

# WHEN THE CROWN CONTROLS MĀTAURANGA

A REPORT ON A SURVEY  
OF CROWN POLICIES,  
PROGRAMMES, LEGISLATION,  
FUNDING, AND IMPACT  
ASSESSMENT RELATING TO  
MĀTAURANGA MĀORI

This report is the first in a series published by *Te Aho Mātauranga*, a collective of Senior Māori researchers of the Biological Heritage National Science Challenge. The Biological Heritage National Science Challenge has a comprehensive work programme featuring mātauranga Māori.

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**Note from Authors:** Rather than include a glossary of Māori-language words and terms, we recommend using Te Aka Māori Dictionary ([maoridictionary.co.nz](http://maoridictionary.co.nz)) to translate Māori words into English.

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## SECTION ONE

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## THE CONTEXT

## 1.1 | INTRODUCTION

In 2011, when the Waitangi Tribunal released its long-awaited report into the Wai 262 Claim<sup>1</sup> concerning laws and policies that adversely affected Māori culture and identity, *Ko Aotearoa Tēnei*, it provocatively titled one of its nine chapters, ‘When the Crown Controls Mātauranga Māori’. The Tribunal contended that “every Crown agency that appeared in our inquiry, and most of those that did not, deals with mātauranga to some extent”<sup>2</sup> going on to say that ‘the Crown is practically in the seat of kaitiaki as some agencies are custodians of mātauranga, some it’s owners, others fund it, while others are responsible for transmitting it.’<sup>3</sup>

While acknowledging the Crown intentionally damaged mātauranga and its traditional systems of transmission<sup>4</sup> the Tribunal’s recommendations fell short of recommending the Crown step away from continuing its activities in mātauranga until it had developed, at the invitation of Māori, a vision and objectives it could pursue confident in the knowledge its role would be welcomed and valued by Māori. Rather, the Tribunal’s focus was to advocate for the development of a principled partnership approach between Māori and the Crown in the support, oversight, ownership, and custody of the mātauranga held or managed by the Crown.<sup>5</sup>

Contrary to the understandings articulated in the Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples, and the UN Declaration on the Rights of Indigenous Peoples, and that Māori should be the primary beneficiaries of the rich body of ancestral indigenous cultural knowledge transmitted through generations, and thus also be the ones to determine and lead mātauranga priorities,<sup>6</sup> including to maintain, control, protect and develop their cultural heritage, traditional knowledge and

cultural expressions (UN-DRIP Article 31)<sup>7</sup>, it was unsettling for many to read the Crown being described as a kaitiaki and its’ role in Mātauranga characterised as one of control or ownership.<sup>8</sup>

Eleven years after the release of *Ko Aotearoa Tēnei*, this paper revisits the issue of the Crown’s role in mātauranga and examines what progress has been made. Does the Crown now have an overarching policy outlining its’ role, vision, and objectives relating to mātauranga? If not, why not? Is the ‘principled partnership approach’ the Tribunal suggests the best way forward?

Finally, we make some concluding observations on future directions for an approach to ensure the Crown’s activities in mātauranga are useful and complementary to the aspirations of whānau, hapū Iwi, and Māori.

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## 1.2 | WHAT IS MĀTAURANGA?

There exists an extensive body of books, journal articles, and reports published over decades that include definitions of mātauranga. Whilst there is a range of interpretations of mātauranga across these publications, there are clear commonalities.<sup>9</sup> These show that Māori histories, knowledge, and language are synonymous with Māori ways of thinking, doing, and acting, bridging both traditional and contemporary Māori knowledge curriculum, pedagogy, and philosophy.<sup>10</sup>

Mātauranga therefore, can be simply expressed as the cultural knowledge system of Māori that is grounded within the values, beliefs, and practices of Māori and are fundamentally and inextricably linked. Without a direct link to that cultural system of values, beliefs, and practices the knowledge loses integrity.<sup>11</sup>

There are customary ideas, values, and notions of correctness and appropriateness associated with mātauranga. More importantly, there is a tapu aspect to mātauranga that ties it firmly into the system of values, beliefs, and practices of Māori. These cultural tenets meant that elements of mātauranga were highly regulated and controlled. At the same time, other elements were widely used and shared as a valued taonga. Creators and holders of mātauranga, including kaitiaki, had responsibilities that went with their specific areas of knowledge and expertise, including determining who could learn and access mātauranga for what purposes and under which conditions mātauranga could be used. Therefore, mātauranga Māori is not a freely accessible archive of information but rather is like a tool for thinking, organising information, considering the ethics of knowledge, the appropriateness of it all, and informing us about our world and our place.<sup>12</sup>

Usefully, the *Ko Aotearoa Report*, noted that

mātauranga is derived from the verb ‘mātau’ - to describe knowing. With this understanding, you could say that mātauranga could be described as Māori epistemologies, i.e. not only ‘knowing’, but also ‘how something is known.’ Specifically, how Māori explain, make sense of, and codify phenomena and reality within the physical and metaphysical universe. Other terms such as kōrero, mōhiotanga, māramatanga, and wānanga are also synonymous with knowing and knowledge in certain contexts.<sup>13</sup>

An important aspect of mātauranga is understanding that it is local and site-specific. Durie reinforces this point, “mātauranga is not owned equally by all Māori. While some knowledge is common to Māori people generally, much traditional knowledge is of tribal origin and ownership correspondingly lies with tribes, sometimes Iwi, sometimes hapū.<sup>14</sup>

It is therefore important to distinguish mātauranga Māori from mātauranga-ā-Iwi (and in turn, mātauranga-ā-hapū), noting that, “*while Māori core values and principles are located within mātauranga Māori, the application of these values and principles are filtered through mātauranga ā-Iwi.* Each Iwi has its own specific sense and use of these core values and principles that link them with their particular environment. This tribal application cannot be applied to another tribe, as they will have their own application that links them to their environment and Iwi. Doherty describes mātauranga ā-Iwi as tribal knowledge specific to certain Iwi and provides a sharper focus to examine the application of the mātauranga Māori principles and values in a specific environmental context.<sup>15</sup> The connection between Iwi and rohe (district or land base) is vital. Without the connection to the rohe, the tribe would not exist. Without the rohe,





there would not be an epistemology unique to that tribe. Just as the Iwi must have a land base, so too must mātauranga-ā-Iwi. To have no landbase is to have no common basis for the Iwi to establish a foundation and starting point. For instance, within Tūhoe, the land base is Te Urewera which also forms a base for mātauranga Tūhoe.<sup>16</sup>

The Tribunal found mātauranga to be a taonga and therefore its active protection is guaranteed under Article II of Te Tiriti o Waitangi. Active protection is not a new concept. Traditionally mātauranga operated within cultural protection mechanisms however, “mātauranga Māori suffered more than any other aspect of Māori culture because it was deliberately targeted for destruction” [by the Crown],<sup>17</sup> a situation that was acknowledged in the *Ko Aotearoa Tēnei* report. Therefore, re-establishing the learning, utilisation, promotion, and protection of mātauranga is a significant project as is returning mātauranga Māori under the leadership of Māori.

Most Māori would agree that mātauranga Māori is based on a set of cultural inter-generational values; is enriched and modified by successive generations

to guide and adapt to the socio-cultural-economic-environmental issues of the time; is integral to the identity and wellbeing of current and future generations of Māori, and has value and application for others when informed consent and proper protocols are followed. These elements together with the inherently local site-specific community nature of mātauranga are also included in the 1993 Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples.<sup>18</sup>

There is a place and indeed a necessity for the wider application of mātauranga across all facets of policy and society in New Zealand, evidenced by several factors including the United Nations Declaration on the Rights of Indigenous People 2007, the consistent, comprehensive, and compelling disparities in health and social outcomes,<sup>19</sup> and of particular importance to the authors is the role of mātauranga to halt the decline of indigenous biodiversity in Aotearoa New Zealand.



## 1.3 | WAI 262, KO AOTEAROA TĒNEI AND THE CROWN'S INVOLVEMENT IN MĀTAURANGA

Mātauranga was a core issue of the Wai 262 claim. It ran as a central theme throughout all facets of the claim. The claimants sought *‘the protection, conservation, management, treatment, propagation, sale, dispersal, utilisation, and restriction on the use or transmission of the knowledge of New Zealand indigenous flora and fauna and the genetic resources contained therein’*.<sup>20</sup>

The Wai 262 claimants contended that the Crown should not presume to have proprietary rights in taonga Māori such that they deemed it acceptable for them to sell, export, or exploit those taonga or deny kaitiaki access to their taonga.<sup>21</sup> In their 2007 closing submissions, the Wai 262 claimants requested a recommendation from the Tribunal to develop an ethical framework for the resolution of the issues raised throughout the claim.<sup>22</sup> As it was put then, the development of such a framework for resolution would involve 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.<sup>23</sup> The claimants, therefore, saw a clear distinction between the responsibilities and actions for Māori to pursue and the tasks required for Māori and the Crown to jointly develop protection mechanisms for mātauranga.

In its deliberations, the Tribunal considered five broad areas of the Crown's involvement in mātauranga; (i) policies concerning Māori artefacts or taonga tūturu also known as moveable cultural heritage; (ii) arrangements both for funding the creation and presentation of taonga works and broadcasting Māori culture; (iii) mātauranga held by archival institutions such as Archives NZ, the National Library, Radio NZ and TVNZ;

(iv) regulation and control of the teaching of mātauranga in the education system; and (v) the place of mātauranga in the Government's funding policies for research, science, and technology.<sup>24</sup>

After considering the individual performance of each of the government agencies whose core business involved protecting mātauranga Māori and helping to ensure its transmission, the Tribunal concluded that the responsibility for the revival and survival of mātauranga should be shared between Māori and the Crown and as such requires the Crown and Māori to act in partnership and operate according to a set of sound principles.<sup>25</sup>

**The Tribunal also concluded that mātauranga Māori is a taonga which gives rise to Treaty obligations on the Crown to actively protect mātauranga<sup>26</sup> as well as a responsibility of Māori to learn, practice, and transmit mātauranga.**

The *Ko Aotearoa Tēnei* report maintains a consistent contention throughout all nine chapters and particularly so in Chapter 6, When the Crown Controls Mātauranga, where the notion of a principled partnership approach is referred to frequently.



*“The Crown on its own cannot successfully transmit mātauranga in the education system or anywhere else – the idea is absurd. The model that will produce the best outcomes for Māori education is partnership – other models will not work.”<sup>27</sup>*

*“Protecting and transmitting mātauranga is a responsibility shared between Māori and the Crown; neither party can succeed without the help of the other.”<sup>28</sup>*

*“We have recommended a principled approach for constructing working partnerships between Māori and the Crown in the support, oversight, ownership, and custody of Mātauranga, and identified ten high-level principles to guide the partners in working through prioritisation, objective-setting, programme delivery, and evaluation.”<sup>29</sup>*

The ten principles recommended by the Tribunal are; (1) accord mātauranga appropriate priority; (2) develop a coordinated Crown approach; (3) set objectives through a partnership; (4) identify the representatives of the Māori partner; (5) resources and time for meaningful engagement; (6) quality of Māori engagement in objective setting; (7) importance of seeking agreement; (8) achieving agreed objectives; (9) shared action; and (10) shared review and evaluation.<sup>30</sup>

Looking at both the claimant and Tribunal’s recommended actions, there is common ground on the need for greater coordination and transparency across government agencies relating to their approach to mātauranga initiatives but also some differences in the degree to which a partnership approach would provide the best outcomes for Māori and for mātauranga.

Other groups have also commented on the need for the Crown to develop a policy and set objectives consistent with taking a supportive role in mātauranga, and for Māori to lead mātauranga



initiatives. For example, the 2019 Te Taihū Ngā Taonga Tuku Iho Communique stated that ‘the Crown must prioritise development of a policy on the role of government in taonga Māori, including mātauranga Māori, that articulates a vision and objectives of Crown action.’<sup>31</sup> In 2020, Rauika Māngai also stated that ‘Māori should determine and lead how mātauranga Māori is protected, used, developed.’<sup>32</sup> Previous to these more recent comments, back in 2005, Mead stated in a Report to Te Puni Kōkiri that “the time is long overdue for the Crown to develop a more comprehensive whole of government policy and approach-to Māori culture and heritage from which policies on facets of Māori culture would stem, e.g. mātauranga Māori and Māori cultural and intellectual property rights. This is unfinished Crown business that should be resurrected as a priority.”<sup>33</sup> With the passing of time, from 2005 to 2022, this remains unfinished Crown business.

# SECTION TWO

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## THE CROWN AND MĀTAURANGA

This section focuses on current Crown policies, legislation, and developments relevant to mātauranga since the release of the Waitangi Tribunal's *Ko Aotearoa Tēnei* report. It comprises the results of a survey undertaken as part of the research for this paper, as described in section 2.1 below along with other relevant government initiatives highlighted in section 2.2. Section 2.3 attempts to lay out the nature and scope of Crown agency policies, legislation, activities, programmes, and funding relevant to mātauranga Māori.

## 2.1 | METHODS

In May 2021, a questionnaire comprising six primary questions was sent to the Chief Executives of the thirty-two government agencies listed on the Public Service Commission website.<sup>34</sup> The responses were collated and analysed separately by four of the authors (Mead, Wilson-Leahy, Potter, and Shadbolt) and reviewed as a group.

### The six questions were:

1. Does your department have a **policy** outlining how your department acknowledges, interacts with, and supports mātauranga? If yes, please share the text of that policy. (The responses are covered in section 2.3.1)
2. Is your department responsible for any **legislation** that includes references to mātauranga? If yes, please state which legislation and specify section(s). (The responses are outlined in section 2.3.2)
3. Does your department provide any **public funding** to people and organisations for the express purpose of recording, archiving, utilising, or progressing mātauranga? If yes, what is the name of the fund(s) and how many years have funds been granted for mātauranga activities? (Responses are in section 2.3.3)
4. Does your department administer any **programmes, projects, or activities** directly related to mātauranga? If yes, please list them. (Responses are in section 2.3.4)
5. If your department contributes to mātauranga, have you developed indicators or a monitoring system to **measure the impact** your department's involvement has had or intends to have on mātauranga? If yes, please provide the results of any such monitoring carried out in the last five years. (Responses are in section 2.3.4)
6. Overall on the following scale, how would you measure your department's **contribution to mātauranga?** (The scale of five options and the responses of departments is in Section 2.3.6)

Of the 32 government departments listed in 2021, 26 responded to the survey. One of the 32 departments was disestablished during the time of the survey (Pike River Recovery Agency), taking the actual number of government departments approached for this survey to 31 and delivering a response rate of 84%.

Replies from three of the Departments included additional responses from agencies responsible to them, for example, Archives NZ (Department of Internal Affairs), Biosecurity NZ (Ministry of Primary Industries), and The National Emergency Management Agency (Department of the Prime Minister and Cabinet). This brings the total number of responses to 29. Other than acknowledging an 84% response rate from the government departments who contributed information to this research, and as listed on the Public Service Commission, we've avoided using percentages in the remainder of the analysis because of the additional three agency responses. A full list of the 29 participating agencies can be found in **Table One** (Compilation of the 29 participating government department responses to research survey questions).

**The information in this paper was obtained from 84% of government departments in response to a survey conducted in May 2021. It provides a fairly comprehensive overview of Crown activities in relation to their activities relevant to mātauranga Māori as identified and described by them. This paper does not analyse the extent to which departments fully understand what mātauranga is or how mātauranga programmes and policies might differ from Māori responsiveness programmes.**

Of the responses provided, some agencies treated the questionnaire as an Official Information Act request and subject to the Act's provisions, while the majority completed the form and offered to provide additional information if required. Some agencies were pleased to be able to share the work they were doing and to receive feedback.

The intention of this research however is not to analyse each activity/programme/policy but rather to develop a picture of what is happening across Crown agencies relevant to mātauranga as described by them.

The five agencies that did not respond were the Department of Conservation, the Ministry for Pacific Peoples, NZ Customs Service, Oranga Tamariki (Ministry for Children), and the Serious Fraud Office. It is of particular concern that the Department of Conservation and Oranga Tamariki did not respond to the survey, as both departments have significant roles and influence in policy that supports mātauranga Māori. For example, under Section 4 of the Conservation Act 1987, the Department of Conservation is required to give effect to the principles of the Treaty of Waitangi, and under Section 7AA of the Oranga Tamariki Act 1989, the Chief Executive has a duty to recognise and provide a practical commitment to the principles of the Treaty.

## 2.2 | A WHOLE OF GOVERNMENT APPROACH

In the years since *Ko Aotearoa Tēnei* was published, numerous initiatives have been undertaken by the Crown to progress understanding and implementation of the Treaty. We highlight three of these initiatives as they impact the whole of government rather than one specific government department. These are the amendment to the Public Service Act (2020), the Cabinet Circular Te Tiriti o Waitangi/Treaty of Waitangi Guidance (2019), and Te Pae Tawhiti (2020). Alongside these, we've included the declaration of Matariki as a national holiday as a tangible example of the recognition of mātauranga, in this case, related to a constellation event that forms part of the Māori calendar.

**2.2.1 | The Public Service Act 2020** replaced the State Sector Act and now includes a new section (Section 14) relating to the Crown's relationships with Māori. It states that (1) The role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi (Te Tiriti o Waitangi) and that (2) The public service does so by the Commissioner, public service chief executives, interdepartmental executive boards, and boards of interdepartmental ventures having responsibility for developing and maintaining the capability of the public service to engage with Māori and to understand Māori perspectives.

The role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi (Te Tiriti o Waitangi) Public Service Act 2020.

The Treaty creates a basis for civil government extending over all New Zealanders, on the basis of protection and acknowledgments of Māori rights and interests within that shared citizenry. Cabinet Circular (19) 5.

**2.2.2 | Cabinet Circular CO (19) 5 Te Tiriti o Waitangi/Treaty of Waitangi Guidance** sets out guidelines agreed to by Cabinet in 2019 for policymakers to consider the Treaty of Waitangi in policy development and implementation.<sup>35</sup> The Circular notes that the last time the government provided broad Treaty guidance to the public service was in 1989 and since that time over seventy Treaty settlements have been negotiated between Māori and the Crown. The Circular includes two key points: that context is important, and that the Treaty must be considered as a whole. The context statement deals with the notions of Māori rights and interests and citizenship as complementary rather than competing interests (see box below). Affirming that the Treaty must be considered as a whole and that no article of the Treaty stands apart from the others<sup>36</sup> marks a departure from how Crown agencies have previously approached their work including how they presented evidence during the Wai 262 Tribunal hearings.

The Cabinet Circular also acknowledges the Courts have recognised tikanga Māori as part of New Zealand common law and held that Māori rights might be recognised by the common law without statutory expression and that a decision maker may be required to weigh the Treaty rights/interest even when there is no reference in statute.<sup>37</sup>

The nature and scope of these developments are expansive and a significant shift from past practice. With this precedent of developing whole of government Treaty guidelines and a requirement for the public sector to progress the Crown's Treaty relationship with Māori, the opportunity to build on this foundation to develop meaningful engagements with Māori about mātauranga is stronger than it has been previously. The question is, to what extent are these new developments being applied to current Crown mātauranga policies and programmes?

**2.2.3 | Te Pae Tawhiti** In April 2019, the then Minister of Māori Development, Hon. Nanaia Mahuta announced a whole of government strategy to approach the issues of the Wai 262 claim. The ideas expressed at that time focused on how the government intended to organise itself to approach the issues raised in Wai 262 which were grouped into three kete (baskets): (i) taonga works and mātauranga Māori, (ii) taonga species and mātauranga, and (iii) international indigenous matters. The initiative was named Te Pae Tawhiti<sup>38</sup> and included the convening of Te Taumata Whakapūmau, the descendants of the original Wai 262 claimants. Since its establishment in 2019, Te Taumata Whakapūmau has directed its attention to the development of a claimant-led strategy for whānau and Iwi through Kanohi Ora engagement.<sup>39</sup> Cabinet subsequently reaffirmed its commitment to a whole of government approach in 2022 and directed that there be a “*sharper focus on the*





protection and utilisation of Mātauranga Māori and other taonga.”<sup>40</sup>

**2.2.4 | Te Ture mō te Hararei Tūmatanui o Te Kāhui o Matariki / Te Kāhui o Matariki Public Holiday Act (2022)** Another development of national significance was the declaration in 2022 of Matariki as a national public holiday. Matariki is based on the mātauranga Māori calendar. Matariki was declared a New Zealand national holiday through the passage of Te Ture mō te Hararei Tūmatanui o Te Kāhui o Matariki / Te Kāhui o Matariki Public Holiday Act (2022). The Act is the fifth dual language (Māori/English) Act to be enacted by Parliament. Matariki is the Māori name for the Pleiades, an open star cluster within the constellation of Taurus, and marks a period of reflection and remembrance, celebration and festivities, and a focus on the promise of a new season.

**Matariki is a time to gather, to acknowledge those who have passed, to celebrate the present, and to plan for the future. Matariki is the star of the Māori New Year. This Act binds the Crown. Te Ture mō te Hararei Tūmatanui o Te Kāhui o Matariki / Te Kāhui o Matariki Public Holiday Act (2022).**<sup>41</sup>

Matariki is the second national holiday in the world to be based on the recognition of indigenous knowledge. The first country was Bolivia which has celebrated Willka Kuti as a national holiday since 2010. Similar to Matariki, Willka Kuti marks the indigenous Aymara calendar.<sup>42</sup> In 2011, Bolivia also declared October 12th, Dia de la Descolonización (Decolonisation Day) as another national holiday.<sup>43</sup>

## 2.3 | CROWN ACTIVITIES CONCERNING MĀTAURANGA MĀORI

During the Wai 262 hearings, many Crown agencies provided evidence to the Tribunal detailing their inventory of related activities on the assumption that having lots of programmes equated to being important and useful to mātauranga and to Māori. We were curious to see if, with the passage of time, the number of Crown policies and programmes had increased or decreased and/or had strategic purpose and objectives.

To attain an up-to-date overview of the Crown's policies, legislation, programmes, projects, activities, and funding concerning mātauranga Māori, for this paper, a survey of six questions was sent to the Chief Executives of government departments as detailed in section 2.1. The questions covered, policy, legislation, provision of public funding, programme, projects or activities, indicators to measure impact, and a self-measurement of contribution to mātauranga. Twenty-six or 84% of departments responded plus an additional three agencies responsible to three of the participating departments.<sup>44</sup> Their responses are outlined in the following sections 2.3.1–2.3.6.

As this paper relied on the participating agencies to self-identify relevant projects and policies, we have not included additional initiatives we know to be relevant but for whatever reason were not included in a department's response. For example, MBIE did not include in the list of legislation it is responsible for, the Trademarks, Plant Variety Rights, and Patents Acts which include provisions relevant to mātauranga.<sup>45</sup> None of the departments who manage work programmes with the Iwi Chairs Forum mentioned their joint initiatives in their responses, even when there were clear parallels, e.g. the Mana Orite Relationship Agreement between the Iwi Chairs Forum and the Chief Data Steward

which includes mātauranga-related activities. The value of the data in this paper, therefore, rests in the fact that it reflects how departments have described themselves at a specific point in time.

### 2.3.1 | MĀTAURANGA POLICY - DOES YOUR DEPARTMENT/MINISTRY HAVE A POLICY OUTLINING HOW IT ACKNOWLEDGES, INTERACTS WITH, AND SUPPORTS MĀTAURANGA?

In the public sector, a policy is a tangible expression of a decision made by a department or Cabinet to articulate a departmental or whole of government approach to an issue and suggests that a process was followed to set out the scope and nature of that department or government's interests and goals. Having a policy about a specific issue/goal is directly relevant to the allocation of funding. Good policy advice is underpinned by good evidence reinforcing that the effort to develop policy is a deliberative action.<sup>46</sup> Often a policy evolves over time and therefore comprises a series of decisions. For instance, Data New Zealand has several policies that support open government and the release of open data. One of these policies includes the New Zealand Data and Information Management Principles.<sup>47</sup> The New Zealand government policy on repatriation of Māori/Moriori ancestral remains comprises several sequential Cabinet decisions updating the policy over time as further information and 'best practice' was developed.<sup>48</sup>

Therefore, when asked if a department has a policy on a specific issue, in this case on mātauranga Māori, it is a relatively uncomplicated exercise to respond Yes or No.

Ten government agencies reported that they



had a policy outlining how they acknowledge, interact with, and support mātauranga Māori. These agencies included: Archives New Zealand; Department of Corrections; Department of Internal Affairs; Ministry of Business, Innovation, and Employment; Ministry of Education; Ministry of Foreign Affairs and Trade; Ministry of Health; Ministry for Primary Industries; Te Puni Kōkiri; and Treasury. Some of the descriptions provided signalled that some of the policies were not about mātauranga but rather, te reo Māori or Māori responsiveness or dealt with the Treaty of Waitangi.

While some agencies said that they did not have a specific mātauranga policy and responded No to the survey, they indicated that they did have other relevant policy frameworks (The Ministry of Housing and Urban Development referred to kaupapa Māori concepts and initiatives), or referred to a suite of policies that interact with mātauranga (Ministry of Culture and Heritage) or they indicated an intention to consider developing a mātauranga policy. For example, the Ministry for the Environment reported that while they did not currently have a “specific policy around [the] use of, or interaction with Mātauranga, [they] would consider one”.

The Ministry of Business, Innovation, and Employment (MBIE) outlined the four main themes and four objectives of its Vision Mātauranga policy of which one theme and one objective relate specifically to mātauranga (Theme: Mātauranga: Exploring Indigenous Knowledge and Science and Innovation, Objective: To recognise Māori as important partners in science and innovation; both as intergenerational guardians of significant natural resources and indigenous knowledge, and owners and managers of commercial assets.)<sup>49</sup>

In addition to this, other agencies reported they were in the process of developing mātauranga Māori policies – namely Crown Law, the Education Review Office, and the Ministry of Transport.

In the Wai 262 Inquiry, the Tribunal recognised that most government departments are required to work with mātauranga Māori to some extent in performing their functions. The responses of departments to this question confirm that few departments have a policy framework to guide their interaction with mātauranga.



### 2.3.2 | LEGISLATION. IS YOUR DEPARTMENT/ MINISTRY RESPONSIBLE FOR ANY LEGISLATION THAT INCLUDES REFERENCES TO MĀTAURANGA?

This section is based entirely on the questionnaire responses received, it, therefore, does not profess to be a complete inventory of all Māori concepts, values, or Treaty of Waitangi provisions in New Zealand legislation. The information provided by departments has been grouped under three broad themes; (A) recognising Te Tiriti o Waitangi in the operations of their departments, (B) Establishing Māori Advisory Groups and Positions; and (C) Reflecting Māori Perspectives, Mātauranga and Tikanga. For a complete list of current legislative protections of mātauranga Māori as identified by government departments in response to Question 3 of the survey see **Appendix**.

Eight government agencies reported that they administer legislation that includes references to mātauranga Māori. These departments are Archives New Zealand, the Department of Internal Affairs, the Education Review Office, the Ministry for Culture and Heritage, the Ministry of Business, Innovation and Employment, the Ministry of Education, the Ministry for the Environment, and Te Puni Kōkiri.

The responses to this question reveal there are very few legislative protections in place for mātauranga Māori with less than a quarter of the responses identifying a legal standard they are required to meet in respect of mātauranga Māori.

Analysis of the responses of departments to this question also showed the similarities, as well as some marked differences in the legal frameworks currently present. Legislative similarities across the responses of Government Departments include:

### 2.3.2(A) | Recognizing Te Tiriti o Waitangi in the operations of their departments:

- i. Section 7 of the Heritage New Zealand Pouhere Taonga Act 2014 provides direction to recognise and respect the Crown's responsibility to give effect to the Treaty of Waitangi.
- ii. Section 3(g) of the Public Records Act 2005 provides that one of the purposes of the Act is to encourage the spirit of partnership and goodwill envisaged by the Treaty of Waitangi as provided for by section 7.
- iii. Section 9(1)(d)(i) of the Education and Training Act outlines that recognising and respecting the Crown's responsibility to give effect to Te Tiriti o Waitangi includes schools working to ensure that its plans, policies, and local curriculum reflect local Tikanga Māori, and mātauranga.
- iv. Part 1 Subpart 3 of the Public Service Act 2020 concerns the role of the public service in supporting the Crown in its relationships with Māori under the Treaty of Waitangi.
- v. Section 10 of the Crown Research Institutes Act 1992 requires shareholding Ministers to have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in respect of the transfer of any land (or interests in land), under the Act, to a Crown entity or subsidiary of a Crown Research Institute.
- vi. Section 7 of the Heritage New Zealand Pouhere Taonga Act 2014 provides direction for recognising and respecting the Crown's responsibility to give effect to the Treaty of Waitangi.

### 2.3.2(B) | Establishing Māori Advisory Groups/Positions

The relevance of references in legislation for the establishment of Māori advisory groups or positions is that these same provisions often identify the skills required to carry out the roles including knowledge of tikanga and mātauranga.

- i. Subpart 2 of the Heritage New Zealand Pouhere Taonga Act 2014 continues the Māori Heritage Council established by the Act's predecessor and outlines the process by which the council is formed and operates.
- ii. Section 17 of the Taumata Arowai Water Services Regulator Act 2020 sets out the role of the Māori Advisory Group established in Section 14 of the Act which is to advise on Māori interests and knowledge. This includes developing and maintaining a framework on how to interpret and give effect to Te Mana o te Wai and provides advice on how to enable mātauranga Māori.
- iii. Section 33 of the Local Government Commission provides that the Local Government Commission must include a member who has knowledge of tikanga Māori.
- iv. Section 14 of the Public Records Act 2005 requires two members of the Archives Council to have knowledge of tikanga Māori.
- v. Te Puni Kōkiri administers Te Ture mō te Reo Māori 2016 which contains a reference to mātauranga in Sections 21 and 41. These provisions govern appointment decisions to Te Mātāwai and Te Taura Whiri o te Reo Māori respectively. When appointing members to both Te Mātāwai and Te Taura Whiri, the Minister must have regard to the need for a membership with the appropriate mix of 'mātauranga' or 'knowledge', among other considerations.
- vi. Section 59(1) of the Resource Management Amendment Act 2020 requires that each freshwater hearings panel must comprise five members as follows and that one person must have an understanding of tikanga Māori and mātauranga Māori.
  - Section 59(6)(d) of the RMA Act 20 requires that, when convening a freshwater hearings panel, the Chief Freshwater Commissioner must consider the need for a panel to collectively have knowledge of and expertise in relation to tikanga Māori and mātauranga Māori; and
  - Section 65(2)(b)(iv) requires that the Minister must appoint freshwater commissioners who collectively have knowledge of and expertise in relation to tikanga Māori and the public service.
- vii. Section 7(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 requires that the members of the panel under this Act, must collectively have expertise in tikanga Māori and mātauranga Māori.
- viii. Section 5H(1)(d)(ii) of the Climate Change Response Act 2002 requires that before recommending the appointment of a member of the Commission, the Minister must have regard of the need for the Commission to have members who, collectively, have technical and professional skills, experience and expertise in and an understanding of innovative approaches relevant to the Treaty of Waitangi and Mātauranga Māori – including tikanga Māori, te reo Māori, mātauranga Māori, and Māori economic activity;
- ix. Section 7 of the Heritage New Zealand Pouhere Act 2014 includes provisions for the appointment of at least three members to their eight-member Board who have knowledge of te reo and tikanga Māori and



for the Board to delegate functions and powers to the Māori Heritage Council.

### 2.3.2(C) | Reflecting Māori Perspectives, Mātauranga and Tikanga

- i. Section 8(b) of the Museum of New Zealand Te Papa Tongarewa Act 1992 requires that, in performing its functions, the Board shall endeavour to ensure the Museum expresses and recognises the mana and significance of Māori, European, and other major traditions and cultural heritages, and the Museum provides the means for every such culture to contribute effectively to the Museum as a statement of New Zealand's identity.
- ii. Section 8(5)(g) of the Radio New Zealand Act 1995 requires the public radio company, in achieving its purpose, must endeavour to provide services of the highest quality, which reflect New Zealand's culture and identity, including Māori language and culture.
- iii. Section 12(2)(b) of the Television New Zealand Act 2003 requires that TVNZ, in carrying out its functions, must provide high-quality content that "...reflects Māori perspectives".
- iv. Section 77(1) of the Local Government Act 2002 provides that a local authority must, in the course of decision-making involving land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna and other taonga.
- v. Section 18(a) (1) of the National Library of NZ Te Puna Mātauranga o Aotearoa Act 2003 sets out the functions of the Guardians of the Alexander Turnbull Library to advise the Minister on the capacity of the Alexander Turnbull Library to acquire documents to be used for the purposes of research, scholarship or Mātauranga Māori.
- vi. Section 32(i) of the Education and Training Act 2020 outlines the purpose of Part 3 of the Act, which is to establish a schooling system that supports all learners/ākonga to gain the skills and knowledge they need to be lifelong learners/ākonga and fully participate in the labour market, society and their communities. One factor to provide for this purpose is for te reo Māori, tikanga Māori, mātauranga Māori, and te ao Māori to be reflected and integrated into the schooling system.
- vii. Section 127(1)(d)(i) of the Education and Training Act 2020 provides that one of a board's primary objectives in governing a school is to ensure that the school gives effect to Te Tiriti o Waitangi, by working to ensure that its plans, policies, and local curriculum reflect local tikanga, mātauranga and te ao Māori.
- viii. Section 10 of the Environmental Reporting (Topics for Environmental Report) Regulations 2016 outlines the topics relating to the impact that the state of the environment and changes to it may be having on each of the impact categories in relation to each of the domains, including mātauranga Māori, tikanga Māori, and kaitiakitanga.
- ix. Section 14(2) of the Public Service Act 2020 specifically places responsibility on public service leaders, including the Public Service Commissioner and chief executives, for developing and maintaining the capability of the public service to engage with Māori and understand Māori perspectives.
- x. Section 18 of Taumata Arowai – the Water Services Regulator Act 2020 sets out the operating principles of the advisory group Tamauta Arowai which include partnering with Māori to give effect to Te Mana o te

Wai, and to understand, support, and enable the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga.

While the aforementioned illustrate the legislative provisions identified by government departments as demonstrating protection mechanisms, they were relatively weak and non-committal compared to the offence created under Section 18(A) of the Flags, Emblems, and Names Protection Act 1981 in regard to the words and emblems relating to the 28th Māori Battalion or the statutory framework for taonga tūturu established under Part 2 of the Protected Objects Act 1975.

### **2.3.3 | PROGRAMMES AND PROJECTS. DOES YOUR DEPARTMENT/MINISTRY ADMINISTER OR UNDERTAKE ANY PROGRAMMES, PROJECTS, OR ACTIVITIES DIRECTLY RELATED TO MĀTAURANGA?**

In the previous sections, it was established that only ten (of 31) government departments have a policy outlining how the department acknowledges, interacts with, and supports mātauranga, and eight departments reported they administer legislation that includes references to Mātauranga.

When asked if the department undertakes any mātauranga programmes or policies, twenty departments reported that they do administer or undertake some sort of programme, project, or activity directly related to mātauranga Māori. In many cases, therefore, the provision of programmes, projects, or activities is not driven by a legal responsibility or departmental policy to do so.

Eleven reported they had one to three programmes, projects, or activities.<sup>50</sup> Two

departments reported they had four to six programmes, projects, or activities (Ministry of Primary Industries; and Statistics New Zealand), and seven departments reported they had more than seven mātauranga programmes/projects/activities. These were the Department of Internal Affairs; Education Review Office; Ministry of Business, Innovation, and Employment; Ministry of Culture and Heritage; Ministry of Education; Ministry of Foreign Affairs and Trade; and the Public Service Commission.

Survey responses showed a range of mātauranga Māori-related programmes, projects, and activities were being deployed across the government. While some agencies' projects were focused on building internal capability and capacity, other agencies' projects were focused on incorporating mātauranga Māori into their operations. Some were undertaking a combination of both.

For example, in their responses, the Department of Prime Minister and Cabinet and the National Emergency Management Agency identified activities focused on building internal capabilities. They reported that learning and development opportunities are available for all staff in the areas of mātauranga Māori, including Pou Tangata which is a network of staff committed to building capability and capacity in te ao Māori within their offices and which meets weekly for 'waiata group'.

Conversely, the response from Land Information NZ did not include any internal capability building and instead identified projects centred more on the substantive use of mātauranga Māori in their operations. The three projects identified are led by local rūnanga with support from Land Information NZ:

1. Te Arawa Lakes Trust, and the development and trial of harakeke weed mats as an alternative to imported hessian

matting for lake weed control and the use of 'proven mātauranga' as a tool for monitoring of tau koura and other species.

2. Te Rūnanga o Hokonui, and the use of mātauranga Māori alongside technical expertise to provide the best outcomes for Hokonui's mahinga kai; and
3. Te Rūnanga o Moeraki, and re-establishing native habitats, wetlands, and mahinga kai from the mountains to the sea.

The Public Service Commission reported they had a mixture of internal and external facing mātauranga-based activities. Internally focused activities included a strategy to uplift Māori capability across the agency, a Māori language plan, and te reo and tikanga training. Externally focused activities include the establishment of a statutory Māori advisory committee to provide advice on the implementation of the new Act, and the Emerging Māori Leaders Programme that is shaped by mātauranga Māori to help instil Māori public servants from multiple agencies with the skills and confidence to step into leadership and governance roles within the public sector.

A very small number of the activities were partnerships between an agency and Māori. One such project reported on is the co-location of Ngāi Tahu Archives and Archives New Zealand. *This partnership empowers Ngāi Tahu to hold their own taonga "under its own mana Motuhake" but also allows "access to Archive New Zealand's experts, skill-base and technical equipment".*<sup>51</sup>

### 2.3.4 | FUNDING. DOES YOUR DEPARTMENT/ MINISTRY PROVIDE ANY PUBLIC FUNDING TO PEOPLE AND ORGANISATIONS FOR THE EXPRESS PURPOSE OF RECORDING, ARCHIVING, UTILISING, OR PROGRESSING MĀTAURANGA?

This question sought to find out to what extent the activities, programmes, and policies of government departments included the provision of funding for the archiving, use, and transmission of mātauranga, in other words, which departments proactively supported Māori to access and use mātauranga. Seven departments reported that they provided funding streams for people and organisations to record, archive, utilise or progress mātauranga Māori. These agencies included: the Department of Internal Affairs, Ministry of Education, Ministry of Foreign Affairs and Trade, Ministry of Health, Ministry of Housing and Urban Development, Ministry of Primary Industries, and Statistics New Zealand. Of these seven departments, only five could verify the specific funding programmes they administer.

Additional commentary is also included about the funding available from the Ministry of Culture and Heritage and the Ministry of Business, Innovation and Employment who although responded that they did not provide public funding for archiving, recording, utilising, or progressing mātauranga were able to demonstrate that other funds they administer have resulted in this outcome.

The Department of Internal Affairs identified a range of funding streams that they provide including the Mātauranga Māori Marae Ora Fund specifically for the transmission of mātauranga Māori on marae as part of the COVID-19 Response and Recovery Fund. Similarly, the Oranga Marae fund, a joint programme with Te Puni Kōkiri, provides support, advice, and investment in marae with a key goal to strengthen the ability of

marae to pass on their ancestral knowledge.

The Ministry of Education reported: *"Our iwi partners can apply for Ministry funding to research and develop educational resources based on their mātauranga ā iwi. These include: Toikuranui (c 20 years - formerly the IMER fund) Whānau Engagement (1 year) Strengthening Early Learning Opportunities (SELO) (operating for more than 10 years)."*<sup>52</sup>

The Ministry of Health's Te Ao Auahatanga Hauora Māori: Māori Health Innovation Fund supports innovative approaches to service delivery. The Ministry also currently funds twenty health providers across the country to deliver rongoā services, including mirimiri, karakia, and whitiwhiti kōrero.

On their mātauranga Māori funding, the Ministry of Housing reported that: *"Tūāpapa Kura Kāinga provides funding to iwi and Māori to build capacity for delivery, and to engage in the delivery, of housing solutions. This approach is guided by MAIHI, which promotes a kaupapa Māori approach in partnership with iwi and Māori - this means iwi and Māori may use the funding to develop housing solutions that are based on the progression of their mātauranga."*<sup>53</sup>

The Ministry for Primary Industries identified four funding mechanisms available to support research into mātauranga Māori including Māori agribusiness funding which *"values and encourages the revitalization of Mātauranga Māori practices in the community, particularly where local Mātauranga Māori systems have been impacted or could add value and increase the productivity of Māori agribusinesses, primary sector assets and Māori communities"*<sup>54</sup>

While the Ministry of Foreign Affairs and Trade (MFAT) responded positively to the question of providing public funding, the example provided indicated that the funding did not

come from MFAT itself. Statistics New Zealand did not provide information on public funds it administers relevant to question four.

In addition, the Ministry of Culture and Heritage reported that although they did not have funding available for the express purpose of funding mātauranga Māori projects, they offer several other funds which have resulted in this outcome. For example, the Ministry identified funding provided to Te Papa to administer the Ngākahu National Repatriation Partnership to support the museum sector to repatriate ancestral human remains from their holdings to source communities. The Ministry also identified that several initiatives are being delivered by cultural agencies participating in the mātauranga Māori Te Awe Kōtuku Programme which involve the recording, archiving, utilising, or progressing of mātauranga Māori.

The Ministry of Business, Innovation, and Employment (MBIE) indicated they did not have any funding mechanisms for the express purpose of recording, archiving, utilising, or progressing mātauranga, however, they said that some of the projects funded under the Vision Mātauranga policy do achieve this purpose and provided a list of 73 funded applications that give effect to the mātauranga theme or include mātauranga Māori (This list is available on request to the authors). Further to this, MBIE listed four of the national funding schemes available that require giving effect to the Vision Mātauranga policy. Some of the programmes that have received funding under this scheme include Te Kawau Tiripou: Mātauranga Māori through GPS as a tool for Iwi and hapū governance, and Pāhekoheko te maramataka - integrating maramataka into land management systems.

The responses of departments to this question demonstrate the potential benefit that funding

for mātauranga Māori could have with the examples mentioned above. Nonetheless, the lack of public funding available for the express purpose of recording, archiving, utilising, or progressing mātauranga limits this potential. While the Ministry of Culture and Heritage and MBIE were able to identify projects that have achieved this outcome, it cannot be said that their funding opportunities are for the express purpose of recording, archiving, utilising, or progressing mātauranga so again, the potential reach of their funding to achieve similar outcomes across their operations is limited. While some government departments have demonstrated that it is a possibility that mātauranga Māori projects are funded within broader funding pools, it is not targeted in a way that demonstrates the survival and revival of mātauranga Māori are being accorded appropriate priority.

### 2.3.5 | MONITORING TO MEASURE IMPACT. IF YOUR DEPARTMENT/MINISTRY CONTRIBUTES TO MĀTAURANGA, HAVE YOU DEVELOPED INDICATORS OR A MONITORING SYSTEM TO MEASURE THE IMPACT YOUR DIRECT INVOLVEMENT HAS HAD OR INTENDS TO HAVE ON MĀTAURANGA?

Monitoring the impact of the involvement that a department might have on mātauranga presupposes there are defined goals and objectives to measure against. Eight agencies reported that they had a framework by which they monitored their mātauranga Māori policies.

These agencies included: the Department of Prime Minister and Cabinet; Education Review Office; Ministry of Defence; Ministry of Education; Ministry of Health; National Emergency Management Agency; Public Service Commission; and Te Puni Kōkiri. Of these eight

agencies that recorded they have indicators or a monitoring system to measure impact, only two of these departments, indicated they have an overarching policy to measure impact against.

The Ministry of Social Development reported that they work in the area of kaupapa whānau, sometimes hapū, sometimes Iwi, and then Māori. MSD also carries out Māori-centred research. Despite this, MSD reported that in this area “we do not have any specific way of identifying or measuring how projects may be either directly related to or impact mātauranga Māori.”<sup>55</sup>

In its response, the Ministry for the Environment reported they do not have any monitoring, though they would like to long-term. Regarding their approach to establishing mātauranga Māori monitoring frameworks, Te Puni Kōkiri reported that:

*“Our strategic approach has multiple key one-year and four-year goals based on the high-level outcomes we seek. You will note that the focus areas of Te Pae Tawhiti on page 23 of our strategic intentions document are looking at ways to develop a consistent way of specifically measuring the protection, development, and use of mātauranga Māori.”<sup>56</sup>*

An additional six agencies reported that they are currently developing mātauranga Māori monitoring systems.

The absence of a monitoring framework to measure the impact of the Ministry of Business, Employment and Innovation’s (MBIE) Vision Mātauranga (VM) was noticeable. The Tribunal commented that “Vision Mātauranga was a genuine attempt to accommodate Mātauranga Māori within the Research, Science & Technology system, as the system itself accepted it was needed and added that, it was however a failed attempt as mātauranga continues to sit at the margins and we see no desire to change that.”<sup>57</sup> Perhaps influenced by the writings of Tā Mason Durie



who was a vocal critic of the VM, and who wrote “Māori participation in science even if it leads to the advancement of Māori social or economic wellbeing, no matter how laudable, is not the same as the advancement of Mātauranga.”<sup>58</sup>

The Research, Science & Innovation system has been particularly active in the mātauranga space including responding to the issues raised in the Wai 262 claim and report. For instance, Rauika Māngai a self-organised consortium of Māori

researchers across the eleven National Science Challenges pro-actively organised a series of Wai 262 webinars for scientists across the sector and then produced a set of best practice guidelines for science partnerships with kaitiaki.<sup>59</sup> It is surprising therefore that MBIE has not prioritised clarifying its use, promotion, and role in mātauranga. It is understood that at the time of writing this paper, MBIE has developed its thinking but has yet to make public any new policies or guidelines.

### 2.3.6 | ASSESSING PERFORMANCE - HOW WOULD YOU MEASURE YOUR DEPARTMENT / MINISTRY'S OVERALL CONTRIBUTION TO MĀTAURANGA?

This question was not intended to be a ‘ranking’ exercise and was therefore framed to encourage a free and frank reflection. It was apparent that some departments responded in kind. We were quite surprised by some of the very candid responses. Several departments assessed themselves across two or three of the options meaning the total number exceeds the 29 participating agencies. Responses were based on the following set of options:

- 1 Not relevant as this Ministry is not involved in mātauranga**  
Two agencies assessed themselves at level 1. These agencies were: Inland Revenue and the Ministry of Justice.<sup>60</sup>
- 2 Unable to measure as there is no benchmark or stated strategic outcome we are working towards**  
Six agencies situated themselves at level 2. Statistics NZ, NZSIS, Government Communications Security Bureau, MBIE, and MPI.
- 3 We're trying our best and feel we are making some progress but would benefit from clarity on the Crown's overall approach to mātauranga**  
Five agencies assessed themselves at level 3. Crown Law Office, Ministry of Health, LINZ, Department of Internal Affairs, and Ministry of Women.
- 4 It's a growing area for us and we're confident we are moving in the right direction**  
Ten assessed themselves at level 4. These agencies were the Crown Law Office, Education Review Office (English language medium), Department of Prime Minister and Cabinet, Ministry of Defence, Ministry for the Environment, Ministry of Foreign Affairs and Trade, Ministry of Social Development, National Emergency Management Agency, Public Service Commission and the Treasury.
- 5 We work closely with Māori on any mātauranga activities to ensure Māori as well as the Crown benefit from our mātauranga efforts**  
Four agencies assessed themselves at Level 5 - Archives New Zealand, Education Review Office (Māori medium education), the Ministry of Education; and Te Puni Kōkiri.

Four departments declined to rate their contributions. The Department of Corrections declined to rate their contribution on the scale provided “as elements of all of these ratings are relevant.”<sup>61</sup> Similarly, the Ministry of Culture and Heritage responded that their contribution to mātauranga “is not insignificant, yet it is too simplistic to scale our success. We endeavour to be an exemplary Treaty partner and there is always more work to be done.”<sup>62</sup> The Ministry for Primary Industries reported they “are always looking to improve their approach to Mātauranga but putting a score on their contribution is difficult as a subjective measure”<sup>63</sup>

Turning back to the previous question about monitoring, despite there being limited monitoring frameworks in place to show the impact of their activities and give a sense of their progress, nearly half of the agencies responding to the survey assessed themselves as Four or higher on the assessment scale provided. Overall, there was often little evidence to justify the placing. Where frameworks are in place, it is evident they could be more robust and comprehensive to better align with a co-development with Māori approach.



# SECTION THREE



## TAKING STOCK

## 3.1 | SYNTHESIS OF RESPONSES FROM CROWN AGENCIES

The aspirations of the original claimants of the Wai 262 claim were detailed in their Statement of Claim lodged in 1992.<sup>64</sup> Nineteen years later, the Waitangi Tribunal set out its recommendations in its report *Ko Aotearoa Tēnei*<sup>65</sup>, and eleven years later (thirty years after the claim was lodged) this paper sets out what actions have been taken by the Crown to address the specific issue of mātauranga Māori.

Returning to the question asked in the introduction of this paper, Does the Crown now have an overarching policy outlining its' role, vision, and objectives relating to Mātauranga? What is clear from the survey responses is that while some progress has been made in developing a whole of Crown approach to the Treaty of Waitangi (Public Service Act and Cabinet Circular 19(5)) and to how the issues of Wai 262 are to be considered (i.e. Te Pae Tawhiti), an overarching Crown policy on mātauranga has yet to be developed.

To explain further, **Table One** collates the information provided by participating departments across the six questions. Only two departments indicated they have a mātauranga policy as well as programmes, projects, funding, and legislation. (DIA and Ministry of Education). The majority (21 departments) do not have relevant legislation that guides their mātauranga-related work. There seemed to have been significant creative license taken by departments to describe where they placed themselves on the five-point spectrum measuring overall contribution to mātauranga (as described in 2.3.6) concerning their responses to the other survey questions.

For instance, of the five agencies who assessed themselves as working closely with Māori, very few were able to demonstrate they are

working in partnership with Māori on their mātauranga Māori activities. Indeed, very few agencies referred to their engagement processes with Māori in their responses.

Of the ten agencies that indicated they are moving confidently in the right direction, only two had a policy, only one had legislation and only one provides public funds for recording, archiving, utilising, or transmitting purposes. Crown Law did not identify any policy, legislation, funding, programmes, or monitoring frameworks and assessed themselves as being confident they were moving in the right direction. While they reported they have a policy and monitoring framework in development, without them in place or any projects or funding to report on, this seems insufficient to justify their self-assessment.

The responses highlighted that as well as a lack of a central whole-of-Government approach to and policy for Mātauranga,<sup>66</sup> several other issues emerged including:

- a. The majority of individual government departments do not have policies in place to guide their interaction with mātauranga Māori.
- b. There are very few legislative protections in place for mātauranga Māori.
- c. There are few funding opportunities available for the express purposes of furthering mātauranga Māori as well as archiving and recording mātauranga to enable future use by kaitiaki.





- d. Despite the lack of overarching policies and legislation, many government departments undertake a range of programmes, projects, and/or activities, which they believe are related to mātauranga Māori.
- e. There are very few assessment or monitoring frameworks in place to measure the contribution of government departments to mātauranga enabling a narrative of what their contribution has been across fields of relevance and importance to mātauranga.
- f. While several government departments report they are confident they are moving in the right direction, others seek greater clarity on the Crown's overall approach to mātauranga Māori: and
- g. The level of collaboration across departments and with Māori on the protection of mātauranga Māori has not improved much since the *Ko Aotearoa Tēnei* report and almost none of the recommendations in Chapter Six have been implemented by the Government.<sup>67</sup>



**Table One** | Compilation of The Twenty-Nine Participating Government Department Responses to Research Survey Questionnaire

Government Department	Self Assess	Policy	Legislation	Public Funding	Programme or projects	Indicators or monitoring
Archives New Zealand	5	●	●		●	
Ministry of Education	5	●	●	●	●	●
Te Puni Kōkiri	5	●	●		●	●
Education Review Office	5		●		●	●
Crown Law	4					
Department of Prime Minister and Cabinet	4				●	●
Ministry of Defence	4					●
Ministry for the Environment	4		●		●	
Ministry of Foreign Affairs and Trade	4	●		●	●	
Ministry of Social Development	4				●	
National Emergency Management Agency	4				●	●
Public Service Commission	4				●	●
The Treasury	4	●			●	
Crown Law Office	3					
Ministry of Health	3	●			●	●
Land Information Service	3				●	
Department of Internal Affairs	3	●	●	●	●	●
Ministry of Woman	3				●	
Statistics NZ	2			●	●	
New Zealand Security Intelligence Service	2					
Government Communications Security	2					
Ministry of Business, Innovation, and Employment	2	●			●	
MPI (Te Uru Rākau/Biosecurity NZ)	2					
Inland Revenue Department	1					
Ministry of Justice	1				●	
Department of Corrections	N/S	●				
Ministry of Culture and Heritage	N/S		●			
Ministry of Housing	N/S			●	●	●
Ministry of Primary Industries	N/S			●	●	



The survey confirmed that while there are multiple mātauranga Māori workstreams being progressed by the Crown, instead of a coordinated and consistent whole of government approach to mātauranga, there is both a lack of strategic direction and few legislative requirements or protections in place to ensure the government's contribution is constructive and value-added. Many if not most of the activities are centred on the agencies themselves, either on their internal capability or their operations, rather than on empowering Māori to be in a determining or a partnership role concerning their mātauranga. Indeed, the lack of strategic direction was noted by eleven agencies in their self-assessment responses to Q.6 'How would you measure your department's overall contribution to Mātauranga? Six departments indicated they were unable to measure "as there is no benchmark or stated strategic outcome we are working towards", and five agencies indicated they would benefit from greater clarity on the Crown's overall approach. In the April 2019 Cabinet paper, *Developing a whole of government strategy for Wai 262*, the Hon. Nanaia Mahuta, then Te Minita Whanaketanga Māori, reported to Cabinet that "Greater coordination and coherence would support the Crown in having a consistent approach and meeting its obligations...

*In my view, the current approach is not delivering satisfactory outcomes for Māori or the Crown"*<sup>68</sup>

Additionally, the Crown's failure to set a strategic direction and expected outcomes has also impacted on resourcing. Responses show that Crown resourcing for Māori to record, archive, utilise or progress their mātauranga is very limited, with few agencies having funding streams dedicated to this purpose. With few funding opportunities available, the ability of Māori to progress mātauranga is limited. While some agencies showed it is possible to resource mātauranga projects out of broader funding pools, resourcing has never been allocated equitably to Māori-led mātauranga projects under these mechanisms, and therefore, they do not demonstrate that the survival and revival of mātauranga Māori is being accorded appropriate priority.

The Waitangi Tribunal's recommendation that a principled approach to mātauranga includes ongoing review and evaluation has also largely been ignored. Responses showed that few agencies have indicators or monitoring frameworks in place to measure the impact their activities are having on mātauranga Māori and the contribution they are making.<sup>69</sup>



## 3.2 | SUMMARY

Ultimately, the responses to the survey show that little meaningful progress has been made by the Crown to identify and systemise their role, responsibilities, and obligations to Māori in relation to mātauranga Māori since the Waitangi Tribunal released its recommendations on the Wai 262 claim eleven years ago. Alongside this sits a lack of common understanding of the complex nature of mātauranga, as many of the examples of mātauranga activities provided by departments could be better characterised as responsiveness to or engagement with Māori. The failure to set in place a strategic vision, direction, targets, and assessments points to a continued lack of prioritising the protection of mātauranga.

The responses of government departments to the survey demonstrate, however, that while progress has been made in some areas and in small steps, there is a real risk that the gains made in this space are fragile as they are not systemised. While the majority of departments undertake mātauranga Māori projects, less than half have policies outlining their acknowledgment of, interaction with, and support of mātauranga, and even fewer administer legislation that includes references to mātauranga or provide any public funding for the express purpose of recording archiving, utilising or progressing mātauranga or have developed indicators or a monitoring system to measure the impact their involvement has had or intends to have on mātauranga.<sup>70</sup>

Despite the best intention of departments behind the programmes, projects, and activities identified in the survey, the gains identified in these responses do not have the protection of policy, legislation, funding, or monitoring. Thus, best intent will not mean anything if it does not turn into concrete action that lasts beyond the specific projects and/or people behind them.

It is also worrying that few departments have discussed their engagement with Māori on the development of mātauranga work that is currently being undertaken. This exemplifies the lack of priority accorded to the rights of kaitiaki in mātauranga and setting objectives for the policies, funding, and projects that departments are rolling out.

Overall, the survey responses illustrate that a coordinated and principled approach has not been undertaken across the whole of government in respect of mātauranga. Admittedly, some departments appear to be performing better than others however the large majority are still lacking in the implementation of processes to guide their interaction with mātauranga Māori.





# SECTION FOUR

## CONCLUDING COMMENTS – FUTURE DIRECTIONS

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) comprises 45 Articles. The majority of the substantive paragraphs comprise two parts. The first part sets out a specific right, and the second part sets out the obligations for governments to meet in order for that right to be fully realised.

For example, Article 11

1. *Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present, and future manifestations of their cultures, such as archaeological and historical sites, artefacts, ceremonies, technologies, and visual and performing arts and literature.*
2. *States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious, and spiritual property taken without their free, prior, and informed consent or in violation of their laws, traditions, and customs.<sup>71</sup>*

The Declaration was written this way to affirm the collective rights of indigenous peoples across multiple spheres of their cultural, economic,

environmental, political, and social lives, as well as to recognise that to realise those rights, requires governments to acknowledge that many of their laws, policies and practices had been developed, often with intent, to limit or prohibit the very expression of rights by indigenous peoples. To realise rights, therefore, requires the same dual-action outlined in the Declaration, that is, for indigenous peoples to reclaim and re-establish knowledge, language, and customary practices as one project, and for governments to review, repeal, reverse and remove laws, policies and practices that inhibit the ability of indigenous peoples to fulfil their right to self-determination as a different but equally important project.

In the context of this paper on the Crown's role in mātauranga, this dual-action is similarly relevant. The Tribunal characterised this as 'Treaty obligations on the Crown to actively protect mātauranga as well as a responsibility of Māori to learn, practice and transmit mātauranga.'<sup>72</sup>

## 4.1 | THE CROWN'S ROLE IN MĀTAURANGA – ACTIVE PROTECTION

Mātauranga Māori is the cultural knowledge system of Māori. Mātauranga Māori is not a Māori language translation of knowledge as it pertains to all other knowledge systems. It is authoritatively the knowledge system of Māori. Mātauranga enables Māori to fully exercise all aspects of our cultural heritage, well-being, inter-generational transmission, and planning for the future. Confirmed by the Waitangi Tribunal as being a taonga in its own right in this claim as well as in other claims including the Wānanga Capital Establishment Grants Claim (Wai 718), and as such evokes the Treaty principle of active protection. It therefore also signals that the Crown's main role regarding mātauranga should be one of ensuring its programmes, policies, legislation, and funding are geared towards the goal of active protection of mātauranga. As stated by the Waitangi Tribunal, *"There can be no doubt that te reo and Mātauranga Māori are highly valued and irreplaceable taonga for New Zealand. These taonga exist nowhere else. The Crown has a duty to actively protect these taonga."*<sup>73</sup>

Active protection includes both positive and defensive measures. Defensive measures include protection from offensive and derogatory use, misappropriation, and use without the prior informed consent of the knowledge holders/ community, whānau, hapū, and Iwi. Defensive measures might also be used to protect sacred cultural manifestations, such as sacred symbols or words from being registered as trademarks. Positive protection includes the granting of rights to empower Māori to promote mātauranga, control its uses and benefit from its commercial exploitation at local and national levels.<sup>74</sup> Active protection can also include measures to educate the public to

counter the racism Māori often experience when using mātauranga, te reo Māori and tikanga.<sup>75</sup>

Some of the idioms used in the Tribunal's *Ko Aotearoa Tēnei* report such as 'Crown control of mātauranga' and the Crown is 'practically in the seat of kaitiaki', while provocative are not useful for the purposes of clarifying what the Crown's role should be, that of active protection. Policies developed to 'control' are fundamentally different from those developed to 'actively protect'.

The principled partnership approach frequently referred to in *Ko Aotearoa Tēnei* could indeed work for Māori and the Crown to co-develop legislation, policies, programmes, and funding to actively protect mātauranga. But it would not work, for instance, to assert Crown control over tangible or intangible manifestations of mātauranga Māori. This approach would also not work for the Crown engaging in other mātauranga activities, such as codifying tikanga or opening access to the mātauranga of indigenous flora and fauna without first including measures to safeguard the rights and responsibilities of kaitiaki, including their tino rangatiratanga rights and their ongoing relationship with indigenous flora and fauna.

In this sense, the Crown certainly does not control mātauranga. It does however consistently demonstrate controlling behaviours with regards to the mātauranga it holds in trust in national collections. A focus on active protection would re-orient many of the existing policies, programmes, and funding from collecting, curating, and classifying as in-house activities to connecting, collaborating, and co-creating.<sup>76</sup>

A focus on the principle of active protection should guide the Crown's engagement in mātauranga. This does not mean that the other Treaty principles alongside the Treaty articles themselves should

not also form the basis of the Crown's response. The Treaty must be considered as a whole and no article of the Treaty stands apart from the others.<sup>36</sup>

## 4.2 | WHY DEVELOP A MĀTAURANGA POLICY?

The survey highlighted the extent to which twenty-nine Crown agencies are currently involved to some extent in mātauranga. Perhaps this means there is too much underway across government agencies to suggest the Crown 'step back' until a clear policy and objectives have been developed, and our intention is not to disincentivise, particularly those Māori officials with competency in mātauranga from continuing to encourage and enable the departments they work within to improve their performance and interaction with Māori. It is however, inappropriate and unacceptable for the Crown to ignore all the processes requiring it to systemise its interactions with mātauranga and with the kaitiaki and holders of that knowledge and yet still continue to develop new programmes, policies, legislation, and funding without an overarching policy and objectives. It falls on the Crown to protect the kaitiaki relationship with such taonga as well the mātauranga they embody.<sup>77</sup>

The pressure for the government to develop a policy on mātauranga comes not only from domestic influences such as the Wai 262 claim and Treaty of Waitangi references in legislation, but also from international norms and standards, particularly, the UN Declaration on the Rights of Indigenous Peoples (UN DRIP), the Convention on Biological Diversity 1992 (CBD), and the CBD Nagoya Protocol (2011).

These norms require the New Zealand government to "take effective measures to recognise and protect

*the exercise of the rights of indigenous peoples to... maintain, control, protect and develop their cultural heritage, traditional knowledge, and traditional expressions, as well as the manifestations of their sciences, technologies, and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, ... as well as their rights to maintain, control, protect and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions. (UN DRIP Article 21)*

The Convention on Biological Diversity (which NZ has ratified) and the CBD's Nagoya Protocol (which New Zealand has not ratified), require the principles of prior informed consent, mutually agreed terms, and equitable sharing of benefits for access to any use of traditional knowledge, innovations, and practices of indigenous peoples.

Development of a mātauranga policy therefore would not only meet domestic responsibilities but also enable New Zealand to meet international norms and standards as well. However, we remain cognisant that while there has been no government policy on mātauranga, the government has continued to negotiate trade agreements and, contribute to international standard-setting negotiations relating to indigenous knowledge in the CBD, the World Intellectual Property Office Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge & Folklore (WIPO-IGC), and

other international bodies. In the absence of a clearly articulated domestic position, it would be stretching any definition of sound policy to suggest that the Crown's position in these fora to date has been consistent and informed.

The issue of Māori data governance is proceeding with haste across multiple government agencies. Māori data governance refers to the rights and interests that Māori have in relation to the collection, ownership, and application of Māori data and includes aspects of mātauranga as well as other knowledge.<sup>78</sup> It is, essential therefore that policy for these two interrelated but different areas be considered simultaneously.

We suggest that a policy on mātauranga would not necessarily need to be directed only at mātauranga particularly because of the diverse cultural context mātauranga sits within. For example, mātauranga could be positioned within a broader context of taonga Māori. But, the government does need to clarify the specific interest it has in mātauranga because of the extent of activities departments are engaged in and for the reasons discussed throughout this report.

A policy should not attempt to define mātauranga, particularly to the exclusion of other definitions presented by Māori experts, but rather, would set out the principle of active protection - what that means and the steps required to meet this standard. The policy would also outline protocols for the Crown's access to and use of mātauranga. Ideally, it should include a stated intention to not assert Crown proprietary rights over mātauranga as requested by the Wai 262 claimants, "*The Crown would not presume to have proprietary rights in taonga Māori, such that they could sell export or exploit those taonga; or deny access to taonga.*"<sup>79</sup>

The Crown as a whole, and each department as a component of the Crown, should be able to confidently describe how it contributes to

(the active protection of) mātauranga. Activities should directly relate to this objective and funding allocated accordingly to Māori as well as to agencies who genuinely and deliberately meet strategic objectives for mātauranga. Likewise, indicators to be used to assess effectiveness can only be developed after these strategic objectives have been completed. Officials who are made responsible for mātauranga programmes should be required to have some competency in mātauranga so it is not diminished due to their lack of understanding and be capable of respecting the boundaries of what the Crown should and should not act upon.<sup>80</sup>

In the absence of a policy, objectives, and indicators, there is also the risk of the Crown being left behind as Māori continue to develop kaupapa Māori initiatives including kaupapa Māori frameworks that far eclipse current Crown understanding practice.<sup>81</sup> As recently stated at a Whānau Ora conference, "*If you can't measure our concepts it's because your measures haven't evolved enough to understand us.*"<sup>82</sup>

The benefits that would come from co-developing a policy on active protection of mātauranga with Māori along with strategic outcomes and objectives would:

- Provide clarity and direction to the Crown and Māori;
- Enable the Crown to proceed in a deliberative rather than *ad hoc* manner as it is at present;
- Enable more informed Crown positions in relevant international negotiations;
- Provide transparency and accountability of government resourcing priorities and expenditures.
- Enhance the ability of Māori to exercise mana motuhake and kaitiakitanga in relation to Māori bio-cultural heritage.



- Enable the use of relevant mātauranga for the benefit of te taiao (the environment) and for social, and cultural wellbeing with the consent and full participation of Māori; and
- Help Foster an inclusive respectful New Zealand society.

## 4.3 | MĀORI CONTROL OVER MĀORI THINGS

This paper has focussed specifically on the issue of the Crown’s role in mātauranga, examining the nature and extent of the mātauranga-related programmes, projects, and funding of government departments to ascertain whether they are guided by legislation or more comprehensively by a whole of government policy approach to achieve articulated objectives. We learned through the survey that no whole of government policy on mātauranga exists. Considerable work needs to be done by the government to rectify this and two priority areas to focus on have been suggested in the preceding section 4.2. However, the fate of mātauranga does not rest in the hands of the Crown. This is because the Crown does not own mātauranga and nor does it control mātauranga generally.

The more significant and all-encompassing side of mātauranga sits with whānau, hapū, Iwi, and all Māori. Mātauranga, te reo Māori and tikanga are the essence of Māori culture and identity. Others can survive without these essential taonga. Their lives might be less enriched but nevertheless, their survival would not be threatened. However for Māori, if we lose mātauranga, te reo, and tikanga, we ourselves are lost as distinct Indigenous peoples. As has been noted in other sections of this paper, due to past government laws and policies, Māori have indeed been dispossessed of a

considerable body of mātauranga as well as access to much of the taonga and whakapapa species, ecosystems, and sacred places that nurture mātauranga and the connection of whānau, hapū, Iwi and Māori to those species and places. *“It takes one generation to lose te reo Māori (and mātauranga) and three generations to restore it.”<sup>83</sup>*

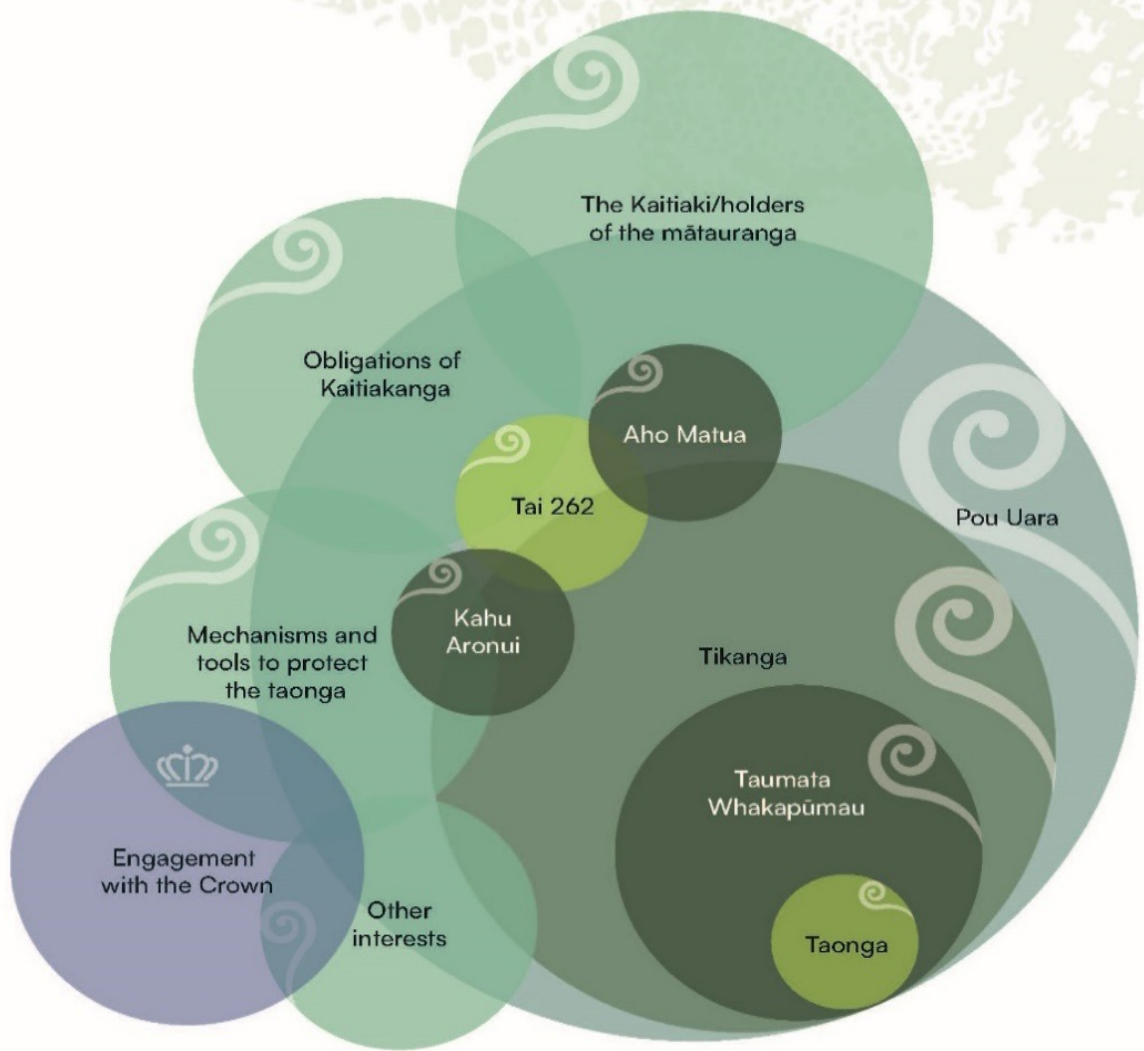
**E kore e piri te uku ki te rino  
Dry clay will not adhere to iron**

The whakatauaākī above is drawn from the haka *Mangumangu Taipō* composed by the Taranaki prophet Tohu Kākahi. The fuller translation of this is *“clay will not adhere to iron; as it is dried by the sun, it will fall”*. It was written to serve as a warning to Māori, not to forsake tikanga and mātauranga in favour of assimilating into a totally European lifestyle (Ihaka, 1957). Just as dry clay will fall from iron, the trappings of te ao Pākehā may one day elude Māori, and Māori will again experience the need to reinvigorate and revitalise their culture.<sup>84</sup> This prediction has come to pass for Māori in Aotearoa; the impact of colonisation permeates all facets of contemporary Indigenous life in New Zealand – in health, economy, social connections, and politics.

# Te āhua o te hui tahi i ngā Kanohi Ora



## Kanohi Ora engagement framework



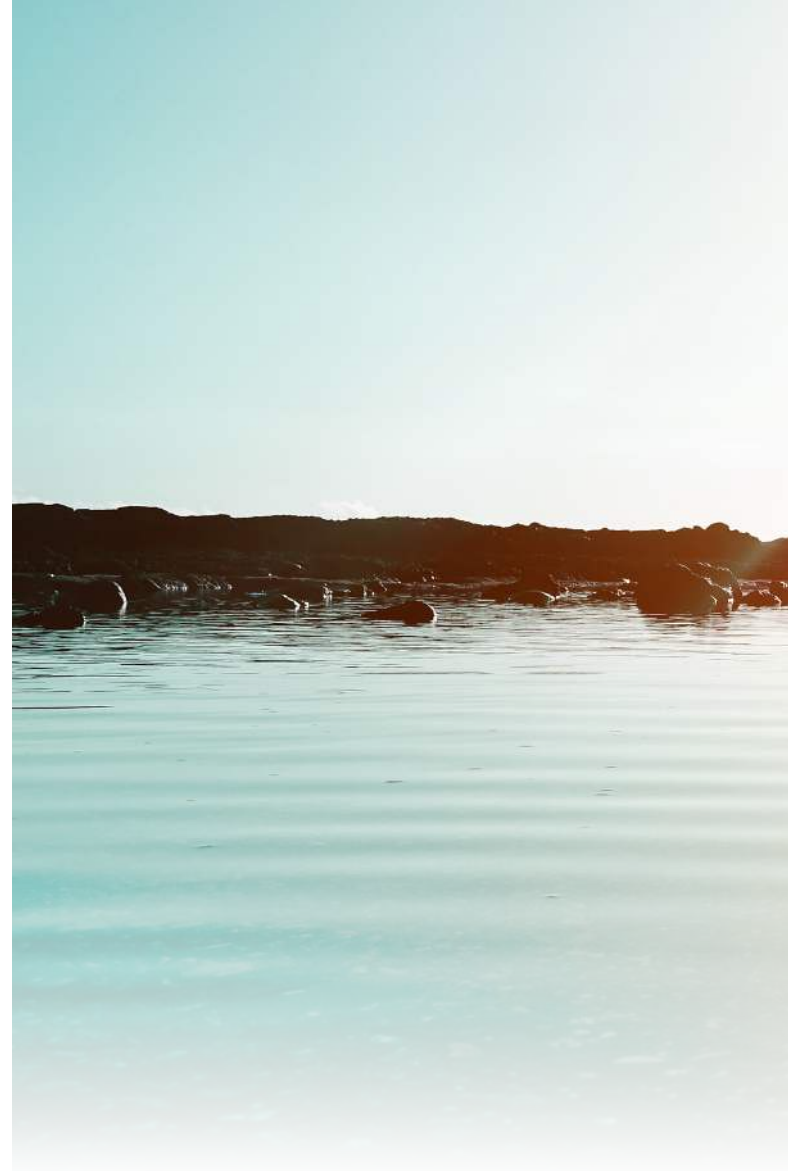
**Wai 262**  
KANOHI ORA

Image One: Kanohi Ora Engagement Framework, Te Taumata Whakapūmau (2022)<sup>87</sup>

The effort Māori are engaged in to reclaim, learn, utilise, innovate and transmit mātauranga is formidable. Because reclaiming mātauranga is intrinsically linked to reclaiming tino rangatiratanga as guaranteed in Article 2 of Te Tiriti o Waitangi,<sup>85</sup> efforts are multi-faceted and require Māori participation in multiple Crown processes, including Waitangi Tribunal, claims, and legal challenges in the Courts based on the rule of law. Māori pursue these actions, because we have to, just as other indigenous peoples in other parts of the world pursue similar actions in their countries. We do so to meet our *“inter-generational responsibility for the environment which we hold in trust. It came to us from our ancestors and we must pass it on to our children at least in no worse condition than that in which we received it and we must do everything that we can to improve the quality of their heritage.”*<sup>86</sup>

The Wai 262 legacy whānau, Te Taumata Whakapūmau, developed an engagement framework (depicted in Image One), to illustrate the multi-tiered effort they have identified as requiring attention to address and resolve the issues raised in the Claim. The majority of effort is directed towards Māori to Māori engagement, within and across generations. A comparatively small allocation of effort is directed at engagement with the Crown. For the specific issue of ‘mechanisms and tools to protect taonga’, The greater effort is framed as an in-house Māori discussion with a smaller cross-over requiring Crown engagement.

While designed as an engagement framework for Wai 262, the same principles apply generally to what lies ahead for the future of mātauranga. The majority of effort rests with Māori across all spheres of our lives at the individual, whānau, marae, hapū, Iwi, Māori land trusts, wānanga, Māori businesses, and other levels of Māori interests. For



this reason, we do not think a Treaty partnership approach as advocated by the Tribunal should cover anything more than the engagement with the Crown sphere. The rest is for te ao Māori to use, develop and lead according to our own priorities. The primary role of the Crown in this sphere is to ensure their laws, policies, and practices do not, and/or will not in the future, impede the ability of Māori to realise tino rangatiratanga.

The impetus for this report on mātauranga came from trying to reconcile our work as environmental researchers operating within the mātauranga, science, and policy interface; and with the issues raised in the Wai 262 Statement of Claim and the Waitangi Tribunal’s *Ko Aotearoa Tēnei* report. The two (claimants and Tribunal) adopted fundamentally different positions. A particular trigger was the Tribunal’s analysis that





the “State had not only damaged Mātauranga and its traditional systems of transmission but had done so intentionally. That was the object of government education policy for a significant period. Faced with the prospect that Māori would fail educationally in both cultures and lose their Mātauranga, the Crown has at last been working to repair some of this damage.”<sup>88</sup>

It would be unfortunate to see the same tragic mistake repeated for mātauranga of te taiao (the environment) and across science generally whether through a deliberate strategy or neglect to marginalise or be ignored. Aotearoa New Zealand’s indigenous biodiversity is in crisis. Despite all that is being done to try to protect and restore habitats and assist species, approximately 4,000 indigenous species are threatened or at risk of extinction. Many plant and wildlife species

continue to decline or are just barely hanging on.<sup>89</sup> Appropriate use of mātauranga could help reverse this decline. However before it can be more widely applied, protection mechanisms and protocols for respectful use need to be developed consistent with Te Tiriti o Waitangi, the Convention on Biological Diversity Nagoya Protocol, and the UN Declaration on the Rights of Indigenous Peoples.<sup>90</sup> The Crown needs to proceed with purpose in supporting Māori to use, promote and transmit mātauranga Māori, mātauranga-ā-lwi, and mātauranga-ā-hapū as well as the interwoven relationship these knowledge bases have with biodiversity, confident that the protocols for protection have been attended to.





# SECTION FIVE



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Image designed by member Ketī Marsh-Solomon; and (9) a particular acknowledgment to the original claimants of the Wai262 claim, John Hippolite, Witi McMath, Saana Murray, Tama Poata, Katarina Rimene and Del Wihongi for their foresight in recognising the essential nature and vulnerability of taonga Māori and to Te Taumata Whakapūmau for continuing their legacy.

*E te kāhui kahika kua Hawaiiitia, ko koutou i para ai te huarahi kia whakapumanu tonu ai ā tātou taonga tuku iho mō ngā uri whakaheke me ngā mokopuna o naianeī o āpōpō, e koutou i runga i te rangi, tuku iho ki raro ka hē ngā kōrero, whakaangi mai me he Toroa, kia whakatauākī ake te mamae te aroha, haere, haere, okioki atu rā, he pae maunga tū te ao tū te pō, he pae tangata ngaro noa ngaro noa.*

*Kei aku māreikura whatukura o Te Taumata Whakapūmau e pikau nei i te pikau nui, e kawē nei i ngā kawenga wawata o rātou mā kia whai hua kia whakatutuki kia ea, tēnā koutou katoa, e kore te puna mihi e mimiti e maroke i te rā, kia kaha, kia māia, kia manawanui, kia manawaroa.*

# SECTION SIX



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41. A full copy of the Act can be located at: [https://www.legislation.govt.nz/act/public/2022/0014/latest/whole.html?search=sw\\_096be8ed81c3bcb0\\_m%c4%81tauranga\\_25\\_se&p=1](https://www.legislation.govt.nz/act/public/2022/0014/latest/whole.html?search=sw_096be8ed81c3bcb0_m%c4%81tauranga_25_se&p=1)
42. Willka Kuta National Holiday in Bolivia <https://www.curriculumnacional.cl/portal/Educacion-General/Lengua-y-Cultura-de-los-Pueblos-Originarios-Ancestrales-2-basico/LC02-OA-LS03/294202:Willka-Kuti-Ceremonia-Aymara>
43. Día de la Descolonización, Decolonisation Day, National Holiday on Bolivia, October 12th since 2011 <https://www.comunicacion.gob.bo/?q=20191013/27860>
44. As well as reviewing each individual completed questionnaire, the lead author spoke to some of the officials tasked with responding on behalf of their department at their behest and to clarify information. Three different reviews of the responses were also carried out to confirm data.
45. The intellectual property laws are administered by the Intellectual Property of NZ Office (IPONZ), who are part of MBIE but report to a different Minister.
46. The Policy Project, Evidence and Evaluation, Department of Prime Minister and Cabinet, [Evidence and evaluation | Department of the Prime Minister and Cabinet \(DPMC\)](#)
47. The Declaration on Open and Transparent Government was made by Cabinet in 2011. It sets out a government-wide policy approach to increasing the openness and transparency of the Aotearoa NZ government, by actively releasing high-value public data it collects and holds on behalf of taxpayers. <https://www.data.govt.nz/toolkit/policies/open-data-policy/>
48. The New Zealand government's policy for the Repatriation of Kōiwi Tangata Māori (Māori Ancestral Human Remains) comprises a number of Cabinet Policy Committee decisions and Cabinet decisions including CAB (98) M16/4, CAB (98) M 46/22A & B, POL (03)118 2003 and POL Min (03) 14/1
49. Ministry of Business, Innovation and Employment (MBIE) Completed Research Questionnaire, 2021
50. The eleven departments with 1-3 programmes/projects/activities related to mātauranga were Archives New Zealand; Department of Corrections; Department of Prime Minister and Cabinet; Land Information New Zealand; Ministry for the Environment; Ministry of Health; Ministry of Social Development; Ministry for Women; National Emergency Management Agency; Te Puni Kōkiri; and Treasury.
51. Archives New Zealand completed research questionnaire, 2021
52. Ministry of Education completed research questionnaire, 2021
53. Ministry of Housing completed research questionnaire, 2021
54. Ministry of Primary Industries completed research questionnaire, 2021
55. Ministry of Social Development completed research questionnaire, 2021
56. Ministry for the Environment, 2021
57. Op. cit., Waitangi Tribunal, 572

58. Ibid., 572
59. Helen Potter & Rauika Māngai, (2022) A Wai 262 Best Practice Guide For Science Partnerships with Kaitiaki for research Involving Taonga: Lessons from Māori Voices in the NZ Science Sector, Dunedin, June 2022
60. The Ministry of Justice's response was surprising. The Ministry hosts the Treaty of Waitangi Tribunal, the Māori Land Court and the Environment Court all of which interact with mātauranga on a regular basis.
61. Department of Corrections completed research questionnaire, 2021
62. Ministry of Culture and Heritage completed research questionnaire, 2021
63. Ministry of Primary Industries completed research questionnaire, 2021
64. For further information on the Wai 262 claim refer to: [www.wai262.nz](http://www.wai262.nz)
65. Ko Aotearoa Tēnei is available to download from this site: [Ko Aotearoa Tēnei: Report on the Wai 262 Claim Released | Waitangi Tribunal](#)
66. Te Puawai Wilson-Leahy (2022) Mātauranga Māori Policies in Government, Memorandum from Kāhui Legal Summer Law Clerk to Aroha Mead, 14 January 2022, p.2 para.7
67. Ibid., Wilson-Leahy, 10
68. Paras 19 and 20 from Cab paper. Cabinet paper and Cabinet Minute on Developing a whole of government strategy to Wai 262 can be downloaded from [Developing a Whole-of-Government Strategy for WAI 262 \(tpk.govt.nz\)](#) 18 April 2019
69. Helen Potter (2022), Survey to Map Crown activities in relation to mātauranga Māori, draft report to Te Aho Mātauranga, Biological Heritage National Science Challenge sent 22 July 2022
70. Op.cit., Wilson Leahy, p.13 para 66-72
71. UN Declaration on the Rights of Indigenous Peoples (2007). A copy of the Declaration text, can be downloaded from: [https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)
72. Ibid., Waitangi Tribunal,
73. Waitangi Tribunal, Wananga Capital Expenditure Report, (1999) p.50
74. Traditional Knowledge and Intellectual Property-Background Brief, WIPO, [https://www.wipo.int/pressroom/en/briefs/tk\\_ip.html](https://www.wipo.int/pressroom/en/briefs/tk_ip.html)
75. Rāwiri Tinirau, *Whakatika: A Survey of Māori Experiences of Racism (2021)* Māori institute for Environment and health, Te Atawhai o te Ao, Wellington. There are multiple reports, papers relating to this topic. Tinirau's recent report showed that 93 percent of Māori in Aotearoa experience racism every day, and even more - 96 percent - say racism is a problem for their whānau.
76. Te Rōpū Rangapūtanga Tiriti cited in Science Advisory Panel report (2021) Review on How Maanaki Whenua Can Deliver Greater Value from our Biological Collections and Databases.
77. Ibid., Waitangi Tribunal, 537
78. Te Ohu Raraunga (2022) technical advisors for Iwi Chairs Forum tasked with co-developing with the Crown guidance on Māori data.
79. Wai 262 Statement of Claim as cited in Wai 262 Te Taumata Whakapūmau Hui-A-Tu Report (2022), p.9
80. Ibid., Rauika Māngai (2022) p 10-11. The Guide identifies ten best practices guidelines designed for the science sector but relevant to increasing capability of officials to develop their understanding of mātauranga and Wai 262 issues, these being, be informed, develop respectful, relationships with kaitiaki, respect boundaries, kaitiaki to lead the taonga aspects of science projects, co-leadership across all aspects of science projects, co-design with kaitiaki, ensure reciprocity, build research capability, and to respect and care for the people you work with.
81. For an explanation of kaupapa Māori research refer to: Kaupapa Māori Research Rangahau
82. Tamihere-Waititi, K., (2022) Te Kawa o Whānau Ora, Whānau Ora Conference, Rotorua, 19 July 2022
83. Adaptation of statement made by Professor Rawinia Higgins on 'Sunday' TV programme, 11 September 2022
84. Ihaka, K. (1957). Proverbial and Popular Sayings of the Maori: Nga Whakatauki me nga Pepeha Maori. Te Ao Hou, 18(1), 41-42. <https://tinyurl.com/ywncw67x>

85. Te Tiriti o Waitangi (1840), Article 2, English translation says (the Queen of England) confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; <https://waitangitribunal.govt.nz/treaty-of-waitangi/te-reo-maori-version/>
86. National Māori Congress Statement of Environment and Development Principles (1992), Hei Whakapūmau Mo Inaianei, A, Mo Ngā Uri Whakahaere, position paper for the UN Conference on Environment and Development, Rio de Janeiro Brazil, June 1992. P.6
87. Graphic design: Te Pae Roa Kaupapa Management Office on behalf of Wai 262 Te Taumata Whakapūmau
88. Op cit., Waitangi Tribunal, 599
89. Te Mana o Te Taiao Aotearoa NZ Biodiversity Strategy (2020), Department of Conservation, Wellington. Also reinforced by Hon Kiri Allan on 20 April 2022 <https://www.beehive.govt.nz/release/taking-action-biodiversity-challenges>
90. Scientists look to mātauranga to slow down biodiversity decline, 20 May 2019, <https://www.teaomaori.news/scientists-look-matauranga-maori-slow-biodiversity-decline>







# APPENDIX

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CURRENT LEGISLATIVE  
PROTECTIONS OF MĀTAURANGA  
MĀORI IDENTIFIED BY THE  
GOVERNMENT DEPARTMENTS  
IN RESPONSE TO QUESTION 3  
OF THE SURVEY, SECTION 2.3.3



## Ministry for Culture and Heritage

1 | The Ministry for Culture and Heritage identified seven pieces of legislation that they administer that contain reference to mātauranga Māori:

- a. Museum of New Zealand Te Papa Tongarewa Act 1992
  - i. Section 8(b) requires that, in performing its functions, the Board shall endeavour to ensure both that the Museum expresses and recognises the mana and significance of Māori, European, and other major traditions and cultural heritages, and that the Museum provides the means for every such culture to contribute effectively to the Museum as a statement of New Zealand's identity.
- b. Heritage New Zealand Pouhere Taonga Act 2014
  - i. Section 7 provides direction in order to recognise and respect the Crown's responsibility to give effect to the Treaty of Waitangi.
  - ii. Subpart 2 continues the Māori Heritage Council established by the Acts predecessor and outlines the process by which the council is formed and operates.
  - iii. Section 49 requires that, before determining an application under s 48 of this Act, Heritage New Zealand must refer to the Māori Heritage Council any application that relates to a site of interest to Māori
- c. Radio New Zealand Act 1995
  - i. Section 8(5)(g) requires that the public radio company, in achieving its purpose, must endeavour to provide services of the highest quality, which reflect New Zealand's culture identity, including Māori language and culture.
- d. Television New Zealand Act 2003
  - i. Section 12(2)(b) requires that TVNZ, in carrying out its functions, must provide high quality content that "...reflects Māori perspectives".
  - ii. Section 29C(1) provides TVNZ with the ability to screen archived works and grants the Māori Television Service the right to screen an archived work under any arrangement agreed between that service and TVNZ. In addition, this section provides for TVNZ to enter into an arrangement with NZ on Screen in respect of a work that has previously been screened by TVNZ or the Māori television Service under this section.
- e. Flags, Emblems, and Names Protection Act 1981
  - i. Section 18(A) makes it an offence for any person in any business, trade, or occupation to use the words and emblems relating to the 28th Māori Battalion without proper authorisation.
- f. Protected Objects Act 1975
  - i. Part 2 establishes the legal framework that governs the ownership of, and jurisdiction over taonga tūturu - interpreted in s 2 as an object that relates to Māori culture, history or society; and was, or appears to have been manufactured or modified in New Zealand by Māori; or brought into New Zealand by Māori; or used by Māori; and is more than 50 years old.
  - ii. Sections 11 and 11A outline the processes to establishing the ownership and custody of ngā taonga tūturu.
  - iii. Section 12 provides the Māori Land Court with jurisdiction in respect to any taonga tūturu to which section ` applies to make various orders regarding the taonga.

## Department of Internal Affairs

**2** | The Department of Internal Affairs administers the following pieces of legislation that refer to mātauranga Māori:

- a. National Library Act Te Puna Mātauranga o Aotearoa 2003
  - i. Section 7(a) sets out the purpose of the National Library which includes collecting, preserving and protecting documents, in a manner consistent with their status as documentary heritage and taonga;
  - ii. Section 18(a)(1) sets out the function of the Guardians of the Alexander Turnbull Library in particular to advise the Minister on the capacity of the Alexander Turnbull Library to acquire documents to be used for the purposes of research, scholarship, or mātauranga Māori;
  - iii. Section 23 sets out the purpose of the Library Information Advisory
- b. Public Records Act 2005 – discussed below under Archives NZ.
- c. Taumata Arowai – the Water Services Regulator Act 2020
  - i. Section 12 requires that the Taumata Arowai Board has members who have knowledge of and capability in Te Tiriti and its principles and perspectives of Māori and tikanga Māori.
  - ii. Section 17(1) and (2) set out the role of the Māori Advisory Group to Taumata Arowai which is to advise on Māori interests and knowledge which includes developing and maintaining a framework on how to interpret and give effect to Te Mana o te Wai and provides advice on how to enable mātauranga Māori.
- iii. Section 18 sets out the operating principles of Taumata Arowai which includes understanding, supporting and enabling the exercise of mātauranga Māori.
- d. Local Government Act 2002
  - i. Section 33 provides that the Local Government Commission must include a member who has knowledge of tikanga Māori
  - ii. Section 77(1) provides that a local authority must, in the course of the decision-making process, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna and other taonga.
- e. Births, Deaths, Marriages, and Relationships Registration Act 1995
  - i. This Act sets out the rules for the Crown around collecting, registering, and making available information about key life events of people in Aotearoa. This includes whakapapa information that is broadly considered to be, or includes, mātauranga Māori.
- f. Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995
  - i. Regulation 3A provides that a notification of birth for registration must contain, in relation to the child, whether the child is Māori.
  - ii. Regulation 6A provides that a notification of death for registration must also contain whether the deceased was Māori (if known).

iii. Regulation 7 sets out that in the case of death, the certificate must include the persons iwi or hapū and that of their mother and father.

### Archives New Zealand

**3** | Archives New Zealand is responsible for the Public Records Act 2005 (PRA) which establishes the regulatory framework for information and records management across the public sector. The PRA does not refer specifically to mātauranga Māori but does refer to tikanga, which DIA considers an aspect of mātauranga Māori.

**4** | The relevant sections and wording of the legislation are detailed below:

- a. Section 3(g): One of the purposes of the Act is to encourage the spirit of partnership and goodwill envisaged by the Treaty of Waitangi as provided for by section 7.
- b. Section 4: The interpretation section defines “tikanga Māori” to mean “Māori customary values and practices”.
- c. Section 7: In order to recognise and respect the Crown’s responsibility to take appropriate account of the Treaty of Waitangi, sections 11, 14, 15 and 26 impose certain responsibilities.
- d. Section 11: Requires the Chief Archivist to ensure that, for the purpose of performing the Chief Archivist’s functions, processes are in place for consulting with Māori.
- e. Section 14: Requires two members of the Archives Council to have knowledge of Tikanga Māori.
- f. Section 15: Specifically recognises that the Archives Council may provide advice concerning recordkeeping and archive matters in which tikanga Māori is relevant.
- g. Section 26: Recognises that an iwi-based or hapū-based repository may be approved as a repository where public archives may be deposited for safekeeping.

### Education Review Office and the Ministry of Education

**5** | The Education Review Office and the Ministry of Education both identified the legislative references to mātauranga Māori in the following Act:

- a. Education and Training Act 2020 which contains reference to mātauranga Māori at:
  - i. Section 9(1)(d)(i) outlines the main provisions of the Act the recognise the Crown’s responsibility to give effect to Te Tiriti o Waitangi;
  - ii. Section 32(i) outlines the purpose of Part 3 of the Act, which is to establish a schooling system that supports all learners/ākonga to gain the skills and knowledge they need to be lifelong learners/ākonga and fully participate in the labour market, society, and their communities. Two of the proposed factors to providing for this purpose are by -
    - honouring Te Tiriti o Waitangi and supporting Māori-Crown relationships that make a difference to learning; and
    - reflecting and integrating te reo Māori, tikanga Māori, mātauranga Māori, and te ao Māori in the; and
  - iii. Section 127 (1)(d)(i) provides that one of a board’s primary objectives in governing a school is to ensure that the school gives effect to Te Tiriti o Waitangi.



### Ministry of Business, Innovation and Employment

**6** | The Ministry of Business, Innovation and Employment stewards the Research, Science and Innovation portfolio, which is supported by the Crown Research Institutes Act 1992 administered by the Ministry:

- a. Section 10 of the Act requires shareholding Ministers to have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in respect of the transfer of any land (or interests in land), pursuant to the Act, to a Crown entity or subsidiary of a Crown research Institute.

### Te Puni Kōkiri

**7** | Te Puni Kōkiri administers Te Ture mō te Reo Māori 2016 which contains reference to mātauranga in S 21 and S 41. Within the English language version of the Act, the term ‘mātauranga’ is not used and instead ‘knowledge’ has been used in its place in S 21 and S 41:

- a. These provisions govern appointment decisions to Te Mātāwai under s 21, and to Te Taura Whiri under s 41. When appointing members to both Te Mātāwai and to Te Taura Whiri, the Minister must have regard to the need for a membership with the appropriate mix of ‘mātauranga’ or ‘knowledge’, among other considerations.

### Public Service Commission

**8** | The Public Service Commission is responsible for administering the Public Service Act 2020 (which recently replaced the State Sector Act 1988). While this Act does not explicitly reference mātauranga Māori, it is implicitly addressed in Part 1 Subpart 3 (sections 14-15).

- a. This subpart concerns the role of the Public Service in supporting the Crown in its relationships with Māori under te Tiriti o Waitangi.

- b. Section 14(2) specifically places responsibility on Public Service leaders (including the Public Service Commissioner and chief executives) for “developing and maintaining the capability of the public service to engage with Māori and to understand Māori perspectives.” Also note that section 73 of the Act requires chief executives to operate employment policies that recognise “the aims and aspirations of Māori, the employment requirements of Māori, the need for greater involvement of Māori in the public service.

### Ministry for the Environment

**9** | The Ministry for the Environment administers the following pieces of legislation that contain reference to mātauranga Māori:

- a. Resource Management Amendment Act 2020
  - i. Section 59(1)(c) requires that each freshwater hearings panel must comprise of 5 members as follows... (c) 1 person with an understanding of tikanga Māori and mātauranga Māori.
  - ii. Section 59(1)(d) requires that, when convening a freshwater hearings panel, the Chief Freshwater Commissioner must consider the need for the panel to collectively have knowledge of and expertise in relation to tikanga Māori and mātauranga Māori.
  - iii. Section 65(2)(b)(iv) requires that the Minister must appoint freshwater commissioners who (b) collectively have knowledge or an expertise in relation to – (iv) tikanga Māori and mātauranga Māori.
- b. COVID-19 Recovery (Fast-track Consenting) Act 2020

- i. Section 7(1)(c) requires that the members of a panel under this Act must, collectively, have - expertise in tikanga Māori and mātauranga Māori.
- c. Climate Change Response Act 2002
    - i. Section 5H(1)(d)(ii) requires that before recommending the appointment of a member of the Commission, the Minister must have regard to the need for the Commission to have members who, collectively, have - technical and professional skills, experience, and expertise in, and an understanding of innovative approaches relevant to the Treaty of Waitangi (Te Tiriti o Waitangi) and te ao Māori (including tikanga Māori, te reo Māori, mātauranga Māori, and Māori economic activity).
  - d. Environmental Reporting (Topics for Environmental Report) regulations 2016
    - i. Section 10 outlines the topics relating to the impact that the state of the environment and changes to it may be having on each of the impact categories in relation to each of the domains:
      - mātauranga Māori, tikanga Māori, and kaitiakitanga; and
      - customary use and mahinga kai; and
      - sites of significance, including wāhi taonga and wāhi tapū; and
      - culture and recreation.











