

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 methamphetamine 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

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