

Manufacture Ecstasy / MDMA / MDA
Large Commercial Quantity
s.24(2) (NSW) Drug Misuse and Trafficking Act

Ecstasy / MDMA - 3,4 methylenedioxyamphetamine

MDA – 3,4 methylenedioxyamphetamine

s.24(2) Manufacture or produces, or knowingly take part in manufacture or production of prohibited drug which is not less than commercial quantity

Large commercial quantity: 500g

Maximum Penalty: Life – s.33(3)

Standard Non-Parole Period 15 years (offence committed on or after 1.2.2003)

| | CASE (AGE IF KNOWN) | OFFENCE | AMOUNT | PLEA | ORIGINAL SENTENCE | APPEAL | RECORD | FACTS |
|----|---|--|--|-------------------------|---|--|--|--|
| 1. | AD (37) (2008) 191 A Crim R 409 [2008] NSWCCA 289 | Manufacture methyamphetamine Consp manufacture lge comm qty MDMA Supply comm qty LSD | Just less than comm qty 1.8g | PG (55% combined) | FT 3y 11y 3m NPP 5y 2m FT 18m Total: 11y 6m NPP 5y 5m | Crown AA FT 4y 6m 9y 6m NPP 6y FT 2y 6m Total: 10y 6m NPP 7y 3m | Drug offences – committed offences while on day release and later on parole | Planned with fellow inmate to manufacture methamphetamine – offender sourced chemicals and co-offender manufactured drugs – subsequently involved in attempt to produce MDMA – involved in setting up operation, sourcing chemicals and would have sold end product – found in possession of LSD – offences at or above mid-range Genuine remorse – good prospects of rehabilitation – difficult custodial conditions |

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| 2. | Hosseini (41) (2009) 193 A Crim R 444 [2009] NSWCCA 52 | Knowingly take part in manufacture lge comm qty MDMA Proceeds of crime Sched: 6 offences | 1.0938kg \$30,400 | PG (25%) | 7y 6m NPP 4y 6m FT 6m <u>Total:</u> 7y 6m NPP 4y 6m | AA / Crown AA 9y NPP 5y 6m Conviction quashed | Supply / possess prohibited drug | SNPP 15 years Involved in manufacturing operation – permitted chemicals to be delivered and stored in factory premises – fixed broken pill press – drug in powder form found in home of co-offender – mid- range Long standing drugs user On appeal: proceeds of crime offence a summary offence erroneously dealt with on indictment Crown appeal allowed in relation to drug offence |
| 3. | Cvitan (46) [2009] NSWCCA 156 Co-offender: KALEMUSIC | Manufacture lge comm qty MDMA | 27.5kg liquid containing 1.038kg MDMA 1.4774kg | PG | 14y 3m NPP 9y 3m | AD Crown AD | Cultivate proh plant – supply proh drug | SNPP 15 years Involved in sophisticated manufacturing operation on property – 27.5kg liquid found on property – additional drug found in van being driven by co- offender - lived on property for some period of manufacture – made structural changes and purchased items – collected tech expert from airport and worked under his direction – willing, integral and significant player – more than labourer – within mid-range On Crown appeal: Court declined to intervene on basis of parity |

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| 4. | Kalemusic (35) [2009] NSWCCA 178 Co-offender: CVITAN | Manufacture lge comm qty MDMA Supply lge comm qty MDMA Supply comm qty methylamphet Possess unauth firearm s.166 Certificate Good in custody Sched: Poss methylamphet Unauth poss ammunition | 27.5kg 1,477.4g 764.6g \$4,465 0.39g | PG (1/6 th) | 15y NPP 11y 3m 10y NPP 7y 6m 10y NPP 7y 6m 5y NPP 15m FT 3m <u>Total:</u> 16y 3m NPP 12y 6m | AD | Manufacture drug | SNPP 15 years Involved in manufacture of drug in lab built on rural property – 27.5kg MDMA found in lab with other ingredients and equipment – other drugs and .22 calibre pistol found in truck being driven from property by offender and brother – role of real significance – manufacture in mid-range Strong employment history On appeal: no issue of parity |
| 5. | DAB (26) [2010] NSWCCA 275 | Manufacture lge comm qty MDMA Supply lge comm qty MDMA Sched: Money laundering offence | 2.97kg 8.18kg tablets - almost 1kg powder \$62,520 | PG (50% combined) | 12y NPP 8y 12y NPP 8y (concurrent) | AA 8y NPP 4y 6m 9y NPP 6y <u>Total:</u> 10y NPP 7y | Minor | SNPP 15 years Involved in bulk supply of MDMA on 11 occasions – tablets manufacture part of supply offences – instigator - brother sentenced for manufacture and supply of commercial quantity – part of planned and organised criminal activity – committed for financial gain Prior good character – commenced substance abuse after being stabbed – good prospects of rehabilitation – unlikely to re-offend – remorse On appeal: failure to differentiate between offences – accumulation and excessive sentence |

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| 6. | Caristo (39) [2011] NSWCCA 7 | Knowingly take part in manufacture lge comm qty ecstasy Knowingly take part in manufacture lge comm qty cocaine Sched: Participate in criminal group | Not stated 6kg | PG (35% combined) | 8y 6m NPP 6y 6y 6m NPP 4y 4m (concurrent) | AD | Lengthy record although only one drug supply | SNPP 15 years Involved in collecting ecstasy powder from apartment and transporting it to factory premises – mixed powder with bulking agent to make into tablets – intended also to mix cocaine found at apartment – mixer and employee – very much towards bottom – limited activity over 2 days Difficult and dysfunctional childhood – long standing drug addiction – psychological difficulties – reasonably good prospects of rehabilitation |
| 7. | Calcutt (31) [2012] NSWCCA 40 | Manufacture lge comm qty MDMA Sched: 3 x Possess tablet press Supply cocaine | 59.471kg 102.7g | PG (25%) | 13y NPP 9y 9m | AD | Nil | SNPP 15 years Manufacturing operation in offender's home – allowed premises to be used for two months while overseas – upon return provided some assistance for two months – low level involvement – mid-range Drug user – remorse – good prospects of rehabilitation – prior good character |
| 8. | LB (31) [2013] NSWCCA 70 | Knowingly take part in manufacture lge comm qty ecstasy Knowingly take part in manufacture lge comm qty methylamphet Sched: Possess precursor 2 x Supply | | PG (40% combined on appeal) | 9y NPP 5y 5y NPP 3y <u>Total:</u> 12y NPP 8y | AA 4y 3m NPP 3y 4m 2y 7m NPP 1y 8m <u>Total:</u> 10y 2m NPP 6y 10m | Property offences | SNPP 15 years Offences committed over 14m at two different premises Became heavily addicted to drugs – prior to arrest moved overseas and became drug free – voluntarily returned to Australia |

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| 9. | Kennedy (36) [2013] NSWCCA 104 | Knowingly take part in manufacture lge comm qty MDMA Knowingly take part in manufacture comm qty methylamphet Sched: Poss cannabis Poss tablet press | at least 500g at least 250g | PG (10%) | 10m NPP 3m 7m NPP 3y <u>Total:</u> 12m NPP 5m | AA 10m suspended FT 3m | Nil relevant | SNPP 15 years Female leased premises where her partner of some years engaged in manufacture of drugs – no active involvement in manufacturing – did not stand to gain financially – only discovered laboratory four weeks prior to arrest Anxiety and depression – unlikely to re-offend – sound prospects of rehabilitation On appeal: SJ erred in setting sentence that required offender to return to custody for 6 weeks |
| 10. | Eckersley [2013] NSWCCA 219 | Knowingly take part in manufacture lge comm qty MDMA Knowingly take part in manufacture lge comm qty methylamphet Supply lge comm qty methylamphet Sched: 4 drug offences | See facts | PG | 18y NPP 11y 12y NPP 8y 12y NPP 8y <u>Total:</u> 21y NPP 14y | AD | | SNPP 15 years 'Very significant and managerial organisational' role in two distinct manufacturing ventures – one laboratory held records relating to sale of \$617,000 drugs and 2.145kg methamphet – second laboratory held raw product for 250,000 tablets – offences extended over 12 months |
| 11. | Z [2014] NSWCCA 323 | Manufacture lge comm qty MDMA Manufacture comm qty methylamphet Supply cannabis Sched: Possess precursor | at least 500g at least 250g 9.869kg 1.588kg | VG (50% assistance on appeal) PG (50%) | <u>Indicative:</u> 6y 6m NPP 3y 6y 6m NPP 4y 2y 4m <u>Aggregate:</u> 9y 6m NPP 6y | AA <u>Indicative:</u> 5y 4y 2y <u>Aggregate:</u> 7y NPP 4y 6m | Lesser drug offences | SNPP 15 years Equipment, notes and traces of MDMA found in Sydney and rural premises – offender's fingerprint on measuring jug – traces of methylamphetamine found on items in rural premises – offender sentenced on basis he arranged for cook and had contact during manufacture process – one of the principals – travelled interstate to purchase cannabis Helpful assistance |

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| 12. | Siafakas [2016] NSWCCA 100 | Knowingly take part in manufacture lge comm qty MDP2P Knowingly take part in manufacture lge comm qty MDA Possess precursor | 3.694kg 268.958kg Isosafrole | VG | <u>Indicative:</u> 10y NPP 6y 9y NPP 5y 5m FT 4y <u>Aggregate:</u> 10y NPP 6y | AA Conviction quashed 9y NPP 5y 5m FT 4y <u>Total:</u> 9y NPP 5y 5m | | SNPP 15 years Factory premises used for the manufacture of drugs – aware of and involved in manufacture – drugs and precursors found in premises No information on subjective circumstances On appeal: in view of quashing of conviction remaining sentence affirmed but made concurrent |
| 13. | Borg (35) [2022] NSWCCA 70 | Manufacture comm qty MDA Manufacture lge comm qty MDA Manufacture lge comm qty MDA | 1,500 pills - 450g 3-4000 pills | PG (15%) | <u>Indicative:</u> 3y 9m NPP 2y 6m 10y 6m NPP 6y 11m 8y NPP 5y 3m <u>Aggregate:</u> 11y 10m NPP 7y 10m | AA <u>Indicative:</u> 3y 6m NPP 2y 3m 9y 6m NPP 6y 7y 6m NPP 5y <u>Aggregate:</u> 10y 10m NPP 7y | Nil | SNPP 15 years Produced pills using pill press in factory on two nights – search of family home found equipment and chemicals callable of producing large commercial quantity of pills – principal figure – indispensable – seeking financial reward – below mid-range to lower end of mid-range Difficult childhood – mental health issues – financial stress – remorse – good character – very good prospects of rehabilitation – unlikely to re-offend – special circumstances On appeal: erroneously sentenced at first instance for 10,000 pills |

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| 14. | SF [2022] NSWCCA 216 Co-offenders: P C Z | Manufacture lge comm qty MDA Participate criminal group: s.93T(1) | 24kg | PG (25% - see facts) | 7y NPP 4y 6m 2y (concurrent) | AA 7y NPP 4y 2m 2y (concurrent) | | SNPP 15 years One of eight persons involved in manufacture on multiple occasions at storage-type units - played important and significant although not indispensable role – would have received not insubstantial financial reward. Background from war-torn country - employed, strong work ethic - unlikely to reoffend - good prospects rehabilitation. Significant combined discount – see P at [19] CCA: failed to give effect to stated intention to take into account Covid-19 pandemic – found special circumstances in need for treatment of depression, PTSD and gambling disorder, and continuing impact of Covid-19 pandemic on applicant's conditions of incarceration |
| 15. | C (46) [2022] NSWCCA 285 Co-offenders: SF P Z | Manufacture lge comm qty MDA | At least 24kg | PG (25% - see facts) | 6y 10m NPP 4y 5m | AA 5y 6m NPP 3y 6m | limited | SNPP 15 years Involved in group manufacturing MDA at rural property over 6 months – not principal – important but not indispensable role - trusted and hands on member aware of scope of operation and expecting substantial financial reward – culpability towards lower part of mid-range – similar to co-offenders Some remorse – low risk of re-offending – pandemic conditions – motivated by serious financial losses caused by fraudulent actions of others – physical and mental health issues Significant combined discount – see P at [21] On appeal: upheld disparity |

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| 16. | Z (46) [2022] NSWCCA 286 Co-offenders: SF P C | Manufacture lge comm qty MDA Participate criminal group: s.93T(1) | At least 24kg | PG (25% - see facts) | 7y 4m NPP 3y 8m Not stated | AA 6y NPP 3y | nil | SNPP 15 years Involved in group manufacturing MDA at rural property over 6 months – not principal – important but not indispensable role - trusted and understood role of chemist – culpability towards lower part of mid-range – similar to co-offenders Cystic fibrosis shortening life expectancy and making custodial conditions onerous – depressive disorder – hardship on family Significant combined discount – see P at [20] On appeal: upheld disparity |
| 17. | Sadiq (27) [2023] NSWCCA 25 | Knowingly take part in manufacture lge comm qty MDMA Knowingly take part in manufacture lge comm qty methyamphetamine Sched: Proceeds of crime | 5.759kg 9.870kg \$2,005 | PG (10%) | <u>Indicative:</u> 7y 2m 9y <u>Aggregate:</u> 11y NPP 6y | AD | Nil significant | SNPP 15 years Precursor, equipment and drugs found in residential property after explosion – offender purchased equipment and at least present at manufacture ready to assist – important role – mid-range Born in Afghanistan – experienced family trauma resulting in PTSD and substance disorder – sexual abuse and head trauma – reduction in moral culpability |
| 18. | Walker (61) [2023] NSWCCA 219 | Manufacture lge comm qty MDMA Supply lge comm qty MDMA Possess unauth pistol Possess precursor Sched: 3 offences | 6.433kg pure | PG (25%) | <u>Indicative:</u> 7y 6m NPP 4y 6m 5y 6m NPP 3y 6m 3y NPP 1y 10m 2y 6m <u>Aggregate:</u> 9y NPP 6y | Crown AD | Relatively minor | SNPP 15 years Manufacture operation with two co-accused - role as cook, not principal - essential role in providing his property as venue for manufacture. Financial motivation, lost employment due to covid pandemic - likely mild intellectual disability - opioid use disorder – remorse - respondent's wife significantly disabled – special circumstances. CCA: Sentence imposed by SJ lenient, but not unduly given applicant's subjective case - reasonable prospects rehabilitation - entitled to some leniency due to insignificant criminal history. |

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| 19. | P (43) [2023] NSWCCA 297 Co-offenders: SF C Z | Manufacture lge comm qty MDA Participate criminal group: s.93T(1) | | PG (25% - see facts) | <u>Aggregate:</u> 7y 6m NPP 5y | AD | Fraud, firearms and drug offences | SNPP 15 years Involved in manufacture of drug – directed to judgments for co-offenders for facts – in middle group of hierarchy although slightly less serious than co-offenders – all trusted members of team Background of trauma – PTSD and drug addiction – carer for wife – remorse and guarded prospects of rehabilitation 45% combined discount On appeal: dismissed parity appeal |
| 20. | Chiha [2024] NSWCCA 222 | Manufacture lge comm qty MDA Participate criminal group | 24kg | VG | 16y NPP 11y 6y <u>Total</u> 16y NPP 11y | AA Sentence backdated to allow for pre- sentence custody. | | SNPP 15 years Used position as managing director of perfume company to import sassafras oil for use in manufacture of MDA - responsible for obtaining quotes and placing orders for chemicals – police surveillance showing association between applicant and other members of criminal group. |

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