

Growing low-THC hemp in NSW

Frequently asked questions

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Philip Blackmore, Invasive Species Officer, Biosecurity NSW, Armidale

What is THC?

THC (tetrahydrocannabinol) is the psychoactive (mind altering) chemical compound found at high levels in marijuana and at very low levels in hemp.

What is low-THC hemp?

Low-THC hemp is cultivars of *Cannabis sativa* that have been bred to produce very low levels of THC. Low-THC hemp has no measurable psychoactive effect.

The *Hemp Industry Act 2008* defines low-THC hemp as “any plant of the genus *Cannabis* that has a concentration of THC in its leaves and flowering heads of no more than 1% and includes the seed of any such plant and any product (such as oil or fibre) derived from any such plant”.

Low-THC hemp may also be known as industrial hemp or industrial cannabis in other jurisdictions.

How is low-THC hemp different from marijuana?

Marijuana is visibly identical to low THC hemp but contains significant levels of THC in its leaves and flowering heads of between 4 and 24%.

Do I need a licence to grow low-THC hemp in NSW?

Yes.

The *Hemp Industry Act 2008* introduced a licensing scheme to allow farmers in NSW to grow low-THC hemp crops for fibre, seed and oil production while limiting the risk to drug law enforcement.

It is an offence under the *Drug Misuse and Trafficking Act 1985* to cultivate or possess low-THC hemp unless it was cultivated or supplied under authority of the *Hemp Industry Act 2008*, regardless of the amount of THC that the low-THC hemp plants or material may contain.

How can I get a licence to cultivate or supply low-THC hemp

An application form and the application guidelines that are necessary to help you complete the application can be obtained from the NSW Department of Primary Industries website at www.dpi.nsw.gov.au/hemp

If you do not have access to this website, a copy of the application package can be obtained by telephoning 02 6552 3000.

How does the licensing scheme operate?

NSW Department of Primary Industries (NSW DPI) may issue a licence if:

- the applicant and any close associates¹ are deemed to be suitable persons to be involved

¹ A “close associate” is a person who, (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the licence applicant or holder, and by virtue of that interest or power is or will be able (in the opinion of the Secretary) to exercise a significant influence over or with respect to the conduct of that business, or (b) holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the licence applicant or holder

in the cultivation and supply of low THC hemp,

- the applicant has a suitable location to cultivate the low-THC hemp crop, and
- the applicant can demonstrate a lawful and genuine purpose for the cultivation and supply of low-THC hemp.

What is the best time to apply for a licence?

Low-THC hemp is a summer crop. To get best value from a licence, an application should be submitted in the off season – between March and August, to allow time for the application to be processed, seed sourced and ground prepared prior to the commencement of the planting season.

Can anyone get a licence?

No.

An applicant or any close associate is ineligible if they have been convicted of a **drug related offence**² as defined by the *Hemp Industry Act 2008*.

Why might a licence application be refused?

The Secretary's delegate may refuse an application if the applicant (or any close associate):

- is not of good repute with regard to their character, honesty and integrity,
- is under the age of 18 years,
- has previously been refused a licence in NSW or in another jurisdiction,
- has previously had a licence cancelled or suspended in NSW or another jurisdiction,
- does not have a suitable location to cultivate the low-THC hemp crop,
- is unable to demonstrate a lawful and genuine purpose to cultivate and supply low-THC hemp.

If a licence application is refused, is the application fee refundable?

² A "drug related offence" means an indictable offence under the *Drug Misuse and Trafficking Act 1985* or under a corresponding law in an Australian state or territory.

No.

Once an application is determined, the application fee will not be refunded if the application has been refused.

However, where an applicant withdraws their application prior to it being determined, NSW DPI will consider refunding the application fee but is under no obligation to do so.

Is there a limit to the number of licences that can be issued?

No.

There is no limit to the number of licences that can be issued.

Is there a limit to the area that can be sown under a licence?

No.

There is no limit on area that may be sown.

What are the low-THC hemp licensing costs?

- The licence application fee of \$572 is payable on lodgement of the application.
- Where a current licence is due to expire and the licensee applies to renew their licence, a licence renewal fee of \$418 is payable on lodgement of the application.
- A criminal record check is to be obtained by the applicant at the applicant's expense, for the both the applicant and any close associates.
- A licence will usually be valid for five years.
- An annual administration fee of \$200 is payable in each of the following four years. Licensees will be invoiced annually for this fee.

All fees include GST.

Annual audit inspections and sampling for THC analysis must be conducted by an accredited inspector and is done at the licensee's expense.

THC analysis must be carried out by an accredited laboratory and is also at the licensee's expense.

What conditions apply to a licence?

Conditions that apply to a low-THC hemp licence are:

1. Licence conditions listed in the *Hemp Industry Regulation 2016* - Clauses 10 -13. <https://www.legislation.nsw.gov.au/#/view/regulation/2016/450>
and
2. Additional conditions that are part of the licence document. This includes:
 - Sowing seed – A THC analysis, statutory declaration or other guarantee certifying that the sowing seed was harvested from a low-THC hemp crop with a THC level of less than 0.5%. This statement must be held in the licensee's register.
 - Annual planting notification – The licensee must notify NSW DPI using the Annual Planting Notification form within 1 month of planting a low-THC hemp crop.
 - Request for a new planting location – The licensee must notify NSW DPI of a request to plant low-THC hemp at a new location. The same information as was required for the crop location in the original licence application is required about the new location. The new location must be approved by NSW DPI before the licensee can plant at the new location.
 - Notification of intention to not plant – The licensee must notify NSW DPI of an intention to not plant a low-THC hemp crop in a production season no later than 30 January using the Annual Planting Notification form.
 - Audit and crop sampling – The licensee is required to arrange for an audit of their records and for crop sampling for THC levels. The licensee must notify NSW DPI one week after male plants begin to flower for fibre crops and when seed set is at 50% for seed crops.
 - Sale of sowing seed – The licensee must label any parcels of low-THC hemp seed for sale described as seed harvested from a low-THC hemp crop that had THC levels of less than 0.5%.
 - Date for submission of annual report – The licensee must submit their Annual Report to NSW DPI using the Annual Report form on each anniversary of the date the licence was issued, while the licence remains valid.

Once I have a licence can I grow low-THC hemp anywhere I want?

No.

Unless otherwise approved, a licensee must only cultivate low-THC hemp at the site stated in the licence application.

However, a licensee may apply to plant at different or extra locations from the location originally approved. The site must be assessed and approved by NSW DPI prior to planting at the new location.

Do I need to own the property where I propose to grow low-THC hemp?

No.

If you don't own the property, written consent to grow low-THC hemp must be obtained from the owner and be submitted with your application.

The owner of the property may need to be included as a close associate if they would have a financial interest in the low-THC hemp crop.

What is legitimate low-THC hemp seed?

A licensee must only use seed for sowing that was harvested from a low-THC hemp crop with a THC level of less than 0.5%.

This must be certified by a THC analysis, a statutory declaration or some other form of guarantee and held in the licensee's register.

Can I buy low-THC hemp seed from overseas?

Yes.

Low-THC hemp seed can be purchased from overseas. However, additional costs may be incurred due to Customs and Quarantine clearance requirements.

Will I need to keep records of activities conducted under the licence?

Yes.

Licensees are required to keep a register that records activities listed in Clause 11 of the *Hemp Industry Regulation 2016*. The register is subject to audit by NSW DPI inspectors. The information in the register will form the basis for the Annual Report submitted to NSW DPI by the licensee.

How is the crop sampled to check THC levels?

Licensees must ensure that the crop is sampled at the correct time by an accredited inspector (currently from NSW DPI). The inspector will submit the sample for THC analysis by an accredited laboratory. The sample must not exceed 1% THC.

The licensee must pay the laboratory for the THC analysis.

Can livestock graze low-THC hemp crop residues?

Yes.

However, the crop residues must remain at the site where the low-THC hemp crop was produced. Low-THC hemp crop residues must not be sold as hay or silage. A withholding period may apply before stock are slaughtered.

Who is responsible for controlling volunteer low-THC hemp plants?

The licensee is responsible for controlling volunteer (self-sown) low-THC hemp plants on land they occupy to cultivate low-THC hemp.

After a licensee ceases to occupy an area of land that they had been using to cultivate low-THC hemp, the current occupier of the land is responsible for the control of any volunteer low-THC hemp plants.

Can I cultivate and supply low-THC hemp for human consumption?

Yes.

The *Australia New Zealand Food Standards Code* was amended in November 2017 to permit the sale of hemp seed and hemp seed oil only as human food products, subject to the restrictions in *Food Standard 1.4.4*.

<http://www.foodstandards.gov.au/code/Pages/default.aspx>

Leaves, flowering heads and other parts of the low-THC hemp plant must not be sold as food for human consumption.

Is there any information about growing low-THC hemp?

A publication titled *Industrial hemp – a new crop for NSW*, is available from the www.dpi.nsw.gov.au/hemp.

Can I produce medicinal marijuana under a *Hemp Industry Act 2008* licence?

No.

The production of medicinal marijuana is licenced by the Australian Government through the Office of Drug Control, an agency of the Commonwealth Department of Health.

Can I supply therapeutic products produced from low-THC hemp cultivated under a *Hemp Industry Act 2008* licence?

No.

Only the Australian Government, through the Office of Drug Control, can authorise the production and supply of cannabinoids (including CBD) for human therapeutic purposes, regardless of their source.

Can I produce extracts of low-THC hemp for non-therapeutic use?

This question involves a complex interaction between NSW and Commonwealth law. Applicants and licensees should seek independent legal advice on this subject.

Extracts of low-THC hemp are not unlawful under the *Hemp Industry Act 2008*.

However, extracts of cannabis (including low-THC hemp) are Schedule 9 Poisons (Prohibited Poisons) under the national *Poisons Standard*.

Also, the definition of a “medicinal cannabis product” under the Commonwealth *Narcotic Drugs Act 1967* is very broad and may capture a product that a licensee may have considered to be non-therapeutic.

NSW DPI recommends that an applicant or licensee who proposes to produce extracts of low-THC hemp first seek independent legal advice on this subject before proceeding.

How do I contact NSW DPI?

NSW DPI hemp licensing is administered by the NSW Food Authority, an agency of NSW DPI. Licensing staff can be contacted by:

Telephone: 02 6552 3000

Email: All low-THC hemp communications should be directed to: _bfs.admin@dpi.nsw.gov.au

Web: www.dpi.nsw.gov.au/hemp

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