


15/11/2022

Food Standards Australia New Zealand
PO Box 10559
Wellington 6140
New Zealand

Re: Food Standards Australia New Zealand (FSANZ) Kava law change proposal P1057

Greetings,

We would like to start off by introducing ourselves as  Kumete Group Limited, and co-founders of Four Shells Kava Lounge in Auckland City. 'Anau comes from a family who has been in the kava business for generations in Tonga. 'Anau's father, Sione still owns kava pounding machines in Tonga, which he has used for the past 40 years to process kava for the Tongan community in New Zealand. Four Shells Kava Lounge is an extension of this family tradition, something that formed to meet the needs of an ever-evolving kava culture in Auckland. We are both published academic writers on topics related to kava and kava culture, as it exists in the traditional and contemporary contexts. Todd is a widely published professional photographer who has been documenting kava culture across the Pacific and beyond for the past 6 years. Given our backgrounds, experiences, and standing in the kava community, we believe that we are qualified to speak from positions of authority when it comes to kava.

We have been operating Four Shells for almost three years, and we have seen the kava community grow in many positive ways since we first started this venture. Our space is valued by many as one of the few Pacific-focused spaces in Auckland City. Four Shells serves as a bridge between cultures where customers come to socialise and drink kava together in an inclusive and safe place that is alcohol and drug free. We believe that our business serves a very specific need for the community (Pasifika and non-Pasifika alike), and we have become recognised for celebrating kava culture through a respectful and pan-Pacific approach.

There is a lot of public support for Four Shells and what we do, and the law change proposal P1057, in which we are writing in opposition to through this submission, will serve to hurt our business and others like ours for reasons that are both unclear and unwarranted. This is because of the stipulation under P1059, as quoted by FSANZ CEO Dr. Sandra Cuthbert:

“Kava beverage has a long history of consumption in the South Pacific and plays an important role in traditional community ceremonies where it is consumed as a beverage,” Dr Cuthbert said.

“We’ve reviewed the kava standard in the Code to ensure it continues to meet its intent to support traditional use and protect public health and safety.

“The proposed changes include the requirement for kava beverage to be produced for consumption at the place of preparation.

“FSANZ considers this best describes traditional kava preparation and consumption.”

This interpretation of “traditional” is problematic on many levels, not only because it would prevent us from selling kava in bottles as a takeaway option for our customers, but primarily because this definition of “traditional” is based on a very narrow view of what constitutes kava culture and consumption practices. The interpretation of traditional kava use as specified by FSANZ completely ignores the diversity of kava consumption practices that exist within kava communities around the Pacific.

We ask what gives Dr. Sandra Cuthbert and FSANZ the authority to speak on behalf of the indigenous peoples of the Moana in terms of what practices constitute acceptable traditional practice when it comes to kava consumption? Does Dr. Cuthbert come from a culture with a specific “tradition” of kava drinking herself? Has she, or the FSANZ board as a whole, consulted with a knowledgeable and representative range of cultural leaders, kava experts, scientists, or kava drinkers in order to fully understand the diversity of cultural (‘traditional’) kava drinking practices?

From our perspective, Dr. Cuthbert’s and FSANZ’s definition of kava “tradition” does not accurately represent the diversity of kava practices around the Pacific. We stand firmly on the belief that cultures and traditions have always changed with time, space and context, and they should continue to be allowed to do so to fit the needs of modern society. FSANZ’s attempt to define “traditional” use of kava (seemingly from an outsider’s perspective), under the guise of public health and safety is extremely problematic. FSANZ’s definition of the kava tradition hones in on a specific kava drinking practice that is common in traditional spaces – consuming kava where it is prepared – while misinterpreting this occurrence as an inherently important part of traditional kava drinking. In fact, kava is consumed differently across the traditional spaces of the Moana, but consuming at the place of preparation is not what underpins the spirit of kava drinking or kava cultural spaces. Instead, respect is the common theme that underpins the tradition of kava as it is consumed in a variety of settings and contexts, regardless of practices employed in preparing, serving, or consuming kava.

FSANZ as an agency must respect the cultural rights of people who the various forms of kava traditions belong to by allowing kava drinking practices to evolve and develop as they enter new social and geographic spaces with diasporic communities. We are now in the age of Covid19 and any action that prevents takeaway or bottled kava will hinder the cultural continuity of kava drinking practice. One must wonder, given the nature of P1057, and the fact that it was issued on an urgent basis at the busiest time of year, if this is not the overarching intention. In fact,

Four Shells Kava Lounge and the positive cultural space we provide for the community would not have been able to continue without the ability to sell bottled kava during the various covid lockdowns of the past two years. As if Covid-19 hasn't been hard enough, P1057 now threatens our very livelihood which we have worked hard to develop and committed a lot of personal financial resources to.

It is unclear as to why law change proposal P1057 is urgent, but from our perspective it seems that FSANZ has the intention of limiting the use and popularity of kava in Australia and New Zealand. There is simply not any relevant or authentic research that warrants urgent kava law reform like that proposed by FSANZ.

It appears that FSANZ wishes to change existing kava laws (which are currently in place and working effectively in New Zealand) at the last minute before Phase Two of the Kava Pilot Programme goes into effect. Presumably, Australia wants to allow kava symbolically as a means of increasing political influence in the region, while also dictating how kava is to be consumed and in what settings it is consumed. FSANZ's definition of what is "traditional" kava usage seems to be based on a narrow outsider's view of what constitutes acceptable kava "tradition" or "ceremony".

Many people stand to benefit if the kava industry is encouraged to grow in an authentic and sustainable way in New Zealand and Australia. Kava farmers in the islands will prosper from growing export markets, more kava businesses can open in New Zealand and Australia, and kava drinkers can have access to high quality kava which they can enjoy in alcohol free spaces. If P1057 is allowed to pass it will only serve to stifle the kava industry at an exciting time and while it is still in its infancy.

Please forgive the rushed appearance of our statement. As business owners, academic researchers and parents, we do not have the time to respond with a properly formatted response, but instead we have compiled a list of reasons why P1057 should be immediately put on hold and reviewed under the guidance of experts in the field of kava research. FSANZ must provide adequate relevant, recent and peer-reviewed research to back their policy proposal, and any other proposals that may arise in the future relating to kava consumption.

Reasons why P1057 needs to be postponed/ abandoned immediately:

1. FSANZ law change proposals will negatively impact Four Shells and other kava businesses who have been serving takeaway kava in bottles for many years with no negative impacts. We fail to understand what the urgent need is that is the driving force behind P1057.
2. If the key driver of P1057 is that kava starts having negative effects once someone consumes more than 400g per week, we propose that the focus should be on requiring kava vendors to inform customers as to the recommended amount of kava that should be

used. Kava vendors could achieve this through simple labelling which would clarify recommended daily dosage at no more than 50g per person per day.

3. Four Shells' takeaway bottles already have labelling to indicate the 'best before' date (based on the day that the kava is mixed in store). Also on the label is information reminding the consumer to keep the product refrigerated, not to drink kava if pregnant or nursing, not to drink kava with alcohol, not to drive or operate heavy machinery while having kava, to consult their doctor if they are taking any prescription medications, and the required "use in moderation, may cause drowsiness." The bottles are sold in volumes (500g and 1l) that are not in excess of the daily recommended dosages for one person, and we are able to provide education to those who are new to kava when they come to our shop to pick up the bottles.
4. Four Shells wants the kava industry to grow and following the model that we have established will help do this in a way that will benefit Pacific Islanders in NZ, Aus and back in the islands. Rules and restrictions such as what is proposed in this law change proposal will impede the possibility of growing the industry in a positive direction.
5. Four Shells is often referred to as "Aotearoa's Nakamal" by our Ni Vanuatu customers. Four Shells was also referenced as the ideal business model for kava bars at the 2021 The Pacific Regional Conference on Kava because of our Pan-Pacific approach to kava, the education we provide to those who are new to kava, the inclusive nature of our space, and our commitment to serving the highest quality kava possible that is prepared in the traditional cold water method. We have successfully made Pacific Island culture more visible in Central Auckland while using kava as a bridge to foster cross cultural connections in a welcoming, inclusive, and alcohol-free environment.
6. It seems that Australia is worried about some of the flavoured or extract kava beverages entering the market, but the current NZ law already does a good job of this in stating that prepared kava can only be served using the "traditional cold water method" that uses only cold water and pressure from hand squeezing.
7. We had many customers buy takeaway bottles specifically to join online kalapu sessions. Some customers actually have disabilities that prevent them from squeezing the kava, and customers also trust that we follow health guidelines to provide a safe and hygienic product.
8. Covid19 has driven the demand for takeaway kava to grow exponentially. Our business would not have survived the pandemic if it was not for the ability to sell takeaway kava.
9. Takeaway kava bottles are a popular option for our customers and adds to our financial success as a company. This in turn allows us to provide an inclusive and alcohol-free space that gives Pacific Island culture a visible presence in Central Auckland. It also allows us to hire young Pasefika workers who can share their traditional knowledge and connections with kava to the wider public.

10. Takeaway kavas have allowed four shells to weather COVID and you are worried that if this ban comes into place while we are still in the middle of a pandemic, this will effectively mean the bar(s) can't be sustainable.
11. All kava originated in Vanuatu, a place that has a plethora of different practices when it comes to the traditional uses of kava. The vast majority of Ni Vanuatu customers who come to Four Shells every week request bottled takeaway kava options.
12. Customers often like to drink kava in natural surroundings, such as in a park. The custom in Vanuatu is to consume kava under a large tree. It is an immersive and natural experience for many kava drinkers. In pre-Covid times some of our customers used to purchase kava powder to take and mix in a large bowl in a nearby park where they would enjoy it with friends in the afternoon. Since the arrival of Covid19, our customers are wary of preparing kava in this way as many parks have closed toilet facilities and water fountains. This means there is a lack of access to clean water for sanitation (hand washing) and for using to prepare the kava itself. When takeaway kava is purchased from our Four Shells, customers know that they are being protected from the spread of Covid19 as our workers are all double vaccinated, wear gloves and masks, and regularly sanitize all kava preparation surfaces and equipment.
13. Customers regularly come to Four Shells to drink kava on site, and then ask for takeaway bottles to take unfinished kava home because they couldn't finish it all. If takeaway bottles are not permitted, the leftover kava would have to be discarded because it cannot be resold due to hygiene reasons. Across the various traditional kava cultures that exist within the Pacific, the act of wasting kava would constitute a sign of great disrespect and it is something that Four Shells would not feel comfortable doing.
14. FSANZ's focus is on a misguided notion of what "traditional" means. They keep talking about bottles not being traditional. But they don't have the same approach to any other food. In the context of safety what matters is the composition of the beverage and whether it is consumed responsibly. There is nothing inherent in drinking it from a cup that makes it more "traditional" in this sense, than when you drink it at home from a bottle that has been manufactured in a food grade facility.
15. The current New Zealand laws on kava that dictate kava can only be sold in prepared form if made in the "traditional cold water method" are effective in preventing the flavoured and extract-based kava beverages from entering the market. The law proposal in P1057 would disrupt what Four Shells and other kava businesses have already been doing for years without any issues or problems.
16. We were told by the council we can't use traditional coconut shell bilos because they can't be washed in a dishwasher and are not hygienic so we had to adapt tradition to modernity by utilising disposable paper bowls.
17. Another function of the takeaway bottles is for customers to take unfinished kava home if they did not finish the amount of kava they purchased while at Four Shells' physical

location. If we cannot provide takeaway bottles for this purpose we would have to discard the remaining portion of their kava as it cannot be re-sold for hygiene purposes. Dumping out kava is wasteful but also extremely disrespectful from a cultural perspective.

18. Why should kava be targeted as being unsuitable for takeaway? If it is regulated as food then it shouldn't have additional rules put onto it. A food product is either safe or it is not safe, but kava is being treated as if it is in another categorisation. Many other common foods on the market could potentially cause problems if not used in moderation. If someone ate a kilogram of coffee beans they'd probably get sick. Does this mean that coffee should only be consumed by Ethiopians (its place of origin) in traditional coffee ceremonies?
19. Australia should not be able to dictate what is and is not 'traditional' or culturally acceptable use of kava.
20. The implication that kava should only be used in "traditional" settings that are based off of outsider's interpretations of what is "traditional". In doing this they are implying that Pacific Island customs such as kava drinking should remain out of sight from the general public and in Pacific Island only spaces.
21. This law proposal implies that only brown people should drink kava, but it also dictates how and where they should do it. It suggests that unless it is regulated in the "traditional" or "ceremonial" context that said brown people will abuse kava which will lead to problems.
22. Many of the cited health issues relating to kava consumption can be attributed to the use of sub-standard varieties of kava, kava that is adulterated or contaminated, or products that contain kava-derived ingredients. A primary focus on the quality of kava roots themselves, that they are selected, processed and cleaned properly, and prepared in accordance with the "traditional cold water method" that is already part of New Zealand's law will ensure that these issues are largely avoided.
23. We ask FSANZ to not dictate to the indigenous people of the Moana what constitutes acceptable traditional use or culture associated with kava consumption. What is deemed the acceptable use of kava in a 'traditional' manner is for the respective indigenous cultures who consider kava to represent an important "icon of identity" (Aporosa & Forde, 2019).
24. Some of the information aimed at informing the submission 'call' lacks accuracy, counters new research findings, and suggests or infers misleading understanding regarding kava health implications. This therefore compromises the integrity of this 'call for submissions' process.
25. Actions taken by FSANZ must be carried out in a manner so as not to cause kava use change in New Zealand and in-turn, impact cultural rights.

26. Kava plays a key role in the cultural practices of many Pacific peoples in New Zealand. Any restriction on kava use would counter the New Zealand Bill of Rights Act which endorses cultural engagement and expression, of which kava is critical for Pacific peoples.
27. Kava use by Māori is increasing, with growing numbers of Māori viewing that use as part of a re-engagement with their pre-migration (from the Pacific Islands to Aotearoa New Zealand) practices and tikanga (Aporosa & Forde, 2019). Any restrictions on the use of kava by Māori in New Zealand, particularly resulting from changes to the Food Standards Australia New Zealand (FSANZ) linked to a lack of process integrity by the Australian Government, would counter Māori cultural rights under the Treaty of Waitangi.
28. Further, changes to the FSANZ that impact New Zealand would likely limit access to kava by non-Pacific peoples who are increasingly using kava as an alternative to alcohol, a substance (unlike kava) with an extreme level of harm to both the user and socio-cultural structures.
29. Methods of kava preparation and consumption have always changed since kava was first discovered 3000 years ago in northern Vanuatu. People of the Moana have historically traveled with kava across the vast Pacific region for centuries, and the beverage continues to enter and take root in new environments and societies. The ways in which people consume kava continues to change and evolve as kava occupies urban and even online spaces since the advent of Covid19.
30. Respect is the key principle that underpins all kava spaces, whether contemporary or traditional. If the context in which kava is being consumed lacks respect and good intention then we can consider that such a space has broken away from the ‘tradition’ of kava drinking. P1057 does not take this into account, and instead attempts to put boundaries around what is considered to be ‘traditional’ based on where and how the kava is consumed.
31. In P1057 FSANZ states the policy position that limits the use of kava to the “traditionally-prepared beverage consumed by sub-populations familiar with its occasional and ceremonial use. The Code and related regulatory policy was not to promote broad consumption of kava.” It is too late to prevent kava use from spreading beyond the boundaries of those ethnic groups who traditionally use kava, if this is FSANZ’s intention behind the proposal. For example, there are thousands of non-Pasifika New Zealanders and Australians who have lived in, or traveled to the Pacific Islands where they were introduced to kava. There are others who live in communities within NZ and Australia where there are a large number of Polynesian and Melanesian people who have introduced the wider community to kava. This scenario has been happening for decades in New Zealand and Australia.
32. Aporosa & Forde (2019, p. 2) state “today kava has shifted to the Pacific diaspora. As Pasifikans have continued to use kava in their new home environments, they have

introduced new user groups to this iconic drink. In most cases, these new non-Pasifika kava users employ kava purely for recreation, for the purpose of relaxation and/or as a medicine, namely to reduce anxiety and facilitate sleep. However, there are others who have drawn on kava's traditional meanings and sociocultural function to both enhance and expand their sense of identity through the practice of kava drinking. Change has also occurred among indigenous users. For instance, extremes between traditional and urban contemporary styles of kava consumption can be found."

33. No data from the FSANZ Human Health Risk Assessment of kava (2004) or other peer-reviewed sources can be found to support the interpretation that FSANZ considers to best describe traditional kava preparation and consumption that are outlined in Proposal P1057.
34. The 2004 FSANZ report titled *Kava: A Human Health Risk Assessment* makes reference to traditional kava practice and preparation throughout but does not state anywhere that consumption of kava at the place of preparation is an integral part of any kava tradition. Below are examples of traditional practice related to kava preparation, consumption and safety as described in the 2004 FSANZ report. None of which reference anything that could be relatable to the statement in the P1057 (drafted in 2021) that "FSANZ considers this best describes traditional kava preparation and consumption." For what purposes and for what reasons does FSANZ now feel the need to base their definition of 'traditional' kava consumption on the space where the kava is prepared?
35. "Kava is traditionally prepared from fresh or dried roots. Fresh material is chewed or ground until it is fine and fibrous, soaked in water, strained and drunk. Dried material is ground finely, wrapped in cloth and infused in water" (p. 3).
36. "The traditional kava beverage is prepared by soaking the pulverized root in a bowl of water and/or coconut milk solution and filtering the mix to produce a brew in a communal bowl. The kava is then drunk from a cup, sometimes a coconut shell. In parts of Vanuatu and Papua New Guinea today, and in other regions across the Pacific in the past, the root is pulverized through mastication, whereas the 'Fijian method' involves pounding the root rather than chewing it (Cairney et al. 2002). Alternatively, dried powdered kava is mixed with water and/or coconut milk solution and consumed from a cup" (p. 7).
37. "The available data indicates that traditional kava beverages prepared from the root have a long tradition of safe use in the South Pacific Islands. It is compositionally different from kava products prepared by extraction using organic solvents" (p. 18).
38. FSANZ Proposal P1057 states ""We've reviewed the kava standard in the Code to ensure it continues to meet its intent to support traditional use and protect public health and safety." If the definition of 'traditional' in the 2004 FSANZ did not involve the exclusion of kava that is prepared in a place separate from where it is to be consumed, or the exclusion of kava that was bottled with the use of processing aids, why are these practices now considered to be a threat to "public health and safety"? Is there data available to

suggest that bottled kava products prepared in the traditional cold water method have caused widespread health issues? *Kava: A Human Health Risk Assessment* (FSANZ, 2004) states “there have been no reported cases of liver toxicity associated with consumption of the traditional kava beverage” (p. 4). Will traditionally prepared kava cause detrimental health effects in users who choose to drink their kava in what FSANZ consider to be ‘non-traditional’ spaces?

39. The World Health Organisation (WHO) states “kava is relatively free of side effects and is not addictive” (p. 11). The WHO does not make reference to the possibility that different contextual settings where kava is consumed could somehow cause adverse health effects, nor do they stipulate a necessity to consume kava where it is prepared.
40. This decision to put forth law change proposal P1057 should be in consultation with reputable cultural, kava scientists, and both traditional and contemporary kava drinkers. P1057 was also lodged for urgent approval under circumstances and reasoning that are entirely unclear. FSANZ failed to consider that the time of year (during the busy lead-up to the holidays) would make lodging statement submissions difficult for many who are concerned with the proposal.
41. Law change proposal P1057 appears to be based entirely on an outsider’s perspective of what is considered to be “traditional” in terms of kava consumption, and it fails to observe the plethora of differing kava consumption practices across the Pacific that comprise the various kava traditions. It is impossible to fit all of these traditional practices into one categorization.
42. Australia and New Zealand have had different rules regarding kava for many years, with New Zealand’s current laws which require prepared kava to be prepared under the traditional cold water method effectively keeping ethanol-based flavoured kava extract drinks and other similar products out of the market.
43. Should the law change proposal P1057 be approved by FSANZ to be implemented to serve the perceived needs of Australia’s pilot programme, it would be a worst-case scenario for it to apply to both Australia and New Zealand. At the very least, this law proposal should only apply to Australia, so as not to disrupt the kava industry that is already well established and operating successfully in New Zealand without issue.
44. Bottled kava is in demand and necessary as a source of kava in the age of COVID-19 when many traditional kava clubs have moved online. This demonstrates how kava ‘traditions’ will continue to evolve and adapt to changing times and spaces. In conclusion of *The virtual faikava: Maintaining vā and creating online learning spaces during COVID-19*, Henry & Aporosa (2019) state “The forced social distancing measures that have been imposed around the world due to COVID-19 has had a marked impact on the traditional functions and relational connection of people from collectivist cultures. However, Moana Oceanic peoples have reacted with resilience and adaptability, acting swiftly to bring a critical aspect of their culture—traditional kava use—online, enabling the continuance of this practice and the critical role it plays in creating

community, while also adhering to lockdown rules and helping prevent the spread of COVID-19 in the community. This new use of internet-based communication and social-media technologies combined with kava—and termed virtual faikava—has allowed for the maintenance of vā and led to increased levels of learning and interpersonal support. That process has been suggested to comprise a new form of Pacific ‘wayfinding’, demonstrating the ongoing creativity and adaptability of Pacific peoples to new and challenging environments.”

45. Kava is often prepared in large batches in a place with access to clean water and handwashing facilities and then transported to locations for the Kava to be consumed in either traditional or non-traditional settings. The law proposal would prevent this from being able to take place.
46. There is no single culture that holds a license on what is and what is not acceptable practice in terms of kava preparation and consumption. The spirit of the kava space is rooted in respect and civility. Whether or not the kava to be consumed was made on site or off site is irrelevant to the presence of respect. In Vanuatu, the place of kava’s origin approximately 3000 years ago, there are many forms of traditional kava use. For decades, people there have used plastic bottles to transport kava from Nakamals (kava bars) to consume it in other locations.
47. In the Pacific Islands, kava is occasionally prepared off site in large batches where clean water and sanitation facilities are available. It is then transported elsewhere for consumption in traditional or non-traditional spaces.
48. The tradition of kava lies in the spirit of the drink itself, and the mutual respect that is shown within the kava space, not necessarily in the manner in which the kava is delivered to the drinker, or the instruments used. Aporosa, S. A., Atkins, M., & Leov, J. (2021) state“... the cultural respect-based protocols that guide kava use within naturalistic settings...” (p.83), and “Kava’s union with cultural values and respect also creates several additional limitations.” (p.83)
49. Aporosa, S. A., & Forde, J. (2019) state “belief in the presence and power of these spiritual dimensions influence how people behave at kava venues, with respect dominating interaction. Further, Fijians, who call kava ‘yaqona’, often refer to kava use and drinking as ‘yaqona vakaturaga’ which illustrates the importance of respect associated with kava use” (p.77)
50. Some Pasifika cultures have lost their traditional kava practices due to the impacts of “missionization, colonization, and cultural loss” (Aporosa, 2019b, p.4). These cultures are now re-engaging with kava as an important part of the process of “reestablishing traditional knowledge and enhancing identity” (Aporosa, 2019b, p.4). The law proposal P1057 will prevent members of cultures that fall into this category from exploring and re-engaging with kava in contemporary ways that match the context of the modern societies in which they now live.

51. “Kava has been mythologized as an illicit alcohol, highly addictive, and causing physical harm. When examining the history of kava use in traditional contexts and considering the evidence now available, it is possible to demythologize this characterization. Looking at the potential benefits, it is time to re-brand kava, not only on the grounds as a relaxant, but in possessing life enhancing medicinal properties and as an alternative to alcohol” (Aporosa, 2019a).
52. According to Aporosa (2019a, p. 2), new kava drinkers have “drawn on kava’s traditional meanings and sociocultural function to both enhance and expand their sense of identity through the practice of kava drinking”. However, this does not mean that the settings or methods of consuming the kava are at the heart of this phenomenon, and a range of contemporary kava drinking practices have evolved in these new environments. Aporosa (2019a, p. 2) adds “change has also occurred among indigenous users, for instance, extremes between traditional and urban contemporary styles of kava consumption can be found.”
53. Illustrating the wide variety of kava traditional practices of consumption that exist diasporically and within homelands Aporosa (2019a, pp. 2-3) states “Whereas urban contemporary niVanuatu kava drinkers tend to stand and drink, urban Fijian and Tongan kava users, including those in diaspora, tend to mix and serve the beverage from a designated bowl to drinkers sitting on woven mats on the floor. The latter is argued to have greater adherence with Pasifika cultural values, in which some believe it is disrespectful to stand and drink kava. It can be seen that kava’s ongoing use stays within its traditional environments for some, while for others there is a shift in the diaspora with new user groups, who position the drink and its associated practices as identifiably Pasifikan”.
54. Australia’s interpretation of kava “tradition” is ambiguous and assumes that there is a single set of protocols that comprise kava culture and practice. Their view is Polynesia-centric and disregards the common contemporary practice in Vanuatu of obtaining bottled kava from kava bars, for example.
55. P1057 is packaged as a form of preservation of kava tradition. The proposal will instead arrest traditional practices in a particular time and place, not allowing it to evolve as traditions naturally do in accordance with time, place and social context.
56. The kava industry is very important to the Pacific islands economies the growth of Kava consumption in New Zealand could have overall positive impacts on the economic development and well-being of the Pacific islands. There are already serious barriers to growing the popularity of kava in New Zealand, even within some Pacific Island communities. Bottling allows access to high-quality kava, that is hygienic, clean, properly processed and traceable. P1057, if passed, will stifle the growth of the emergent Kava industry in New Zealand and Australia for reasons that are unfounded.
57. The Australian Drug Harms Ranking study (2019) ranked kava as one of the “least harmful drugs” (p. 762), while alcohol was consistently among the highest highest risk

categories across all parameters within the ranking. Our society is oversaturated with alcoholic spaces, alcohol retail outlets and drinking culture even though the social and health risks of over indulging in alcohol are well researched and documented. To many people both of pacific and non-pacific descent, kava and the kava space represents the only social space that is alcohol free and founded on respect and inclusion.

58. Female based kava clubs have been growing in popularity in recent years. They use it to connect with their culture and to enjoy a respectful social space that is alcohol and drug free. Some consider it to be non-traditional because in the Tongan space women generally are not welcome in the all-men kava clubs. There is evidence that this and other so-called “traditional” practices of kava consumption were established by early Christian missionaries as part of a wider campaign to subjugate women. As FSANZ is dictating what they perceive to be acceptable ‘traditional’ practice within the kava space, could it be possible that in the future FSANZ will dictate that women will be barred from drinking kava because they are excluded in some cultural contexts?.
59. Australia is running a pilot programme with kava. If law changes outlined in FSANZ P1057 are approved, only for Australia to decide not to continue with the kava pilot programme trial period, New Zealand could be stuck with those laws.
60. If kava is to be regulated as food, then why is it subject to regulations such as that which is put forward in P1057? The law proposals as put forward in p1057 would seem ridiculous if applied to coffee for example. Coffee is a food product that has undeniable psychoactive effects, is addictive (which kava is not), and is culturally important to Ethiopian people who use it in traditional ceremonies. Coffee can be abused, and if consumed in large quantities can make people sick, therefore should coffee only be used in traditional Ethiopian coffee ceremonies and among people who are familiar with its traditional usage? P1057 seems to target kava in an unfair way when compared to other food products that exist in the market without regulation.
61. Regarding the use of ‘processing aids’ which FSANZ seeks to ban in P1057, if the kava is prepared in the traditional cold water method with kava powder that meets import standards, then how could processing aids cause the kava beverage to suddenly become a threat to public health? Processing aids are used to increase the quality and hygiene of a product in commercial food packaging facilities. Further, it's not illegal for any other food product to use them, and there is no justified and reasoned argument as to why it should be different for kava.
62. There are reasoned arguments for banning food additives as per kava standards that currently apply in New Zealand, as the concern was that kava would be masked by other flavours and sold to unsuspecting customers. This is not the case with bottled takeaway kava, or shelf-stable bottled kava that was packaged with the use of processing aids, which FSANZ specifies as unacceptable in P1057. These products make cold water prepared kava beverages available that are 100% sanitary, and mixed at the correct ratios. As bottled kava products made in the traditional cold water method would only contain kava powder and water (in accordance with the current kava standard in New Zealand),

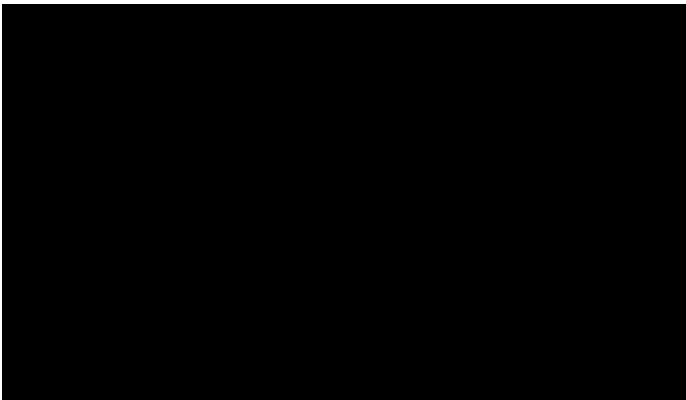
the product would taste and appear the same as kava that was prepared by hand and served in traditional settings.

63. *Kava: A Human Health Risk Assessment* (FSANZ, 2004) makes reference to several geographically-specific traditional practices which use additives and processing aids as a part of traditional kava preparation methods including the addition of coconut water (Fiji) and enzymes which break down the fibres present within the kava though the process of mastication (chewing) of the roots to extract the liquid (Lebot et al., 1992). The practice of root mastication is currently utilised in some parts of Vanuatu (it had previously been the standard method of kava preparation in other Pacific Islands until the post-European contact era). These are examples of the use of processing aids that are employed by several traditional kava cultures. Another example is the preparation of traditional Sakau (kava) in Micronesia involves the use of fibres from the hibiscus vine which emulsifies the drink to keep the kavalactones suspended longer.
64. Many people who obtain kava powder to make on their own tend to make the kava beverage mixture too strong because they are unfamiliar with kava/water ratios that are appropriate and safe for consumption. Pre-prepared bottled kava eliminates the possibility of consumers accidentally mixing too much kava powder with too little water.
65. If Australia's main issue with bottled kava stems from the possibility that such beverages could be smuggled into Aboriginal communities where kava is banned, it must be considered that smuggling bottles of pre-prepared kava into restricted areas will be much more difficult than smuggling powdered kava.
66. It seems that Australia is worried about some of the flavoured or extract kava beverages entering the market, but the current NZ law already does a good job of this in stating that prepared kava can only be served using the "traditional cold water method" that uses only cold water and pressure from hand squeezing.
67. Covid19 has driven the demand for takeaway kava to grow exponentially, as customers need products that they can trust to have been prepared properly and in a hygienic manner.
68. FSANZ's focus is on a misguided notion of what "traditional" means. They keep talking about bottles not being traditional. But they don't have the same approach to any other food. In the context of safety what matters is the composition of the beverage and whether it is consumed responsibly. There is nothing inherent in drinking it from a cup that makes it more "traditional" in this sense, than when you drink it at home from a bottle.
69. Australia should not be able to dictate what is and is not 'traditional' or culturally acceptable use of kava.
70. The implication that kava should only be used in "traditional" settings that are based off of outsider's interpretations of what is "traditional". In doing this they are implying that

Pacific Island customs such as kava drinking should remain out of sight from the general public and in Pacific Island only spaces.

71. This law proposal implies that only brown people should drink kava, but it also dictates how and where they should do it. It suggests that unless it is regulated in the “traditional” or “ceremonial” context that said brown people will abuse kava which will lead to problems.
72. Many of the cited health issues relating to kava consumption can be attributed to the use of sub-standard varieties of kava, kava that is adulterated or contaminated, or products that contain kava-derived ingredients. A primary focus on the quality of kava roots themselves, that they are selected, processed and cleaned properly, and prepared in accordance with the “traditional cold water method” that is already part of New Zealand’s law will ensure that these issues are largely avoided.

Please contact us if you have any questions.



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