Consultation: Pilot program to ease restrictions on the importation of kava for personal use

Brief Submission from the National Drug Research Institute, Curtin University (NDRI)

March 2019

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Background to this submission

The majority of information for this submission is taken from a research report commissioned by the then-Department of Health and Aging and authored by the National Drug Research Institute in 2012. This research examined the health impacts of use among Aboriginal and Pacific Islander peoples within Australia, as well as the extent of kava use and the effects of previous kava policies. It highlighted the complexity of understanding and addressing kava use in Australia, and the range of other issues that face kava using populations in Australia. The report was not released publically. This submission also draws on an in-press publication reviewing kava use in Aboriginal communities by Edith Cowan University's HealthInfonet, which is due for release in April 2019.

Summary of the current known patterns and harms associated with kava use

In Australia, kava is primarily used by Pacific Islanders (Tongan, Samoan, and Fijian) and in limited number of Aboriginal communities in Arnhem Land. Kava use outside these groups is considered negligible; it was reported as under 2% of the population in 2005 and 2008 in the National Drug Strategy Household survey [1,2] and was not individually reported on in 2013 and 2016 [3,4].

Pacific Islander Australians

As reported in the 2012 NDRI report among Pacific Islanders in Australia, kava use takes place in three main contexts:

- Ceremonial use: ritualised practise often associated with formalising events and as part of celebrations, common among Tongans, Fijians and Samoans.
- Social use: common among Tongan and Fijian males. Among the former, use tends to occur in organised kava clubs. Among Fijians, social use tends to occur in less formal social gatherings with friends or family. Most social use occurs in the evening and at night.
- Religious use: occurs among some members within the services of Christian denomination churches, particularly the Free Wesleyan, and is limited to Tongan men.

Among Pacific Islanders, kava is used predominantly by males over the age of 25 years and consumption by women is generally restricted to ceremonial use. The extent of use is variable but linked to the contexts of use. Data collected in the 2012 NDRI report suggests the majority of Pacific Islanders in Australia who use kava do so ceremonially. This may involve drinking kava, presenting kava or being present during a kava ceremony. Such use may occur on several occasions throughout a year and tends to include the consumption of small amounts of kava over a brief period.

Kava used in social contexts is consumed in greater quantities and more frequently. Tongan kava clubs exist across Australia, including an estimated 80 clubs in Sydney. Such clubs may be linked to a specific church congregation, location in Australia or be a broad social organisation, such as branches of the international Fofo'anga Kava Clubs. Tongan men who

regularly attend kava clubs tend to drink kava approximately 1–3 nights per week for periods of 6–8 hours. During that time, it is common for participants to drink more than 400g of kava person (over 400g per week is estimated to put drinkers at risk of harm [16]). Use does vary with some men attending kava clubs only periodically and others attending a kava club nightly. For many Tongan men, kava clubs provide a space in which they feel accepted and have the opportunity to learn about, and maintain, culture. While regular social use is not considered a 'cultural' practise by a large number of Pacific Islanders, the experience of kava clubs for those who attend is one in which culture is supported.

NDRI's research in 2012 showed the majority of Fijians who consume social kava do so occasionally, with many suggesting that a common pattern of use is once per month for 3–6 hours. However, there is a small proportion of people who use it socially several times per week or more.

With respect to harms, ceremonial and religious forms of kava use among Pacific Islanders are unlikely to have an impact on health. However, social use of kava may present some risks to health. The primary observed negative consequences in this context include kava dermopathy, lethargy and tiredness following kava use, and the amount of time spent in activities related to kava use and the impact of this on families. The results of the 2012 NDRI report suggest that for many Tongan women, time spent by men at kava clubs creates relationship distress, and increased responsibilities in child caring and household chores. Tongan kava clubs are self-regulated and consequently vary greatly in their operation. The clubs have varying degrees of hygiene in the preparation and sharing of kava and the available toilet and washing facilities, which in some instances presents a risk for harm. Several clubs have taken steps to minimise harms and most require members to smoke cigarettes away from those drinking kava. Many kava club attendees report driving after drinking kava and this may present a risk.

Fijian social contexts of kava use are less formal than Tongan kava clubs, however similar health concerns arise. In addition, due to additive effects, the practise of 'washing down' kava with a small amount of alcohol may present a further risk – particularly in the context of driving.

It is important to acknowledge that the levels of recreational (non-ceremonial) kava use are increasing across the Pacific and public health concerns regarding heavy use are emerging across the region [6, 7, 8].

Arnhem Land Communities

Among Aboriginal Australians in Arnhem Land, the use of kava has been, and remains, restricted to a limited number of communities (Yirrkala, Ramingining, Warruwi, Gapuwiyak, Galliwinku, Minjilang, Millingimbi, the Ramingining and Laynhapuy Homelands and to a lesser extent in Maningrida). Kava has been noted at various times in other communities, however this is typically related to small groups with links to the main kava using communities. The negative consequences of use on health and community functioning prior

to 2007 have been well documented [5, 9–14]. The 2012 NDRI report suggests that there has been a decrease in kava use since the import restriction in 2007.

The evidence from the NDRI report and the pre-2007 literature suggests that kava use in Arnhem Land occurs in a social context in group settings including both men and women, and that use is more common among males and those aged over 20 years. Following the importation ban, there have been some shifts in the context of kava use. As described in the 2012 NDRI report, it is now consumed in smaller groups, fewer women drink kava and it has become covert.

In general, the current pattern of use depends on the activity of the black market and, for some but not all, the price of kava. When kava is available it continues to be used in a fashion described in previous research, conducted during the late 1990s and early 2000s, as episodic binge use – where available kava is drunk until it is all consumed. There are few individuals who currently have sufficient access to consume kava daily.

The general health effects among Aboriginal people are similar to those for Pacific Islanders. In addition there are anecdotal reports that black market kava may be 'cut' with uncooked flour and possibly other more concerning substances to increase weight. Nevertheless, the currently observed health effects of kava in Arnhem Land are considered reduced. Health services in the 2012 NDRI report reported a reduced number of presentations consistent with heavy kava use, including incidences of kava dermopathy and red eyes.

The high levels of social harm noted prior to 2007 caused and/or exacerbated by kava, including declines in community and cultural activities, have decreased. There are still heavy kava users, and their families, which experience harm from kava use but this has reduced. The evidence from the 2012 NDRI report suggests that most current harms related to kava use are linked to black market activity, and include: bringing outside influences into communities, the high cost of kava (now upward of $1000 per kilo) impacting of family budgets and community money, and the legal consequences of engaging with the black market (fines, court appearances, incarceration, criminal record).

Suitability of an import restriction

Before commenting on the suitability of an increase to 4kg kava per incoming passenger, it is important to acknowledge the challenges and strengths of the current import restriction (2kg per incoming passenger).

Pacific Islander communities

The rapid implementation of the 2007 regulations, which were developed without consultation, have had a somewhat negative effect on Pacific Islander communities. The import restrictions have had little impact on the kava consumption of the majority of Pacific Islanders in Australia, except with regard to cost and methods of access. Kava became accessible either by knowing or being an 'incoming passenger' or via the black market. The NDRI findings suggested that there may have been some decrease in the frequency of use among Fijian men who report occasional social drinking and that for some ceremonial

events there was difficulty accessing enough kava. In contrast, the findings suggested that kava consumption among Tongan males in kava clubs has been increasing over the past decade and that this trend has persisted despite the import restriction.

An additional concern in some states noted in the 2012 NDRI report was that cultural and community organisations had been prevented from conducting kava ceremonies in public forums as a follow-on from the import restriction.

The import restriction did little except create a black market for kava, increase cost, and create frustration and anger among sections of the Pacific Islander community. The import restriction has not resulted in observable decrease in use or harms and there is no means by which to monitor how kava is used or sold.

Arnhem Land Communities

The evidence collected as part of the 2012 NDRI report suggests that following the import restrictions there was little change in the demand for kava in Arnhem Land. However, a decrease in availability led to a decrease in the frequency of kava use (particularly among women), a possible decrease in the quantity of kava used at each episode, and a decrease in indicators of heavy use (such as kava dermopathy). There is some evidence that kava use is now increasing as the black market gains strength. However, these increases have not resulted in levels of use and harms that have been reported prior to 2007. Furthermore the way in which the import restriction was implemented (without consultation or forewarning) undermined community self-determination and had a negative impact.

In our recent 2019 review for HealthInfoNet, the review of grey literature suggests that the import restriction has led to police responses being the primary method by which kava is addressed in Arnhem communities. This is particularly challenging for NT Police, not only due to the complexities of remote area policing but because there is little support from the Southern states to investigate illegal trafficking.

Suitability of the increase to 4 kilograms

The purpose or rationale for an increase to 4kg of kava per incoming passenger is unclear.

Pacific Islander communities

It is unclear if an increase to 4kg will provide sufficient access to kava for community and cultural organisations for ceremonial use because it still requires sufficient contact with people entering Australia with kava. Community consultation is required with Pacific groups to determine if the increase to 4kg will provide sufficient kava to undertake important cultural ceremonies and decrease the need to use black market kava.

Arnhem Land communities

It is possible that the increase to 4kg will increase the amount of kava in Australia and potentially increase the volume of kava entering into Arnhem Land communities. It is important that the NT and Arnhem communities retain existing regulations that limit kava.

Overall, the change is likely to have a minimal effect on the health and wellbeing of Aboriginal people or those in Pacific communities, and will do little to change the challenges faced by Pacific communities in sourcing kava for cultural ceremonial events.

Potential of health and social impacts of the proposed increase and steps to mitigate them

Pacific Islander communities

There is a risk that an increase to the incoming passenger allowance to 4kg will contribute to levels of higher risk kava consumption in social settings, which is already an increasing trend in some sections of Pacific communities. Key steps to mitigate this include:

- Broad consultation across Pacific communities to understand how to increase the amount of kava available for ceremony without increasing unhealthy kava use.
- Consultation with women and non-kava-using groups is vitally important. There is diversity of opinion among Pacific communities and this needs to be acknowledged and heard. The pro-kava lobby, which promotes social kava use, is vocal and well organised but should not be heard at the expense of other voices.
- The proposed change in the import restriction provides an opportunity to open a discussion around healthy drinking levels and minimising harm in a culturally safe and secure manner. A number of systemic strengths exist in Australian Pacific Islander communities that can facilitate health promotion and harm minimisation for existing kava users. For example, in the Tongan community, churches and kava clubs provide an opportunity for harm minimisation.

Arnhem Land communities

There is a risk that the increase to 4kg will result in more kava entering Arnhem Land and consequently result in heavier drinking patterns and resultant health and social harms. Policing and health resources are required to address these risks.

- Publically reported Police intelligence suggests the majority of kava in the NT comes illegally from NSW, but that only NT police focus on kava [15, 16, 17]. An increase in policing support is required both inside and outside of NT to prevent the black market from spreading and more kava entering Arnhem Land.
- The 2012 NDRI report demonstrated that kava use had largely fallen off the health agenda since the restrictions on importation. This said, there is a range of opportunities from which to approach reduction of kava-related harm that may come about from an increase in kava availability.
- Community controlled agencies are best positioned to identify and respond to emerging social harms of kava use [18]. Appropriate resourcing and support of these agencies can ensure health promotion messages are produced, disseminated, evaluated and sustained in a format that best suits the local community.
- While there are extensive demands placed on primary health care services, ongoing monitoring and screening of kava related harms and providing staff training about the effects of excessive kava and indirect effects of kava use should be encouraged.

Suitability of the two-year pilot project

Two years is sufficient for the pilot but importantly there should be a substantial lead in time prior to the commencement of the pilot project. A pre-pilot lead in time will allow:

- Data to be collected regarding how much kava currently enters Australia through incoming passengers.
- Data about current patterns of use among Arnhem Land and Pacific Islander communities to be collected to establish a baseline from which to evaluate the proposed change in legislation.
- Consultation can be conducted across Pacific Islander and Arnhem communities (with a focus on consulting broadly across the communities) regarding the risks and opportunities these communities see from kava and the suitability of the legislation.
- Undertaking of community owned and led health promotion activities (which include safe drinking levels, safe driving and recognising harms).
- Support for health and social support services in identifying kava related harms and support for police to identify opportunities for intervention.

Potential evaluation methods

Evaluation is required that assesses: the amount of kava entering Australia; the emergence of any harms in Pacific Islander and Arnhem Land communities; the impact on the capacity of cultural groups to engage in ceremony in which kava is used; and the workload impacts on NT Police and health organisations.

A mixed methods evaluation is indicated which includes: the collection of data from incoming passengers regarding amounts of kava brought into Australia; the collection of police seizure and arrest data; and qualitative (interview and focus group) research with kava using communities.

Suggested improvements to the legislation

It is unclear how the proposed increase will increase the availability of kava for use in ceremonial contexts while minimising the potential for harm. As described, an extended lead in time, which allows for consultation, the establishment of health promotion and the collection of baseline data, is indicated.

Concluding remarks

Despite mixed evidence about the health effects of kava, it has the potential for misuse, and that misuse may cause harms to both individuals and communities. In light of this, policy is required that can facilitate moderate use, maintain cultural and ceremonial use, prevent heavy use, and reduce the likelihood of related harms. This is unlikely to be achieved by a simple increase in the import restriction allowance.

Community engagement is required and a genuine effort to support Pacific communities to maintain safe drinking practices and cultural and ceremonial activities without any increase in consumption within the community.

Arnhem Land communities that use kava need to be supported with ongoing efforts for harm minimisation, and support in policing black market kava.

Genuine consultation is required with all Pacific communities and Arnhem communities to ensure that this change in policy direction does not have negative effects, and that potential effects identified by those communities can be mitigated.

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