Cultivate Cannabis by Enhanced Indoor Means

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: **200 plants (for plants cultivated by enhanced indoor means)**

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)**

Commenced 14.7.2006

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
1.	**Bui** [2008] NSWCCA 314	Cultivate lge comm qty - enhanced indoor means Sched: Possess 168g cannabis leaf	281 plants	PG (25%)	5y NPP 3y	AD	Neg drive	Growing plants in house – sophisticated set-up Born in Vietnam
2.	**Nguyen** (55) [2009] NSWCCA 283	Cultivate lge comm qty - enhanced indoor means Sched: 4 offences	202 plants	PG	5y 7m NPP 3y 3m	AD	Nil	**SNPP 10 years** Hydroponic operation at premises - role was to remain at premises each night, water and fertilise plants, change globes as required - operation already set up when offender joined

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
3.	**Phan** [2010] NSWCCA 8	Cultivate lge comm qty - enhanced indoor means Sched: electricity offence		PG	5y NPP 3y	AD	Drug offences	**SNPP 10 years** Sophisticated hydroponic system used to grow $500,000 worth of cannabis in house – minor involvement as handyman over three days Low intellectual capacity
4.	**Tran** (31) [2010] NSWCCA 72	Cultivate lge comm qty - enhanced indoor means	210 plants	PG (25%)	7y 6m NPP 5y	AD	Prior for growing cannabis	**SNPP 10 years** Grew plants at house to make money – worked alone – just below mid-range
5.	**Wong** (22) [2010] NSWCCA 160	Cultivate lge comm qty - enhanced indoor means	255 plants	PG (25%)	3y 9m NPP 1y 9m	AD	Nil	**SNPP 10 years** Grew plants at house instead of having to pay rent – denied knowing plants were cannabis – claimed watering plants for man he rented house from - did not know who plants belonged to – below mid-range Good character – sound work history – supportive family
6.	**Pham** (55) [2011] NSWCCA 3	Cultivate lge comm qty - enhanced indoor means s.166 Certificate Possess cannabis leaf	305 plants	PG	8y NPP 5y s.10A	AD		**SNPP 10 years** Vietnamese national - Sophisticated hydroponics set-up in house owned by wife
7.	**Ta** (48) **Nguyen** (27) [2011] NSWCCA 32	Knowingly take part in cultivation lge comm qty - enhanced indoor means	551 plants	VG	7y NPP 4y	AA 5y NPP 3y	Nil Nil significant	**SNPP 10 years** Plants being grown in residential house – participants not principals – only seen at house for one hour - below mid-range T – female – sole parent N - male

	Case (age if known)	Offence	Amount	Plea	Sentence	Appeal	Priors	Facts
8.	**Stock** [2011] NSWCCA 49	Cultivate lge comm qty - enhanced indoor means Conceal serious offence	335 plants	PG (25%)	9y NPP 5y FT 12m (concurrent)	AD		**SNPP 10 years** Plants grown in shed on property – production set up by offender - paid co-offender money per month to keep lease of property in his name and to maintain property and plants - part of group of offenders - sophisticated enterprise – street value $1 million – mid-range objective seriousness. Special circumstances - Youth - rehabilitation
9.	**Nguyen** [2011] NSWCCA 92	Cultivate lge comm qty - enhanced indoor means Sched: Possess false driver licence	317 plants	PG (25%)	6y 5m NPP 4y 9m	AD		**SNPP 10 years** Female - with co-offenders, plants grown at home rented by offender – not principal – no evidence contributed financially to enterprise – no evidence of management or decision making on day to day basis - planned, involved installation of complex irrigation and electrical support mechanisms not by offender - offence "slightly less than mid-range of seriousness but at a level much closer to mid-range than low range" - potential street value $1.2 million.
10.	**Co** (44) [2011] NSWCCA 148	Cultivate lge comm qty - enhanced indoor means	266 plants	PG (25%)	7y 6m NPP 4y	AD	Nil	**SNPP 10 years** Sophisticated hydroponic system – premises heavily fortified – electricity illegally used – fully involved – lower end of mid-range of seriousness Vietnamese born
11.	**Crawford** (61) [2013] NSWCCA 269	Cultivate lge comm qty - enhanced indoor means Supply cannabis	319 plants	PG (25%)	9y NPP 6y 9m FT 3y (concurrent)	AA 7y 6m NPP 5y 7m FT 3y (concurrent)	Cultivate cannabis	**SNPP 10 years** Police found plants in large shed on a property occupied by offender and wife - highly sophisticated hydroponic system supporting growth of plants in shed as well as underground area accessible via shed - also seized 3.476 kg cannabis leaf. *Muldrock* appeal.
12.	**Clarke** (2015) 254 A Crim R 150 [2015] NSWCCA 232	Cultivate lge comm qty - enhanced indoor means	1,997 "plants" in various stages of growth from seedlings to 1m tall 9 plants	PG (25%)	7y NPP 4y	AD	Discharging firearm at dwelling house	**SNPP 10 years** Leased 100 acre rural property where offender lived in shed – found by police with two others - large, sophisticated hydroponic cannabis cultivation growing in shed area - 1,997 "plants" - underground bunker under hay shed contained 9 further mature plants, transformers and two large generators - not a principal, but significant role in operation as an employee carrying out instructions

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13.	**Ngo** (20-21) [2018] NSWCCA 296	Cultivate lge comm qty - enhanced indoor means s.166 certificate Cultivate Sched: Cultivate comm qty	231 plants 26 plants 453 plants	PG (25%)	3y 9m NPP 2y 3m FT 1y <u>Total</u>: 4y 6m NPP 2y 9m	AD	nil	**SNPP 10 years** Involved in indoor cultivation of plants in three different locations – not principal – main offence involved sophisticated hydroponic set-up with plants at various stages of growth – below mid-range
14.	**Le** (27) [2019] NSWCCA 181	Cultivate lge comm qty - enhanced indoor means Sched: Electricity offence Supply cannabis	233 plants	PG	4y 1m NPP 2y 4m	AD	Nil	**SNPP 10 years** Caretaker for plants being grown in suburban house – sophisticated hydroponic system – 370g cannabis in freezer Vietnamese national
15.	**Phan** (31) [2020] NSWCCA 168	Cultivate lge comm qty - enhanced indoor means Cultivate comm qty by enhanced indoor means Sched: s.93Y(1) participate in crim group	288 plants 165 plants	PG (25%)	<u>Indicative</u>: 4y 6m NPP 2y 6m 2y 3m <u>Aggregate</u>: 5y 6m NPP 3y 6m	AD	Nil	**SNPP 10 years** Involved in indoor plantations in two suburban houses for financial gain – above 'crop sitter' and delivery man – important and trusted role over extended period – hired vehicles and transported equipment – performed work at both premises – paid rent and arranged storage facilities – below mid-range Vietnamese national – good prospects of rehabilitation – remorse – isolation in custody On appeal: error in taking into account sophistication of cultivation and stolen electricity – no lesser sentence despite error

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16.	**Pham** (31) [2020] NSWCCA 269	Cultivate lge comm qty - enhanced indoor means Direct criminal group: s.93T Sched: Possess drug	2,640 plants	PG	Indicative 6y NPP 3y 4m 3y 6m Aggregate: 7y NPP 3y 10m	AD	Nil	**SNPP 10 years** Arranged leases on the residential properties for cultivation - planned activity given size of cultivation. Good rehabilitation prospects - risk of reoffending low.
17.	**Ooi** (early 40s) [2023] NSWCCA 97	Knowingly take part in cultivation lge comm qty – enhanced indoor means Participate in criminal group: s.93T(1) Sched: Knowingly take part in cultivation comm qty – enhanced indoor means	2,143 plants 190 plants	PG (25%)	Indicative: 4y 6m NPP 2y 8m 12m Aggregate: 4y 6m NPP 2y 8m	AD		**SNPP 10 years** Involved in cultivation of plants at two separate properties – sophisticated enterprise – 'crop-sitter' – slightly above two co-offenders - below, although not greatly below, mid-range Female - prior good character – prospects of rehabilitation – unlikely to re-offend – background of financial hardship and domestic violence – isolation in custody On appeal: not manifestly excessive – no breach of parity

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18.	**Nguyen** (34) [2025] NSWCCA 42	Knowingly take part in cultivation lge comm qty – enhanced indoor means Knowingly take part in cultivation comm qty – enhanced indoor means Pervert course justice s.319 *Crimes Act*	506 plants 99 plants	PG (20% comb)	Indicative 4y 3y 2m 1y 7m Aggregate 5y 6m NPP 3y	AD		**SNPP 10 years** Sub-leased premises to unknown persons, knowing that those persons would modify and use property to cultivate cannabis indoors - knew number of plants being cultivated was significant and numbered at least 200, but did not know precise number – motivated by greed. Mental health issues, depression and anxiety – employed - supportive family. CCA: No error by SJ rejecting psychologist's opinion about connection between mental health conditions and offending conduct without giving opportunity to be heard.

Last updated: March 2025