FEEDBACK REPORT

Kahnawake Cannabis Control Law

DATE RECEIVED	FEEDBACK
March 14, 2018	FEEDBACK DOCUMENT #1
	Section 2 Jurisdiction 2. I had not seen mention of the MCK adding the authority of the Confederacy before in its legislation; I think this may be a contentious statement/position to put in a law.
	The concern is that we heard statements from traditional people that because Cannabis is a mind-changer and goes against the traditional values, it would be inadvisable to invoke the Confederacy on this. I am certainly no expert on the Great Law or Handsome Lake, but I would suggest there is some contradiction to it.
	Also, why are we not using Kanien'kehá ka?
	7. Expansion of this bullet, or even a new bullet, may be of greater benefit here; e.g. to add that: "Although the use of mind-altering substances has had great detrimental impact on the state of health and well-being of First Nations people and our community specifically, and is contrary to our traditional values and culture, given that the societies surrounding our community are creating legislature that directly impacts our well-being, we have the obligation to the regulate and control to the greatest extent possible."
	Cooperation
	A new bullet should be made here which introduces the concept of the Kahnawà:ke Cannabis Control

Board. I understand this comes later, but it should be mentioned here before you start discussing it. For example; something similar to article 18.

What exactly is entailed in the word "liaise regularly and cooperate"; there is absolutely no obligation to act with a "liaise and cooperate" function? This is not clear because the only other reference to what this cooperation could mean later is with the Cannabis Health and Safety Committee. Also, why is this article here and not at the roles and responsibilities of the KCCB; e.g. article 20

This ought to be Onkwata'karitáhtshera, not just KSCS so that it could respect KMHC concerns as well. Or even better, add the KMHC.

12. Has there been indication of how will employee labor relations legislation be affected?

Purposes of the Law

13.(a) Should there be regulations developed concerning the safe storage at a residence to avoid accidental (or otherwise) ingestion by young persons? In essence, if an individual under 18 uses Cannabis, would it be illegal or would it be a youth protection issue similar to alcohol?

Section 5: Permitted Activities

15: We suggest you preface this with stating "Given that the legislation external to the Kahnawake community set the legal age limit for consumption of cannabis at eighteen (18) years despite empirical evidence attesting to the risk to the safety and development of an individual until age twenty five (25), a Mohawk of Kahnawà:ke who has attained..."

By adding this, you are making it clear to the community your position politically regarding the danger,

while accounting for the difficulty in enforcement over 18.

- (a) (.... regulations) Which regulations KCCB?
- **(b)** We feel this is not a practical addition. If it truly is for the purposes of medical use, which is already tightly regulated so why would we allow the potential hazards of homegrown plants (lack of control over type, concentration, etc.). If poverty is a factor for someone requiring medical cannabis, we suggest it would be better to support those patients economically to obtain proper prescriptions.
- **16.** (area) This should be defined better –consume only on private property?
- (zone) Does this apply to social clubs? Also minimum distances should be established in the regulations if public space consumption is allowed.
- **17.** This should better reflect driving while high as well.

 Another bullet should be added which permits individuals with a valid licence to act with that licence

Section 6 KCCB

18. What is the difference between policy and regulations? Who will be making the "policies"? If it is MCK, would this not be contradictory to "arm's length?

Whether it is a policy making body or a regulations making body, how are the policies/regulations created? Does its staff have that authority?

Is there an obligation to include the recommendations of the Committee?

How will input form Health and Social Services, and PK's or education be integrated?

19. This statement could be improved further by stating that "its primary concern would be ensuring the

safety of the population".

20. Is a member of the Board, a full time job?

(c) "make any decision and take any action necessary to fulfill the purposes of the law"

To what degree of authority? Sounds "carte blanche"

Section 7: Structure of the Board

The section starts getting into the "Constitution" of the Board. Is this appropriate within this law?

Would it be better for it to function like a governing Board which creates a constitution which is then ratified by MCK? If not, then more detail for should be added to answer all constitutionally related questions.

- **21.** According to the definitions, this statement may not be clear enough, particularly if MCK enters into an economic venture. We suggest flushing it out further.
- **22.** According to the definitions, this statement may not be clear enough, particularly if MCK enters into an economic venture. We suggest flushing it out further.

What is the criteria for being a Board member?

This does not appear to be "arm's length".

26. What authority does the staff person possess?

- **28.** Reasonable cause should be more clearly spelled out.
- 30. In what timeframe must they appoint a member?
- **31.** Council will provide the Board and the Committee an annual budget
- **32.** ".... Board's annual budget" Does this include a budget for the Cannabis Health and Safety Committee as well?
- **33.** The amounts of remuneration should be clear in the regulations or constitution is it a paid position, is it just travel and volunteer, is it lunch/dinner?
- **34.** Not sure of the difference between this comment and article 26. We suggest they be consolidated or better aligned.
- **35.** Does this include the equipment necessary for the Committee to fulfil its mandate? If so, it should be spelled out equally well.
- **Section 8: Board Meetings:** Again, these are constitutional questions, but if it remains, more detail should be added.
- **37.** How are decisions made in the event of a tie?

Section 9: Health and Safety Committee:

42. Who is the Committee reportable/accountable to?

What authority do they have?

- **43. (c)** We suggest it may be better to have an appointment form Onkwata'karitáhtshera rather than only KSCS, or even better, one appointee from KSCS and one from KMHC.
 - (e) How does MCK appoint someone from outside the community?
- 44. "The Committee will on a continuing basis": Is there staff to support this mandate?
 - (a) This law supports NO mechanism to actually accomplish this.

 It does not state to what purpose the monitoring of impacts is intended for.

 Is there any requirement to monitor impacts on external population?

Section 10: Licenses

- **(c)** Dispensary License: Are there "degrees" of the type of each license; e.g. a production licence authorizes someone's to produce any and all types of cannabis and cannabis products? Same with distribution and dispensary
- 47. Why can a production license holder sell directly to a dispensary and not just to a distributor?
- **50.** We recommend making the minimum age, at least 21. Is there a limit or restriction to the amount of licenses an individual or business can possess?
- **51.** This sentence should include the requirement to undergo testing of product, inspection, certification, background checks, and other requirements at all 3 levels of licensing.

- **53.** And any other fees required such as the mandatory community contribution.
- 55. (a) (i) and (b) (i) is a Mohawk of Kahnawake: Is this someone on the KKR, or who has a band number?
- **56.** How would our license be respected outside the community, in their jurisdiction?

Section 11: Dispensary Licenses

- **59. (a)** Given that there is no zoning laws in the community, what is the definition of "town-site"? Why acceptable in other parts of the community but not in the town-site?
- **(b)** "close proximity" What is this defined as? How close is close proximity? Set limit on locations? This could be spelled out in the regulations
- **60. (b)** We had a lot of questions on this; what does it mean; how is this monitored, tracked or enforced; how regulated?
 - (d) Any valid license (holder), or only a Kahnawake issued license?

Section 14 Point of Sale

68. Does this include KSCS/KMHC/Onkwata'karitahtshera programming or is that related to the Committee? i.e. programming to off-set negative impacts

Section 15: Mandatory Community Contributions

69. "Unless the Council determines that the license is for the purpose of operating a socio-economic project...."

Does this mean they are absolved of the MCC if they state they are a socio-economic project? If they do,

what is accountability of that entity?

71. How is this accounted for, audited, reported back to the community on? Would it be detailed in the regulations or by Council's discretion? Who would oversee this?

Section 16: Regulations:

72 (i) Other bullet should be added after this which states that:

- Regs on the type of product a particular production facility may produce, distributor distribute or dispensary dispense.
- No cannabis product should be created in a form to specially appeal to youth, such as gummy bears, candy, etc.
- (n) Also storage
- (n) (i) again, minimum age 21
- (s) Impact on Health Professional's Law?

Section 17: Enforcement

What degree of "sanctions" do they have at their disposal?

April 18, 2018

FEEDBACK DOCUMENT #2:

SECTION IV 10. KAHNAWA:KE CANNABIS CONTROL BOARD & CANNABIS HEALTH & SAFETY COMMITTEE

Not sure how this is going to work, who would be appointed by Council and what is meant by it being 'at arm's length' from the Council.

Cannabis Control Board – 13. STRUCTURE OF BOARD (13.2)

Should the draft law be specific and say three (3) members?

What if the structure suddenly changes and a replacement cannot be found within six (6) months or longer?

Will the Board not be able to meet until a third board member is appointed?

Does that have to be in the law or should it be in regulations?

Is there another way it can be worded (i.e. a minimum of 3 members and maximum of 5 members) so that you're not held hostage to the law and have to bring it back to the CDMP to amend the composition of the Board?

Just a general comment because I know both the ABC Board and the Gaming Commission experienced similar problems with their laws. We also recently noted that at our Membership Law Hearing.

13.3 Regarding the eligibility criteria of the Board:

Can an appointed Board member be a Mohawk Council of Kahnawà:ke employee, or a Mohawk Council employee in a managerial position?

SECTION VIII & IX – ENFORCEMENT & CONCLUDING MATTERS

Why is there not an Amendment section?

Why is the Enforcement section so different from other current laws?

Maybe there should be a standard format for drafting laws.

Why there is no mention of the CDMP or the Court of Kahnawà:ke, but rather a court of competent jurisdiction?

Was 'a court of competent jurisdiction' used because the Justice Act does not have its judges in place?

Just my opinion, but the community may think that anyone in breach of this draft law would have to be heard in an outside court of competent jurisdiction and not the Court of Kahnawà:ke. The Enforcement section is well written, but I feel that it may need to include the Court of Kahnawà:ke.

The MCK Election Law & the Draft Kanien'kehá:ka of Kahnawà:ke Law has the following sections which are more in line with what seems to be a standard format set by MCK Legal Services:

AMENDMENTS

Election Law: "AMENDMENTS 37.1 - This Law may be amended in accordance with the procedure set forth in the *Community Decision Making Process* as amended from time to time."

Membership Law: "AMENDMENTS 22.1 - This Law may be amended in accordance with the procedure set forth in the *Community Decision-Making Process or any other process* which may replace it."

ENFORCEMENT

Membership Law: "The Kahnawà:ke Peacekeepers have the sole and exclusive authority to enforce this Law. 23.2 The *Court of Kahnawà:ke* has sole and exclusive jurisdiction to hear and decide all matters related to this Law. 23.3 If the *Court of Kahnawà:ke* finds any section of this Law to be invalid the decision does not render this Law invalid in its entirety."

SECTION VII – REGULATIONS

You included a Regulation section, not sure why they are included in the law. Is it because it's a Type II law and regulatory in nature?

Discussions on this subject at KLCC noted having the Regulations as a separate document and not built into the law.

Section IX – CONCLUDING MATTERS.

(It should) Not approved by Mohawks of Kahnawà:ke, but by Chiefs and Council through a Mohawk Council Resolution (MCR).

Suggest the following change in wording to be consistent with other laws, "This Law comes into force on the day it is enacted by Resolution of the Mohawk Council of Kahnawà:ke."

April 24, 2018

FEEDBACK DOCUMENT #3

Section IV Kahnawake Cannabis Control Board

13.3 (c): Should be on the KKR.

How many Kahnawakeronon live outside the community?

Why should they be excluded as a potential candidate?

(discriminatory and shortsighted to limit to "residents".

Section V Licenses:

16.3: Totally unacceptable. Law allows Council to build a monopoly for itself. Must be a free and open market not monopolized by Council demanding "ownership interest" in all production.

Section VI: 20.1 Price Controls

What are the guidelines for determining prices?

How will (the Board) know the difference between a low and high grade product?

April 27, 2018 FEEDBACK DOCUMENT #4

Kahnawake Cannabis Control Law:

Write into the law, that first monies received be put into prevention accounts (first 20% of all monies received)

Different prevention or harm reduction organizations be included in the law, along with KSCS.

May 8, 2018 FEEDBACK DOCUMENT #5/6

Section III: 9 Permitted Activities

Include in this section that: "It is prohibited for anyone to produce cannabis for personal/medical use within our territory, without an approved license."

May 22 2018

FEEDBACK DOCUMENT #9

Section 16: Licenses

16.3: Explain why MCK has an ownership interest when applying for a production license?

Is this or will this be the same for tobacco or alcohol?

Explain how this differs from these other two industries.

Why is there no category for sick persons to grow their own?

If a sick person does not have the capacity to purchase but the skills to grow, why would the MCK forbid something very traditional to our people?

May 14 2018

FEEDBACK DOCUMENT #7

Section 3 (b) application:

The fact that this law applies to "all persons" is a qualifier for being a type 1 law, as this laws effect the community as a whole and deals with the rights of the collective.

4.1 prohibition

By specifying possession and use , and not recognizing any outside authority, they are making it illegal for a patient to use medicinal cannabis prescribed by a doctor from outside the Territory. This is a violation of a person's human rights.

5.1 cooperation

This means that in order to assure everyone follows the law rules MCK and Cannabis Board have the authority to call in outside forces to implement the provision of their law and make sure it's "fully realized". The agency can be anything from tax agency like revenue Quebec, to law enforcement agencies

like SQ/RCMP. This must be fixed

6.1 harmonization

This section strengthens the previous section authorizing the use outside regulatory agencies (revenue Quebec) and law enforcement (SQ, RCMP) to assist MCK to enforce their cannabis law. This is not acceptable

Purposes 7.1

This section also categorizes this law as type 1 law, as the purpose is to protect ALL people on the territory not just a segment.

Section 9.1 (a) Permitted Activities

Individuals must have the right to grow their own quality controlled cannabis to their own specifications for personal or medical use, on their own property.

"A Mohawk of Kahnawà:ke who has attained the full age of twenty one years is permitted to", qualifies it as a type 1 law, as it deals with the individual and collective rights of all Mohawks of Kahnawake" but Mohawk of Kahnawake must be changed to "a person?" as this law would apply to all people on the territory not just Mohawks.

KAHNAWA:KE CANNABIS CONTROL BOARD

Structure of the Board section: 13.2

This section prevents the board from operating "at arm's length" from Council when MCK appoints them and can remove them at their discretion. This must be an elected board not an appointed one.

Section 13.10

This does not allow for the board to operate at arm's length. There must be criteria for the removal of board members and not just left to the discretion of MCK to remove them for "reasonable cause".

Reasonable cause must be defined.

We need a board that consist of nine (9) elected voting members and 3 appointed non-voting liaisons.

Section 13.16

This gives authority to implement point of sale systems as well as others to track all your sales and revenue to assure they are receiving their taxes (royalties) from your business.

This must be explained to community.

Section 14.1 Board meetings

Just 2 people making decisions that affect the whole industry and the collective and individual rights of Kahnawakeronon? That's just not acceptable...

Section 14.2

how do you have a vote with just 2 people? 1 votes yes, 1 votes no So what do we do now? Flip for it?

Cannabis Health and Safety Committee

Section 15.2

The MCK will appoint people from various organizations, the hospital, pks, community services, etc. . to sit

on this committee assuring full control of the industry with no community representation.

LICENCES

Section 16.1

this section allows the board at their sole discretion to decide how many licenses are issued and to who they are issued to. Will it be only the business elite to get permits?

Section 16.3

If Kahnawakeronon were to get into the production side of cannabis, we will be required by law, to partner up with MCK and give them a stake in our business.

You cannot force people to enter into partnerships with local government if we don't want to.

Section 16.15

This mean that MCK and the Cannabis board can enter into partnerships and license nonnative owned companies or corporations off the territory at their discretion without any community consultation.

POINT OF SALE NON-ONKWEHONWE ROYALTY

Section 21.1

This is the implementation of a taxation system in Kahnawake and MUST come before the people to approve. MCK does not have the right to implement taxation on the territory without the clear consent of the people!

Section 21.2

An independent treasury must be set up of elected and appointed trustees to receive and distribute

"royalty" fees based on criteria set by the community. not directly to MCK accounts to use at their discretion.

Section 21.3

my draft law saw an independent treasury board distribute this money based on criteria developed by the community. MCK's law gives council sole discretion as to the use of these collected tax dollars.

MANDATORY COMMUNITY CONTRIBUTIONS

Section 22.1

Here MCK is charging a tax to Kahnawakeronon!. Council will be charging tax (mandatory community contribution) to Kahnawakeronon who hold cannabis licenses. They will decide how much you pay and how often!

MCK has NO right to charge Kahnawakeronon tax at their discretion without consulting the people and acquiring at least 51% community approval thru referendum

Section 24.1

The justice act and its administrative tribunal are not yet functioning. An interim review board must be set up to review decision until such time as the justice act is implemented. There must be a form of redress in the interim.

May 23 2018

FEEDBACK DOCUMENT #10

This law needs to be created as a deterrent to limiting sales operations on our territory and protecting the health, safety and minds of our young people. It is important to protect our youth by limiting the age for purchase and consumption to age 21.

What are the liabilities for Kahnawake? Do we have enough experts to deal with the potential problem?

- As for the law itself, no where do I see any education on the effects of the drug as part of the overall law. I believe this is paramount because not everyone knows the dangers.
- In definitions Kahnawake Territory means: Does this include Tiowéroton? If so is there an agreement with Kanehsatà:ke
- Permitted Activities 9.2 Does this include your neighborhood? Can a group in your neighborhood declare a "no smoking" zone?
- 9.3 How is this determined?
- Dispensary licences: 17.1a Must be in an area designated commercial, must be a certain distance from homes(community can decide distance)
- Section ix 25.1 What does this mean?

May 28 2018

FEEDBACK DOCUMENT #11

Section 4.1

Place "Unless authorized by this Law or the Regulations" at the end of the sentence. Remove "or the" and replace with "...Law/Regulations"

Section 7.1(a)

What about Tiowéroton?

Section: 8 Definitions

8.1 "Kahnawà:ke, "Mohawk Territory of Kahnawake" or "Territory"

- (a) What about Tiowéroton?
- (f) Add a "d" at end of "cede"

Section 13: Structure of the Board

13.2 Why only 3? May be better with 5, since this is a complex subject matter.

Section: 19 Packaging and Labelling

19.1(d) Add, "or a Native theme", at the end of the sentence.

Section 20: Price Controls

20.2 (a) Add, "based on Fair Market Prices" after "discretion"

Sections: 21, 22, & 23 (e)

There are 3 amounts being collected, the "Non-Onkwehón:we Royalty", the "Mandatory Community Contribution", and the "...amount of application, annual and other fees to be charged for licenses". Will other similar laws, for example, "Gaming", be amended to include similar amounts to be collected?

Section: 23 Regulations

23((p) (ii) Add "age" after "full"

(iii) How will this be monitored? What if they go to several places? How will one establishment know that a person already went to another establishment?

(v) How do they ask for ID?

Section: 24 Review

24.2 Why is Kahnawake of Court not included?

May 28 2018

FEEDBACK DOCUMENT #12

First, we understand from our prosecutor that for Kahnawà:ke to have jurisdiction to institute proceedings

under the federal Cannabis Act an agreement must be entered into with the Attorney General of Canada.

Section 9.1

The Commission agrees with the principles underlying setting the age for permitting possession of cannabis at twenty-one (21) years. This restriction would not be legally enforceable. This matter could not be prosecuted in our court since only a provincial Act may raise the legal age limit from eighteen (18) years.

Section: 24.2

This section does not actually create any infractions to prosecute, including possession under twenty-one (21) years of age.

From a legal standpoint the proposed age restriction is not binding.

The Commission recommends (with one dissent)that section 9.1 of the draft law be revised to reduce the minimum age to eighteen (18) years and that greater emphasis be placed on education and promotion.

Resources that would otherwise be used to enforce this unenforceable prohibition could be used to educate community members, especially our youth, on the health and safety dangers of cannabis consumption

May 18 2018

FEEDBACK DOCUMENT #8

All board governance related issues need to be removed from this document and have it formulate board policy. Resignation, terms of office, frequency of meetings and many more policy based issues cannot be legislated

Section: 2.5

This statement needs clarification as to what international law it is referring to, as the UNDRIP is a

declaration, not a legally binding instrument in international law.

Sections: 2.1 and 2.6

The principles of POGG from Canada's Constitution and statements of Mohawk Jurisdiction arising under the authority of the Constitution of the Six Nations Confederacy, is critically inconsistent as a principle.

Sections: 2.7 and 2.8

The issue with these statements (is that they) refer to the type of law that is being proposed for the Cannabis Law and the type of consultation-legislative process that is being used (type 1 v/s type 2).

The statement needs to be modified so that language is conducive to a type 2 legislation OR it needs to be re-categorized as a Type 1 legislation.

Section: 5.1

This essentially means that until they develop regulations, Canada's regulations will apply.

A time line for the regulations must be incorporated into law to ensure responsibility of the regulations is captured.

Definitions

Accountable:

The sentiment of "privilege or confidential" within the definition of accountable are two completely opposing meanings and do not belong in one definition.

The reference to "privilege and confidential" needs to be removed from this definition and included in a separate definition whereby there is a clear distinction of what is confidential and what is public information

Arm's length:

This statement needs to be abolished in it's entirely from the Mohawk Council of Kahnawà:ke's references. The Board governance structure needs to be built in such a way that not only implies but *legislates* it autonomy free from political interference.

Section: 9.1 (a)

Removing personal use needs to occur in order to strengthen its scope and not confuse its intention. There is virtually no way of proving that it was obtained from a facility licensed by Health Canada especially for personal use.

Structure of the Board

Section 13.1

The law and regulations need to be set up in a way that provides enough autonomy-free from political interference in order to make decisions consistent with that structure.

Section: 13.13

The selection process needs to be done from an independent body, as a recommendation, the Kahnawake Justice Commission as a separate entity from the direct political influence of the MCK could vet candidates, perform their background checks and do the fair and impartial evaluations of candidates.

The responsibility of the elected executive body of the MCK is to set the process in law and let the other institutions oversee its implementation.

Section: 13.4

Council needs to get out of the business of creating laws in which they are overseeing.

The council needs to be concerned with setting up a sound law and (an) independent oversight body equipped with the necessary checks and balances.

Sections: 13.5-13.6

Replace "Council" with independent oversight body.

Section: 13.10

Replace Council with independent oversight body and DEFINE reasonable cause, related to issues (i.e. mental/physical incapacity, criminal offences, conflict of interest).

OR Empower the board (which is typical) to make that determination through policies based on fact.

Section: 13.12

These circumstances need to be removed, as they should be governed by policy created by the Board. Council needs to be removed from this process, and actions generated through policy.

Section: 13.13

ALL financials transfers related to this law and all future laws need a financial reporting mechanism. This is standard board governance. The budget for this law and its operation needs to be a public document as well as the annual financial revenue generated in its entirety from licensing, fees etc.

Section: 14 Board Meetings

This would formulate board policy passed through the board, not in law. As it is up to the board to decide on how their operations would work. They need the flexibility of determining how operational matters work.

It cannot formulate part of law, whereby changes would require a legislative amendment, where it is not needed.

Section: 15.2

These activities are within the scope of the Kahnawake Public Safety Commission. It is unclear why this additional oversight body, allocated a budget, is being duplicated within the services provided and already mandated within MCK/institutions.

Section: 16.3

This law needs to be clear on the sole entity responsible to issue licenses and Council needs to be removed from that fold. If this is a law that empowers a legal body to make decisions/actions, this clause removes that power and gives it to any other body the council sees fit. One body needs to be empowered and this cannot be council. The governance structure needs to be clear and this clause removed. The separation of powers needs to be distinct from making the law to enforcing the structure of the decision making body.

Section: 16.16

This clause was not considering the current structure implemented by MCK, which empowers the Kahnawake Safety Unit and Commission as the centralized agencies to oversee ALL inspections within the Territory. This needs to be re designated to the centralized Kahnawake based agency responsible for these duties.

Section: 20 Price Controls

The enforcement of this section will need to be determined and explained keeping in mind that enforcement by the Peacekeepers is entirely problematic. Kahnawake Peacekeepers are not able to enforce Kahnawake Laws due to the current standing of agreements between Canada and Quebec.

Section: 21

A tax imposed for this venture needs to be pulled back and consultation with the community needs to occur. Incorporating a general tax over one business operation is discriminatory

Section 22.1

Taxation needs consultation and if approved, captured in a universal law addressing all businesses in general.

Socio-economic needs a definition

ENFORCEMENT
24.1 see #20. Please note, that 24.2 speaks of Kahnawake Peacekeepers enforcing criminal matters related to this law and there is a reason for that. Please read #20.