

Rights of Nature Case Study

Whanganui River / Te Awa Tupua

In March 2017, in resolution of longstanding Indigenous land dispossession and related claims, New Zealand enacted legislation granting the Whanganui River / Te Awa Tupua legal personhood with all the rights, powers, duties, and liabilities of a legal person.

Location	Aotearoa / New Zealand
Date	March 2017
Source	Legislation – Te Awa Tupua (Whanganui River Claims Settlement) Act 2017
Jurisdiction level	National
Context	<p>The Whanganui river is the longest navigable river in New Zealand, stretching for 290 km from Mount Tongariro to the Tasman Sea. For over a century, Whanganui Iwi (tribe) engaged in collective action to protect and provide for its special relationship with the river, following land dispossession and subsequent impacts of British colonisation from the early 19th century. The Whanganui river claims, litigation and advocacy related to Crown river works including the destruction of Iwi eel weirs and fisheries (an important Indigenous food source), the extraction and sale of gravel, the enactment of legislation and other forms of control over the river, and the diversion of water into the Tongariro Power Scheme – all of which occurred without consultation or compensation.</p> <p>These prolonged and consistent efforts culminated in a 2014 Deed of Settlement then, in March 2017, New Zealand enacted the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (Act).</p>
Rights of Nature recognition	<p>The Act established a new legal framework (Te Pā Auroa nā Te Awa Tupua) of legal personhood for the river, settled the historical claims of the Whanganui Iwi and included formal Crown acknowledgements and apology for past wrongs.</p> <p>The Act provides that the river is a legal person and has all the rights, powers, duties, and liabilities of a legal person. The scope of the recognised entity is broad, relating to “an indivisible and living whole, comprising the Whanganui River from the mountains to the sea, incorporating all its physical and metaphysical elements” (clause 12).</p> <p>Persons making decisions in relation to or affecting the river or activities in the catchment area must consider its legal status, Tupua te Kawa (relevant intrinsic values representing the essence of the river), and the strategy regarding its health and wellbeing. They must also state how this requirement has been complied with.</p>

	<p>The Act establishes Te Pou Tupua (the voice of the river), to be the human face of and act in the name of the river. Te Pou Tupua comprises two persons; one nominated by the Iwi with interests in the Whanganui River and one nominated by the government. Its functions include upholding the intrinsic values, promoting and protecting the river’s health and wellbeing, and administering Te Korotete (the fund set up to support the river’s health and wellbeing).</p> <p>Te Pou Tupua is supported by Te Karewao (a three-person advisory group) and Te Kōpuka (a strategy group of not more than 17 members, being representatives of persons and organisations with interests in the Whanganui River, including iwi, relevant local authorities, departments of State, commercial and recreational users, and environmental groups).</p> <p>The strategy group Te Kōpuka is responsible for developing Te Heke Ngahuru (a strategy document) for the future environmental, social, cultural and economic health and wellbeing of the river, to developed through a collaborative, public process and reviewed at least every 10 years.</p>
<p>Significance</p>	<p>The Act constitutes the first recognition in the world of the legal personhood of a river and prompted extensive global media attention, academic analysis and expanded legal and cultural imagination about how we as humans exist in relationship with the natural world.</p> <p>The development signals a renewed relationship between the government and Māori, following a history of colonisation, dispossession and extractive practices, as well as between humans and the more-than-human world. It sets a shared new path grounded in Indigenous cosmology, rejecting the reduction of the natural world to mere ‘property’ and recognising the existence of alternative legal frameworks. Collapsing the perceived separation between humans and ‘nature’ that underpins the majority of the dominant legal systems globally, the Act recognises the river is “an indivisible and living whole” (clause 12), which is inalienably interconnected with the Whanganui Iwi (clause 13(c)) and “comprised of many elements and communities, working collaboratively for the common purpose of [its] health and well-being” (clause 13(d)).</p> <p>Tupua te Kawa comprise the following intrinsic values which represent the essence of the river:</p> <ol style="list-style-type: none"> 1. Ko te Awa te mātāpuna o te ora (The River is the source of spiritual and physical sustenance). Te Awa Tupua is a spiritual and physical entity that supports and sustains both the life and natural resources within the Whanganui River and the health and wellbeing of the iwi, hapū and other communities of the River. 2. E rere kau mai te Awa nui mai te Kahui Maunga ki Tangaroa (The great River flows from the mountains to the sea). Te Awa Tupua is an indivisible and living

	<p>whole from the mountains to the sea, incorporating the Whanganui River and all of its physical and metaphysical elements.</p> <ol style="list-style-type: none"> 3. Ko au te Awa, ko te Awa ko au (I am the River and the River is me). The iwi and hapū of the Whanganui River have an inalienable interconnection with, and responsibility to, Te Awa Tupua and its health and wellbeing. 4. Ngā manga iti, ngā manga nui e honohono kau ana, ka tupu hei Awa Tupua (The small and large streams that flow into one another and form one River). Te Awa Tupua is a singular entity composed of many elements and communities, working collaboratively to the common purpose of the health and wellbeing of Te Awa Tupua. <p>Reflecting the fact that successful implementation of new legal frameworks requires considerable effort over a prolonged timeframe, the Act provides clear directions for governance structures, roles and responsibilities, collaborative engagement practices and details about impact on existing legislation and property/other interests.</p> <p>Significantly, it also provides for dedicated government funding, including: a one-off contribution of NZD 430,000 towards the establishment of Te Kōpuka and the development of Te Heke Ngahuru; establishment of a NZD 30 million Te Korotete fund to support the health and wellbeing of the river, open to any person or group to suggest initiatives; NZD 80 million financial redress payment to Whanganui Iwi; and an additional payment of NZD 1 million for transitional and implementation matters relating to the new legal framework.</p>
<p>Implementation</p>	<p>The Act provides that not later than six months after the settlement date, Te Kōpuka must begin to prepare a draft of Te Heke Ngahuru. As soon as the draft of Te Heke Ngahuru is prepared, but not later than 18 months after the settlement date, Te Kōpuka must make it publicly available and accept and consider submissions, amend as appropriate, then approve it.</p> <p>Ngā Tāngata Tiaki o Whanganui, established in August 2014, is the post-settlement governance entity for Whanganui Iwi for the purpose of the Whanganui River Settlement, and provides details of current representatives and relevant activities.</p> <p>While it will take time to understand and put into practice the new legal framework envisioned by the Act, early examples of its impact can be seen in the consultations regarding a <u>new cycle bridge</u> over the river and a <u>proposed port revitalisation project</u> at the mouth of the river.</p>
<p>Key documents and links</p>	<ul style="list-style-type: none"> ☀ Te Awa Tupua (Whanganui River Claims Settlement) Act (2017) ☀ Deed of Settlement comprising two parts: <ul style="list-style-type: none"> ☀ Ruruku Whakatupua - Te Mana o Te Awa Tupua (2014) (covering the proposed legal framework) ☀ Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui (2014) (covering the relationship between Whanganui Iwi and the Crown) ☀ Government summary of the Deed of Settlement

	<ul style="list-style-type: none">☀ <u>Settlement agreement regarding Whanganui River claims (Tutohu Whakatupua) (2012)</u>☀ Related <u>official settlement documents</u> (2009-2016)☀ <u>Ngā Tāngata Tiaki o Whanganui</u> <p>See also:</p> <ul style="list-style-type: none">☀ Waitangi Tribunal <u>webpage</u>
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