



**Safeguarding Māori Cultural Rights and
Stewardship:
TE TIRA WHAKAMĀTAKI'S POSITION PAPER
ON SEED CONSERVATION**



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Introduction & Context

With the intention of conserving biodiversity within New Zealand's indigenous flora, the New Zealand Indigenous Flora Seed Bank was established under a mandate to collect seeds from New Zealand flora. According to the NZPCN (New Zealand Plant Conservation Network, 2014) website, it builds on the Memorandum of Collaboration signed between the NZPCN and the Millennium Seed Bank, Kew, as part of an ex-situ conservation strategy designed to seed bank all species "as a good insurance policy".

However, within this mandate there are no formalised requirements for seed collectors to take tikanga Māori into account when seed banking. This includes a lack of any requirement to seek relevant permissions or consult with relevant iwi, let alone kaumātua or someone having appropriate cultural knowledge and / or authority when undertaking the process. As a result, there are potentially seed collections of indigenous flora currently deposited across at least six locations in Aotearoa New Zealand, and at least two international locations (UK and Norway), where tikanga Māori protocols for seeds are unlikely to have been followed.

Tikanga Māori and its relation to seed banking (as well as the importance to Aotearoa New Zealand's cultural, political, social, and legal landscape)

To comprehend the nature and significance of cultural incursions over flora in Aotearoa New Zealand, we will first explain how Māori customs and values in relation to conservation in general give rise to the kaupapa of seed collection protocols required under tikanga Māori¹. This provides a suitable background in providing a comparison with the current protocols and procedures relating to seed collection actually being adopted.

Understanding the kaupapa required under tikanga Māori in relation to collecting seeds must be first understood in the context of the tapu of the forest and things. Mead (2016) explains this by proffering his agreement with the writings of Firth (1959) as follows (1959:247, in Mead 2016 p. 98). The effects of tapu which lay upon trees, certain animals and all woodland products could only be nullified only after the god Tane had been placated since it was under his guardianship that such things were protected from unauthorised interference. Therefore, if Māori wished to convert these things to their own use, there needed to be proper consideration, possibly with due ceremony. In this way, aimless or casual meddling with flora or fauna, potentially interfering with valuable property, was thus prevented. This has particular application in the case of the significant natural resources on which Māori have been dependant for food or the raw materials for industry. Firth (1959) gives an example of how this can be seen in the case of a tree being felled, or even just clipped: to undertake this without due ceremony was thought to be an unlucky act – an aitia or evil omen for the person who did it. Certainly, such an act - even if only a standing tree was adzed for future use - was an act of pokanoa, warranting the reproaching of an elder to anyone seen behaving in this manner.

As demonstrated through tikanga, Māori Communities² through their whakapapa (genealogy) have established tangible connections to te taiao (the natural environment). Māori Communities have an ethical, spiritual and cultural obligation to ensure the actions and decisions of tangata (humans) do not negatively impact the natural equilibrium of te taiao (the natural environment). This intergenerational responsibility has been customary for over 1000 years. However, in recent times there has been a serious state of decline to Aotearoa New Zealand's ecosystem and biodiversity due to colonization and capitalist ideologies. This has resulted in the widespread adoption of Eurocentric biodiversity management and conservation practices that continue to marginalize Māori voices, interests and tikanga in decision-making. We fundamentally believe that this is to the detriment of the natural environment and *all* people in Aotearoa New Zealand and that current seed banking practices

¹ Tikanga refers to the Māori customary system of values and practices that have developed over time and continue to evolve and are deeply embedded in the social context.

² Note: The 'Te Tira Whakamātaki Statement on Seed Conservation' uses the phrase 'Māori Communities'. Māori Communities includes whānau, hapū and marae collectives in all their forms and structures. For example, the definition includes hapū and marae-based communities and whānau groups centred around activities such as kapahaka, school.

perfectly demonstrate this point. Of specific concern is the seeming invisibility of Māori Communities in seed banking.

About this Position Paper

Seeds and accompanying Indigenous flora are imperative for preserving cultural heritage. Māori Communities have a sovereign right to protect their traditional species and knowledge. Their connection to their indigeneity, expressed as their language, culture, history and people are explicitly linked to taonga (flora and fauna valued by Māori). The protection and use of seeds is essential to Māori Communities' existence. This means that participation and recognition in seed banking is intrinsically linked to Māori Communities' rights to self-determination and empowerment. It also enables them to make decisions in line with their aspirations for their people and culture now, and into the future.

This position paper is being published by Te Tira Whakamātaki (TTW), a Māori environmental not-for-profit. Our name translates to “the watchful ones” in English, as we use our skills and positions to seek out, empower, privilege, and protect Indigenous peoples and solutions in the fight to protect nature. In this, we address one of the most pressing threats to the climate and our ability to thrive in it – the diversity of life on earth (biodiversity). This, as well as our organizational commitment to kaitiakitanga, is actioned through advocating for and practicing seed banking of Aotearoa's flora and fauna. **This document represents TTW's expectations or principles when seed banking with Māori communities. We do not wish to speak on behalf of all iwi, hapū, and whanau but rather offer our thoughts based on our work in the field.** It also outlines several calls to action for the Crown to meet under their Te Tiriti o Waitangi obligations. It is our intention that this document is used by Māori communities to guide their seed bank endeavors (guidelines that begin to outline best practices in seed banking) while simultaneously informing the Crown of their responsibilities in this area. We begin at the latter by outlining five seed bank calls to action that, if followed, would enable tikanga to become an integral part to seed banking in Aotearoa – New Zealand.

Seed Banking Calls to Action

These Calls to Action are for the Crown and are rooted in inherent and sovereign Māori responsibilities to Te Taiao. Specifically, TTW calls on the Crown to:

1. Meet its partnership obligations under the Te Tiriti o Waitangi/Treaty of Waitangi and recognise and give effect to the rights of Māori Communities under the [United Nations Declaration on the Rights of Indigenous People](#)³ (UNDRIP), their cultural heritage, traditional knowledge and traditional cultural expression and respect of Indigenous genetic resources, including seeds and flora, and knowledge of their properties, cultivation and management. All other calls to action are based on a genuine spirit of partnership.
2. Development of robust, inclusive and respectful protocols which affirm the cultural authority of Māori Communities as sovereign custodians of native species and seeds, and vest in Māori Communities decision-making powers and functions in all aspects of seed banking.
3. Recognise and give effect to the recommendation set out in the [Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples](#) (Mataatua Declaration).⁴ Specifically, Te Tira Whakamātaki draws the Crown's attention to the recommendation that Indigenous peoples must have their traditional guardianship of Indigenous flora and fauna recognised and that the commercialisation of any traditional plants must be managed by Indigenous people.
4. Prioritise the protection and conservation of Māori genetic resources. This includes recognising their obligations under the [Convention on Biological Diversity](#)⁵ by signing and

³ *United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN Doc A/RES/61/295* (2 October 2007).

⁴ *The Mataatua Declaration on the Cultural and Intellectual Property Rights of Indigenous Peoples*, June 1993.

⁵ *Convention on Biological Diversity*, opened for signature 5 June 1992, 1760 UNTS 79 (entered into force 29 December 1993).

ratifying the [Nagoya Protocol](#),⁶ and implementing an access and benefit sharing scheme, that recognizes the legitimate rights and interest of Māori Communities over their biological resources and associated traditional knowledge.

5. Ensure all public servants and ministries actively and meaningfully engage with Māori Communities to improve processes and policies on Indigenous flora conservation and protection in a way that reflects the aspirations and interests of Māori.

To support these Calls to Action and advocate for best practices in the collection, access and use of Indigenous seeds and species in Aotearoa New Zealand, Te Tira Whakamātaki is developing a number of resources and opportunities. The following will be available soon:

- A Māori Seed Bank **Protocol**, detailing the cultural protocols required to fully incorporate Māori Communities participation in seed banking (in development)
- A set of case studies (in development)

To begin, however, we have compiled a set of statements that demonstrates the **bare minimum that must be followed when collecting Indigenous flora and fauna (seeds)**. If followed, they will also help the Crown and those engaging in seed banking fulfill the calls to action listed above.

TTW Statements of Expectation for Seed Banking with Māori

The following **9 Statements** of Expectation assert Māori communities' rights to leadership (legal, social, and cultural), as well as engagement and participation in seed banking efforts. They also reflect the following domestic and international best practice standards, frameworks and instruments:

- Te Tiriti o Waitangi
- The Mataatua Declaration
- United Nations Declaration on the Rights of Indigenous Peoples
 - Free, Prior and Informed Consent
- Convention of Biological Diversity (8J)
 - The Nagoya Protocol on Access and Benefit-Sharing
 - Free, Prior and Informed Consent
- International Treaty on Plant Genetic Resources for Food and Agriculture
- True Tracks® Cultural Engagement Framework

Statement One: Māori Communities have a cultural obligation as stewards of te taiao, flora, fauna and biodiversity to protect, conserve, manage and build sustainability of natural resources for future generations. This obligation must be preserved, protected and enabled at every level.

The natural environment is all encompassing for Māori Communities. It includes all the lands, waters, skies, plants, animals and tangible and intangible cultural heritage within it. It is the source of individual and communal identity and sense of belonging and purpose. Connection with the natural environment defines and shapes the wellbeing and existence of Māori Communities.

For Te Tira Whakamātaki, the protection and conservation of Indigenous flora and seeds is intrinsically linked to Māori Communities' obligations to sustain and restore the natural environment for the betterment and enjoyment of future generations.

There must be greater recognition of customary rights and obligations within the seed banking sector so that Māori Communities can fulfill their cultural imperatives. Understanding the centrality of Māori Communities' stewardship responsibilities is the foundation for which Te Tira Whakamātaki calls for active and meaningful inclusion in seed banking.

⁶ *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity*, opened for signature 2 February 2011, UN Doc UNEP/CBD/COP/DEC/X/1 (entered into force 12 October 2014).

Statement Two: Māori Communities have the right to protect, maintain, control and develop their cultural heritage, traditional knowledge and traditional cultural expressions, including flora, seeds, biodiversity, and all associated knowledge and practices.

Article 31 of the *United Nations Declaration on the Rights of Indigenous Peoples* stipulates that Indigenous people have the right to “maintain, control, protect and develop” their cultural heritage, traditional knowledge and traditional cultural expression. Article 31 explicitly draws reference to seeds and flora as items for which these rights cover.

It is also well established under UNDRIP and the Mataatua Declaration that Māori Communities also have the right to the maintain, control, protect and develop their intellectual property over their cultural heritage as well. Within the context of seed banks, this means Māori Communities must be afforded the opportunity and right to lead the management, development and governance of Indigenous flora, seeds and associated seed banks, as well as accompanying policies and frameworks. Further to this, Māori Communities have the right to benefit in research and development conducted on Indigenous flora and the use of associated Māori traditional knowledge.

Statement Three: Seed banks, small or large, must be co-designed and co-managed with Māori to ensure integrity of flora and seeds and the deep cultural knowledge incorporated within.

The Crown has an obligation under Article 31 of UNDRIP to take effective measures to recognise and protect the exercising of these rights. In failing to do so, the Crown is contravening the internationally recognised rights of Indigenous peoples and undermining the spirit and purpose of UNDRIP and the Convention on Biological Diversity, as well as acting against other seminal instruments such as the Nagoya Protocol and the International Treaty on Plant Genetic Resources which New Zealand is not signatory to.

It is necessary and vital to reconsider how the New Zealand Indigenous Flora Seed Bank and similar institutions operate. Seed banks housing Indigenous flora must be co-designed with Māori Communities to ensure that processes, management and future use reflect the deep cultural knowledge and practices required to protect native, and increasingly threatened, species. Development of best practice protocols can assist with this.

To complement a co-designed approach, Indigenous seed banking must be Māori-led to ensure that any decisions relating to Indigenous flora are consistent with Māori aspirations and their rights under Article 31 of UNDRIP. This necessarily involves investing in capacity building of community members, long-term leadership and decision-making positions. Remedying the imbalance and marginalisation of Māori in the current regime will have positive impacts on biodiversity conservation, best practice outcomes, and Treaty relations.

Statement Four: Māori communities' rights, interests and cultural authority must be incorporated and prioritised at all seed collecting and banking levels – community, local, regional, national and international.

Cultural protocols for the collection, storage and use of Indigenous species and seeds are required at every level of operation; community, local, regional, national and international. Currently, Indigenous flora are moved and shared between institutions domestically and internationally without the consideration, knowledge, involvement or oversight of Māori Communities. This strips Māori Communities of their right to use their traditional species in ways that support their economic, scientific, environmental, social and cultural aspirations. This intentional stripping of power over how and where traditional species are being collected and used lessens Māori Communities' ability to maintain responsible stewardship of the natural environment.

To address this, there needs to be a comprehensive cultural protocol covering the multiple jurisdictions in which Māori flora and seeds are sourced, accessed, used and sold. This will enable Māori Communities to protect, maintain and control the cultural integrity of their native resources, and ensure the appropriate development of their culture.

Statement Five: Māori communities should not be expected to follow the current status quo because it intentionally marginalises and suppresses cultural practices and knowledge while simultaneously disregarding tikanga.

Māori Communities have over 1,000 years of deep and intricate knowledge of the complex ecosystems and flora and fauna throughout Aotearoa New Zealand. Throughout this time, Māori Communities have followed cultural protocol under tikanga Māori to care for the natural environment, including flora and seeds, for the benefit of the environment and people equally. This includes ongoing maintenance to ensure appropriate cultivation and biodiversity practices and deter against over-farming and degradation for future generations

Yet, in seed banking, there is a complete disregard for seed banking tikanga. Current practices demonstrate that seed collectors and users do not obtain the free, prior and informed consent of Māori Communities where Indigenous flora or seeds are collected, stored or used, nor is there any effort to consider the cultural appropriateness or community impact of such collection, storage and future use. There is no requirement to consider the cultural significance or value of seeds and species to the complete exclusion of Māori Communities and their rights to manage, develop and control their cultural heritage and traditional knowledge. The status quo is not acceptable. Tikanga Māori governs how seeds can be banked appropriately and should be central to any Indigenous seed banking project in Aotearoa.

Statement Six: As traditional custodians of Indigenous flora and seeds, Māori must be recognised and respected in the chain of custody.

Māori Communities have the right to their culture and knowledge being centred as a visible and important part of cultivation and biodiversity practices. Reform to seed banking procedures which prioritise governance and management according to tikanga Māori is imperative.

Māori Communities are the custodians and guardians of all Indigenous flora and seeds in Aotearoa New Zealand. The current policies and processes dictating the collection, identification, storage, sampling, sharing and usage of Indigenous seeds is void of any regard to cultural provenance or significance to Māori Communities.

The current chain of custody, being the clear documentation evidencing the transfer and/or sale of seeds between different parties and institutions, is based on colonial understandings of ownership and possession. Principally, this propounds the assumption that whoever is in physical possession of or deposits Indigenous flora, is the owner. There must be robust processes that require collectors, depositors and researchers to identify the relevant Māori Communities and geographical origin of native species. This will require proper consultation with local Māori Communities in a manner consistent with cultural governance and decision-making processes to obtain free, prior and informed consent. A comprehensive access and benefit sharing regime as advocated under the Convention on Biological Diversity and the Nagoya Protocol will enable this process by recognising Māori Communities as the owners and custodians of native resources.

Statement Seven: Ongoing maintenance and attribution of Māori tikanga culture must be implemented where there is any association and use of Indigenous flora and seeds.

Māori Communities have an obligation to maintain the integrity of their cultural heritage, including flora, seeds, biological resources, and interconnected knowledge systems and practices. Maintaining cultural integrity involves considering how proposed uses of Indigenous flora and seeds may impact community now and, in the future, along with the correct cultivation, management and preservation of the biological resource itself. It is only by doing so, that Māori Communities can ensure that the natural environment will be restored and enjoyed by future generations.

Māori Communities can only exercise this responsibility if they hold leadership positions with an appropriate control of resources if they are engaged on how their resources are to be used, and that their free, prior and informed consent is sought through proper and respectful consultation.

Māori Communities must be properly attributed (named) as custodians of Indigenous flora and seeds, and there must be mandatory requirements for all stakeholders in seed banking to do so. Proper identification and attribution of the Māori custodians will support protocols requiring depositors, researchers and other users to consult (and re-consult) with Māori Communities where different uses of biological resources are contemplated.

In continuing to deny Māori Communities involvement in matters that impact their cultural heritage, a clear message is being sent that Māori Communities and their values and knowledge are insignificant to that of non-Māori culture. As such, attribution is important to affirm Māori Communities custodianship over biological resources and the cultural protocols surrounding their ongoing use.

Statement Eight: The spirit and meaning of Te Tiriti o Waitangi contradicts the current position of the Crown that they own all flora and seeds in Aotearoa New Zealand.

Māori are the first peoples of Aotearoa New Zealand. Māori Communities continue to assert that under Article II of the Te Tiriti o Waitangi,⁷ Māori ceded governorship of New Zealand in exchange for *te tino rangatiratanga*, that being chief authority over lands. Article II of this version explicitly states that Māori have “full exclusive and undisturbed possession of the Lands...forests... and other properties.” Despite the grievances caused by the English version of Treaty, there is arguably agreement within the two versions that the Lands, including properties such as flora on or within it, are protected by Māori Communities. No person or government owns flora and seeds, but Māori Communities assume custodianship and responsibility of the same. On this basis, we denounce the Crown’s claim to unfettered ownership and assumed custody of all flora in Aotearoa New Zealand.

Māori Communities have the right to share in the benefits from the access and use of their culture, particularly where there is a commercial application. This extends not only to flora and seed collection, but to the access and use of traditional knowledge and cultural expression associated and connected with the relevant material.

Presently, it is non-Māori people and institutions who are benefiting and capitalising on Indigenous flora and seeds which Māori Communities have worked to cultivate and protect for thousands of years. Despite being considered progressive in many regards, New Zealand is still behind many other countries by not balancing commercial and cultural interests in respect of Indigenous native resources. The ongoing inaction to ratify the Nagoya Protocol is evidence of this. The Nagoya Protocol is the international benchmark for best practice in the fair and equitable sharing of benefits from the use of genetic resources, such as Indigenous flora. Māori Communities are entitled to receive benefits, monetary and non-monetary, for the use of their traditional resources. This includes access to research findings, remuneration and employment or training opportunities.

Statement Nine: The Crown and the public service are legislatively required to support Māori Communities under the Treaty of Waitangi.

Māori Communities have the right to determine the benefits they receive to align with their community aspirations and priorities. Te Tira Whakamātaki reiterates the need for the Crown and the public service to engage meaningfully with Māori Communities to fulfill the obligations and responsibilities as its Te Tiriti partner.

We remind the public service of the obligations in Clause 14 of the *Public Services Act 2020* that provides that the “role of the public service includes supporting the Crown in its relationship with Māori under the Treaty of Waitangi”. We also remind governmental departments and agencies of Cabinet Office Circular (19) 05 - Te Tiriti o Waitangi⁸ which guides policymakers to consider whether a proposed policy will affect different Māori Communities differently and whether Māori Communities have or can be involved in the design and/or implementation of the policy.

Despite the existence of relevant legislation there continues to be pervasive disregard for the cultural authority of Māori Communities by governmental departments and agencies. Te Tira Whakamātaki calls for the Crown and public service to follow legislative requirements and meaningfully engage with Māori Communities on the collection, protection, management, storage and use of Indigenous flora and seeds.

⁷ *Treaty of Waitangi [Te Tiriti O Waitangi]* (1840). Waitangi, NZ.

⁸ Department of Prime Minister and Cabinet, Cabinet Office Circular 19: Te Tiriti o Waitangi Guidance, 22 October 2019.