

Cultivate Cannabis (Not Enhanced Indoor) Commercial Quantity

s.23(2)(a) (NSW) Drug Misuse and Trafficking Act

s.23(2)(a) Cultivate or knowingly take part in cultivation of not less than commercial quantity of prohibited plant

Commercial Quantity: 250 plants

Large Commercial Quantity: 1000 plants

Maximum Penalty: 15 years – s.33(2)(b)

	Case	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
1.	Daoulas NSWCCA 28.10.1993 Co-accused: METALLIDIS	Cultivate	861 plants	PG	MT 3y 6m AT 14m	AA (parity) MT 2y 6m AT 10m	nil	Well established plantation in isolated area - well planned enterprise - purely commercial enterprise. Financial difficulties as result of termination from employment - family with two children - will face deportation - forfeiture of motor vehicle caused further hardship.
2.	Metallidis NSWCCA 23.2.1994 Co-accused: DAOULAS	Cultivate	861 plants	PG	MT 3y 6m AT 14m	AD		Well established plantation in isolated area - well planned enterprise - purely commercial enterprise - more culpable than co-offender.
3.	Blattman NSWCCA 15.4.1994	Knowingly take part in cultivation	1855 plants	PG	Griffiths Remand	Crown AD		Plants grown by indoor hydroponic garden - not prime mover Impressive turnaround in lifestyle - care of young child. Mistakenly sentenced for commercial not large commercial quantity
4.	Brittain NSWCCA 15.8.1994	Knowingly take part in cultivation		VG	MT 4y 8m AT 1y 9m	Conviction AD		Three cultivation sites.

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5.	MacPhail (27) NSWCCA 18.11.1994	Cultivate Sched: 5 offences	385 plants	PG	MT 2y AT 2y	AA MT 15m AT 15m	priors - no gaol - on recog at time of offence	Growing seedlings in backyard of city dwelling - to be transferred to country property for further growth - amateur operation Complete cooperation with police - also sentenced for minor supply and possession offences.
6.	Gow Shine (1996) 85 A Crim R 76	Cultivate Cultivate	856 plants	PG PG	3y PD 3y PD	Crown AD	minor drug offence nil	Commercial venture motivated by profit - plants grown hydroponically in garage of rented property Good subjective features
7.	Galway NSWCCA 19.8.1998	Knowingly concerned in cultivation	520 plants	VG	400h CSO (PSC 2m 9d)	Crown AA FT 6m (completed CSO)	driving and use drugs	Plantation in bush - no link to organised crime. Good character.
8.	Slattery [2002] NSWCCA 145	Cultivate		VG	MT 1y 10m 5d AT 2y 6m	AD	Drugs – firearms - previous custody.	Circumstantial case against offender linking him to plantation in bushland and at his residence.
9.	Dopson (2003) 141 A Crim R 302 [2003] NSWCCA 99	Cultivate Sched: 4 x poss cannabis	501 plants	PG (25%)	2y suspended	Crown AD	cultivation and possession	Growing plants using hydroponics system in parents' garage - personal use only - seeking to grow as much cannabis as possible before parents returned Long-term addiction - employed and studying - contact with 3 children - drug rehabilitation program
10.	Godden (43) [2005] NSWCCA 160	Cultivate Sched: Possess 280g leaf	319 plants	PG (20%)	3y 2m NPP 2y	AA 2y 2m NPP 1y 3m	Minor – breached bond	Hydroponic system in house and shed – growing for profit Long term user - evidence of rehabilitation

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11.	Giammaria Karagiannis [2006] NSWCCA 63	Knowingly take part in cultivation Sched: Knowingly take part in supply commercial qty Knowingly take part in cultivation Sched: Knowingly take part in supply commercial qty	1,300-1,600 plants 450-550 plants	PG (25%) PG (25%)	6y NPP 2y 6m 6y NPP 3y 6m	AA 4y 6m NPP 2y 4y 6m NPP 3y		Involved in major commercial plantation of cannabis plants – three plantation linked - G to receive share from larger plantation – K minor management role in smaller plantation On appeal - outside range
12.	O'Meara (53) [2006] NSWCCA 131	Cultivate Unauth poss firearm Unauth poss firearm	598 plants	VG	4y 1m NPP 19m FT 18m FT 12m <u>Total:</u> 6y 1m NPP 2y 7m	AD	Including manslaughter	Plants found on offender's property in greenhouses, garden bed and garage - .22 calibre Jennings self-loading pistol and 12 gauge Mossberg repeating shotgun also found on property Prospects of rehabilitation not good
13.	Vlismas [2006] NSWCCA 270	Cultivate Cultivate 2 x Supply cannabis leaf	1,008 plants Not stated		8y NPP 4y 6y NPP 3y FT 2y 6m (each) <u>Total</u> 8y NPP 4y	AD		Cultivation tool place in two separate premises – supply offences related to leaf found at same premises – joint criminal enterprise On appeal: dismissed disparity argument

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14.	Quan [2006] NSWCCA 382	Cultivate Sched: 3 related offences	284 plants	PG	3y 2m NPP 2y	AA 2y 2m NPP 1y 3m 15d	Nil	Hydroponic system in own house – actual role unclear Mature Vietnamese male – gambling addiction Case very similar to <u>Godden</u>
15.	Hantzis [2006] NSWCCA 387	Knowingly take part in cultivation Knowingly take part in supply comm qty cannabis leaf Sched: Deemed supply cannabis leaf	850 plants 10.297kg	PG	9y NPP 5y	AA 6y NPP 3y 4m FT 2y (concurrent)		Involved in commercial cultivation on farm near Narrabri – major management role in relation to one of several crops although not a principal – cannabis to be supplying for profit but no arrangements made at time of arrest
16.	Nguyen [2007] NSWCCA 94	Cultivate Sched: Supply leaf	278 plants 5.7kg	PG (25%)	30m NPP 15m	AD	Nil	Grew plants in house for profit.
17.	HVN [2007] NSWCCA 207	Cultivate	348 plants	PG (30% plea and assist)	2y NPP 1y	AD		Plants grown in house – diverted electricity Assistance of high order
18.	Delfino [2008] NSWCCA 18	Knowingly take part in cultivation	250 plants	PG (20%)	4y NPP 2y	AD	Supply drugs	Plants grown on property with co offenders – role of harvester – only on property a short time – value \$700k
19.	Petroski (39) [2017] NSWCCA 309	Knowingly take part in cultivation s.166 Certificate Participate in criminal group to cultivate	Approx. 300 plants	PG	2y 6m NPP 18m FT 9m (concurrent)	AD	Nil	Became involved in cannabis planation in west of State after commencement – believed only way to recover substantial debt – delivered equipment and provided some guidance to cultivators – a principal or significant person – actively involved – planned and relatively sophisticated although failed planation No prior involvement in drugs

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