

## Cultivate Cannabis (Not Enhanced Indoor)

### Large 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

**Large Commercial Quantity:** 1000 plants

**Maximum Penalty:** 20 years – s.33(3)(b) (large commercial quantity)

**Standard Non-Parole Period:** 10 years (for offences where offender pleaded guilty or was convicted on or after 1.1.2008)

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
1.	<b>Kasadelis</b>  <b>Tsagaris</b>  <b>Pelle</b>  NSWCCA 5.9.1994	Cultivate  Cultivate  Cultivate		PG  PG  PG	MT 5y AT 1y 8m  MT 3y 6m AT 1y 2m  MT 3y AT 1y	AD  AD  AD	nil relevant  supply and cultivate  nil	Cultivation on remote property near Bourke - K was entrepreneur - T and P workers only - T involved longer than P. K motivated by difficult financial position - suffered from heart condition making imprisonment more onerous - genuinely contrite. P has severely handicapped child - genuinely contrite - difficult financial position.
2.	<b>Overall</b> NSWCCA 29.11.1996	Knowingly take part in cultivation	4,646 plants	PG	MT 1y AT 1y	AD		Serious horticultural endeavour - played important but not primary role in offence - purchased equipment and visited workers daily - pressured into offence when under financial stress. Very strong subjective case - valuable assistance to authorities.

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3.	<b>Catanzariti</b> <b>Piromalli</b> <b>Trajkov</b>  NSWCCA 31.10.1997	Cultivate	3169 plants	PG	MT 6y AT 2y	AA MT 3y AT 1y	of no significance	Each played important role over three month period.
4.	<b>Barbara</b> (63) NSWCCA 24.2.1997	Cultivate	4237 plants	PG	2y 6m PD	Crown AD (inadequate but dismissed because of ill health)	nil	Plants growing in the roof cavity of the offender's flower plantation - extensively developed cultivation materials. Driven by financial failure - strong family support - severe angina and evidence of marked deterioration since sentence
5.	<b>Oygur</b> (34) NSWCCA 31.10.1997	Cultivate  Sched: 3 x possession	1239 plants	PG	MT 2y 18 days AT 9m 12 days (+ 2m PSC)	AD	property, drugs. No previous custody.	Police videotaped the applicant and another tending 1,239 cannabis plants at property
6.	<b>Giacobello</b> (46) <a href="#">[2001] NSWCCA 473</a>	Cultivate	more than 2000 plants	PG	4y NPP 3y	AD	prior record including trafficking cannabis	Admitted taking part as cultivator for financial gain.
7.	<b>Skorin</b> (28-9) <a href="#">[2005] NSWCCA 276</a>  Co-offender: MAMMONE VALENSISE	Knowingly take part in cultivation	6,765 plants	PG (reduced to 40% plea and assist on appeal)	2y 2m NPP 1y	Crown AA 4y 6m NPP 2y 9m	Nil	Involved in cultivation on rural property – intermediate level – organised and supplied materials and recruited one worker – commercial gain Assistance
8.	<b>Nguyen</b> (22) <a href="#">[2005] NSWCCA 448</a>  Co-offender: CANNISTRA NGUYEN	Knowingly take part in cultivate	Over 30,000 plants	PG	9y NPP 5y	AA 5y 6m NPP 3y	Nil	Recruited to work on plantation for four months Parity

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9.	<b>Mangano</b> (2006) 160 A Crim R 480 <a href="#">[2006] NSWCCA 35</a>  Co-offender: GRECO	Knowingly take part in cultivation  Sched: Knowingly take part in cultivation	Nearly 10,000 plants  Over 6.000 plants	PG (50% plea and assist)	2y NPP 14m PD	Crown AA 4y 5m NPP 2y 5m	Nil	Involved in two plantations over 6 months – assistant / labourer – to be paid \$100,000 Financial difficulty – good character - assistance
10.	<b>Mammone</b> (73) <a href="#">[2006] NSWCCA 138</a>  Co-offender: SKORIN VALENSISE	Knowingly take part in cultivation	Over 6000 plants	PG (12.5% on appeal)	5y 2m 12d NPP 2y 6m	Crown AA 5y 8m NPP 3y 6m	Shoot with intent – breached parole.	Involved in two plantations – cleared land, visited and inspected crops, recruited workers. Elderly – ill health – special circumstances.
11.	<b>Valensise</b> <a href="#">[2006] NSWCCA 315</a>  Co-Offender: SKORIN MAMMONE	Knowingly take part in cultivation  Sched: Supply cannabis Supply ecstasy Supply methyl	6,795 plants  978.7g 87.5g 7.18g	PG (25%)	30m NPP 8m 30d	Crown AA 3y 4m NPP 2y	Nil significant	Involved in two properties in country
12.	<b>Cannistra</b> (64)  <b>Nguyen</b> (25)  <a href="#">[2006] NSWCCA 389</a>  Co-offender: NGUYEN	Knowingly take part in cultivation  Sched: Cultivate lge comm. qty  Knowingly take part in cultivation  Sched: Cultivate lge comm. qty	30,051	PG (50% plea and assist)  PG (30% plea and assist)	7y 3m NPP 4y 9m  8y 2m NPP 5y 2m	Crown AA 9y NPP 5y 10m  Crown AD	Minor  Nil	Involved in three crop sites in rural area C – central figure at property and controlling mind – assistance – ill health N – female – in relationship with C – paid to recruit and carry out tasks – more than worker – assistance - depression

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13.	<b>Gattellari</b> (20)  <b>McRae</b> (26)  <a href="#">[2007] NSWCCA 5</a>	Cultivate  Cultivate	2,742 plants	PG (25%)  PG (25%)	5y 9m NPP 3y 2m  5y 9m NPP 3y 2m	AD	Nil  Minor	Managed plantation in remote area after injury to co-offender – extensive indoor cloning operation inside steel shed – soccer field sized outdoor crop Both of good character
14.	<b>Licastro</b> (36)  <a href="#">[2008] NSWCCA 131</a>	Knowingly take part in cultivation	3,831 plants	VG	8y NPP 6y	AD	Record including drug use and possession offences	Principals in sophisticated plantation Long history of drug abuse
15.	<b>Romano, N</b>  <b>Romano, L</b>  <a href="#">[2009] NSWCCA 63</a>	Knowingly take part in cultivation  Knowingly take part in cultivation	8000 plants	PG (9.9%)  VG	10y NPP 6y  8y 11m NPP 5y	AD  AD		N principal in cultivation L middle echelon in operation.
16.	<b>Green</b> (24)  <b>Quinn</b> (32)  (2010) 207 A Crim R 148 <a href="#">[2010] NSWCCA 313</a>  (2011) 244 CLR 462 <a href="#">[2011] HCA 49</a>	Cultivate  Cultivate  Sched: 3 offences	1354 plants	PG (20%)  PG (20%)	4y NPP 2y  6y NPP 3y	Crown AA 5y NPP 3y  8y NPP 5y  AA Original sentences reinstated 4y NPP 2y  6y NPP 3y	No significance  Minor	<b>SNPP 10 years</b> Sophisticated operation using hydroponics in up to 9 sites concealed in state forests Q – principal – offence at mid-point G – senior level – offence at just below mid-point – remorse – low risk of re-offending

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17.	<b>Greco</b> (55) <a href="#">[2010] NSWCCA 268</a>  Co-offender: MANGANO	Knowingly take part in cultivation	9,995 plants	PG (25%)	5y 6m NPP 3y 3m	AD	minor	Large and well organised plantation on property near Dubbo – major player at intermediate level or above although not principal – involved in establishing and maintaining plantation – arranged for building of dam – recruited people – purchased or provided equipment Disappeared and not arrested until 4.5 years after discovery
18.	<b>Beveridge</b> (39) <a href="#">[2011] NSWCCA 249</a>	Cultivate	3,373 plants	PG (25%)	6y NPP 3y 6m	AD	Nil	<b>SNPP 10 years</b> Plantation in State Forest – sophisticated watering system – found by police watering and attending to plants – actively involved but no full knowledge – below mid-range Prior good character – good prospects of rehabilitation
19.	<b>Zanker</b> (24-25) <a href="#">[2016] NSWSC 1653</a> Fagan J	Knowingly take part in cultivation	664 plants	PG (25%)	3y 9m NPP 2y 6m		Minor	<b>SNPP 10 years</b> Sophisticated plantation in shed on property – labourer involved from beginning of operation – lived on site and worked full-time tending plants – planned activity in concert with others over 12 months – smoked cannabis in high dosage entire time Spina bifida causing health problems – extremely difficult and disadvantaged childhood

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20.	<a href="#">Fato</a> <a href="#">[2017] NSWCCA 190</a>	Supply lge comm qty methamphet  Supply lge comm qty methamphet  Supply cannabis leaf  Cultivate lge comm qty cannabis plant  Knowingly direct criminal group  Sched 6 related offences	1.4kg (10% purity)  9.5kg (13% purity)  23 pds  2750 plants	PG	11y NPP 7y  15y NPP 9y  2y  8y NPP 5y  7y NPP 4y  <u>Total:</u> 18y NPP 12	Application for extension of time to appeal refused		<b>SNPP 15 years</b> Principal in criminal drug group – offences above mid-range – supplied to undercover operatives
21.	<a href="#">Vu</a> <a href="#">[2023] NSWCCA 315</a>	Cultivate lge comm qty cannabis plant  Deemed supply lge comm qty cannabis plant  Consp man comm qty methylamph  Sched: Proceeds of crime	2,441 cannabis plants	PG (25%)	<u>Indicative</u> 6y 6m NPP 3y 9m  3y NPP 2y  5y NPP 3y  <u>Aggregate</u> 9y NPP 5y 6m	AA <u>Indicative</u> 5y 9m NPP 3y 6m  2y 3m  4y 6m  <u>Aggregate</u> 7y 8m NPP 4y 8m	Nil	Installed greenhouse and rainwater tanks and made various purchases for farm property east of Dubbo – involved in three attempts to manufacture methylamphetamine. Difficult background - difficulties in obtaining worthwhile employment in absence of English language skills, became involved in using and producing drugs CCA: erroneous consideration of standard non-parole periods.

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