

MPI NZ is requesting submissions regarding the Food Standards Australia New Zealand (FSANZ) – update the rules for the sale of kava as applied to New Zealand.

Your feedback is needed on a review of changes to the kava standard (P1057)

What does the review cover?

The sale of kava including:

- 1) *Whether the changes to kava rules will protect public health and safety, without creating unnecessary restrictions.*

Traditional Foods vs Novel Foods:

The current kava rules does not protect health and safety in New Zealand as it is not an issue as it is the abusive use of Kava in Australia that caused the restrictions. The abusive use of any substance is an issue all the time but it does not restrict the entry of goods for sale. If that was the case all alcohol and cigarettes would have restricted entry. So the current proposals continue the unfair trading restrictions on a natural product that has been accepted as a traditional food. Any tweaking does not remove the fact that it is restrictive without being equitable. Issues relating to food safety are not being addressed in the constraints. They are social use and restrictions to trade.

- Australia's population was 25,890,773 people at 31 March 2022.

(<https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/mar-2022>)

2021 census, 4.4% Identify as both Aboriginal and Torres strait Islander ie. 35,760 or 0.1381% of the 25,890,773 total Australian population of whom some may be involved with excessive use of kava in some circumstances. Arnhem Land Torres Strait Islanders represent a unique group confronting social issues that may predispose them to self-destructive behaviour, such as excessive consumption of alcohol or for that matter any substance not limited to kava. To constrain the civil rights of more than 99% of the population for the health risk stated has to be comparative, there are a multitude of over the counter and prescriptive pharmaceuticals with known but considered acceptable side effects well in excess of the side effects attributed to kava. Use of total population statistics of harm from kava verifies the 2014 European court finding that kava is not significantly harmful.

(Two German administrative courts decided that the decision of the regulatory authority to ban kava as a measure to ensure consumer safety was inappropriate and even associated with an increased risk due to the higher risk inherent to the therapeutic alternatives.)

(<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-people-census/latest-release>)

- *Excerpt from the attached research on kava use in Arnhem Land specifically the Torres St. Islanders of whom some may consume kava to excess in some circumstances.*
- To put these harms into context, Australian and international reviews have concluded that moderate levels of kava consumption present a low risk for harm. This raises the question of how to identify what 'high levels' of kava use are. Clough [92] proposed that 400 gm of kava per week was the level at which harms (negative effects) were most likely to occur. While this remains untested it is the best estimation to date [34]. Overall, there is insufficient evidence regarding the health effects of high levels of kava use; in particular prolonged heavy use. A need for continued research with controlled and well-designed experiments has been a recommendation from a range of inquiries and reports [9, 11, 21, 34, 36, 45, 80, 93].
- <https://healthbulletin.org.au/articles/review-of-kava-use-among-aboriginal-and-torres-strait-islander-people/>

The issue is likely related to the following article:

- <https://www.theguardian.com/australia-news/2019/mar/04/the-killing-times-the-massacres-of-aboriginal-people-australia-must-confront>

- 2) *Whether the changes allow kava use to continue in a historically safe and culturally appropriate way.*

This shall kill the innovative use of kava as a herbal remedy in a palatable manner. It is not for New Zealand and or Australia to determine what is historically safe and culturally appropriate way – those days have passed and as the culture is a living organism which is being addressed through the impact of globalisation it allows the use of kava beyond the male dominated use as was common in the Samoan culture and it is not for anyone to tell the market what is or is not acceptable. We are a living growing culture.

- the suggestion that the private sector submit data to prove the safety of aqueous mixtures of kava whilst the regulatory authority cries lack of funding to justify lack of scientific evidence that a kava - banana smoothie is a danger to the public health and safety is unacceptable.
- Any other topics related to kava preparation or use will not be covered by this review.

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