Understanding a Tiriti-Based Approach to Social Procurement

Report Prepared for Aukaha

By Sequoia Short (University of Otago)

Executive Summary

Aukaha identified the desire to create procurement pathways within their supply chains that recognise and embody the values expressed in Te Tiriti o Waitangi, as a means to generate additional social value within expected procurement expenditure. Tiriti-based social procurement is proposed as a viable intervention intended to mitigate these inequities while simultaneously ensuring procurement practices fulfil Tiriti obligations. Ten semi-structured interviews were conducted with Key Informants experienced in professional procurement and/or application of Te Tiriti. Key findings included that procurement practitioners saw a role for Te Tiriti within procurement practices, practitioners were uncertain as to how this could best be achieved, and there are a number of groups and individuals that can influence the adoption and success of Tiriti-based social procurement. Recommendations specific to Aukaha's interest in the adoption and support of social procurement have been generated and include leveraging Treaty clauses and MOU's, providing cultural training, and revision of existing procurement processes.

Introduction

Aim of this Project

The aim of this research is to extend upon and provide more insight into social procurement drawing on international literature and the experiences of procurement specialists. Therefore, the project has three aims:

1. Identify key social procurement literature, particularly that which focuses on Indigenous procurement.
2. Synthesise findings to develop a framework for Tiriti-based social procurement.
3. Generate recommendations that might assist Aukaha in the adoption and success of social procurement.

Report Structure

1. In Section One, the report outlines key findings from the literature, including opportunities to develop a Treaty-based framework for social Procurement.
2. In Section Two, there is an outline of the methodology to capture Key Informant's views on a Treaty-based approach to social procurement.
3. In Section Three, Key Informant's views are analysed.
4. In Section Four, further considerations for future actions are discussed.
5. In Section Five, limitations of this research are outlined.
6. In Section Six, additional information pertaining to research and findings are provided.

Building on Previous Research

A research project was previously undertaken was for Aukaha titled 'Understanding the Viability of Social Procurement for Indigenous Communities in New Zealand'. Information about social procurement was collected from relevant literature and an interview with a sector expert, Tania Powhare, who has extensive experience implementing social procurement through the Auckland City Council. This information was analysed to identify illustrative case examples, determine what enables or hinders social procurement, as well as ascertain key lessons for successful social and indigenous procurement.

Within this research, enablers were identified as supportive public policy, suppliers, customers, beneficiaries, dedicated resources, and leaders. Barriers were determined to be conservative government culture, difficulty measuring social value, presumed additional costs, negative perceptions of social enterprise, industry culture, existing relationships, existing procurement processes, the structure of industries and a lack of effective assessment tools. An analysis of three illustrative case examples revealed four key lessons:

1. Partnering with other organisations is essential
2. Strong knowledge of the supply chain is crucial
3. Benefactors of proposed initiatives should be consulted
4. Proposed policies must be beneficial for all parties concerned

The interview highlighted further lessons for social procurement not contained in the literature. These insights were:

1. Go with the willing
2. Do not being drawn into false economies
3. Be strategic and think long-term
4. Systematically assess spending to pinpoint potential areas for incorporation of social procurement
5. Create contracts, initiatives and plans specific to the individual project to ensure success

Section One: Summary of Key Findings in Literature

1.1 Mainstream Procurement Practices

What is the buyer's perspective when seeking to procure goods and services?

Procurement is discussed as being the "acquisition of goods and services in return for a monetary or equivalent payment" (Lysons & Farrington, 2006, p. 6). Buyers who are confronted with important purchases are likely to conduct extensive research regardless of existing procedures or relationships (Hunter, Bunn, & Perreault, 2006). The literature indicates that buyers will assess the value of relationships based on a range of criteria and the importance of the purchasing decision. Such criterion can include (Mwikali & Kavale, 2012; Simpson, Siguaw, & White, 2002):

- Cost
- Quality
- Process control
- Continuous improvement
- Facility environment
- Technical capability
- Organisational profile

- Service levels
- Risk factors e.g., financial conditions
- Customer relationships
- Delivery
- Ordering
- Certification
- Inventory and warehousing

What is the supplier's perspective when supplying goods and services?

The literature indicates that the supplier's perspective of procurement is to create longevity in relationships with suppliers through customer satisfaction, deliverance, and trust (Hunter et al., 2006; Selnes, 1998). Supplier development programmes are long-term cooperative efforts by the buyer to upgrade the suppliers' technical, quality, delivery, and cost capabilities to encourage ongoing improvement (Watts & Hahn, 1993). In turn, this increases knowledge and facilitates improvement through programmes and initiatives (Giannakis, 2008). The literature identifies that supplier development programmes are an effective way of minimising supply risk through the developing capabilities of the supply firm. They are an essential aspect of maintaining competitive advantage in the future or creating future value.

How does procurement behaviour differ between the public and private sector?

Mainstream procurement in the public sector differs to that of mainstream procurement in the private sector. The public sector implements a competitive bidding system for available contracts (Bajari, McMillan, & Tadelis, 2009; Tadelis, 2012). The competitive bidding system allows for free entry of qualified bidders where there is an objective criterion for selecting the winning bidder (Tadelis, 2012). The private sector can more easily utilise mechanisms other than auctions to select a contractor (Bajari et al., 2009). This provides more discretion in selecting a contractor as the private sector is not bound by as many regulations and requirements (Bajari et al., 2009; Tadelis, 2012).

1.2 Social Procurement

What is social procurement and what benefit can it generate?

The central premise of social procurement is to create social value using the procurement processes and purchasing power. Both public and private organisations can use their purchasing power and procurement pathways to achieve social, environmental, and economic objectives (Mupanemunda, 2019). An example of indigenous social procurement in Australia found there to be <u>$4.41 worth of indirect economic and social value generated for every $1 spent</u> (Supply Nation, 2018). Entities can create this social value when they are able to influence the procurement processes in a way that generates positive social outcomes. These positive outcomes include:

- Creating job opportunities for marginalised people (Loosemore, 2016; Troje & Andersson, 2020; Troje & Kadefors, 2018)
- Diversification of the supply chain (Loosemore, 2016)
- Improved health and safety (Loosemore, 2016)
- Promoting inclusion and reducing unemployment (Troje & Andersson, 2020)
- Reducing underemployment and precarious employment (Hurt-Suwan & Mahler, 2020; Troje, 2018)

What barriers impact the implementation and success of social procurement policies?

Barriers can be understood as both internal and external factors that dissuade, inhibit, or prohibit actors from implementing or successfully executing social procurement. Barriers to social procurement policies are commonly discussed and include:

- Difficulty quantifying/reporting of social impact (Barraket & Weissman, 2009; Hebb, 2017).
- Existing industry culture (Loosemore, 2015; Troje & Andersson, 2020)
- Negative perceptions of social enterprise (Barraket & Weissman, 2009; Loosemore, 2016)
- Perceived increased cost (Loosemore, Alkilani, & Mathenge, 2020)

What and who can enable implementation and success of social procurement policies?

Enablers can be understood as factors that can aid or assist implementation of social procurement within an organisation, industry, or country. Enablers identified in the literature include <u>beneficiaries, customers, intermediaries, leaders, public policy, resources, and suppliers.</u> Ways in which each of these groups enable social procurement are provided in Table 1.2.1.

Research conducted previously to this report (discussed in the Introduction) outlined the presence and engagement of these enablers in the New Zealand context. There have been developments in this space since the initial research was conducted in 2019. These changes included recent development of public policy, activities by intermediaries and activities of stakeholders.

Table 1.2.1: Enablers and enabling activities as identified in the literature

Enabler	Way/s in which social procurement is enabled	Reference
Beneficiaries	Social procurement projects/policies that are co-designed with intended beneficiaries have high levels of engagement and success. Groups intended to benefit from social procurement policies are able to apply pressure on organisations to signal their interest in such policies.	(Newth & Woods, 2014; yourtown, 2017) (Young, 2015)
Customers	Able to signal to suppliers that they value an organisations' efforts to engage with social procurement, generating additional value from their purchases.	(Loosemore, 2016)
Intermediaries	Developing and managing the new cross-sector relationships, roles, relational competencies, and practices, which are required to effectively respond to and measure the impact of emerging social procurement policies. They do this by underpinning common interests between organisations, managing roles, relationships, competencies, and practices.	(Loosemore, Higgon, & Osborne, 2020)
Leaders	Leaders have explicit control and implicit ability to embed social procurement in their own (and other associated) organisations. Committed leaders are important when engaging with social procurement as the development and engagement with such policies can take time and significant consideration.	(Newth & Woods, 2014) (Dragicevic & Ditta, 2016)
Public Policy	Local or national government procurement regulations or legislature encourages the generation of social value within procurement practices, targeting funding, assets or provisions committed to generating benefit, or tendering preferences.	(Dargaville, 2010; Newth & Woods, 2014; Zhang & Swanson, 2014)
Resources	Resource endowment committed to the planning, execution and upkeep of social procurement policies creates the most favourable conditions for success. Historically, resources that have been specifically set-aside for social procurement result in successful engagement and execution of such policies.	(Zhang & Swanson, 2014) (Mccrudden & Gross, 2006; yourtown, 2017)
Suppliers	Suppliers are able to facilitate social procurement by identifying and forming relationships with champions of the cause, being educated about the process and benefits as well as developing models that have achievable key performance indicators and targets specific to their company. By suppliers engaging with social procurement, they contribute to an industry standard that is then often adhered to by other industry players.	(Barraket & Weissman, 2009; Loosemore, 2016)

Recent Developments in Public Policy

A 'Progressive Procurement' approach has been mandated in the public sector to increase the diversity of government supply chains. In December of 2020, it was announced by Cabinet Ministers that moving forward, at least 5% of government contracts are expected to be awarded to Māori businesses (Nash & Jackson, 2020). The requirement is intended to be means to assist economic recovery in the wake of Covid-19 and a tool to improve cashflow and diversify customers for Māori businesses and improve the resilience of the Māori economy (Nash & Jackson, 2020). For the purpose of this mandate, Māori business is defined as having at least 50% Māori ownership or being classified as a Māori Authority by the Inland Revenue Department (MBIE, 2020). This procurement policy is applicable to government agencies as the 'Government Procurement Rules' are (either required, expected or encouraged) and will be required to publish their progress towards the target (MBIE, 2020). It is also noted that there is possibility that in the future this policy could be expanded to include other marginalised groups e.g. women, Pacific peoples, youth, people with a disability (MBIE, 2020).

Te Kupenga Hao Pāuaua is a project team run by TPK and MBIE, its main activity is to spend the next two years prototyping approaches to reduce barriers for Māori businesses seeking to engage with government procurement processes and adopt progressive procurement policies (TPK, 2021). The group has five key deliverables/areas of interest including, project management and governance, buyer engagement, supplier engagement, data management and ministerial servicing, and developing prototypes (Ministry of Māori Development, 2021).

Internally, government departments such as Oranga Tamariki and Waka Kotahi (NZTA) have begun to integrate social procurement practices into their policies and strategy documents (Ministry of Māori Development, 2021). One of these is Kāinga Ora, who have developed a social and sustainable procurement framework, Pā Harakeke (see Appendix 1). At a local government level, The Department of Internal Affairs is working with councils to promote engagement with social procurement practices (Ministry of Māori Development, 2021).

Activities of Stakeholders

A number of iwi and iwi organisations have been engaging and supporting social procurement practices, both by integrating social procurement within their strategic plans and assisting iwi members in connecting with each other to bid for large public contracts (Te Matarau A Māui, n.d.; Trust Tairāwhiti, 2020; Waikato Tainui, n.d.). Aukaha might engage with or learn from these wider iwi initiatives, particularly in relation to Treaty clauses and MOU agreements.

Activities of the Intermediary

Intermediary organisations play a key role in all social procurement processes, they do this by underpinning common interests between organisations, managing roles, relationships, competencies, and practices

(Loosemore, Higgon, et al., 2020). Within New Zealand, there are now a number of intermediary organisations that support social procurement, Table 1.2.2 identifies these and identifies their role in procurement.

Table 1.2.2: Functions and activities of intermediaries as fulfilled by New Zealand organisations

Functions of the Intermediaries (Barraket, 2020, p.203)	Activities of the Intermediary adapted from Barraket (2020)	Organisations in the New Zealand environment fulfilling activity
Connecting actors up	Matchmaking between buyers and sellers	Amotai (https://amotai.nz)
	Targeted support to enable deals	TPK regional units
Involving, committing, and mobilising actors	Introductory workshops	Akina (https://www.akina.org.nz)
	Organisational training	Akina (https://www.akina.org.nz)
Capability development	Development of information resources and evidence	Akina (https://www.akina.org.nz)
	Advisory services (primarily to buyers)	Akina (https://www.akina.org.nz) Amotai (https://amotai.nz)
Advocacy and field building	Direct advocacy and advice to policymakers	Unknown
	Public speaking and communications about social procurement	Akina (https://www.akina.org.nz) TPK
Establishing and enacting legitimacy	Certification of social enterprises	The Fwd (https://www.fwd.org.nz) Amotai (https://amotai.nz)
	Social impact measurement	The Fwd (https://www.fwd.org.nz)

Amotai has been contracted by Te Kupenga Hao Pāuaua as an official intermediary contracted for the Progressive Procurement policy (Ministry of Māori Development, 2021). Their mandated responsibilities are to work with buyers and suppliers as shown below (Ministry of Māori Development, 2021, p.9).

Amotai works with Buyers by:

- Developing support plans to understand the future needs of the organisation
- Delivering social procurement and supplier diversity training and workshops
- Assisting with developing social procurement processes
- Identifying suitable Suppliers and makes connections through networking events or meetings
- Ensuring relationships between Buyers and Suppliers are effective
- Verifying and certifying businesses that are Māori-owned businesses
- Providing Membership opportunities which includes access to the Amotai business platform

Amotai works with Suppliers by:

- Connecting with Buyers who are providing procurement opportunities
- Providing training and workshops e.g., tendering and bidding
- Connecting with business support services to provide additional training and support for running a business
- Identifying capability barriers and developing a support plan and where possible, provide additional support through securing funding e.g., pre-qualifications
- Connecting with other Māori businesses through networking events
- Regular communications and updates through newsletters and social media

1.3 Tiriti-Based Frameworks

What is a Tiriti-Based framework and why is this important?

It can be argued that for a policy to be considered 'Tiriti-based' it must acknowledge, integrate, and fulfil the commitments made between the Crown and Māori in Te Tiriti, as they are understood by Māori. Cunningham and Taite (1997) surmised that all policy developed by Government departments impacts Māori, and therefore frameworks that inform policy should honour Māori advancement, needs and expectations. The dissonance between Māori expectations and Crown policy outcomes demonstrated a need for the creation of models and frameworks that better represented Māori worldview. Te Tiriti representation can be strengthened and informed through approaches shaped by Māori ethical principles such as *mana*, *whakapapa* and *manaakitanga* (Came, Warbrick, Doole, Hotere-Barnes, & Sessa, 2020). Frameworks developed by Māori to inform policy development are better suited to ensure adherence to values and commitments made within Te Tiriti than use of the Treaty Principles alone (Hudson & Russell, 2009). Te Tiriti o Waitangi has been referenced in statutes and policy before (Moewaka Barnes, 2009), but not within procurement policies until recently (Nash & Jackson, 2020).

Are there existing frameworks that could inform Tiriti-Based social procurement?

There are many frameworks intended to inform the conceptualisation, development, and management of policy outcomes and expectations. The following two models are examples of frameworks designed to assist social policy design. The first, is the 'Partnership – Two Cultures Development' model. It proposes that the Māori and Pākehā understandings of a topic such as governance should both be identified, individually, so those understandings can be brought together in a manner that is inclusive of both culture's perspectives (Winiata, 2005; Community Sector Taskforce, 2006). Within this model there is a discernible focus on equal partnership between Pākehā and Māori. In practice, the necessity for compromise is likely to degrade one partner's standing over the other. The second is a policy development model, 'Nga Pou Mana'. It details the four supports of the foundation for social policies and well-being as *whanaungatanga*, *taonga tuku iho*, *te ao turoa*, and *turangawaewae* (Manuka, 1988). This model demonstrates clear basis in cultural values, with focus on wellbeing as an outcome. There are also frameworks produced to assess and evaluate existing policy adherence to Te Tiriti, along with the associated outcomes. Critical Tiriti Analysis (CTA) is a form of Critical Policy Analysis (CPA) to be used as a methodological approach to evaluate policy and its outcomes in relation to Te Tiriti o Waitangi's preamble, articles and the Treaty principles (Came, O'sullivan, & Mccreanor, 2020). In its application, CTA is presented as a tool to be used to ensure governments are held to account for their performance (Came & Kidd, 2020). Use of CTA is expected to result in more equitable outcomes for Māori, addressing inequities present caused and perpetuated by the ramification of policy that is ill-aligned to Te Tiriti responsibilities (Came, Kidd, & Goza, 2020; Came, O'sullivan, et al., 2020). Critical Tiriti analysis offers a means for policies adherence to Te Tiriti to be assessed, compared, and critiqued.

1.4 Summary of Findings from the Literature

To conclude this section, from the literature a number of conclusions can be drawn when considering mainstream procurement, social procurement, and Tiriti-based frameworks. Mainstream procurement literature shows us that buyers assess the value of relationships with suppliers based on a range of criteria and that supplier development programmes are an effective was to minimise risk. Suppliers seek to strengthen trust in relationships with buyers by increasing customer satisfaction and delivering on agreements. The process of procurement in the public sector is regulated to be transparent and objective where the private sector is not bound by as many regulations and requirements. Social procurement has been found to generate $4.41 worth of indirect economic and social value generated for every $1 spent by creating job opportunities for marginalised groups, diversification of the supply chain, improved health and safety, promoting inclusion, reducing unemployment, and reducing underemployment and precarious employment. Barriers to social procurement include difficulty quantifying/reporting of social impact, existing industry culture, negative perceptions of social enterprise, and perceived increased cost. Enablers to social procurement include beneficiaries, customers, intermediaries, leaders, public policy, resources, and suppliers. There has been significant changes and increased engagement with social procurement policies in recent times. These changes include 'Progressive Procurement' policies introduced in 'The Government Procurement Charter' and consequential creation of project management groups (Te Kupenga Hao Pāuaua), contracted intermediaries (Amotai), and iwi engagement. Tiriti-Based frameworks aim to acknowledge, integrate, and fulfil the commitments made between the Crown and Māori in Te Tiriti, as they are understood by Māori. There are a number of frameworks that can be used to assess and inform social policy. These findings from the literature could be viewed from Aukaha's perspective, as presenting an opportunity to work in partnership with local government, private organisations and/or other intermediary organisations to support engagement with social procurement activities and further develop a Tiriti-based approach to social procurement.

Section Two: Methodology, Data Collection and Analysis

This section describes the methodology, data capture and analysis methods used in the process of this research.

2.1 Data collection

Within the literature, buyers were highlighted as influential in procurement and social procurement activities as they hold the power in the buyer-supplier relationship. Based on this finding, buyers were sought within and beyond Dunedin. The intention was that between 5 to 12 interviews would be held in order to ensure data saturation was reached (Boddy, 2016) so insightful findings, representative of those interviewed could be drawn out, analysed, and compared. Interviewees were identified by Aukaha, through personal contacts and through 'snowball' sampling. Snowball sampling can be understood as referral of additional Key Informants by initial Key Informants (Biernacki & Waldorf, 1981).

Category B Ethics approval was obtained from the University of Otago's Ethics Committee for the purpose of this research. Data was collected through semi-structured interviews with key informants (see Table 2.1) held either over zoom or in person. 10 interviews were conducted, with interviews ranging from 22 minutes to 39 minutes. These semi-structured interviews were used to inform understanding of mainstream procurement practices and opportunities for a Tiriti-based framework. An interview schedule that details potential questions asked during interviews is provided in Appendix 2.

Table 2.1: Key Informants

Key Informant/s	Description of Participant/s
1, 2, 3, 6, 10	Public procurement professional
4, 8	Māori private procurement professional
5	Māori intermediary professional
7	Māori Te Tiriti professional
8	Private procurement professional

2.2 Analysis

To analyse the information, transcripts were generated, the data was coded. Initial coding highlighted a number of themes, from which findings were drawn out and analysed.

Section Three: Key Findings from Interviews

3.1 Practitioners' views on the role of Te Tiriti in procurement

All practitioners understood there to be a moral obligation to fulfil Tiriti values within procurement practices. Although, this was described as dependant on the ownership structure.

> *If you're talking about entities, the government has the most obligation of all. If you're talking about private corporations, those corporations have to respond to the framework, the government sets. Some are good and will do them without influence or requirement, some are not. (KI 8)*

> *I think government organizations definitely have an obligation to embody the private sector a slightly different story. But the government, any government organization should be embodying them throughout all of our practices, not just procurement practices. (KI 10)*

> *I think we've got a primary responsibility because we're a tertiary organisation, we're teaching our people of tomorrow, right? So, if we don't instil them here, we're never going to get them instilled in the wider public… we should be leading by example. (KI 2)*

Although all practitioners recognised a responsibility to meet Te Tiriti obligations, most displayed an uncertainty about how this could be achieved. This uncertainty is likely derived from two factors: the cultural tensions that surround Te Tiriti, and limited financial/human resources.

> *In terms of determining our requirements, I think that generally we're getting better, consulting with our Treaty partners around what we need to do and what we need to deliver. Following that often we revert back to some of the more traditional procurement methods… I think we've still got a way to go… We know there's a lot of cultural discomfort in our country. That is a bit of a threat there because what does that mean? And how do I apply that? Lots of people don't feel comfortable so won't know how. (KI 10)*

> *We've been thinking about making sure that the Treaty principles are reflected in our tender documents and our templates… we don't have the capability in house to do that. We've been talking to some facilitators to do that for us, but a) that cost money and b) the responses we get from consultants weren't that great… so yes, there is that ambition, but it's something that we still do need to do some work around. (KI 1)*

> *We've had some Treaty training actually … Yeah, that's hard for me to answer, I'm not that familiar with the Treaty… I think people are quite nervous and I'm a little bit the same to be honest with you. Sometimes around engaging with Māori organisations because they're nervous about doing the wrong thing. (KI 2)*

Contentious issue is how the government express it legally … Yes. It depends on who you are. But I mean, that is the that is the problem, isn't it? But it's interesting. Do you think that Māori actually united about what they think the, the essence of the treaty was? (KI 3)

All Key Informants agreed that Tiriti-based social procurement would result in greater equity. Most Key Informants perceived that a much broader group would benefit, while other Key Informants argued that equity would be generated specifically for Māori groups and individuals.

Fair and equitable outcomes for everyone. That's not gender based, or race based, or religion based. But you know, just taking all that out of the context, making sure that it's a level playing field for everyone. (KI 4)

I see social procurement as a way to alleviate structural inequality within our economic system. So that's how I'm viewing it. However, to actually do that, I think that there's a lot of lot of good aspiration and intention, but there's a big gap between actual outcomes. (KI 7)

Increase visibility of mana whenua within our region and also achieve some good economic outcomes, economic growth, and economic comfort within our whanau essentially... But there's all of these groups, the refugee groups, elderly citizens, all of them. There's just a whole raft of people that aren't getting a fair deal. If it can be extended beyond Māori and Pasifika, I would be one happy person. (KI 5)

I think anybody really is as long as they are aligned to those outcomes that are trying to be achieved. Plenty of our supplier base are socially focused they have ambitions to achieve other outcomes other than just employing people and making a profit. (KI 1)

Social procurement benefits society as a whole. Treaty based social procurement probably by its very definition, benefits one part of the society or other... By making it limited to treaty-based social procurement, then you might have issues with other minorities in this country now with that are missing out because they don't have the treaty or such. (KI 2)

3.2 Opportunities for Te Tiriti to be integrated with in procurement processes

All practitioners identified the importance of the planning stage in the procurement process. A number of practitioners expressed that the planning phase presents an opportunity to instil Tiriti-based social criteria.

So, the procurement plan is a strategy effectively, that sets out what are we procuring, why are we procuring it? How are we going to procure it? Who's going to be involved in the evaluation of those procurement responses? And what are the criteria that we're going to use to evaluate responses and they get translated into tender documents. (KI 1)

The procurement planning stage is about sitting down in a more for formalized process, thinking about what we are trying to achieve and why we're doing it. What are we doing? Why are we doing it? What can the market support? I'm asking all those questions that lead us to a decision-making process. (KI 2)

At the beginning we will determine what evaluation criteria. So we determine what our requirements are, and then based on those requirements, what criteria will be considered. When we receive responses, we'll then score those responses against each of the criteria. Upfront the criteria are given weightings. Once the responses are received, the response is scored against each of those criteria, that weightings are applied, and then a number pops out the bottom. (KI 10)

It's [Tiriti-based social procurement] quite simple to do. It's just in your planning process, it's just got to be included in the upfront planning and asking the right questions. (KI 4)

The key difference [in Tiriti-based social procurement] would probably only be in the way that contracts are worded… Delivery shouldn't change, because whoever's managing that contract from the other side should be saying yes, we will deliver it, and these are the specifications you've asked for, and this is the price... I'm not sure that anything would change, except for the fact of documents that relate to the contract would need to specify what the social procurement part is. (KI 6)

I think having a long term, intergenerational view of what success looks like. Especially just being employed in a menial job, yes he's got a pay packet. Is that the long term view of success? What is the longer-term goal to reconcile every conciliation for communities? And what does that look like? (KI 9)

All procurement practitioners describe the evaluation phase as the point at which a tender demonstrates fulfilment of expected values (expressed in the planning phase) is measured. While <u>some practitioners noted a greater emphasis on non-price attributes in more recent times, all practitioners noted that consideration of these non-price attributes is only routinely conducted for high value contracts.</u>

People evaluate individually, send that into the facilitator who collects it, that will spit out a score based on the criteria that is given. And then we have a moderation session to follow up. In the moderation session, people the evaluators will talk about what they saw in the response of the, the response and the vendor responses… then if price is a criterion then we will open the pricing envelope. They [evaluators] don't see that [price] typically, to make sure that we keep the money away, because if you know what it's going to cost you it's going to influence your thinking. We want to do non-price first, then we add the price to it, and then that's it can't change it anymore… That's [evaluation of lower-value contracts] typically done by people themselves of the departments and our policy states that if you're under 10 K, you can basically do what you want, you just raise a purchase order in one of

our systems, and you can just buy what you need. If it's between 10 and 25, KS, you should get a minimum of two quotes. And if it's 25 to 100, you get three quotes. (KI 1)

For anything higher value, we always have a written document that sets out what our criteria are one of the criteria that procurement policy says we should have… all of our higher value or high-risk tenders are done openly through the Government Electronic Tendering Service… Between $30,000 and $50,000 they have to get pre-approval and have to get at least three written quotes… under the $30,000 it's a little bit less formal. (KI 3)

A year ago, it would have been unusual not to accept the cheapest offer… although these days there has been more emphasis on sustainability… a year ago we would have never opted to pay $17,000 more for an eco-friendly alternative. (KI 6)

3.3 Groups and individuals who can influence Tiriti-based social procurement.

All Key Informants discuss varying levels of impact government policy has on procurement policies. Despite the difference in explicit requirement to adhere to government procurement policies, all Key Informants confirm that government directives would influence the adoption of Tiriti-based social procurement.

I appreciate, there's all kinds of other things for government to consider around it. But if you really want to be serious about it, you've got to at some stage mandate it probably otherwise isn't going to happen. (KI 1)

We are not mandated to follow those rules. They don't apply to us as a rule because we're not in that sphere of government organizations, we're on the periphery. So, we're encouraged to use them, and we do, but we don't always have to follow them. Generally, as a rule, we will follow them. Unless there is a good reason not to. (KI 2)

We're in the government sector, so we tend to follow that. We were encouraged to follow them. We don't have to slavishly follow it, but we take it on board that, since we're part of a sector that's funded by the government… a directive from all of government end is always helpful. (KI 3)

We don't necessarily need to follow their procurement… So largely, we follow their recommendations. We're not mandated to follow them though. (KI 6)

We borrowed from the same [government] principles, the government have laid down some good frameworks around evaluating value, right, which lends very well to forming a framework to sell to a private business around how you should measure value. (KI 8)

A number of practitioners provided a range of examples of professional procurement networks that influence and advise good procurement practices. The professional procurement networks discussed include CIPS (Chartered Institute for Procurement and Supply), private consultants e.g. Akina], the Sustainable Business Network, and the New Zealand Procurement Forum. Despite there being a number of different procurement networks from which practitioners take advice, all confirmed that professional procurement networks influence procurement processes and best practice.

> *I did a two-day course in Wellington, run by CIPS. That was like introduction to procurement, touching on lots of aspects. It did touch on the social procurement as part of that. (KI 3)*

> *There's an ISO standard, which is sustainable procurement guidelines. So that basically covers off integration of sustainable procurement, which means no child labour, fair and equal pay, those sorts of things… There's also another Sustainable Business Network, which is a New Zealand business network. They covered off social procurement in this document, and it's quite a good document as well. (KI 4)*

> *Some organizations can influence more than others. Chartered Institute of Accountants, or The Charter Institute of Procurement and Supply. I mean, those guys are all pushing… Maybe the New Zealand Procurement Forum. It's the same kind of thing and actually the Big Four consultancy firms, if you got to get in front of consultants, because they're the ones that create the problems to sell solutions for, right. (KI 8)*

A few Key Informants discussed a range of stakeholders that determine the desired outcomes of procurement practices. Key Informants mentioned a range of different stakeholders, as integral to influencing procurement outcomes. Stakeholders discussed include the customers, funders, and leaders/champions.

> *Because we are funded by the rate payers, they want their rates to on the road, and they want their water to go. They're not necessarily that interested in other outcomes. (KI 1)*

> *We should be delivering the greatest value we can to the business which really is in the eyes of major stakeholders. A big part of our job is actually bringing all the stakeholders together to ensure that you know the value they want from what we're buying is extracted yeah… If you're an end consumer, you should scream and shout and jump up and down about the things that matter to you, because it will make a difference. (KI 8)*

> *Some high-level people need to embrace social procurement if you want it to happen. They're certainly embraced sustainability so now that's always in there. And sometimes it's [weighting] quite like can be quite high, up to 40%. (KI 3)*

If there's really good people at the top of the organisation, but you've got a whole bunch of staff working under them that don't get that message, they don't know what's happening. It needs to be championed throughout the organization to get real change… Tania Powhare and the TSI group have kind of broken the ice for us. So, a lot of the companies that are coming into Dunedin are Auckland ones and are aware of social procurement. (KI 5)

<u>A number of Key Informants discussed the importance of intermediaries when looking to engage in Tiriti-based social procurement</u>. <u>Intermediaries were seen as being critical for a number of reasons</u> such as creating, providing, and maintaining business registries.

One thing I was interested in actually was a register of those organizations. You don't you don't have to say you must use these, but let's get them on the radar. At least put them out there, give us help to help you help advertise them. Cause, still one of the big issues in procurement half the time is actually finding who was in the market… So actually, a big part of being just putting, getting a register of those who are who may be deserving. (KI 8)

We've been trying to establish what our baseline position is and there's actually no registry of Māori businesses so to speak. So typically to get the data to establish the baselines is a challenge to start with. (KI 10)

A register much like CIPS or Master Builders. Which would specify as a sort of minimum pay rate or other specification. So, by being a member of that we know what we're getting. (KI 2)

3.4 Summary of Key Findings

Practitioners' views on the role of Te Tiriti in procurement:

- All practitioners recognise the obligation to fulfil Te Tiriti within procurement practices.
- Some practitioners are uncertain as to how they would be able to achieve this.
- All Key Informants believe if a Tiriti obligation is embedded within procurement practices, it would result in more equitable outcomes.

Opportunities for Te Tiriti to be integrated with in procurement processes:

- Some practitioners identified the planning phase as it determines the criteria on which tenders are evaluated.
- Some practitioners noted a greater emphasis on non-price attributes in more recent times.
- All practitioners noted that consideration of these non-price attributes is only routinely conducted for high value contracts.

Groups and individuals that can influence Tiriti-based social procurement:

- Groups and individuals identified included government, professional procurement networks, stakeholders not directly involved in the process e.g. customers and beneficiaries, and intermediaries.
- A number of practitioners provided a range of examples of professional procurement networks that influence and advise on good procurement practices. The professional procurement networks discussed include CIPS (Chartered Institute for Procurement and Supply), private? consultants, the Sustainable Business Network, and the New Zealand Procurement Forum.

Section Four: Considerations for Future Action

Considerations for future action have been generated from the findings of this research.

4.1 Leveraging Treaty Clauses & MOU's

Some procurement professionals were unable to distinguish social procurement from 'special treatment'. There is a Treaty clause within MBIE's 'Government Procurement Rules', within which, agencies are reminded of their obligations under Te Tiriti o Waitangi and instructed to consider how that relates to their procurement activities;

> *New Zealand is party to International Agreements that include specific provisions preserving the pre-eminence of Te Tiriti o Waitangi. Te Tiriti o Waitangi exception provides flexibility for the Government to implement domestic policies in relation to Māori, including in fulfilment of the Crown's obligations under the Treaty. Pursuant to this provision New Zealand may adopt measures it deems necessary to accord favourable treatment to Māori, provided that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in goods, trade in services and investment.* (MBIE, 2019, p. 6)

Similarly, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has a pre-eminence of the Treaty of Waitangi clause;

> *The CPTPP contains a Treaty of Waitangi exception that explicitly allows the government to adopt any policy it considers necessary to fulfil its obligations to Māori. This unique provision allows the government to implement policies which benefit Māori without being obliged to offer equivalent treatment to persons from other CPTPP countries.* (New Zealand Foreign Affairs & Trade, n.d.)

Memoranda of Understanding (MOU) are often made between Iwi and large institutions. One procurement professional who participated in this study noted the opportunity for the intention of social procurement to

be integrated within these MOU's. These agreements are reviewed and can be revised, providing a means to encourage/require social procurement practices within those institutions.

4.2 Provide Cultural Training

The findings showed that all procurement professionals are aware of Tiriti obligations within their procurement practices. Many were unsure as to how this can be done, likely because their understanding of Te Tiriti is limited. A number of participants discussed Treaty training being provided to high level executives within their organisation but not to them personally. This is concerning and limits the opportunities for social procurement as the findings also showed the autonomy of staff within the procurement process, particularly for 'low value' procurement decisions. This signals an opportunity for 'Treaty training' or cultural training to be provided to all procurement professionals within organisations, improving self-efficacy and confidence when engaging with Māori businesses and individuals. This training could be facilitated through professional networks such as CIPS as an available seminar or conducted by local Treaty-partner organisations such as Aukaha.

4.3 Assess the roles of procurement intermediaries to identify gaps and potential opportunities

Groups and individuals identified by Key Informants as affecting the adoption of Tiriti-based social procurement included government, professional procurement networks, not directly involved stakeholders, and intermediaries such as Supply Nation. As the international literature review found, these actors and their practices can be barriers or enablers (Loosemore, 2016). For Aukaha, this could highlight a role that is important but has not yet been fulfilled. Aukaha could look to take on such a role itself at the local level, partner with another procurement actor, or lobby other organisations to fulfil the role.

For example, there are professional procurement networks that influence and advise on good procurement practices, such as CIPS (Chartered Institute for Procurement and Supply), private consultants, the Sustainable Business Network, and the New Zealand Procurement Forum. According to the literature such intermediaries are important because they are integral to determining common interests between organisations, managing roles, relationships, competencies, and practices (Loosemore, Higgon, et al., 2020),

Interviewees mentioned the value of awards for specific or general sustainable practices as they promote engagement with best practice while simultaneously providing examples of how to achieve it. Interviewees also discussed that CIPS provides introductory seminars on social procurement to procurement professionals. Aukaha could engage with CIPs to provide Māori-specific case studies, with the added potential for those businesses to become award winners.

4.4 Review non-price criteria used to determine value of tenders

Aukaha might consider reviewing how non-price criteria could be improved to better reflect Māori cultural concepts and values in order to fulfil Tiriti obligations. Within the findings presented in Section 3.2, it is suggested that Māori cultural values and concepts could be integrated in the planning phase. An example of how this could be reflected in the non-price attributes is seen in Table 4.4. Future research is required, as non-price attributes have not been confirmed by Māori or tested in the market.

Table 4.4: *Suggested revisions of commonly discussed non-price attributes in a Māori worldview*

Non-price attributes (as discussed in Section 5.2)	Framing of non-price attributes in a Māori worldview		
	Revised Label	**Meaning/definition**	**Considerations**
Capability	*Āheitanga*	Ability, capacity, capability, competence, accessibility	Organisations' ability to fulfil what is contractually required based on size, skills, and cultural understanding e.g., workplaces that understand, respect, and embrace diversity
Capacity			
Environmental sustainability	*Kaitiakitanga o ngā taonga*	Guardianship of treasures	An organisation's ability to care for the land, waterways, and care for Māori language and customs.
Track Record	*Mana tangata*	Power and status accrued through one's leadership talents, human rights, mana of people/staff	An organisation/team leader's proven ability to meet and fulfil past contractual obligations.

Social sustainability	*Ōritetanga* for Tangata Tiriti and Tangata Whenua/Mana Whenua	Equity for non-Māori and indigenous peoples/tribal peoples	An organisations' ability to ensure marginalised groups in New Zealand are treated with equity. Displayed through diversification of supply chain, community projects, or creation of opportunities such as apprenticeships, scholarships, and further training for target groups.
	Note: Where public organisations have MOU with local iwi, specific focus could be placed on mana whenua rather than tangata whenua so as not to compromise an existing relationship.		
Quality	*Kairangitanga*	Excellence	An organisation's ability to deliver a good or service to an expected standard e.g., timeliness, reliability, functionality etc.
Health and Safety	*Taha tinana, taha wairua, taha whanau, taha hinengaro*	Physical health, spiritual health, family health, mental health	An organisations' ability to facilitate all aspects of health of employees e.g., providing mental health leave, providing breast feeding facilities, extended bereavement leave, prayer facilitation, flexible work hours/location
	Tikanga haumaru	Safety practice, safety procedure	An organisation's ability to meet legal requirements for health and safety, including the communication of these practices and procedures in lay terms.
Existing partnerships	*Whakawhanaungatanga*	Process of establishing relationships, relating well to others	A reflection on an organisations ability to maintain relationships based on common strategic features. Where sellers decide to not interact with buyers, guidance as to how capacity/capabilities could be built to ensure they are suitable in the future.
Strategic alignment			

4.5 Revision of stages of the procurement process

There is also an opportunity for organisations to understand how all facets of the procurement process may be revised to better fulfil Tiriti obligations. Literature and interviews discuss four phases of procurement, presenting a number of places where Māori cultural values may be integrated. Potential features that could be reflective of a Māori worldview as they apply to each phase of procurement are suggested in Table 4.5. Future research is required as these suggestions have not been confirmed by Māori or tested in the market.

Table 4.5: *Suggested reshaping of the procurement process to better reflect Māori understanding and Tiriti obligations*

Procurement Phase	Aspect of Procurement Phase that could be altered to reflect Māori worldview	Way in which procurement phase could better reflect Māori understanding
Planning	Findings discussed in Section 3.2 showed that lower-value contracts are more likely to be evaluated on price alone, or in the least with a larger weighting. This is because there is a prevailing perception that time spent into investigating and evaluating additional non-price criterion is better used performing other duties. There is also a lot of discretion in lower-value contracts as central procurement departments are unable to oversee all low-value procurements (see Appendix 3).	In order to ensure that the non-price criteria will be considered independently of the total value of the contract, organisations should seek to set a minimum weighting for non-price attributes and provide training to staff, so they understand the importance of these non-price criterions. Additionally, organisations should create a means and implication that all awarded contracts could be randomly audited to ensure non-price criterion were sufficiently assessed and weighted.
	The findings discussed in Section 3.2 show that the weighting of price and non-price considerations is also decided in the planning phase.	Some non-price criteria such as health and safety requirement are described by Key Informants as 'hard gates', meaning tenders either pass or fail to meet these standards, determining whether their offers are eliminated from consideration. This practice could be carried across other non-price attributes as a means of ensuring the effectiveness of Tiriti-based social procurement.
Listing/Collecting Quotes	Table 3.2 in Section 3.2 shows the second phase of procurement for high-value contracts as being listing the contracts on the Government Electronic Tender Service (GETS). For lower value contracts the second phase of procurement consists of collecting quotations.	In order to ensure this stage is better placed to engage with Tiriti-based social procurement practices, there is an opportunity for engagement with intermediary organisations. For high-value contracts listed on GETS, the responsibility may lie with the intermediary organisations/individual suppliers to scan listings and alert the appropriate suppliers/people. However, these listings on GETS should include the Māori alternative non-price attributes. This

		will facilitate learning by suppliers in the market by increasing their familiarity with the terms and associated expectations. For lower-value contracts, organisations could seek to integrate protocol in which intermediary registries are scanned for suppliers from which quotes can be gathered.
Evaluation	Regarding high-value contracts, the evaluation of tenders as involving a panel of evaluators. According to Key Informants individuals on these panels can include procurement staff, high-level executives, or external advisors.	As Te Tiriti obligations such as Rangitiratanga and Kawanatanga result in the expectation of Māori involvement in leadership and decision making. In order, to meet this obligation through Tiriti-based social procurement, evaluation panels should include representatives of the groups outlined in the planning stage.
	Price blind evaluation	As shown in Table 3.2, some Key Informants described their evaluation processes for high-value contracts as being price blind. Their processes are identical, tenders are assessed by the panel on non-price attributes first. If the tender fails to fulfil 50% of the non-price expectations, their offer is not considered any further. The tenders that remain then have price offers opened and non-price and price weightings are calculated. Key Informants that use this process explain that that isolating the price allows evaluators to be more objective in their assessment of non-price attributes. I would suggest this practice be integrated in Tiriti-based social procurement to enable the fair evaluation of tenders.
Awarding Tender/Purchase	As mentioned in Section 3.2, the last phase of procurement for high-value contracts is awarding the tender. For lower value contracts this is discussed as purchasing.	To ensure this stage adheres to and enables effectiveness of Tiriti-based social procurement, this could include a *kanohi ki te kanohi* (face-to-face) meeting (done in person or digitally) to award tender. The meeting can provide a means of facilitating discussion of expectations, creating an open dialogue and means to build a working relationship. During this meeting, buyers can take the opportunity to ask how suppliers may best be empowered to fulfil their contractual obligations. This looks to instil *utu* (reciprocity) within the relationship.

Section Five: Limitations

This research and findings drawn from the data are not without limitations. The first limitation relates to the limited understanding of Te Tiriti, Māori cultural values, concepts, and Māori perspectives. Five Key Informants drew upon the *pārongo* (information) sheet provided by the researcher. This signals a possible limitation to their responses and subsequent findings as they had indicated they were not well versed/confident in their understanding of Maori cultural concepts. The second limitation is that there were fewer intermediary and private business perspectives to procurement, compared to public perspectives. This means the findings are skewed towards public procurement understandings and may limit transferability to the private sector, although, these Key Informants did confirm that the private sector is influenced by best practices used in the public sector and regulation. Gathering additional perspectives from the private sector and professional procurement networks could increase the overall strength and understanding of Tiriti-based social procurement, the outcomes, and the enablers.

Section Six: Appendices

Appendix 1: Pā Harakeke (Kāinga Ora, 2021)

Pā Harakeke – Vision

Principles of supplier engagement

| Delivering value | Community oriented | Future focused | Commitment and sustainability |

Consider and provide for Māori Interests

Empower thriving communities

Boost workforce development and employment opportunities

Be a leader in environmental sustainability

The Social and Sustainable Procurement Plan describes the approach Kāinga Ora will take to all procurement activity in order to deliver social and sustainable outcomes in accordance with the Government's Broader Outcomes Framework and beyond.

Supplier Strategy

Supplier Strategy Vision	Building trusting mature relationships to deliver better outcomes for Kāinga Ora, our supplier partners and New Zealand
Why is this important?	• Suppliers' experiences throughout their engagement with Kāinga Ora are wildly variable leading to relationship dissatisfaction, unnecessary cost and unfavourable impacts on our reputation • Kāinga Ora spends over 93% of our annual budget externally with suppliers • We cannot deliver our strategic outcomes without successful suppliers • Closer working relationships will deliver sustained value to Kāinga Ora and suppliers, improving outcomes for all

Vision: Three Themes	Five Key Objectives	Our Principles	Success Looks Like
Working together	1. We are easy to work with 2. Our expectations are clear	Trust and transparency Seek to understand Providing Clarity Responsive and timely	Achieving greater value for money by partnering more effectively with suppliers Supporting suppliers' success and contributing to stronger, more productive industries Enabling timely innovation internally and in collaboration with our suppliers Driving increased efficiencies and lower transaction costs by streamlining processes
Transformative improvement	3. We deliver value by increasing efficiency and innovation within Kāinga Ora and for our suppliers	Continuous Improvement Fostering Innovation Collaboration and Partnership	
Playing a key role in New Zealand	4. We support NZ Inc. to drive outcomes for our customers and communities 5. We support sustainable business and industry resilience	Delivering Value Commitment and sustainability Community oriented Future focused	

Uplifting Supplier Engagement Maturity over time

Pā Harakeke – Implementation Approach

The implementation approach for Pā Harakeke focuses on key foundational activities which are designed to weave the tūpuna of social and sustainable procurement into the fabric of how Kāinga Ora partners, procures and performs.

- Identify resources & build on capability
- Expand and build on developed capability
- Review and refresh annually
- Develop & deliver toolkits & training
- Measure, monitor and report on progress
- Communicate & celebrate Impact Stories
- Establish community of practice & partner

Kāinga Ora
Homes and Communities

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Appendix 2: Interview Guide

Table 6.1: Interview Guide

Potential Topic/s	Potential Question/s
Traditional Procurement	How do you assess the value of tender applications? What benefits do you think your procurement expenditure could generate for example, outside the organisation, to the community? What is your understanding of the recent changes to public procurement standards adopted by Crown Institutes such as TPK and MBIE?
Social Procurement	What are your experiences with social procurement? From your experience, what do you think the key premise of social procurement is? Who do you feel would be likely to benefit from integration of social procurement by an organisation? What do you think the key differences between traditional and social procurement are?
Treaty Application	In your opinion, what values do you believe are embodied in Te Tiriti? In your experience, how have you seen Te Tiriti principles demonstrated in business? In your opinion, how much of an obligation do New Zealand organisations have to embody Treaty principles?

Appendix 3: Procurement Processes

Procurement processes as outlined by Key Informants are shown below, in Table 6.2. The table demonstrates the procedural implications of procurement as dictated by the value of the procurement.

Table 6.2: Value thresholds as they affect procurement processes (KI 1, 2, 3 & 6)

KI	Value Thresholds & Evaluation Requirements			
1	Less than $10,000	$10,000-$25,000	$25,000 - $100,000	More than $100,000
	High level of discretion	2 quotes minimum	3 quotes minimum	Listed on GETS
2	Less than $5,000	$5,000-$100,000		More than $100,000
	High level of discretion	3 quotes minimum		Listed on GETS or put out for closed tender
3	Less than $30,000		$30,000-$50,000	More than $50,000
	High level of discretion		3 quotes minimum	Listed on GETS
6	Less than $10,000	$10,000-$20,000	$20,000-$100,000	More than $100,000
	2 quotes minimum	2 quotes minimum	3 quotes minimum	Listed on GETS

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