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| **Title** | **Analyse the issue of cultural property in relation to the patenting of kumara and ti kouka** | | |
| **Level** | **4** | **Credits** | **2** |

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| **Purpose** | People credited with this unit standard are able to: analyse the patenting of the kūmara and tī kōuka in relation to Māori cultural property rights; develop conclusions that are substantiated by evidence about the effects of patenting on Māori cultural property rights, and discuss the reasons for the Japanese interests in the patenting of the kūmara and tī kōuka plant species and the cultural property rights of these plants by Māori. |

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| **Classification** | Whenua > Te Whakamahi Whenua |

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| **Available grade** | Achieved |

**Guidance Information**

1 Where local rohe are also occupied by a number of other iwi or hapū, the tangata whenua or mana whenua view will take precedence. Other iwi or hapū views should be encouraged in order to enrich and enhance understanding of key Māori concepts and practices.

2 WAI 262 - The Waitangi Tribunal's report on the WAI 262 claim was released on 3 July 2011. Commonly known as the “flora and fauna” claim, the claim addressed the ownership and use of Maori knowledge, cultural expressions, indigenous species of flora and fauna, all known as *taonga,* and inventions and products derived from indigenous flora and fauna and/or utilising Maori knowledge. The claim is pan-tribal. The report – *‘Ko Aotearoa Tenei’* found that the Government had failed to comply with its obligations, under the Treaty of Waitangi, to ensure that guardian relationships between Maori and their *taonga* (traditional knowledge and artistic works, and culturally significant species of flora and fauna) were acknowledged and protected, and recommends that future laws, policies and practices do acknowledge and respect those relationships. The report has implications for owners of all intellectual property rights and is particularly relevant to those who may wish to register and use trademarks which include Maori words or symbols, or obtain patents for inventions or plant variety rights which rely on Maori traditional knowledge.

(Ko Aotearoa Tenei. A Report into Claims Concerning New Zealand Law and Policy Affecting Maori Culture and Identity. Waitangi Tribunal Report 2011 – Report available at; www.waitangitribunal.govt.nz)

3 Descriptions and explanations can be presented in a number of ways that may include but are not limited to: oral presentations; visual presentations; written presentations; whakaari; waiata and haka.

4 Definitions
*Patenting* refers to the Government authority that allows an individual or an organisation a proprietary claim on a particular object. The patent gives an individual or an organisation the sole right to market and sell a patented object.
*Kūmara* refers to the New Zealand sweet potato species.
*Tī kōuka* refers to the indigenous New Zealand Tree.
*Māori intellectual and cultural property rights* refers to the exclusive rights to Māori intellectual and cultural property. See Mātaatua Declaration 1993.

## Outcomes and performance criteria

### Outcome 1

Analyse the patenting of the kūmara and tī kōuka in relation to Māori cultural property rights.

### Performance criteria

1.1 Explanation describes Japanese involvement in the patenting of kūmara and tī kōuka.

1.2 Explanation describes the patenting process of the kūmara and tī kōuka in relation to Māori cultural property rights.

1.3 Explanation analyses moral and legal positions of international and Māori interests involved with patenting tī kōuka in relation to Māori cultural property rights.

### Outcome 2

Develop conclusions that are substantiated by evidence about the effects of patenting on Māori cultural property rights.

### Performance criteria

2.1 Conclusions establish Māori cultural property rights.

2.2 Explanation describes impact of Māori cultural property rights on the patenting of native plants.

2.3 Explanation describes effects of patenting Māori cultural property and conclusions are drawn based on the kūmara and tī kōuka patents undertaken by Japanese scientists.

### Outcome 3

Discuss the reasons for the Japanese interest in the patenting of the kūmara and tī kōuka plant species and the cultural property rights of these plants by Māori.

**Performance criteria**

3.1 Discussion describes the reasons for the Japanese interest in the patenting of the kūmara and tī kōuka plant species.

3.2 Discussion describes the cultural property rights status of these plants held by Māori.

3.3 Conclusion describes a possible outcome that will bring about the return of the patents of these plant species to Māori.

Range key aspects include but are not limited - to direct negotiation between interested Māori parties, the judicial system and an act of international indigenous good faith.

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**This unit standard is expiring. Assessment against the standard must take place by the last date for assessment set out below.**

**Status information and last date for assessment for superseded versions**

| Process | Version | Date | Last Date for Assessment |
|---|---|---|---|
| Registration | 1 | 28 June 1999 | 31 December 2015 |
| Revision | 2 | 10 October 2002 | 31 December 2015 |
| Rollover and Revision | 3 | 12 December 2013 | 31 December 2017 |
| Review | 4 | 19 November 2015 | 31 December 2023 |
| Rollover and Revision | 5 | 27 June 2019 | 31 December 2023 |
| Review | 6 | 25 March 2021 | 31 December 2023 |

| Consent and Moderation Requirements (CMR) reference | 0166 |
|---|---|

This CMR can be accessed at http://www.nzqa.govt.nz/framework/search/index.do.