

“INTELLECTUAL PROPERTY AND GENETIC RESOURCES: WHAT IS AT STAKE FOR INDIGENOUS PEOPLES?”

GENEVA
2 FEBRUARY 2014

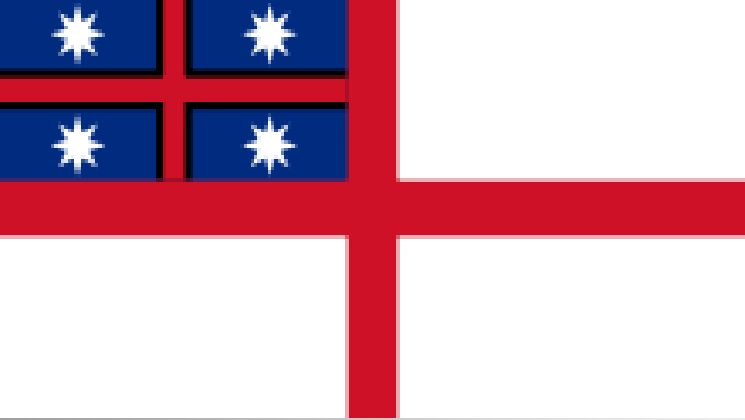


Hema Broad
Ngā Kaiawhina a WAI262
Aotearoa/New Zealand

*“There are two guiding principles to Kaitiakitanga;
whakapapa & tino rangatiratanga”.*
(Genealogy and Self determination)

Del Wihongi
(Lead Wai 262 Claimant)





TINO RANGATIRATANGA (Self Determination)



**He Wakaputanga o te Rangatiratanga Nu Tireni
(DECLARATION OF INDEPENDENCE 1835)**

***Māori did not cede their sovereignty to the Crown
in 1840; to do so would be treason.***



- Māori travelled to London to ask King William IV to be the parent of their infant State, and that he will become its Protector from all attempts upon its independence
- By 1839 Signed by 52 Māori Chiefs
- Flag was hoisted followed by 21 gun salute by HMS Alligator & officially Gazetted in NSW, Australia
- Te Tiriti o Waitangi 1840 first Trade Agreement signed between the Crown and Chiefs

WAI 262 The Flora, Fauna and Cultural Intellectual Property General Claim

- Crown dismissal of te tino rangatiratanga, (self determination) as a sovereign political authority exercised by Iwi (tribal) and Hapū (sub-tribes), is a breach of the Treaty of Waitangi.



W262 Lead Claimants, L- Mrs Del Wihongi and Mrs Saana Murray

The REMEDIES SOUGHT are:

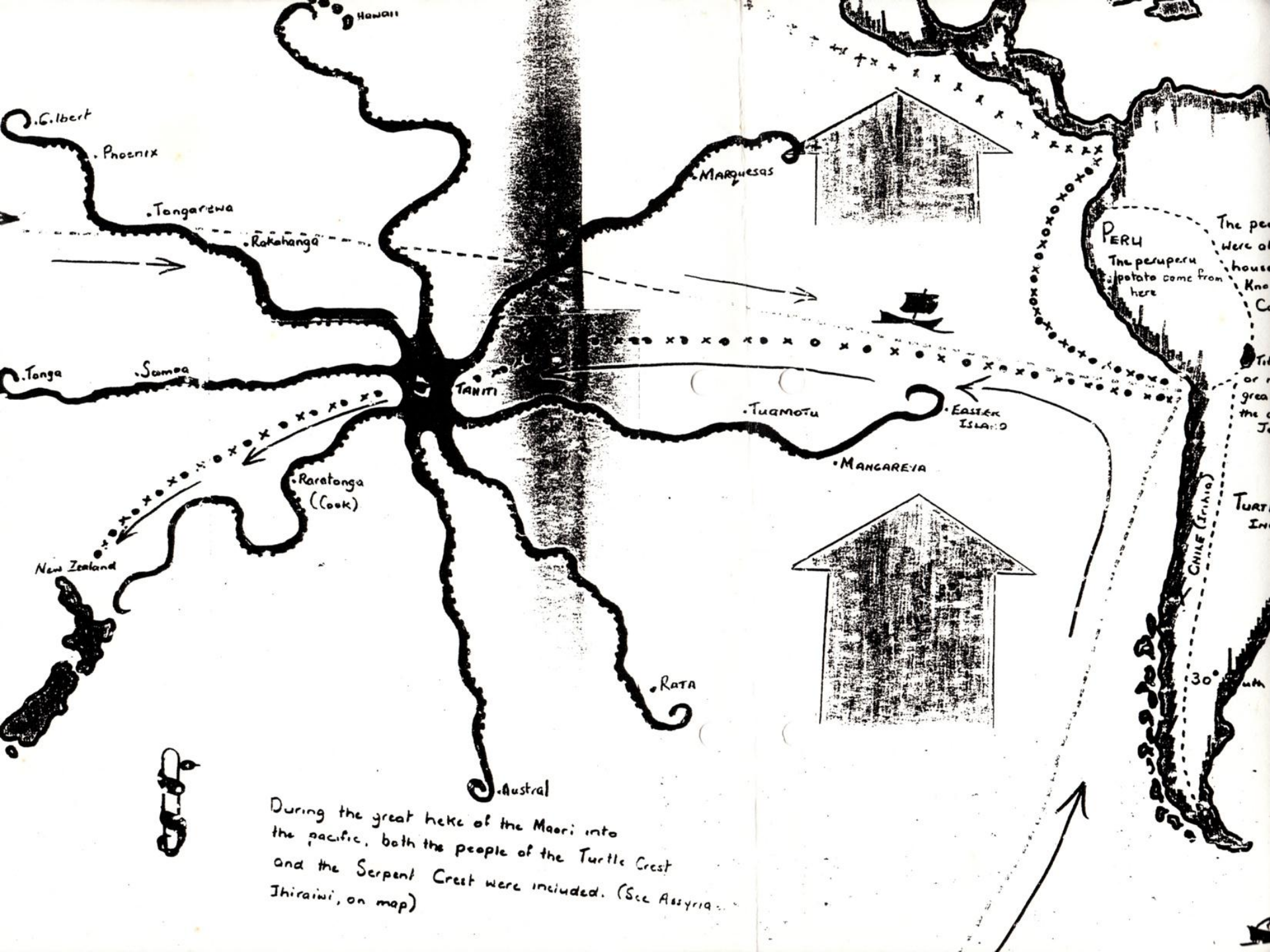
- The **acceptance** by the Crown of **te tino rangatiratanga** as adumbrated in Māori law as:
 - reaffirmed in the *1835 Declaration of Independence*,
 - recognised in the *Treaty of Waitangi/ Te Tiriti o Waitangi*
- **Compensation**, the extent and degree of which shall be negotiated between Iwi and the Crown
- **Control of indigenous flora and fauna** in a manner which recognises te tino rangatiratanga o te Iwi Māori.



Kawe Mate, Ahipara 2011 prior to Wai 262 Report Handover Ceremony; (Spirit of Wai262 claimants, Counsel, & supporters) that have passed away since 1991 – 2011)

Whakapapa (Genealogy) Genetic Resources





During the great heke of the Maori into the pacific, both the people of the Turtle Crest and the Serpent Crest were included. (See Assyria... Ithiraiwi, on map)

Rongomai/GARDENS

Tane Mahuta/FORESTS

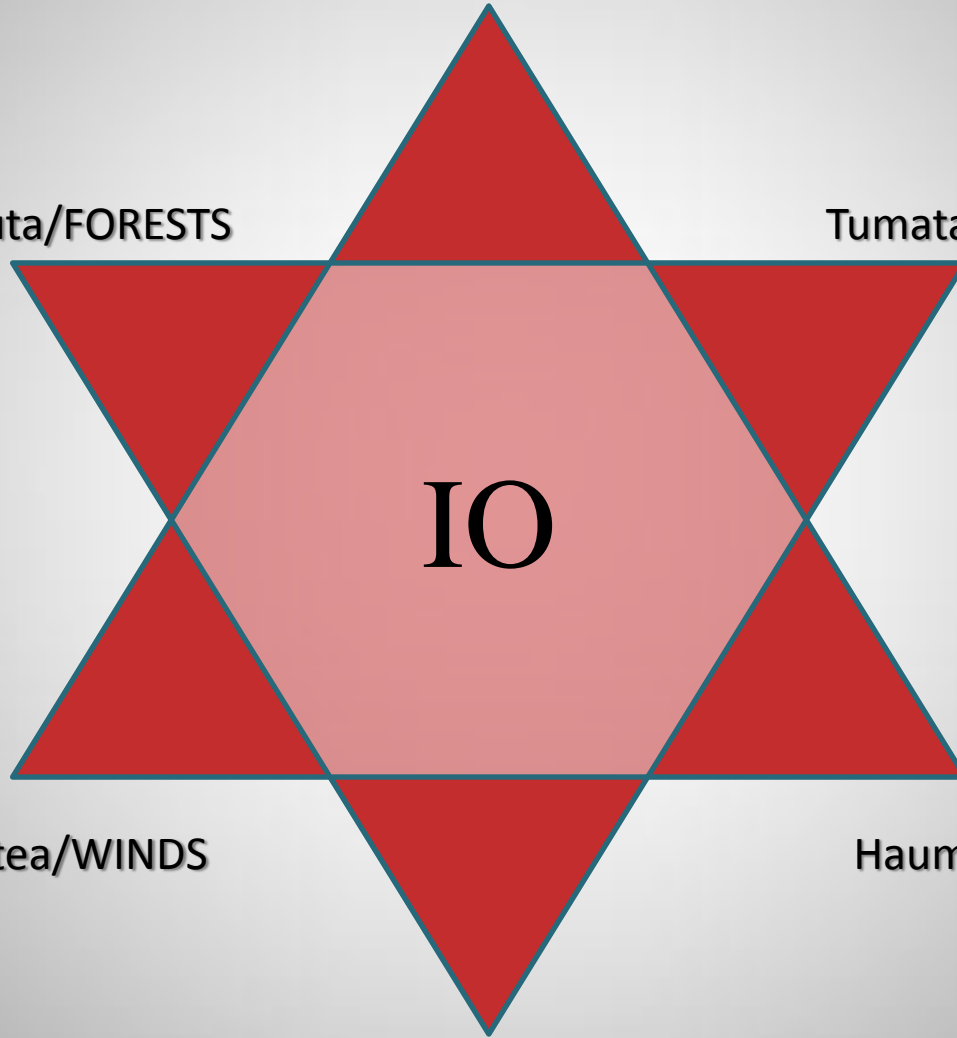
Tumatauenga/LORE/LAW

IO

Tawhirimatea/WINDS

Haumia Tiketike/ARTS

Tangaroa/FORESHORE-SEABED-OCEANS



Wahine



Whakapapa connecting and uniting descendants of the Mataatua waka. Bringing scrolls onto Mataatua marae, Mangere, Auckland – mid 1980s - impetus for the Mataatua Confederation.



The Wai 262 Report: Ko Aotearoa Tenei (2011)

- ***Control*** by Māori if the kaitiaki interest in a taonga should be accorded priority;
- ***Partnership*** if kaitiaki should have a say in decision-making but other voices should be heard; and
- ***Effective influence*** to kaitiaki in all areas of management of taonga.
- Mere consultation and advisory committee arrangements singularly fail to meet the requirements of a Treaty-compliant patent law regime” - *Professor David Williams*

The lack of a feedback from initial Hearings where the mana of te Tiriti and He Wakaputanga was covered, is a real problem.

An indication from the Tribunal to Crown (Govt) that Te Tiriti o Waitangi is the legal covenant and The Treaty is a fraud will give us strength to push for recognition of our Tiriti rights to water, geothermal, minerals, flora and fauna – *Professor Patu Hohepa*

- WAI-262 issues have gone backwards in policies and legislation such as ownership and governance,
- Some gains in the smaller more localised issues through the cultural redress component of Treaty settlements.
- Some of the MOUs Iwi are signing with Crown agencies are very progressive in terms of access and ownership of Iwi relevant tangible heritage.
- The Iwi Leaders Forum has not proven to be constructive on WAI-262 issues ‘focus on being at the negotiating table’ than in ensuring the meal one is consuming is appropriate – *Aroha Mead*

Indigenous Peoples must work in unity and harmony:

- To implement and give substantive status to UNDRIP within all Indigenous Peoples lands and territories
- Exert pressure supporting substantive Indigenous Peoples Intellectual Property Rights and protection of taonga
- While NZ Government has signed the UNDRIP the NZ Prime Minister can ignore aspirational status

NGĀ KAIAWHINA A WAI262:

- SUPPORT from NZ Māori Council, National NGO;
- Internal capacity – Legal grunt Professor David Williams, ex High Court Judge Sir Edie Durie, Dr David Stephenson, Moana Jackson
- Academic, University of Auckland – Pro vice chancellor Māori - Jim Peters, Manuka Henare, Aroha Mead, Professor Mere Roberts and others

What we seek:

- Support from the Indigenous communities to implement external change
- Pressure to support the implementation of substantive intellectual property rights for indigenous peoples

NZ Māori Council fighting Government attack over Intellectual Property Rights at Supreme Court

1. Wai 262
2. Water Claim
3. Spectrum – 2G/4G
4. Post Treaty Settlement Process – NZMC to undertake a review of this legislation in terms of Intellectual Property Rights- Runanga not Hapū
5. Mounting Opposition from Government
6. Development of (Tekau ma Rua-12) – Kaahui Kingitanga, NZMC, Kohanga reo, Iwi chairs, Māori Women's Welfare League etc.

- **WHAT IS AT STAKE FOR INDIGENOUS PEOPLES**
- Taonga/property in relation to flora and fauna policy; who formulates, who implements, and who evaluates?
- The Waitangi Tribunal Report Ko Aotearoa tenei is disappointing, Intellectual property and taonga are two sides of the same coin. Māori cultural property is both tangible and intangible
- **Spiritual Capital + Economic Capital = Māoritanga.**
- In relation to TPP, Te Tiriti was the first trade agreement signed by Māori, Ngāpuhi did not cede their sovereignty.

- If Māori cannot access flora and fauna for the well being of our people, the level of poverty is going to grow.
- 60, 000 children under 15 in Tamaki live in abject poverty, which means their parents and their wider kinship also live in abject poverty.
- The economic strategy “Trickle down Theory” proposed by government is “giving the thief the right to install the security system in your home”
- –Professor Manuka Henare

"Our People moved into the fast lane because they believed it was progress. We wanted progress in this world, but a lot of us, including myself, are finding that progress is not progress for Maori"

Lally Haddon (Ngātiwai Claimant)

No reira e nga iwi o te Ao,
tena koutou, kia ora tatou katoa

