



HĀ KĀNUKA

Taonga Species and Distinctive Signs: Creating a Certification Trade Mark for the Kānuka Industry

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Contents

Introduction	3
Taonga Species and Distinctive Signs	4
Different Types of Distinctive Signs	6
A Discussion of Existing Distinctive Signs	8
The Pros and Cons of Existing Distinctive Signs	12
Hā Kānuka Certification Trade Mark: A Proposal	14

Introduction

In 2024 the Kānuka Charitable Trust (KCT) received funding from the Ministry for Primary Industries to develop a kānuka oil Certification Trade Mark. This is one of a number of activities that are intended to ensure that the emerging kānuka industry is led by Māori and based on Māori values and principles.

After some discussion, it became clear to KCT that actually registering a Certification Trade Mark for Hā Kānuka, the brand identity developed by KCT over the past three years, was not necessary at this stage in industry development – there would be few kānuka oil producers who would want to use the Certification Trade Mark and pay for it, and KCT would not have the funds to administer the Certification Trade Mark and associated regulations.

However, KCT recognises that there is obvious value in preparing everything that would be required to register a Hā Kānuka Certification Trade Mark, so that it could be legally activated when the industry is at an appropriate stage of development.

This paper presents KCT’s proposal for the Hā Kānuka Certification Trade Mark, and embeds it in a wider discussion about the opportunities and challenges of using Intellectual Property frameworks in relation to ingredients and products derived from taonga species.

In this paper, the term Distinctive Signs is being used to refer to Standard Trade Marks, Certification Trade Marks, and Geographical Indications, which are the three types of Intellectual Property considered in this paper.

According to the guide *What is Intellectual Property?* published by WIPO in 2020:

All sorts of signs may be used as trademarks – words, letters, numbers, symbols, colors, pictures, three-dimensional signs such as shapes and packaging, holograms, sounds, even tastes and smells.

To be eligible for registration, the basic principle is that a trademark must be distinctive, so it cannot just be a generic description of the product or service. Nor can it be identical (or very similar) to a trademark already registered or used for that type of product or service.

Trademarks are not just used to identify the goods and services of a particular enterprise. There are also collective marks, each owned by an association and used by its members. For example, professional associations of accountants, engineers and architects often use this kind of mark. And there are certification marks which show that a product or service complies with certain standards, such as Ecolabels for products with reduced environmental impacts¹.

¹ World Intellectual Property Organisation, *What is Intellectual Property?* Geneva: WIPO, 2020, p.13.

Taonga, Taonga Species, and Distinctive Signs

Aotearoa New Zealand is home to more than 80,000 species of native flora, fauna, and fungi. The vast majority of these species remain largely unexplored in terms of their biochemical properties, meaning their potential compounds and active ingredients are yet to be identified or applied in fields such as pharmaceuticals, nutraceuticals, cosmetics, fertilisers, and bio-insecticides.

This unexplored biodiversity represents both a profound opportunity and a significant risk: while new discoveries could contribute to human wellbeing and economic development, they also raise pressing ethical, cultural, and legal questions about ownership, control, and benefit-sharing.

In the landmark Wai 262 claim, Māori asserted that, as tangata whenua, they hold tino rangatiratanga in relation to taonga – including the native flora, fauna, and fungi of Aotearoa, along with the mātauranga Māori (traditional knowledge) associated with them. The claimants argued that the relationship between Māori and taonga is not transactional but genealogical and spiritual, grounded in whakapapa and expressed through the obligations of kaitiakitanga. They called for this relationship to be recognised and protected in New Zealand law, such that Māori authority and values take precedence over the management and exploitation of native species by any others, including the Crown and state agencies and institutions. In practical terms, this means that any research, commercial development, or utilisation of taonga species should occur only with Māori decision-making and governance at the centre, and with fair and equitable benefit-sharing where use is authorised.

The Wai 2522 claim builds on the landmark WAI 262 findings, emphasising the Crown's Treaty of Waitangi obligations of partnership, active protection, and redress in relation to mātauranga Māori and taonga species. It reinforces that Māori retain tino rangatiratanga over both the species and the knowledge associated with them, and that the Crown must provide legal mechanisms to uphold these rights. For the kānuka industry, Wai 2522 emphasises the need for Māori-led governance of any certification trade mark, ensuring provenance, preventing misappropriation, and guaranteeing that economic benefits flow back to iwi, hapū, and whānau. Integrating the lessons of Wai 262 and Wai 2522 will ensure the Hā Kānuka Certification Trade Mark can operate confidently in international markets while remaining grounded in Te Tiriti principles.

Taonga species are not merely biological resources. For whānau, hapū and iwi with kaitiaki rights and responsibilities, they are living ancestors, intertwined with identity and responsibility. Mātauranga Māori embodies centuries of observation, experimentation, and innovation, providing unique insights into ecosystems and sustainable use. The Waitangi Tribunal's WAI 262 report published in 2011 affirmed that tino rangatiratanga in relation to taonga species

and associated mātauranga must be recognised, and that decisions about their use cannot be separated from Māori values, tikanga, and responsibilities.

Internationally, this kaupapa aligns with frameworks such as the Convention on Biological Diversity (CBD) and its Nagoya Protocol on Access and Benefit-Sharing, which obligate signatory states to ensure equitable distribution of benefits arising from the use of genetic resources and associated knowledge. The World Intellectual Property Organisation (WIPO) has also advanced work on Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions (WIPO GR/TK/TCE), acknowledging that existing intellectual property systems often fail to reflect Indigenous relationships with resources and knowledge. Within these debates, the category of Distinctive Signs – which includes Standard Trade Marks, Certification Trade Marks, and Geographical Indications – offers both challenges and opportunities for the protection of taonga and taonga species.

The CBD provides the overarching international framework for the conservation of biodiversity, the sustainable use of biological resources, and the fair and equitable sharing of benefits arising from genetic resources and associated traditional knowledge. New Zealand has ratified the CBD, but New Zealand has not yet ratified the CBD's Nagoya Protocol on Access and Benefit-Sharing. However, the principles in the CBD and the Protocol remain relevant, are globally recognised and are increasingly reflected in trade, research, and conservation practice. For the kānuka industry, the CBD affirms that any commercial use of a taonga species must be accompanied by mechanisms to protect the mauri of the resource, safeguard traditional knowledge, and share benefits with the communities and ecosystems from which the resource is derived. A Hā Kānuka Certification Trade Mark can embody these obligations by requiring Free, Prior and Informed Consent (FPIC), negotiated benefit-sharing agreements, and biodiversity protection measures of sustainable use as conditions of certification.

Free Prior and Informed Consent (FPIC): refers to consent being provided by Indigenous Peoples for any activities that take place in our territories. It is designed to affirm the right to self-determination. Governments should not implement any policies or programmes involving Indigenous Peoples' territories unless there is prior consultation and consent, and Indigenous Peoples can withdraw consent at any time.

Access Benefit Sharing (ABS): refers to the way in which genetic resources may be accessed, and how the benefits that result from their use are shared between the people or countries using the resources (users) and the people or countries that provide them (providers), seeking to ensure a fair and equitable sharing of any benefits. ABS is a core principle of the Convention on Biological Diversity and the Nagoya Protocol, international agreements to which the New Zealand government is not a signatory.

The challenge is clear: Distinctive Signs are designed to serve commerce by distinguishing goods and services under the control of individual owners. Taonga and taonga species, however, exist within collective authority, subject to cultural obligations and tikanga-based restrictions on use. Standard Intellectual Property frameworks risk enabling misappropriation, commodification, and fragmentation of taonga and taonga species, undermining Māori relationships and Māori rights in relation to taonga and taonga species and contravening international commitments such as the CBD and Nagoya Protocol.

Yet there are also opportunities. When carefully designed, Distinctive Signs can act as safeguards rather than threats. Certification Trade Marks in particular offer a pathway for Māori to embed cultural, environmental, and ethical standards into supply chains, ensuring that any commercialisation of taonga species is governed by Māori values, collective decision-making and fair benefit sharing – not just with Māori but also with the taonga and Te Taiao.

The Hā Kānuka Certification Trade Mark developed by the Kānuka Charitable Trust, provides a practical example: it is designed to establish conditions for how kānuka is cultivated, harvested, processed, and marketed, thereby protecting associated mātauranga, while enabling a sustainable, values-based industry.

Distinctive Signs, combined with robust Māori governance, tikanga-based rules, and international best practice, could form a framework that protects taonga species while enabling ethical participation in global markets. Done well, this approach can help Aotearoa navigate the delicate balance between biodiversity conservation, cultural integrity, and economic innovation – ensuring the benefits of bioprospecting are shared fairly, and that the mauri of taonga and taonga species remain intact for future generations.

Different Types of Distinctive Signs

There are a few different systems that can be utilised within the intellectual property framework to assist with regulating access to and use of taonga species and mātauranga associated with taonga species. These options are: Standard Trade Marks; Collective Trade Marks; Certification Trade Marks; and Geographical Indications. This section will introduce each of them and discuss benefits and disadvantages.

Standard Trade Marks

The primary function of a Standard Trade Mark is to distinguish one trader's goods or services from another trader's goods or services. The owner of the trade mark is free to impose any conditions on the use of the trade mark by licensees, including conditions that:

- impose ethical/sustainable sourcing or testing requirements;
- require the use of certain production methods;
- require certain cultural considerations are taken into account;
- reflect inclusive commercial/economic structures; and/or
- promote collective interests.

PROS

The benefit of using a Standard Trade Mark is that the registration process is relatively simple.

CONS

One disadvantage of using a Standard Trade Mark is that the registration is owned by a single entity, which is not normally conducive to or commonly used to reflect inclusive commercial/economic structures or to promote collective interests. For example, ownership by a single entity means the conditions of use are subject to the preferences of a single owner, which may not always align with collective interests.

Collective Trade Marks

The primary function of a Collective Trade Mark is to identify the users as members of a collective association. Once the potential user becomes a member of the association, then the user is entitled to use the Collective Trade Mark. In this situation, the owner can impose conditions on membership that:

- impose ethical/sustainable sourcing or testing requirements;
- require the use of certain production methods;
- require certain cultural considerations are taken into account;
- reflect inclusive commercial/economic structures; and/or
- promote collective interests.

PROS

The primary benefit of using a Collective Trade Mark is that it can reflect collective interests.

CONS

The disadvantage of a Collective Trade Mark is that the conditions of use of the Collective Trade Mark is directly related to the preferences of the majority of the membership of the owner, which may not always align with independent collective interests such as the interests of Indigenous Peoples.

Certification Trade Marks

The primary function of a Certification Trade Mark is for the owner to certify that the goods or services meet specified characteristics, standards or qualities, such as those outlined in the examples above.

The Certification Trade Mark must be supported by regulations, which set out the:

- process for users to apply to use the certification trade mark, including any testing carried out by the owner;
- characteristics or qualities the products or services must meet to be able to use the certification trade mark;
- fees that apply to the use of the mark;
- ability of the owner to certify the goods or services; and
- reasons the certification mark is in the public interest.

The owner of the Certification Trade Mark cannot trade in the goods or services, and is primarily responsible for certifying potential users of the mark. If that user's goods or services meet the characteristics or qualities specified in the regulations, then that potential user must be authorised to use the Certification Trade Mark.

PROS

The primary benefit of using a Certification Trade Mark is that it is designed for communicating that the goods or services have particular characteristics or qualities, which are determined by the owner, and can include cultural, environmental, social, and economic conditions.

CONS

The disadvantages of using a Certification Trade Mark are that the registration process requires the development of regulations, which can be complex and time-consuming. In addition, the owner will need to demonstrate that it has the necessary competencies (internal and external) and capacity to be able to certify the goods.

Geographical Indications

A Geographical Indication (GI) is a sign, which is usually a geographical name but not always, that is used on products that come from a particular geographical location and which possess a quality, reputation, or other characteristic linked to that location. These characteristics can address some of the provisions outlined in the various trade mark options above, but focuses on the place of origin and the unique characteristics associated with the place of origin, rather than ethical sourcing and sustainable production methods.

GIs are not owned by a single owner but can be regulated by an industry body to ensure compliance with collective interests. The industry body would not use the GI itself on product. Any party who complies with the provisions governing the use of the GI is entitled to use the GI.

PROS

The primary benefit of using a GI is that the industry body has flexibility to adapt the conditions of use. Examples of well-known GIs include names such as Champagne, Darjeeling tea, or Tequila. These GI regimes ensure that only producers from the defined region who follow the registered production standards can use the GI name. Those standards may cover factors like permitted raw materials, production methods, and even certain environmental practices. GIs can also recognise traditional knowledge and cultural heritage if producers choose to write these into the official specifications.

CONS

However, the legal reach of a GI is narrower than many people assume. It does not automatically guarantee an ethically responsible supply chain or fair conditions beyond the point of origin. Unless the producer group voluntarily includes social or environmental requirements in the GI specification – and gains approval from the national GI authority (usually a government agency) – there is no obligation to ensure fair labour, carbon neutrality, or sustainable sourcing of raw material. For comprehensive oversight of sourcing, production, and sales, GIs need to be combined with other mechanisms such as ethical sourcing certification, benefit-sharing agreements, or national labour and environmental regulations. So, GIs can support cultural and environmental values at the source, but GIs remain primarily a place-of-origin protection for commercial interests, not a full ethical guarantee.

Unfortunately for producers in Aotearoa, at present, the GI framework is only available for use in relation to wines and spirits, and not for any other products.

A Discussion of Existing Distinctive Signs

This section provides a summary of some existing Certification Trade Marks that, in different ways, suggest how the Hā Kānuka Certification Trade Mark could operate to enhance Māori leadership and values in the kānuka industry, and to ensure ethical and environmental principles are actively supported throughout the supply chain.

Tiaki (Tiaki Promise / Mana Tiaki)

The Tiaki Promise was launched around 2018 as a collective initiative between Tourism New Zealand, Air New Zealand, the Department of Conservation, NZ Māori Tourism, Tourism Industry Aotearoa, and local government bodies. In the Cook Islands, the Mana Tiaki Eco-Certification was formally launched in 2019 by the National Environment Service in partnership with Te Ipukarea Society, the Tourism Industry Council, and the Tourism Corporation.

The purpose is to promote values of guardianship, cultural respect, and environmental responsibility in tourism. It is rooted in Māori and Polynesian concepts of kaitiakitanga and manaakitanga. International recognition is moderate — primarily used across New Zealand and the Cook Islands. Standards encourage sustainable business practices, protection of biodiversity, and community respect. Indigenous rights are acknowledged indirectly through the use of Māori and Cook Islands cultural frameworks. Environmental standards are centred on reducing waste, protecting ecosystems, and promoting sustainable tourism.

For Mana Tiaki Eco-Certification, tourism operators apply through the Cook Islands Tourism Corporation and must demonstrate compliance with a checklist of environmental and cultural practices. Tiaki itself is more of a pledge and marketing alignment rather than a certifying process. It is not clear how the Tiaki pledge is maintained or monitored. Mana Tiaki Eco-Certification is free of charge, and there is also no cost for using the Tiaki Promise media assets.

This Distinctive Sign is registered as a trade mark in New Zealand, but is not registered overseas.

tiakinewzealand.com

Toi Iho

Toi Iho is the mark of authenticity for Māori art. It was developed by Te Waka Toi, the Māori Arts Board of Creative New Zealand, and officially launched in 2002 after decades of concern about misrepresentation of Māori culture. In 2009, control was passed to the Toi Iho Charitable Trust, which manages the trade mark on behalf of Māori artists.

It certifies that visual and performing arts are created by Māori, guaranteeing cultural integrity and authenticity. It has strong national recognition in Aotearoa and some international recognition within arts markets and cultural exchanges. The system directly supports

indigenous rights by ensuring that Māori artists maintain ownership and recognition of their cultural expressions. Environmental standards are not part of the mark's remit.

Māori artists can apply through the Toi Iho Charitable Trust, submitting examples of their work, whakapapa details, and references. An expert panel assesses applications for authenticity and quality. There is no fee to register.

This Distinctive Sign is registered as a trade mark in New Zealand, but is not registered overseas.

www.toiho.org.nz

FernMark

The FernMark is New Zealand's official country-of-origin symbol, administered by New Zealand Story, a government initiative. It was designed to strengthen brand trust for New Zealand exports. Companies across multiple sectors can apply to use the mark to demonstrate that products or services originate from New Zealand.

International recognition is moderate — it is known in markets that import NZ goods but is primarily a branding and marketing tool rather than a sustainability certification. It does not cover indigenous rights or environmental standards.

Companies apply via the FernMark Licence Programme, providing evidence of New Zealand ownership, significant operations in New Zealand, and brand alignment with NZ Story values.

A FernMark Licence is granted for a three-year initial term (with three-yearly renewals), and licence fees are invoiced annually. Annual licence fees are based on a Licensee's most recent annual revenue, from \$750 NZD for revenue up to \$2 million NZD, and \$5000 NZD for revenue over \$20 million NZD.

This Distinctive Sign is registered as a trade mark in New Zealand and overseas.

fernmark.nzstory.govt.nz

Union for Ethical BioTrade (UEBT)

UEBT was founded in 2007 in Geneva and now operates globally with headquarters in Amsterdam. It promotes ethical sourcing of natural ingredients, mainly for cosmetics, food, and pharmaceuticals. Its Ethical BioTrade Standard integrates principles of sustainable

biodiversity management, fair trade, benefit-sharing, and respect for traditional knowledge. It is well-recognised among companies sourcing botanical ingredients and aligns closely with the UN Convention on Biological Diversity.

International recognition is significant in niche sectors such as natural cosmetics and biotrade. UEBT explicitly recognises Indigenous Peoples' rights, especially relating to traditional knowledge and equitable sharing of benefits. Its environmental standards are strong, requiring biodiversity conservation and sustainable resource management.

Companies apply through UEBT, undergo a membership audit, and commit to improvement plans verified by accredited auditors.

UEBT members pay an annual membership fee based on the annual turn-over of the member organisation, starting at €725 for companies with revenue less than €2 million and increasing to €42,725 for revenue of €2 billion and above.

This Distinctive Sign is registered overseas, but is not yet registered in New Zealand.

www.uebt.org

B Corp (Certified B Corporation)

B Corp certification was created in 2006 by the non-profit B Lab. It certifies businesses that meet high standards of social and environmental performance, accountability, and transparency. The certification applies across industries, including manufacturing, services, and technology. International recognition is high, with more than 9,500 companies certified across 100+ countries.

Companies are assessed on governance, workers, community, environment, and customers, and must meet a minimum score to be certified. Indigenous rights are not specifically highlighted, but certified companies are expected to respect human rights. Environmental standards form a key part of the assessment, covering energy use, carbon emissions, waste, and supply chain sustainability. From 2026, B Lab will enforce new mandatory requirements across human rights, climate, and social equity.

Businesses complete an online B Impact Assessment, undergo document review and possibly site visits, and sign a legal commitment to stakeholder accountability. Recertification is required every three years. For a company with annual revenues under \$2 million, costs include a \$250 submission fee and \$1,500 verification fee (both one-off costs) and an annual fee of \$2,500.

This Distinctive Sign is registered as a trade mark in New Zealand and overseas.

bcorporation.net

Fairtrade / FLOCert

Fairtrade certification emerged in the late 1980s to ensure fairer trading conditions for producers in developing countries. It is governed by Fairtrade International, with FLOCert as its independent certification body. It applies to agricultural products such as coffee, cocoa, bananas, tea, and cotton, as well as artisanal goods. International recognition is very high – Fairtrade is one of the most widely recognised ethical labels globally.

Standards cover fair minimum prices, labour rights, environmental sustainability, and community development premiums. Indigenous rights are supported indirectly, as the system prioritises smallholder and marginalised producers, many of whom are indigenous communities. Environmental standards include restrictions on agrochemicals, soil and water protection, and climate adaptation practices.

Producer groups and traders apply via FLOCert, undergo compliance audits, and are monitored regularly. Products may carry the Fairtrade Mark once certified. Fairtrade Certification has an initial fee for the audit and other costs and then ongoing annual fees. The initial setup fee can, for example, be somewhere around \$600 to apply, \$3,300 for an audit and certification, and \$400 for processing; with similar ongoing costs once certification has been achieved.

This Distinctive Sign is registered as a trade mark in New Zealand and overseas.

www.fairtrade.net

People + Planet First

People + Planet First is a relatively new initiative in New Zealand. It serves as an umbrella mark awarded to enterprises already holding one or more recognised sustainability or ethical certifications (e.g., Fairtrade, B Corp, organic). The aim is to provide consumers with a simple symbol that identifies businesses operating to high ethical standards. The focus is international, but in NZ it is becoming more visible.

Standards depend on the underlying certifications. Indigenous rights and environmental standards are indirectly included through the requirements of those schemes.

The verification has five standards, with an internal points system that supports the review process and helps enterprises identify opportunities for potential improvement.

Costs include an initial verification fee of \$85 USD and an annual review fee of \$70 USD.

This Distinctive Sign is currently the subject of pending applications overseas, but there is no current application for this trade mark in New Zealand.

peopleandplanetfirst.org

Forest Stewardship Council (FSC)

The FSC was established in 1993 following concerns about global deforestation. It is a multi-stakeholder, not-for-profit organisation headquartered in Bonn, Germany. It sets standards for responsible forest management, covering both forest owners and companies in the supply chain. Certification is recognised globally, with hundreds of millions of hectares under FSC management and widespread consumer awareness in major markets.

The FSC Principles and Criteria cover environmental protection, worker rights, community benefits, and economic viability. It specifically requires respect for Indigenous Peoples' rights, including consent for land use, though implementation has been uneven in practice. Environmental standards are rigorous, aiming to maintain biodiversity, ecosystem services, and reduce environmental impact.

Organisations apply through accredited FSC certification bodies, which conduct audits against FSC standards. Certification involves site inspections, stakeholder consultations, and periodic reassessments.

The direct costs of a regular Forest Management FSC certification include the price of an initial assessment, annual audits, and reassessment at year five.

This Distinctive Sign is registered as a trade mark in New Zealand and overseas.

fsc.org

Rainforest Alliance

Founded in 1987, the Rainforest Alliance is an international NGO dedicated to conserving biodiversity and ensuring sustainable livelihoods. It merged with UTZ Certified in 2018, creating one of the largest certification systems for agriculture and forestry. It certifies products such as coffee, cocoa, tea, bananas, and forest products. International recognition is very strong, especially in Europe and North America.

Standards include biodiversity conservation, improved farmer livelihoods, responsible land management, and climate resilience. Indigenous and local community rights are acknowledged in standards requiring respect for customary land rights. Environmental standards are comprehensive, including deforestation-free commitments.

Producers and companies apply through authorised Rainforest Alliance certification bodies, which conduct audits and verify compliance with the Sustainable Agriculture Standard or forest certification.

There are four costs for companies, when applicable: supply chain audit fees if the company's Supply Chain

Risk Assessment indicates an audit is required; paying the Sustainability Differential, a cash premium price paid to farmers as a reward for implementing more sustainable farming practices and becoming certified; the Sustainability Investment paid by buyers to farmers to help them meet and maintain certification; and a Volume-based Royalty paid to the Rainforest Alliance based on the volume of certified goods purchased and sold as 'certified'.

This Distinctive Sign is not yet registered as a trade mark in New Zealand, but is registered overseas.

www.rainforest-alliance.org

Toitū Envirocare

Toitū Envirocare (formerly Enviro-Mark Solutions) operates two key certification systems relevant to sustainability and climate accountability: Enviro-Mark Certification and Toitū Climate Certification (CarbonReduce, CarbonZero, and Climate Positive). It originated in 2001 as a programme within Manaaki Whenua Landcare Research, and is now managed by Toitū Envirocare, a subsidiary of Manaaki Whenua, which operates independently as a certification body. It applies to organisations across all industries and certifies management systems, not specific products. Enviro-Mark Diamond level is equivalent to ISO 14001, ensuring international credibility, but the strongest recognition is in Aotearoa.

Standards covered within Enviro-Mark include environmental risk management, legal compliance with environmental regulations, and continuous improvement in environmental performance. Toitū Climate Certification covers full GHG footprint measurement and third-party verification, emissions reductions aligned with the Paris Agreement and science-based targets, and use of verified carbon offsets to achieve neutrality or climate positivity.

There is no explicit framework recognising Indigenous rights or Māori values. The focus is primarily on environmental compliance and sustainability improvement, and climate accountability, science-based emission reductions, and high-quality offsets.

For Enviro-Mark organisations undertake a gap analysis, and progress through five levels (Bronze to Diamond). Annual audits are required to maintain certification. For Toitū Climate Certification organisations measure GHG emissions across operations, with independent verification by Toitū auditors. Annual renewal comes with demonstrated emission reductions. The carbon certification programme costs \$1,500 per year for membership plus \$2,095 for the first year's audit and certification, with audit and certification costs dropping in following years.

This Distinctive Sign is not registered as a trade mark in New Zealand or overseas.

toitu.co.nz

Green Seal

Green Seal is a US-based non-profit founded in 1989. It certifies products and services with reduced environmental impact throughout their life cycle. Its standards cover cleaning products, paper, paints, hotels, food services, and more. It is recognised primarily in the US, though some certified products are distributed globally.

Green Seal standards use a lifecycle approach, considering raw materials, manufacturing, use, and disposal. The certification ensures products are safer for human health and the environment. Indigenous rights are not a specific focus, but the scheme is recognised for environmental rigor. Environmental standards are very strong, including toxicity reduction, pollution prevention, and energy efficiency.

Companies apply directly to Green Seal, submit products or services for review, and undergo third-party assessment and testing against detailed environmental standards. Certification requires ongoing compliance and renewal.

There are five tiers ranging from a \$3500 USD fee for a single product for companies with annual sales revenue less than \$5 million, to \$9500 USD for a single product for companies with annual sales revenue over \$500 million.

This Distinctive Sign is not yet registered as a trade mark in New Zealand, but is registered overseas.

greenseal.org

The Pros and Cons of Existing Distinctive Signs

The Distinctive Signs discussed in the previous section can inform the development of the Hā Kānuka Certification Trade Mark, providing lessons, precedents, and gaps that are useful for shaping a credible, values-based Certification Trade Mark for the kānuka industry.

Tiaki

Not a formal certification mark but a cultural values-based pledge. It demonstrates how kaupapa Māori principles can be integrated into a public-facing brand, and highlights the importance of storytelling, cultural grounding, and education alongside certification. It shows that consumer trust can be built not only through technical standards but also by embedding values like kaitiakitanga.

Toi Iho

Developed to protect authenticity and quality of Māori art and artists, and demonstrates the risks and opportunities that come with an Indigenous values-based certification system: it gained strong recognition initially and has recently been reinvigorated, but has struggled with governance and commercial uptake. Lessons for the kānuka industry include ensuring iwi/hapū control, wide stakeholder buy-in, robust governance, and financial sustainability of the scheme.

FernMark

Managed by NZ Story, this is New Zealand's official 'country of origin' mark. For the kānuka industry, FernMark shows the value of linking product certification with national brand recognition. However, it is not Māori led. The Hā Kānuka Certification Trade Mark could position itself as an indigenous-led equivalent, distinguishing Māori values and provenance from generic 'NZ Inc' branding.

UEBT

Focuses on biodiversity, ABS (Access and Benefit Sharing), and respect for Indigenous knowledge. This directly parallels the desire to protect Māori rights and ensure equitable benefit-sharing within the kānuka industry. UEBT could provide a template or partnership pathway for the kānuka industry, especially in export markets.

B Corp

Demonstrates how values-based certification can become globally recognised. While it is business-wide rather than product-specific, its holistic approach (social, environmental, governance) may inspire the kānuka industry to embed broader kaupapa (manaakitanga, equity, sustainability) into the Hā Kānuka Certification Trade Mark criteria.

FairTrade

Provides strong precedents for ensuring small producers benefit from global supply chains. Its emphasis on fair pricing, labour rights, and community reinvestment is a good example for the kānuka

industry. However, FairTrade has been critiqued for bureaucratic complexity, something that the Hā Kānuka Certification Trade Mark should keep in mind and aim for accessibility for Māori landowners and other stakeholders.

People + Planet First

A newer, solidarity-economy certification focused on cooperatives and social enterprises. For the kānuka industry, this demonstrates a shift towards certifications that privilege community ownership and collective benefit—aligning directly with the desire to embed Māori values into the industry.

FSC

Provides a globally recognised model for environmental and social certification, particularly around forestry. For kānuka, FSC shows how supply chain traceability, independent auditing, and recognition of Indigenous Peoples' rights can be integrated. It also highlights the resource intensity required to maintain credibility at international scale.

Rainforest Alliance

Combines environmental sustainability and social justice certification. It offers models of traceability and consumer-facing branding. It demonstrates how certification can scale globally, but also the risk of "greenwashing" if auditing and compliance are not robust.

Toitū

Demonstrates how Distinctive Signs can link directly to measurable, science-based outcomes (e.g., emissions per product), reassuring customers who demand low carbon or climate-positive credentials. It combines technical rigour with a Māori name and brand narrative, illustrating how kaupapa Māori branding can sit alongside international scientific standards—but also shows the importance of ensuring Māori governance is authentic, not just symbolic. For the kānuka industry, the Hā Kānuka Certification Trade Mark could go further by explicitly addressing Indigenous rights and integrate climate certification into a broader Indigenous values framework, offering a uniquely Māori-led climate and biodiversity assurance.

Green Seal

Provides a model for environmental performance standards (particularly in cleaning and consumer products). Its credibility lies in third-party auditing and clear technical criteria. For the kānuka industry, this suggests the need to define measurable environmental standards (e.g. harvesting practices, biodiversity protection, carbon profile).



In summary:

Indigenous rights recognition: UEBT, FSC, and Toi Iho show pathways for embedding Māori control and FPIC (Free, Prior, Informed Consent).

People+Planet First shows how to provide a quality mark for collectively-owned enterprises and systemic benefit-sharing amongst producers.

Sustainability & environment: FSC, Rainforest Alliance, Green Seal and Toitū provide templates for embedding environmental safeguards into harvesting/production standards.

Market credibility: FairTrade, B Corp, and FernMark show how international recognition can be achieved, but also that the Hā Kānuka Certification Trade Mark must be distinct, Māori-led, and story-driven.

Consumer trust & storytelling: Tiaki and Toi Iho emphasise the cultural narrative and values dimension – essential for positioning Hā Kānuka Certification Trade Mark and kānuka as a taonga species.

Hā Kānuka Certification Trademark: A Proposal

To achieve a Hā Kānuka Certification Trade Mark, the Kānuka Charitable Trust will need to develop regulations that address the following:

- how the mark will be used to indicate the mark is a certification trade mark;
- how the Kānuka Charitable Trust is competent to certify the oils and to operate the certification regime;
- describe the ability of the Kānuka Charitable Trust to monitor and control users of the certification trade mark on oils;
- describe the skills and resources within the Trust to ensure the certification of oils is authoritative;
- how the Trust will address misuse of the mark on oils;
- the individuals within the organisation who will be supervising the administration of the certification trade mark;
- the inspection methods and frequency to ensure ongoing compliance with the criteria in the draft regulations;
- support from wider industry to establish the certification trade mark;
- why the certification trade mark regime is needed and is in the public interest;
- when the owner may certify the goods and the objective criteria the goods must meet;
- when the owner may authorise use of the mark ensuring that any person in New Zealand trading in oils with the required characteristics should be eligible for authorisation to use the mark;
- the owner must keep a register of registered users of the certification trade mark, which is open to the public on reasonable terms;
- a right of appeal to an independent person (frequently the Commissioner) if a person is denied the right to use of the trade mark; and
- any fees payable for use of the certification trade mark.

Our proposal is that a Hā Kānuka Certification Trade Mark is going to be most effective if it concentrates on certifying Māori values and Māori participation in the production of kānuka ingredients and products. There are already other widely recognised and authoritative certification trade marks that cover aspects such as environmental sustainability and ethical production. It would make sense for the kānuka industry to participate in these certification frameworks to reassure customers and consumers that the supply chain is robust and credible. An internationally recognised regime like UEBT certification can provide high quality certification in relation to questions of biodiversity or access and

benefit sharing, and a new Hā Kānuka Certification Trade Mark could not hope to achieve the same scope of recognition.

Where the Hā Kānuka Certification Trade Mark could add value is by focusing explicitly on the nature of kānuka as a taonga species. This certification trade mark would be something similar to the Toi Iho mark of authenticity for Māori art and design, but applied to kānuka ingredients or products utilising kānuka, or a Fernmark standard explicitly for Māori producers. It could be worthwhile exploring with Fernmark the idea of developing a certification trade mark specifically for Māori producers, as this would benefit from the existing infrastructure and reputation that Fernmark have established already.

There is also a question about whether the Māori-led kānuka industry should develop a certification trade mark specific to kānuka, or whether it would make more sense to have a certification trade mark for products derived from any taonga-species as the issues will be similar across all sectors associated with taonga species.

The following questions and suggestions are offered as a starting point to generate discussion about the nature of any future Hā Kānuka Certification Trade Mark.

What would a regulation look like that certifies that certain entities are engaging with kānuka as a taonga species?

What are the actions, policies, processes and attitudes that demonstrate kānuka is being treated as a taonga?

And how can these actions, policies, processes and attitudes be certified by KCT or the certification trade mark owner?

What is the best way to articulate Māori participation, and meaningful benefit sharing in, kānuka processing, production and associated Intellectual Property?

Is it a percentage of people employed or Māori in the supply chain?

How are any profits are distributed?

Who has control and are kaitiaki Māori supportive of the arrangements as evidenced in agreements evidencing Mutually Agreed Terms?

Should the regulations include the requirement that all kānuka products are harvested, processed and/or manufactured in Aotearoa?

This is one way to ensure that related but distinct species such as Kunzea in Australia cannot be substituted for kānuka, since the name kānuka refers to whakapapa relationships between plant, landscape and people.

How does the Hā Kānuka Certification Trade Mark ensure that Māori have the opportunity to be involved in, and benefit economically, from kānuka utilisation?

Should the regulations include the requirement that all kānuka products are harvested and processed to acknowledge the role of kānuka in the ecosystem?

How does the Hā Kānuka Certification Trade Mark address questions about sustainability and biodiversity, but through a Māori lens?

How does the Hā Kānuka Certification Trade Mark respect kānuka and its whakapapa connections to people and landscape?

The regulations would need to introduce a regime that defines what sustainable use looks like, and this would be informed by ensuring kānuka populations can sustain themselves despite harvesting from the wild or plantations.

What methods can be used to determine, authenticate, and maintain kaitiaki/Māori connection with our taonga?

One way is to demonstrate Free Prior and Informed Consent or that an Access Benefit Sharing agreements have been reached under Mutually Agreed Terms.

The kānuka industry could also innovate and lead internationally by embedding the Rights of Nature into its certification framework. Māori worldviews recognise that kānuka and the wider te taiao – the living environment of land, waters, and atmosphere – are not inert resources just to be managed or utilised by humans, but living entities with their own mauri and mana. This perspective is affirmed in the WAI 262

findings and echoed in legal developments such as the personhood of Te Awa Tupua (Whanganui River) and Te Urewera, where ecosystems are recognised as legal persons with standing in law.

A Hā Kānuka Certification Trade Mark could operationalise these principles by naming kānuka and its supporting ecosystems as key beneficiaries of any commercial activity. In practice, certification regulations could require:

Recognition of Legal Personhood and Kaitiaki Roles

- The kānuka species and associated ecosystems are acknowledged as rightsholders.
- Kaitiaki (guardians) act on their behalf in decision-making, ensuring that harvesting, processing, and trade/commercial agreements protect the mauri of both the species and its habitats.

Benefit-Sharing with Te Taiao

- A defined proportion of commercial returns is allocated to ecological restoration, seed banking, and habitat protection projects identified by local iwi and hapū.
- Monitoring and reporting demonstrate measurable gains for biodiversity and ecosystem health, not just for human shareholders.

Tikanga-Based Governance and FPIC

- All commercial use is contingent on Free, Prior and Informed Consent (FPIC) from the relevant kaitiaki groups, which provides Freedom to Operate for IP holders.
- Decision-making processes follow tikanga Māori, including ceremonial protocols that affirm the relationship between people, kānuka, and the wider environment. How these processes interact with commercial processes would need to be negotiated as they may enhance or restrict commercial potential.

Embedding the Rights of Nature in this way ensures that the certification mark is more than a provenance or quality label. It becomes a living covenant that protects kānuka as a taonga species, aligns with global biodiversity frameworks, and sets a precedent for other taonga-based industries. By treating the species and te taiao as beneficiaries, the Hā Kānuka Certification Trade Mark would embody the principle that economic development must enhance, not diminish, biodiversity and the life force of the natural world.

This paper presents some proposals about a potential Hā Kānuka Certification Trade Mark, as part of a discussion about the opportunities and challenges of using Intellectual Property frameworks in relation to ingredients and products derived from taonga species. The overall conclusion is that a Hā Kānuka Certification Trade Mark is going to be most effective if it concentrates on certifying Māori values and Māori participation in the production of kānuka ingredients and products.

The Kānuka Charitable Trust welcomes feedback on any aspect of this paper, as well as contact from any individual or entity that would like to collaborate with KCT to build the kānuka industry.

Find out more at:

www.hakanuka.co.nz