

## Submission to:

### **Consultation - *Kava Pilot, Phase 2: Allowing the commercial importation of kava***

This submission is provided by Dr S. 'Apo' Aporosa, a New Zealand Health Research Council funded research fellow based at The School of Health, University of Waikato. My research focus is the effects of kava - when consumed at traditional consumption volumes - on cognition, driver safety, health and productivity. I am one of a very small number of kava researchers who work full-time investigating kava, its socio-cultural use and its effect on health. I have 16 peer reviewed kava-related publications (of which two are books) with another four currently under review. Associate Professor Matthew Tomlinson of Oslo University stated, "*Dr Aporosa must now be considered the world's leading researcher on the social use of kava (Piper methysticum)*" (Oct. 2016). I have been consuming kava for over twenty years, have farmed kava while living and working in rural Fiji, I actively engage with the Pacific diasporic kava drinking community in New Zealand and Australia, and I am a member of the Australian Kava Movement. I present these qualifications to support my submission.

Prior to answering selected questions as presented in the *Kava Pilot Phase 2: Allowing the commercial importation of kava, Consultation document*, I submit that the following conditions be used to guide all deliberations related to *Kava Pilot Phase 2* submissions in order to ensure the appropriate, responsive, considered and fair evaluation of those submissions:

1. The definition of kava, be strictly limited to that described in the Australia New Zealand Food Standard Code (the Food Standard), Standard 2.6.3 of the Food Standard, defined as:
  - "1. a beverage obtained by the aqueous suspension of kava root using cold water only, and not using any organic solvent, or
  2. dried or raw kava root."

Therefore, any submissions or submission sections that conflate kava with the "modification' [of *Piper Methysticum*] into tablet/capsule form sold from pharmacies and health-food outlets, or the mixing of kava with other substances to create pop-culture foods and beverages" (Aporosa, 2019a, p.1), or cases in which kava is mixed with alcohol – a practice discouraged due to potential health implications (Kumar & Aporosa, 2017) – be ignored. This is because kava researchers argue that hybridised substances that include *Piper Methysticum* are not technically kava (Aporosa, 2019a; Aporosa, Atkins & Brunton, 2020; Lebot cited in Blades, 2018; Procyk & Lebot, 2013). This defined and bounded definition of kava (as presented in the Food Standard) will also ensure submission deliberations ignore the large body of research that utilised tablet/capsule forms of modified *Piper Methysticum* as part of the study methodology – studies that often (incorrectly) apply study findings to kava effects and kava users.

2. The kava submission deliberation panellists familiarise themselves with recent peer reviewed publications related to kava health and safety. Such publications (in suggested order of importance) include:

- Abbott, P. (2016). *Kava: A review of the safety of traditional and recreational beverage consumption (Technical Report)*. Rome: Food and Agriculture Organization of the United Nations and World Health Organization.
- Aporosa, S. A. (2019a). De-mythologizing and re-branding of kava as the new 'world drug' of choice. *Journal of Drug Science, Policy and Law*, 5, 1-13. doi:10.1177/2050324519876131
- Bonomo, Y., Norman, A., Biondo, S., Bruno, R., Daghli, M., Dawe, S., . . . Castle, D. (2019). The Australian drug harms ranking study. *Journal of Psychopharmacology*, 33(7), 759-768. doi:10.1177/0269881119841569
- Showman, A. F., Baker, J. D., Linares, C., Naeole, C. K., Borris, R., Johnston, E., . . . Turner, H. (2015). Contemporary Pacific and Western perspectives on `awa (Piper methysticum) toxicology. *Fitoterapia*, 100, 56–67. doi:10.1016/j.fitote.2014.11.012
- Aporosa, S. A., Atkins, M., & Brunton, R. (2020). Kava drinking in traditional settings: Towards understanding effects on cognitive function. *Journal of Human Psychopharmacology: Clinical and Experimental*, 35(2), e2725 (early view) doi:10.1002/hup.2725
- Aporosa, A. (2019). Australia's discussion of kava imports reflects lack of cultural understanding. *The Conversation*, June 9. Retrieved from <https://theconversation.com/australias-discussion-of-kava-imports-reflects-lack-of-cultural-understanding-115662>

Familiarisation with these publications will ensure deliberations are informed by balanced and authoritative research. As stated above, this also removes larger bodies of research in which findings are based on the use of tablets and tinctures modified from *Piper Methysticum* – substances Bwarenaba et al. (2017) report as containing kavalactone preparations with “modes of action [that] are not fully understood” (p.1).

3. Kava submission panellists not engage with, or consider emotive commentary or sensationalised media reports as part of their deliberations. An example of this is:

- Zillman, S. (2019). *'It paralyses everything': PM's kava plan flies in the face of elders' concerns and police evidence*. ABC News (Australia online), Feb. 4. Retrieved from <https://www.abc.net.au/news/2019-02-04/morrison-kava-import-plan-flies-in-face-police-evidence-elders/10775068>

Research clearly shows that kava does not cause paralysis, hallucinations or marked euphoria (Aporosa, 2019a; Aporosa et al., 2020). Therefore, the “It” in Zillman’s title, referred to as “...paralys[ing] everything” could not be kava, but instead must have been an entirely different substance or a modification of *Piper Methysticum* (as explained in point 1 above). Moreover, Darwin School of Medicine Professor Peter D’Abbs (1995), writing about the use of kava by Aborigines in the Northern Territories, stated: “it [*kava*] did not befuddle the mind and could therefore be used to stimulate 'clear-headed' discussions” (p.169).

4. Further to point 3 above, panel deliberations on kava submissions, treat with caution and scepticism anecdotal commentary and research suggesting correlation between kava and socio-cultural disharmony in Aboriginal communities. As early as 1995, Darwin School of Medicine Professor Peter D’Abbs (1995) – writing about kava in Aboriginal communities – argued that “traumatic social change” exacerbated by land confiscation, Government influence legal injustices and disempowerment over the previous 50 years, was a key driver to

Aboriginal socio-cultural upheaval; not kava (p.169). Eight years after making this comment, Hunter and D'Abbs (2003) wrote that kava appeared to have become the scape-goat for Aboriginal socio-cultural upheaval, citing "anecdotal and often sensational reports circulated about all-night [kava] binges, with ensuing detriment to families' health, rising absenteeism and even breakdowns in essential community services" (p.333).

Adding to concerns regarding the reliability of research related to kava use in Aboriginal communities, Trevena-Vernon's (2001) Northern Territory Health Services commissioned investigation aimed at tracking impacts from the 1998 *Kava Management Act*, provides a good example. In her report, she states "a general improvement in the health of individuals and community wellbeing [since the introduction of *Kava Management Act*]. Early indications of positive consequences included higher levels of disposable income, an increase in traditional and cultural activities—for example, fishing and hunting—and greater productivity within communities." (p.48). I communicated with Trevena-Vernon (2008, March 5, email) seeking to understand the methodology she had used during her investigation; specifically, how she had measured productivity loss and increase together with socio-cultural impacts associated with kava use and abstinence. Unfortunately, her response appeared to mirror several other similar enquiries I made with kava researchers in Australia (at institutions such as the *Menzies School of Health Research* in Darwin and the *Alcohol and Other Drugs Unit* at the Northern Territory Health Department). All appeared either evasive or circumspect in their responses, with Trevena-Vernon stating she could not discuss the research with me as "the reports were to remain closed" (2008, March 5, email). D'Abbs (1995) noted similar observations, reporting that "deliberations" that led to the establishment of the *Kava Management Act* were never made "available for scrutiny" preventing an assessment of the "evidence" (p.178). Additionally, Hunter and D'Abbs (2003) warn that correlations between drug substances and Aboriginal health and wellbeing are far from simplistic and must "include the historical and political forces informing the social determinants of indigenous ill-health generally." (p.334) This is supported by Spooner and Hetherington (2004), who, in their report entitled *Social determinants of drug use* (prepared for the Australian Government), makes it clear that problematic substance use is "a complex interplay of individual and environmental factors" (p.206). For Aboriginal and Torres Strait Islanders, those factors include "the brutality and trauma entailed in the European usurpation of the lands of peoples ... followed by successive policies of 'protection' and 'assimilation'" which resulted in the loss of cultural connectedness and "social cohesion" (p.194). Therefore, to suggest cause-and-effect conditions between Aboriginal and Torres Strait Islander kava use and socio-cultural disharmony lacks research rigour protocols, professionalism and considered process.

The following provides submission feedback to selected questions as presented in the *Kava Pilot Phase 2: Allowing the commercial importation of kava, Consultation paper*:

Question 1: *Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?*

I submit that import permit regulation be limited to the collection of data specific to commercial kava importation. This would exclude kava brought into Australia in personal baggage. The current 4kg limit on kava at the boarder does not allow import taxation. Taxation on kava provides an incentive for the Australian Government to remove the current restrictions and open the import market. Additionally, removing the current restrictive regulations on kava demonstrates a meaningful commitment by the Australian Government to the Pacific Step-up strategy, particularly in supporting sustained economic growth due to increased revenue potential from kava exports. Concerning limits on kava brought in to Australia in personal baggage, it is submitted that Australia follows New Zealand and simply require kava to be declared on entry, without limit or importation tax.

***Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial quantities of kava?***

No other regulatory burdens are necessary with the exception of restricting kava to persons under 18 years of age, a responsibility limited to the immediate supplier or retailer.

***Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?***

It is submitted that kava be regulated from a centralised national body as opposed to states and territories as this creates confusion and regulation inequity. Arguments that individual states and territories require autonomy over kava possession and use are most likely aimed at limiting kava use by Aborigine peoples. As explained in Section 4 above, arguments linking kava and Aboriginal socio-cultural impacts are weak and lack research rigour. Moreover, to cite Darwin School of Medicine Professor Peter D'Abbs (1995), much of the Aborigine community focused kava commentary (and research) has been driven by "sensational reports ... bureaucratic encroachment ... and public health bureaucracy" as opposed to fact and "scientific legitimacy" (p.179).

***Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?***

The current Food Standards require the following warnings to accompany kava when supplied: 'Use in moderation' and 'May cause drowsiness'. The question is the purpose of these warnings; whether it is to provide accurate information or to give the illusion of safety? Research is still unclear regarding kava consumption volumes relative to cognitive impairments and safety. Therefore, what constitutes 'moderate' kava use is unclear? Ethnographic research in Fiji shows many kava drinkers consume on average 3.6 litres during a six-hour period for up to six days per week (Aporosa, 2014). The WHO report: "On balance, the weight-of-evidence from both a long history of use of kava beverage and from the more recent research findings indicates that it is possible for kava beverage to be consumed with an acceptably low level of health risk" (Abbott, 2016, p.26, underline added for emphasis). Therefore, the value of the warning 'Use in moderation' is questionable.

Similarly, while the use of ‘may’ regarding kava use causing ‘drowsiness’ provides flexibility, this is also an area that requires yet to be completed research. For example, in a literature review summarising the effects of kava on cognition, Aporosa et al. (2020) present findings ranging from kava “significantly impaired visual attention and increased body sway” to kava “enhanced visual attention and working memory” (p.2-3). The same paper further presents the findings of a study in which kava drinkers attended a typical kava session (6 hours / 3.6 litres of kava) and were tested using an industry standard measure of drug driving. No impacts to reaction and divided attention were found (Aporosa et al, 2020). Admittedly, that study has recently been repeated using a new measure with the results expected in a few months. However, what this demonstrates is the utility, accuracy and subjectivity of the current required warnings on kava products, suggesting that any additional warnings (in addition to ‘Use in moderation’ and ‘May cause drowsiness’) be excluded at this time.

***Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?***

Since colonial contact in the Pacific, themes related to kava “health, social and cultural” use have included a variety of myths and misunderstandings, some of which have been published in peer reviewed books and journals. Several of the more common kava health myths are discussed at length in a recent issue of the journal *Drug Science, Policy and Law*, supported by a comprehensive literature review (Aporosa, 2019a). That paper concludes by making it clear that the “medical evidence is plain; that kava is non-alcoholic [and does not cause inhibition, hallucinations or marked euphoria], non-addictive, does not cause liver failure and according to the WHO, has not been the direct cause of any fatalities for the past 10 years worldwide.” (p.8)

In that kava health publication (*Drug Science, Policy and Law*), I do acknowledge that “No drug is harm-free and neither is the article suggesting kava provides the ultimate, idyllic alternative to all substances.” (p.7) However, when kava’s harm levels are “compared against the health and socio-cultural implications of even moderate alcohol consumption ... kava rates extremely well.” (p.8) For instance, that paper draws on the 2019 Australian drug harm ranking study informed by 25 drug experts of which several are Australian Government research advisors (Bonomo et al.). That study assessed the harm levels of 22 drug substances and ranked alcohol (with an overall score of 77) as “causing the greatest overall harm” in Australia (p.763). That score was higher than tobacco (at 32) and cannabis (at 17), a drug recently legalised/decriminalised in the ACT. Conversely, kava was ranked as the least-most harmful of the 22 assessed substances, with an overall harm score of **3**. Therefore, this would suggest that this current consultation process should be more-so focused on alcohol and to a lesser extent cannabis as opposed to kava, particularly with the wide availability of alcohol in Australia. Alcohol in Australia was directly responsible for more than 5500 deaths in 2014 (Gao et al., 2014, p,vii) whereas, to reiterate an earlier comment, kava has not been directly implicated in a single death worldwide in the past 10 years (Aporosa, 2019a). Additionally, alcohol use is linked to the justice and health systems financial burdens due to alcohol being a dominant factor in injury and violence. It is worth pointing out that as a former policeman with seven years’ service (NZ), and having attended several thousand kava sessions over the past 20 years, I have not once witnessed a single act of aggression or violence at a kava

venue; nor did I ever attend a job, or hear about a kava related disruption. Indeed, drug researcher Dr Edwin Lemert (1967) stated, kava does not “release aggressive impulses; if anything, kava inhibits or disassociates them. You cannot hate with kava in you” (p.333).

Other common health and socio-cultural implications frequently linked to kava include kava dermopathy / skin damage and being responsible for ‘taking men away from their families’. Concerning these matters, I recently commented in a kava health publication:

“Aporosa does accept that high kava use over a prolonged period can cause kava dermopathy, or a drying and peeling of the skin. However, this subsides a week or so after use is slowed or ceased, without any residual effects. Regardless, this has not stopped the ‘myth’ [or criticism] that kava dermopathy ‘proves’ kava is dangerous, nor has it limited criticism linking kava dermopathy with abusive kava use. Aporosa responds that ‘while this harmless drying of the skin may not look attractive to some, to others it is considered to represent the kava user’s enthusiastic engagement with their culture. It comes down to perspectives.’ Aporosa adds that people who use alcohol to excess can also exhibit problems such as the reddening of facial skin and a bulbous nose. However, these concerns are rarely spoken of, regardless that these symptoms represent medical concern, unlike kava dermopathy. As for the claim that kava drinking is time consuming and ‘takes men away from their families’, Aporosa argues that excessive television watching, gaming or involvement with sport can do the same thing – it’s about how people choose to spend their time. ‘Kava, as opposed to personal choice, or even poor choice, has become the scape-goat and the point of criticism’” (Aporosa & Foley, 2020).

It is also noted that the *Kava Pilot, Phase 2 Consultation document* cites additional kava health concerns as including “weight loss ... laziness ... and an increase in liver enzymes (which may be an early indicator of cholestasis)”. (p.10) I would suggest that many of these concerns arise from commentary associated with the Aboriginal community, with this being the reason I argued in Section 4 (above) that kava submission panel deliberations treat with caution and scepticism anecdotal commentary and research suggesting correlation between kava and health and socio-cultural disharmony in Aboriginal communities. The Bonomo et al. (2019) Australian drug ranking study, I would argue, also adds to that call for caution. In that study which ranked 22 drug substances and identified kava as the least-most harmful at **3** points, Bonomo et al. explain that this value represents a harm-score of **2** “to the user” (health factors) and **1** “to others” (socio-cultural). In comparison, alcohol scored 36 for harm to the user and 41 to others. This demonstrates the exceedingly small impact level of kava on health and the wider community, raising the question as to why the *Kava Pilot, Phase 2 Consultation document* needed to list the health concerns. Having done so though, it is worth responding to these “health impacts”:

Although the *Kava Pilot, Phase 2 Consultation document* points to “weight loss” associated with “high levels of kava consumption” as a health concern, this stands in opposition to some who have voiced concerns that lengthy kava drinking leads to obesity due to lengthy periods being sedentary (Grace, 2003; Chambers, 2018). Therefore, is kava a contributing factor in weight loss or gain? Similar subjectivity exists concerning the claim that kava use leads to people being “lazy”. In my doctoral research, I investigated kava and productivity in Fiji (Aporosa, 2014). That study demonstrated the risk of making simplistic cause and effect links between kava use and laziness. While there were some participants who stated kava made people lazy, others cited some heavy kava users who were highly productive following kava consumption. Conversely, others explained

situations in which some non-kava users were considered 'lazy'. In a follow up article to that study, and drawing on more than 20 years of kava drinking experience with thousands of users in more than 15 countries, I write, "The reality is, lazy people are lazy regardless of whether they have consumed kava. It is a shame that kava has been singled out as the cause of this." (Aporosa, 2016) I would argue that of greater concern is research showing "Hangovers are causing 11.5 million 'sick days' a year at a cost of \$3 billion to the Australian economy" (Medew, 2015). Moreover, this poses the question as to why kava has heavier restrictions on it in Australia when compared to alcohol if laziness (and productivity) are key concerns.

Concerning reports in the Consultation document that kava "increase[s] ...liver enzymes (which may be an early indicator of cholestasis)" (p.10): Australian Professor Robert Moulds (formally of the Fiji School of Medicine [FSM]) is clear that raised liver enzymes resulting from kava use is of little concern. He and FSM physician and lecturer Dr Jioji Malani (2003) discussed this in a publication. Acknowledging that kava use can elevate liver enzyme levels, namely GGT ( $\gamma$ -glutamyl transferase) and decrease blood lymphocytes, they then ask rhetorically, "How relevant is the finding that some... heavy kava drinkers have raised serum GGT levels?" (p.452) In response they commented that the association between heavy kava consumption and

"raised serum GGT levels is... difficult to determine. Alcohol causes raised serum GGT levels and can cause acute hepatitis and acute liver failure as well as chronic cirrhosis of the liver. However, other drugs (eg, phenytoin) also commonly cause raised GGT levels, reflecting CYP450 enzyme reduction, yet seldom (if ever) cause acute liver failure or cirrhosis of the liver. Hence, raised GGT levels do not necessarily imply 'subclinical' liver toxicity." (p.452).

In 2010 I discussed "subclinical liver toxicity" with Professor Mould at the FSM. He responded that observed abnormalities "are a common concern among doctors who are unfamiliar with the liver function test results of kava drinkers". He added that "while elevated GGT and white blood cells [lymphocytes] were abnormal [to those unfamiliar with kava's effects on the liver], this does not mean that this abnormality is of concern. Jioji [Malani] and I have written on this", referring to the publication drawn on in the previous paragraph and a 2002 article by Dr. Malani entitled *Evaluation of the effects of kava on the liver*. This would challenge the claim in the *Kava Pilot, Phase 2 Consultation document* which states "an increase in liver enzymes [from kava use] ... may be and early indicator of cholestasis".

Admittedly, the health concerns presented in the *Consultation document* are followed by a caveat that there is "evidence that these affects are commonly reversible upon the cessation of use and that consumption of kava has no effect on the cognition of users". If then there are no health concerns, this raises the question as to why some were listed in the *Consultation document*.

The *Consultation document* also describes several "Social impacts of kava", acknowledging the cultural importance and significance of kava within the Australian Pacific community. This is important, particularly in light of kava's relaxant non-intoxicant effects allowing for "clear headed discussion" (D'Abbs, 1995, p.169) which provides an ideal alternative to alcohol and other mind-altering substances. Social scientists are clear that throughout history, humans have always used drug substances of one sort or another and will continue to do so (Jay, 2012). I would therefore

argue that the Australian Government, in relaxing the import regulations on kava allowing unrestricted importation, would demonstrate social responsibility by providing access to what 25 Australian drug experts have ranked as the country's least-most harmful drug of the 22 assessed substances (Bonomo et al.). Additionally, the Australian Government would also be supporting the societal and cultural wellbeing of those in their Pacific community. For instance, following the implementation of the 2 kilogram limit on kava coming into Australia in 2007, the *Sydney Morning Herald* reported that in the months following that restriction,

“We have witnessed a sad increase in violence in the Pacific Island community ... What is now happening is alcohol has become the substitute for kava; kava's promotion of a gentle sense of contentment is being replaced with the violence so often associated with excessive drinking. The good work done with young people by fostering their traditional culture will be undone by pushing them towards alcohol.” (Pinomi, 2008)

Tongan doctoral kava researcher Edmond Fekoho (2014, 2015) explains the critical role that kava venues play in diasporic communities as “cultural classrooms”, places where respect, language and traditions are taught, made possible because of kava's significance as a cultural keystone species (also see Aporosa, 2019b) and its use not resulting in the euphoric effects or socio-cultural harm of most other drug substances. Fekoho also discusses the importance of kava as an alternative to alcohol in Pacific communities (Holt & Fekoho, 2018), a benefit that is also encouraging kava use among Europeans (FCS, 2016). Therefore, it could be argued that by limiting kava the Australian Government is promoting alcohol use and related anti-social behaviour – factors likely to reduce with greater access to kava.

The benefits of kava over alcohol is also recognised by indigenous Australians. In a recent video made in Arnhem Land in which elders from the Bakamudu Clan discuss question raised in the *Kava Pilot, Phase 2* consultation document, the speak about the destructiveness of alcohol in their community, how it is responsible for “a lack of respect” to oneself, others and property. Conversely, these same clansmen explain the value of kava in facilitating quality discussion, allowing them to explore themes such as “sharing and caring ... safety, health and social issues” (Halafihi, 2020, 29m.50sec.). Interestingly, this discussion is had while sitting drinking kava with one of the elders explaining at the beginning of the video that “your culture [the Pacific culture] is within our culture, thank you”.

The *Consultation document* also states that “Despite this [positive reports of kava use in Pacific communities], there have been news reports of social harms in some communities where the kava is not consumed in a traditional manner (Clough 2009).” It is argued that “some communities” refers to Aborigine communities. The reliability of these “news reports” is the reason I requested (in Section 3 above) submission panellists not engage with or consider emotive commentary or sensationalised media reports as part of their deliberations. It is also the reason I suggested (in Section 4 above) submission panellists treat with caution anecdotal commentary and research arguing correlation between kava and socio-cultural disharmony in Aboriginal communities. It is argued that the comments within the previous paragraph by Bakamudu clansmen do not fit within these warning parameters as that video pertains directly to this consultation process.



The statement asserting “there have been news reports of social harms” cites work by Dr Alan Clough. It should be noted that this Clough study was published in 2003 and not 2009, making it 17 years old. Kava health knowledge has increased considerably since that time. For instance, Clough cites “dermopathy characteristic of heavy users” as a concern. In an earlier section I acknowledge,

“that high kava use over a prolonged period can cause kava dermopathy, or a drying and peeling of the skin. However, this subsides a week or so after use is slowed or ceased, without any residual effects. Regardless, this has not stopped the ‘myth’ that kava dermopathy ‘proves’ kava is dangerous, nor has it limited criticism linking kava dermopathy with abusive kava use” (Aporosa, 2020).

Clough’s (2003) research also cites low body weight and raised GGT (liver) levels, subjects already discussed (above) in which cause and effect harm is highly questionable. Clough also raises concerns about the amounts of kava being consumed in Aboriginal communities: “(mainly men) spending more than 14 hours a week in kava drinking activities and drinking in excess of 425 g/week a level comparable to the ‘very heavy’” (p.47). Commenting on Fijian kava drinking, Associate Professor Matt Tomlinson (2016) explains that it is not uncommon for men to drink kava for periods in excess of 40 hours over a seven-day period (also see Aporosa, 2008, p.68). Additionally, data collected during my doctoral research based in Fiji suggests men are consuming on average more than Clough’s Aborigine participants (Aporosa, 2014). It would therefore be expected that Clough’s health concerns would be mirrored in Fijian and other Pacific kava using communities. However, to draw again on the WHO, they are clear that “On balance, the weight-of-evidence from both a long history of use of kava beverage and from the more recent research findings indicates that it is possible for kava beverage to be consumed with an *acceptably low level of health risk*.” (Abbot, 2016, p.26, underline added for emphasis).

Concern was also raised in the *Consultation document* about purchasing kava and the implications of “negative financial impacts on communities (Clough, Burns & Mununggurr 2000).” I would argue that this a mute argument as unhealthy food items, alcohol and cigarettes together with a variety of other consumables and activities are having “negative financial impacts” on the budgets of peoples from all ethnicities across Australia. However, it appears that household incomes spent specifically on kava in Aborigine communities have been identified as the dominant contributor to community economic concerns. As discussed in Section 4 above, by drawing on research from Australia, problematic substance use is “a complex interplay of individual and environmental factors” (Spooner & Hetherington, 2004, p.206). Concerning socio-cultural dysfunction in Aborigine communities in the Northern Territories, Australian Professor Peter D’Abb’s (1995) argued this has been exacerbated by land confiscation, Government influenced legal injustices and disempowerment over the previous 50 years which led to “traumatic social change”, and not kava (p.167).

Regardless that the *Consultation document* states, “that consumption of kava has no effect on the cognition of users”, it later raises concern regarding the potential impact of kava on driving. This is research I am currently undertaking, funded by the New Zealand Health Research Council with results expected by mid-year. There is an expectancy that kava has mild disruption to attention (over-focus) and temporal order judgement, therefore posing a risk to safe driving. These

impairment levels though, appear to be vastly less impacting than those caused by alcohol (Aporosa, et al., 2020). Moreover, alcohol's danger to safe driving has not been used as reason to prevent or restrict the commercial importation of alcohol.

This section has addressed several of the health and social concerns regarding kava in Australia. Although I have countered with arguments and research – notably the Australian drug ranking study - that present kava in a favourable light when compared with some of the concerns presented in the *Consultation document*, I must again acknowledge that “No drug is harm-free and neither ... [am I] suggesting kava provides the ultimate, idyllic alternative to all substances.” However, when kava's harm levels are “compared against the health and socio-cultural implications of even moderate alcohol consumption ... kava rates extremely well.” (Aporosa, 2019a, p.8)

***Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?***

It is anticipated that the removal of import restrictions on kava will increase use in both the Pacific and non-Pacific communities as people seek an alternative to alcohol. The uptake of kava in America is evidence of this (Wolinski, 2018). The main concern regarding “particular risk” will be those who choose to mix kava with other substances or drink kava and drive and in-turn come to the attention of health officials or the judiciary. Regardless that the ingested substance may be a modification of kava, or that a kava user chose to make a poor decision and drive, I am concerned that ‘kava’ will be cited as the problem. This is similar to the scape-goating of kava in comments such as kava takes “men away from their families” (as discussed above).

***Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?***

Yes, through education such as the recommended publications list in Section 2 above and the support of further kava health research.

***Question 8: What benefits may be achieved from commercially importing kava into Australia?***

This will have major positive benefits for kava growing nations through export earnings and support the broader efforts of the Pacific Step-up Strategy. It will also increase kava supply to the Australian Pacific community providing them with a key input of cultural practice and a likely increase in “cultural classrooms” in which respect etc. are taught (as discussed above). Increased kava to the Pacific community will simultaneously reduce their alcohol use and its associated negative socio-cultural implications. It will also provide non-Pacific people in Australia with an alternative to alcohol, one that is vastly safer and provides for clear-minded conversation unimpeded by the effects of disinhibiting intoxication. It is anticipated that greater availability to kava will reduce some of the justice and health system financial burdens linked to alcohol and injury and violence.

***Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?***

It is suggested that Australia follow New Zealand's lead in this allowing both big business and small home-based retailers to import, price, market and sell kava.

Question 10: *What methods should be used to monitor and evaluate the success and impacts of the pilot?*

Question 11: *What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?*

Question 12: *Who may be able to contribute to the monitoring and evaluation of the pilot?*

Question 13: *What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava?*

Concerning Questions 10-13: it is suggested that a specific researcher (Doctorate level) with kava health and cultural expertise; with a desire to collaborate with offshore kava researchers; and motivated to recruit and supervise post-graduate students to research kava health and social issues, be funded and positioned within an academic setting tasked with the monitoring and evaluation of the themes within Questions 10-13.

In summary, this response to the *Kava Pilot Phase 2: Allowing the commercial importation of kava, consultation document* demonstrates a variety of positives in allowing the commercial importation of kava into Australia. Firstly, it supports the Australian Government's commitment to the Pacific Step-up Strategy. It also demonstrates that kava poses very little threat to the health and social conditions of Australians. As stated in the journal *Drug Science, Policy and Law*, the "medical evidence is plain; that kava is non-alcoholic, non-addictive, does not cause liver failure and according to the WHO, has not been the direct cause of any fatalities for the past 10 years worldwide." (Aporosa, 2019a, p.8). Australia's own drug harm ranking study supports this, scoring kava as the country's least-most harmful substance at **3** points; that value representing a harm-score of **2** "to the user" (health factors) and **1** "to others" (socio-cultural) (Bonomo et al. 2019). This has particular relevance when compared with alcohol which is widely available in Australia. UK Professor David Nutt, a world renowned neuropsychopharmacologist, medical doctor and psychiatrist who advised the Australian drug harm ranking study, makes a valuable comment in his new book regarding the 'harm to others' score of alcohol ranked at **41**: "the cost of all alcohol harms are largely picked up by others – that is, you and me. The logical conclusion is, if government drug policy is about harms, alcohol should be the primary focus" (Nutt, 2020, p.233), a focus well ahead of kava. Additionally, kava has the potential to enhance health and social conditions considering kava keystone role in the Pacific community and the potential of kava as an alternative to alcohol for all ethnicities including First Australians as identified by elders of the Bakamudu Clan in response to this consultation.

This submission also raised significant questions such as:

- Why has kava, and not alcohol, been the focus of restrictions in Australia?
- Why has Australia not followed New Zealand and most other countries in recognising kava's safety levels, particularly as kava has for some time been classified as a 'food' under the Australia New Zealand Food Standard Code?

- How was it possible that cannabis was legalised/decriminalised in an Australian State, a substance with a moderate level of harm according to the Australian drug ranking survey, whereas kava – with a minimal harm ranking – has remained illegal in some areas of Australia and restricted in others?

This demonstrates why *Kava Pilot Phase 2: Allowing the commercial importation of kava consultation* deliberations are important and must consider recent peer reviewed publications. Emotive commentary or sensationalised media reports must be ignored, and anecdotal commentary and research suggesting correlation between kava and socio-cultural disharmony in Aboriginal communities must be treated with caution and scepticism. This is to ensure appropriate, responsive, considered and fair evaluation of all submissions.

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Question 1: Are you supportive of the use of import permits to allow kava importation to be controlled and monitored?

**Yes**

Question 2: what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial quantities of kava?

**Requirements:**

- a) a beverage obtained by the aqueous suspension of kava root using cold water only, and not using any organic solvent, or
- b) dried or raw kava root.
- c) All wholesaler and retailer must have permit and license
- d) Have knowledge about the qualities of kava in pure form
- e) Proof of evidences for all wholesaler can supply the kava as necessary
- f) All wholesaler outside Australia must pay tax on quantities of kava
- g) Only allow kava to purchase or sell from license premises

**Conditions:**

- a) Kava must be pure kava powder only
- b) Kava bags must be labelled plus warning
- c) Kava bags must be packed in 1kg bags or 200g bags

Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?

**Restrictions:**

All permits holders must abide with the State and Territory Government Restrictions.

Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?

**YES,**

- A) Use in Moderation
- B) May cause drowsiness
- C) drink kava without food cause loss of weight and appetite
- D) drink kava without enough sleep cause nausea, laziness and sore red eyes
- E) drink kava without shower cause skin rash and loss of libido
- F) Consult GP before use Kava

Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?

a) **My views on Health:**

Drinking Kava without eating well, good sleep, and hygiene will lead to poor health

b) **My views on Social:**

Drinking kava is more social in nature comparing to drinking alcohol. From my experiences as follow: In the beginning of drinking kava session, everyone talk louder, laughing and telling stories, In the middle of the session only a few will still talk and at the end of the session everyone will be quiet and would want to go sleep. Kava drinking in comparison to alcohol, everyone starts quietly, and conversations become louder and trouble follows in some cases. In facts, the more you drink alcohol the more violent you are, but the more you drink kava, fell relax and calmer.

c) **My views on Cultural:**

In sense of education perspectives, Australian is the multi-cultural nation and this is the opportunity for Australians to learned about other culture and also for others people to learn about the Australia's culture, especially aboriginals.

Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?

NO

Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?

Enforcing the laws on commercial entities about their permit, license and regulation

Question 8: What benefits may be achieved from commercially importing kava into Australia?

- a) Australian Government foreign aid promotion
- b) Minimise the black market of Kava
- c) Minimise the aboriginal people using other illegal drugs like marijuana, ice etc
- d) More money stays in community
- e) Less violent compare to alcohol and other drugs
- f) Create employment for Aboriginal people
- g) Create educational system for aboriginal to learn about other culture

Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?

- a) All logistics business
- b) cost of buying pure kava from suppliers and cost of freight plus GST should be taken into consideration in pricing
- c) Marketing can be on TV, Facebook, Newspaper and word of mouth
- d) Kava can be sold at any given shop who holds retail license to sell kava

Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?

- a) tracking of imports and qualities of kava
- b) tracking of imports and quantities of kava
- c) keep and track records of kava being sold
- d) monitoring the use and quantities consumption by individuals with ID record

Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?

### **Economic:**

All licence holder should display permit, be held responsible for tax, GST. Create employment opportunities for Aboriginals community by keeping money in the community for other businesses and employment opportunities.

### **Health:**

- a) make sure there is proper place/area in the community to allow kava session to take place, clean, no smoking, no alcohol or any other drugs.
- b) For any individual who has been recommended by a Health provider not to consume kava will not be allowed to buy it
- c) Individual must be responsible for their health, hygiene and sleeping pattern, not to miss work due to kava consumption

### **Social:**

- a) make sure there is proper place/area in the community to allow kava session to take place for telling stories, singing practice and meet new people.
- b) Drink Kava in moderation



Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?

- a) The traditional landowner
- b) Licensee holder
- c) Police
- d) Health care worker
- e) Night patrol worker
- f) Community

Question 13: What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava?

- a) Data from health department
- b) Data from Police department
- c) Data from suppliers and retailer who purchase and sell kava
- d) Data from landowner and kava drinker information
- e) Data from sale and purchase of kava

CREATED BY 'AMANAKI K HALAFIHI -6/03/2020

## Consultation – KAVA Import Phase 2

I would like to introduce myself, and give a bit of my background with Kava. I was born in Lautoka, Fiji. I have lived in New Zealand for 18 years, and now I live in Australia. I travel to Fiji as much as I possibly can, as I have family there. This information is relevant because I have been around the culture and community of Kava all my life. The culture of Kava in the Pacific is very strong; being from Fiji, and having family there I can have access to quality suppliers of Kava for the Australia Commercial Market. Living in New Zealand, I noticed how the community grew with Kava being sold commercially. And now, I see potential for this in Australia, and to bring that culture and the heritage of the Pacific here, and help all the pacific communities here, feel truly at home.

***Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?***

Yes, option 2 presents safeguards for both the government and importers in insuring that safety measures are taken in providing kava to a third party. Putting regulations up not only helps supply the product in a civil manner but also offers the government a peace of mind that proper care will be taken, in accordance to the state rules.

***Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?***

I do not think further warnings will be required, as majority of the consumers of Kava are through cultural backgrounds. In my personal experience, being from Fiji, we respect kava and understand the effects of it. We have been brought up in that culture to not abuse it. And we will sell to those who are like minded and share our respect for our cultural background and heritage.

***Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?***

Kava plays a very important social and cultural role in the pacific communities. I know this first hand, as I am from Fiji. For instance, when families or friends and gatherings, kava goes around and relaxes everyone and the stories of their week start, and followed by laughter and jokes. For me, personally, after a long week of work, I would look forward to having a gathering with all my close friends on a Friday or Saturday night. This would become our time to unwind, relax and refresh. Have a bit of a laugh, and Kava has never made anyone cause any fights or arguments, it brings people and the community together.

***Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?***

I have lived many years in New Zealand, where Kava gets sold commercially. I have not seen any particular risks which have risen or caused issues in the community, because of Kava.

***Question 8: What benefits may be achieved from commercially importing kava into Australia?***

The benefits can mostly be for the Pacific community in Australia. The Social importance of Kava in the Pacific is great, and I think this will great help with the families and friends living in Australia. Also, increased importation can help with the financial economy through tax and import duty.

***Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?***

Any small business who can get access to quality, well priced Kava from the Pacific.

Well, going by prices in New Zealand. Each KG ranges from \$120 to \$160. A similar sort of price structure will be created by each of the importers. I do not think a massive commercial marketing is required for Kava, as word of mouth through the community is more than sufficient in working. I have seen this work for many commercial importers in New Zealand.

***Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?***

Best way to monitor success would be to be track the increase in importation and sales.

***Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?***

Everyone that holds a license can provide evaluation with sales reports and profits at the end of the pilot so show success.

I strongly believe that import permits should be granted to allow kava importation. This will be a control measure that monitors the sales the territory in which the licence permits are given. A responsible import system must include a licensed supplier from the Pacific Islands either registered or recognised by the Government Agency. This must be a pre-requisite to any import licence being issued.

The quality of kava that is currently bought in by travellers vary from being some of the best to worst. Kava product for consumption is derived from two parts of the plant. The Roots (Waka) and the Stem (Lewena). It makes two distinctive brews. Both Kava products a relaxants and can have the same effect.

Most people will buy one of the other depending on their preference. Fijians will drink either or a mixture of both. Tongans and Samoans will use the stems or bark as their preferential brew for consumption. Where there is no choice, Pacific Islanders will not accept whatever the host is providing.

Option two is the way to ease the restriction and to form some control on the product going into the right hand and not falling into the wrong hands or getting shipped interstate into the aboriginal hands.

An import licensee must ensure that the sale of Kava is only sold to Pacific Islanders for their ceremonial, cultural, social and tradition obligation.

Record of kava sales should be kept by a licensee and made available to any government agency studying the effects of kava in the community.

Kava in its powder form as used by Pacific Islanders in its communal and traditional relations, if it is controlled do not need warning labels. There is also no harm if the authorities consider it necessary to put labels on it. If a warning is required on the kava, the label it must state "use of larger amounts of kava may eventually cause numbness, drowsiness, malnutrition and dry skin."

I have drunk kava for the past forty years and I continue to drink kava whenever there is a social or cultural gathering amongst islanders. Here in Australia most Pacific Islanders tend to know their limits to drinking kava and I do not believe there is a need to worry about its abuse. Kava can affect people differently and when someone gets affected which is rarely, there is also a great communal or duty of care.

Kava if imported through an approved licences scheme will see an improvement to the quality and possibly a reduction in the price. For better controls, licence permits should be given to given to individuals who can manage, record and account for sales within the community.

Kava in our communities must be used for cultural and social gathers and the licensee must control any misuse or sale that could affect families and other Pacific Island groups. A licensee should be able to provide details of the person or community it has sold kava to and the amount and provide number in the group if required. Kava should only be sold for cultural or traditional gatherings. Where individual customer like myself are concerned. An effective way of collating data can be requested through an annual medical check and the effects on the liver and kidney.

## **Submission on the Pilot Program to Allow Commercial Imports of Kava into Australia:**

Key argument presented in the below submission: *Allowing purchases of kava from overseas and importation of kava for personal use by mail from kava producing nations and New Zealand could be a viable first step solution in the process of relaxing the current restrictions. It could permit a gradual and easier to control increase in the availability of kava in Australia, improve the quality of kava consumed in Australia, open up new opportunities for business in the Pacific and allow for a greater control over the quantity and quality of the kava entering Australia and reaching diverse communities. If successful, the next step could be to align the Australian regulations with those of New Zealand (Option 1).*

### **Background and problem identification**

Thank you for the opportunity to comment and the proposed pilot program to allow commercial imports of kava into Australia.

A reform of the current system is both timely and needed. After a period of controversy, kava is regaining good reputation as a relatively benign, relaxing beverage with restrictions on its usage being lifted across the Northern hemisphere. This process is driven by an increasing awareness of the overall benign nature of this plant beverage, as well as the better understanding that quality control issues and poor processing methods, not the physical properties of the plant itself, lied at the heart of most of the problems reported in the past. As noted by the World Health Organization in their 2017 report, it is now clear that kava can be consumed with “acceptably low level of health risk”.

In the absence of convenient options to obtain kava in a legal, regulated manner in Australia, much of the kava currently sold and consumed within Australia is obtained via informal channels, with no quality control or regulatory supervision or option to file complaints. According to numerous media reports, unscrupulous sellers have been selling “kava” powders unsuitable for human consumption and/or mixed with such fillers as: baking powder, flour, sawdust and even cement powder. Needless to say, it is more than likely that much of such kava would not meet the requirements set out in the Food Standards Code 2.6.3.

In this context, a step towards legalising commercial importation of kava could help to dramatically improve the quality (and consequently the safety) of kava products bought and consumed within Australia.

However, I acknowledge that one of the key concerns in Australia is the question of the potential impact of kava on some of the country’s most vulnerable Aboriginal communities. The question of whether or not kava has mitigated or aggravated some of the social and health issues experienced in these communities is controversial. According to some scholars and leaders, kava has proven to be a safer alternative to alcohol and other substances, and most of the adverse health outcomes observed among the Aboriginal kava consumers are linked to the low quality and high price of black market kava, rather than kava itself. According to other observers, any type of kava sold at any price might be detrimental to the health and well-being of these communities.

In the context of the current proposed pilot program, it appears that a gradual approach might offer the best chance of careful evaluation of the impact (if any) of the increased quantity (as well as quality) of kava entering the Australian market on the most vulnerable communities.

## Proposed Solution

In light of the above, I would like to invite you to consider implementing Options 1 (Remove kava (in the form proposed for the pilot) from the PI Regulations, making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand), **preceded first by allowing importation of commercially packaged kava (up to 2kgs) for personal use by mail from New Zealand and the kava producing nations of the South Pacific.** If successful and no major issues are identified following its implementation, the next step could be to align Australia's regulations with those of New Zealand and to allow for kava to be sold commercially as food, provided it meets the strict rules imposed by the Food Standards Code 2.6.3.

New Zealand and Australia share food regulations via the joint Food Standards Code. Among many other food products, the Code provides sound regulatory requirements for ensuring the safety and quality of kava sold for the purpose of human consumption. It bans the use of additives, aerial parts of the kava plant (due to their toxicity) and it requires that kava is extracted with nothing but water. These requirements are based on science and reflect a broad scientific consensus. It recognises that kava in its pure, traditional form (i.e. a suspension obtained via cold water extraction of pure kava roots) is a safe beverage. At the same time, it rightly notes that impure, adulterated kava or products obtained via extraction with organic solvents may represent a public health risk.

While the enforcement of the Food Standards Code 2.6.3. in New Zealand can at times be challenging, registered businesses selling kava appear to mostly adhere to the regulations, especially when it comes to the ban on the use of organic solvents in the manufacturing of kava products. Even though the cases of kava being mixed with additives (e.g. flour) are not entirely unheard of, they are largely limited to unregistered vendors or those operating without the knowledge of or license from the appropriate authorities.

Importantly, thanks to the existence of the standard, such violations of the standard can be effectively dealt with by either the local councils or the Ministry for Primary Industries. Indeed, I have been informed of cases of kava vendors who had to cease trading kava when the Ministry for Primary Industries identified their products as non-compliant with the Food Standards Code.

It is worth noting that, despite New Zealand having some of the world's largest consumption rates of kava (with conservative estimates suggesting tens of thousands of regular consumers and many more occasional consumers), kava by itself is not identified as a source of any significant public health or social concerns. This is very likely to be at least partially related to the existence of the Food Standards Code for kava and the fact that kava vendors must by law adhere to broader food safety regulations. In light of the above, it appears sensible to permit imports of commercially packaged kava for personal use by mail from New Zealand. Unlike in the case of other countries, any identified problems with any kava products imported from New Zealand could be addressed via existing legal channels and within the framework of the cooperation between Australia and New Zealand in matters related to food quality and safety. The importation of regulated kava products for personal use from New Zealand via mail to Australia could achieve the goal of easing the access to kava among its traditional and modern consumers, while at the same time improving the quality and the regulatory control over both the quantity and quality of kava imports into Australia.

Likewise, across the Pacific (most notably in Vanuatu, Fiji and Tonga) local governments have been working on, or have already implemented strict rules and guidelines for local kava producers and exporters. There exists a significant number of operators who adhere not just to local regulations,

but also to wider standards and norms when it comes to food manufacturing. Some have managed to obtain HACCP certification, many are registered with the FDA. The possibility of sending their products directly by mail to consumers in Australia (or indirectly via New Zealand) would certainly be welcome by many. Indeed, Australia is perhaps the only country other than New Zealand, to which it might make sense to send retail quantities of kava (up to 2kgs) by mail from the Pacific without having to pay prohibitive postage or face extensive shipping times (as it is the case when it comes to trying to send orders directly to customers in America or in Europe).

The above-proposed solution would allow a greater number of Australians to access high quality kava. At the same time, it would be easier to monitor and control than having local businesses import large amounts for local sales. This makes this solution a suitable “first step” policy. It could be implemented at low cost and within a short amount of time. If successful, it could then be expanded to allow larger scale imports and sales within Australia (under Option 1).

This solution is particularly timely in light of the Covid-19 pandemic. While flights are grounded, no kava can come to Australia via legal channels. Opening up Australia to kava imports by mail could greatly alleviate the situation.

Thank you again for the opportunity to comment on this proposal. I hope my comments can be of some assistance. Should you require any additional information, feel free to contact me.

Yours sincerely,

# **Kava Pilot Phase 2: Allowing the commercial importation of kava**

## **Consultation Feedback**

### **Potential changes to allow for the commercial importation of kava**

#### **Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?**

I would prefer option 1 as per New Zealand. I would have concerns that permits, and other associated costs and regulation would make it too hard for smaller (or people trying to create) businesses to compete against larger companies. Option1 allows small private users the ability to purchase at reasonable price without undue govern interference. It would encourage smaller start-up companies an easier road to import

#### **Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?**

With Option 1 you still need to follow Food Standard regulations 2.6.3 and this can be amended to add more things such as guidelines in the correct use and destruction of kava and driving awareness under the influence of kava.

State and Territory regulations can regulate and license the distribution of kava from the uniform national Poison Standard and Food Standard.

All businesses are required to meet OH&S standards and Audits (record keeping, storage) and ATO records (income and loss).

#### **Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?**

Nil. New Zealand and United States of America have demonstrated that their systems work with no major negative outcomes (compared to alcohol and drug use).

Do not need to invent a whole new system and process when the are ones already working successfully that we can copy. as Kava is not addictive physically and its effects are easily over come and nowhere as dangerous as say alcohol it fits in better in option 1 otherwise we need to restrict coca cola etc...There is also no withdrawal symptoms on the cessation of kava



## Impacts of Kava

### **Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?**

I have been a regular kava drinker for years with no issues. In my time in Vanuatu and Australia drinking kava at commercial and private sessions I have seen very minimal effects of kava misuse unlike with alcohol and other legally obtainable substances. There is no evidence of kava induced psychosis in the world, whereas there is clear medical evidence for other substance induces psychosis. Kava is well recognised as an anxiolytic, which is both beneficial and non-addictive.

For those that have or will misuse kava the longer-term physical effects are reversible on the cessation of drinking kava, unlike alcohol, where can lead to health issues. Alcohol and drugs used excessively can lead to physical and mental issues (lack of cognitive function, poor appetite, poor general health, increased risk of BBV's, liver problems and serious long-term mental health issues).

Kava is recognised as a muscle relaxant (Valium of the Pacific) and is not a substance that has a strong psycho active effect. Judgment is not impaired.

Human nature over the course of time has proven that people will always look for something to alter their mood/mental state. I believe allowing kava and other drug use does. There is also strong evidence to suggest that all health impacts from kava are reversible once kava is stopped.

When I have drunk kava it has been done in a group, promoting fellowship and social interactions. In my time living in Vanuatu I witness the majority of kava drinkers would enjoy a few shells at the nakamal (kava bar) and then proceed on home. Most often the effects have worn off by the time you get home as you are no longer 'allowing' it to relax you. It calms anxiety and helps promote good sleep. I have never witnessed physical or strong verbal unrest in a nakamal (unlike alcohol). There is ample evidence where Melanesian governments have encouraged Kava drinking as it has a downward impact on domestic violence this has been supported by numerous women in Vanuatu who I have spoken with.

It is believed with kava drinkers that drinking alcohol after the use of kava can increase the effects of the alcohol (so one would question with the reports was it the kava or the alcohol creating social harms?). Like any substance that is misused it can create relationship distress, however someone effected by kava is far less likely to be dangerous than someone effected by alcohol.

In my experience in Vanuatu the relationship distress was more over the financial cost of kava drinking in a third world country on minimal income with high unemployment rate.

Overall, I see less risk to social harms than the risks associated with other substances such as alcohol, prescribed strong medications being misused or illicit drugs.

In regard to concerns of driving under the effects of kava, in my time in Vanuatu I found most kava drinkers to be able to drive safely on the road (if anything a little slower and more cautiously). Literature clearly states cognition is not affected so judgement about driving remains intact unlike alcohol

### **Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?**

I have no concerns. I prefer it and its effects over alcohol. Also see a need for the customs and the respect of kava drinking to be promoted with all people consuming kava. Educations and awareness will help promote responsible drinking of kava unlike NT where it was misused and unclear if these customs were explained in these communities and the importance of them.

**Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?**

Nil other than in commercial outlets remain unlicensed so alcohol and Kava are not encouraged together and that no consumption of alcohol to be encouraged when drinking Kava. Commercial outlets are required to police and educate responsible drinking of kava and like hotels the proprietor is to be directed to limit usage/ consumption and have penalties for all of the above.

**Question 8: What benefits may be achieved from commercially importing kava into Australia?**

Support the economy of our pacific third world countries at a grass roots level up. Increase in business for freight and custom brokers, increase tax revenue. We have many seasonal workers in Australia that would drink kava, this helps them keep their connection to their culture and what they know and in our experience, it clearly reduces the use of alcohol.

Opportunities for new businesses and growth and expansion (kava chocolate etc) in a time where we need economic growth.

Some people may choose to be regular Kava drinkers instead of using other substances which would reduce crime rates "violence" etc. and they would have the knowledge that a regular supply is viable and at a reasonable price.

**Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?**

Online, supermarkets, kava bars. I think as per any product you should have a RRP and let the business market how they wish. You can find anything online. An open market is an open market criminal Hx checks should be used and those actively bankrupted should not be allowed to participate

## **Monitoring and evaluation**

**Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?**

Consumer and Importer Surveys, income reports from ATO and other methods that you already have implemented for other products. Health and police report associated kava presentation and Importation declarations.

**Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?**

As per above. Hospital records via medicare data records for Kava related presentations verses alcohol and other drug presentations. Police crime Statistics

**Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?**

Importers, retail outlets and consumers, Health and policing services

**Question 13: What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava?**

Get your data through the reports from state regulations, surveys, Police reports and Hospital records via Medicare data records for Kava related presentations verses alcohol and other drug presentations

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## **Feedback**

My family and I have been drinking kava for over 30 years. I have a full-time employment and am held in high regard as is the rest of my family including my parents that are both high level health professionals. I find it a way to relax and socially interact with others without negative effects as is associated with alcohol.

I work with seasonal workers and majority of them prefer kava over alcohol. Since borders were closed and they can no longer get kava into the country with incoming groups, a lot of them have turned to alcohol. Since this time, there has been an increase in property damage and physical violence and general mess around our properties. This is a significant change from when they had their own kava to drink.

With all substances there are associated risks. I prefer the risks associated with kava over alcohol as they are minimal.

I believe that alcohol is a lot more accepted as it has always been here in our culture and is legal. Pacific countries have had kava for years, New Zealand and USA have proven that it can be done with no major negative impacts and minimal government interference.

My family and I would like to become importers of kava from Vanuatu for commercial use (Kava House Kava to be precise – directors Frank King and Julia Malas – best kava we have had).



**BRISBANE TONGAN**  
COMMUNITY INC

# **SUBMISSIONS IN SUPPORT OF THE KAVA PILOT PROGRAM PHASE 2:**

Allowing the Commercial Importation of Kava

**These submissions are provided on behalf of the Tongan  
community residing in Brisbane, State of Queensland, to the:**

Office of Drug Control  
Department of Health  
GPO Box 9848  
Canberra ACT 2601

31 MAY 2020

**BRISBANE TONGAN COMMUNITY INC. IA58304**

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**“Undoubtedly, kava ...is the cultural keystone species for many Oceanic and Pacific peoples, a ‘differentiating element of common culture’ informing their ethno-cultural identity.”**



Quote cited in: Aporosa, S. Apo (2019), "[Kava and Ethno-cultural Identity in Oceania](#)", *The Palgrave Handbook of Ethnicity*, Springer Singapore, pp. 1–15.

Kava and kumete (kava bowl) created and provided by sponsor of these submissions: [Feleoko 'a Maui](#)



## A. Introduction

1. The Brisbane Tongan Community Inc. (**BTC**) represent Tongan nationals and migrants residing in Brisbane, Queensland.
2. We wish to make these submissions in response to the invitation to comment from the Office of Drug Control (**ODC**) on the options concerning the Kava Pilot Program Phase 2, allowing the commercial importation of kava.
3. The BTC made submission in relation to Phase 1 of the pilot and adopt the content of those submissions.
4. The Tongan community in Brisbane is predominantly made up of migrants from the Kingdom of Tonga, individuals, extended family estates of Tongan descent, migrants from New Zealand, or were born and raised in Brisbane and/or relocated from inter-state. According to the Australian Bureau of Statistics (**ABS**) Census of 2016 people born in Tongan residing in Queensland was estimated at 1,716, with temporary visa holders from Tonga estimated at a total of 3,232.<sup>1</sup> Across Australia ABS recorded in 2016 an estimated 9,963 people were born in Tonga, with a majority in New South Wales (**NSW**) of 5,843 followed by Queensland and then Victoria at 1,696.<sup>2</sup> As for Tongan ancestry, ABS recorded 6,813 residing in Queensland, majority in NSW of 17,890, in total 32,691.<sup>3</sup> But this figure may not record children born to Tongan parents in Australia or who have migrated from New Zealand and do not hold a Tongan passport. Combined with other communities from Oceania, Fiji, Samoa, Papua New Guinea, the total population based on ancestry and thus potential market for kava import, according to the ABS Census in 2016 was 1,964,250 people of Pacific Island descent.
5. The community is inter-connected with major denominational church organisations such as the Uniting Church of Australia, Wesleyan Methodist Church of Australia, Church of Tonga, Church of Jesus Christ and the Latter Day Saints, comprised of large family networks or extended family estates (*kāinga*). It has been stated that members “of these churches are kin networks [and] also maintain additional formal and informal connections based on their village of origin, school attended in Tonga, *kava*-drinking groups, workplaces, and to a lesser extent, their residential location in Australia”.<sup>4</sup> Apart from the churches, these informal groups are either recognised within the community by government departments or remain informal social clubs,<sup>5</sup> a driving force in maintaining links with the extended *kāinga* in the Kingdom.

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<sup>1</sup> ABS website: Census 2016:

<https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3415.0Main%20Features42020?opendocument&tabname=Summary&pro dno=3415.0&issue=2020&num=&view=>, Accessed 31 May 2020.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> W Cowling, (2002) ‘Motivations for Contemporary Tongan Migration’ cited in P. Spickard, J.L. Rondilla, and D.H. Wright, (ed.) (2002), *Pacific Diaspora: Island Peoples in the US and Across the Pacific*, Honolulu: University of Hawai’i Press, pp. 99-117.

<sup>5</sup> L Helu, (2012), ‘*Taka ‘i Fonua Mahu – Being Tongan; Second Generation Tongan Migrants*’, QUT, Thesis submitted in fulfilment of the requirements for a Master of Arts (Research).

6. These submissions will include responses to the questions put forth in the ODC's consultation paper on Phase 2, as well as repeat the significance of kava to the Tongan Diaspora in Brisbane.
7. We note that sections D and I repeat parts of the BTC's previous consultation submissions for Phase 1. However, for present purposes, these two sections are vital as it is an emphasis on the significance of kava to our people and the continuation of our culture, the social aspects and positive use of kava within our community in Brisbane.
8. In finalising these submissions, we collaborated with members of the Tongan community in New South Wales, Victoria and the Australian Capital Territory, facilitated and assisted by the Office of the High Commission of the Kingdom of Tonga and representatives from the Pacific Horticultural & Agricultural Market Access Plus Program (**PHAMA**).
9. Together with the collective Tongan communities and Pasifika stakeholders, we propose a variation of both Option 1 and Option 2 of the ODC's consultation paper. For ease of reference we propose a third option, 'Option 3'.

## **B. Consultation**

10. We note that the ODC seeks feedback on the following topics:
  - (a) Potential changes to allow the commercial importation of kava.
  - (b) Impacts of kava.
  - (c) Monitoring and evaluation.

## **C. BTC Supports the proposal to allow commercial importation of kava**

11. On behalf of the greater Tongan community in Brisbane, the BTC supports allowing the commercial importation of kava, however, as requested, we have specifically addressed the questions put forth in the ODC's consultation paper. Responses to these specific questions are set out at section F.
12. The Brisbane Tongan community would like to be involved in the approach or consultation to evaluate the pilot program in 2022.

## **D. Kava**

13. Kava means the plant of the species *piper methysticum*, a cash crop, of Pasifika (Pacific Islands / Oceania).<sup>6</sup>
14. The word *kava* is a Tongan and Marquesan word, which literally means "bitter".<sup>7</sup>

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<sup>6</sup> C. Maxwell Churchward, (1959) *Tongan Dictionary: Tongan-English and English-Tongan*, Tonga: The Government of Tonga Printing Press, p.257: see also *Customs (Prohibited Imports) Regulations 1956* (Cth), Regulation 2 (Interpretation).

<sup>7</sup> 'Kava' is defined in the *Merriam-Webster Online Dictionary*, 2018.

15. Kava is a significant export for Pacific Island nation-states, including Tonga. Kava has been used traditionally in the Kingdom of Tonga from the tenth century and is vital to Tongans in the island Kingdom and diaspora.
16. Other names for kava include:
  - 'awa (Hawai'i),
  - 'ava (Samoa),
  - yaqona (Fiji),
  - sakau (Pohnpei); and
  - malok or malogu (parts of Vanuatu).<sup>8</sup>
17. Kava is consumed throughout the Pasifika cultures of Oceania, for either traditional ceremonies as in the Kingdom of Tonga and Fiji, and in social kava clubs and kava bars.<sup>9</sup>
18. The root of the kava plant is used to produce an entheogenic drink with sedative, anaesthetic and euphoriant properties. Its active ingredients are called kavalactones. Where clinical trials in 2013 by the University of Melbourne have concluded that it was likely to be more effective at treating anxiety and insomnia.<sup>10</sup>
19. For our Tongan community, kava is a part of our cultural traditions rooted in a long history that has thrived for centuries and is practised and maintained within the diasporic communities in New Zealand, the United States of America, Australia, as well as dispersed Tongan communities in Europe and Asia.

## **E. Options from the Consultation paper Phase 2**

### **20. For ease of reference, we have included the Options put forth in the consultation paper for Phase 2:**

**Option 1:** Remove kava (in the form proposed for the pilot) from the *Customs (Prohibited Imports) Regulations 1956* (Cth) (**PI Regulations**), making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand. – This approach means there would be no capacity for the Government to monitor the amount of kava entering Australia.

- This option limits the ability to support state and territory requirements through controlling importation.
- This option places the lowest regulatory burden on importers of kava.

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<sup>8</sup> Lebot, Vincent; Merlin, Mark; Lindstrom, Lamont (1997). *Kava: The Pacific Elixir: The Definitive Guide to Its Ethnobotany, History, and Chemistry*. Inner Traditions / Bear & Co. p. 58

<sup>9</sup> The Food and Agriculture Organization of the United Nations (FAO) and the World Health Organisation (WHO), 2016, 'Kava: a review of the safety of traditional and recreational beverage consumption – Technical Report', Online [Accessed: 4 May 2020].

<sup>10</sup> University of Melbourne. (2013, May 13). World first clinical trial supports use of Kava to treat anxiety. *ScienceDaily*. Online: [Accessed 21 March 2019]



**Option 2 (preferred by the ODC):** Move kava from Schedule 4 to Schedule 8 of the PI Regulations to allow commercial entities to import kava under permit (under an amended regulation 5H of the PI Regulations). – This option allows the Government to collect information on the quantities of kava imported into Australia and the importers, and also assist in the monitoring and evaluation component of the pilot.

- The regulation also allows the Government to impose conditions on permits to manage concerns that have been previously raised about access to kava during the pilot. The proposed conditions are:
- the importer's custody, use, disposal and destruction of the kava must be in accordance with the laws of the States or Territories in which the importer operates;
- the importer must not provide kava to a person under 18 years of age;
- before providing kava to a third party, the importer must be reasonably satisfied that the third party's custody, use, disposal and destruction of the kava will be in accordance with the laws of the states or territories in which the third party operates;
- before providing kava to a third party, the importer must be reasonably satisfied that the third party will not provide kava to a person under 18 years of age; and
- the importer must keep records and provide as required to the Department the names, address of those the importer supplies kava to and quantity of kava supplied.

For example, warnings already note that kava consumption 'may cause drowsiness' and that kava should be used 'in moderation'. Additional warnings may advise against driving a vehicle or operating heavy equipment after consuming kava.

## **F. Potential changes to allow the commercial importation of kava**

### **Question 1: Are you supportive of the use of the import permits (Option 2) to allow kava importation to be controlled and monitored?**

21. Option 2 is not supported by members of the Brisbane Tongan Community. The responses received to date, include:

"It is too stringent and imposes restrictions that are too cumbersome for a low risk commodity such as kava. For the government to grant travellers over the age of 18 years old the benefit of bringing over 4kg for personal use on the one hand and keeping kava as a prohibited substance is an oxymoron".

"In addition, the negative impacts of the German-imposed ban on kava in the early 2000 has continued to affect market access for our kava farmers and exporters in Tonga and the other Pacific islands. Listing kava as a Prohibited Import under the Customs Regulation sends the wrong message to the markets in Europe".

“The people of the Pacific have been consuming kava for centuries, without major health issues. To restrict the importation of kava as a result of the bad choices of a minority group, is unfair to the rest of the law-abiding Australian migrants from the Pacific. With the added health benefits that are now recorded, there is no reason not to open up the opportunity for local farmers in the Pacific Islands to reap the benefits of exporting their commodity.”

22. We suggest amendments to Options 1 and 2, for ease of reference in these submissions we refer to this proposal as Option 3 the alternative (see below for further details).

**Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?**

23. As state above at [22] we propose an Option 3, Option 2 was not supported.

24. We propose under Option 3 that kava is removed from the PI Regulations, making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand. Allow commercial entities or individuals to import kava under a permit, which still allows the Government to collect information on the quantities of kava being imported and consumed in Australia.

25. In addition, we propose imposing the following specific requirements on permit holders of the commercial import of kava:

- Importers are required to register their details including their premises where they will trade in the commercial sale of kava, this will enable the government to collect information on the quantities of kava imported into Australia, also assist with the collection of data and information for the monitoring and evaluation of the pilot, such as usage and rate of consumption and any associated social and health issues.

26. The permit conditions we propose under a permit need to include the following:

- (1) The powdered kava product must be made only from known noble kava<sup>11</sup> varieties and consist only of the appropriate parts of the kava plant<sup>12</sup>;
- (2) must be accompanied by a certificate of analysis (**CoA**) from the supplier confirming the product to be of 'Noble variety and with the 'Botanical name' and the kava is not adulterated;

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<sup>11</sup> Food and Agricultural Organization of the United Nations (**FAO**) and World Health Organisation (**WHO**) CODEX CCNASWP 2020 - Proposed draft Regional Standard for kava products for use as a beverage when mixed with water; see paragraph 44(a) for reasons as to only permitting noble cultivars and nothing else.

<sup>12</sup> Fiji Kava Quality Standard - [http://phama.com.au/wp-content/uploads/2017/03/Fiji\\_Kava\\_Standard\\_ecopy.pdf](http://phama.com.au/wp-content/uploads/2017/03/Fiji_Kava_Standard_ecopy.pdf); Samoa Ava Standard - [http://phama.com.au/wp-content/uploads/2018/06/Samoa\\_Ava\\_Standard-Samoan-Final\\_E-copy.pdf](http://phama.com.au/wp-content/uploads/2018/06/Samoa_Ava_Standard-Samoan-Final_E-copy.pdf); and Vanuatu Kava Quality Standard - [http://phama.com.au/wp-content/uploads/2019/02/Vanuatu\\_Quality\\_Standard\\_ecopy.pdf](http://phama.com.au/wp-content/uploads/2019/02/Vanuatu_Quality_Standard_ecopy.pdf).

- (3) the importer's custody, use, disposal and destruction of the kava must be in accordance with the laws of the States or Territories in which the importer operates;
- (4) the importer must not provide kava to a person under 18 years of age;
- (5) the importer must keep records and provide as required to the Department the names, address of those the importer supplies kava to and quantity of kava supplied;

27. We suggest additional requirements as follows:

- (6) packaging of the kava product must comply with the labelling requirement under the Food Safety Standards;
- (7) packaging must state the kava variety to be of the "Noble Variety" and contents are produced and packed in accordance with the National Standard for Kava;
- (8) the address of the manufacturer/exporter/country of origin to be clearly stated.

To demonstrate compliance with permit conditions (1), (2) and (7) (as detailed above at [26] and [27]), a Manufacturer's declaration, or Supplier's declaration and a CoA will be required to accompany the product on import.

**Question 3: In addition to State and Territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?**

28. See [27] above for additional requirements.
29. Restrict the overpriced sale of kava to remote indigenous communities, for instance in Northern Queensland and the Northern Territory, Arnhem Land.
30. We support the current prohibitions as detailed in the current legislation that restrict the trafficking of kava into remote indigenous communities in the Northern Territory through the *Kava Management Act 1998* (NT) (**KMA**), limited to these communities.
31. Section 2A of the KMA provides that the objects of the Act are:
  - (a) *to establish mechanisms and procedures for prohibiting and regulating the supply, possession and consumption of kava and for controlling the price of kava;*
  - (b) *to reduce the health, social and economic problems associated with consumption of kava by the implementation of harm minimisation principles and other responsible practices relating to supply, possession and consumption of kava; and*

*(c) to encourage the involvement of communities in the regulation of the supply, possession and consumption of kava, and the implementation of harm minimisation principles and other responsible practices relating to the supply, possession and consumption of kava, in their community areas.*

32. The KMA also provides that a person cannot possess a quantity of kava that is equal to or more than the trafficable quantity unless doing so in accordance with a license.<sup>13</sup> The “trafficable quantity” under the KMA means:<sup>14</sup>

*(a) more than 2 kilograms but less than 25 kilograms of kava; or*

*(b) more than 4 but less than 20 kava plants,*

*but does not include a quantity of kava prepared as a drink.*

33. Th “commercial quantity” under the section 3 of the KMA means:

*(a) 25 or more kilograms of kava;*

*(b) 25 or more litres of kava prepared as a drink; or*

*(c) 20 or more kava plants.*

34. The maximum penalties for possession of kava in these communities under the KMA without a licence, are as follows:

*(a) In the case of a trafficable quantity - 100 penalty units or 2 years imprisonment.*

*(b) In the case of a commercial quantity - 8 years imprisonment.*

35. We suggest that these restrictions are limited to the sale of kava in indigenous communities, to address concerns raised by these groups and organisations, not extended to the Pasifika communities in Australia.

36. In addition, we also suggest implementing a program whereby respectable Pacific Islander elders are funded to teach indigenous communities the history of drinking kava in a group setting, similar to a consultation process.

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<sup>13</sup> See section 9 of the KMA.

<sup>14</sup> See section 3 of the KMA.

**Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?**

37. The community agrees that additional standards should be included on the packing of the kava imported into Australia. Most importantly, if a dried product, the packaging should include a warning that - kava should not be mixed with alcohol.
38. We also suggest that serving suggestions and instructions may be included on the packages, as per the CODEX quality standard at Step 5, include the following:

*If prepared from dried kava, the powder is mixed with potable water and may be filtered prior to consumption.*

*If prepared from fresh kava, the ground or macerated kava is mixed with potable water and may be filtered prior to consumption.*

39. As provided in the CODEX quality standard at Step 5, we also support the standard that details packaging and storage at provision 3.6, which states:

*Kava products shall be packaged in such a manner as to safeguard the hygienic and organoleptic quality of the products.*

*Kava products shall be stored in such a manner as to avoid pest access or harborage, protected from contamination, and under conditions of temperature and humidity that minimize deterioration and minimize mould growth.*

*Fresh kava products shall be quick frozen and maintained at < -180C.*

*Dried kava products shall be stored in a sealed container and the moisture content shall not exceed 12%.*

**G. Impacts of kava**

**Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?**

40. With regards to the cultural and social impacts of the use of kava, please refer to section I below, the cultural significance of kava on Tongan migrant communities in Australia, a continuation of our culture, traditional kava ceremonies and also the social benefits within the kava clubs.
41. Also with the Pacific labour scheme, kava is used in a setting whereby Tongan nationals working in remote areas can continue to share their stories, culture in a kava club, also through music and traditional dialogue. The kava club to Tongan men is like a local pub for Australians. The difference is, men also share their cultural knowledge, thus handing down tales of the Pacific to the next generation, but also forming groups that send much needed assistance and aid back to Tonga through fundraisers for visitors from the islands.

42. As for the health benefits, studies have shown that kava can assist with individuals suffering from anxiety, insomnia and also depression.
43. FAO and WHO paper on kava consumption provides a strategy that considers the following:<sup>15</sup>
- (a) **Choice of kava cultivar for kava beverage.** Traditionally, kava beverage has been prepared from roots and rhizomes of the noble cultivars. These noble cultivars have been determined through scientific research to contain a higher ratio<sup>16</sup> of kavalactones (**KL**) to Flavokavins (**FL**). The kavalactones are the desirable compounds responsible for the relaxing effect from kava consumption, however there is insufficient data on the effects of the other compounds including FL. It should be noted that cultivars that are high in both KL and FL are only reported in PNG, Solomon Islands and Vanuatu, which are referred to as Tudei and wild kava. Importantly, there are existing chemical tests to confirm the quality of the kava sample and to make sure these cultivars are not traded and exported.
  - (b) **Part of the plant used for kava beverage.** Consistent with the national and regional quality standards for kava exports only the basal stems and roots are used in the preparation of the kava beverage. Analytical data indicate that the use of stem peelings and leaves in the kava material could introduce potentially toxic alkaloids and flavokavins. Anecdotal evidence suggests that some inappropriate use of stems and peelings has occurred when preparing kava beverages. There is a case for restricting the plant material for kava beverage preparation to peeled rhizomes and roots.
  - (c) **Quality of kava material used for kava beverage.** Postharvest storage of kava material in warm and humid conditions is a suitable environment for the growth of moulds, such as *Aspergillus* spp. which can produce aflatoxins. Direct evidence for the presence of aflatoxins is not available, but there is anecdotal evidence of poor-quality kava material being used for beverage preparation. There is a case for better monitoring of kava storage conditions and additional surveillance for contaminants.
  - (d) **Excessive and frequent consumption of kava beverage.** As reported by the FAO, excessive and frequent consumption of kava beverage can result in some health issues, which are reversible upon cessation of consumption. There is a case for discouraging heavy consumption of kava beverage.

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<sup>15</sup> FAO and WHO, 2016, '[Kava: a review of the safety of traditional and recreational beverage consumption – Technical Report](#)', Online [Accessed: 4 May 2020].

<sup>16</sup> Lebot et al (2019) - Kavalactones and Flavokavins Profiles Contribute to Quality Assessment of Kava (*Piper methysticum* G. Forst), the Traditional Beverage of the Pacific - <https://www.mdpi.com/2306-5710/5/2/34/htm>

**Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?**

44. The main concern from the community is the risk that by opening up the commercial importation of kava, a small group of individuals may see it as an opportunity to misuse this opportunity to benefit the economies of Australia's closest Pacific neighbours, to then increase the sale of kava to remote indigenous communities, who have suffered enough from the introduction of alcohol.
45. To address these concerns, the community collectively suggest that the overpriced sale of kava to indigenous communities (illegal trafficking of kava) should be restricted with fines and potential imprisonment to deter people (see below).

**Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and/or commercial importing kava into Australia?**

46. Limit the sale of kava to indigenous communities through legislation that prohibits the illegal trafficking of overprice kava into these communities.
47. The Tongan community supports the implementation of penalties on illegal sale of kava into remote and indigenous communities.
48. Potentially assisted through Pacific consultations in these remote communities to educate them of the significance of the potential benefits of kava clubs and deter the over consumption of kava.

**Question 8: What benefits may be achieved from commercial importing kava into Australia?**

49. The trade and export of kava to Australia will provide significant economic benefit to our local economies in the Pacific islands, such as improving the livelihoods of local farmers, suppliers and exporters of kava. The financial returns will help the farmers with their family commitments such as sending their children to school, improve their standard of living, contribute to their village and church obligations and many more. It should be noted that as a cash crop, the sale and trade in kava has provided employment and a source of income also for women, the youth and people with a disability, where women are now planting or funding their own kava plantation to support their family. These individuals have been able to participate in different parts along the kava value chain. Attaining market access for commercial consignments of kava to Australia will give the Tongan farmers a leg up so to speak, they can build their economy and one day not rely on cash donations or foreign aid from Australia, as well as remittance from extended family, but live of their own produce, and land, thus be self-sufficient.
50. Kava is a plant that requires investment and time to grow. The general maturity of the crop takes some 3 to 5 years before harvest. It takes farmers, such as our partner sponsor, Feleoko 'a Maui in the islands of 'Eua in Tonga, patience to grow. By providing farmers from local communities in these islands to also compete in the market and improve their standard of living and leave a legacy for the next generation of Tongan nationals and migrants alike, is a major benefit that Australia can provide as opposed to simply giving handouts through aid programs that at times unfortunately do not reach the grass root level, such as the farmers and their families. The

common beneficiaries in these cases are usually the agent. But by providing a level playing field for growers, suppliers of kava, they can help a family, extended estate (*kainga*) but also a nation rebuild, especially in the face of adversities during these unprecedented times.

51. From a Pacific perspective, there have been reports from areas in which Pacific labour workers are here under the Labour scheme with noticeable benefits of increasing the amount of kava travellers are permitted to bring over for personal use. There have been cases whereby labourers who may not generally drink alcohol in their country of origin, but because of limited access to kava, end up drunk in public due to excessive alcohol consumption. Whereas, if kava were readily available for purchase in Australia through the proposed commercial importation of kava, these groups of labourers would benefit.

***Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?***

52. We propose that a selection criteria is mandated to ensure only exporters with a Hazard Analysis Critical Control Point certification (**HACCP**) certified processing facility and/or individuals currently registered with the Food and Drug Administration (**FDA**) and are exporting kava to the USA may participate in the pilot. This requirement will demonstrate that exporters who participate in the proposed pilot understand and are able to meet the import requirements of a key export market like the USA.
53. By ensuring that the standard of the kava production facilities in Tonga are HACCP certified, provides comfort to the proposed consumers in Australia that the kava produced is to an internationally recognised standard, that has been utilised for several years in countries such as Fiji and Samoa and Vanuatu, with Tonga about to launch the HACCP standard in June 2020.
54. We would also request that local farmers such as the farm to which our sponsor Feleoko 'a Maui have invested in 'Eua, are also provided with an opportunity to compete with larger kava plantations that have been established for several years. Support from the government would be beneficial, as there are limited resources available for local farmers. For example, we are aware that there is a warehouse funded and built by the Australian government in 'Eua and currently has only been used as a place where the local farmers meet. It would be beneficial if this facility were equipped by either the Tongan government with assistance from Australia as a HACCP facility, to enable local growers to pack their kava.
55. Kava may potentially be priced according to the market and retailed online, local markets, kava bars, kava clubs, that have an Import permit to sell kava.

**H. Monitoring and evaluation**

***Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?***

56. **Reporting arrangements.** A questionnaire may be developed to capture the views of the communities about the pilot. This will include the participation of the representatives from the



market side (represented by the Pacific island communities, Indigenous communities in the Northern Territory and government representatives from the Federal, State and Territories) and the kava stakeholders from the supply side (the farmers, kava exporters and Pacific Island governments).

57. Importers would be required by law to report their profits and losses annually to the Australia Taxation Office.
58. As permit holders and under Option 3 detail above we have suggested a few additional reporting requirements, see above at [26] to [27].

**Question 11: What methods should be used to monitor and evaluate the health, social, economic, and regulatory impacts of kava consumption during the pilot**

59. Consultation with communities, stakeholders and reporting arraignments with importers.

**Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?**

60. We at BTC are open to assisting in any way. Organisations such as PHAMA may be able to assist with figures from the Pacific and then perhaps a State agency in Australia can coordinate and facilitate, also fund community not-for-profit organisations such as BTC to assist in collating relevant data on the cultural and social aspects of Kava use in the community.

**Question 13: What data should be collected to effectively measure the health, social and economic and regulatory impacts of kava?**

61. We suggest further consultation is required with importers, commercial permit holders or licensees selling kava, as well as community organisations that detail the effect of this pilot within the community.
62. This may also involve reporting requirements to gauge the implications of the commercial importation of kava.

**I. Cultural significance of kava to Tongans in Australia**

63. The significance of kava to Tongans is inherent in its traditional cultural practises (*anga fakatonga*), these include, but are not limited to the following, which are continued in the Diaspora:
  - (a) Kava ceremonies – from the *taumafa kava* reserved for Royal ceremonies;
  - (b) Traditional ceremonies – weddings, funerals, birthdays, social gatherings, fundraisers;
  - (c) Kava clubs – social groups for men in the community that meet every weekend;
  - (d) Church – functions, welcoming preachers (*talitali malanga*);
  - (e) Tongan courtships – when a gentlemen visits or wishes to court a Tongan woman;
  - (f) Reconciliation – when a family member or extended family members wish to seek forgiveness from their elders, for instance, when a couple decide to get married without their respective parents' blessing.

64. These submissions will briefly cover the various ceremonies, functions and cultural practises listed above and how the opportunity to commercially import is vital for the growing vibrant Tongan community in Brisbane.
65. It must also be clarified that kava is consumed or shared amongst family, church members or in a social kava club. Tongan culture dictates that kava is shared amongst members of the community and it is rare that individuals will consume kava on their own. Even during these unprecedented times with the lockdowns as a result of the coronavirus (COVID-19) pandemic, individuals in a kava club have resorted to drinking kava at their homes, with their partner or spouse, and then linking with other members of their kava club via Zoom, Facebook or other social media outlets.<sup>17</sup>

### ***Taumafa Kava***

66. Kava ceremonies are centred around the preparation and drinking of kava, an infusion in water of the root of the wild pepper, *piper methysticum*, known as the *taumafa kava*.<sup>18</sup> Photos of the sacred *taumafa kava* for the coronation of His Majesty King Tupou VI is extracted at Attachment 1 to these submissions.
67. The *taumafa kava* is only performed for Royal ceremonies held for a royal death or marriage, bestowing of a noble title or coronation. His Majesty the King of Tonga must be in attendance in such ceremonies.
68. Although dispersed around the world, Tongans are a part of extended family kinships that play a key role in continuing these cultural practises and obligations to King and country, including preparation and attendance at these kava ceremonies.

### ***Traditional kava ceremonies***

69. In Australia, the kava ceremony is frequently used by Tongan families in celebrating a special occasion. This ceremony is a showcase of lineage, kingship and in celebration of the individual or a couple that, having attained, or warranted such festivities.
70. Kava ceremonies are important and maintained within the *anga fakatonga*, traditional Tongan practises. It is a custom often performed during primary cultural functions such as a weddings, birthdays, graduations, funerals, church functions, family celebrations as well as social gatherings.
71. In the example of a Tongan wedding, the elaborate kava ceremony reinforces the symbolic matrimonial covenant, thus legitimatising the union within the teachings of the *anga fakatonga*. This practise is frequent within a Tongan marriage in Tonga and also in the diaspora.

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<sup>17</sup> See ATTACHMENT 1 for photos taken during the recent COVID-19 lockdown.

<sup>18</sup> D, Attenborough, 'The Royal Kava Ceremony, Tonga'.

72. Photos of a traditional Tongan kava ceremony, social kava club gatherings pre and post the COVID-19 closures in Brisbane are extracted at Attachment 1 to these submissions.

### **Social kava clubs**

73. The Tongan community in Brisbane is diverse. There also have been an increase in kava clubs or groups, such as the *Fōfō'anga* that act as a form of social club for men, by analogy the Australian pub. Community members meet regularly on the weekends or throughout the week over a *kumete* (Tongan word for kava bowl) with kava, to discuss (*talanoa*) community issues and current events, and also hand down oral histories to the next generation.
74. Kava groups have become a popular place for younger Tongan men to perform songs, share experiences as well as stories of the past learnt from the older Tongan men of the group, and will be discussed further below. This way, our oral history is passed on from generation to generation in Kava groups.
75. In Brisbane there is an estimated 14 kava clubs, but this is not a complete list, given the time limitations to consult and update the clubs. There are also smaller groups within the documented 56 churches in the table below and other community groups that meet regularly. A list of some of the kava clubs, community and church groups is set out at Attachment 2 of these submissions.
76. This is a powerful agent of cultural continuity within the Tongan community. For instance, the first generation of Tongan men in Australia, through their melodious serenades and reminiscing stories of the past and present, conveyed in these kava groups, teach young Tongan men in the community their heritage, how to respect women (given our matriarchically based society) and are reprimanded if they do not adhere to these Tongan teachings. Kava groups meet within the comfort of one's residence, at a hall, or church property.
77. With the love of music, second generation Tongan kava drinking men would trial out their lyrical poetry in these settings, especially when a young female a *tou'a*<sup>19</sup> is present to serve the kava. These are based of the teachings one is raised with as a Tongan from a young age – the *fā'i kave'i koula* – the core values that we carry in the inside and the defining elements that make Tonga – "Tonga."
78. To be Tongan we are raised with 4 pillars of Tongan society, the *fā'i kave'i koula* (4 Golden Pillars):  
(a) *faka'apa'apa* (reciprocal respect),  
(b) *lototō* (humility),  
(c) *mamahi'i me'a* (a sense of loyalty, passion tied to responsibility) and  
(d) *tauhi vā* (valuing relationships and in so doing maintaining them).  
These are bound by *'ofa* (love) within the context of *kainga* (extended family), without *'ofa* all else falls.

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<sup>19</sup> Defined in C. M. Churchward (1959) *Tongan Dictionary: Tongan-English and English-Tongan*, Tonga: The Government of Tonga Printing Press, p. 501 as: meaning "persons whose duty it is to prepare kava for drinking, especially on ceremonial occasions". In most cases is a female.

79. Kava groups such as the *Fōfō'anga* play a vital role in maintaining the *anga fakatonga*. The *Fōfō'anga* is the largest Kava Tonga Club in the homeland and among Tongans in the diaspora, especially Sydney. The Kava Tonga Club was first established in the late 1950s by a number of Tongan men in the capital of Nuku'alofa, with the "informal objective to drink kava in a socialised and non-traditional manner, with little emphasis on traditional taboos of kava, [namely] Royal/chiefly ceremonies, but to support and help one another by applying and utilising the Tongan *kāinga* system and Christian-democratic modes of working [sic]".<sup>20</sup> In 2012 there were 6 branches of the club in Tonga, and an estimated 3 or 4 in New Zealand with 10 in Australia.<sup>21</sup> *Fōfō'anga* is a Tongan term for volcanic pumices that float on the ocean (*moana*). Notably the late Professor Futa Helu claimed that he had named the kava club the *Fōfō'anga* because of the migration from the outer villages and islands to the capital, Nuku'alofa, living temporarily in the homes of relatives – floating around.
80. These clubs also play a prominent role in donating to the community, in the Kingdom through special lunches for the disabled and disadvantaged people from the Ālonga, OTA and Vaiola Psyche Ward on the last Thursday of every month,<sup>22</sup> and also in the diaspora. Most notably, the *Fōfō'anga* in Melbourne combined its efforts with the Tongan Dental Health Project led by Dr. David Goldsmith, that commenced in 1996 supported by various Rotary Clubs in Victoria, with the main objective of "making contacts and fostering positive relationship with relevant people and associations of the Tongan dental community, to undertake basic needs assessments of dental services and identify potential areas in which the program and Rotary may collaborate to help Tongans in the self-development of their dental health care system".<sup>23</sup>
81. In 2004, a team of 13 volunteers also took to Tonga almost \$100,000 in donations of dental equipment, new dental drugs and material.<sup>24</sup> In addition to the dental supply, there were large amount of donated goods from St. John of God Hospital, tools for Hango College from Frankston Rotary Club, books for a library in the Tongan Niua Islands from Rotary DIK, and items from Ballarat Eye Clinic, and clothing from the Salvation Army. In 2005 there was a joint effort between the *Fōfō'anga* club with Rotary International, Rotary Australia World Community Service (RAWCS), St John of God and AusAID.<sup>25</sup>
82. In south east Queensland these kava clubs are quite active in providing not only a social environment for Tongan men in the area, but also assists with raising funds for groups and individuals in the homeland, in a *lī lī* (impromptu collection) mostly on the weekends, also supporting struggling migrants with payment of school fees, and assisting with funding exchange programs to Tonga.

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<sup>20</sup> L Helu, p. 97.

<sup>21</sup> *Ibid.*

<sup>22</sup> Taimi Media Network, (5 November 2010) 'Kava clubs cater to those in need', cited in L Helu (2012) p 97.

<sup>23</sup> Australian Dental Association Inc., Description of Dental Volunteer Projects (1996), cited in L Helu (2012), pp 97-99.

<sup>24</sup> Partnerships with A Rotary RAWCS FAIM Project ongoing since 1996, *Tonga Dental Project*.

<sup>25</sup> A Ballarat West Rotary / RAWCS / St John of God / AusAID Project, ongoing since 1996, (2005), *Tonga Dental Project – September 2005 Visit*.

83. The *Fōfō'anga* club in Sydney for example has combined its efforts in Australia with the purchase of property to house young juveniles within the community and to be utilised by the community. Its objectives are to teach, keep an open forum for Tongan men to debate on politics and culture, as well as sing the old traditional repertoires of the past, to reach into the lyrical poetry of the future.
84. The *Fōfō'anga* expression of *Tautau 'i tu'a pea ke toki hū mai* (literally means "hang it out there before entering") is aimed at "creating a level of interaction, without any form of discrimination due to cultural and social differences." The club motto "alludes to the notion, to first hang everything – status, dignity, selfishness and all ethos of egoistic and individualistic values outside before entering into the compound" where not one person "is to be treated higher than others in terms of sharing and distribution of material resources and social privileges. This sense of equality and fairness is different from the highly stratified characters of the Kingly and chiefly lineages (*Ha'a*) in traditional kava ceremonies and social structure".<sup>26</sup>
85. In Brisbane, the Siamelie kava club and other clubs have taken on the added obligations of donating regularly to visitors and groups from Tonga to Queensland. This recently included the Tupou College Brass band visit in December 2018 that raised an estimated \$40,000AUD from fundraisers across the Tongan community in Brisbane. Another superb example of giving back to the community was also the support from the Kava club Fo'i'one'one in raising of \$22,236.90 for the Tongan Olympian Pita Taufatofua to help him get to the Rio Olympics in 2016, where he is now known as the Tongan flagbearer.
86. Most recent examples included fundraisers in 2019 for visitor school brass bands from Tonga, with the Brisbane Tongan community, supported by the churches, kava clubs and ex-students, \$44,000 was raised and donated to Queens Salote College and \$40,000 raised for Taufa'ahau and Pilolevu College in December 2019. The funds were donated to assist these schools with rebuilding various school buildings that were desecrated during the Cyclone Gita in 2018.

## **J. Conclusion**

87. As detailed above, kava is an essential part of our Tongan traditional practices.
88. We support the proposed commercial importation of kava, as it will not only benefit and provide for the needs of our people here in the Diaspora, but also assist in the economic growth in Tonga, support local farmers, suppliers and exporters.
89. By opening these opportunities up, it also allows our Pacific people to expand their investment opportunities and assist in capacity building in the Kingdom of Tonga and also investors from the Diaspora in Australia, who are predominantly Australian citizens and permanent residents. This not only will assist in rebuilding Tonga's economy so that one day there might not be a need for foreign aid from countries such as Australia, New Zealand, Japan and China.

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<sup>26</sup> L Helu (2012), pp. 98-99.

90. We are committed to working together with the ODC and the government of Australia, as well as the Kingdom of Tonga in providing better services and opportunities for our Pacific people.



**Mālō 'aupito**

**Rev. Sione Maile Molitika**

**President of the Brisbane Tongan Community Inc**

Management Committee Members:

Assistant President – Rev. Suli Helu

Secretary – Mrs Leilehua Fa'onevai

Treasurer – Mrs Mele Ngauamo

Public Officer – Mr Julian (Sulieni) Layt

## GLOSSARY

<i>Anga fakatonga</i>	Tongan way of life, tradition and culture.
CoA	Certificate of analysis.
Diaspora	"...scattered throughout many nations" and "a history of dispersal, myths/memories of the homeland, alienation in the host country, desire for eventual return, ongoing support of the homeland, and a collective identity importantly defined by this relationship."
<i>Fahu</i>	A man's sister; in Tongan custom one's fahu may take great liberties with one's belongings.
<i>Fakatonga</i>	Tongan, like or pertaining to Tongans, in the Tongan manner.
<i>Fāмили</i>	Tongan word for family, hono fāмили means member of one's family.
<i>Faka'apa'apa</i>	Means reciprocal respect.
FDA	Food and Drug Administration.
<i>Fōfō'anga</i>	A Tongan term for volcanic pumices that float on the ocean (moana).
<i>Ha'a</i>	Descendants of kings, also refers to people, race, tribe. Is a reference to the Kingdom of Tonga.
HACCP	Stands for Hazard Analysis Critical Control Point.
<i>Kāinga</i>	Tongan word for relation, relative; brother or sister in the sense of comrade or compatriot. The extended family.
<i>Kalapu</i>	Means a club or group.
<i>Kava</i>	Either the plant ( <i>Piper methysticum</i> ) or the mildly narcotic beverage made from its crushed root. <sup>27</sup>

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<sup>27</sup> C. Maxwell Churchward, (1959) *Tongan Dictionary: Tongan-English and English-Tongan*, Tonga: The Government of Tonga Printing Press, p.257.

Kava Ceremony	Ceremonial presentation on a large scale and with a big piece of kava plant in the lead. That is the presentation by the people of Kolovai. Feast given in someone's honour on certain occasions, such as circumcision, marriage, winning of a prize or scholarship. <sup>28</sup>
Kavenga	A Tongan individual's obligation to fāmili, Siasi and community.
Koloa	Tongan goods, wealth, riches, possessions; what one values. <sup>29</sup>
Lī lī	To through or give, this team is used throughout the Tongan community to refer to impromptu fundraising or collections.
Lototō	Means humility or to be humble
Lotu	Tongan and Samoan word. As a noun: church, worship, prayer, religion (esp. Christianity); as a verb: to pray, worship or to convert to Christianity.
Mamahī'i me'a	a sense of loyalty, passion tied to responsibility.
Mana	Refers to an indigenous Pacific Islander concept of an impersonal force or quality that resides in people, animals, and inanimate objects. The word is cognate in many Oceanic languages. As a generalised concept, is often understood as a precursor to formal religion. "Supernatural, superhuman, miraculous; attended or accompanied by supernatural or apparently supernatural happenings". <sup>30</sup>
'Ofa	Means love.
Tauhi vā	Means to maintain one's relationship with others.
Tou'a	Means "persons whose duty it is to prepare kava for drinking, especially on ceremonial occasions". <sup>31</sup> In most cases is a female, can be a male.

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<sup>28</sup> C. M. Churchward, *op cit.* pp. 257-258.

<sup>29</sup> C. M. Churchward, *op cit.* p. 270.

<sup>30</sup> C. M. Churchward, *op cit.* pp. 329-330.

<sup>31</sup> C. M. Churchward, *op cit.* pp. 501.



**ATTACHMENT 1. Photos of kava ceremonies**

***Taumafa kava***





***Kava ceremonies at a wedding ceremony in Brisbane<sup>32</sup>***

*Mr Taia and Mrs Selina Lokotui 2016*



**Photo credit: Selina Lokotui**

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<sup>32</sup> These photos depict to continued links of the Tongan migrants in Brisbane to the Kingdom, maintain cultural protocols such as the kava ceremony at traditional Tongan weddings.

## Wedding of Lupeni and Salome Piukala 2019



*Kava traditional performances*



*Photo credit: Mamana Academy of Tongan Arts and Culture 2018*



*Kava ceremony*

*Photos from kava clubs across Brisbane 2019*



*Kalapu Siamelie with donated instruments from a Council grant*



*Photo credit: Rev. Maile Molitika taken of the Kalapu Siamelie*

**YouTube Links to videos of kava ceremonies conducted in the Brisbane diaspora (click photos to take you to the YouTube video – Credit: Emele Feao):**

1. Atele Day 2018



2. Toloa College 2019 – Youth night with Tongan community in Brisbane that surmounted lasting relationships



3. Kalapu Siamelie – singing Upe 'o 'Aho'eitu (11 Sept 2019)



Online during COVID-19 – 2020



Photo credit: Moana S Teulilo & Fekita Schaaf

## ATTACHMENT 2. Community groups, clubs and churches in Brisbane<sup>33</sup>

No.	Organisation   Club	Location
<b>Tongan Churches in Brisbane, QLD</b>		
1.	Uniting Church of Australia – Highgate Hill 'Park Church' Tongan Uniting Church	Rev Sione Maile Molitika Central – Highgate Hill
2.	Uniting Church of Australia – Kingston	(Steward: 'Atuna Fe'ao)
3.	Uniting Church of Australia – Morayfield	Pastor 'Alisi Manu
4.	Uniting Church of Australia – Redlands	Rev. Viliami Mila
5.	Uniting Church of Australia – Bracken Ridge	Rev. Paula Hukehuke
6.	Uniting Church of Australia – Wavell Heights and Geebung	Rev. Unga Takai
7.	Uniting Church of Australia – (Tongan) Beenleigh	Rev. Sione Afu
8.	Uniting Church of Australia – Thursday Island	Rev. Mosese Fangupo
9.	Uniting Church of Australia – Army Chaplain Enoggera	Rev. Leif Fungalei
10.	Uniting Church of Australia – Caboolture	Steward: Isileli Tu'itupou
11.	Uniting Church of Australia – Capalaba	Malia Ma'u
12.	Uniting Church of Australia (ACC) – Sunnybank	Rev. Lulu Senituli
13.	Uniting Church of Australia (ACC) – Mooloolaba	Rev. Dr. Hedley Fihaki
14.	Uniting Church of Australia – Australian Defence Force	Lt. Cornel Rev. 'Alamoti Lavaki
15.	Roman Catholic communities – St Pauls Woodridge	Chistopher Veamatahau
16.	Roman Catholic communities – St Mark Inala	Hola Fe'iloakitau
17.	Roman Catholic communities – St Peter (Rochedale)	Taniela Vaihu

<sup>33</sup> Please note this is not a complete list, given the time constraints.



No.	Organisation   Club	Location
18.	Roman Catholic communities – Lady Fatima Aca Ridge	'Olie Naufahu
19.	Uniting Church of New Zealand & Australia - Inala	Rev. Siale Manu
20.	Uniting Church of New Zealand & Australia - Ipswic	Rev. Moala Faingata'a
21.	Wesleyan Methodist Church – Zillmere	Rev. Sakalaia Satui
22.	Wesleyan Methodist Church – Fortitude Valley	Rev. 'Epenisa Paongo
23.	Wesleyan Methodist Church – Nanago	Rev. Nuku Piukala
24.	Wesleyan Methodist Church – Bracken Ridge	Rev. Dr. Siosifa Lokotui
25.	Wesleyan Methodist Church – Inala	Rev. Pilimisolo Matalave
26.	Wesleyan Methodist Church – Westside	Steward Sione Mafi
27.	Wesleyan Methodist Church – Mackenzie Logan Central	Rev. Lita Haufano
28.	Wesleyan Methodist Church – Goodna	Rev. 'Ahovalu Hakohako
29.	Wesleyan Methodist Church – Wavell Heights	Rev. 'Aleksanita Satui
30.	Wesleyan Methodist Church – Mundubbera	Steward Potesio Maile
31.	Siasi Fakakalisitiane 'o Brisbane – Inala	Rev. Tonga Matenoa
32.	Siasi Uesiliana Tau'atina 'o Tonga (SUTT) – Tukulolo, Kallangar	Rev. Semisi Tupou Steward Semisi Vakalahi
33.	SUTT – Nuku'alofa, Kedron	Rev. Semisi Tupou Steward 'Alani 'Akauola and Chris Mafi
34.	SUTT – Mo'unga Heamoni (Munduberra)	Rev. Semisi Tupou Steward Peni Havili
35.	SUTT – Maka Mo'ui (Mt Gravatt)	Rev. Semisi Tupou Assisted by Rev Suli Helu
36.	SUTT – Haohaoa (Kingaroy)	Rev. Semisi Tupou Steward Siosifa Toseni
37.	SUTT – Emerald	Rev. Semisi Tupou Steward Nokelevu

No.	Organisation   Club	Location
38.	Free Wesleyan Church of Tonga in Australia	Rev. Semisoni Moimoi
39.	Siasi 'o Sisu mo e kau ma'oni'oni 'o e ngaahi 'aho ki mui ni (LDS)	Bishop Lolesio Polelei
40.	Siasi Penitekosi – Marsden Pentecostal	Sione and Sela Veikoso
41.	New Life	Liufau and Hulita Manoa
42.	Woodridge AOG	'Esi and 'Amelia Molisi
43.	Breakthrough	Rev. Kaveinga Vaka
44.	Seventh Day Adventist (SDA) – Woolloowin	Taani Tupe (Elder)
45.	SDA – Acacia Ridge	Atara Mulitalo (Elder)
46.	Church of England, New Farm	Rev. 'Elenoa Halapua
47.	Siasi 'o Tonga Hou'eiki – Banyo	'Auhia Lolohea
48.	Siasi 'o Tonga Hou'eiki – Caboolture	Steward Taape Pule and Sunia Kivalu
49.	Siasi 'o Tonga Hou'eiki – Logan	Longani Fekitoa
50.	Siasi 'o Tonga Hou'eiki – Woodridge	Sifa
51.	Siasi 'o Tonga Tau'ataina – Parkridge	Sione Vailea
52.	Siasi 'o Tonga Tau'ataina – Acacia Ridge	Paula Latu
53.	Siasi 'o Tonga Konisitūtōne – Acacia Ridge	Siale Tupou
54.	Siasi Tōkaikolo Mo'ui 'ia Kalaisi – Inala	Mr Motu'apuaka
55.	Siasi Mo'ui Fo'ou – Inala	Manase Po'uha
56.	New Christian Church – Camp Hill	Hingano Ha'unga
<b>Kava clubs</b>		
1.	Kalapu Fōfō'anga	Southside Facebook page <a href="#">here</a>
2.	Kalapu Kolo Kakala	'Amone Siale Northside Facebook page <a href="#">here</a>
3.	Kalapu Lami	Maka Tu'akoi Northside

No.	Organisation   Club	Location
4.	Kalapu Siamelie	Lisiate Loloma Central
5.	Kalapu Kona'i	Rev. Nuku Piukala
6.	Kalapu Tāputa	Semisi Ma'u
7.	Kalapu Vai ko Fa'atoto	Paula Hukehuke
8.	Kalapu Lolo	Lui Hala'api'api
9.	Kalapu Mohetaha	Fa'aleo Tupi
10.	Kalapu 'Unga	Vili Nuku
11.	Kalapu Fetokoni'aki	Manu Molofaha
12.	Kalapu 'Otu mu'omu'a	Sionatane Talia'uli
13.	Kalapu Kolovai	Sione Uhi Ma'afu
14.	Kalapu Kolisi tutuku Kolisi Tonga	'Alamoti Lavaki
<b>Community groups</b>		
1.	Tonga College alumni	Southside
2.	Tupou College alumni	North and southside
3.	Qld Tonga Netball	Brisbane
4.	Radio 4EB FM Tongan Program	Brisbane
5.	Mamana Academy of Tongan Arts and Culture	Toli Mahina Sisilia Kavapalu Nuku

To whom it may concern,

My name is Carl Gilsenan. My Brother and I are in the process of starting a kava plantation on Rotuma, an outer island in Fiji. We are one of many traditional growers on the island. We are also in the process of setting up a processing plant and an export operation for local growers, to give them an opportunity to access overseas markets.

Growing up in Australia with roots back in Fiji gives us a unique position to be able to help growers with parts of the supply chain that they do not have the skills to navigate. Hence our interest in the Australian governments pilot program of Kava importation. In regards to the regulatory framework being proposed, I would be in favour of Option 1. Kava to be imported similar to New Zealands regulations should be adequate, assuming the following issues are addressed in consultation with importers and processors.

After researching the Fiji Kava industry we would conclude that the 2 main areas that require regulation and some form of oversight would be – Handling and processing of Kava, so as to be able to offer the best quality product to overseas consumers.

- Adulteration of Kava. Both of these areas overlap each other and I would suspect the solutions for both areas would be much the same.

Handling and processing of Kava. Most of the businesses in Fiji that buy Kava from growers and process it in into a powder form to sell to local consumers are a long way away from having the ability to export overseas. Not that they cant, but more that they do not conform to any sanitary or OHS norms. Kava is a live product like food. The longer it is out of the ground the easier it is to lose its potency and therefore its benefits and also to degrade to the point of being non useable. Without proper processing procedures, equipment and sanitary conditions, the more likely this is to occur. Proper packaging, handling and storage all along the supply chain is also a very important factor, as to the quality of the product that consumers in Australia will end up purchasing. Some form of regulation by governing bodies is required to make sure that food grade standards are applied to the processing, packaging and handling of Kava for export to Australia. This must be done in collaboration and consultation with interested parties, so as to be viable and applicable.

Adulteration of Kava. This is possibly the most important issue facing Kava consumers. As the price of Kava is at record highs, unscrupulous processers are bulking up the powdered Kava root with non Kava material. How to mitigate against this without penalising organisations who are doing the right thing is something that needs further investigation.

I believe, that if we can address the above issues with workable solutions, than we can allow some of the primary producers in these regions to showcase the fantastic products that they produce and also as a consequence stimulate the local economies of these regions through trade in a primary industry they have generations of experience in producing.

Thanks for your time. Regards Carl Gilsenan.

## KAVA-Submission

**Attention: Australian Government – Department of Health**

**Office of Drug Control**

**Kava Pilot Phase 2 – Allowing the Commercial Importation of Kava -Invitation to Comment**

### **Comments /Responses compiled by Devcorp Management Group Pty Ltd (DMG)**

On behalf of the key stakeholders represented by DMG we thank you for the opportunity to participate in this important phase of the Kava Pilot programme. This submission provides comments in relation to the design and implementation phase of the pilot; and DMG is more than happy & looks forward to participate in the pilots future stakeholder engagement processes.

### **About Devcorp Management Group (DMG)**

DMG is a management & facilitation consulting company based in Sydney Australia. DMG is a private company incorporated in NSW Australia in 2010. In this submission DMG is representing a consortium of Fijian Farmers; independent Kava Growers based in the Islands of Fiji.

### **Invitation to Comment – Responses**

#### *Important note*

The feedback responses to the submission questions below are provided from the perspective of the independent Fijian growers **interested in importing kava for commercial purposes** into Australia.

As the growers nor our management consultants are neither health specialists, government representatives , nor law enforcement officers some of the question responses we believe would be better suited to the respective subject matter experts. Therefore we provide no comment and or limited comment as feedback to some of the submission questions below.

#### **Potential changes to allow for the commercial importation of kava**

Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored? **No comment provided**

Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava? **Consider that in formation of regulatory including Customs guidelines & procedures that if possible there is not too much “red tape” on product border entry to ensure freshness to the consumer.**

Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia? **From a responsible importers perspective it will be important for the regulator to find a balance between protection of the Kava consumer versus the commercial viability of the import ie costs of the “importation chain” to reach the consumer.**

Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be? **Consider warning labelling in addition to cause drowsiness as similar labelling to alcohol products. Adapted alcohol warnings to be warning of the risks of drinking kava and driving, operating machinery, drinking while**

pregnant, and other general health risks. To drink responsibly & in moderation. Also helpful to include instructions of correct mixing of Kava. Further consider concept of a standard Kava drink. Then could explain in terms of a standard drink on label so consumers could then have a standard measurement of consumption to assist in “staying safe”.

#### Impacts of kava?

Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share? **In regards to health consider only allowing the importation of “Noble” strains of Kava. The Islands of Fiji grow Noble Kava. According to the Fiji Quality Kava Manual (page 15) there are 13 varieties of Kava grown in Fiji. All are suitable for human consumption. In addition our represented Fijian group of Farmers employ “best practise techniques”. They prefer to use natural methods where possible and the imported product will be 100% traceable to source.**

#### Impacts of Kava cont

Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava? **No comment provided**

Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia? **No comment provided**

#### Impacts of Kava cont

Question 8: What benefits may be achieved from commercially importing kava into Australia? **Refer comments below**

Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed? **Refer comments below**

#### ***Questions 8 & 9 above – combined answer response***

Various Comments are provided as the following:

1. Commercial importation of Kava into Australia will bring about many economic benefits.

At macro level for the Pacific nations primarily by increasing their exports.

At micro level all the individuals in the “importation chain”.

Individuals such as the Kava farmers who will not only directly benefit from revenue but a “ripple” effect is also created including farm worker employment opportunities. This Farm Income benefits both villages and the greater communities. From the farmers -parents living remotely that could pay for transport and uniforms so their children could attend school. To the taxi driver to transport the children. To the local shopkeeper where income is spent to buy staple foods. To the villages where

income can be used to build churches ; community centres & up keep playing fields for various sports. The list of opportunities is non exhaustive.

2. Commercial importation of Kava into Australia in addition to economic benefits will also bring a sense of pride to the Kava growers.

3. Devcorp Management Group (DMG) is proud to represent a consortium of such Independent Kava Growers from the Islands of Fiji.

4. For the past 6 years since 2013 DMG has worked closely with these hard working Fijian men and women. Hardworking farmers clearing & grubbing their land; preparing plots & planting the Kava all by hand. Hard work but they are hopeful and inspired by their faith and belief in the opportunities.

*Refer to the Annexure for pictures*

5. The DMG Company Directors have over 50 years combined experience as:

- Various Business ownership including farming
- Accounting
- Legal
- Strategic Planning
- Management & facilitation consulting
- Marketing & Sales

6. DMG currently assists the Fijian grower consortium with various professional services and DMG will also assist the farmers to ensure importation regulation and compliance.

7. Going forward it will important that key stakeholders including those interested parties that seek to commercially import Kava under current Standard 2.6.3 are provided more detail through the foreseen future Pilot engagement processes. Information in regards to both commercial importation regulation and also importantly information regarding the Commercial sales & marketing models foreseen as allowable to enable further business modelling.

8. It is suggested on page 11 of the ODC submission consultation document that:

“These businesses may include but are not restricted to health food stores, stores focused on retailing products from the Pacific Islands, general grocery stores, businesses that specifically retail kava (commonly referred to as kava bars) or other business models that may retail kava alongside other products (such as restaurants or bars). Businesses may also retail kava online.”

9. It would be helpful if the above is clarified. As there are a number of queries listed included here but not limited to:

- a) Will this be a Federal or state by state decision who /how can sell Kava? eg can online sell in NSW but not NT?
- b) What are the regulatory costs? Estimated on page 9 of the ODC document that
  - a. “The average annual regulatory costs for importers are likely to be less than \$100,000.”
- c) Record keeping required?
- d) Other costs? Will Kava attract GST?

10. This type of information is critical to provide for cost analysis; price setting; viabilities and profitability margins.

## Monitoring and evaluation

Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot? **No comment provided**

Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot? **No comment provided**

Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot? **Consider that key stakeholders including the Growers/Importers are able to contribute. Given that importation and final point of sale models will require a reasonable financial commitment. Kava import has been closed prior in Australia and now with Covid 19 we have seen the devastating impact on businesses that are forced to close overnight. So rather than risk coming to the end of the Kava pilot in approximately 2022 and there being a commercial risk of Kava importation allowances being retracted by the Australian government; it would be more desirable that the Kava import model is regarded as dynamic ie a work in progress to add and modify “tweak” as required. The ultimate goal is to have a working model that encapsulates social; cultural; health and economic balances.**

Question 13: What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava? **No comment provided**

## Submission Further Comments

Following from the feedback response to question 12 above consider that to realise the various benefits of Kava importation the model needs to deliver successful outcomes. This includes various parties abiding by the regulations as to be provided. Importantly that Kava is not only supplied to the Australian consumer but “healthily supplied” ie quality product provided.

The Kava industry would not want to lose this import opportunity due to say “one bad apple supplier”. Therefore it is suggested that a Regulatory Body Complaints Authority for the Kava Industry is formed. Consider similar the Australian Financial Complaints Authority – AFCA. An authority that both Consumers and Industry participants could lodge complaints with.

DMG looks forward to providing more input to the Department of Health in relation to this pilot phase 2. Please refer to the contact details as provided.

Thank you.



# Annexure

## Fiji - Kava Farming Pictures



Photo A

Natural method of plant coverage - Coconut leaves



Photo B

Correct Drainage



Photo C

Further drainage & use of clay and soap stone to reinforce raised growing plots



Photo D

Manual labour – all clearing & digging by hand



Photo E

Farm Workers – Hand digging of a well for Kava plant water supply



Photo F

New Kava shoots

In writing this submission, I come wearing a number of different hats. I'm a practitioner of Nutritional Medicine (BHSc Nut. Med), Spiritual Guide, Online Retailer & Marketer.

I first came across Kava in the recreational form in Upstate New York in 2014 while travelling. My partner and I were sitting in a circle with a group of strangers, participating in a philosophical discussion, which became argumentative. I'm interested in expanding understanding, not clarifying right and wrong, so a young local man invited the two of us to change the scenery and check out a trendy new Kava bar.

Now the venue was intriguing to me. Picture a typical bar space with stools around the bar, yet the larger space of the room could have been used for yoga, performance art, group workshops and so on. As we sat with our new friend, the bartender who was a white American man, weaved the Kava story. He shared with us the Island Culture of receiving Kava in a ceremony, of giving thanks (Bula!) and the intention of Kava – to relax and connect with friends.

We are all familiar with sitting down for a few drinks with friends. In some countries in Europe where culture is still strong, this is an integrated part of family and social life, almost always centred around a meal. Substance abuse can occur anywhere in the world, however it seems to be more commonplace around alcohol in Australia, and I believe that this is due to an absence of ceremony, identity and meaning. Governments have experimented with control measures such as lockout laws and increased excise in an effort to curb binge drinking culture, and Indigenous Communities have banned alcohol (and kava) all together, as they have the right to do by way of Self Determination. This does not address the root of the problem, which I will address as trauma, and loss of connection (for both First Nations and new Australians)

What I noticed while enjoying 3 or 4 shells of Kava was a deep calmness inside, yet my mind became sharper, I felt a unity between myself, my partner, our new friend, the bartender and the others at the bar. The conversation flowed effortlessly, my partner and I sharing about exciting travel experiences and beautiful connections we've made, and our friend sharing about the depth of his meditation practice and his desire to bring the virtuous qualities that he has found into his community by taking a role of responsibility and running for office in local council. In contrast to drinking alcohol, I left the bar with all of my faculties together, with feelings of love and affinity in my heart and thoughts of altruism inspiring me forward. I felt clear and focused the next morning. I've drank Kava in ceremony with Fijians since that first moment, and the experience has always carried a similar texture.

It seems that the government is keen to go ahead with the Pilot Program for the obvious economic benefit for local economy and strengthening ties in the Pacific. How it will be regulated is in question. I am NOT in favour of Option 2.

My vision for Kava culture in Australia can be felt in what I've already shared. I have colleagues in the wine, brewing and hotel industry who are committed to a healthier social drinking culture in Australia, including consideration for and collaboration with First Nation communities. The stories we tell, the marketing, the scene and setting in which Kava is consumed will facilitate change in the way that we connect with each other. It is always important to recognise the cultural (I would say sacred) element of Kava and to tell the stories. However, Kava won't always be enjoyed in ceremony, and the creative opportunity to design conscious social connection venues such as Kava bars, or to include Kava into restaurants and bars is exciting.

I am in favour of Option 1, which facilitates the most ease for importers, retailers and consumers. If there is regulation, it should come from the Food Standards. Kava, in the recreational form is less controversial than Cannabis, which is regulated by the TGA, while being safer and more socially

beneficial than alcohol, which is not regulated by the TGA. Option 2 would limit the opportunity for small businesses such as bars and online retailers to establish themselves in this economy. While the government may benefit with revenue for charging unnecessary regulation fees annually (up to \$100,000 for importers), such expenses would be passed down the line to retailers and consumers.

We can look to the wine and beer industry for evidence showing that less regulation and lower excise creates the environment for grass-roots economic growth as well as positive social change. Over the last decade we've seen an explosion in micro-breweries and small bars, following the trends in America. Many of these small venues do not require security, as the drinking culture is a positive one, encouraging robust discussion, personal connection in small groups and a social identity has emerged around mutual enjoyment of quality drink and food.

I would like to see similar opportunity for this exciting new and emerging Kava Industry, with the possibility of small business sharing the stakes alongside the large importers. I would also personally be interested in sourcing the highest quality Kava in small quantities from the Islands and fees up to \$100,000 would make this impossible without further investment.

In my work as a Nutritionist, I support people with anxiety and depression. A large contributing factor to mental health struggle is social anxiety, isolation and disconnection. As a Spiritual Guide, I meet and work with many people in their late 20's and early 30's who have left the party scene. They've spent a decade working full-time and engaging in destructive drinking habits on the weekends. They are burnt out and their mental health is shattered. In wholistic practices like yoga, meditation and clean eating, they have managed to recover to some degree, but what they crave is social connection.

I am pleased to see that the government is motivated to lift the ban on Kava importation and open up trade, business, and social connection opportunities. Kava Culture celebrates people coming together. In the work that I do as a Nutritionist and Health Coach, I see social anxiety and disconnection from community as significant contributing cause as a cause of mental health issues.

In the spiritual communities in Sydney amongst young people, I see people coming together for conscious events such as alcohol free dance parties, eye gazing and intimacy workshops, and sharing circles. Occasionally, lighter psychoactive substances like cacao are used to promote deeper physiological connection to self and others in a consensual way. Kava is another beautiful plant medicine with a rich cultural context of ceremony, which I would personally feel comfortable in facilitating in social groups, though I am not of Island background.

I have enjoyed drinking Kava in bars in America, as it provides a cleaner, lighter, I would say more "conscious" social experience of relaxation and connection compared to drinking alcohol.

I am in favour of OPTION 1, as this would be the most simple way forward for me in helping my clients, facilitating group ceremony, establishing an online retail Kava brand, and potentially importing small quantities directly from producers in the Pacific Islands as well as partnering with Kava bars or already existing Craft Beer bars.

We have seen a boom in the Craft Beer market in the previous decade as regulation and excise has relaxed, paving the way for small producers to enter the market and create a more positive drinking culture – in small venues where security isn't required and punters come to connect with friends over some food and drink. I foresee similar opportunities with Kava.



Option 2 favours the government in the way of revenue collecting, and the big importers and producers. I believe that model that supports grass-roots producers, importers, retailers and venues be incorporated alongside big business. From what I've read, one company plans to supply Woolworths and take a large stake in the market, which is necessary and good, but in my opinion opportunity should not be limited to big business. It will be small groups (including Islander and non-Islander) and people like myself who are leading from the heart who will create a positive Kava culture in Australia. It's important that we lay the foundations from this from the beginning.

Heavy regulation on Kava creates a stigma around a plant that has only positive regard in its lands of origin. I understand that there are concerns coming from Arnhem land. If I was opening a Kava bar and met with resistance from the First Nations community, it would be essential to sit with them, listen to each other and come to a place of collaboration to meet the needs of the community in a way that empowers individuals to make healthy choices. There are endless creative solutions if humans are given the opportunity to explore together. Regulation removes the opportunity for human ingenuity, love, and doing what is best for the higher good. There is more room for positive change in Option 1. It gives the government the opportunity to listen to the people, rather than the other way around (State/Convict Model). I have friends / colleagues who have been through a similar process when planning to open a brewery on Stradbroke Island. Modern day entrepreneurialism has room for profit making AND benevolent action in the community. This should be encouraged and made easy.

As medicine, excess Kava intake can cause hepatotoxicity. So can paracetamol (to the point of fatality), which is available OTC (over-the-counter). Why should this be scheduled by the TGA as schedule 8, alongside morphine, cocaine, ketamine and oxycodone? That's utterly ridiculous.

As a recreational substance, Kava can be addictive. So can alcohol, sex, gambling, football and yoga. These are all widely available with some, but few regulations. Kava fits nicely alongside sex and yoga.

I would like to see Australia grow up, for Australians to be given the opportunity to be self responsible. For this to happen, the government must trust the people, and the people in turn will trust the government.

In closing, it seems right to acknowledge the need for standards to be maintained. Kava should be removed from the PI regulations, making Kava consistent with other foods imported into Australia. Appropriate labelling including information such as Kavalactone content, health warnings should be required, akin to alcohol labeling (% , standard drinks, health warnings). The 18+ age of consent laws should also apply.

I am excited to see how this moves forward, whichever way it goes. BULA!



**Office of Drug Control**  
**Department of Health**  
GPO Box 9848  
Canberra ACT 2601

Date 20<sup>th</sup> May 2020

To whom it may concern,

**Re: KAVA-Submission**

Thank you for the opportunity to provide submissions in relation to Phase 2: Allowing the commercial importation of kava.

Diam Thomas Pty Ltd is an Australian company involved in the ongoing development of the Kava industry. Its primary operations involve the export of premium quality Kava from the Pacific region internationally, predominately to the USA. With the announcement of the Government's new policy, Diam Thomas Pty Ltd is excited by the opportunities this will provide the Kava industry and also at the prospect of being involved in the responsible domestic importation of Kava.

Personally, I am a director of Diam Thomas Pty Ltd and an international leader in the Kava industry having been involved in this industry for over 20 years. Relevantly, I have hands on industry experience in the Pacific region countries, specifically Vanuatu. At various times throughout my career I have been an advisor to the Vanuatu government on matters pertaining to Kava and the Kava industry and was directly involved in the implementation of the Vanuatu Kava Authority. In 2004 I received a Letter of Credentials from the Vanuatu government to foster the development of the Vanuatu Kava Industry. I remain an active participant in the industry and my experience and reputation is assisting Diam Thomas's continued growth and development which has led to the company's creation and implementation of quality control and safety standards that has resulted in Diam Thomas becoming a world leading supplier of safe, responsibly sourced and quality processed Kava internationally.

**Submission**

We support the commercial importation of Kava into Australia. We agree that through greater commercialisation of the importation of Kava the goals of the program can be achieved.

We are supportive of 'Option 2' and oppose 'Option 1'.

As has been identified already by the government, although the scheme should allow for the greater importation of Kava into Australia, it is important that this is done in a careful and considered way to ensure the safety of the Australian community and also the longevity of commercial operators within the sector.

### Current operators in the Pacific Region

There are many participants in the Kava industry that operate their business in a manner that produces Kava of such a low quality and with disregard for health and safety that should they be able to import this sub-quality kava into Australia it would be putting the Australian public and the entire Kava industry at risk.

### Proposed regulatory regime

A regulatory scheme needs to be created to limit the ability of these operators from importing sub-standard Kava into Australia. At the same time the regulatory requirements should not be so strict as to act as a barrier to entry for responsible participants.

One solution, the one most favoured in our submission, is to have a regime that enables any kava imported into Australia to be able to be tracked from source (growers) to end users. Such a regime ensures that responsibility for quality and safety is shared between all participants in the industry; grower, manufacturer, importer, wholesaler and retailer.

It is by ensuring a continuity of source and an ability to track the Kava from grower to end user that we, the government can appropriately regulate and protect the Australian public by ensuring the quality of the kava being imported.

One way this can be achieved, without creating a regime which is effectively as strict as the current regulations, is by only granting licenses for the importation of Kava to importers who can:

1. demonstrate that they can sufficiently identify the kava in each batch imported from the source (i.e. the farm in which it is grown), through each stage of the manufacturing process, including the facility in which the kava is dried, milled, and then packaged for export;
2. each entity involved in any stage of the manufacturing process should operate from a facility that has in place sufficient standards and processes to ensure the safety and quality of the Kava product;
  - a. license should only be provided to importers who can provide documentary confirmation that such standards are in place, such as photographs of manufacturing facilities and copies of technical agreements or processing standards;

3. in addition, importers should be required to provide, prior to the release of the Kava onto the Australian market, a certificate of analysis from an Australian licensed entity that;
  - a. provides HPLC testing - to identify that the product is Kava, does not contain unwanted adulterants, and to identify the active substances; and
  - b. provide a microbiological count (within the microbiological limits) to minimise health risks; and
4. the importer is required to keep a register of:
  - a. the certificate analysis of results,
  - b. details of where imported kava is being stored;
  - c. details of the entity, date, location and quantity, that Kava is sold (i.e- the details of the wholesaler or retailer that purchase the imported kava); and
  - d. the register should be subject to audit and provision to the regulatory body at any reasonable time.

Not only will the above regime assist in ensuring only quality kava products are imported into Australia, it will also provide an effective means of collecting and providing data to government and industry. This collection of data will no doubt be critical in identifying and mitigating against the risks of an emergence of health and social harms and will enable future policy decisions to be determined on a more informed basis.

Should we be able to provide any further information or assistance please do not hesitate to contact us at any stage.

We excited by the prospects of having a safe and commercially viable Kava industry developed in Australia and the role we may play in it.

Yours sincerely,

Emanuel Foundas  
Director



**Submissions in support of the Kava Pilot Program  
Phase 2: Allowing the Commercial Importation of Kava**

**31 May 2020**

**These submissions are provided on behalf of Feleoko 'a Maui to the:**

Office of Drug Control  
Department of Health  
GPO Box 9848  
Canberra ACT 2601

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## A. Introduction

1. Feleoko 'a Maui (**F'aM**) is a family owned business that commenced with a simple dream - to support a family, community and *fonua* (country), in the Kingdom of Tonga and in Australia.
2. With over 100 years of farming experience, Feleoko 'a Maui uses a traditional Tongan method of planting and cultivating crop.
3. In 2016, Feleoko 'a Maui invested in a small organic farm in the pristine untouched island of 'Eua, in the Kingdom of Tonga. This consists of over 8 acres of traditionally owned farmland in 'Eua planted with kava, talo (taro), 'ufi (yams) and kape (giant taro).
4. F'aM's farming technique originates from traditional Tongan methods handed down from generations. The crop (the talo and kape) is wholly organic and has been sold in the market in 'Eua, also shipped overseas to consumers.
5. Feleoko 'a Maui or "Feleoko 'o Maui" the name of the marketplace in 'Eua, is sourced from Tongan oral history, known as the produce or plantations of the Tongan deity, Maui. This is also used to describe the island of 'Eua, also known as Funga Fonua. Recognised for its rich soil and organically cultivated produce.
6. It's kava plantation of over 8 acres of pristine virgin farmland in the island of 'Eua, received the second prize in the Royal Agricultural Show in 2018. The first time it decided to enter the competition.

### *Vision for Feleoko 'a Maui*

7. F'aM in Australia is a small business based in Brisbane, owned by Mr Taniela and Mrs Leilehua Fa'onevai. The farm in 'Eua is managed and maintained by Mr Koliniasi Fa'onevai (aka Mr Fatulisi Ngalu), with funds provided from Australia to hire 5 labourers on an ad hoc basis to assist Koliniasi with the farm work. In addition, Rev. Suli Helu, when he is available, also volunteers in marketing and investing in the farm.
8. The vision behind the kava plantation is to build up future capital that could fund projects in Australia and 'Eua. Thus, provide for the extended Fa'onevai and Helu family in both countries.
9. The farm heavily relies on Koliniasi's farming expertise handed down from his forefathers. Koliniasi raised his nuclear and extended family supporting them from the farm. The Fa'onevai family are known in 'Eua as hardworking businessmen, having previously assisted his older brother run his own petrol station, store and bakery on the island in the 1980s. Koliniasi's brother also owned a boat that transported people between Tongatapu (main island) and 'Eua. Koliniasi's son Taniela is also an avid farmer, former missionary with Youth with a Mission in Hong Kong and Cook Island and also worked for several years on the Pacific Labour Scheme in rural Australia, before migrating to Australia in 2016 after marrying Leilehua Fa'onevai

(nee Helu), daughter of Rev Suli Helu. Taniela and Leilehua saw the opportunity to invest in the future of their extended family in Tonga and in Australia, New Zealand and the United States of America. Leilehua is a legal practitioner, coupled with the Taniela and Koliniasi's farming experience, Rev. Suli Helu's networks, Feleoko 'a Maui was born.

10. To provide further background into this small business, Koliniasi with his wealth of knowledge in subsistence farming, commenced planting the first crop of the noble cultivar kind of kava<sup>1</sup> in 2016 and the only means of transport to assist was his trusted old horse (see Attachment 1 for photos). Taniela and Leilehua have since been able to fund the purchase of some farming equipment in 2017 and a Ute for the farm in 2018. Prior to the purchase of the Ute, Koliniasi and the labourers only mode of transport to the farm was by foot or with the horse.
11. Taniela would also travel to Tonga multiple times throughout the last 5 years to assist with managing the plantation. As we opt not to use pesticides, clearing weeds and unwanted vegetation is done manually. Funds are provided each month to hire 5 labourers to assist Koliniasi with the labour. This includes providing the labourers with breakfast and lunch as well as transport.
12. To date, we have expended an estimate of \$110k AUD in the last 5 years in the investment farm, but this does not include our time and expense, especially Koliniasi and Taniela's work on the farm, currently unpaid until we harvest.

#### *Community Empowerment Projects*

13. F'aM is also a corporate sponsor and member of the Brisbane Tongan Community Inc. (BTC) that represents Tongan nationals and migrants residing in Brisbane, Queensland.<sup>2</sup>
14. F'aM also sponsors the Pasifika Lawyers Association of Queensland Inc.<sup>3</sup> and migrants from Tonga. We also support other farmers and labourers in 'Eua to maintain the business in Tonga, having purchased from neighbouring farms to assist with the plantation.
15. These submissions will include responses to the questions put forth in the ODC's consultation paper on Phase 2.
16. We have had the benefit of assisting with the submissions provided on behalf of the Brisbane Tongan Community Inc. and are supportive of the proposals put forth and reasoning in their submissions.
17. In finalising these submissions, we also collaborated with members of the Tongan community in New South Wales, Victoria and the Australian Capital Territory, facilitated and assisted by the

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<sup>1</sup>Kava crop includes: Kava Lekahina, Kava 'Akauhina, Kava Lekakula, Kava 'Akaukula, Kava Fulufulu, Kava Valu, Kava Kofe.

<sup>2</sup> See BTC website for more details [www.brisbanetongancommunity.com](http://www.brisbanetongancommunity.com).

<sup>3</sup> See Pasifika Lawyers Association of Queensland Inc's website for more details [www.plaql.org](http://www.plaql.org).

Tongan High Commission's office in Canberra and representatives from the Pacific Horticultural & Agricultural Market Access Plus Program (**PHAMA**).

18. Together with the collective Tongan communities and Pasifika stakeholders, we propose a variation of both Option 1 and Option 2 of the ODC's consultation paper. For ease of reference we propose a third option, 'Option 3'.

## **B. Consultation**

19. We note that the ODC seeks feedback on:

- (a) Impacts of kava.
- (b) Monitoring and evaluation.

20. Feleoko 'a Maui has had the benefit of assisting in the preparation of the submissions provided by the BTC to the ODC and supports all the points put forth, however wishes to emphasise the economic benefits to the Tongan kava growers and investors of Tongan heritage residing in Brisbane.

## **C. Feleoko 'a Maui supports the proposal to allow commercial importation of kava**

21. Feleoko 'a Maui as a small business, investor, supplier, supports the proposal to allow the commercial import of kava into Australia.
22. Feleoko 'a Maui would like to be involved in the approach or consultation to evaluate the pilot program in 2022.

## **D. Kava**

23. Kava or kava kava or *piper methysticum* is a cash crop of Pasifika (Pacific Islands / Oceania).<sup>4</sup>
24. The word *kava* is Tongan, meaning "bitter".
25. It is a significant export for Tonga that has been used traditionally in the Kingdom of Tonga for centuries and is vital to Tongans in the island Kingdom and diaspora.
26. Kava is consumed throughout the Pasifika cultures of Oceania, for either traditional ceremonies as in the Kingdom of Tonga and Fiji, also in recent years in social kava clubs and kava bars.

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<sup>4</sup> C. Maxwell Churchward, (1959) *Tongan Dictionary: Tongan-English and English-Tongan*, Tonga: The Government of Tonga Printing Press, p.257.



27. The root of the kava plant is used to produce an entheogenic drink with sedative, anaesthetic and euphoriant properties. Its active ingredients are called kavalactones. Clinical trials in 2013 by the University of Melbourne concluded that kava was likely to be more effective at treating anxiety and insomnia.<sup>5</sup>
28. Kava is a part of our cultural traditions in Tonga rooted in a long history that has thrived for centuries and is practiced within the diasporic communities in New Zealand, the United States of America, Australia, as well as dispersed Tongan communities in Europe and Asia.

## E. Options from the Consultation paper Phase 2

29. For ease of reference, we have included the Options put forth in the consultation paper for Phase 2:

**Option 1:** Remove kava (in the form proposed for the pilot) from the *Customs (Prohibited Imports) Regulations 1956* (Cth) (PI Regulations), making kava in the form specified in the *Food Standard 2.6.3*<sup>6</sup> – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand. – This approach means there would be no capacity for the Government to monitor the amount of kava entering Australia.

- This option limits the ability to support state and territory requirements through controlling importation.
- This option places the lowest regulatory burden on importers of kava.

**Option 2 (preferred by the ODC):** Move kava from Schedule 4 to Schedule 8 of the PI Regulations to allow commercial entities to import kava under permit (under an amended regulation 5H of the PI Regulations). – This option allows the Government to collect information on the quantities of kava imported into Australia and the importers, and also assist in the monitoring and evaluation component of the pilot.

- The regulation also allows the Government to impose conditions on permits to manage concerns that have been previously raised about access to kava during the pilot. The proposed conditions are:
- the importer's custody, use, disposal and destruction of the kava must be in accordance with the laws of the States or Territories in which the importer operates;
- the importer must not provide kava to a person under 18 years of age;
- before providing kava to a third party, the importer must be reasonably satisfied that the third party's custody, use, disposal and destruction of the kava will be in accordance with the laws of the states or territories in which the third party operates;
- before providing kava to a third party, the importer must be reasonably satisfied that the third party will not provide kava to a person under 18 years of age; and
- the importer must keep records and provide as required to the Department the names, address of those the importer supplies kava to and quantity of kava supplied.

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<sup>5</sup> University of Melbourne. (2013, May 13). World first clinical trial supports use of Kava to treat anxiety. *ScienceDaily*. Retrieved March 21, 2019 from [www.sciencedaily.com/releases/2013/05/130513095750.htm](http://www.sciencedaily.com/releases/2013/05/130513095750.htm)

<sup>6</sup> A standard under the *Food Standards Australia New Zealand Act 1991* (Cth).

For example, warnings already note that kava consumption 'may cause drowsiness' and that kava should be used 'in moderation'. Additional warnings may advise against driving a vehicle or operating heavy equipment after consuming kava.

## **F. Potential changes to allow the commercial importation of kava**

### **Question 1: Are you supportive of the use of the import permits (Option 2) to allow kava importation to be controlled and monitored?**

30. We do not support Option 2 as it proposes a few increased obligations on the importers, including the requirement to ensure that before providing kava to a third party, the importer must be reasonably satisfied that the third party's custody, use, disposal and destruction of the kava will be in accordance with the laws of the states or territories in which the third party operates. It should suffice that instructions on storage, use, disposal and destruction of the kava is set out in detail on the packaging. Also, unclear whether the importer would be protected if the consumer (third party) then misuses the kava and for example mixes the kava with alcohol without the importer's knowledge.
31. However, we do support the import permit requirement, and in particular the proposal detailed in the BTC's submissions as Option 3, the removal of kava from the PI Regulations and making kava in the form specified in the [Food Standard 2.6.3](#) with a requirement that importers are to hold a permit.
32. For ease of reference, we have detailed proposed Option 3 below.

### **Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?**

33. As stated above at [18] we propose an Option 3.
34. We propose under Option 3 that kava is removed from the PI Regulations, making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand. Allow commercial entities to import kava under a permit, which still allows the Government to collect information on the quantities of kava being imported and consumed in Australia.
35. In addition, we agree with the BTC's proposal to impose the following specific requirements on permit holders of the commercial import of kava:
  - Importers are required to register their details including their premises where they will trade in the commercial sale of kava, this will enable the government to collect information on the quantities of kava imported into Australia, also assist with the collection of data and information for the monitoring and evaluation of the pilot, such as usage and rate of consumption and any associated social and health issues.

36. The permit conditions we propose under a permit include the following:

- (1) The powdered kava product must be made only from known noble kava<sup>7</sup> varieties and consist only of the appropriate parts of the kava plant<sup>8</sup>;
- (2) must be accompanied by a certificate of analysis (**CoA**) from the supplier confirming the product to be of 'Noble variety' and with the 'Botanical name' and the kava is not adulterated;
- (3) the importer's custody, use, disposal and destruction of the kava must be in accordance with the laws of the States or Territories in which the importer operates, but when sold to a third party, the importer/supplier is not liable to the custody, use, disposal and destruction of the kava as it is on the third party to follow the instructions on the kava package regarding use, disposal and storage (see Attachment 3 and at [47] and [48];
- (4) the importer must not provide kava to a person under 18 years of age;
- (5) the importer must keep records and provide as required to the Department the names, address of those the importer supplies kava to and quantity of kava supplied;

37. We suggest additional requirements as follows:

- (6) packaging of the kava product must comply with the labelling requirement under the Food Safety Standards, that include the following warnings:
  - (a) Use in moderation; and
  - (b) May cause drowsiness;
- (7) packaging must state the kava variety to be of the "Noble Variety" and contents are produced and packed in accordance to the National Standard for Kava;
- (8) the address of the manufacturer/exporter/country of origin to be clearly stated.

To demonstrate compliance with permit conditions (1), (2) and (7) (as detailed above at [36] and [37]), a Manufacturer's declaration, or Supplier's declaration and a CoA will be required to accompany the product on import.

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<sup>7</sup> Food and Agricultural Organization of the United Nations (**FAO**) and World Health Organisation (**WHO**) CODEX CCNASWP 2020 - Proposed draft Regional Standard for kava products for use as a beverage when mixed with water; see paragraph 44(a) for reasons as to only permitting noble cultivars and nothing else.

<sup>8</sup> Fiji Kava Quality Standard - [http://phama.com.au/wp-content/uploads/2017/03/Fiji\\_Kava\\_Standard\\_ecopy.pdf](http://phama.com.au/wp-content/uploads/2017/03/Fiji_Kava_Standard_ecopy.pdf); Samoa Ava Standard - [http://phama.com.au/wp-content/uploads/2018/06/Samoa\\_Ava\\_Standard-Samoan-Final\\_E-copy.pdf](http://phama.com.au/wp-content/uploads/2018/06/Samoa_Ava_Standard-Samoan-Final_E-copy.pdf); and Vanuatu Kava Quality Standard - [http://phama.com.au/wp-content/uploads/2019/02/Vanuatu\\_Quality\\_Standard\\_ecopy.pdf](http://phama.com.au/wp-content/uploads/2019/02/Vanuatu_Quality_Standard_ecopy.pdf).

**Question 3: In addition to State and Territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?**

38. We support restricting the trafficking of high volumes of kava to remote indigenous communities, for instance in Northern Queensland and the Northern Territory, Arnhem Land.
39. We support the current prohibitions as detailed in the current legislation that restrict the trafficking of kava into remote indigenous communities in the Northern Territory through the *Kava Management Act 1998 (NT) (KMA)*, limited only to these communities.
40. Section 2A of the KMA provides that the objects of the Act are:
- (c) to establish mechanisms and procedures for prohibiting and regulating the supply, possession and consumption of kava and for controlling the price of kava;*
  - (d) to reduce the health, social and economic problems associated with consumption of kava by the implementation of harm minimisation principles and other responsible practices relating to supply, possession and consumption of kava; and*
  - (e) to encourage the involvement of communities in the regulation of the supply, possession and consumption of kava, and the implementation of harm minimisation principles and other responsible practices relating to the supply, possession and consumption of kava, in their community areas.*
41. The KMA also provides that a person cannot possess a quantity of kava that is equal to or more than the trafficable quantity unless doing so in accordance with a license.<sup>9</sup> The “trafficable quantity” under the KMA means:<sup>10</sup>
- (a) more than 2 kilograms but less than 25 kilograms of kava; or*
  - (b) more than 4 but less than 20 kava plants,*
- but does not include a quantity of kava prepared as a drink.*
42. The “commercial quantity” under the section 3 of the KMA means:
- (f) 25 or more kilograms of kava;*
  - (g) 25 or more litres of kava prepared as a drink; or*
  - (h) 20 or more kava plants.*

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<sup>9</sup> See section 9 of the KMA.

<sup>10</sup> See section 3 of the KMA.

43. The maximum penalties for possession of kava in these communities under the KMA without a licence, are as follows:

*(a) In the case of a trafficable quantity - 100 penalty units or 2 years imprisonment.*

*(b) In the case of a commercial quantity - 8 years imprisonment.*

44. We suggest that these restrictions are limited to the sale of kava in indigenous communities, to address concerns raised by these groups and organisations. We do not support these limitations to cover other States and Territories that do not sell to Aboriginal indigenous communities, in particular the sale to Pasifika communities across Australia. According to the ABS Census of 2016, people of Ancestry from Oceania (Pacific Islands) that reside in Australia make up an estimate of 1.9 million people.

45. In addition, we support the proposal for a program whereby respectable Pacific Islander elders are funded to teach indigenous communities the history of drinking kava in a group setting, similar to a consultation process.

**Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?**

46. We agree with the BTC's submissions that additional standards should be included on the packing of the kava imported into Australia. Most importantly, if a dried product, the packaging should include a warning that - kava should not be mixed with alcohol.

47. We also suggest that serving instructions should be included on the packages, as per the CODEX quality standard at Step 5, include the following:

*If prepared from dried kava, the powder is mixed with potable water and may be filtered prior to consumption.*

*If prepared from fresh kava, the ground or macerated kava is mixed with potable water and may be filtered prior to consumption.*

48. As provided in the CODEX quality standard at Step 5, we also support the standard that details packaging and storage at provision 3.6, which states (see sample packaging at Attachment 3):

*Kava products shall be packaged in such a manner as to safeguard the hygienic and organoleptic quality of the products.*

*Kava products shall be stored in such a manner as to avoid pest access or harborage, protected from contamination, and under conditions of temperature and humidity that minimize deterioration and minimize mould growth.*

*Fresh kava products shall be quick frozen and maintained at < -180C.*

*Dried kava products shall be stored in a sealed container and the moisture content shall not exceed 12%.*

**Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?**

49. With regards to the cultural and social impacts of the use of kava, please refer to section H below, the cultural significance of kava on Tongan migrant communities in Australia, a continuation of our culture, traditional kava ceremonies and also the social benefits within the kava clubs.
50. Also with the Pacific labour scheme, kava is used in a setting whereby Tongan nationals working in remote areas can continue to share their stories, culture in a kava club, also through music and traditional dialogue. The kava club to Tongan men is like a local pub for Australians. The difference is, men also share their cultural knowledge, thus handing down tales of the Pacific to the next generation, but also forming groups that send much needed assistance and aid back to Tonga through fundraisers for visitors from the islands.
51. As for the health benefits, studies have shown that kava can assist with individuals suffering from anxiety, insomnia and also depression.
52. FAO and WHO paper on kava consumption provides a strategy that considers the following:<sup>11</sup>
- (a) **Choice of kava cultivar for kava beverage.** Traditionally, kava beverage has been prepared from roots and rhizomes of the noble cultivars. These noble cultivars have been determined through scientific research to contain a higher ratio<sup>12</sup> of kavalactones (KL) to Flavokavins (FL). The kavalactones are the desirable compounds responsible for the relaxing effect from kava consumption, however there is insufficient data on the effects of the other compounds including FL. It should be noted that cultivars that are high in both KL and FL are only reported in PNG, Solomon Islands and Vanuatu, which are referred to as Tudei and wild kava. Importantly, there are existing chemical tests to confirm the quality of the kava sample and to make sure these cultivars are not traded and exported.
  - (b) **Part of the plant used for kava beverage.** Consistent with the national and regional quality standards for kava exports only the basal stems and roots are used in the preparation of the kava beverage. Analytical data indicate that the use of stem peelings and leaves in the kava material could introduce potentially toxic alkaloids and flavokavins. Anecdotal evidence suggests that some inappropriate use of stems and peelings has occurred when preparing kava beverages. There is a case for restricting the plant material for kava beverage preparation to peeled rhizomes and roots.
  - (c) **Quality of kava material used for kava beverage.** Postharvest storage of kava material in warm and humid conditions is a suitable environment for the growth of moulds, such as

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<sup>11</sup> FAO and WHO, 2016, 'Kava: a review of the safety of traditional and recreational beverage consumption – Technical Report', Online [Accessed: 4 May 2020].

<sup>12</sup> Lebot et al (2019) - Kavalactones and Flavokavins Profiles Contribute to Quality Assessment of Kava (*Piper methysticum* G. Forst), the Traditional Beverage of the Pacific - <https://www.mdpi.com/2306-5710/5/2/34/htm>

*Aspergillus* spp. which can produce aflatoxins. Direct evidence for the presence of aflatoxins is not available, but there is anecdotal evidence of poor-quality kava material being used for beverage preparation. There is a case for better monitoring of kava storage conditions and additional surveillance for contaminants.

- (d) **Excessive and frequent consumption of kava beverage.** As reported by the FAO, excessive and frequent consumption of kava beverage can result in some health issues, which are reversible upon cessation of consumption. There is a case for discouraging heavy consumption of kava beverage.

***Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?***

53. The main concern from the community is the risk that by opening up the commercial importation of kava, a small group of individuals may see it as an opportunity to misuse this opportunity to then increase the sale of kava to remote indigenous communities as set out above.
54. To address these concerns, we support any legislation that restricts the overpriced sale of kava or trafficking of kava to these remote indigenous communities. Fines or potential imprisonment should be enforced to deter people.

***Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and/or commercial importing kava into Australia?***

55. Limit the sale of kava to indigenous communities through legislation that prohibit the illegal trafficking of overpriced kava into these communities.
56. Potentially assisted through Pacific consultations in these remote communities to educate them of the significance of the potential benefits of kava clubs and deter the over consumption of kava.

***Question 8: What benefits may be achieved from commercial importing kava into Australia?***

57. The trade and export of kava to Australia will provide significant economic benefit to our local economies in the Pacific islands, such as improving the livelihoods of local farmers, such as Koliniasi and our team in 'Eua, as well as suppliers and exporters of kava. The financial returns will help farmers with family commitments such as sending children to school, improving their standard of living, contribute to their village and church obligations.
58. For instance, since investing in our farm we have supported families with employment in 'Eua by hiring labourers. We also provide an opportunity for our extended family in 'Eua to manage their own and start up projects such as a local business in 'Eua. We aim to continue and expand the local business in 'Eua. Feleoko 'a Maui has also managed to assist the local store we have on the property in Ta'anga, 'Eua and look to use any capital from the kava plantation to extend the property to include a tourist hub, café, which is currently non-existent in that island.

59. It should be noted that as a cash crop, the sale and trade in kava has provided employment and a source of income also for women, the youth and people with a disability, where women are now planting or funding their own kava plantation to support their family. These individuals have been able to participate in different parts along the kava value chain. Attaining market access for commercial consignments of kava to Australia will give the Tongan farmers a leg up so to speak, they can build their economy and one day not rely on cash donations or foreign aid from Australia, as well as remittance from extended family, but live of their own produce, and land, thus be self-sufficient.
60. This is showcased with our extended in family in 'Eua. Since commencing the investment in 'Eua we have also assisted Taniela's sisters with a few business ventures and provided resources, crop and much needed assistance with planting their own kava. The aim is to eventually build our own facility, subject to available funds and will apply for HACCP accreditation to commence export overseas, preferably to Australia.
61. Kava is a plant that requires investment and time to grow. The general maturity of the crop takes some 3 to 5 years before harvest. It takes farmers, Koliniasi and our team in the islands of 'Eua in Tonga, patience to grow. By providing farmers from local communities in these islands with an opportunity to also compete in the market and improve their standard of living and leave a legacy for the next generation of Tongan nationals and migrants alike, is a major benefit that Australia can provide as opposed to simply giving handouts through aid programs that at times unfortunately do not reach the grass root level, such as the farmers and their families. The common beneficiaries in these cases are usually the agent. But by providing a level playing field for growers, suppliers of kava, they can help a family, extended estate (*kainga*) but also a nation rebuild, especially in the face of adversities during these unprecedented times.
62. We understand from a review of the Australian Bureau of Statistics Census of 2016 that there is an estimated 1.9 million people of Pasifika descent residing in Australia.<sup>13</sup> This does not include the labourers from Tonga in the labour scheme. The market is vast and there is a demand as we have received requests for export. We have also received requests from individuals looking to start up a kava bar. If we were able to supply to these businesses, we would not only be paying taxes in Tonga, but also taxes on foreign profit and GST here in Australia, thus boosting both the Tongan and Australian economies. We would need to hire more staff in Tonga and also here in Australia, so thus creating employment.
63. As major sponsors of the Brisbane Tongan Community Inc, with projects such as the Qld Tongan Language School, Pasifika TV and Radio, as well as a corporate sponsor of the Pasifika Lawyers Association of Queensland Inc., as a business we would like to continue empowering these and other community organisations.

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<sup>13</sup> ABS website: Census 2016:  
<https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3415.0Main%20Features42020?opendocument&tabname=Summary&pr odno=3415.0&issue=2020&num=&view=>, Accessed 31 May 2020.



64. Since the COVID-19 closure we have also initiated a project that provides much needed produce, sweet potatoes to the Pasifika communities in Brisbane, Sydney and now looking at Griffith. We purchase locally from local farms in rural Queensland, Bundaberg and ship interstate or locally to cover this need.

***Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?***

65. Feleoko 'a Maui will be submitting an application to import kava once this pilot comes into effect. Our aim is to expand our business in Brisbane once we are able to harvest and also assist in rebuilding family properties that were devastated during the recent cyclones in Tonga.
66. We agree with the proposal in the BTC submissions that a selection criteria is mandated to ensure only exporters with a Hazard Analysis Critical Control Point certification (**HACCP**) certified processing facility and/or individuals currently registered with the Food and Drug Administration (**FDA**) and are exporting kava to the USA may participate in the pilot. This requirement will demonstrate that exporters who participate in the proposed pilot understand and are able to meet the import requirements of a key export market like the USA.
67. We would also request that local farmers like our investment in 'Eua, are provided with an opportunity to compete with larger kava plantations that have been established for several years. Support from the government would be beneficial, as there are limited resources available for local farmers. For example, Koliniasi and the local farmers use a warehouse funded and built by the Australian government in 'Eua for production, but it is used for meetings with no machinery. It would be beneficial if this facility were equipped by either the Tongan government with assistance from Australia as a HACCP facility, to enable local growers to pack their kava.
68. Kava may potentially be priced according to the market and retailed online via our website [www.feleokoamaui.com](http://www.feleokoamaui.com), local markets, kava bars, kava clubs, that have a permit to sell kava.
69. We are a small business with a kava plantation in Tonga, 'Eua Island, that aim to supply kava from Tonga, subject to approval processes will market to Australia, and other markets such as New Zealand, USA, Europe and Asia. Kava is currently sold for \$80-\$100TOP/kilogram (a drop from \$150 due to the closures) in Tonga.
70. We would aim to price on quality, quantity and marketable value.

**G. Monitoring and evaluation**

***Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?***

71. Reporting arrangements. A questionnaire may be developed to capture the views of the communities about the pilot. This will include the participation of the representatives from the

market side (represented by the Pacific island communities, Indigenous communities in the Northern Territory and government representatives from the Federal, State and Territories) and the kava stakeholders from the supply side (the farmers, kava exporters and Pacific Island governments).

72. Importers would be required by law to report their profits and losses annually to the Australian Taxation Office and as detailed under Option 3 above we have suggested a few additional reporting requirements.

**Question 11: What methods should be used to monitor and evaluate the health, social, economic, and regulatory impacts of kava consumption during the pilot**

73. Consultation with communities, stakeholders and reporting arrangements with importers.

**Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?**

74. We are happy to assist, subject to funding, to the monitoring and evaluation of the pilot.

75. Organisations such as PHAMA may be able to assist with figures from the Pacific and then perhaps a State agency in Australia can coordinate and facilitate, also fund community not-for-profit organisations such as BTC to assist in collating relevant data on the cultural and social aspects of Kava use in the community.

**Question 13: What data should be collected to effectively measure the health, social and economic and regulatory impacts of kava?**

76. We suggest further consultation is required with importers, commercial permit holders or licensees selling kava, as well as community organisations that detail the effect of this pilot within the community.
77. This may also involve reporting requirements to gauge the implications of the commercial importation of kava.

## **H. Cultural significance of kava to Tongans in Australia**

78. Feleoko 'a Maui supports the submissions put forth by the BTC on the cultural significance of kava to Tongans in Australia, in maintaining its traditional cultural practises (*anga fakatonga*), these include, but are not limited to the following, which are continued in the Diaspora:
- (i) Kava ceremonies – from the *taumafa kava* reserved for Royal ceremonies;
  - (j) Traditional ceremonies – weddings, funerals, birthdays, social gatherings, fundraisers;
  - (k) Kava clubs – social groups for men in the community that meet every weekend;
  - (l) Church – functions, welcoming preachers (*talitali malanga*);

- (m) Tongan courtships – when a gentlemen visits or wishes to court a Tongan woman;
- (n) Reconciliation – when a family member or extended family members wish to seek forgiveness from their elders, for instance, when a couple decide to get married without their respective parents' blessing.

79. We support the examples provided in the BTC submissions.

80. We emphasise the following extracts from the BTC submissions that of our Tongan pillars of society - *fā'i kave'i koula* (4 Golden Pillars):

(a) *faka'apa'apa* (reciprocal respect),

(b) *lototō* (humility),

(c) *mamahi'i me'a* (a sense of loyalty, passion tied to responsibility) and

(d) *tauhi vā* (valuing relationships and in so doing maintaining them).

These are bound by *'ofa* (love) within the context of *kainga* (extended family), without *'ofa* all else falls.

81. It is safe to say that our business has assisted various fundraisers from Tonga to here in Australia, as well as maintaining our Tongan cultural protocols that epitomise the four pillars as stated above. We support the submissions that by maintain our cultural ties to the homeland through kava ceremonies, and continue support, kava is an essential part of our community here in Brisbane.

82. Taniela is not only a member of a kava club here in Brisbane, but also in 'Eua. We support both groups and see the benefits not only for the men but also financial support for families in need. Our aim is to continue this legacy for our children and with the ability to provide that commercial benefit for our families and communities, it is a major move towards self-sufficiency and financial independence.

## **I. Conclusion**

83. As detailed above, kava is an essential part of our Tongan traditional practices.

84. We support the easing of the restrictions as it not only provides for the needs of our people in the diaspora, but also assist in the economic growth in the Kingdom of Tonga. We have particular interest in 'Eua, especially following the recent cyclones that wiped out a number of the villages along the coast.

85. Feleoko 'a Maui is committed to working together with the ODC and the government in the Commonwealth of Australia, the Kingdom of Tonga in providing better services and opportunities for our Tongan people and greater Pasifika region.

Mālō 'aupito (Thank you very much)



Mr Taniela Fa'onevai  
Director



Mrs Leilehua Fa'onevai  
Director

## GLOSSARY

<i>Anga fakatonga</i>	Tongan way of life, tradition and culture
Diaspora	"...scattered throughout many nations" and "a history of dispersal, myths/memories of the homeland, alienation in the host country, desire for eventual return, ongoing support of the homeland, and a collective identity importantly defined by this relationship."
<i>Fakatonga</i>	Tongan, like or pertaining to Tongans, in the Tongan manner.
<i>Fāмили</i>	Tongan word for family, hono fāмили means member of one's family.
<i>Kāinga</i>	Tongan word for relation, relative; brother or sister in the sense of comrade or compatriot. The extended family.
<i>Kalapu</i>	Means a club or group.
<i>Kava</i>	Either the plant ( <i>Piper methysticum</i> ) or the mildly narcotic beverage made from its crushed root. <sup>14</sup>
Kava Ceremony	Ceremonial presentation on a large scale and with a big piece of kava plant in the lead. That is the presentation by the people of Kolovai. Feast given in someone's honour on certain occasions, such as circumcision, marriage, winning of a prize or scholarship. <sup>15</sup>

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<sup>14</sup> C. Maxwell Churchward, (1959) *Tongan Dictionary: Tongan-English and English-Tongan*, Tonga: The Government of Tonga Printing Press, p.257.

<sup>15</sup> C. M. Churchward, *op cit.* pp. 257-258.

# ATTACHMENT 1.

Photos of Koliniasi Fa'onevai with his trusted horse and also with Suli Helu



## ATTACHMENT 2.

Photos of Feleoko 'a Maui's plantation in 'Eua, Kingdom of Tonga with  
Koliniasi Fa'onevai and Suli Helu



*Photos from the kava farm in 'Eua*









## ATTACHMENT 3.

### Sample of the proposed packaging





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**To:** The Government of Australia

**From:** The Government of the Republic of Vanuatu

**Subject:** **Pilot program to ease restrictions on the importation of kava for commercial purpose**

### **Background**

1. The Vanuatu Government acknowledges the Australian Government for communicating on 29 April 2020 its consultation paper on allowing the commercial importation of kava. The proposed phase of the pilot would allow for the commercial importation of unlimited amounts of kava into Australia for non-medicinal purposes, in addition to the medicinal and therapeutic purposes currently allowed under permit. Vanuatu again recognises the efforts from Australia to increase the importation from 2kg – 4 kg, which was implemented in December 2019.
2. The Ministry of Foreign Affairs, International Cooperation, and External Trade on behalf of the Government and its people is presenting this response drawn from a collective effort provided by kava industry stakeholders on the choices and decisions for a win-win approach for both countries.
3. Kava is known as the ‘green gold’ commodity within Vanuatu. It has long been and continues to be a significant primary product contributing to the domestic economy and the livelihood of the people in the rural areas who depend on kava as the major source of income, and for its traditional purposes. In 2019, kava amounted to roughly 57% of Vanuatu’s merchandise exports<sup>1</sup>, thus showcasing its national importance. Indeed, the recently published Trade Policy Framework Update states that ‘kava is now definitively Vanuatu’s most important commodity, offering an unparalleled road to development.’

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<sup>1</sup> Source: Vanuatu National Statistics office

4. Kava is particularly important as the income generated flows back to the rural islands, which are often left out of from other aspects of the formal economy – such as services. With the benefits strongly visible, many more farmers and people throughout Vanuatu and the Pacific have increased their planting of the kava plant. The kava plant takes around five years before it is ready for export, and so it had been expected that supply will increase sharply in the coming years – especially noting the last four-year post Tropical Cyclone Pam. TC Pam destroyed much of Vanuatu’s kava crops, and so there was substantial replanting in the period following TC Pam. It was therefore expected that this year there would be a large increase in kava supply – this oversupply would have likely led to a fall in prices, which in turn would significantly impact the potential of the rural communities of Vanuatu to further develop. The best way to reverse this potential trend would be to increase demand in line with supply – kava is one of the very few products for which the Pacific represents a very high proportion of production, and for which the Pacific Island nations themselves have control over. It is this fact which makes kava so unique, and which means it has such huge development potentials for the Pacific. An increase in demand for kava, leading to higher prices and volumes, is the clearest and simplest way for Vanuatu to develop.
5. At the Forum Trade Ministers Meeting held in Fiji, in February 2020, Ministers supported Vanuatu to maintain discussions on kava at regional and international fora, and to determine how to enhance market access and market diversification for kava and kava products; and encouraged the finalisation and adoption of regional kava standards in line with *Codex Alimentarius* provisions that would enable the development of kava value chain into a global commodity.
6. Vanuatu was hit by another category 5 cyclone TC Harold, in early April. The impact of this natural disaster on kava supply is unclear, although reports are coming in of widespread damage to crops in many of the worst impacted areas. Whilst this may go some way to offsetting the situation of oversupply that was forecast, it is still very important to continue to grow markets for kava – especially as the Government of Vanuatu is supporting its farmers to replant as much as possible. The impact of COVID-19 on the global kava market is also unclear, but it is possible that it will particularly impact demand from the US, a nation where the impact of COVID-19 has been particularly severe, with nearly 100,000 dead and 36m unemployed at the time of drafting. Given kava is more of a luxury good in the US, it is possible

that demand will fall as a result of the COVID-19 situation. On the other hand, before COVID-19 the US market was growing very rapidly, and so it is uncertain at this stage which of these factors will dominate.

7. Vanuatu's commitment on the PACER Plus trade agreement focused on increasing market access of products such as kava into Australia during the course of the negotiations process. Despite being Vanuatu's closest large neighbour, Australia was responsible for only 4% of Vanuatu's entire merchandise exports in 2018 – representing about VUV 171m, whilst 22% of Vanuatu's imports came from Australia, with an estimated value of VUV 10 billion. Australian exports to Vanuatu were therefore 60 times larger than Vanuatu's exports to Australia, representing a huge imbalance in merchandise trade – albeit one which is offset to some degree by trade in services. Kava offers by far the best route for this imbalance to be addressed, and for Vanuatu to actually begin to export in a reasonable quantity.
8. Following consultations with several members of the kava industry, government, individuals, the private sector and community leaders/ chiefs from Vanuatu on this phase 2 consultation, the Vanuatu Government therefore submits the following comments:
9. The kava plant has long played a crucial role in South Pacific societies, with it being a critical part of many important occasions and ceremonies – such as weddings, funerals, or chiefly ceremonies. These ceremonies have long relied on kava to 'seal the deal', and the Government of Vanuatu believes it is of great importance that the South Pacific diaspora is able to fully commit to these cultural values.
10. The role of kava within these communities extends far beyond just these important ceremonies, however. Kava is the most popular drink within Vanuatu, and is a key social activity within the country. This is evident by the 250-300 kava bars based within Port Vila, a city of around 60,000 people (includes daily commuters).
11. The Government of Vanuatu believes that kava has a strong positive impact on the community and society of Vanuatu, especially when compared to alcohol. The Government acknowledges that there can be isolated incidents of social disorder caused by kava – however, the vast majority of people consume kava in a safe and sensible manner, and very often as an alternative to alcohol, a substance which has huge social and health issues associated with it. Anecdotal evidence from the US shows kava is very effective at helping people to transition away from alcohol.

12. The Government of Vanuatu acknowledges the Government of Australia's determination to continue to prioritize the development of commercial importation of kava in the Pacific. Vanuatu is very interested and looks forward to the commercial exports of kava and kava products to Australia soon.
13. The Australia and New Zealand support on the Kava Value Chain analysis through the PHAMA Plus program is acknowledged.

***Phase 2: Allowing the commercial importation of kava into Australia***

***Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?***

14. The Vanuatu Government believes the following;
  - Kava does not offer a health risk;
  - Kava is beneficial overall on a social level;
  - Despite the above two points, the Vanuatu Government does not support the sale of kava to children. Therefore, the Vanuatu Government supports some regulation on kava – however, it questions whether this needs to be through the prohibited import legislation. Its preferred option is to introduce separate legislation to manage this;
  - The Vanuatu Government does acknowledge that data would be useful;
  - Therefore, the Government of Vanuatu is willing to support the second option as part of the pilot. Once the regional kava standard through CODEX Alimentarius Commission has been agreed, the Government Vanuatu believes that kava should be removed immediately from the list of Prohibited Imports, and separate legislation should be utilised regarding who can purchase kava;
15. ***Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?***
16. As little as possible – this should only relate to the sale of kava to minors.

***Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?***

17. None

***Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?***

18. All credible research points to kava being safe to consume for the general adult population, and therefore there should be general warnings. The one possible exception is that there is a lack of research into the impact of kava on pregnant women – there is nothing to suggest it is unsafe, but there is a lack of evidence saying it is safe for this subgroup. Therefore, there should be warnings saying that pregnant women should either avoid kava altogether, or that they should drink limited quantities with caution.

### **Health and Social impact of Kava**

***Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?***

19. The Government of Vanuatu and its people acknowledge the complexity of the issues affecting the Indigenous Australians in Arnhem Land (Northern Australia). However, Vanuatu feels that kava is being treated unfairly as a result and this has had a flow-on negative impact on the image of kava. For example, alcohol abuse and excessive consumption of alcohol were also reported as key contributing factors to the issues affecting the Indigenous communities in Arnhem land. However, there are no restrictions being placed on the import or production of alcohol.

20. Kava consumed in the traditional form as a beverage is known for its benefits to reduce stress, promote relaxation, and meet our social and ceremonial obligations. Additionally, there have been several clinical studies that confirmed that kava performed favourably in relation to the other synthetic drugs and alcohol as a remedy of Generalised Anxiety Disorder.

21. Clinical studies conducted on Kava when consumed in its traditional form (kava extracted with water) confirmed that kava was safe as a drink. A traditional drink that does not do any harm compared to the use of alcohol and other drugs for social purposes. For example, Kava water extract is recognized as safe<sup>2</sup> and is classified as a food export to markets like New Zealand,

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<sup>2</sup> Source: WHO report (2008), [https://apps.who.int/iris/bitstream/handle/10665/43630/9789241595261\\_eng.pdf;jsessionid=ACD7CE180D69D81024ABCE88BD6F215E?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/43630/9789241595261_eng.pdf;jsessionid=ACD7CE180D69D81024ABCE88BD6F215E?sequence=1)

the USA, and New Caledonia, where kava drinking places are developing rapidly without health-related issues. Its positive impact on people to avoid hefty consumption of alcohol is compared to people consuming tea in Britain or coffee in Italy.

22. The Government of Vanuatu disputes the assertions in the consultation paper about the negative impacts of kava on health, especially with regards to liver toxicity. The Government of Vanuatu requests a dialogue between the Office of the Drug Control, the Vanuatu Government, and the Vanuatu Kava Industry Association to further study the scientific evidence for the health impacts of kava.

***Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?***

No

***Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?***

Kava consumption should be encouraged in moderation – however, given the very low risks associated with kava consumption, there are no specific programs which are suggested.

### **Business Impacts of Kava**

***Question 8: What benefits may be achieved from commercially importing kava into Australia?***

***Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?***

23. Kava had been consumed for over thousands of years by the Pacific Islands Communities in its cultural functions and ceremonies. Kava drinking is generally very responsible, especially when compared to alcohol;

24. Opening the market access of Kava exports from Vanuatu will be a sign of manifestation towards the development of PACER Plus commitments and further assisting Vanuatu trade its



main commodity. This paper has already examined the trade imbalance between the two nations, and this would be an excellent way to address that.

25. Kava is incredibly important to Vanuatu as it plays a huge role in society; there are 30,000+ households in Vanuatu who continue to depend on Kava for their livelihood.

26. The Government of Vanuatu looks forward to a win-win approach for the two countries.

### **What methods of evaluation should apply to this pilot?**

*Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?*

*Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?*

*Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?*

27. The Vanuatu Government does not have any strong belief about the best methods of evaluation, but would request that good and reliable data is gathered, where possible.

28. The Vanuatu Government is willing to provide data to Australia to support the evaluation. The recently launched Single Window platform – partly financed by DFAT – improves the data collection ability of Vanuatu.

### **Conclusion**

29. The Vanuatu government wishes to emphasize on these points towards this proposal for consideration;

- i. Kava is an incredibly important social and economic crop for Vanuatu;
- ii. The Government of Vanuatu believes that kava is safe, and that the scientific evidence supports this assertion;
- iii. There is a very strong demand for kava within Australia from the South Pacific diaspora, both for ceremonial use, and for social use. Kava has had strong positive benefits on the ni-Vanuatu society;
- iv. The Government of Vanuatu welcomes the proposal and strongly states its support for the opening up of the commercial market for Australia.

30. The Government of Vanuatu would like to stress its commitment to working with the Australian Government and its stakeholders in order to ensure that kava is enjoyed safely and responsibly overseas, in the same manner as it is in Vanuatu.

## **TO WHOM IT MAY CONCERN**

Please be advised that I do not support Kava to be commercially imported to Australia due to reasons below:

- Since our Australian Prime Minister has agreed in December 2019, an individual can bring up to 4kg of Kava for personal use, this pilot program is working fine
- Once Kava is commercially allowed into Australia then there will be surplus of Kava, there will have no control of it
- At this current point of time individuals consume Kava at moderate amount, due to no kava available in Australian Market
- However once its commercially allowed then the consumption will increase

In moving forward if an individual or community requires big quantity of Kava for special occasions such as wedding, parties, or religious functions.

Then my suggestion is that this request can be made in writing to Office of Drug Control with proof of evidence as to what purpose they need the Kava (but it should be limited to no more than 10kg)

In moving forward I would prefer to go with current pilot program where we are allowed to bring 4kg per person into Australia

Yours sincerely

Kamal Deo



I am compelled to write this submission solely on behalf of the Indigenous Fijian heritage and Fijian migrants residing in Victoria, Australia, whose lives and cultures are impacted by kava.

In their latest meeting, Prime Minister Scott Morrison and the Fijian Prime Minister, Frank Bainimarama, addressed this issue, thus the Phase 2 of this project. It is highly appreciated not only to see some positive steps in this scheme but to see the relationship of the two neighbouring countries very encouraging and empowering.

As a Fijian, residing in Victoria, Australia, for thirty-odd years, and worked in some remote indigenous communities, it has given me some insight to the lives and characters in isolated communities of the First Peoples of Australia.

Currently, as an Elder and Leader of some Fijian communities in Victoria as follows –

1. Consultant and Chairman of investment for the Lau Provincial Association Inc.
2. Advisor – Victorian Fijian Association
3. Chairman – Development – Keysborough Social Club
4. Elder – Dandenong Regional Uniting Church
5. Elder – Lewe Tolu Va-Kalou Congregation. This is the Fijian congregation at Dandenong Regional Uniting Church

The above registered associations and groups have networks throughout Australia.

We appreciate the change from 2kg to 4 kg in Phase 1 of the scheme. The demand for kava has not reduced. This probably because of –

1. Irregular travel to Fiji
2. Not all travellers return with 4kg of kava. For some, it is due to their faith which prohibits them from using kava.
3. The current prices of kava in Fiji is, \$F120 - \$F150, a kilogram. Bear in mind the majority of workers are paid under the poverty line, about \$F2.50 an hour. The increased importation of kava will assist in lifting some of them to a better quality of life.
4. Let us not forget the current situation we are faced with COVID-19 and its impact globally.

We also sympathise with the plight of the indigenous Australians in Arnheim land (Northern Territory) whose reports and recommendations painted an adverse report focused on kava. When it is undeniable that before the introduction of kava, alcoholism was rife in most of their communities and their reports should be challenged, and compared. Please do not scapegoat kava for the true culprit that harms and kills is alcoholism.

Unfortunately, kava has been used as a scapegoat which misinformed and undermine the traditional and cultural value of kava which is embedded historically in the Indigenous Fijian, Tongan, Samoan cultures and traditions including in our faith religions since the dawn of civilisation. Kava was used in ceremonies that has brought peace and stability to the South

Pacific regions which we enjoy today. The islanders are also known as God-fearing people for their humbleness, loving and caring.

Hopefully, the Phase 2 of this pilot project will encourage Pacific Islanders to better their relationship not only in Australia but to their homeland where blood relatives are living. Islanders should also be encouraged by the Australian Government to set up new business ventures with permits to import. To be self-reliant and better opportunity for employment to minimise dependence on government handouts. In return assist with relatives and families back in the homeland.

The commercial importation Phase 2 of this scheme, not only can benefit the Fijians in Australia, but the Australian Government and the rural farmers, the middlemen in Fiji and the peoples back home.

Currently, the Indigenous Fijians in Australia, and related communities are unable to fully express their cultural use of kava due to its restrictions and availability and price, about \$A200 a kilogram.

Therefore we compile this submission and propose the commercial implementation of kava Phase 2 Pilot scheme by Islanders of Fijian, Tongan and Samoan heritage in Australia to fulfil their ceremonial cultures and religious events and set up kava businesses in their communities

The significance of kava is deeply rooted and embedded in the Fijian way of life. For centuries, it was exclusively used during traditional cultural ceremonies. While it remains an integral part of Fijian customs (at births, initiation into adulthood, weddings, deaths; introductions, conflict resolutions, mediation, consultations; kava is used as a mark of acceptance, recognition, endorsement and honour), the use of the drink has extended beyond the ambits of traditional and cultural protocols. It has evolved into a popular social drink in the modern Fiji, known for its calming effects that widely appeal to working urbanites.

Renowned Pacific educator, Konai Helu Thaman (1992) in discussing the value of culture quoted 'we in Fiji and in the South Pacific must not allow our own cultures to be undermined. Our cultures make us what we are. Without them, we are like debris in the ocean. Culture is the soul of the people. It is what we were, what we are and with appropriate education, what we can become...'.

Hopefully, this opportunity of Phase 2 will uplift and foster better relationship with other communities this less frustrations and embarrassment dur to the lack of availability.

Let us open up the market to implement Phase 2 of allowing commercial importation of kava.

Currently, the Fijian (and related) communities in Australia are unable to fully express their cultural uses of kava due to its unavailability and restricted use. Thus, it is considered that the proposed increase from 2kgs to 4kgs is inadequate not only in terms of meeting the needs for the personal use of by our Fijian and Pacific Island communities in Australia for

their social and ceremonial functions but also to allow for meaningful information to be collected and evaluated to address the remaining considerations for the pilot program. Kava is prepared as a beverage with the kavalactones being extracted with water for consumption during our cultural and traditional ceremonies as well as for our social gatherings. In this context, kava is seldomly consumed alone but customarily by a group of individuals or communities at a meeting or gatherings or “kava sessions”.

Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?

Answer: I am supportive of the import permits (option 2) to allow kava importation to be controlled and monitored, due to the quality and quantity of kava. I am against the over flooding of the commercial market with poor or substandard kava. There are three grades (1) root, (2) stalk and (3) mixture of both (1) & (2). This could also eliminate the ‘black market’ and the huge prices which affects communities who are not aware of better prices.

Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?

Answer: Permit holders / Importers to have better understanding about the significant importance and value of kava, culturally/traditionally, because kava is embedded in the indigenous (native Fijian) lives and culture. Hence the indigenous Fijians should be encouraged to hold permits as they are the users and consumers of kava. Although other ethnic groups drink kava but mostly sell them for commercial purpose. As migrants still have families/relatives whom we visit or communicate often. The importer could encourage the commercial farming in communities.

Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?

Answer: The consumption of kava cannot be used with any other beverage except cold (tap) water. Kava isn't a drink to be taken with alcoholic drinks. It needs to be introduced slowly to the communities. Perhaps look at ways of educating people about kava sessions in the communities. It is to be consumed in a group, or family environment, for relaxation and open discussion of events.

Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?

Answer: In addition to the potential harms, its effect is not intoxicating like alcohol. Alcohol only takes a few minutes to reach the human brain. If drunk in quantity it affects the way you think, feel and behave. Some may become aggressive or violent. However, kava has a calming effect but can have other effects -

1. The long hours of socialising, 3 – 4 hours a session, can effect family life. Menfolk tend to sit in a ‘grog session’ while the wife is at home.
2. If kava is consumed constantly and over long periods it can cause the drying of the skin.
3. Inflamed eyes and a lethargic attitude
4. Can cause headaches if taken on an empty stomach. It is recommended it is taken with, or after, food consumption.

Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?

Answer: My views on health, social and cultural impacts of kava. Like every consumable commodity, excessive use will have some adverse effect, therefore consumption must be in moderation. The impact socially and culturally is well known historically. The indigenous Fijian had significant cultural value of kava embedded in their lives. Ceremonial events and gatherings were such that the preparation/presentation of kava was integral to the gathering. As an indigenous Fijian and consumer of ceremonial kava due to my status in the Fijian communities and Elder of Religious group I am able to provide this as evidence.

Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?

Answer: My only concern as a Fijian that the market could be flooded with poor quality kava for economic gain, but have no value or interest in the quality of kava that will end up with the indigenous Fijian community in Australia.

Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?

Answer: To limit any potential negative impacts or risks of using kava. Permits should be given to Pacific Islander communities and capable individuals who are able to set up and monitor the phase 2 of the pilot scheme and to be held accountable for the supply of data when required.

Another thought would be to provide education and awareness programs to the Australian community emphasising the positive effects of the moderate use of kava.

Question 8: What benefits may be achieved from commercially importing kava into Australia?

Answer: The benefits are tremendous –

1. The continuation of Fijian customs and the ability to pass these down to younger generations. Our heritage will continue.
2. An employment opportunity. Businesses can be set up to import and sell kava.
3. The permit issued will regulate prices and better quality of kava in the community
4. Easy to monitor, control and analyse data for health, social and cultural impacts.
5. In Fiji, kava can be taken as a relaxant, sedative, pain reliever, and to aid sleep.
6. Kava is well known to relieve stress and is an alternative anti-anxiety treatment; other uses include treatment for muscle pain



7. With the employment opportunities there would be less dependence on government handouts.

9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?

Answer: New businesses to be set up for kava by those potential permit holders for kava phase 2 pilot in the communities of consumers. This is to import high quality at affordable price to users in Australia. Prices will be calculated at:

1. Purchase of kava from farmers
2. Transportation and customers fees
3. Add 50 – 70% profit.

Marketed: to be supplied to Fijian communities in Australia, where it can be retailed.

Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?

Answer: Methods to monitor and evaluate the success and impact of the pilot. The wholesaler and retailers should provide clear records of business and the communities involved.

Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?

Answer: Methods used in my opinion of this pilot is the recording of the following:

1. Sources of purchases, that is farmers / middlemen, etc.
2. Permit holders information
3. Purchase prices and costs of handling/transportation
4. Outlet markets in Australia, that is communities/clients/customers, hence easy access to data and evaluations
5. Selling prices in Australian dollars depends on the conversion rates and transport cost plus 50 – 70% profit margin

Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?

Answer: The permit holder who is the source of distribution and his knowledge of the community that he supplies to during the period of the pilot.

Question 13: What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava?

Answer: Data collected should reflect the following:

1. The supplier/permit holder information
2. Date of purchase/delivery

3. Consumption details, that is ceremonial events, religious gatherings or socialising with family and friends (this record could make it easy to trace/track down the impact on health and social issues if required and its economic benefits).

Feedback:

I would appreciate if we could be considered to import kava for commercial purposes as I am an indigenous Fijian Australian to ensure the proper recording of data required and the wellbeing of Australians that use kava in whatever capacity, that is health, culture, social events, etc. This will also allow me and my colleagues to write a booklet on its preparation and use in communities that are interested to use kava for socialising in communities ravaged by alcoholism and drug abuse.

I am also prepared to be interviewed by the agency concerned for more impact of kava in the Australian Fijian communities.

## **Submission on the importation of kava and kava products into Australia**

**Richard Beyer**

The issue of kava importation into Australia relates to public safety. Consumers have the right to expect safe consumables. There is considerable epidemiological support for its safety since it has been used as a traditional beverage for many years throughout a number of Pacific states without any pathological effects.

The major issue is the treatment of kava prior to packaging and shipping. The basic tenets of Codex Alimentarius must be observed in any kava transaction. That is that the normal horizontal standards which mandate the minimisation of risk of biological, chemical, and physical hazards. Hence the product must be treated with the normal standards relating to food hygiene and that Hazard Analysis and Critical Control Points certification of the premises and the handling is a requirement.

This also mandates that wherever possible kava should be harvested in areas where good agricultural practices or the local equivalent are observed.

Codex Alimentarius also require that there is traceability along the supply chain. Ideally this requires that all transactions along the supply chain are monitored and recorded so that risks are reduced from the field to the point of consumption.

Packaging must conform to Codex standards the details of which can be obtained from [www.fao.org/3/Y2770E/y2770e02.htm](http://www.fao.org/3/Y2770E/y2770e02.htm).

Such standards have been achieved in the past in a number of kava exporting companies and so these suggestions are not unattainable.

The standard of kava handling prior to consumption is variable. Most of the reputabke==

# Submission Australia Kava Pilot

## Phase 2: Allowing the commercial importation of kava

### Potential changes to allow for the commercial importation of kava

Question 1: Are you supportive of the use of import permits (option 2) to allow kava importation to be controlled and monitored?

Answer 1: Each state in Australia has different demographics, socioeconomic situations and public concerns not to mention individual rights and freedoms; therefore in general the importation of kava should be as it is in New Zealand and the USA, in Australian states/territories that have an issue with kava consumption, kava should not be subject to any greater regulation than alcohol distribution is.

Question 2: Under option 2 what requirements or conditions do you think are responsible and necessary to be placed on commercial entities in order to allow them to import commercial qualities of kava?

Answer 2: First clearly identify the risks or concerns that are at the bottom of the Australian Kava issue; A recommendation for an independent study of the communities with underlying causes for excessive consumption and harm from kava, clearly differentiating between kava, alcohol, nutrition and socioeconomic factors. (Arnhem Land.) Then requirements or conditions that are responsible and necessary be considered and placed on commercial entities in affected states or territories in order to allow for the import of commercial qualities of kava. No doubt alcohol is a problem in these same communities, which has the most adverse effects has not been established.

Question 3: In addition to state and territory government restrictions on the supply and consumption of kava within their jurisdictions, what other restrictions should be imposed on holders of permits for importing kava into Australia?

Answer 3: There are already Australia and New Zealand food safety standards and international recommended code of practice general principles of food hygiene, there is no need for treating kava any different from any other food import. It would seem reasonable to apply no greater restrictions than apply to alcohol consumption. There are nations developed and underdeveloped that do not have issues with kava; this logic might also apply to the states/territories of Australia.

Question 4: Should kava be sold with further warnings about potential harm, such as those in the food standards? What are your views on what these warnings should be?

Answer 4: As the WHO have noted "Kava is not significantly harmful" it is sufficient to note; Consume in moderation and may cause drowsiness, as long as consumed as recommended there is no evidence that kava diminishes the cognitive abilities as does alcohol.

## Impacts of kava?

Question 5: What are your views on the potential health, social and cultural impacts of kava, and do you have any evidence to share?

Answer 5: As has been amply demonstrated in the Pacific islands human testing of kava for thousands of years, kava consumed as a water suspension contributes to mindful discussions, (*The drinker never becomes angry, unpleasant, quarrelsome or noisy, as happens with alcohol.* **Lewin 1927**). The developing café style kava bars in the USA and New Zealand are introducing this alternative to alcohol, as kava allows relaxation and social engagement without the hang over and other detrimental effects of alcohol. This is the exact reason missionaries introduced kava to Arnhem Land, hoping to reduce the detrimental social impacts of alcohol on their communities, it appears that unique underlying socioeconomic issues in these communities need to be addressed.

Question 6: Are you concerned about any particular risks that may be caused by allowing the commercial importation of kava?

Answer 6: The only concern will be if the normal recommended food and health standards are not adhered to or kavalactone extraction is undertaken using other than water, steam or ethanol. The restriction on adding kava to any other foods needs to be clarified, for example; explain the data behind prohibiting the mixing of a nonalcoholic kava Pina Colada.

Question 7: Do you have any suggestions for how to limit any potential negative impacts or risks of using kava and / or commercially importing kava into Australia?

Answer 7: The Australian and New Zealand food safety regulations and observation of The International Code of Practice General Principles of Food Hygiene are sufficient. **Keep in mind the WHO have stated; "Kava is not significantly harmful"**

Question 8: What benefits may be achieved from commercially importing kava into Australia?

Answer 8: Modern societies like Australia have all these daily problems: non specific stress disorder, insomnia, muscle tension, kava has been shown to assist in relieving these not to mention the small but politically correct Australian assistance to the economies of the Pacific islands where China has been making vast and rapid inroads.

Question 9: What businesses may be involved in the commercial importation and supply of kava and how will kava potentially be priced, marketed and retailed?

Answer 9: Small village farm holdings in the Pacific islands would have an additional revenue source to supplement the general subsistence based economies, these would in turn help develop the supply chain through to the consumer in Australia, market forces determine pricing, marketing probably through the growing Pacific island communities in Australia, herbal health sector and café style kava bars will be an added economic activity contributing to the global GDP.

## Monitoring and evaluation

Question 10: What methods should be used to monitor and evaluate the success and impacts of the pilot?

Answer 10: The same methods used to monitor and evaluate the success and impacts of any other social activity that concerns the public. Pacific island statistics on exports of kava and the value of such exports will also be relevant.

Question 11: What methods should be used to monitor and evaluate the health, social, economic and regulatory impacts of kava consumption during the pilot?

Answer 11: The same methods used to monitor and evaluate the success and impacts of any other health, social, economic and regulatory activity that concerns the public. Should imports open up then the increased exports from the source islands will be an indicator of benefits to the pacific islands and therefore the Australian contribution.

Question 12: Who may be able to contribute to the monitoring and evaluation of the pilot?

Answer 12: Church leaders and community youth leaders in the pacific islands are familiar with kava so for their communities they would be of assistance, in general police reports of community disruptive behavior have suspected contributory causes noted, these reports might be monitored for any mention of kava, then the statistics might show the trend.

Question 13: What data should be collected to effectively measure the health, social, and economic and regulatory impacts of kava?

Answer 13: To effectively measure the effect of kava on a Australian community you are looking at statistical data that may not be representative of the general population, therefore as it is accepted that abuse (*the detrimental effects of excessively large quantities of kava consumed over a short period.*) has been identified in specific Australian communities it would seem reasonable to focus on these areas to determine effects and appropriate localized response, most likely community social engagement and economic activity will need to be improved in the affected locations particularly in line with recovery plans for the current covid-19 pandemic if a positive change is to be achieved in Australia.



## Wilex Samoa Limited

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29<sup>th</sup> May 2020.

### ***Background:***

Wilex Samoa has been involved in the Kava Industry in Samoa and the Pacific for over 25 years, predominantly as a trader/exporter as well as partner with kava farmers.

Wilex appreciates the efforts by the Australian government to open up the Pacific Kava Trade with Australia, and support both local and regional industries in working towards compliance with Bio-security, Health and occupational safety of the industry supporting a fair and responsible trade with Australia.

Our company currently exports kava to the Pacific Region, USA; Europe as well as China and has established capacity to comply with Australian requirements for commercial importation of kava from Samoa.

The writer of this submission is also an active participant in the Kava industry in its following roles:

1. Industry representative in the Samoa Codex Committee
2. Chairman of the International Kava Executive Council
3. President of SAME (Samoa Association of manufacturers & Exporters) which organization plays a key role in promoting and fostering export opportunities for the kava industry

### ***Position on Australian Government Consultation- Kava Pilot Phase 2: Allowing Commercial Importation of Kava”***

We have reviewed the 2 options proposed for consideration under this consultation process as:

**Option 1:** Remove kava (in the form proposed for the pilot) from the PI Regulations, making kava in the form specified in the Food Standard 2.6.3 – Kava consistent with other foods imported into Australia, such is the case with the importation of kava in New Zealand.

**Option 2:** Move kava from Schedule 4 to Schedule 8 of the PI Regulations to allow commercial entities to import kava under permit (under an amended regulation 5H of the PI Regulations).



Wilex Samoa has engaged in consultation with Samoan farmers and the private sector on this matter, and based on this and its own experience in the kava trade, supported the Samoa Government Ministry of Commerce Industry & Labour recommendation for Option 1 as follows:

“Option 1 as a preferred option.

- a. This would bring kava into line with how it is imported into New Zealand and in accordance with the relevant section of the Australia and New Zealand Food Standards Code.
- b. For the benefit of the trial and to allow the relevant agencies to track and monitor the importation of kava under the proposed pilot, we propose that an import permit (IP) is included under Option 1.
- c. As part of the import permit process, importers are required to register their details including their premises where they will trade kava.
- d. This option allows the Government to collect information on the quantities of kava imported into Australia and the importers, and also assist in the monitoring and evaluation component of the pilot.”

### ***Further Support for the Trade, Industry & Consumers***

Commercial exporters of Kava products should have accredited facilities that are also HACCP/Food Safety compliance to ensure quality assurance and facilitate compliance with border, bio-security and international requirements for consumer protection.

### ***Conclusion:***

We echo the sentiments presented in Samoa’s submission that Kava has been consumed in the Pacific Island communities for over 3000 years without any health issues. Kava is an important part of Samoa and Pacific culture of which Australia is a family of.

Opening the commercial importation of kava into Australian following standard international trade requirements will not only address the concerns expressed by the Australian authorities, but it will in turn assist it’s Pacific family in the Kava Industry to generate income to alleviate poverty in the rural communities of the region and also strengthen the Pacific family bond that Australia has been supporting for many years through its aid for trade programs.

We will be happy to provide further information if required and thank you for the opportunity.

Sincerely

Tagaloa Eddie Wilson  
Managing Director