

Wai 262

“Ko te mana motuhake
me te tino rangatiratanga mō
ngā taonga katoa.”

HE MAIMAI AROHA

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 Kuri
- Hema Nui a Tāwhaki Witana (Del Wihongi) - Te Rarawa
- Te Witi McMath - Ngātiwai
- Tama Poata - Te Whānau a Ruataupare, Ngāti Porou
- John Hippolite - Ngāti Koata
- 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

Maiea te tipua

Maiea te tawhito

Maiea te kāhui o ngā ariki

Maiea tāwhiwhi ki ngā atua.

Oi ka takina te mauri

Ko te mauri i ahua noa ki runga i te taiao i runga i te ao nui

I runga i a Ranginui!

I runga i a Papatūānuku!

I kake a Tāwhaki i te pakiaka

Ki te toi o ngā rangi

Ka riro mai ai ngā kete o te wānanga

Ko te kete tuauri

Ko te kete tuatea

Ko te kete aronui

Ka tiritiria ka poupoua

Ki Papatūānuku

Ka puta te ira tangata ki te wheiao ki te ao mārama!

Kia rongō i te hā o te whenua

Kia ora i te tai o te ao.

Tihē mauriora!

(Wai 262 closing submissions karakia)

Our future

Te tino rangatiratanga
mō ngā taonga katoa,
entrenched through
Tiaki Taonga.

2021 - current

Kanohi Ora engagement
with hui and wānanga
held across the motu and
a national campaign
to raise awareness.

2020

Hon Nanaia Mahuta,
as Minister for Māori Development,
agrees to resource a plan for
“*Kanohi Ora engagement*” (which claimants
had requested in 2007 for the purpose of
including other iwi from across Aotearoa in
the kōrero about Wai 262).

Wai 262 Taumata Whakapūmau brings the
six claimant whānau together
with their six iwi to carry Wai 262
forward through engagement.

2011

The Waitangi Tribunal issues
findings and recommendations
in its report *Ko Aotearoa Tēnei*.

1991-2007

Claimants and their
whānau carry Wai 262
through the Waitangi
Tribunal process.

1989

Constitutional lawyer,
Moana Jackson,
begins work drafting
the claims for Wai 262.

KA MUA, KA MURI

Wai 262 was the number issued by the Waitangi Tribunal for the 262nd claim lodged with them on 9 October 1991. The six claimants who initially made the claim, who came from different parts of Aotearoa, formed the basis for a co-ordinated claim by bringing kūmara, pōhutukawa, koromiko, puawānanga, pūpū harakeke, tuatara, and kererū/kūkupa as the original taonga to represent the issues that would be heard over the course of the Tribunal’s proceedings. Over time other taonga tuku iho entered the fold of Wai 262.

In relation to these taonga, and all other taonga Māori extending to mātauranga tuku iho, the claimants specifically 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 genetic resources*.

The Waitangi Tribunal took 20 years to hear the claim in its entirety and issue its final report. That report, *Ko Aotearoa Tēnei*, was the first whole-of-government report ever issued with more than 20 government departments and agencies implicated by the claim’s scope. The government took a further 10 years to provide any response, which came in the form of resourcing one of the final requests made by claimants in closing submissions to the Tribunal. Most of the original claimants did not survive long enough to hear that response; however, Kanohi Ora engagement is the fruition of their final request to host

conversations with other iwi, other rangatira, kaitiaki and tohunga, who were not originally represented. These conversations are now being hosted through Wai 262 Taumata Whakapūmau i te Mauri o Wai 262, where claimants are represented by their whānau as well as their iwi, whose collective abilities to support the claims have grown since the original hearings.

The purpose of Kanohi Ora engagement is to seek an ethical resolution of the issues of Wai 262; seeking ways to uphold and gain more control, partnership and influence for Māori over taonga works and intellectual property, genetics and biological resources, their 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. The framework being developed to that end by way of Kanohi Ora engagement is *Tiaki Taonga*.

Wai 262 and *Tiaki Taonga* have far-reaching implications involving all Māori who have a relationship with taonga and mātauranga tuku iho. Kanohi Ora engagement is the process being used to ensure the resolution of the issues raised by Wai 262 are inclusive and in-step with contemporary needs among Māori; and also that there is coherence in the emergence of a national Māori voice to speak with the Crown on ngā kaupapa o Wai 262.

The Foundation

Wai 262 represents a commitment to *te tino rangatiratanga mō ngā taonga katoa*. A central and unifying element of taonga is the mātauranga associated with the taonga.

Mātauranga encompasses the worldview 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*.



The objectives of our approach to engagement are articulated in terms of four priorities, or Tohu, listed here:

Te Tohu Tuatahi: **Te Mana**

A well-informed group of claimant whānau and iwi is vital to Kanohi Ora engagement.

Claimant whānau initiated the process of Kanohi Ora engagement and remain at its spearhead, along with support from their iwi, through the role of Wai 262 Taumata Whakapūmau. This aspect is essential to realising the purpose and aspirations of the original claims.

Te Tohu Tuarua: **Te Kōrero**

Hosting conversations among Kanohi Ora, connecting legacy holders and others.

Raising awareness and making connections 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.

Te Tohu Tuatoru: **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.

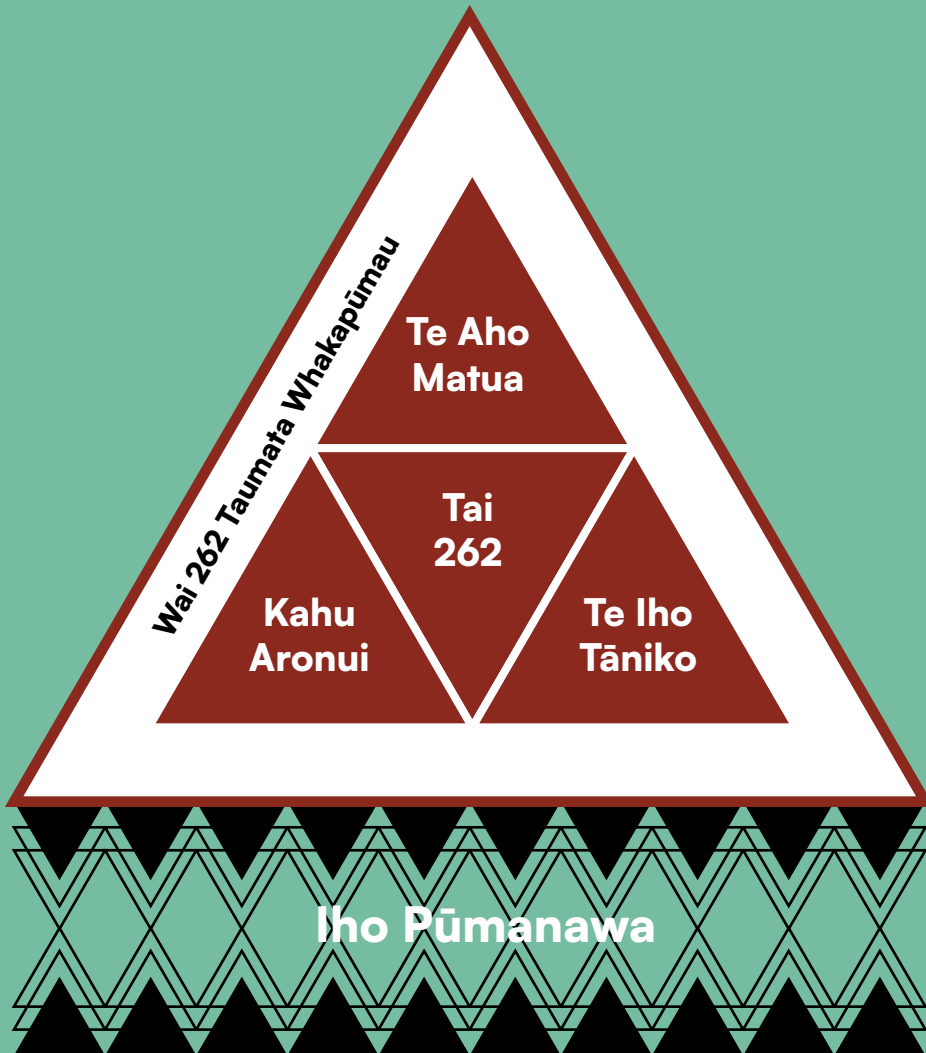
“Māori control of Māori things”, as the catchcry of Wai 262, requires Aotearoa to reimagine public institutions and civil society as sites of power where the integrity of taonga and mātauranga Māori is not compromised; we want to develop and endorse a framework for this purpose i.e. *Tiaki Taonga*.

Te Tohu Tuawhā: **Te Whakawhitiwhiti**

Supporting the emergence of a national Māori voice to speak with the Crown on ngā kaupapa o Wai 262.

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 *Tiaki Taonga* as a framework that recognises and affirms the rights and obligations of kaitiaki at an individual whānau, hapū and iwi basis.

MĀ WHERO, MĀ PANGO
KA OTI TE MAHI



Te Taumata Whakapūmau
I TE MAURI O WAI 262

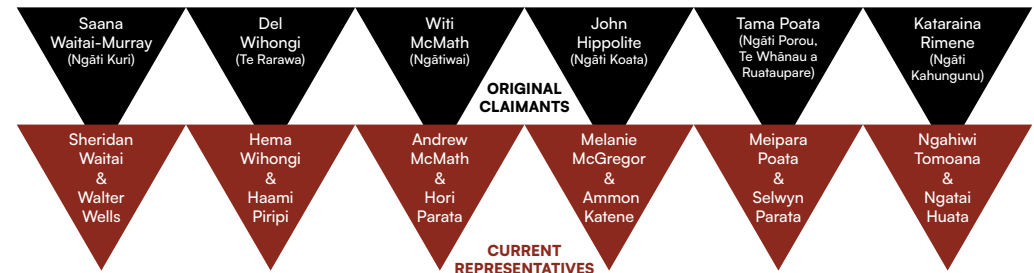
Wai 262 Taumata Whakapūmau is the official collectivisation of the six claimant whānau and the six iwi represented in the original Waitangi Tribunal claim; brought together three decades on for the purpose of realising the aspirations of Wai 262. Aptly named, the role of Wai 262 Taumata Whakapūmau is to whakapūmau (sustain) the mauri and provenance of Wai 262, to ensure the richness of its legacy is carried forward, binding the future of Wai 262 with its origins.

Whereas the original claim was limited to hearing submissions made on behalf of those claimants alone, Kanohi Ora engagement is an opportunity for other rangatira, tohunga and kaitiaki from iwi across Aotearoa to feed into the kōrero, to raise up the issues they face in relation to taonga and mātauranga tuku iho and, together with Wai 262 Taumata Whakapūmau, to find mutual ground and jointly strategise our way forward. This process necessarily brings many different parties together to build on the fabric of Wai 262 and Wai 262 Taumata Whakapūmau is tasked with providing oversight and guidance throughout.

The Pou Uara, or foundational values, which Wai 262 Taumata Whakapūmau draws upon as the starting point for engagement with others, Rangatira ki te Rangatira, are the same as those determined by the original claimants:

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

As Wai 262 Taumata Whakapūmau it is our inherited responsibility that the values of Wai 262 are carried through to the next stages of its evolution. For our part, maintaining and building collective support with others who speak on behalf of taonga Māori, requires that we are strategically focused on leadership, accountability, and inclusivity through respect for the self-determination of whānau, hapū and iwi, in accordance with tikanga.



TE AHO MATUA

Te Aho Matua is made up of tohunga and knowledge holders within their respective fields. Collectively this rōpū provides guidance through Kanohi Ora engagement in the interpretation and application of tikanga to ensure the mana and integrity of the kaupapa is kept in tact.

The input of Te Aho Matua within the kaupapa at large embeds a traditional model of leadership, where tohunga sit alongside rangatira for the purpose of wayfinding, and navigating our relationships with each other and with the Crown. Te Aho Matua membership will continue to grow as each iwi which joins the kaupapa has its own tohunga and rangatira to guide them in their application of tikanga.

- Te Aho Matua came together in 2021 to support Wai 262 Taumata Whakapūmau in upholding the legacy of the original claimants, “kia whakapūmau te mauri o Wai 262”.
- Te Aho Matua are tohunga and mātauranga Māori advocates for te taiao, te ao wairua, te ao Māori and te reo me ōna 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 the various groups which come within the ambit of Wai 262 and Kanohi Ora engagement.
- As engagement with whānau, hapū, iwi and Māori continues, Te Aho Matua will grow and evolve to preserve the mauri of the Wai 262 claim.

TAI 262

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 ngā mahi *Tiaki Taonga*.

Tai 262 are the generation born into Wai 262 who live ngā kaupapa o Wai 262 (e.g. kaitāmoko, kaitiaki, kaiwhakaairo). 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 Kanohi Ora engagement continues, the Tai 262 core will grow as they connect with other networks of taiohi who similarly protect taonga and practise 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 AND TE IHO TĀNIKO

Kahu Aronui, together with their tēina counterparts in Te Iho Tāniko, provide expert technical advice to Wai 262 Taumata Whakapūmau across a matrix of proposed solutions to meet the needs of the kaupapa. Their members have included Maui Solomon, Jacinta Ruru, Lynell Tuffrey-Huria, Tina Porou, Aroha Mead, Horiana Irwin-Easthope and Leo Watson.

The proposed solutions will embody the principle that Māori have the full and exclusive decision-making authority of taonga Māori as guaranteed by Te Tiriti o Waitangi. Through Kanohi Ora engagement, kaitiaki from among whānau, hapū, and iwi will have the opportunity to engage and wānanga those proposed solutions as they come to hand to reach a Māori-designed package of remedies that align with Māori worldviews.

Workstreams include:

1. The development of the legislative and policy components of *Tiaki Taonga* as a framework for the protection of taonga Māori (including traditional cultural expressions, genetic and biological properties, and associated mātauranga), that facilitates:
 - 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 kaitiaki Māori. Conduct research including a survey of Māori creatives and produce a report to inform and support the legislative and policy component of *Tiaki Taonga*.
3. Draft legislation that gives effect to *Tiaki Taonga*.

KANOHI ORA ENGAGEMENT

Kanohi Ora engagement was originally requested by Wai 262 claimants in 2007 when their closing submissions were made to the Waitangi Tribunal. As envisaged at that time it is a process that has created an ethical space for iwi Māori to raise awareness, to lead their own kōrero of relevance to the kaupapa, and to develop and test possible solutions applicable to their kaitiaki circumstances.

Substantively it aims to build a framework that is ethical in Māori terms for the resolution of issues represented by Wai 262. This involves two key steps:

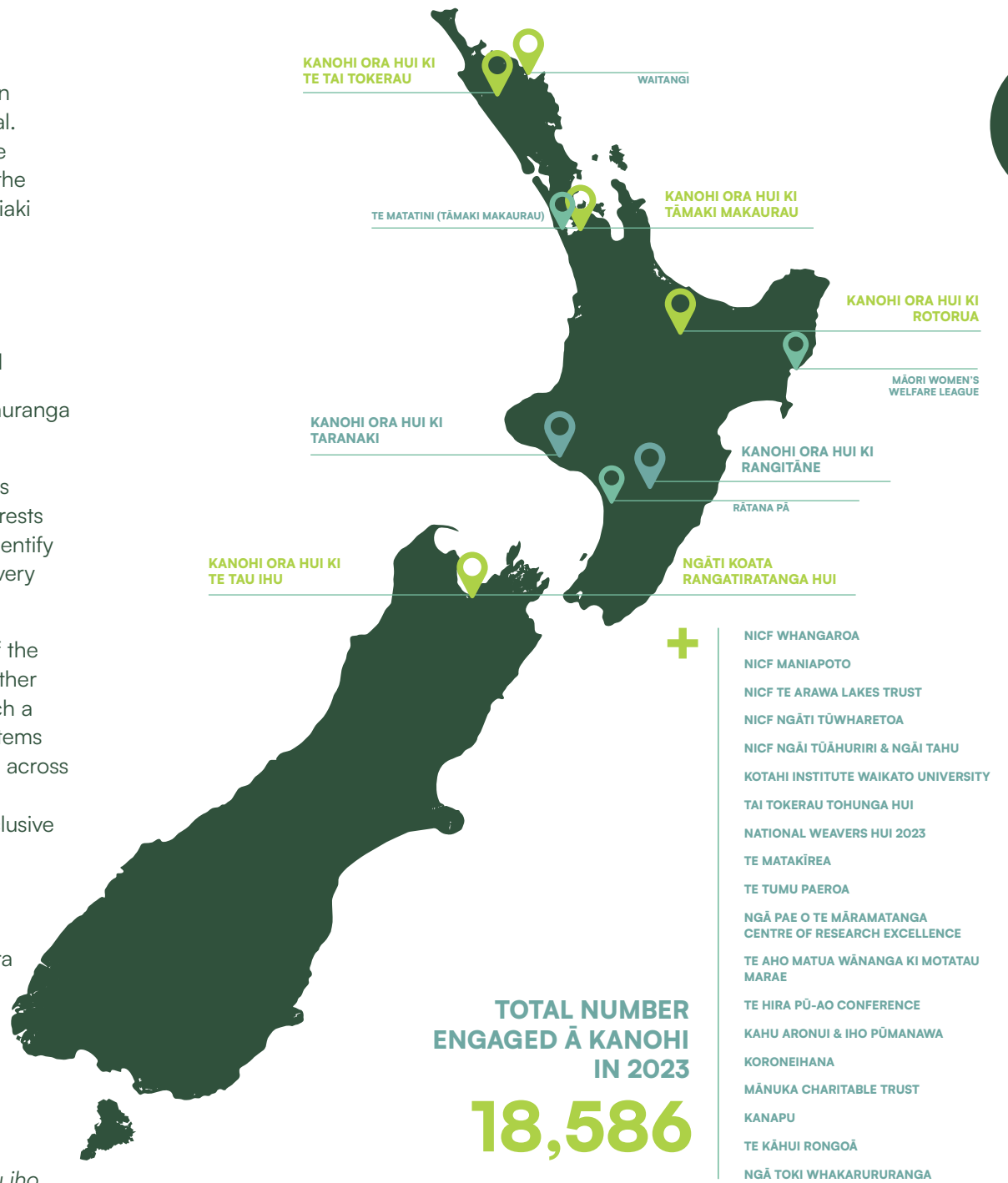
1. the development of a claimant-led strategy for whānau, hapū and iwi; and
2. a process of engagement between Māori and the Crown to develop mātauranga protection mechanisms.

A key step in the direction setting phase has been to take stock of the claim's significance among legacy holders and other kaitiaki who represent the interests of rangatiratanga and mana motuhake; to fortify our shared positions and identify common networks that will advance the preservation and protection of the very essence of our culture and identity.

Whereas there are those within the kaupapa who stand as legacy holders of the original claims, Kanohi Ora engagement provides the necessary space for other iwi and other kaitiaki Māori to join the cause, to jointly consider how we reach a future where the appropriate use of taonga Māori is substantiated in the systems supported by Aotearoa. We are fortunate to have many iho pūmanawa from across te ao Māori continuing to step forward to share their distinct expertise in the development of *Tiaki Taonga*; that is critical to ensuring the remedies are inclusive of all kaitiaki Māori and fit-for-purpose in the 21st century.

Once we have collectively defined the problems and identified appropriate solutions, we must then be able to communicate those effectively through engagement with the Crown, Rangatira ki te Kāwana. To that end Kanohi Ora engagement is also a voice-building project that starts with listening and talking with other kaitiaki Māori from across Aotearoa, to understand what it is we collectively want to say.

Ultimately the remedies identified by Kanohi Ora and the negotiation process that will subsequently follow must deliver the promise of Wai 262: *the distinct tino rangatiratanga of whānau, hapū and iwi, to give expression to their own tikanga and their own mātauranga in relation to their taonga tuku iho.*



NGĀ IHO PŪMANAWA

“Iho pūmanawa” refers to the great many individuals who have shared their expertise at various points in the journey that Wai 262 has moved through to reach this point.

Most recently, through Kanohi Ora engagement, there are those who have shared their insights on what matters for the appropriate use of taonga and mātauranga Māori in their fields of practice. We acknowledge these contributions, shared from Te Tai Tokerau through to Te Tau Ihu, and welcome others who are willing to do the same in support.

In acknowledging the collective power of iho pūmanawa who have put their weight behind Wai 262 over the years we recognise in particular those who shared kōrero with the Waitangi Tribunal, as expert witnesses, in support of the claimants at 23 hearings across a period of 10 years (1997-2007). The contribution of these people is fundamental to Wai 262; the depth and breadth of their taonga and mātauranga Māori evidence helped to set the foundations of the claims.

The contributions of iho pūmanawa from the past through to the present continue to resonate and give voice to the taonga and mātauranga tuku iho which have been brought within the scope of Tiaki Taonga.

Those who presented evidence for the claimants at Wai 262 hearings (1997-2007):

For Ngāti Kuri

Ropata Romana
Rapine Murray
Merereina Uruamo
Nellie Norman*

For Te Rarawa

Pā Henare Tate
Bruce Gregory
Ross Stirling Gregory
Houpeke Piripi

For Ngātiwai

Laly Paraone Haddon
Whetu Marama McGregor
Hori Te Moanaroa Parata
Wiremu McMath
Raukura Robinson
Te Waruhi Hetaraka
Himiona Peter Munroe

For Ngāti Kahungunu

Apera Clark
Dennis Iti Lihou
Takirirangi Smith
Edryd Breese
Murray Hemopo
Pita Walker-Robinson
Sue Wolff
William Blake
Ngairi Culshaw
Frederick Roy Maadi Reti
Bevan Taylor
Ruruarau Heitiā Hiha
Wero Karena
Alice Hopa
Jacob Manu Scott
Wally Kupa
Rerekohu Ahiahi Robertson
Ross Young Scott
Piri Sciascia
Bevan Mohi Te Ata Hikoia Tipene-Matua
Murray Hemi
Matthew Matuakore Petuha Bennett
Niniwa Kahurangi Neva Munro

Peter Joseph Chanel Flynn
Mere Joslyn Whaanga
Nigel William How
Toro Waaka
Te Rina Sullivan-Meads
Monte Paku
Marei Boston Apatu
Joseph Te Rito
Brian Morris
Koea Pene
Charles Kohitu King
Ngahiwi Tomoana
Tamati Clarke
Mark Ross
Robert McGowan
Jacob Scott
Tracey Whare
Ngatai Huata
Maurice Black
Richard Niania

For Te Whānau a Ruataupare, Ngāti Porou

Te Kapunga Matemoana (Koro) Dewes
Iranui Ada Haig
Apirana Mahuika
Maggie Ryland
Phil Aspinall
Wayne Ngata
Waho Tibble
Joseph McClutchie
Rapata Rauna Kaa
Laura Takukino Awatere Thompson
Rev. Eru Potaka Dewes
Hone Meihana Tauramu
Matehuatahi Kaiwai
Tame Hauraki Te Maro
Hirini Te Aroha Pani (Syd) Clarke
Hunaara Tangaere
Rev. Hoturangi Paora Weka
Rei Kohere
Connie Pewhairangi
Tate Pewhairangi
Keri Kaa
Campbell Dewes
Mark Kopua
Aroha Mead
Tamati Reedy

For Ngāti Koata

James Elkington**
Rosemary Sutherland Hippolite
Puhanga Patricia Tupaea
Kathleen Hemi
Terewai Grace
Huia Elkington
Alfred Madsen Elkington
Pene Ruruku Hippolite
Benjamin Turi Hippolite
Hori Turi Elkington
Priscilla Paul
Angeline Greensill***

On behalf of all Te Tai Tokerau Iwi

Niki May Lawrence
Robert Edward McGowan
Mana Manuera Cracknell
Hugh Kawharu
Mason Durie
Haami Piripi
Sandy Gauntlett
Mere Roberts
Patu Hohepa
Rapine Simon
William Nicholas

Others

Moana Maniapoto
Cletus Maanu Paul
Taurioterangi Pouwhare
Jessica Hutchings
Mere Takoko

*presented at Hearing 1 (Te Tai Tokerau)

**also presented at Hearing 12

***presented at Hearing 12 and Hearing Week 4



“Wai 262 asserts te tino rangatiratanga and the duty Māori have as kaitiaki of their taonga and mātauranga Māori”

Tohe Ashby

TIAKI TAONGA

Wai 262 is multi-faceted, complex and all-encompassing and so must be the solutions. Ultimately the remedy will require a suite of different solutions that are woven together to create a fabric for *te tino rangatiratanga mō ngā taonga katoa*. *Tiaki Taonga* is the name we are using for this framework where the various solutions are brought together.

What we know about *Tiaki Taonga* at this point in Kanohi Ora engagement is that:

- It is a framework which is activated in every instance where there is activity relating to taonga Māori and mātauranga Māori.
- Decision-making as to the application of *Tiaki Taonga* solutions for the taonga and mātauranga lies with Māori, as determined by the appropriate tikanga and kawa.
- The location of the decision-making authority will depend on the taonga and the circumstance.

In upholding tino rangatiratanga and mana motuhake *Tiaki Taonga* must also provide space for the Crown to explicitly acknowledge that it asserts *no proprietary rights or interests in taonga Māori and*

mātauranga Māori. The preferred model for this component of *Tiaki Taonga* is by way of legislation, which is then supported by a network of solutions including Codes of Conduct, contractual provisions, research guidelines, and educational material.

The proposed solutions will embody the principle that Māori have the full and exclusive decision-making authority to taonga Māori as guaranteed by Te Whakaputanga, Te Tiriti o Waitangi and subsequent declarations, including the United Nations Declaration on the Rights of Indigenous Peoples, the Mataatua Declaration, and the Te Pūea Declaration, Convention on Biological Diversity (CBD), Art 8(j) and the Inter-Governmental Committee of World Intellectual Property Organisation (WIPO) on Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources.

Kanohi Ora engagement through to 2025 is informing the development of *Tiaki Taonga* as insights from across Aotearoa are gathered and solutions considered for a system-wide transformation that positions taonga management, use and protection within a Te Tiriti compliant framework.



Wai 262



To find out more about Wai 262 and to add your updated email address to our database, visit www.wai262.nz and www.tiakitonga.com



Progress updates will also be shared on the Wai 262 Facebook page.



Follow us on Instagram [wai_262](https://www.instagram.com/wai_262)

Wai 262 Secretariat
projects@wai262.nz