

11 June 2020

# Upper North Island Supply Chain Strategy: Report on Treaty Partner Perspectives

## Introduction

1. This report is meant to be read alongside *Sapere's Report on the UNISCS Independent Working Group Finding*. It provides an overview and analysis of feedback from Treaty partners (iwi, hapū and other Māori groups) with an interest in the relocation of Auckland Port to any of the locations identified by Ministers.

## Background

2. There have been numerous studies into the Upper North Island Ports and supply chains in the last couple of decades. Two recent studies were Auckland Council's 2016 review of alternative locations for the Auckland Port (focusing on options within Auckland's territorial boundaries) and the 2019 UNISCS Working Group, who considered eight scenarios. The 2016 study concluded the Port should stay where it is for the next 30 years at least. The UNISCS Working Group concluded the preferred option is the managed closure of the Ports of Auckland's freight operations, the development of Northport to take over much or all of Ports of Auckland exiting and projected freight business and the continued operation of the Port of Tauranga.
3. The Working Group's preferred approach is to encourage commercial supply chain organisations, including port landowners and operating companies, to make the investment required for the change. Total change costs were estimated by the Working Group to be around \$10 billion, with the Crown's investment estimated to be \$3-\$4 billion over the next 10-15 years for rail and road infrastructure.
4. In December 2019, Cabinet agreed that further work be undertaken around the UNISCS Working Group's recommendation and other options, comprising:
  - Northport
  - Port of Tauranga
  - a shared increase in capacity at both Northport and Port of Tauranga
  - a new port on the Firth of Thames, and
  - a new port on the Manukau Harbour.
5. Officials were directed to undertake a work programme allowing Ministers reporting back to Cabinet in May 2020, covering:
  - logistics and supply chain analysis
  - transport and environmental analysis
  - land use planning and wider economic analysis
  - legislative and regulatory considerations
  - funding and financing

- governance and commercial considerations
  - stakeholder engagement and communications.
6. The Ministry of Transport (MoT) together with Treasury and the Provincial Development Unit (of the Ministry of Business, Innovation and Employment) co-led the work-streams with a collective of consultants led by Sapere Research Group. The Policy Shop was separately engaged by MOT to advise on iwi and Māori perspectives on the various scenarios.

## Methodology

7. The methodology for identifying which iwi and Māori groups to talk to was relatively simple. We identified through our personal knowledge and contacts all the iwi with a recognised interest in the areas under consideration, and checked that list against the list of iwi in the Te Kahui Mangai website. We made no judgments as to claims of primacy or exclusivity of claimed customary interests, but instead took a inclusive approach.
8. We made arrangements to meet each of these iwi and, in some cases, their hapū. In all cases we engaged with the generally recognised body for the entity, unless there was more than one in which case we sought to engage with both.
9. Aside from iwi and hapū, we considered whether there were other Māori groups who had a perspective that should be aired, and engaged with them, too. Examples were the Independent Māori Statutory Board, Te Whānau a Haunui (in respect of Waimangō) and the Puketutu Island Trust (in relation to Manukau Harbour).
10. We considered that applicants for recognition of customary title or other rights under Marine Area Coastal Act 2011 (MACA) were generally engaged via their iwi or hapū, which in many cases lodged the MACA claims anyway.
11. We met each group *kanohi ki te kanohi* up until the Level 3 and 4 Covid restrictions were in force and we then resorted to virtual meetings, by Skype or Zoom. Around three quarters of the meetings were held virtually.
12. Each meeting followed the same format – a standard presentation was provided ahead of the meeting, and this was briefly discussed and before the conversation opened for feedback. Each group was offered as long as they wished to discuss the issues - we did not set a time limit on engagement.
13. Notes were taken for each meeting, and these were summarised and sent to the group for amendments and confirmation before being finalised.

## Constraints

14. Some smaller groups were unable to be contacted in the time available (e.g. some of the hapū around Northport). For others it was difficult to discern who might be the most appropriate representative entity to engage with (up to three separate groups for Ngāti Paoa; a court-appointed set of Trustees for Makaurau Marae). However the vast majority of interested groups was engaged with in relation to each of the options, and we consider this has provided a representative set of responses and feedback.

15. Some groups asked for a second round of engagement so they could understand the technical implications more readily or to provide specific examples of areas of particular significance that might be affected by the Port proposals. It was not feasible to schedule these follow-ups due to the Covid outbreak.
16. The level of information able to be provided to Māori respondents about options for relocation at this stage was limited. Precise locations for new ports, or the exact areas of proposed expansion of existing ports, were not specified. This means a greater degree of generality in responses than may have been desirable.
17. Another aspect of limited information related to the precise nature of the decision expected to be taken by Cabinet. Māori respondents almost universally asked exactly what Cabinet would be asked to decide: would it be confirming a particular port or ports for the Auckland Port to be relocated to; or would it just be a preference or 'in principle' decision that would then be released for more detailed and meaningful engagement. Māori groups expressed almost unanimously that they expect for a decision of this magnitude to be engaged with in a more detailed way than was possible at this stage.
18. The virtual nature of the majority of meetings was generally effective, but probably acted to reduce the quality of the engagement overall. In our experience, engagement with Māori is a process that includes the formal and informal interaction associated with greetings beforehand; and the cup of tea after the hui is where some of the more revealing feedback can be elicited. Virtual hui also make it difficult to assess body language.

## General Themes

19. A common view expressed by Māori groups was that a final Government decision on the future of Auckland port and where Auckland ports business should be relocated to, needs to be made only after a meaningful partnership process involving access to comprehensive information. For a decision of this magnitude to be Treaty compliant, it's not sufficient for the Treaty partner to be brought in to participate in an RMA process after final decisions have been made by Cabinet. Similarly, there was a widespread lack of dissatisfaction with the UNISCS process in 2019, with only a small number (e.g. Ngāti Whātua ki Ōrākei) having had any contact from the Working Group. One Auckland iwi unfavourably compared that process with the 2016 exercise for Auckland Council, which they noted included mana whenua representatives at the Project oversight level; while another felt that 2016 process also had serious shortcomings.
20. Each of the options affects multiple iwi and hapū interests, including the exit of Port operations from central Auckland. While there are common themes between the iwi, they do not all uniformly recognise the interests of other groups, which may make for a degree of complexity once options are refined. Moreover, it is not a case of multiple iwi expressing the same views; there are nuances of opinion both between and within some iwi groups.
21. None of the options was identified by the Māori groups as having a 'fatal flaw,' with the strongest reservations being expressed by Patuharakeke over the impact on their cultural identity and interests of a Northport expansion, by Te Akitai Waiohua, Ngāti te Ata and Ngāti Tamaoho (and potentially Waikato Tainui as relayed by Tainui Group Holdings) over the health of the Manukau, and by the Whānau a Haunui over the potential impact on their land and coastal interests of the Waimangō site in the Firth of Thames. Ngāti Whātua ki Ōrākei were similarly concerned to ensure there is no delay in moving the Auckland Port

operations from the city. Concern for the environmental impact of relocating port operations was expressed by all groups, whether it related to dredging, reclamation, water quality, impact on fish (including customary fishing), or the use of significant land. However, for every option, there was at least one group expressing the view that the expansion or establishment of a port could be counterbalanced by a significant investment in environmental mitigation to generate net positive environmental and cultural benefits.

22. Commercial opportunities were identified in the feedback from several, particularly larger, iwi. These comments ranged from a wish to secure ownership rights or otherwise invest in a new or expanded port, to expressions of support for a port relocation in order to provide easier access for iwi generated goods, to a wish to invest in Auckland port land if the Port is decommissioned.
23. Particularly as the Covid situation developed, several iwi expressed an interest in the social benefits that a port move or new port might provide their members. This included training and work opportunities associated with the construction and operation of the facility, as well as with new industries or services attracted by the proximity to a port.
24. For all of the options apart from Tauranga there are outstanding historical Treaty of Waitangi claims over the relevant harbour water body (a settlement of the Tauranga harbour claim is largely complete and involves a form of co-governance between iwi and councils). The prosecution and negotiation of these outstanding claims and the shape of any settlements reached is likely to be a significant factor in implementing any relocation; but in our assessment they do not currently rule out any of the options.

## Northport

*Ngāpuhi, Ngāti Hine, Ngāti Wai, Ngāti Manuhiri, Patuharakeke, Te Parawhau, Te Runanga o Ngāti Whātua, Ngāti Whātua o Kaipara<sup>1</sup>*

***There is both significant interest, even excitement, and significant concern, from different Māori groups over the prospect of an expansion of Northport.***

25. The multiplicity of iwi and hapū groups with an interest in any Northport expansion will make ongoing engagement on any Northport expansion a complex exercise. It is possible that some groups may use that process to assert their interests for a range of reasons, including to position themselves for negotiating their Treaty settlements. Unlike the other areas, there has been no historical Treaty settlement reached in the Whāngarei district yet, and attempts to achieve settlements have frequently stalled at the starting gate. Patuharakeke stated that Northport is sitting on 'confiscated land' that is subject to claim.
26. Associated with the large number of groups is the question of mandate – who speaks for each group, and at what level. There is a strong 'hapū-centric' vein in Te Tai Tokerau, which means some hapū balk at the idea that their iwi might speak for them. In some cases there may also be multiple people or groups with the right to speak on behalf of a hapū.
27. Several groups thought it important for the Government to consider the Port relocation in a wider context, as just one of a number of inter-related Government decisions. They sought a cohesive strategy to link these initiatives, a co-ordinated and a strategic vision linking Northport expansion with a skein of related issues including enhanced and extended rail links, the potential relocation of the Navy, and the

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<sup>1</sup> This report lists at the start of each section those iwi, hapū or Māori groups that commented on each particular location. It is possible that some of those who did not comment on that location in this exercise may still seek input at a later stage as proposals are firmed up.

potential expansion of manufacturing. These groups wanted to be assured that a move to Northport would not be undertaken in isolation from these other decisions.

28. For several groups (especially Patuharakeke) there was deep scepticism about the process conducted by the 2019 Working Group and the conclusions of its cost benefit analysis. All groups also expressed environmental concerns, with Patuharakeke of the firm view that expansion of Northport would destroy some of their customary fishing grounds. They wanted an assurance that any cost benefit analysis would make appropriate reference to the cultural cost of expanding the Port.
29. Regional development benefits were cited by both Ngāpuhi and Ngāti Hine as a key reason for Auckland Port to be relocated to an expanded Northport. The future of Northland forestry was cited as a matter of regional significance, with an expanded log capacity at Northport a key element in facilitating regional economic growth. Others (e.g. Ngātiwai and Ngāpuhi) indicated an interest in investing in the port company. From some, there was concern that the Government might try to 'buy out' objections from Auckland iwi to a relocation of 'their' port by facilitating them to acquire shares in an expanded Northport.
30. Ngāti Whātua o Kaipara advised they expect detailed discussions about the potential establishment of any inland port in their rohe including the wider infrastructure implications – housing, roads, commercial development etc.

## Auckland

*Ngāti Whātua ki Ōrākei, Te Runanga o Ngāti Whātua, Ngāi Tai ki Tāmaki, Ngāti Paoa, Ngāti Maru, Ngāti Whanaunga, Ngāti Tamaterā, Te Patukirikiri, Te Kawerau ā Maki, Te Akitai Waiohua, Ngāti te Ata, Ngāti Tamaoho*

***There is a range of views from Auckland iwi over the prospect of a move from Auckland City, and differences over which iwi perspectives should be considered and which might have primacy. Assumptions about alternative use for Port land need to be tested against the prospect and impact of iwi claims.***

31. Cabinet did not request feedback on its default position – that the Port did not have a long term future in central Auckland. However, many of the iwi of Auckland whom we spoke to in discussions about the Manukau and the Firth of Thames options made comments or raised questions about the decision to move the Port and the consequences of that move.
32. There were varying views about which iwi and hapū groups have an interest in the Auckland Port location and the relative significance of those interests. Put briefly, Ngāti Whātua ki Ōrākei consider they should be the primary iwi point of contact; while most other iwi or hapū challenged that contention. We note that this is a familiar and ongoing feature of the Auckland iwi landscape.
33. There was significant feedback about the ownership, control and decision making relating to the Port land, with questions about whether the Council and the Crown would be free to use it as they wished, or whether it could be a factor in resolving the Waitemātā Harbour Treaty claim; or even whether the land might be offered to iwi under the Tāmaki Collective Settlement Right of First Refusal.<sup>2</sup> These possibilities should be tested.

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<sup>2</sup> Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014

34. Some iwi said that other assets of Auckland Port apart from the central Auckland reclaimed land should also be made available to iwi if the Port were to close. For instance, Ngāti te Ata pointed out that Ports of Auckland own land near the tip of the Awhitu Peninsula at the entrance to the Manukau Harbour, land that is arguably already surplus to its needs.
35. Some iwi (e.g. Ngāi Tai ki Tāmaki) were concerned that the Government appeared to have made an in-principle decision about moving the Port without effective engagement, and others (e.g. Ngāti Whanaunga) drew a contrast between the 2019 Working Party and the 2016 Auckland Council process where iwi representatives were on an oversight group reviewing the work of the EY consultants. Ngāi Tai ki Tāmaki said any decision to move the Port needed to be made by the Crown and iwi as partners, and indicated that they considered there might conceivably be contemporary Treaty claims lodged for 'confiscation' of an 'iwi asset' that the establishment of the Port and the commercial opportunities it brought was a quid pro quo for 19th century land transactions like the Fairburn Purchase.<sup>3</sup>
36. As to the merits of moving the Port from central Auckland, there were a variety of views, from strong support and a wish to accelerate the departure of the Port (Ngāti Whātua ki Ōrākei); to a view that the Port should be prevented from further expansion and some but not all of its operations relocated; to the 'confiscation' argument.

## Manukau

*Te Kawerau ā Maki, Te Akitai Waiohua, Ngāti te Ata, Ngāti Tamaoho, Waikato-Tainui (TGH), Puketutu Island Trust, Ngāti Whātua ki Ōrākei, Ngāti Paoa, Ngāti Maru, Ngāti Whanaunga, Ngāti Tamaterā, Te Patukirikiri*

***Considerable concern at environmental effects, but willingness in most cases to examine how these might be mitigated***

37. The health of the Manukau Harbour was the subject of one of the first claims ever lodged in the Waitangi Tribunal (Wai 8), so it was not surprising that iwi and hapū comments about the harbour as an option included significant concern about the environmental and cultural impacts of dredging and land reclamation. Ngāti te Ata, Te Akitai Waiohua and Ngāti Tamaoho expressed these concerns in particular, with Ngāti te Ata noting that the re-establishment of a commercial port in the Manukau could be the 'straw that breaks the camel's back'. Ngāti te Ata were very conscious about how their recently deceased rangatira Nganeko Minhinnick might have reacted to the proposition of dredging and reclamation within her beloved harbour.
38. Tainui Group Holdings (TGH) advised they do not favour the Manukau and that this also reflects the wishes of their owners, Waikao-Tainui.
39. However, those groups expressing concern also indicated that establishment of the port in Manukau Harbour might bring the spotlight onto the harbour for environmental restoration – in other words, that any mitigation requirements associated with a consent granted for Port operations could be directed to secure net positive environmental and cultural benefits for the harbour's health. Ngāti te Ata pointed to Watercare's Programme of works for improving the quality of water discharged into the Manukau, a programme that they said is currently significantly underfunded.

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<sup>3</sup> This was a 19th century land transaction that involved the acquisition of much of what is now south-east Auckland. It is a significant grievance for which redress has been provided or offered to several iwi.

40. Iwi also recognised the work and business opportunities for Māori should the port be relocated to Manukau, ranging from constructing and operating the Port, to service industries and the many business operations that would benefit from somewhat greater proximity to it. The Puketutu Island Trust were interested in the prospect of a new port opening up the Manukau to the cruise ship industry; they have already been talking to several cruise lines about reviving the Island as a tourist destination.
41. There was interest expressed in the status of any land that might be reclaimed to establish a new port, and a clear indication that reclamations might be the subject of claims for ownership under the Marine and Coastal Area Act. That would not preclude a Port being established but would obviously imply a unique ownership arrangement.
42. The delay in resolving the outstanding Manukau Harbour Treaty claims was a matter of some frustration for iwi and hapū. While it was not suggested that port relocation to Manukau would be actively opposed until the claims are settled, there is a strong desire to unblock the settlement negotiations.

## Tikapa Moana/Firth of Thames

*Ngāi Tai ki Tāmaki, Ngāti Paoa, Ngāti Maru, Ngāti Whanaunga, Ngāti Tamaterā, Te Patukirikiri, Te Akitai Waiohua, Ngāti Tamaoho, Te Whānau a Haunui, Wakato-Tainui (TGH)*

***Environmental and customary interests are a significant issue, and there is significant frustration about the log-jam in addressing Marine and Coastal Area applications for customary title and rights; but there is a willingness to engage constructively once there is sufficient technical information available for effective scrutiny***

43. All groups recognise the benefits of easy access and deep water in Tikapa Moana/the Firth of Thames, but also noted the proximity of the potential locations to important cultural taonga such as kaimoana (fisheries) and manu (birdlife). These were identified as issues that will need to be addressed and preserved in the event of any large infrastructure such as a port being established. As with the Manukau, there was a recognition and interest in exploring whether mitigation and offset arrangements associated with a new Port could ultimately improve the health of the moana.
44. The groups all recognised that the port is just part of a wider infrastructure, and that extensive investment would be required in land transport to provide links across to the established road and rail corridors. There are urupā along the coast and other places of significance that would need to be avoided or accommodated in the development of any such infrastructure, but this was not presented as an insurmountable hurdle.
45. The Waimangō site is adjacent to one of the largest tracts of customarily held land in Auckland. The landowners, Te Whānau a Haunui, have lodged an application for customary title which they say shows no signs of being progressed. They indicated they would strongly resist any attempt to use their own land, or the marine and coastal area they claim, to help create a port; and would oppose any development in Tikapa Moana that significantly constrains their cultural and potential commercial interests. Any imposition on their ownership interests are unlikely to be able to be addressed by mitigation or compensation.
46. Tainui Group Holdings (TGH) indicated they favour in the long term a location further south than the indicative Waimangō site, with a road and rail corridor down through the Mangatangi/Mangatawhiri and across to Pokeno, supporting the the industrial corridor between Auckland and Hamilton, and serviced by TGH's inland port facility proposed for Ruakura.

47. The Firth is part of Tikapa Moana which is the subject of an outstanding Treaty claim by the iwi of Hauraki. That claim does not preclude a port being established there, but it is likely that a decision to locate the port in Tikapa Moana would increase the pressure to begin those negotiations.

## Tauranga

*Ngāi Te Rangī, Ngāti Ranginui, Ngāti Pukenga*

***The Tauranga Moana iwi have a strong focus on ensuring the interests of their people are taken into account with any decision to expand the Port of Tauranga. This includes the need to consider not only the value of commercial and employment opportunities but the need to ensure the well being of their people through the mitigation of any cultural and environmental impacts that may arise.***

48. The Tauranga Moana Iwi would like to participate in any decision to relocate the Ports of Auckland to Tauranga as Treaty partners, investors and kaitiaki. They seek 'pono' (genuine) engagement in any decision in a meaningful way, to ensure the interests of their people are protected and to learn about the direct benefits this decision will have on their people.
49. The iwi have a strong *mana taiao* focus, with iwi and hapū environmental units actively engaged in the protection of the taiao (environment), and committed to manage the impacts of any decision to expand the Port. There are recognised Iwi and hapū management plans in place, and they will seek to be actively involved in any resource consent work required to expand the Port.
50. The iwi appreciate the value of the growth of the Port of Tauranga and whānau have a long history of employment at the Port. They appreciate the commercial opportunities and the value of tourism to Tauranga. They are reasonably happy with the established Tauranga Port Liaison Group, and have worked in the past to negotiate the dredging consent and the establishment of Ngā Mātarae, an education grant.
51. To achieve the regional development benefits from an expansion of the Port the iwi recognise a need to seek investment to upgrade the existing infrastructure. The road network is viewed as under strain already from population growth. The airport was cited by Ngāi Te Rangī as already constrained, with its short runway making it inadequate for large air cargo. They think this should be considered in the context of developing a larger regional airport facility.
52. Robust relationships exist between the Tauranga Moana iwi and local authorities. The iwi consider they are able to talk freely with the Council leadership to negotiate outcomes. Strong inter-iwi relationships exist including links to the Waikato-Tainui and the proposed Ruakura inland port. There is a long term view for growth and the iwi are aware of the growing value of the Māori economy in Tauranga.

## Summary of feedback

53. The key takeaways from iwi and Māori engagement were:
- There will be a negative reaction from most or all iwi and Māori groups if the Government takes any final decision on the relocation of Auckland's port without undertaking what they consider a process befitting the Treaty partnership – including the sharing of detailed information and analysis, and resourcing to facilitate informed decision making.
  - Iwi dynamics and competing iwi claims will have a significant impact on Government decision-making on the future of Auckland Port land.

## The Policy Shop

- Port relocation is likely to increase the pressure for outstanding Treaty and MACA claims over Auckland Port/Waiitematā harbour and whatever area is proposed for relocation.
- None of the options is necessarily a 'fatal flaw' from the perspective of Māori groups, and some would welcome a port being relocated to their rohe; but they will look to secure protection of customary interests, net environmental benefits and commercial investment opportunities.