licence application and/or renewal fee. They will not be included as a component of the proposed fee to amend a licence.

Licence fees under option 2 would also be subject to annual indexation adjustments as determined by government policy.

A comparison of Queensland's fees and charges with those of other states is provided in Appendix 4 and may provide a means by which fees and charges can be benchmarked.

3.3 Impact analysis

Table 3 summarises the features of each option in respect of the policy issues:

Table 3 – Summary of features of fees and charges options

Policy problems	Option 1 (Retain existing fees)	Option 2 Full cost recovery (preferred option)
Full cost recovery achieved	No	yes
Cross subsidisation occurs	yes	no
Fees indexed annually	yes	yes
Fees are commensurate to the resources used for each type of application	No	Yes

Option 1: Retain existing fee arrangements (status quo)

Option 1 does not fully recover the cost to Government of regulating the industry meaning that the industry would continue to be subsidised by government and ultimately, the taxpayer. Given the industry is currently small, this shortfall in recovering costs does not currently impose a great burden on the taxpayer. However, if the industry expands as it is projected, this shortfall will only increase as shown in Appendix 2.

A single flat fee for a licence application and a single flat fee for a licence renewal is not an equitable basis on which to charge applicants because it does not take account of the different costs associated with different licence types.

Costs for crop monitoring before harvest are partially recouped under option 1 but there is a small shortfall between what is currently charged and the actual monitoring cost and some associated costs, for consumables and postage/couriers for the samples, are not recovered. However, the costs of ad-hoc compliance monitoring of licence holders would continue to be wholly borne by Government.

Option 2: fees revised to full cost recovery and charged per licence type

Under option 2, fees would fully recover costs so the Government, and ultimately taxpayers, would not be required to subsidise the industry.

Recovering the full cost of Government services is consistent with the Queensland Government principles for fees and charges. As discussed in Appendix 1, any benefits of growing of industrial cannabis will accrue to the private investor, these principles suggest that the cost to government of regulating the crop should be charged at full cost recovery. The exclusive access to the industry conferred on licence holders is expected to more than offset any impact on business profits.

This option also provides for fees that are commensurate to the resources used for each type of application. This will avoid applicants or licensees of some types, cross subsidising the higher regulatory costs associated with other types of licence, such as licences that require more resource intensive application assessment.

Using the fees for 2018-2019 listed in Table 2 for grower licences, a person will pay $1231.50 for an application for a new licence for up to three years, $1000.31 for renewal of a licence for up to three years and $277.11 for amendment of a licence or condition of a licence. These fees represent an additional cost to an applicant of $744.65 for a new grower licence and $805.51 for renewal of a licence. The full fee of $277.11 for amendment of a licence is a new cost as amendments fees have not previously been charged.

An applicant for a new researcher licence for 2018-2019 will pay an additional $1346.73 and $1289.49 for renewal of a licence. Similarly the fee of $277.11 for amendment of licence is a new fee and has not been charged previously.

As seed handler licences are an entirely new licence, the total fee of $411.15 for 2018-2019 for a new seed handler licence represents an additional cost to applicants. However, when compared to the current prescribed fee for new licences ($486.85) this new fee, although an additional cost, is a reduction in what might have previously been paid and represents the reduced time and resources required for assessment and processing. The fees of $411.15 and $277.11 (for renewal and amendment respectively) are also additional costs, as persons involved in seed handler activities have not up until now been required to hold a licence authorising those activities.

The impact of these fee and charges on potential industry growth and economic value is difficult to discern due to a lack of information. Even so, there appear to be two main scenarios.

The first is that industrial cannabis will prove to be only marginally more profitable than alternative crops. In this case industry growth will be significantly constrained and neither option 1 nor option 2 is likely to significantly hinder growth or lead to a significant deficit in costs for the taxpayer to pick up. The relative profitability and riskiness of alternative cropping systems will be the critical factors in the decision to enter or stay in the industry and the additional costs of option 2 (as a component of total growing or production costs) are not likely to be sufficiently large to change the decision to either enter, stay in or not enter the industry.

The second is that industrial cannabis will prove to be significantly more profitable than alternative crops. In this case the expansion of the industry could be significant with a number of players likely to seek licences to

operate. Once again the relative profitability of the alternative cropping systems will drive the decision to participate in the industry with the difference in cost to participants between option 1 and option 2 having little or no impact on the decision to participate in the industry.

The fact that participation in the industry requires additional regulations to be met is expected to be more important in the decision to enter the industry than the difference in the fees imposed by Government. For example, it is assumed in Appendix 1 that the additional costs to industry above and beyond the fees charged by Government are likely to be equivalent to the amounts charged under full cost recovery (option 2) which is more significant than the difference in total costs between option 2 and option 1. This is without factoring in the additional constraints imposed on farming practices.

3.4 Conclusion and recommendation

Table 4 presents a qualitative assessment of each option and provides the costs and benefits for government, industry and the community.

Table 4 – Qualitative assessment of each option for fees and charges

Option	Stakeholder	Benefits	Cost
1 status quo	Government	• Simplified fee system easier to administer • Familiarity with how existing system is processed	• Maintaining the current fee arrangements would not recover the cost to government for providing services to the industry. • Government, and ultimately, taxpayers will continue to subsidise licensees for what is an identifiable private benefit (cross subsidisation). • Fees are not commensurate to the time taken for each type of application. • Fees for assessing amendment applications, which may take longer to assess, are not charged.
	Industry	• Some sectors of industry (i.e. potentially researchers and those whose applications take longer to assess) will continue to benefit from cross subsidisation • Flat fees are minimal	• Cross subsidisation would still occur whereby persons renewing or applying for licences which take less time to assess, would subsidise the cost of assessing applications which require more resources and time.
	Community	• Nil (a licence provides a private benefit to the individual)	• The community would ultimately continue to subsidise the cost of

Option	Stakeholder	Benefits	Cost
			government providing services to industry
2 full cost recovery	Government	• Government's costs of providing services would be fully recovered. • Government, and taxpayers, would no longer subsidise the cost of providing services to industry.	• Initial administrative work required to adopt changes in fees and charges.
	Industry	• Equitable fees based on resources required for each type of application.	• Higher fees than current.
	Community	• The community would not be required to subsidise the cost of government providing services to industry through taxes.	

Option 2 is the preferred approach. A new fee structure will end subsidisation of the industry, is more equitable and will provide a sustainable basis for regulation of the industry including monitoring and enforcement, particularly as the industry moves into production of industrial cannabis seed for human consumption and other research activities.

A new fee structure will also align the government with contemporary fee policy.

4 Enabling other types of analysis

4.1 Issue

Industry members have informally requested an expansion of the types of analytical testing which may be undertaken on industrial cannabis.

A grower or researcher licence holder may only supply cannabis plants and seed to a person authorised to receive them under the DM Act. Analysts are authorised to possess cannabis under the DM Act but only for THC analysis.

The term 'analyst' is defined in the DM Regulation, Schedule 9 (Dictionary) as "a person who holds an approval under the Health (Drugs and Poisons) Regulation 1996 to obtain, possess and use standard THC material to calibrate an analytical instrument used for analysing a substance to determine its THC concentration. Amongst other requirements, an analyst must analyse the cannabis material only in a

laboratory whose functions and operations are accredited by the National Association of Testing Authorities (NATA) for drug analysis.

Researchers are increasingly seeking access to other types of analysis, such as cannabinoid and genotype analysis, as they can be used to develop selective breeding lines to boost production. The DM Act provides that a research licence holder may only supply research cannabis plants and seed and industrial cannabis plants to a person authorised under the DM Regulation or where an authorisation exists through the existence of a collaborative research arrangement. Making someone enter into a collaboration arrangement for the purposes of conducting some other type of analysis is not appropriate as this tool was designed to support true forms of research collaboration.

Additionally, some industrial cannabis growers argue that analysis of industrial cannabis plants or parts of plants is necessary to ascertain plant health, soil deficiency, aspects of agronomy and other variables. They would like the legislation to be changed to allow supply of parts of industrial cannabis plants (e.g. flowering heads or leaves, resin, etc) so that analysis can be undertaken for these purposes.

4.2 Government's policy objective

The overall policy objective of Government intervention is to better facilitate the development of the commercially led industrial cannabis industry while effectively managing the associated risks.

4.3 Options

Three options have been identified in relation to analysis.

Option 1: Status quo

This option maintains the current situation and does not address industry's desire to allow other types of analysis for agronomic purposes or to enhance selective breeding and production purposes.

Option 2 – amending legislation to allow specified types of analysis

Option 2 would involve amendment to the DM Regulation to specify additional types of analysis that could be undertaken and what requirements would apply to an analyst for each type. That is to say, it would allow analysis for purposes other than determination of THC concentration, and in these cases it need not be undertaken by an analyst at a NATA accredited laboratory at which THC concentrations are determined.

Through consultation on this RIS, stakeholders will be able to provide feedback on the types of analysis sought and what requirements might be appropriate for each type of analyst.

Specifying in legislation types of analysis and what type of analyst can conduct them would be relatively inflexible. An unforeseen need may arise for an additional type of analysis and the legislation could not easily be altered. Also, because there would be no vetting of particular analysts, a relatively conservative approach may be required to prescribing analysts in order to manage the risks. For example, while NATA accreditation may not always be required, some other form of recognition might be needed.

Allowing supply to a wider range of analysts for a wider range of analysis would introduce new risks that would need to be carefully managed. It would likely involve the movement of some industrial cannabis plant material off-farm, which may pose particular problems for enforcement as the flowering heads and leaves of cannabis contain THC. Even movements of the flowering heads and leaves of industrial cannabis, which contains low levels of THC, would complicate enforcement as these varieties are visually similar to high THC varieties. A system to enable monitoring of the movements of such material is therefore justified.

Option 2 would include requirements on licence holders and analysts if plant material or seeds are moved off-farm to enable DAF and the QPS to track, monitor and audit the movements. Requirements could be similar to the supply and possession requirements for controlled substances under section 43D of the DM Act (Requirements for supply of controlled substance or controlled thing under relevant transactions) and section 6 of the DM Regulation (Documents and proof of identity required for supply of a controlled substance or controlled thing) could be employed under option 2. Section 43D of the DM Act provides that a person supplying a controlled substance or controlled thing under a relevant transaction to anyone else, must obtain from the recipient, the information prescribed by regulation, including evidence of the recipient's identity. The supplier of the substance or thing must also keep a relevant transactions register of information prescribed by regulation. Section 6 of the DM Regulation requires the supplier of the substance or thing to first obtain an end user declaration from the recipient prior to the supply occurring. The end user declaration must state the recipient's name, address, date and purpose of supply, quantity of the substance or thing, details of photo identification, invoice details etc. Section 6A of the DM Regulation prescribes that the supplier of a controlled substance or thing must provide a copy of the end user declaration to the commissioner of the police service. Additional restrictions that could be considered include restrictions on the quantities of plant material that may be supplied.

It is not proposed that these additional requirements will apply to supply of material to existing analysts for determination of THC content as the restrictions on this type of analyst already sufficiently minimises the risks.

Option 2 would therefore impose recording and reporting obligations on suppliers (i.e. growers and researchers) of cannabis and analysts. There would be a cost to Government of monitoring the related movements and this would be recouped from industry. As there would be no discrete authorisation of the supply, these costs would need to be recouped through the relevant licence application and renewal fees. The cost of the monitoring will depend on the extent to which researchers and growers seek analysis and there is no information on the likely frequency of this. In the absence of this data, it is proposed that $90 be added to the licence application fee for each grower and researcher to recover these costs. This additional amount will be added to the fee outlined earlier in the RIS. It will cover costs incurred by the agency for undertaking random compliance monitoring of licences and analysts including desk audits and agency initiated compliance audits. Note that under this option analysts will not hold a licence under the DM Act but be a service provider for licensees.

Option 3 – amending the legislation to enable the chief executive to authorise entities to undertake other types of analysis

Option 3 would provide a discretionary power for the chief executive to authorise each movement of plant material off-farm, with each authorisation being assessed on its relevant merits.

Unlike under option 2 which would allow prescribed types of analysis to be conducted by prescribed types of analyst, an authorisation under option 3 would be issued on a case-by-case basis and at the discretion of the chief executive. This would provide a flexible approach with customised controls on the supply of the plant material which could be imposed by way of licence condition and/or authorisation condition.

Option 3 is comparable to the authorisations issued under the New South Wales Drugs Misuse and Trafficking Act 1985 (DMT Act), and to some extent, this could be used as a model for the approach in Queensland. Under the DMT Act, it is an offence for a person to possess cannabis unless that person has an authorisation from the Department of Health (NSW) where the Secretary of that Department is satisfied that the possession of the prohibited drug is for the purpose of scientific research, instruction, analysis or study. The authorisation is limited in duration and specifies the persons who can be in possession of the material, the quantities and type plant material and imposes conditions. Note that there would be some differences from the NSW approach - the DMT Act is managed and administered by the Department of Health (NSW) and issues the

authorisations, whereas, in Queensland, DAF administers the part of the DM Act relevant to industrial cannabis and issue the authorisations.

Option 3 would include an application assessment fee for an authorisation to recover costs incurred by the department in assessing applications and any subsequent administrative and monitoring costs. The same assessment fee is proposed as would be charged for a seed handler licence (under option 2 this is proposed to be $411.15 for 2018-2019) but there would be an additional compliance monitoring component ($41.15) bringing the total payable for an authorisation to $426.26.

4.4 Impact analysis

Option 1: Status quo

Option 1 fails to address industry concerns about the current restrictions on analysis limiting its growth. It prevents other types of analysis, including to ascertain plant health or other aspects of agronomy and plant genetics, which may be important for innovation and development.

On the other hand, leaving the scope of analysis unchanged means that there would be no increased risk associated with the supply to a broader range of persons and additional the movement of some industrial cannabis plant material off-farm. The associated costs and compliance burdens for industry would therefore be avoided.

Option 2: amending the legislation to allow specified types of analysis

Option 2 would enable other types of analysis to be undertaken which would address industry's concerns.

Requirements for analysts to provide something like an end user declaration and for suppliers to establish and maintain a register of information would all represent an additional impost.

Additionally, Government resources would be required to monitor movements of material, although this would likely be minimal whilst the scale of the industry remains small. These costs would be met through an increase in the licence applications and renewal fees paid by all growers and researches, whether or not they sent material for analysis.

Option 3: amending the legislation to enable the chief executive to authorise entities to undertake other types of analysis

Option 3 would also enable other types of analysis to be undertaken which would address industry's concerns.

Option 3 is more flexible than option 2 but would impose a greater administrative burden on DAF to assess applications for authorisations and the licensees who apply for such an authorisation. Government resources would be required to monitor movements of material would require increased resources, although this would likely be minimal whilst the scale of the industry remains small.

Assessing authorisation applications would potentially be complex, time consuming and costly. The increased Government costs would be recouped through an authorisation fee of $426.26. This would be more equitable than an increase in all licence fees to recoup relevant costs as proposed under option 2. It is unlikely to be high enough to act as a disincentive to industry to undertake analysis.

4.5 Conclusion and recommendation

Although it is less flexible, option 2 is the preferred approach. It enables other types of analysis with less burden on industry and Government than option 3.

5 Interagency information sharing

5.1 Issue

The QPS has powers to enforce the whole DM Act, while DAF is responsible for regulating the industrial cannabis industry under Part 5B of the DM Act. Despite this overlap in responsibility, there is very limited provision for sharing of information. Part 5B of the DM Act currently allows the department to request the QPS to provide a written criminal history check of a licence applicant or licensee or their close associates but does not otherwise provide for proactive information sharing between these agencies.

The Information Privacy Act 2009 provides safeguards for the handling of personal information in the public sector. Currently, the Information Privacy Principles enable DAF to share information for law enforcement purposes, as follows:

The department will not use or disclose personal information in its possession or control for a purpose that differs from the purpose for which it was collected, unless one or more of the following apply (IPPs 9, 10 and 11):

a. the individual has agreed to the use or disclosure

b. the department is satisfied on reasonable grounds that the use or disclosure is necessary to lessen or prevent a serious threat to the life, health, safety or welfare of an individual or to public health, safety or welfare

c. the use or disclosure is authorised or required under a law

d. the department is satisfied on reasonable grounds that the use or disclosure is necessary for one or more of the following by or for a law enforcement agency:

    i. the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of laws imposing penalties or sanctions

    ii. the enforcement of laws relating to the confiscation of the proceeds of crime

    iii. the protection of public revenue

    iv. the prevention, detection, investigation or remedying of seriously improper conduct

    v. the preparation for, or conduct of, proceedings before any court or tribunal or the implementation of the orders of a court or tribunal

In effect this limits sharing of information between the QPS and DAF to the criminal history check (because it is authorised under a law), to help law enforcement prevent, detect or investigate a crime, or with consent. Information sharing for proactive law enforcement, would improve regulatory efficiency by helping these agencies to target their activities such as compliance monitoring, but this is currently limited by the requirement for consent.

The DM Act also currently does not provide for information sharing with other Australian jurisdictions. Information sharing with agencies which regulate the industrial cannabis industry interstate would similarly facilitate targeting of resources. The greater the information available to each agency, the greater the awareness of potential compliance and enforcement issues concerning individual applicants and existing licensees. This awareness enables targeting of resources to greatest risk which improves the efficiency of law enforcement and regulation.

5.2 Government's policy objective

The overall policy objective of Government intervention is to better facilitate the development of the commercially led industrial cannabis industry while effectively managing the associated risks.

The specific objective in relation to information sharing, is to have due regard to the privacy of those associated with the industry while providing for efficient management of the risks associated with the industry.

5.3 Options

Two options have been identified in relation to information sharing.

Option 1: Status quo

Maintaining the status quo would continue to limit most information sharing between DAF and the QFS. Information can be shared where consent has been provided by licensees via their application form. However, if consent is not given or the information falls outside the scope of the consent, then the information cannot be shared.

Option 2 (preferred option): amend the legislation to provide for a clear means of information sharing

Under option 2, the DM Act would be amended to provide for and state the grounds upon which information may be shared between DAF and the QPS and between DAF and relevant interstate agencies. For example, it is proposed for the DM Act to provide for the QPS to share information with DAF in order to assist the chief executive or an inspector in the performance of their functions under the DM Act. This would enable the QPS to share intelligence with the department where it was relevant to decisions that might be made under the Act. Similarly, it would enable an applicant's or a licensee's details, including the names of employees, growing locations and locations of other licence activities, to be shared by DAF with the QPS.

Under option 2, DAF would also be able to share information with relevant interstate agencies. This would include sharing information such as licensee's name, licence tenure and records about any breaches under their licence. The agency seeking the information may use it to determine the suitability of a person to hold a licence under their legislation or it may be used to confirm their claims about having a licence in another jurisdiction.

These provisions for information exchange would apply despite other laws which may limit the extent to which information may be shared. That is, the proposed provisions would take precedence over other legislation where an inconsistency arises.

Information sharing provisions between agencies are not unique in Queensland legislation. For example, a strictly regulated system concerning suspected child abuse and neglect (SCAN) exists within the *Child Protection Act 1999.* The SCAN system provides for the sharing of relevant information between core members of the system which include, chief executives of the administering department, Queensland Health and the police commissioner. Core members have specific responsibilities and the SCAN system also provides for the sharing of relevant information between prescribed entities.

Information sharing provisions in other Queensland legislation, whilst not always as prescriptive, is generally also limited to circumstances where a need has been justified. Information sharing provisions need to be justified because they potentially breach a fundamental legislative principle. Some examples of information sharing provisions in Queensland legislation are provided in Appendix 5. In section 215B of the *Animal Care and Protection Act 2001*, the information obtained may be shared with the QPS where the information will assist in the performance of a police officer's functions in relation to an animal or an animal welfare offence. In section 96 of the *Racing Integrity Act 2016,* information held can be requested but its subsequent use is constrained i.e. to determine the suitability of a person to hold or retain a racing bookmaker's licence.

A summary of information sharing arrangements in other states and jurisdictions is provided in Appendix 6.

5.4 Impact analysis

Option 1: maintain the status quo

The Information Privacy Principles sufficiently provide for information sharing with QPS in serious circumstances, such as to inform drug related investigations. Under option 1, information sharing with QPS in other circumstances or with non-law enforcement agencies would continue to be achieved by obtaining consent during the process of applying for a licence. This is not as certain or efficient as an authorising provision in legislation. For example, refusal to provide consent is not a ground for refusing to issue a licence which may limit information sharing.

Option 1 would maintain the current privacy protections for those associated with the industry. However, it may not meet community expectations for the appropriate management of risks associated with the industry and for efficient use of law enforcement resources.

Option 2: amend the legislation to provide for a clear means of information sharing

Option 2 would enable the QPS and DAF to use Government resources more efficiently to enforce the law and regulate the industry.

Information provided to the QPS by DAF will assist police officers when performing their duties. It will also assist licensees if they experience an incident which requires the involvement of QPS as their details will already be established between agencies. For example, where QPS was contacted by a grower reporting suspected theft of a crop.

Conversely, information shared by the QPS or other agencies with DAF will enable DAF to make better informed decisions and target its monitoring activities which will contain the cost of regulating the industry.

5.5 Conclusion and recommendation

Option 2 is the preferred approach. It meets community expectations for efficient and effective management of the risks associated with the industry while including safeguards which will appropriately limit the information and purposes for which the information may be shared.

6 Consultation

6.1 Competition principles agreement

The National Competition Policy Agreements set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements.

Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation:

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs; and

(b) the objectives of the regulation can only be achieved by restricting competition.

No restrictions on competition have been identified in relation to the proposed regulations. The regulations are considered fully compliant with the National Competition Policy.

6.2 Consistency with fundamental legislative principles

The preferred options outlined in this Consultation RIS potentially breach the fundamental legislative principle that legislation should have regard to the rights and liberties of individuals.

The various options in relation to analysts all involve restrictions on business. This is a potential breach of the principle that ordinary activities should not be unduly restricted. Regulation of business, although prolific, is an intervention in a right to conduct business in the way in which the persons involved consider appropriate. Arguably, the status quo represents the highest level of restriction. On balance, the preferred option is justified to ensure the risks associated with this industry are being appropriately managed.

The information sharing provision proposal also potentially represents a breach of fundamental legislative principle that legislation has sufficient regard to rights and liberties of individuals (namely the right to privacy). As a safeguard, only information collected in accordance with the legislation under which it was originally obtained may be exchanged provided it has relevance to the other agency's functions or objectives. Providing for the exchange of information in legislation can be justified when considering the need to ensure the risks associated with this industry are being appropriately managed.

6.3 Financial accountability

Section 18 of the Financial and Performance Management Standard 2009 (under the Financial Accountability Act 2009) provides that when setting charges for services, the full cost of providing the services must be considered. Option 2 of the fees and charges section, reflects full cost recovery.

7 Implementation and evaluation

This Consultation RIS presents a number of options which involve changes to legislation.

Implementing option 2 in relation to fees would require amendments to the DM Regulation. New and amended fees would not commence until an amendment regulation took effect, potentially in 2020.

At the current low levels of industry activity, it would be disproportionate and difficult to regularly assessment the adequacy of fees in recovering costs due to the small numbers of applications, and relatively small costs. A further review of fees would be instigated only where a process or methodology used to assess licence applications is amended or new technology is applied that alters the efficiency of the licencing process or where there was substantial industry growth.

Implementing option 2 in relation to analysts would similarly involve an amendment to the DM Regulation. option 2 would not commence until an amendment regulation took effect, potentially in 2020.

Implementing option 3 in relation to analysts may require an amendment to the DM Act. The timing of a Bill which included such amendments would be subject to the Government's legislative priorities and Parliamentary processes but could be expected to take longer than an amendment to the DM Regulation.

Implementing option 2 in relation to information sharing would involve an amendment to the DM Act. The timing of a Bill which included such amendments would be subject to the Government's legislative priorities and Parliamentary processes.

Evaluation of the impact of information sharing between DAF and the QPS is difficult as efficiencies will likely be evidenced through a more pre-emptive approach to compliance and licensing. Performance in this regard could be drawn from the number of applications not approved or investigations undertaken based on information shared, although this may not be directly relevant. DAF will undertake regular liaison with QPS to ascertain the effectiveness or deficiencies in information sharing arrangements.

The Statutory Instruments Act 1992, in part provides for the automatic expiry of subordinate legislation generally ten years after its making, unless it is sooner repealed or expires. Expiry of the DM Regulation has been deferred several times but eventually a review of the DM Regulation, including operation of the provisions under Part 5B of the DM Act is due to be conducted prior to expiry of the DM Regulation as a whole.

Appendix 1 – Economic Considerations for Industrial Cannabis Licensing

Economic characteristics of the good or service

The growing of a crop of industrial cannabis requires the use of high quality agricultural land that is most likely already being used commercially to grow either horticultural or broad acre crops. Industrial cannabis will only be grown where investors can see a similar or improved gross margin/profit or other production benefits arising from the incorporation of the crop into their current farming system e.g. as a rotational crop.

Therefore, the growing of industrial cannabis confers principally private benefits and has none of the characteristics of a public good. That is, it is not non-excludable (as it is possible to exclude free riders) and it is not non-rival (as the benefits are not available to many users at the same time at little extra cost).

The fact that the licencing and regulation of the crop is due to the illegal growing and consumption of other varieties of cannabis, does not change the economic characteristics of industrial cannabis.

Total cost of providing the good or service and how it is estimated

The total economic cost of imposing a licencing and monitoring regime on the growing of industrial cannabis include:

- The costs to government related to licencing the various components of the production system
- The costs to industry of meeting the requirements of the licence application, variation and renewal process
- The costs to government and industry related to the monitoring of the production system

Although it was not possible to quantify all the costs and benefits and determine the net present value of each option in this Consultation RIS, some costs are quantifiable. In particular, it was possible to estimate the total application fees payable by the industry, total cost of preparation of applications and total site visit charges associated with new licence applications, licence renewal applications and licence amendment applications.

Burden of compliance on industry generally

In the body of this Consultation RIS, only the costs charged by Government to issue, renew or amend licences and to inspect crops after planting have been quantified. Costs to industry associated with enabling other types of analysis have also been identified. Other costs to industry are not discussed in the body of this Consultation RIS. This is because, with the exception of enabling other types of analysis, the proposals would not change the burden on industry.

Applicants for licences already incur costs related to the amount of time required to collate the required information, complete the forms and submit the application. Licence renewal and amendment also already require time allocations by growers, researchers and seed handlers.

Perusal of the various forms suggests that applicants and industry participants already takes between 10 and 30 hours to complete an initial application for a licence and between 2 and 10 hours to complete a renewal or amendment for a licence. Growers are also required to spend time notifying regulators when crops are planted and allocate time to inspections.

The expected cost of time allocated by each industry participant to meeting the regulations associated with industrial cannabis will relate to the opportunity cost of their labour so is difficult to estimate. As a starting point, it could be assumed that the additional costs above and beyond the costs charged by Government are likely to be equivalent to the amounts charged under full cost recovery (option 2). That is, the total cost of meeting industry regulations for growers, researchers and seed handlers is likely to be double that set out per activity under option 2.

Appendix 2 – Fee revenue and taxpayer subsidy as licence numbers increase

Number of new, renewal and amendment applications for each type (grower, researcher and seed handler) of licence per year*	Fee revenue under existing fee structure $	Full cost of providing licences $	Taxpayer subsidisation $
5	$10,225	$36,017	-$25,792
10	$20,450	$72,033	-$51,583
15	$30,674	$108,050	-$77,376
20	$40,899	$144,066	-$103,167
25	$51,124	$180,083	-$128,959
50	$102,248	$360,166	-$257,918
100	$204,495	$720,332	-$515,837
500	$1,022,475	$3,601,659	-$2,579,184

**These numbers are used only to illustrate the increasing level of taxpayer subsidisation if the industry grows and are not a prediction of expected growth in the industry.*

The total amount of current government/taxpayer subsidy to this industry is very low due to the low level of current activity. It is estimated at approximately $19 000 per year. This estimate is based on a total of 29 current licence holders (21 growers and 8 researchers) renewing their licence, 7 new grower and 2 new researcher applications each year, and 4 amendments to a grower licence and 4 amendments to a research licence each year. Note that this estimate does not include any applications related to a seed handler licence as this licence type has not yet commenced. Also, this estimate does not include monitoring costs of crops prior to harvest due to the low levels of current activity.

Appendix 3 – Estimated government costs related to grower licence applications 2018-19

The formula used to calculate cost recovery for regulatory fees is:

Labour costs + indirect (overhead) costs + operating costs

Where:

- Labour costs (salaries only) are calculated by multiplying each person's time directly spent on the service in question by the hourly rate (or part thereof) for each person. For example, it may involve time spent processing and assessing an application, or updating a database.
- Indirect costs include employment overheads such as annual leave, superannuation and sick leave. They also include the costs of the management, legal, and administrative services and infrastructure such as building lease costs, computers and vehicles required to facilitate the provision of a particular service.
- Operating costs are the materials consumed through providing the service; for example, postage and printing associated with issuing a permit.

It is very difficult to determine indirect costs for each individual service. Consequently, DAF has established a model to ensure consistency when determining fees or charges. The model is based on calculating total departmental overheads (indirect costs) and applying them to each service based on time spent on those services. The modelling results in a multiplier of 1.77.

Grower licence application	**Hours**	**Rate**	**Sub total**
Initial Inquiry	0.50	$45.87	$22.93
Licencing and Transactions Unit Assessment	1.00	$35.78	$35.78
Technical Assessment	3.00	$60.53	$181.58
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$306.34
Over-head (Total Direct Labour X 1.77)			$524.21
Materials			$20.70
Compliance monitoring (10% random licence audits/yr)			$310.50
Data management			$51.75
Total Cost			**$1231.50**

Grower licence renewal	Hours	Rate	Sub total
Initial Inquiry	0.50	$35.78	$17.89
Licencing and Transactions Unit Assessment	0.50	$35.78	$17.89
Technical Assessment	2.00	$60.53	$121.05
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$222.87
Over-head (Total Direct Labour X 1.77)			$394.49
Materials			$20.70
Compliance monitoring (10% random licence audits/yr)			$310.50
Data management			$51.75
Total Cost			**$1000.31**

Grower licence amendment	Hours	Rate	Sub total
Initial Inquiry	0.00	$0.00	$0.00
Licencing and Transactions Unit Assessment	0.00	$0.00	$0.00
Technical Assessment	0.50	$60.53	$30.26
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$96.30
Over-head (Total Direct Labour X 1.77)			$170.46
Materials			$10.35
Total Cost			**$277.11**

Researcher licence application	Hours	Rate	Sub total
Initial Inquiry	0.50	$45.87	$22.94
Licencing and Transactions Unit Assessment	2.00	$35.78	$71.56
Technical Assessment	6.00	$60.53	$363.16

Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$523.70
Over-head (Total Direct Labour X 1.77)			$926.95
Materials			$20.70
Compliance monitoring (10% random licence audits/yr)			$310.50
Data management			$51.75
Total Cost			**$1,833.60**

Researcher licence renewal	**Hours**	**Rate**	**Sub total**
Initial Inquiry	0.50	$35.78	$17.89
Licencing and Transactions Unit Assessment	2.00	$35.78	$71.56
Technical Assessment	4.00	$60.53	$242.11
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$397.60
Over-head (Total Direct Labour X 1.77)			$703.75
Materials			$20.70
Compliance monitoring (10% random licence audits/yr)			$310.50
Data management			$51.75
Total Cost			**$1,484.30**

Researcher licence amendment	**Hours**	**Rate**	**Sub total**
Initial Inquiry	0.00	$0.00	$0.00
Licencing and Transactions Unit Assessment	0.00	$0.00	$0.00
Technical Assessment	0.50	$60.53	$30.26
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89

Total Direct Labour			$96.30
Over-head (Total Direct Labour X 1.77)			$170.46
Materials			$10.35
Total Cost			**$277.11**

Seed Handler licence application	**Hours**	**Rate**	**Sub total**
Initial Inquiry	0.25	$35.78	$8.94
Licencing and Transactions Unit Assessment	0.25	$35.78	$8.94
Technical Assessment	0.50	$60.53	$30.26
Document Creation	0.25	$35.78	$8.94
Approval and Signoff	0.25	$60.53	$15.13
Document management	0.25	$35.78	$8.94
Total Direct Labour			$81.18
Over-head (Total Direct Labour X 1.77)			$143.68
Materials			$20.70
Compliance monitoring (5% random licence audits/yr)			$155.25
Data management			$10.35
Total Cost			**$411.15**

Seed Handler licence renewal	**Hours**	**Rate**	**Sub Total**
Initial Inquiry	0.25	$35.78	$8.94
Licencing and Transactions Unit Assessment	0.25	$35.78	$8.94
Technical Assessment	0.50	$60.53	$30.26
Document Creation	0.25	$35.78	$8.94
Approval and Signoff	0.25	$60.53	$15.13
Document management	0.25	$35.78	$8.94
Total Direct Labour			$81.18
Over-head (Total Direct Labour X 1.77)			$143.68
Materials			$20.70
Compliance monitoring (5% random licence audits/yr)			$155.25
Data management			$10.35

Total Cost			**$411.15**

Seed Handler licence amendment	**Hours**	**Rate**	**Sub Total**
Initial Inquiry	0.00	$0.00	$0.00
Licencing and Transactions Unit Assessment	0.00	$0.00	$0.00
Technical Assessment	0.50	$60.53	$30.26
Document Creation	0.50	$35.78	$17.89
Approval and Signoff	0.50	$60.53	$30.26
Document management	0.50	$35.78	$17.89
Total Direct Labour			$96.31
Over-head (Total Direct Labour X 1.77)			$170.46
Materials			$10.35
Total Cost			**$277.12**

Note: The salary rates used in the above calculations are based on 2018 - 2019 values with the allowance for Departmental overheads which is a standardised multiple across government.

Appendix 4 – Comparison with fees and charges with other states and jurisdictions

While not completely structurally comparable, the table (below) demonstrates that most states and jurisdictions appear to be subsidising the development of the development of their respective industrial cannabis industry by charging minimal licence fees.

Licence fees for industrial cannabis in other jurisdictions are not uniformly charged. For example, in Tasmania there is no prescribed fee for a licence whereas in New South Wales the licence application fee is minimal but once licenced, an additional administration fee must be paid.

In contrast, the Federal Government is implementing a full cost recovery licensing scheme for medicinal cannabis. The application fee charged by the Federal Government for a licence to grow medicinal cannabis is $5,290 to which a further inspection fee of $7,050 is added for an application. Once a licence is granted, additional permits are required at a cost of $1,830, which outline: the types and quantities of cannabis plants that can be cultivated and produced; the timeframes in which authorised activities can occur; and the next party in the supply chain (manufacturer or researcher).

It is not clear to determine if other jurisdictions which have legislation which states a single fee to be charged for a licence or activity have based that fee on full cost recovery. However, it is reasonable to assume that jurisdictions such as Victoria, New South Wales and South Australia have given full cost recovery some consideration as some fees are determined by way of multiplying a variable. For example, in South Australia, the applicant is required to pay the application fee of $1 080 plus a $200 probity check for the applicant and each associate (which includes directors, partners or other persons with significant influence). An application for a licence where there are two business partners, would cost $1 680. Another example is the fee charged in New South Wales. The initial application fee is $572, and then it is an additional $200 per year for the duration of a licence. The additional fee starts on the second year, so if the licensee retains that licence for its duration, the fee is $572 plus $800 ($200 x 4), which is $1,372.

Without knowledge of the fee structure of industrial cannabis industries in other jurisdictions It is not possible to determine whether other States' fees are calculated with relevance to the number of participants. However, given the variance between licence application fees (between 0 and $1,372) this might be reasonable to assume.

Table – Comparison of hemp industry licensing and other fees by state and jurisdiction

	QLD *Drugs Misuse Act 1986*	TAS *Industrial Hemp Act 2015*	WA *Industrial Hemp Act 2004*	VIC *Drugs, Poisons and Controlled Substances Act 1981*	NSW *Hemp Industry Act 2008*	ACT *Hemp Fibre Industry Facilitation Act 2004*	SA *Industrial Hemp Act 2017*
Licence							
Application	$486.85	No licence fee (only $45 police check fee)	$328	$433.50	$542 (initial licence application, plus $200 annually/4 years)	Act provides that fee may be determined by the Minister	$1080 $200 probity check by SAPOL of an applicant and each associate

	QLD *Drugs Misuse Act 1986*	TAS *Industrial Hemp Act 2015*	WA *Industrial Hemp Act 2004*	VIC *Drugs, Poisons and Controlled Substances Act 1981*	NSW *Hemp Industry Act 2008*	ACT *Hemp Fibre Industry Facilitation Act 2004*	SA *Industrial Hemp Act 2017*
							of the applicant.
Licence to sell or supply by wholesale	N/A	N/A	N/A	1343.79	N/A	N/A	
Certified copy of licence	N/A	N/A	Provision for fee but not charged	N/A	N/A	N/A	
Renewal	$194.80	N/A	$131	$137.30	$418	Act provides that fee may be determined by the Minister	$650
Amendment	Provision for fee but currently not charged	N/A	N/A	Y	N/A	Act provides that fee may be determined by the Minister	$215
Transfer	N/A	N/A	$328	N/A	$500	N/A	
Inspection of register	N/A	N/A	Provision for fee but not charged	N/A	N/A	N/A	N/A
Monitoring							
Inspection/audit	$223.90/hour	N/A	Provision for fee to be charged by Regulation or as determined by registrar – no fee currently	Regulations can prescribe a fee. A fee of $50.60 for inspector to assess new site.	N/A	N/A	$145/hr $14/6 min blocks

	QLD *Drugs Misuse Act 1986*	TAS *Industrial Hemp Act 2015*	WA *Industrial Hemp Act 2004*	VIC *Drugs, Poisons and Controlled Substances Act 1981*	NSW *Hemp Industry Act 2008*	ACT *Hemp Fibre Industry Facilitation Act 2004*	SA *Industrial Hemp Act 2017*
			charged	Other inspection fees are at $50.60/15min increments			
Analysis	Conducted/charged by third party	$240/hr	Provision for fee to be charged by Regulation or as determined by registrar – no fee charged	External lab rates currently at $250 (plus GST)/Sample	N/A	N/A	$145/hr $14/6 min blocks
Supervision	N/A	N/A	Provision for fee to be charged by Regulation or as determined by registrar – no fee charged	$50.60/15min increment	N/A	N/A	N/A
Surveillance	N/A	N/A	Provision for fee to be charged by Regulation or as determined by registrar – no fee charged	$50.60/15min increment	N/A	N/A	Travel by an inspector ($145/hr) $14/6 min blocks

Appendix 5 – Examples of information sharing provisions in Queensland legislation

Animal Care and Protection Act 2001

215B Sharing of information by authorised officer or inspector

(1) Despite section 85, an authorised officer or inspector may give information obtained under this Act in the following circumstances:

(a) to a police officer if the authorised officer or inspector reasonably believes the information will help a police officer in the performance of the police officer's functions in relation to:

(i) an animal; or

(ii) an animal welfare offence;

(b) to an RIA authorised officer if the authorised officer or inspector reasonably believes the information will help an RIA authorised officer in the performance of the officer's functions under the *Racing Integrity Act 2016* in relation to:

(i) an animal; or

(ii) an animal welfare offence.

(2) In this section:

RIA authorised officer means an authorised officer under the *Racing Integrity Act 2016*.

Some provisions, such as section 96 of the *Racing Integrity Act 2016* (below) provide for a greater amount of information to be requested however the use of that information is constrained by the purposes for which it can be used, namely to investigate the suitability of a licence holder to hold or continue to hold a racing bookmaker's licence. Similar constraints could be imposed on information acquired on persons and licence holders for the purposes of licensing and enforcement under the DM Act.

Racing Integrity Act 2016

96 Investigations into suitability of licence holder

(1) The commission may investigate a licence holder to find out whether the licence holder is a suitable person to hold, or to continue to hold, a racing bookmaker's licence.

(2) Subject to subsection (3), the commission may investigate the licence holder under this section only if:

(a) the commission reasonably suspects the licence holder is not, or is no longer, a suitable person to hold a racing bookmaker's licence; or

(b) the investigation is made under an audit program approved by the commission.

(3) The commission may, at any time, ask the police commissioner whether the licence holder:

(a) is an identified participant in a criminal organisation; or

(b) has a business associate or an executive associate who is:

(i) if the associate is an individual—an identified participant in a criminal organisation; or

(ii) if the associate is a corporation—a criminal organisation or an unsuitable corporation; or

(c) if the licence holder is a corporation—is an unsuitable corporation.

(4) The police commissioner must give the commission the information requested under subsection (3).

(5) The commission may use the advice given by the police commissioner only for deciding whether the racing bookmaker's licence should be cancelled.

Appendix 6 – Information sharing in other jurisdictions

The table (below) describes investigation and information sharing provisions in other jurisdictions. All jurisdictions relate inquiries or investigations to either an application or the suitability of an applicant. Tasmania, New South Wales and South Australia all require the consent of the applicant to be obtained before financial or other information is sought from other sources. All jurisdictions with the exception of Tasmania provide for involvement of the most senior level of police in investigating applications and or applicants.

The legislation in South Australia provides for greater involvement of police in the application process as it provides for the Police Commissioner to either support or refuse to support an application. The South Australian legislation specifically provides for dealings with criminal intelligence (defined in part as information relating to actual or suspected criminal activity whether in South Australia or elsewhere) and provides that criminal intelligence may only be disclosed to the chief executive, the Minister, the Tribunal, a court or other person the Police Commissioner authorises.

Western Australia	The *Industrial Hemp Act 2004* provides for investigations and inquiries relating to applications where the registrar may refer an application and any information to the Police Commissioner and request the Commissioner to inquire and report to the registrar on matters relating to the application.
Tasmania	The *Industrial Hemp Act 2015* provides for investigation of applications where the secretary, with consent, may obtain financial or other information from other persons.
Victoria	The *Drugs, Poisons and Controlled Substances Act 1981* provides for the Secretary to investigate an application whereby the Secretary must cause to be carried out all investigations and inquiries considered necessary. The Secretary may refer the application to the Chief Commissioner of police who must inquire and report to the Secretary on any matters concerning the application.
New South Wales	The *Hemp Industry Act 2008* provides for the Secretary to investigate applications whereby the Secretary may request the applicant to provide consent for the Secretary to obtain financial or other confidential information from other persons. It also provides that a criminal history check must be undertaken and it provides that it is the duty of the Commissioner of Police to assist in the criminal history check.
Australian Capital Territory	The *Hemp Fibre Industry Facilitation Act 2004* provides for investigations about the suitability of applicants and licensees whereby the Director-General may provide the Chief Police Officer with any relevant particulars concerning an application and in turn request a criminal history report. The Chief Police Officer must make inquiries about the applicant's criminal history and make any other inquiries about the applicant the Chief Police Officer considers appropriate.
South Australia	The *Industrial Hemp Act 2017* provides for the chief executive to investigate applicants by enabling the chief executive to require an applicant to provide consent for the chief executive to obtain financial or other confidential information concerning the applicant. It also provides that the chief executive must provide information to the Police Commissioner who must in turn notify the chief executive of support or refusal of the application.