Wai 262

“Ko te mana motuhake me te tino rangatiratanga o ngā taonga Māori me te mātauranga Māori”
We pay homage to the Wai 262 claim visionaries who lashed the original bindings on the waka that is Wai 262, for and on behalf of their respective hapū, iwi and all Māori.

- Saana Waitai-Murray - Ngāti Kurī
- Hema Nui a Tāwhaki Witana (Del Wihongi) - Te Rarawa
- Witi McMath - Ngāti Wai
- Tama Poata - Te Whānau a Ruataupare and Ngāti Porou
- John Hippolite - Ngāti Koata
- Kataraina Rimene - Ngāti Kahungunu
- Moana Jackson - Ngāti Kahungunu*

Moe mai rā e te rangatira e Moana

“I would hope that as we develop the process of recognition and reconciliation, that we do so bearing in mind the sacrifice that those original Wai 262 claimants made and so that their hope for some advancement will come to pass. Not in some diluted and Crown controlled idea of intellectual property; not in some way that restricts manaakitanga to the current ethos of copyright and so on, but in an imaginative way forward that preserves tino rangatiratanga as a sphere of influence over which Māori exercise control.”

Moana Jackson, 19 July 2021, Wai 262 Digital Symposium

*Lawyer who drafted the original Wai 262 claim
Wai 262 Whakapapa

The Wai 262 claim is widely known as the Fauna, Flora and Intellectual Property Rights claim and was lodged with the Waitangi Tribunal on 9 October 1991.

Wai 262 sought the protection, conservation, management, treatment, propagation, sale, dispersal, utilisation, and restriction on the use of and transmission of the knowledge of New Zealand Indigenous Flora and Fauna and their resources.

Te Taumata Whakapūmau are the whānau and iwi who whakapapa to the original Wai 262 claimants, as kaitiaki of the mauri of the Wai 262 claim, to restore “te tino rangatiratanga o ngā taonga Māori me te mātauranga Māori.”

More than 20 government departments and agencies are implicated through ngā kaupapa o Wai 262. The Waitangi Tribunal’s report, Ko Aotearoa Tēnei, was the Tribunal’s first whole-of-government report; and Te Pae Tawhiti is the first whole-of-government response to Wai 262.

Stepping Forward

Three decades on, Wai 262 forms the stepping stones for the protection of taonga Māori across Aotearoa and further abroad.

Te Taumata Whakapūmau have engaged expert technicians, resulting in a Kahu Aronui core who have begun work on mechanisms and tools to protect taonga. This work is essential in the development of a Tikanga Framework that radically improves the status quo for kaitiaki.

We will be engaging kaitiaki who represent the interests of rangatiratanga and mana motuhake to arrange hui. The time is now as Māori to join arms in implementing the first ever indigenous protection framework for mātauranga Māori.

In the words of one of the original claimants Saana Waitai-Murray, “this is about taking the Wai 262 claim from activism to actionism”.

Wai 262 Progression

Te Taumata Whakapūmau are now urgently looking for substantive and procedural outcomes of Wai 262 to be negotiated, Rangatira ki te Kāwana, based on the Kanohi Ora tikanga framework that protects and affirms the rights and obligations of kaitiaki at an individual, whānau and hapū/iwi basis.

To find out more about Wai 262 and to add your updated email address to our database, visit www.wai262.nz. Progress updates will also be shared on the Wai 262 Facebook page.
The Foundation

Wai 262 represents a commitment to te tino rangatiratanga o ngā taonga katoa. A central and unifying element of Taonga is the mātauranga associated with the taonga. Mātauranga encompasses the world view of whānau, hapū and iwi as kaitiaki, an obligation derived from whakapapa.

Taonga Māori include their mauri, their whakapapa, traditional cultural expressions, their genetic and biological properties, their environments and habitats, their reo, mātauranga, tikanga and kawa, and their relationships to their kaitiaki.

The Need

There is an urgent need to protect, preserve, and promote the appropriate use of Taonga Māori. The existing legal regulatory, ethical and socio-economic framework does not meet that need in a manner that affirms te tino rangatiratanga.
Since 2020, Te Taumata Whakapūmau has been making progress towards determined priorities, through an approach which takes into account the fullness of its different parts, expressed as Tohu. At its root, the approach is grounded in the Pou Uara, or foundational values, of Wai 262:

- Whakapapa
- Aroha
- Kaitiakitanga
- Te Tino Rangatiratanga
- Manaakitanga
- Tapu & Tikanga
- Whanaungatanga
- Mauri

Aptly named, our role as Te Taumata Whakapūmau is to whakapūmau (sustain) the mauri and provenance of Wai 262 through kōrero raised in the Māori consciousness which binds the future of Wai 262 with its origins. We are accountable to ngā kanohi ora o te kaupapa: those who maintain the mauri of Wai 262.

Te Taumata Whakapūmau are now undertaking an engagement process that supports the emergence of a national Māori voice to speak with the Crown on ngā kaupapa o Wai 262. This process, Kanohi Ora, seeks ways to uphold and gain more control, partnership and influence for Māori over taonga works and intellectual property, genetics and biological resources, the relationship with the environment, taonga and the conservation estate, te reo Māori, mātauranga Māori, rongoa Māori and international instruments. Wai 262 seeks to protect the relationship between kaitiaki and taonga, and in essence a Māori way of life.
Te Aho Matua are made up of tohunga and knowledge holders within their respective fields. This rōpū are tasked with re-establishing our tikanga structures ensuring the mana and integrity of the kaupapa are kept intact.

Through Te Aho Matua, tohunga and rangatira sit side by side to navigate our relationships with the Crown. Te Aho Matua will continue to evolve as each iwi has its own tohunga and rangatira to guide them.

- Te Aho Matua was established in 2021 to ensure that Te Taumata Whakapūmau upholds the legacy of the original claimants and “kia whakapūmau te mauri o Wai 262”.

- Te Aho Matua are tohunga mātauranga māori advocates for te taiao, te ao wairua, te ao Māori and te reo me ona tikanga. Their deep connection to taonga and mātauranga māori binds them to the mauri of the claim.

- Te Aho Matua are the puna whakamārama and puna mātauranga to advise and guide Te Taumata Whakapūmau, the Kahu Aronui and Tai 262.

- As engagement with Wai 262 whānau, hapū, iwi, and Māori continues, Te Aho Matua will grow and evolve to protect the mauri of the Wai 262 claim.
Engagement is underway with the Wai 262 expert witnesses who presented evidence on behalf of the claimants. Their contribution to the kaupapa is significant, helping to lay the foundation of the Wai 262 claim, contributing to the depth and breadth of taonga and mātauranga Māori evidence which informs where we are heading. The expert witnesses included the original claimants, tohunga, rangatira and kaitiaki. Some who have passed on fortunately shared their respective legacies with tamariki, mokopuna, whānau, hapū and iwi.

Tai 262 are taiohi who whakapapa to the tohunga or rangatira who lodged the Wai 262 claim. They are the legacy holders and taiohi practitioners of mātauranga Māori pertaining to tiaki taonga, tiaki taiao, taonga and mātauranga Māori.

Tai 262 are the generation born into Wai 262 and live Wai 262 (kaitāmoko, kaitiaki, taiao, kaiwhakairo). Under the guidance of Te Aho Matua, Tai 262 is equipped with the tirohanga to advance the mauri of Wai 262 into the future.

As engagement with Wai 262 whānau, hapū, iwi and Māori continues, the Tai 262 core will grow and connect with a network of taiohi who are protecting taonga and practising mātauranga tuku iho.

Wai 262 isn’t just a claim, it’s a way of life...our life

- Hine Waitai-Dye, Ngāti Kuri
KAHU ARONUI

Kahu Aronui has been established to provide expert technical advice to the Wai 262 Taumata Whakapūmau to provide a matrix of proposed solutions to meet the needs of the kaupapa.

The proposed solutions will embody the principle that Māori have the full and exclusive decision-making authority to Taonga Māori, as guaranteed by Te Tiriti o Waitangi. Whānau, hapū and iwi kaitiaki must be provided the opportunity to engage with, and wānanga on, those proposed solutions, to reach a Māori-designed package that sits within the Māori worldview.

The immediate workstreams include:

1. Develop a sui generis framework for the protection of Taonga Māori, including traditional cultural expressions (TCEs), Genetic and Biological properties, and associated mātauranga, to include:
   a. The prevention of misuse and misappropriation of Taonga Māori;
   b. The development of ethics and guidelines to facilitate and encourage the appropriate use of, and benefit from, Taonga Māori;
   c. A cost effective, properly resourced, and workable monitoring, audit, enforcement and sanction regime.

2. Provide expert advice and content for the Kanohi Ora engagement programme with Māori kaitiaki. Conduct research including survey of Māori creatives and produce a report to inform and support a sui generis framework and legislation.

3. Draft legislation to give effect to the sui generis framework for the protection of Taonga Māori.
### KAHU ARONUI TECHNICIANS

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<th>Name</th>
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| Maui Solomon      | Maui is of Moriori, Kai Tahu, and Pakeha - English, Irish, French, and German descent. Maui is well-versed in the Wai 262 claim as legal counsel for three of the six claimant whānau and Iwi represented. Maui holds a number of roles across Iwi, Māori commercial interests and Government. He is the Chair of Hokotehi Moriori Trust and was recently appointed to the Ministerial advisory board established to help ensure existing Treaty settlements are upheld under the new resource management system. He is also a member of Ngā Toki Whakakururanga. He is a barrister with 30 years legal experience. He is well known as an Indigenous Rights activist, mediator and negotiator in New Zealand, the Pacific and internationally. He is specialised in:  
  - Land and fishing claims  
  - Cultural and intellectual property and environmental law |
| Aroha Mead        | Aroha Te Pareake Mead (Ngāti Awa, Ngāti Porou) is a political scientist who works across disciplines on indigenous rights and sustainable development issues. Aroha has held positions in public policy, academia, international organisations and the not-for-profit sector. She currently works as an independent researcher and advisor. Recent work with Wakatū and Te Ohu Raraunga Māori Data Governance Group has involved assessing indigenous methods of protecting Intellectual Property. Aroha’s particulars areas of interest and expertise are:  
  - Māori/Indigenous Cultural and Intellectual Property issues  
  - Biocultural heritage and biocultural conservation  
  - Māori representation and engagement in International Processes  
  - Indigenous perspectives on Biotechnology, Bioethics, Synthetic Biology, Gene-Editing; and  
  - Māori/Indigenous advancement and sustainable development. |
| Lynell Tuffrey Huria | Lynell is recognised as the lead on indigenous intellectual property rights, Māori intellectual property and trade mark protection. She was the first Māori patent attorney. Over the last 30 years, Lynell has worked for a large intellectual property specialist firm, advising a wide variety of clients including whānau, hapū and iwi, sole traders, companies, and multinational corporations. Lynell is also involved in work for Te Taumata and Manuka Charitable Trust. |
| Jacinta Ruru      | Jacinta is of Raukawa, Ngāti Ranginui me Ngāti Maniapoto and Pākehā descent. Jacinta is a Professor of Law at the University of Otago. Her interests in law are:  
  - Tikanga Māori and Indigenous law  
  - Indigenous Peoples legal rights, interests and responsibilities to care for, own, govern and manage lands (including national parks) and waterbodies  
  - Māori land law including Te Ture Whenua Māori Act 1993  
  - Te Tiriti o Waitangi / Treaty of Waitangi and United Nations Declaration on the Rights of Indigenous Peoples; and  
  - Decolonisation of New Zealand’s research sector and legal education. |
| Tina Porou        | Tina is of Ngāti Porou, Ngāti Tuwharetoa, Ngāti Kahungunu and Ngāi Tamanuhiri. She has been an environmental planner for the last 20 years working with local authorities, iwi and hapū, central government and the private sector on a range of natural resource matters. Tina leads Pou Taiao for the National Iwi Chairs Forum and is lead for Next Gen Kaitiaki Hui. Her expertise is in connecting mātauranga Māori with technical skills in the planning field to build win-win outcomes for the environment and our sustainable businesses. Tina was the Head of Sustainability and Environment at Contact Energy before deciding to follow her calling to establish her own consultancy Poipoia. Tina was the recipient of a Sir Peter Blake Leadership Award in 2015 for her work with the environment and was honoured as a member of the NZ Order of Merit in 2016. |
| Leo Watson        | (Kaitohutohu to Te Taumata Whakapūmau) Leo is a legal practitioner with over 25 years’ experience in Indigenous Law including Treaty of Waitangi claims, Māori land, compulsory acquisitions and publicworks, administrative law, fisheries, traditional knowledge and Intellectual property, employment and environmental law. Leo has been instrumental in connecting and supporting Wai 262 claimant kaupapa. |
The objectives of our approach to engagement are articulated in terms of four priorities, or Tohu, listed here:

**Tohu 1: Te Mana**
Supporting and strengthening the ability of claimant whānau & iwi as a lead voice of Wai 262
A well-informed group of claimant whānau & iwi is vital to Kanohi Ora engagement
Claimant whānau initiated the process of Kanohi Ora engagement and remain at its spearhead through the role of Te Taumata Whakapūmau, along with support from their iwi. This aspect is essential to realising the purpose and aspirations of the original claims.

**Tohu 2: Te Kōrero**
Hosting conversations among Kanohi Ora, connecting legacy holders & others
Raising awareness to develop the way forward
Counterparts from across the Rangatiratanga sphere of influence, who connect with the aspirations of the legacy holders, are woven into the process through Kanohi Ora engagement; allowing the kaupapa to evolve in-step with contemporary developments and thinking.

**Tohu 3: Te Tikanga**
Developing a mechanism at the interface with the Crown to preserve, protect and promote taonga & mātauranga Māori
Extending our influence as kaitiaki into the Kāwanatanga sphere of influence
“Māori control of Māori things”, as the catch cry of Wai 262, requires us to reimagine public institutions and civil society for Aotearoa as sites of power where the integrity of taonga and mātauranga Māori is not compromised; we want to develop and endorse a Tikanga Framework for this purpose.

**Tohu 4: Te Whakawhitihiti**
Supporting the emergence of a national Māori voice to speak with the Crown on ngā kaupapa o Wai 262
Ngā mahi kua ea
Bringing the fruits of Kanohi Ora engagement into the relational space with the Crown, where substantive and procedural outcomes of Wai 262 will ultimately be negotiated, Rangatira ki te Kāwana, based on a tikanga framework that recognises and affirms the rights and obligations of kaitiaki at an individual, whānau and hapū/iwi basis.
KanoHI ORA ENGAGEMENT

Kanohi Ora engagement is a process that was originally requested by Wai 262 claimants in 2007 when closing submissions were made to the Waitangi Tribunal.

At that time claimants requested a recommendation from the Tribunal for an ethical framework for resolution of the issues. The framework for resolution involves a two-stage process:

- first, the development of a claimant-led strategy for whānau, hapū and iwi;
- followed by a process of engagement between Māori and the Crown to develop mātauranga protection mechanisms.

Kanohi Ora engagement is the first stage in the opportunity we have collectively to advance the Wai 262 journey as it was courageously taken up on our behalf over three decades ago.

In the first stage of developing an ethical framework for resolution of the issues, ngā kaupapa o Wai 262, it is time to take stock of the claim’s significance among legacy holders and other kaitiaki who represent the interests of rangatiratanga and mana motuhake; to advance the preservation and protection of the very essence of our culture and identity.
It is by waka that mātauranga Māori me ō mātou taonga katoa arrived here in Aotearoa and it is by waka, that we have a way of uniting through shared kōrero and Kanohi Ora engagements.

As the image shows, the engagement strategy will account for the different interests of legacy holders in Wai 262 as well as the interests of other Kanohi Ora and kaitiaki across Aotearoa, who seek recognition of their Rangatiratanga and Mana Motuhake in their own interactions with the Crown. Building and testing a Tikanga Framework which works for these interests is our aim.

A key goal from the Kanohi Ora engagement is the development of a tikanga framework of identifying mechanisms for protecting and promoting the use of mātauranga Māori me ō mātou taonga katoa.

To organise a hui in your rohe contact the Wai 262 Secretariat at projects@wai262.nz or phone 0210332724.
Wai 262 Photography by:
Fender Maeva
Josie McClutchie
Naomi Austen Reid
Max Cadenhead
Nicky Birch
Justice Hetaraka