



Draft Industrial Hemp Amendment Bill 2023

SUMMARY OF PUBLIC CONSULTATION

AgriGrowth Tasmania

Department of Natural Resources and Environment Tasmania

*In recognition of the deep history and culture of these islands,
we acknowledge all Tasmanian Aboriginal people as the continuing Custodians of this
Land and Sea Country and pay our respects to Elders past and present.*

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Hemp seeds - reproduced with permission from Hemp Harvests

Curved hempcrete wall - Huon Hemp Haus (Police Point, Tas) Rebecca Thompson, reproduced with permission from the Tasmanian Hemp Association

Industrial hemp plants - Simon DeSalis

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Background

The Tasmanian Government's 2020 *Competitiveness of Tasmanian Agriculture for 2050 White Paper* includes an initiative to “work with the industrial hemp industry to explore options to support future growth and streamline regulation”.

Industrial hemp is a versatile field crop with many potential uses. In Tasmania industrial hemp is cultivated for seed or fibre production. Hemp fibre and pulp can be used in industrial and consumer textiles, paper and building materials. Hemp seed and hemp seed oil can be used in industrial products, cosmetics and food for both humans and animals.

In 2021 a review of the Act commenced with the purpose of considering opportunities to update and modernise the Act and to consider activities with industrial hemp that were not contemplated when the Act was drafted. The Review acknowledged that it was timely to make sure that our regulatory settings for industrial hemp are proportionate and contemporary.

The Review focussed on three broad areas:

- Updating existing definitions to clarify scope of regulation, considering ongoing changes in the industry.
- Clarifying the interaction of the Act with other legislation.
- Assessing the Act to ensure the level of regulation remains proportionate to risk.

Like any agricultural commodity, industrial hemp seed is subject to market forces, and a recent over-supply of hemp seed in global markets, has temporarily decreased demand and reduced the size of Tasmania's commercially grown industrial hemp crop. Accordingly, the Review focused on providing opportunities for greater whole of plant use to enable growers to maximise the return on their crops, while maintaining efficient enforcement of illicit activities.

The [Final report on the Review of the Industrial Hemp Act 2015](#) (available on the NRE Tas website) outlines the review and consultation process, issues raised by stakeholders, the review findings, and the Government response.

The Act itself is broadly framed and already provides scope for greater whole of plant use. Most issues raised can be addressed by updating the grower's licence conditions and policy to better guide and inform licensees of their obligations and assist them to maximise the use of their crop.

The response to the Review is to firstly, propose relatively minor legislative amendments through this Bill including updates to the Regulations, to improve the Act's effectiveness, transparency and clarity for industry. This will be complemented by updating licence conditions and developing policy guidance to address practical matters identified in the Review such as dual medicinal and industrial hemp licencing, animal feed, cover cropping, and cultivar testing. This would better support licensees get the most from their industrial hemp crop and improve the application process and other compliance documentation to make it easier for industry to interact with the licensing scheme. Overall, this will provide increased flexibility, clarity, transparency and remove the perceived and actual barriers to greater value-adding for Tasmania's hemp industry.

In summary, the draft *Industrial Hemp Amendment Bill 2023* (draft Bill) proposes to support greater industry growth and value-adding potential by including horticultural use as an explicit licence purpose. It would address regulatory gaps and improve transparency with respect to actions where a crop tests above 1 per cent tetrahydrocannabinol (THC) and special research licences. It would improve efficiency, clarity and consistency with existing legislation with respect to police powers, the assessment of suitability of applicants, and definitions for fit and proper persons and responsible officers.



Consultation process

The public consultation period ran from the 28 September to 25th October 2023.

The draft Bill and legislation fact sheet was released for public comment to stakeholders on 28 September. The Final Report on the Review of the Act was also released at the same time. The Minister for Primary Industries and Water, Hon Jo Palmer MLC on 1 October 2023 released an accompanying media release.

Targeted stakeholder engagement was undertaken by NRE Tas, including:

- An industry pre-briefing was held with stakeholders and growers on 25 September including the THA, Australian Hemp Council (AHC) and Tasmanian Farmers and Graziers Association (TFGA) prior to the formal commencement of consultation.
- AgriGrowth Tasmania advised by email 17 key interest groups, who had previously participated and provided submissions in the consultation process for the Review, of the draft Bill.
- An email was sent to 130 past or present industrial hemp licence holders to inform them of the draft Bill consultation process.

The draft Bill consultation was also promoted on the NRE Tas Facebook page with a reminder of the upcoming closure of consultation period. Material related to the consultation was available on a dedicated webpage <https://nre.tas.gov.au/about-the-department/news/consultation-open-on-draft-amendments-to-industrial-hemp-legislation> and highlighted on the Department's front landing page.

During the process of reviewing the Act, and subsequent development of the Draft Bill, NRE Tas has been in regular dialogue with key stakeholders and leading growers, and in particular representatives of the Tasmanian Hemp Association (THA).

Submissions received

Seven submissions were received as outlined in Attachment 1. In addition, further drafting input was received from other Tasmanian Government agencies.



Issues and responses

The following table summarises the issues raised from the submissions.

The most recent consultation process was for the draft *Industrial Hemp Amendment Bill 2023*. We note that some comments in submissions were directed at the Bill, one submission referred to their previous submission to the preceding Review of the Act, and many comments went to other matters of policy, licensing and administration which are being responded to separately through implementing the findings and recommendations of the Review Final Report. For completeness these broader issues are also recognised below and relevant quotes from submissions are reproduced.

Summary of stakeholder comments	Response
<p>1) Change the FSANZ ruling on using low THC Industrial Hemp as Stockfeed.</p>	<p>Acknowledged. No changes to the <i>Industrial Hemp Amendment Bill 2023</i>.</p> <p>Refer to Review Final Report (Animal Feed - Page 15) for further information:</p> <p><i>Due to limited data on the bioaccumulation of THC in animals and the potential transfer of THC to animal products, Food Safety Australia and New Zealand (FSANZ) Food Standards Code does not allow any THC to be present in animal products for human consumption. NRE Tas will update the licence conditions to clarify that animals can be fed:</i></p> <ul style="list-style-type: none"> • <i>denatured industrial hemp seed and hemp seed oil; and</i> • <i>harvested or treated hemp stalks with all leaves, flowering heads and seeds removed.</i> <p><i>To assist licensees to comply with the FSANZ Food Standards Code requirements for zero THC in animal products, NRE Tas will update the licence conditions to clarify that food-producing animals are not to be fed industrial hemp leaves, stems and flowers, unless authorised under a research project.</i></p> <p><i>NRE Tas will update policy and FAQs for feeding industrial hemp to animals, in consultation with the THA.</i></p> <p><i>The licence condition and policy guidance will be reviewed and updated when there is nationally agreed advice on recommended withholding periods for hemp-grazed livestock.</i></p> <p><i>There is current research into withholding periods for hemp-grazed livestock, however at the time of the Review there was no definitive advice available to guide livestock owners who wish to feed the vegetative parts of the industrial hemp plant to their animals.</i></p>



<p>2) Clarity around dual-purpose licence pathway</p>	<p>Supported. Policy and licence matter. No changes to the <i>Industrial Hemp Amendment Bill 2023</i>.</p> <p><i>“The proposed clarification to the licence conditions for businesses such as ours who have dual licenses is an important and welcomed clarification.”</i></p> <p>Refer to Review Final Report (Dual Licence Crops - Page 14) for further information:</p> <p><i>NRE Tas will update the licence conditions to clarify that industrial hemp licensees who also have a medicinal cannabis licence (under the Narcotic Drug Act 1967 Cwth) can use the same crop for both industrial (seed and fibre) and medicinal products.</i></p> <p><i>NRE Tas will develop and publish a policy and FAQs for the management of dual licence crops, in consultation with the Tasmanian Hemp Association and the Australian Government’s Office of Drug Control.</i></p>
<p>3) Horticulture being added as a permitted purpose Hemp as mulch and compost</p>	<p>Supported. In the Bill as drafted. Complemented by improved policy and licence pathway.</p> <p><i>“Having the ability to cultivate for the purpose of producing green manure would allow us to produce larger quantities of valuable compost for use within our facility and potentially for sale to other businesses.”</i></p> <p><i>“It would not only value add hemp production by using all green waste but also prevent the air pollution caused when burning the stubble.”</i></p> <p>The Bill amends Section 13 to provide the granting of industrial hemp licences for the explicit purpose of horticultural use. This clarifies that industrial hemp can be licensed as horticultural mulch or compost for example, to support industry value-adding and enable hemp by-product to be better used in a circular economy.</p> <p>As outlined in the Review Final Report (Page 6 Raw hemp as horticultural mulch), to give practical effect to this amendment, ...<i>NRE Tas will also establish a licence pathway and work with the Tasmanian Hemp Association on a pilot to licence the supply of raw (untreated) hemp bales as a horticultural mulch or compost on selected properties. A pilot approach will help to determine the potential demand and the additional compliance and monitoring requirements.</i></p>
<p>4) Recognition and support of ongoing research activities... Special Research Licence</p>	<p>Supported. In the Bill as drafted.</p> <p><i>“The strength in the legislative amendment comes from the inclusion of a Special Research Licence that removes the barriers currently faced through restrictive THC Industrial Hemp licence conditions. By lifting the restrictions on THC levels in the hemp crop for research purposes, we can unlock numerous possibilities for the industry. ...we believe that this legislation, coupled with bold and innovative government leaders will help create jobs, feed the local economy, and put Tasmania on the Global Industrial Hemp map because of the Special Research Licence provision.”</i></p>



	<p>The Bill amends sections 4, 7, 11, 12, 14 and 18 to rename “special licence” to a “special research licence” to better reflect the specific research purpose of these licences, which are granted for research into hemp varieties which have more than 1 per cent THC.</p> <p>Complementary amendments to the <i>Industrial Hemp Regulations 2016</i> through new Regulation 7A would add criteria that must be met before the Secretary determines an application for a special research licence. Such criteria would include a scientifically valid research method and approach, the potential benefits of the research to the industrial hemp industry, and appropriate safety and security measures will be put in place to minimise the risk of theft or unauthorised access.</p>
<p>5) Various regulatory scheme comments:</p> <p>...Continued streamlining of regulatory (and licensing) requirements...</p> <p>...Continued support from the State Government in the way of reducing red tape and regulatory burden...</p> <p>...Reduce regulatory burden</p> <p>...Clearer definitions to distinguish between low-THC cannabis and high-THC cannabis</p> <p>...Updating the Act to clarify the scope of regulation</p>	<p>In response to industry feedback, a range of improvements are being proposed to the Tasmanian industrial hemp regulatory scheme through this Bill and complementary policy, licensing and administrative improvements.</p> <p><i>“It is the TFGA’s opinion that the proposed amendments have been drafted with the intent to support the continued growth of the industrial hemp industry in Tasmania, to improve transparency and flexibility, and has identified the need for ongoing research and development.”</i></p> <p><i>“Upon reading the Final Report, we were disappointed to see that no real action is being taken by the Government at this time to implement any of these proposed improvements.”</i></p> <p>The range of issues raised in submissions and the differences in views from growers and grower organisations is noted.</p> <p>The Review found that most issues raised can be addressed by updating the grower’s licence conditions and policy to better guide and inform licensees of their obligations and assist them to maximise the use of their crop.</p> <p>In response to the Review of the Act, the Government has committed to legislative amendments as proposed through this Bill including updates to the Regulations, to improve the Act’s effectiveness, transparency and clarity for industry. This is complemented by immediately updating a range of licence conditions and developing policy guidance to address practical matters identified in the Review such as dual medicinal and industrial hemp licencing, animal feed, cover cropping, and cultivar testing.</p> <p>The Government’s intent is to provide opportunities for greater whole of plant use to enable growers to maximise the return on their crops, provide increased flexibility, transparency, clarity, more efficient regulation and administration by NRE Tas, and whilst maintaining efficient enforcement of illicit activities.</p> <p>Consistent with the intent of the original Act, the Bill is drafted to retain sufficient flexibility in its operations to respond to emerging industry priorities. An alternative option would have been to make major legislative amendments to codify all licence conditions in the Act and/or Regulations. This option was not preferred as it is inconsistent with the intent of the original legislation and is out of step with industry expectation and stakeholder feedback received through the Review.</p>



	<p>The Government (1 October) has committed that: <i>“The Department of Natural Resources and Environment Tasmania will work with the Tasmanian Hemp Association so updated licensing arrangements are in place before the 2024 growing season.”</i></p> <p>Note, the definition of industrial hemp is clearly defined in Section 4 of the Act. No legislative change is proposed. It is not proposed to amend the legislated definitions of cannabis in the <i>Poisons Act 1971</i> or the <i>Misuse of Drugs Act 2001</i> as these retain important distinctions for consumer protection and outside the scope of the <i>Industrial Hemp Act 2015</i>.</p>
<p>6) Various comments:</p> <p>...Stronger action to facilitate the burgeoning Cannabidiol sector</p> <p>...Use of biomass extracts and resins</p> <p>...Competitiveness of Tasmanian hemp businesses</p>	<p>The Government supports a nationally-consistent approach and industry advocacy. National drug regulatory scheme matter. No changes to the <i>Industrial Hemp Amendment Bill 2023</i>.</p> <p><i>“Many states and other nations have taken the bold and decisive action to bring outdated legislation in line with current and community scientific views around this stigmatised crop so innovative businesses can thrive.”</i></p> <p><i>“We are aware at this very moment, high value export opportunities for Tasmania are not permitted because of the restrictions on hemp leaf extraction products. NSW has shown the lead nationally by allowing the extract of non-medicinal hemp leaf products.”</i></p> <p>The Government understands from briefings and discussions that the fundamental issue here is the desire by, and understandable frustrations of, industry to produce <u>non-medicinal</u> extracts and resins derived from industrial hemp, along with, recent developments observed in other States’ legislation for industrial hemp. For example, the <i>NSW Hemp Industry Act 2008</i> has recently been amended to clarify that resin is an example of a product that can be derived from low-THC hemp, along with oil and fibre, and that a licence authorising a person to cultivate or supply low-THC hemp can include the production of oil, fibre or resin.</p> <p>Refer to Review Final Report (Non-medicinal extracts from hemp biomass and resin - Pages 9 & 16) for further information:</p> <p><i>“This issue relates to legislated definitions of extracts and resins in Commonwealth legislation and requires a coordinated, industry-led approach at the national level. The Tasmanian Government will support industry to advocate for a pathway for non-medicinal extracts of industrial hemp.”</i></p> <p>Following the release of the Review Final Report, further clarification and a submission was provided by the Federal Office of Drug Control which states:</p> <p><i>“It should be noted that, while it is recognised that low-tetrahydrocannabinol (THC) extracts for cannabis contains little or no psychoactive THC, the Single Convention (United Nations Single Convention on Narcotic Drugs of 1961), does not control cannabis (or extracts) based on THC content but rather on what the intended use of the cannabis is for, and generally limits this use to medical and scientific purposes.”</i></p> <p><i>“However, where the cannabis plant is not used for fibre and seed, or horticultural purposes, the use of cannabis (including extracts/resin) must be under the control framework, which for Australia is implemented through the Narcotic Drugs Act, (and extracts/resin) may only be used for medical or scientific purposes. As such, should a cultivator of industrial hemp also wish to use the hemp flower, or make extracts/resin, for medical purposes, they</i></p>



	<p><i>can do so by applying for a licence under the Narcotic Drugs Act for the cultivation and production of medicinal cannabis, or to manufacture a narcotic drug. Any such application must be made to the ODC.”</i></p> <p><i>“We understand there is interest within the Tasmanian hemp industry to be able to produce non-medical extracts and resins derived from industrial hemp...”</i></p> <p><i>“However, as the Final Report goes on to correctly note, the Single Convention defines extracts and resins of cannabis as a drug. Accordingly, as previously indicated, extracts/resin from the cannabis plant are subject to the control framework under the Single Convention and therefore can only be used for medical or scientific purposes.”</i></p> <p>The Tasmanian Government cannot comment on legislation made by other States.</p> <p>The Tasmanian Government clearly supports the greater use and value-adding from the industrial hemp plant and will support industry to advocate for a nationally consistent approach.</p> <p>The submission of the ODC (quotes copied above) affirms the Government’s position to not knowingly do anything that may affect Tasmania’s compliance, and reputation for complying with, the <i>Narcotic Drugs Act 1967 (Cwth)</i> and the international drug control framework, which is important to the integrity of Tasmania’s \$45 million poppy industry along with our emerging industrial hemp industry valued at \$3 million in 2020/21.</p>
<p>7) Status of cannabis under the Single Convention on Narcotic Drugs</p>	<p>National drug regulatory scheme matter. No changes to the <i>Industrial Hemp Amendment Bill 2023</i>.</p> <p><i>“In 2020 the United Nations removed cannabis from Schedule IV of the 1961 Single Convention on Narcotic Drugs, and non-THC compounds found in the plant are no longer scheduled under international drug conventions.”</i></p> <p>This quotation provided by one submission is noted. However, it is not supported by the submission and advice from the Office of Drug Control which states:</p> <p><i>“In this regard, I note the United Nations Commission on Narcotic Drugs held a vote in 2020 to consider a threshold for THC in preparations to clarify what substances are controlled under the Single Convention. Ultimately, however, the Commission voted against any amendments, therefore any extracts and tinctures of cannabis, including hemp oil, remain controlled under the Single Convention and are not to be used for non-medical purposes.”</i></p> <p>Please also refer to the response to issue 6 above.</p>



8) Minor drafting amendments	<p>Proposed drafting changes to the <i>Draft Industrial Hemp Amendment Bill 2023</i>.</p> <p>The following changes would better clarify and support the information sharing provisions with Tasmanian Police for the purposes of assessing the suitability of an applicant for a licence and for when any action is taken regarding industrial hemp where THC concentration is over 1 per cent.</p> <ul style="list-style-type: none"> • Clause 7 - S8(1A): change from the Secretary ‘may’ to the Secretary ‘is to’ forward a copy of an application for a licence to the commissioner of police. • Clause 7 - S8(1B): slight wording variation to clarify that the Commissioner of Police is to inquire into, and report to the Secretary on, such matters concerning the application for a licence as the Secretary requests. • Clause 7 - New S8(1C): to clarify that the Commissioner of Police is not required to disclose information to the extent that to do so would prejudice the prevention, investigation or prosecution of an offence. • Clause 17 - S24A inserted: to clarify, include a requirement that the Commissioner of Police is to be notified when a direction is given under 24A(1)(a) to destroy a crop, and also provide that the Secretary may seek the advice of the Commissioner of Police where an action under s24A(1)(b), i.e. other than destruction, is anticipated. <p>The following clarifies and avoids any potential unintended limitation with the proposed authorisation for police officers to possess and supply hemp for whatever purposes.</p> <ul style="list-style-type: none"> • Clause 19 Section 35A inserted: slight wording variation (1) The Commissioner of Police may authorise a police officer, State Service officer or State Service employee to possess and supply industrial hemp or hemp for such purposes and upon such terms and conditions as are specified in the authorisation.
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Attachment 1: Submissions Received

No.	Name
1	Estelle Ross
2	Tasmanian Farmers & Graziers Association
3	David Grolman - Hale Farm
4	Pat Darbyshire - Plant Well
5	Department of Health and Aged Care, Office of Drug Control
6	Tasmanian Hemp Association
7	Australian Hemp Council



