

# Involuntary Resettlement Due Diligence Report

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July 2016

## Tuvalu: Outer Island Maritime Infrastructure Project

Prepared by the Ministry of Communication and Transport for the Asian Development Bank.

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## **ABBREVIATIONS**

ADB	Asian Development Bank
APs	Affected Persons
DDR	Due Diligence Report
DFAT	Australia Department of Foreign Affairs and Trade
GRM	Grievance Redress Mechanism
GEF	Global Environmental Facility
Km	Kilometer
MCT	Ministry of Communications and Transport
MFECPP	Ministry of Finance and Economic Planning
MHARD	Ministry of Home Affairs and Rural Development
MNREE	Ministry of Natural Resources, Energy and Environment
MFAT	New Zealand Ministry of Foreign Affairs and Trade
PPTA	Project Preparatory Technical Assistance
PDA	Project Design Advance
DDR	Due Diligence Report
RP	Resettlement Plan
SPS	Safeguard Policy Statement
TANGO	Tuvalu Association of Non-Government Organizations
UNDP	United Nations Development Programme

## EXECUTIVE SUMMARY

The proposed Tuvalu Outer Island Maritime Infrastructure Project (the Project) will assist the government's efforts to rehabilitate and improve the maritime infrastructure in three remote outer islands of Tuvalu including Nukulaelae, Nanumaga and Niutao.

The Project scope includes:

- (i) construction of small scale maritime facilities in Nukulaelae including new channel dredging, construction of a transit shed, and provision of a truck with crane;
- (ii) improvement of boat ramps in Nanumaga and Niutao; and
- (iii) master planning for the transport and fishery sectors including feasibility studies for Nanumaga, Niutao, and Nui maritime facility improvements and other harbour development options.

During the project preparation, the PPTA Team visited the proposed sites, met with government agencies in Funafuti including the Department of Lands to determine land use and status in the proposed sites. Also, the Team held community consultations and workshops with key community leaders including men and women and representatives of people with special needs in Funafuti and the outer islands from December 2015 to May 2016. Moreover, a small socioeconomic survey were conducted in the three islands to determine basic socioeconomic information of the project communities, their perceptions and level of support for the project. The Team also reviewed relevant project reports.

### *Land Requirement and Status*

The project site in Nukulaelae does not involve displacement of people and physical structures. The sea side facilities will be constructed on Crown land <sup>1</sup> while the associated structures such as transit shed and access road will require private land. These private lands are generally bush area with possibility of taro and other food gardens and productive trees including coconuts thus may require compensation. These will be further confirmed during the detailed design stage.

The government will lease these lands pending approval by the landowners and Island Council (Kaupule). The landowners are very willing to lease their lands to the project due to the need for the harbour and the benefit of receiving regular income. These were confirmed during the project consultations. Land lease will be the approach by the government to secure the project site. Even in the event that the government fails to negotiate with the landowners, ADB will not agree for the government to expropriate the land for the project purpose.

The project sites in Niutao and Nanumaga also do not involve displacement of people and physical structures. The boat ramps will be built on the foreshore area where the communities currently load and unload cargo from the government ships, which are on Crown land (foreshore area) thus will not require establishment of a government lease.<sup>2</sup>

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<sup>1</sup> Crown land, also known as royal domain or demesne, is a territorial area belonging to the monarch, who personifies the Crown. This is considered as government or public land, although the term still exists in Tuvalu which used to be a British Protectorate.

<sup>2</sup> Foreshore and Land Reclamation Act (Section 2) defines 'foreshore' as the shore of the sea or of channels or creeks that are alternately covered and uncovered by the sea at the highest and lowest tides.

### Summary of Land Requirement and Land Use

Project Components	Component Activities	Current Status of Land ownership or Use	Need for Additional Land and/or Potential Issues
1. Construction of small scale maritime facilities (Nukulaelae)	<p>These will include:</p> <ol style="list-style-type: none"> <li>1. Construction of a wharf landing on the beach area.</li> </ol> <p>Associated Structures:</p> <ol style="list-style-type: none"> <li>1. Construction of a seawall.</li> <li>2. Set back of abutment to assist with keeping some trees along the foreshore.</li> <li>3. Navaid site onshore requirement.</li> <li>4. Boat ramp onshore.</li> <li>5. Construction of a parking lot.</li> <li>6. Construction of parking space for fishery boats.</li> <li>7. Construction of an access road from the main road to the parking lot &amp; transit shed.</li> <li>8. Construction of a transit shed (and provision of a truck crane) (Nukulaelae)</li> </ol>	<p><b>Land Status/ Ownership:</b></p> <p>The foreshore area is a Crown land.</p> <p>Private land with <i>exact location including status, based on the final technical design*</i></p> <p>Generally, the sites are within bush land areas with some productive trees i.e. coconuts, taro gardens, and pig enclosures thus may require compensation if affected.*</p>	<p>Will require construction of access roads to link the wharf to the main settlement and the Community Fisheries Center. This is likely to be private lands and may also affect some trees depending on the final location.*</p> <p>No land acquisition required. The government will lease the site and the landowners are willing to lease their lands for this project to happen. Landowners and community have waited for this infrastructure for sometime thus based on initial consultation with the Kaupule (Island Council), landowners will agree to lease land.</p> <p>There were two landowners<sup>3</sup> for the project sites as identified by the Island's Lands Clerk.</p> <p>From consultations, landowners generally welcome having a government lease as this provides regular cash income for landowning families (AUD 3,000 per acre annually) to otherwise bush or partially utilized lands.*</p> <p>However, due to income the land lease will bring, this may potentially influence</p>

Project Components	Component Activities	Current Status of Land ownership or Use	Need for Additional Land and/or Potential Issues
	8. Channel dredging	<b>Land Status/ Ownership:</b>  Seabed; Crown Land.	the final site that the community will proposed with the project. Thus final site selection may be influenced both by technical feasibility and number of landowners who have interest to lease their land.*  As Crown land, no land acquisition nor leasing is required.
2. Construction of boat ramps (Nanumaga and Niutao)	Construction of a ramp  Establishment of a public access from ramp to main road using flexi mat.	Crown land.  The project will be built on the foreshore.  Crown land. However communal <sup>4</sup> land may also be used depending on the detailed design.	None identified during the PPTA.*  No lease is required as the project will utilize existing public land.*
3. Preparation of a master plan for transport and fishery sectors.	Conduct of feasibility studies for developing maritime facilities in Nanumaga and Niutao and other harbor development options.	<b>Land Status/ Ownership:</b>  N/A	N/A

\*To be confirmed during the detailed design stage.

<sup>4</sup> Communal lands are historic plots agreed and recognized by the people that are reserved for special island needs such as meeting houses but can never be used by individual families. The owner of the communal lands are the whole island community. It is managed on behalf of the island by the Kaupule. There is a Lands Tribunal under the Kaupule that convenes if there are anything to be discussed regarding land i.e. leasing to the project.

## I. INTRODUCTION

### A. Project Background

1. The proposed project will assist the government's efforts to rehabilitate and improve the maritime infrastructure in selected outer islands of Tuvalu, some of which were damaged by Cyclone Pam in March 2015, and to improve safety, efficiency and sustainability of maritime transportation in the outer islands.

2. By making marine transportation more efficient and safer, Tuvalu envisages achieving the following objectives: (i) economic development including fisheries, (ii) improved livelihoods and safety conditions in the outer islands, and (iii) reduced migration from the outer islands to Funafuti, which currently faces problems with overcrowding, pollution, and spread of diseases.

### B. Project Description

## II. METHODOLOGY

3. This due diligence assessment was conducted utilizing primary and secondary data gathering from the following methods: a (i) review of relevant project reports; (ii) collection of primary data through a socioeconomic survey, site visits, individual interviews; and community consultations and workshops.

4. The Project Team consulted the relevant islands and national government agencies during the PPTA. These included meeting with Department of Lands in determining land ownership status of the proposed sites, government policy on securing land for infrastructure projects including rates and procedures for leasing lands. The Project Team also held site visits in Nanumaga and Niutao in December 2015 and January 2016. In addition, the Team held a national community consultation workshop with community representatives on Funafuti on 15-16 and 18 April 2016 and signed a Minutes of Meeting stating their support for the workboat project (**Appendix A Funafuti Workshop Minutes**).

5. A site visit and workshop to Nukulaelae Island followed to inspect possible project sites with community leaders; consultation with Nukulaelae island council (*Kaupule*), and other community representatives including women and landowners on potential site,. During the site visit, the PPTA Team including ADB and consultants presented the proposed project scope, assessed expected community benefits and potential impacts, community support for the project, land ownership status of the proposed site, and the willingness by community and landowners to lease land for the project, if required. Also a minutes of meeting, detailing agreements with the community, was prepared by ADB and signed by the Island Council (*Kaupule*) endorsing the project on 18 April 2016 (**Appendix B**).

6. The PPTA Team consulted about 130 people including 25 women and surveyed 70 people including at least 10 women. Stakeholder consultation and participation will be continued during the preparation of detailed design and construction. Key stakeholders including women, affected people, low-income households and individuals with disabilities and elderly, traditional leaders and politicians will be consulted throughout the project including detailed design, implementation, and monitoring. Participatory approaches such as social surveys, focus group discussions, and community meetings will be undertaken as part of consultations.



### III. PROJECT SCOPE AND LAND USE ON THE PROPOSED SITE

#### A. Project Scope

7. The scope of works to assist the government's efforts to rehabilitate and improve the maritime infrastructure in selected outer islands include:

- (i) construction of small scale maritime facilities in Nukulaelae with new channel dredging, construction of a transit shed, and provision of a crane truck in Nukulaelae;
- (ii) construction of boat ramps in Nanumaga and Niutao; and
- (iii) master planning for the transport and fishery sectors including feasibility studies for relocating Nanumaga and Niutao harbour sites and other harbour development options.

#### B. Land Requirement, Land Use and Status

8. In Nukulaelae, small scale maritime facilities with associated structures, are proposed to be constructed on the southern side of its main island. The project will include construction of a transit shed, and an access road to link the project site to the main road and Community Fisheries Center (Figure 1). The workboat harbour will be built on Crown land while the associated structures such as access road will be on a private land that will require the establishment of a government lease. The scope of land requirement will be further confirmed during the PDA stage.

9. In Niutao and Nanumaga, a ramp will be built on the foreshore area where the community currently loads and unload cargoes from the government boat. In addition, the public access will be improved by laying down flexi mat or similar materials. The boat ramp to be constructed on each of these two islands is on a Crown land (foreshore area<sup>5</sup>) thus will not require establishment of a government lease. The improvement of public access will not require private land and will utilize Crown/public land and possibly lands on existing communal areas<sup>6</sup>.

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<sup>5</sup> Foreshore and Land Reclamation Act (Section 2) defines "foreshore" as *the shore of the sea or of channels or creeks that are alternately covered and uncovered by the sea at the highest and lowest tides*.

<sup>6</sup> Communal areas – lands donated through the Tuvaluan traditional way (verbal) by landowning families to the community for public use. Although no formal lease agreement was signed for the donation to the community, this is widely considered as binding by the Falekapule, Kaupule, and the whole community.

Figure 1: Proposed Workboat Harbour (Nukulaelae)

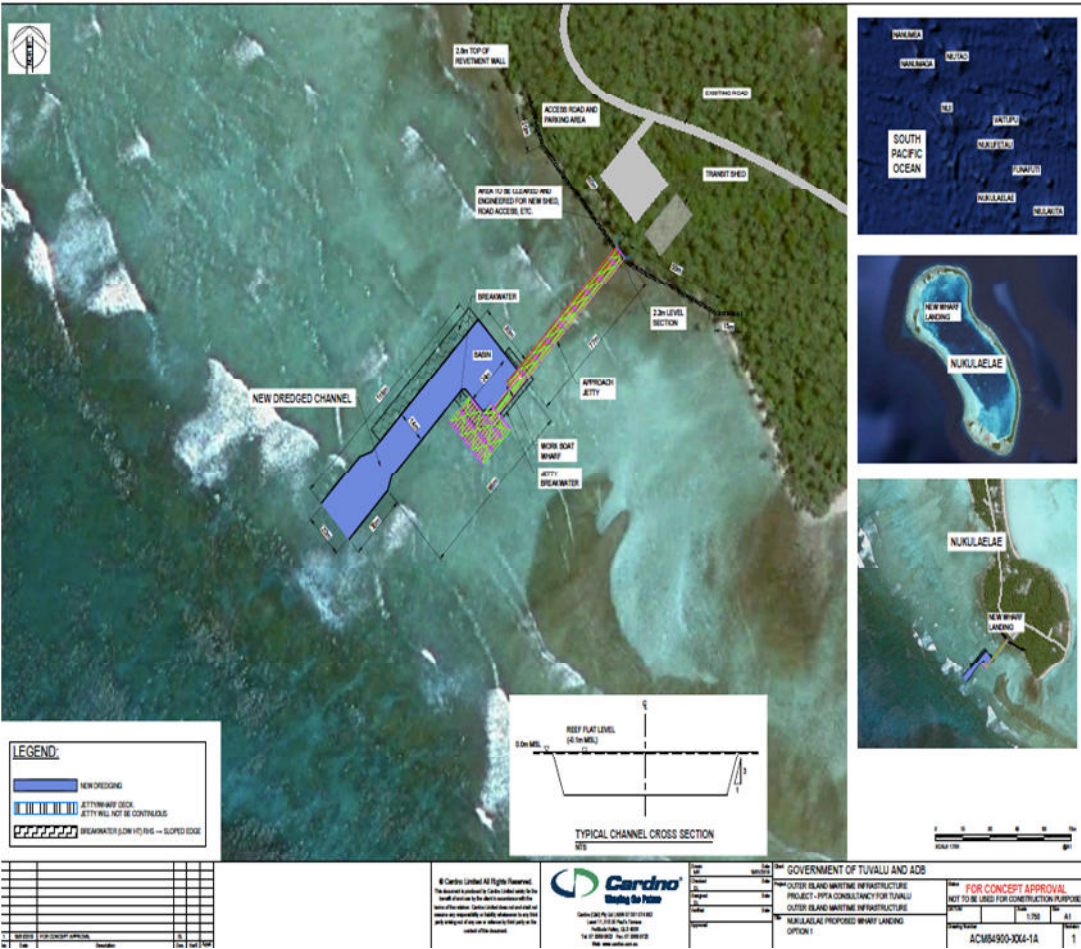
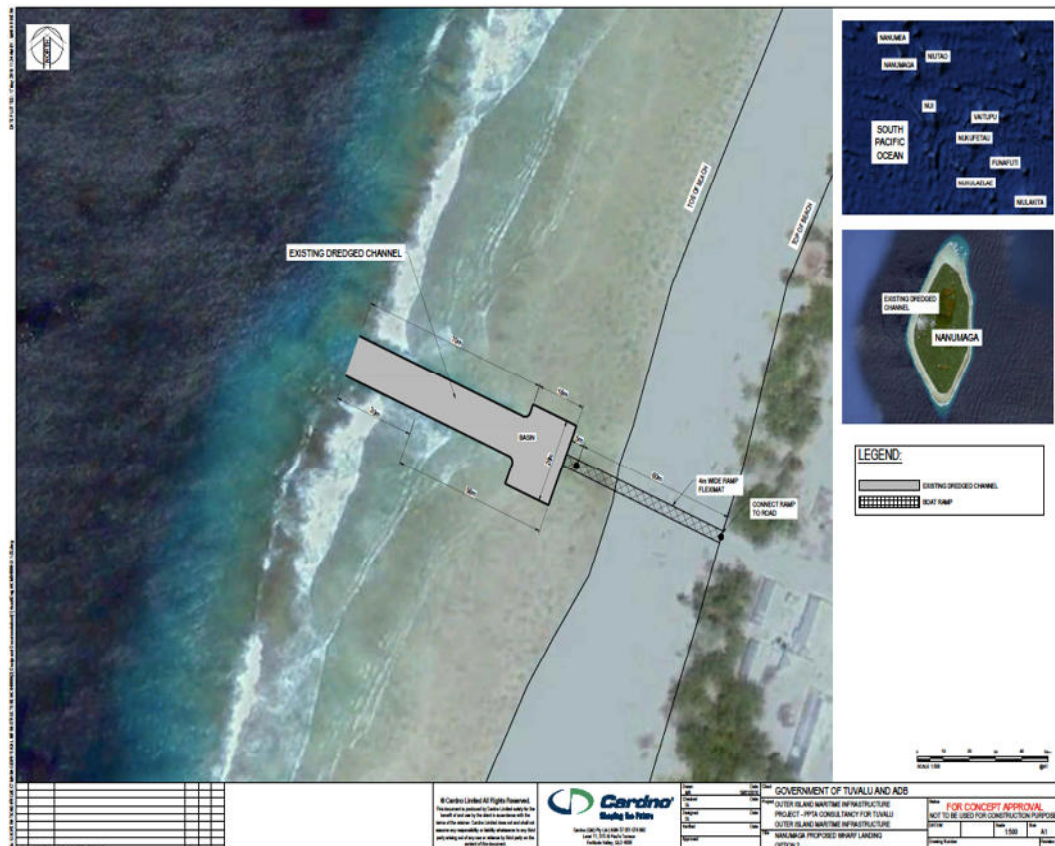


Figure 2: Boat Ramp (Niutao)



**Figure 3: Boat Ramp (Nanumaga)**



#### IV. SOCIOECONOMIC INFORMATION

## A. People and Community Within the Project Sites

10. The government expects that improving marine transportation to become more efficient and safer will (i) support economic development including fisheries and other livelihood programs, (ii) improve safety conditions in the outer islands, and (iii) reduce migration from the outer islands to Funafuti, which currently faces problems with overcrowding, pollution, and spread of diseases. The poor and vulnerable groups such as women and children, persons with disabilities, people requiring medical attention, elderly, and small business owners stand to benefit the most from the project. Improved marine infrastructure in the outer islands enables safe and efficient movement of people and cargoes to and from these remote communities.

11. Following is a brief description of each of the three project island communities:

12. **Nukulaelae.** In 2012, the island had a population of 334 people<sup>7</sup> residing into two villages (Nukualofa and Pepesala) with 239 people and 95 people (32 and 38 households) respectively. The proposed site is within Pepesala Village. During the 2012 Census, the island first recorded a

<sup>7</sup> Nukulaelae Island Profile 2012, Ministry of Home Affairs, UNDP and NZ Aid Programme.

negative population growth of -1.6% since the 1991 Census. The decrease in population could be attributed to several factors including medical, education, employment, and social purposes.

13. The island has a preparatory and a primary school, medical facility, a fisheries buying center, 24-hour supply mainly from solar power, and relies mostly on rainwater for drinking. There is also a working phone service and the internet to connect the Kaupule to Funafuti and relatives overseas. Secondary students leave for Vaitupu Island to study at Motofua Secondary School to complete their secondary education. The island also has a Telecom center, a bank, and at least three retail shops. The island also has an unpaved road along the coastal part of the island near the proposed project site.

14. From the 2012 Island Profile, only 59 people (20.9%) of the population over 15 years old is employed mainly through government work as nurses, teachers, and Kaupule employee providing almost half of employment (48%). 229 of working age are not employed. Self-employment is very low on the island with only three people involved in self-employment through ownership of a petrol station (1) and canteen (1 male and 1 female). Other income sources for people on the island is pension for those over 70 years old.

15. The majority of the population on the island (89%) are not employed but are involved in subsistence activities such as feeding livestock, farming, fishing, toddy cutting, and handicraft making.

16. **Nanumaga.** The island had a population of 463 during the 2012 Census. The island population lives in two villages (Tokelau and Tonga), with 239 and 234 people respectively. This division into two villages of each island population is typical to Tuvalu. During 2002 and 2012 Census, the island also recorded a negative growth rate (-2.39%) indicating a continuous out-migration trend whereby people seek better employment, social and health opportunities.

17. Similar to Nukulaelae, the island has a preparatory and a primary school, medical facility, 24-hour supply mainly from solar power and relies primarily on rainwater for drinking. Secondary students leave for Vaitupu Island to complete their secondary education. The island also has a Telecom center, a bank, and retail shops. The island also has an unpaved road along the coastal part of the isle leading to the current loading/unloading site to the central part of the island (also proposed project site).

18. From the 2012 Island Profile, only 66 people (22%) of the population over 15 years old is employed mainly through government work as nurses, teachers, and Island Kaupule employee providing over half of employment (65%). 199 of working age are not employed. Self-employment is very low on the island with only three involved in self-employment through ownership of a canteen (3 females). Other income sources for people in the island is pension (ESS) for those over 70 years old and landowners who receive land leases.

19. Similar to Nukulaelae, the majority of the population on the island (86%) are not employed, the majority are females but are involved in subsistence activities such as feeding livestock, farming, fishing, toddy cutting, and handicraft making.

20. **Niutao.** The island had a population of 642 during the 2012 Census. The island population lives in two villages (Kulia and Teava), with 430 and 212 people respectively. During 2002 and



2012 Census, the island also had recorded a negative growth rate (-3.2%) indicating a continuous out-migration trend whereby people seek better employment, social and health opportunities.

21. The island also has a preparatory and a primary school, medical facility, 24-hour supply mainly from solar power and relies primarily on rainwater for drinking. Secondary students leave for Vaitupu Island to complete their secondary education. The island also has a Telecom center, a bank, and retail shops. The island also has an unpaved road along the coastal part of the island leading to the current loading/unloading site to the central part of the island (also proposed project site).

22. From the 2012 Island Profile, only 98 people (23%) of the population over 15 years old is employed mainly through government work as nurses, teachers and Island Kaupule employee providing over half of employment (77%). 335 of working age are not employed; others work as seafarers (10%). Self-employment is very low on the island with only four involved in self-employment through ownership of a bakery (1), canteen (two females and two males). Other income sources for people on the island is pension (ESS) for those over 70 years old and landowners who receive land leases from the lease of government facilities.

23. Similar to Nukulaelae, over two-thirds of the island's population (81%) are not employed, the majority are females but are involved in subsistence activities such as feeding livestock, farming, fishing, toddy cutting, and handicraft making.

## **B. Project Impacts**

24. There is no expected risk of landlessness, loss of home, and/or loss of major income source. In Nukulaelae, the workboat harbor will be on a vacant Crown land; however, the harbour's associated facilities including access road and transit shed will be on a bush area and will require the lease of private lands as Crown land is limited within the islands. There will be no residential structures on the sites but there maybe potential minimal loss of some productive trees, taro patches, and possible relocation of some pig enclosures that may require compensation. This will be confirmed during the PDA.

25. A construction camp, chosen by the community leaders with the Project Team, will be built on a vacant community land next to the primary school. There is no expected physical or economic dislocation as this is on a vacant communal land. Due compensation, if required, will be included in the Environmental Management Plan. (**Appendix C Nukulaelae Minutes of Meeting May 2016**). In addition, no impact is expected on the existing island transportation as this is to be located on a different part of the island away from the existing communal loading and unloading area.

26. For Nanumaga and Niutao, the proposed site to build a boat ramp is on the foreshore area considered as Crown land. No private land is required at this stage. Any impacts on the existing island community transportation from the intended boat ramp construction will be confirmed during the detailed design stage. If there will be any impacts, alternative sites will be identified with the Island Council.

### **C. Project Impacts on Communities and Vulnerable Groups**

27. The project will have no adverse impacts on the poor, indigenous peoples and ethnic minorities, or on other vulnerable groups. The project will improve access to safe maritime transport particularly by people with special needs, women, children and elderly. Also, the project will support the development of alternative income sources and further promote economic development within the three island communities.

### **D. Gender**

28. The project will provide gender benefits to women particularly in promoting transportation safety, i.e., pregnant women, elderly, and women with young children. Other potential gender benefits may include participation in training and income opportunities from non-skilled labor and administrative support which could be required by the contractor.

### **E. Indigenous Peoples**

29. The project does not trigger the ADB's Indigenous Peoples Policy as the local people in the area do not meet the ADB criteria (distinctiveness and vulnerability) of Indigenous Peoples. The local people in the project sites are part of the mainstream Tuvaluan polynesian society and are not considered to have a distinct cultural heritage including a different language and are not discriminated upon by other local groups due to their language, skin color and education level etc. They will not require protection and special attention from the project.

## **V. INFORMATION DISCLOSURE, CONSULTATION AND PARTICIPATION**

### **A. Project Stakeholders**

30. There are three general groupings of stakeholders for the project: (i) elected government officials including Ministers, key officials from the government agencies; (ii) landowners and island communities; and (iii) non-government organizations including Tuvalu National Council of Women and TANGO. The primary project stakeholders include the Office of the Prime Minister, Cabinet members and Ministers, government ministries including Ministry of Communications and Transport (MCT). Others include the Ministry of Finance and Economic Planning (MFEP), Ministry of Home Affairs and Rural Development (MHARD) and Ministry of Natural Resources, Energy and Environment (MNREE).

31. Also, stakeholders at the community level include Island Councils (Kaupule) and traveling public including elderly, women, children and people with special needs.

32. Other key stakeholders include other development partners such as ROC, UNDP, JICA, DFAT and New Zealand Ministry of Foreign Affairs and Trade.

### **B. Consultation and Participation Activities**

33. The PPTA Team consulted stakeholder groups during the project design preparation through individual, group, and community meetings and workshops, and socioeconomic surveys.

The Team developed the project scope and design using these inputs. Reviewed secondary data including project reports and government development documents.

34. The Project Team conducted site visits and a series of community information/consultation in Nukulaelae, Nanumaga and Niutao from December 2015 – May 2016. A national workshop, attended by five outer island representatives including women, was conducted in 15-16 and 18 April 2016. The Team then visited Nukulaelae on 24-25 April 2016 to consult with the Island Council, including men and women representatives, to present the project scope and determine potential project sites.

35. *Consultation outcomes.* The consulted community leaders (Kaupule) and members were very supportive of the project in Nukulaelae. They signed a recommendation to the national government confirming their support and participation in site selection with the Project Team. The island council and landowner representatives also confirmed their willingness to lease the land for the project sites as stated in Appendix B and C Nukulaelae Minutes of Meetings. The consulted communities in Nanumaga and Niutao were also supportive of the project.

36. *Community feedback* will be taken into account in the detailed project design. These feedbacks included request from the community elders to consider the strength of waves, environmental sensitive areas and fishing grounds in technical designs and willingness of landowners to lease the sites among others.

37. Consultation and engagement with key stakeholders including landowners and surrounding communities will be continued. Information disclosure during PDA and project implementation are available in the Consultation and Participation Plan included in the Project Administration Manual.

## **VI. PROCESS OF SECURING LONG TERM ACCESS TO THE SITE FOR ASSOCIATED WORKS AND ROAD ACCESS**

38. The project will comply with both ADB's safeguard requirements and Tuvalu's laws and regulations applicable to leasing of lands. The process of securing long term access to the site for the project are as follows:

39. *Conduct of meaningful consultations with landowners and disclosure arrangements.* The government policy is to appoint the island council (Kaupule) to lease the project site on its behalf. The government will continue to carry out meaningful consultations with the landowners, host communities, and concerned community organizations including women's groups during PDA and implementation. The government, through the Kaupule, will inform all concerned landowners of compensation on lands affected by the project using the current market value. The government will also ensure community and landowners' participation in planning, implementation, and monitoring and evaluation of the lease agreements. It will also pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, and women and ensure their participation in consultations.

40. *Land lease.* Guided by the Tuvalu Native Lands Act<sup>8</sup> and ADB's Safeguards Policy Statement 2009, the government will lease land and other assets through a negotiated settlement

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<sup>8</sup> Native Lands Act provide a standard lease Agreement format that is normally used by government/ Kaupule or private leases when a land is enter into a lease.



based on meaningful consultation with landowners. The detailed government's process on land lease is in Appedix D. A negotiated settlement facilitated by the Lands Department through the Island Council (Kaupule) and landowners will be paid adequate and fair price for land and/or other assets. The current government rate is AUD 3,000 per acre annually (schedule 2015-2019)<sup>9</sup>. The government will engage an independent external party to document the negotiation and settlement processes. The Due Diligence Report will be updated and disclosed to key stakeholders including landowners following the PDA and confirmation of the scope of land lease and agreement with landowners.

41. Affected landowners will be given priority to employment in civil works where appropriate and required.

42. *Compensation for affected assets, trees, crops, pig enclosures, etc.* The landowners who own trees and other productive assets on the lands to be leased which need to be cleared are entitled to compensation to replace these assets. The compensation rates and amounts shall be valued based on latest government valuation and should be based on full replacement cost at existing market prices. No affected trees and crops have so far been identified outside the land to be potentially leased by the government.

43. *Third Party Validation (TPV).* An independent third party will be identified to verify that the negotiation is fair, transparent, free of coercion based on the negotiation and settlement process undertaken. The TPV will involve an independent party, knowledgeable and widely respected in the community and is not related to the landowners and government agency responsible for the project. A sample template for TPV is in Appendix E.

44. *Government approach.* The government has no intention of obtaining the sites through compulsory acquisition process. It will not invoke its right to compulsory acquire privately-owned sites but instead it will obtain land through lease or negotiated settlement. Failure of negotiation would not result in compulsory acquisition. No construction will take place prior to finalizing the lease arrangement and compensation paid. Any other unforeseen or unintended impacts will be determined as per the ADB's SPS and Tuvalu government policy.

## **VII. GRIEVANCE REDRESS MECHANISM**

45. The Grievance Redress Mechanism (GRM) will be established by MCT and PMU prior to the start of the civil works. The community will be informed of the GRM through a public awareness campaign and discussion with the Kaupule. The process of lodging a concern or complaint and contact details of the construction contractor (CC) and PSC will be posted on a public notice board. The community is encouraged to voice any concerns or complaints, and these are to be duly investigated and reported through to the CC. All grievances, complaints or issues raised will be lodged in a register maintained at the contractor's site office. These are included in the monthly progress reports from the contractor to PSC and PMU and are subject to checking by the PSC and monitoring by PMU.

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<sup>9</sup> This is the current rate used by the government to establish a lease agreement (the same rate adopted by Kaupule as they follow the government rate), reviewed every five years subject to result of agreed rate negotiated between government and landowners.

**Table 1: Procedures for Resolving Community Grievances**

<b>Step</b>	<b>Process</b>	<b>Duration</b>
1	Affected Person (AP)/ takes grievance to the Project Supervision Contractor (PSC), Construction Contractor (CC), or the Kaupule	Any time
2	Kaupule (Lands Court) reviews the issue, and in consultation with the PSC and CC (if appropriate), then records a solution to the problem.	24-48 hours
3	Kaupule reports back to AP and gets clearance from the complainant.	48 hours
<b>If unresolved</b>		
4	Kaupule takes grievance to the Ministry of Communications and Transport (MCT) for resolution (Director of MCT)	24 hours Decision within two weeks
5	AP refers matter to the Office of the People's Lawyer(OPL)	2 weeks
6	OPL investigates and submits recommendation	4 weeks
7	OPL reports back to relevant government agency/AP	2 weeks
<b>If unresolved or if at any stage and AP is not satisfied with progress</b>		
	AP can take the matter to appropriate national court.	As per judicial system

46. The above process, developed in conjunction with the PMU, will be used to address the issues and concerns that an affected party (AP) may have. The process is relevant to all subproject sites. The key point of contact for the AP will be the Kaupule, who will liaise directly with both the CC and the PSC. The CC will receive and document all matters and issues of social concern from the local community and forward copies of all grievances to the PSC and PMU, which will operate under the Executing Agency (MCT).

47. Given the remote location, the small number of construction workers and the small size of the communities involved, it will be expected that there will be full and free access to the site-based Project Supervision Contractor (PSC) to raise any issues of social concern as a result of the construction works. All efforts will be made to address any community or individual concerns in a timely and transparent manner and without retribution to the affected person to minimise any impacts that may affect project implementation.

48. For concerns such as damage to trees or food gardens i.e., taro plots without permission or compensation, the AP will discuss this with the Kaupule, who will then raise the matter immediately with both the contractor and the PSC, if unresolved at the project site. If the concern can be addressed without delay, and the outcome is satisfactory to the AP, the matter is closed. The contractor will provide a Corrective Action Report to the PSC as soon as the complaint has been resolved.

49. For more extensive complaints such as damage to buildings or land issues such project/contractor's encroachment on someone's land, the AP will make a formal written statement to be delivered to the Kaupule, who will forward this to the CC. The CC will document the complaint

and forward a copy to the PSC and PMU. The complaint must be attended to within 24 hours of the complaint being lodged. The timing and manner in which it will be resolved will be conveyed to the AP by the Kaupule within 48 hours. The contractor will provide a corrective action report to the PSC as soon as the action has been taken.

50. If the complaint is not resolved by the contractor or PSC to the satisfaction of the AP, then the Kaupule will forward the complaint directly to MCT, and with a copy to the Ministry of Home Affairs. The matter will be addressed with due consideration to the seriousness of the complaint and be carried out promptly. The MCT will attend to the complaint within 24 hours and advise the Kaupule how it will be addressed. MCT will make a decision within two weeks. The AP may, if so desired, discuss the complaint directly with PMU or its representative at a mutually convenient time and location. If the complaint of the AP is dismissed, the AP will be informed of his/her rights in taking the complaint to the next step. However, every effort will be made to resolve the issue to the mutual satisfaction of both the parties.

51. Should this process not resolve the matter, then the AP can take the grievance to the Tuvalu Judicial System. The filing of the grievance will be at the AP's cost, but if the court shows that PMU has been negligent in making their determination, the AP may seek costs.

## **VIII. INSTITUTIONAL ARRANGEMENTS**

### **Responsibilities to Monitor and Update the DDR**

52. MCT is the executing agency responsible for overall guidance and project implementation. The PMU, headed by a Project Director, implements the project and is responsible for overall planning, management, coordination, supervision, and progress monitoring of the subproject including the updating of the DDR and its implementation. Any unanticipated issues will be dealt with in accordance with ADB's Safeguard Policy Statement (2009) and Tuvalu applicable laws and policy. The PMU ensures compliance with assurances, including safeguards and updating and submitting the DDR updates. An intermittent international and national social safeguards specialists were recruited to assist the PMU in updating this DDR during PDA stage. An updated DDR will include, among others, the confirmation on the following based on the detailed design (i) scope of land required and affected assets; (ii) affected landowners, if any, and their willingness to enter into lease agreement with the government; (iii) budget requirements based on compensation at existing fair market price; and (iv) agreed steps with the landowners in finalizing the lease agreement in accordance with government processes and other requirements. Construction on private-owned lands will not commence prior to the payment of compensation for the lease of land and other assets. The government will submit to ADB a compensation completion report with the signed lease agreement, third party verification on the negotiation process undertaken and other relevant information to confirm compliance with ADB and government policies and requirements. The government will seek a no-objection from ADB to commence civil works for non-government owned land. The project progress report will include safeguards monitoring and reporting if required.

53. The PMU will also work together with the Ministry of Communications and Transport, Department of Lands, and the Kaupule in securing formal lease agreement with the landowners in the project sites.

## IX. IMPLEMENTATION SCHEDULE

S.N.	Activities	Timeline	Responsibility/ In-charge
1	Confirmation of land requirement based on detailed design	Month 1- 2 (July to August 2016)	PDA Team (Technical & Social)
3	MCT informs DOL/DOL informs Kaupule of project and scope	Month 2	Project Steering Committee MCT Department of Lands
4	MoU with the landowners	Month 2	MCT/PMU Lands Tribunal
5	Land survey and valuation	Month 2	MCT/Kaupule
6	Update of DDR	Month 2-3	Department of Lands
7	Submission of Lands Survey report to government for approval	Month 3 (Sept 2016)	PDA Team (Social)
8	Negotiation between Kaupule and landowners on compensation for land, crops and other non-land assets	Month 3	Department of Lands
9	Lease Agreement preparation	Month 4 (Oct 2016)	Kaupule/Department of Lands/MCT
10	Signing of land lease	Month 4	Department of Lands
11	Payment of land lease and compensation to crops and other non-land assets	Month 5 (Nov 2016)	Kaupule Landowners
12	Submission to ADB of compensation completion report	Month 6 (Dec 2016)	Ministry of Home Affairs
13	Handover of site to contractor	Month	MCT/PDA Team (Social)
			MCT

## X. BUDGET AND FINANCING

54. Following the PDA, the government, through the Lands Department and Home Affairs, will secure required budget to establish the lease arrangements and pay compensation for affected non-land assets in the project sites from its annual budget allocation or other sources.

## **APPENDICES**

**Appendix A. Funafuti Workshop Minutes of Meeting April 2016**

**Appendix B. Nukulaelae Minutes of Meeting April 2016**

**Appendix C. Nukulaelae Minutes of Meeting May 2016**

**Appendix D. Procedures for Leasing of Project Site**

**Appendix E. Template for DDR 3<sup>rd</sup> Party Validation**

**Appendix F. Photos of Community Consultations (available upon request)**

**Appendix G. Tuvalu Native Lands Act**

## Appendix A: Funafuti Workshop Minutes April 2016 & Nanumaga Kaupule Letter of 9 June 2016

### TUV Outer Island Maritime Infrastructure Project

#### MINUTES OF WORKSHOP

TuFHA Conference Room, Funafuti, Tuvalu  
15-18 April 2016

#### I. INTRODUCTION

1. A 3-day workshop was conducted on Funafuti from 15-16 and 18 April 2016, attended by at least 30 participants, with 5 women representatives, from 5 outer islands in Tuvalu and representatives from Funafuti, facilitated by a consultant (Cardno Emerging Markets). The ADB project officer also attended together with key government agencies such as Ministry of Home Affairs and Rural Development (MHARD), Ministry of Finance and Economic Development (MFED), and the Ministry of the Communications and Transportation (MCT).

2. During day 1, the following were discussed:

- (i) ADB staff presented the project background including funding available from ADB to Tuvalu, the principles of projects, the history for the project preparation to date and intended implementation schedule.

Table 1 ADB's Indicative Funding

Year	Indicative Financing (USD million)	Disaster Risk Reduction	Amount (USD million)
2016	5.91**		5.91
2017	5.24	0.92	6.16
2018	5.24	0.92	6.16
2019	5.24	0.92	6.16
Total	15.72	2.78	18.50

\*\* The allocation of US\$5.91 million will expire at the end of 2016.

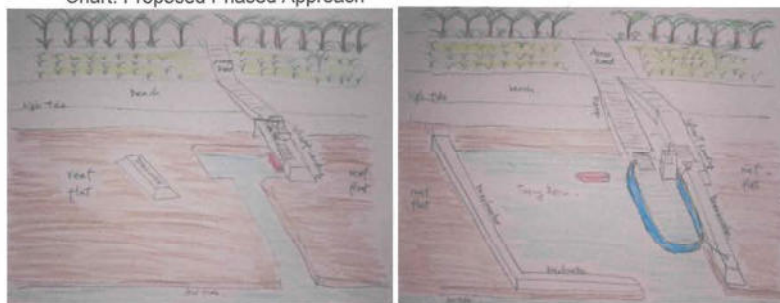
Table 2 Principles of ADB's projects

Major Principles of ADB Projects
<p><b>ADB projects should be</b></p> <ul style="list-style-type: none"> <li>➤ Economically and financially viable</li> <li>➤ Technically sound</li> <li>➤ Safeguarding <ul style="list-style-type: none"> <li>• Environment</li> <li>• Land acquisition and resettlement</li> <li>• Indigenous people</li> <li>• Gender</li> </ul> </li> <li>➤ Sustainable at project delivery <ul style="list-style-type: none"> <li>• Institutional strengthening</li> <li>• Financial arrangements</li> </ul> </li> </ul>

No	Option Aspects	1	2	3
1	Target vessels	Workboat	Workboat LCT barge	Workboat LCT barge Nivaga 3
2	Scope of works	Access road Wharf landing Ramp for fishing boat Small breakwater	Access road Wharf landing Ramp for fishing boat and LCT barge Large breakwater	Access road Large wharf Ramp for fishing boat and LCT barge Large breakwater
3	Est cost	\$5-10M/site	\$20-30M/site	\$30-50M/site
4	Env feasibility	High	Med	Low Difficulty in creating sheltered harbour in deep water
5	Environment	Cat B	Cat A Min 2 yrs study	Cat A Min 2 yrs study
6	Timeframe	Project approval 2016 Construction 2017- No losing of \$5.9M	Min 3 yrs to prepare project Large fund raising Lose \$5.9M	Min 3 yrs to prepare project Large fund raising Lose \$5.9M
No	Option Aspects	1	2	3
7	Functionality	Safer transfer via workboat Easier access for fishermen	Accommodate workboat and LCT barge Loading/off-loading of heavy equipment Easier access for fishermen	No need of workboat Loading/off-loading of passengers directly

- (iv) ADB project officer proposed a phased approach achievable under the currently available funding. The first phase is to construct an access road, a wharf landing to accommodate workboats, and a ramp for fishing boats without major dredging. These will ease the transfer operation from workboats to the shore and assist fishery activities. Under the second phase, the wharf landing will be extended as a breakwater and a turning basin for a larger boat, such as the government ships or a LCT barge will be dredged.

Chart: Proposed Phased Approach



- (v) It was agreed that participants will think through the weekend until the last day of the workshop (Monday) to state their recommendations based on their aspirations and available project funding.

4. From day 2, following were the consultation outcomes from each of the five islands groups that focused on an aspiration for a larger harbor boat that could fit in LCT barge or Nivanga III. This however is not possible under the current funding where it is generally estimated a small boat harbor will cost at least USD 5-10M each, medium/LCT barge 10-20M and a large boat harbor USD30-50M or more as against the project budget of USD 5.9 M (2016) and USD 6.16 (2017) and onwards annually.

## II. CONSULTATION OUTCOMES

5. During day 3, the workshop started with a recap of agreement on Saturday, the limitations, and the suggested way forward.

- (i) The summary results revolved around: (i) existing status of each island ie no boat harbor and difficulties in loading and unloading people and cargo, (ii) short to medium term status of each island ie small boat harbour, and (iii) aspirational ie larger harbor to accommodate Manu Folau and possibly Nivanga III.
- (ii) This was followed by presentation of each of the five groups focusing on their aspirations for each of their islands particularly:
  - a. Nui highlights their desire to have a large boat harbor that can accommodate the government ships to secure the full safety of the passengers during the transfer operations. The construction of the wharf landing for workboats as in the phased approach is not acceptable.
  - b. Niutao also desires a large boat harbour that can accommodate the government ships in a relocated site as the current dredged channel is located at a narrow reef. They want the new site to be on the northern side of island.
  - c. Nanumaga would like to relocate to a new site south of existing site for future developments for the fishery industry as the existing channel site does not have enough space. Still would like to have first priority to start with the project. Up to the government to decide on funding issues.
  - d. Nukufetau wants widen basin to improve cargo handling and improve existing scouring of current harbor to prevent further loss of lives. Refer table below for further details.



Existing	Short to Medium Term	Aspirational
<ul style="list-style-type: none"> <li>Existing wharf for workboats</li> <li>Channel access from lagoon through to wharf, although some infilling by sediment</li> </ul>	<ul style="list-style-type: none"> <li>Improve lighting on Jetty</li> <li>Improve handrails</li> <li>Improvements to steps &amp; ramp (slippery)</li> <li>Warehouse and handling facilities (cranes)</li> <li>Jetty to be enlarged for two way traffic</li> <li>Improvements to channel</li> </ul>	<ul style="list-style-type: none"> <li>Extend wharf to deeper portion of lagoon to allow for direct docking of Nivaga 3 (or equivalent)</li> </ul>

- e. Nanumea desires to widen the current channel to accommodate the government ships in its inner lagoon. Refer to presentation as attached.

### III. Agreement





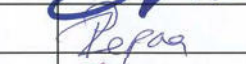
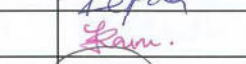



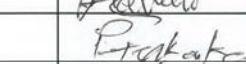

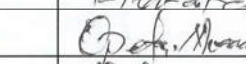











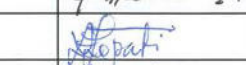
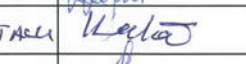
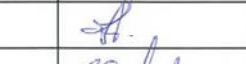





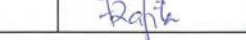



6. We, the undersigned, concur that above was discussed during the workshop and reflects our findings.

Signed:

Island	Name	Title	Signature
1. Nanumea	Tofinga Paitela	Pule Kaupule (Kaupule Head)	
2. Nanumaga	Reete Talu	Sui Tupu	
3. Niutao	Taue Putu Teaukai	Kaupule Member	
4. Nui	Leneuoti Maatusi	Pule Fenua (Island Chief)	
5. Nukufetau	Suetusi Sateko	Tokolua Pule Kaupule (Deputy Chief Kaupule)	
6. Cardno	Dominc Legoe	Team Leader	
7. ADB	Shigehiko Muramoto	Project Officer	

FUNAFUTI WORKSHOP  
DAY 1  
~~Afternoon~~  
Morning ATTENDANCE

Date: 15/04/2016

	NAMES	ISLAND	SIGNATURE	
1	LENEUOTI MAATUJI	Nui		
2	Ueli Paape	Nui		
3	Tili. Italeli	Nui		
4	Taloniisi Taloma	Nui		
5	Pina. Tepaa	Nui		
6	Tanola. TKoum	Nui		
7	Serufeni Liki	NMAGA		
8	Deete Talh	✓		
9	Paton Teikaaiga	✓		
10	Opeta Mumusi	✓		
11	Taukera Lameico	✓		
12	Pai Team	✓		
13	Tulaga. Ulusea	✓		
14	Tuitava. Uui	NANUMEA		
15	Tcai. ✓ Tepaa	✓		
16	Tefinisa. P	✓		
17	Kaleja. S.	✓		
18	Patulika. L Malaki.	✓		
19	Vaipuna. E. Lopati	✓		
20	Leia Vatai	Nuku FETALI		
21	FOAANUA Fapologu	✓		
22	Sietubi Satero	✓		
23	Tosia Vaega	✓		
24	FATUA FANOIGA	✓		

N/FETAU			
25	LIVE KAUTAPANE	✓	Kautapane
26	LUKA TOKOLAU	NUTAO	Lokalan
27	GATII ENOSA	"	Gatiana
28	TAHE PUTU TEAKAI	"	Teakai
29	Pindia Sailusi..	"	Sailusi
30	Faola Toua	"	Toua
31	Taaga Taaga Sailusi	"	Sailusi
32	TUSIPESE MORUKAO	FINANCE	ANALYST
33	R WETERINGS	CARDNO	Cardno
34	TERAYO DORRAN AAB PPTA	AAB PPTA	AAB PPTA
35	Pucinelli Lantui	CARDNO	Cardno
36	Lulu Zmiga - Cairi	CARDNO	Cardno
37	Veter P. Sikaia	PMU	PMU
38	Dominic UGORE	CARDNO	Cardno
39	Tcai. V. Tepou	Namunag	Namunag
40	TOFINGA. P.	✓	Atake
41	KALOM. S.	✓	Sam
42	TUILAVA. Uvi	"	Atake
43	Vaipuna	"	Atake
44	Pahuli Ka. L Melce	"	PMU
45	Taan Pitou	MCT	Atake
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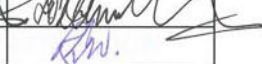

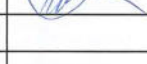


# FUNAPUTI WORKSHOP

## DAY 2

### ATTENDANCE

Date: 16/4/16

	NAMES	ISLAND	MORNING SIGNATURE	AFTERNOON SIGNATURE
1	Tuilava Uni	Nanumea		
2	Toai V. Tepou	Nanumea		
3	Tofinga P	Nanumea		
4	Kalotu S	Nanumea		
5	Patulika L. Malaki	Nanumea		
6	Vaipuna E. Lopati	Nanumea		
7	Sefuteni Liki	Nanumaga		
8	Reete Talu	Nanumaga		
9	Patou Teakaka	Nanumaga		
10	Opeta Teakaka	Nanumaga		
11	Taulelei Lameko	Nanumaga		
12	Pai Teatu	Nanumaga		
13	Tulaga Ulusese	Nanumaga		
14	Luka Tokolau	Niutao		
15	Gatii Enosa	Niutao		
16	Taue Putu Teaukai	Niutao		
17	Pinoka Sailusi	Niutao		
18	Fiaola Toua	Niutao		
19	Taaga Taaga Sailusi	Niutao		
20	Leneuoti Maatusi	Nui		
21	Uele Paape	Nui		
22	Tili Italeli	Nui		
23	Talanisi Taloka	Nui		
24	Pina Tepaa	Nui		
25	Tamola T. Koum	Nui		
26	Letia Vatau	Nukufetau		
27	Foafanua Fapaologa	Nukufetau		
28	Suetusi Sateko	Nukufetau		
29	Iosia Vaega	Nukufetau		
30	Fatua Fanoiga	Nukufetau		

31	Line Kautapane	Nukufetau	Kautapane	Kautapane.
32	Don UEGOR	CAVON		Kautapane.
33	TERRY O'DONNELL	ADP PPTA		
34	R. WETERINGS	ADP PPTA		R.W.
35	Vik P. Schain	PMU		
36	Amelinda M. Tethu	WORKS		
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**WORKSHOP ATTENDANCE**

Date: 18/4/16

	NAMES	ISLAND	MORNING SIGNATURE	AFTERNOON SIGNATURE	
1	Tuilava Uni	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
2	Toai V. Tepou	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
3	Tofinga <i>Paitela</i>	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
4	Kalotu S	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
5	Patulika L.Malaki	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
6	Vaipuna E.Lopati	Nanumea	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
7	Sefuteni Liki	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
8	Reete Talu	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
9	Patou Teakaka	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
10	Opeta Teakaka	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
11	Taulelei Lameko	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
12	Pai Teatu	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
13	Tulaga Ulusese	Nanumaga	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
14	Luka Tokolau	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
15	Gatii Enosa	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
16	Taue Putu Teaukai	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
17	Pinoka Sailusi	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
18	Fiaola Toua	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
19	Taaga Taaga Sailusi	Niutao	<i>[Signature]</i>	\$170 <i>[Signature]</i>	7
20	Leneuoti Maatusi	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
21	Uele Paape	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
22	Tili Italeli	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
23	Tauanisi Taloka	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
24	Pina Tepaa	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
25	Tamola T.Koum	Nui	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
26	Letia Vatau	Nukufetau	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
27	Foafanua Fapaologa	Nukufetau	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
28	Suetusi Sateko	Nukufetau	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
29	Iosia Vaega	Nukufetau	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6
30	Fatua Fanoiga	Nukufetau	<i>[Signature]</i>	\$110 <i>[Signature]</i>	6





NANUMAGA KAUPULE

FAKAI OTE MALO

LOTOHONI

Phone: 688) 27005, Email: nanumagakaupule@gmail.com

Date: Thursday, 09 June 2016

To: Mr Taasi Pitoli  
Director of Marine  
Ministry of Communications and Transports  
Government Building  
Valaku, Funafuti  
Tuvalu

Subject: re; Nanumaga Boat harbour new site

Talofa;

E fakaoko atu ne aku ate ikuga ate Falekaupule o Nanumaga e uiga mote mataupu mai luga, e tela ko oti ne toe taviligina itena fonotaga mahina o Iuni 2016, ite ahotolu po 8<sup>th</sup> June 2016, ona ko tulaga loa kite mataupu e pela mote akoakoga tela ne kau atu a hui o fenua maise maua kiai, kae ne avatu ne laua ate mafuliga ote kogakoga kihe koga fou.

Ona ko manatu mo fakaaliga tau atu loa kite mafai o fakataunu ate manakoga ote fenua o maua ke fai muamua ko toe maanatu kiai ate falekaupule ke toe taumata kiai mote tulaga tena. Mai vaega kona ne toe maua ate avanoaga o toe taumata kae taviligina iloto ite fonotaga tenei o Iuni 2016, ne fakamafuli ai ate ikuga tena ne fakaoko atu ne laua ne kau atu kite akoakoga tena ne fai mote ADB fakatahi mote Kampane e fakafeagai mote design o Boat harbours.

Tela ne toe fakamafuli ate ikuga ate fenua aua e lavea ate taaua ote kogakoga muamua tela nei e tu loa iai ate ava (Existing Channel), kite fakafoliki nihi galuega e toe mafai o fai manafai ko kamata ate galuega, taaua ate pui puiga ote koga laukele tela e nohogiona nei ne tino ite vaitau nei tela e lahi ate fesoasoani ote ataikega tenei kite Boat harbour manafai loa e fakatu ite koga tenei e tu kiai ate ava. E uke nihi faitu lelei kola e lavea nei ne laua, tela ne mafai ai o mafuli ate ikuga mua a laua, ke toe fakafoki mai loa ate koga kite koga mua loa tenei e tu loa iai ate ava (channel)

Ona la ko mafaufauga mo fakaaliga kona, ko talia katoatoa ne te falekaupule o Nanumaga ke mafai ake la o fakailoa atu kite lua malu, me ko fakamafuli ate ikuga mua tela ne iku ke shift ate koga kite faitu ki toga ote fenua kae ke toe fakafoki mai loa kite koga teni loa e tu iai ate ava mua (existing Channel)

Fakamolemole e tena ate pogai ote fakailoaga, kae konei e fakamaoni atu ne matou mai lalo ate ikuga tenei ne fai ite fonotaga ate falekaupule mote mahina nei o Iuni 2016, ite ahotolu po 08 o Iuni 2016

Mr Reete T Maluui (Hui Tupu, Falekaupule Nanumaga)



Mr Pai Teatu

(Pulekaupule, Kaupule Nanumaga)



Fakafetai lahi



Sefutani Liki  
Secretary  
Kaupule Nanumaga



ENGLISH TRANSLATION OF LETTER FROM NANUMAGA KAUPULE

Date: Thursday, 09 June 2016

To: Mr. Taasi Pitoti  
 Director of Marine  
 Ministry of Communications and Transports  
 Government Building  
 Vaiaku, Funafuti  
 Tuvalu.

Subject: re; Nanumaga Boat Harbour New Site

Hello!

I hereby forward you the decision made by the Nanumaga Falekaupule on the above subject matter, which was re-discussed on this meeting of June, 2016 on Wednesday 8<sup>th</sup> June, 2016. This is specifically for the change of site put forward by our participants during that Funafuti Consultation.

It was due to suggestions and views towards the fulfilment of the original plan for Nanumaga to begin the Project, the members of the Falekaupule are now seeking for its re-consideration. Covering those issues in the deliberations of this meeting, June, 2016, the decision put forward in the Funafuti Consultation with ADB and the consulting firm who is doing the boat harbor design, by our island participants, is now to change.

The reason for the change of the decision is due to our sighting of the important aspects of the original passage excess (Existing Channel), lessening or minimizing other work when this project begin. It is crucially important for the settlement to receive the many benefits which this project can bring. The people are also seeing considerable benefits from changing the decision of the site to the existing channel.

Due to those thoughts and reasoning aired, the Falekaupule of Nanumaga is approving this notification to you that the decision made to shift the site to the southern end of the island is now to change to the current existing channel site.

Please, take note of that decision made by the Falekaupule during its meeting in June on Wednesday, 8<sup>th</sup> June, 2016 and hereby confirming by us:

Mr. Reete T Maluai (Hui Tupu, Falekaupule Nanumaga) .....

Mr. Pai Teatu (Pulekaupule, Kaupule Nanumaga) .....

Thank You

Sefuteni Liki  
 Seceretary  
 Kaupule Nanumaga

## Appendix B: Nukulaelae Minutes of Meeting Endorsing the Workboat Harbour Project (24-25 April 2016)

### TUV Outer Island Maritime Infrastructure Project

#### Minutes of Public Consultation in Nukulaelae


#### I. Introduction

1. **Venue:** Kaupule Office, Nukulaelae, Tuvalu
2. **Date:** 24-25 April 2016
3. **Attendants.** A full attendance list is in Attachment 1. Attendants include
  - Nukulaelae Pule Kaupule and Kaupule members,
  - Other Nukulaelae residents
  - Tuvalu government staff including Project Management Unit, and
  - ADB staff and Cardno team

#### II. Discussion Summary

4. **ADB staff** discussed the following.
  - Introduction of ADB
  - ADB's assistance to Tuvalu in the past
  - Principles of ADB's projects
  - ADB's financing allocation of Tuvalu in 2016-2019
  - Organization of Outer Island Maritime Infrastructure Project (OIMIP)
  - History of preparation of OIMIP
5. Cardno Team Leader discussed different options to improve maritime infrastructure in Nukulaelae including pro and cons of the following:
  - Options 1a and 1b to develop a workboat harbour about 500 meters south of the current landing point, either in near shore or in the middle of the reef.
  - Option 2 to improve the existing channel.
  - Option 3 to develop a workboat harbour at the south-west end of the island.
6. Secretary Kaupule introduced his idea of developing a boat harbour that can accommodate the government ship like Nivaga III. Cardno Team Leader explained about the cost of constructing such large boat harbour and current ADB's limited fund allocation. He further explained expandability of a workboat harbour to a larger boat harbour in the future.
7. Cardno Team Leader discussed engineering matters in relation to climate change, design criteria, wave analysis, options for facility structures, among others.
8. The women's group expressed their aspiration for a large boat harbour to safer transfer of passengers based on the past dangerous experiences. ADB staff responded that due to the current fund allocation, it is impossible to construct a large boat harbour in one project, but possible to design the workboat harbour to be expandable.
9. The south-west end of the island as a workboat harbour site is also good to assist fishing activities because it is close to the Community Fishing Center.

#### III. Site Visit




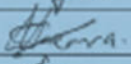
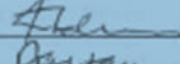
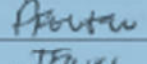
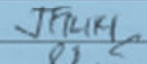
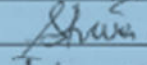
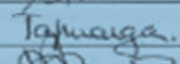

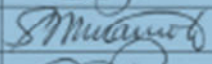

10. The participants visited the site for Option 3 and discussed about matters associated with a workboat harbour, including land ownership, possible treatment of the damping site, and the access road.

#### IV. Agreements

11. The participants agreed on the following for ADB OIMIP:

- (i) The project site to develop a workboat harbour to be at the south-west end of Nukulaelae's main island.
- (ii) The project scope to pursue will include, subject to further investigation and fund availability
  - dredging of a new channel,
  - constructing a workboat wharf, breakwaters, an access road, transit shed, an emergency shelter, a boat ramp, a mooring buoy, and other necessary facilities, and
  - provision of a truck with crane
- (iii) Nakulaelae community including Island Chiefs, Pule Kaupule, Kaupule members, women's, fisheries, and youth groups, and others, will coordinate well with Cardno and ADB team in preparing the project so that the project design will best suit with the community's overall needs.

Signed:

No	Name	Designation	Signature
1	Tui Tinian	Island Chief	
2	Galufi Moeava	Assistant Chief	
3	Noetaga Telava	Pule Kaupule	
4	Peleseti Folitau	Women's group	
5	Josh Filiki	Youth group	
6	Siale Liva		
7	Tapueliga Iosefa		
8	Dominc Legoe	Team Leader	
9	Shigehiko Muramoto	Project Officer	
10	Taasi Pitot	Director Marine and Port Services cum Project Director OIMIP	

Attachments

1. List of participants and attendance sheets
2. Presentation (provided in soft files)
  - (i) ADB
  - (ii) Cardno

Attachment 1

## List of Participants

Name	Designation	Contact Number
<b>Nukulaelae</b>		
Tui Tinian	Island Chief	25014
Gaiuafi Moesava	Assistant Chief	
Kalahati Kilei	Island Pastor	
Noataga Telava	Pule Kaupule	25035
Collin Namoliki	Secretary, Kaupule	25005
Saezaoa Tinian	Kaupule	25029
Tempei Tina Tali	Kaupule	25025
Semoina F. Tavits	Kaupule	25028
Falani Telava	Kaupule	25037
Luta Lake	Women's group	
Peleseti Foltau	Women's group	25011
Josh Filiki	Youth	
Milly Timō	Youth	
Auega Faaula	Fale Kaupule	
Pule Taata	Fale Kaupule	
Tapuaiga, I.	Fale Kaupule	25023
Siale	Fale Kaupule	
Pule T.	F. K. P.	
Luta L.	Fafule	
<b>Ministry of Home Affairs and Rural Development</b>		
Namoliki S. Nemia	Hon. Minister	
<b>Ministry of Communication and Transport</b>		
Mr Taasi Pitōi	Director Marine and Port Services cum Project Director OIMIP	taasi.pitōi@gmail.com
Mr Vete P. Sakaio	Dy Project Manager	vete2015engineers@gmail.com
<b>ADB</b>		
Mr Shigehiko Muramoto	Project Officer	<a href="mailto:smuramoto@adb.org">smuramoto@adb.org</a>
Ms Jean Williams	Sr. Environmental Specialist	<a href="mailto:williams@adb.org">williams@adb.org</a>
<b>Cardno</b>		
Mr Dominic Legoe	Team Leader	<a href="mailto:dom.legoe@gmail.com">dom.legoe@gmail.com</a>
Mr Rhys Thomson	Deputy Business Unit Manager	<a href="mailto:rhys.thomson@cardno.com.au">rhys.thomson@cardno.com.au</a>
Mr Rene Weterings	Environmental Specialist	<a href="mailto:pecfor@xtra.co.nz">pecfor@xtra.co.nz</a>
Ms Lulu Zuniga-Carmine	Social Specialist	<a href="mailto:luzuniga2004@yahoo.com">luzuniga2004@yahoo.com</a>

## **Appendix C: Nukulaelae Meeting Minutes (May 2016)**

### **TA8925-TUV: OUTER-ISLANDS MARITIME INFRASTRUCTURE PROJECT (OIMIP), TUVALU**

#### **MINUTES OF CONSULTATIONS ON NUKULAE LAE ISLAND TO DISCUSS PREPARATORY NEEDS FOR THE CONSTRUCTION OF A PORT HARBOR ON THE ISLAND.**

MEETING 1 10.30AM, TUESDAY 31 MAY, 2016

VENUE: KAUPULE CHAMBERS

Attendees: Project team (Vete P. Sakaio [PMU], Puscinelli Laafai, Jo Buldeski)  
 Taasi Pitoi (Director of Marine, MCT)

- Nukulaelae Pule Kaupule and Kaupule members (see attached attendance sheet, Attachment A)

#### **SUMMARY RECORD OF DISCUSSIONS**

1. Pule Kaupule welcomed participants, especially the visiting team, noting the visit is most welcomed as – since the first project team visit the month before (April) – the people have really looked forward with hopes for the quick implementation of the project on their island.

He then invited the team to lead the discussions.

2. Vete Sakaio responded on behalf of the visiting team and highlighted the urgent need to finalise a decision on the site for the project (port harbour) as time is of the essence for preparing the project document to the ADB. He then led the discussions through the order of the presentation (hard-copy hand-outs) he had prepared.

2.1. Recapping on agreements from the April visit, the participants confirmed the consensus on:

- a. The project to be located at the south-west end of the main settlement Fangaua;
- b. The project scope, subject to further investigation and funding availability is to include –
  - i. Dredging of a new channel;
  - ii. Construction of a workboat wharf, breakwaters, an access road, transit shed; emergency shelter; a boat ramp; a mooring buoy; a crane truck and other necessary facilities;
  - iii. The entire island community, had pledged total support and commitment for the project.
- c. Vete updated the meeting regarding the emergency shelter and mooring buoy, that they have been removed from the project because of the lack of funds to cover all, and the fact that they alone cover most of the funds for the other necessary smaller items.

2.2. Vete then focused discussion on the 3 options for possible sites for the project 1A, 1B and 1C that Dominic provided. He explained the main considerations between the 3 options: potential for future expansion/development and related construction cost.

- 1A has limited potential and slightly expensive in terms of construction;
- 1B has some potential for future development but also slightly expensive in terms of construction;
- 1C has good potential for development and also slightly cheaper construction costs than the other options.

The project team's preference for Option 1C was also made clear to the meeting.

- Two women spoke in support of Option 1C. They were backed up by two male speakers and the Pule Kaupule.
- One man explained that site 1C normally has rough waves and therefore quite dangerous.
- Male speakers who originally supported the option 1C responded saying that all sites are subject to strong and huge waves but option 1C would be better as it has a shorter channel therefore easier for boats to quickly get through the entrance to calmer waters up-channel towards the landing.

After further inconclusive discussions about the dangers of large waves along the breakers of the 3 options, and other details of the proposed shore facilities, the Pule Kaupule advised that it would be best to visit the sites first then come back to finalise a recommendation to take to the Falekaupule – council of chiefs. This was agreed and every one made their way to the sites.

At the sites all agreed to the general layout of the 3 options against each option proposed in the drawings. The men especially brainstormed the issues of available land for shore facilities, location of the rubbish dump, access road and grave sites etc.

After the site visit the participants reassembled at the Kaupule chambers at about 1.30pm and discussed the details of the project infrastructure:

3. The Transit Shed was approved, and preferences expressed included the following

- a) Size to be 15m x 10m and generally open;
- b) have a partial enclosure for sick/elderly/patients for transport to hospital in case of inclement weather;
- c) A rainwater tank or other source of water and toilet facility;
- d) A high clearance to allow crane truck park when not in use;
- e) Conform to CRPD requirements (ramp for disabled wheelchairs etc.)
- f) Have a counter for use by women, for example for selling drinks and snacks or markets upon boat arrivals and departures
- g) A warehouse section that is lockable. If not possible as part of the transit shed, the participants would ideally like to see a separate warehouse to be constructed to cater for bulky building materials like cement, concrete blocks, timber and steel products etc. Participants all agreed to the need for such a warehouse and assured that land will be made available for a warehouse to be built.

4. Ramp for fishing boats. This is also totally supported with the use of Fleximat to be trialled/introduced but certainly not Mobi Mats that need tractors to fold and unfold.
5. Parking area for fishing boats. Also supported and agreed of an area of approximately 20m x 10m or smaller would be sufficient.
6. Access road. Pule Kaupule acknowledged that community asked for the complete road from the village to the end of the islet, and that ADB to date declined as too expensive and not closely aligned to the

objective of the project. He asked if the roads to the fish market centre and the primary school could be considered to be prioritised for partial improvement.

7. Regarding the use or place to store the dredged material, the following options/issues were discussed:-

- i. Possibility of a stone crusher to crush the spoils for construction aggregate;
- ii. Use as coastal protection material. An existing site that needs protection material was recommended. There was also general agreement to keep them somewhere until perhaps a crusher becomes viable or there is urgent need for coastal protection around the main settlement.
- iii. Capt. Taasi Pitoi reminded and cautioned the participants to consider this issue carefully as during the Ship to Shore Project the question of land space to stockpile the dredged material became a problem. And to use it for coastal protection may result in the material being carried by storm surges onto the land possibly causing damage to houses.

The final consensus was to use the material for coastal protection (when dredged materials is too much to be deposited on Land). However, when dredged material from passage is used for coastal protection, the coastal protection is to be an engineered design structure otherwise the materials will become flying projectiles shooting off from the coast as this had happened in Nui Island during TC Pam.

- b. Quality Coral. Participants were asked about the quality of the coral in the vicinity of the project area. Participants say marine environmentalists believe Nukulaelae is composed of coral derived from polyps that is not quality coral.

8. Crane truck. The preferred crane truck size is 3 Tons.

9. Additional Issues discussed:

- a. Longshore drift: islanders reconfirmed the fact that the most noticeable drift occurs from the northern end of Fangaua from a fast flow from within the lagoon around the tip of the islet and down south on the ocean reef flat, but dissipates as it approaches the project sites area.
- b. Site for camp of the construction company's workers. The general agreement was to locate it next to the primary school.
- c. Navigation aids. To be positioned along the channel but on the reef flat but at a safe distance away from the edge of the channel.
- d. Vertical Levels. None experienced on the island.
- e. Levels of sand banks etc. These are hard to determine as the natural shift of sand occurs quite frequently and in different locations.
- f. Protection wall around the jetty shore end. Explained that a protection wall will run on either side of the jetty (abutment?) for some 50m or more, depending on the topography of the site.
- g. At Site 1C there is no need to relocate the rubbish dump.
- h. An old grave could possibly be in the leased area for 1C, as well as an abandoned home that is not suitable for use. The grave was discussed with the land owner and he is happy for it to be moved, as it has been 10 years and they will wish to relocate the bones closer to their home as is the cultural process.
- i. There is no danger to the Critically Endangered Hawksbill turtle as they cannot reasonably be expected to lay eggs on this rocky side, and amidst all the human activity around the area.
- j. There is general concern about cutting too many trees.

- k. Community would be happy if someone could install a buoy for use by government boats in the future.

10. New infrastructure items requested by the community:

- a. Solar lights to be installed on the wharf/jetty as well as on shore facilities.
- b. Fencing of the leased shore area to guarantee some privacy and avoid theft of materials.

AFTER THIS SECOND MEETING THE GROUP PROCEEDED TO THE COMMUNITY HALL FOR A MEETING OF THE FALEKAUPULE TO DECIDE ON THE SITE FOR THE PROJECT.

**Meeting 3**

Venue: Avafoa 3 Falekaupule

Time: 1500 hrs.

Present: Island Chief, the Deputy and about 18 heads of households that also include the Chief Kaupule and Kaupule members.

In attendance: Vete Sakaio, Taasi Pitoi and Pusinelli Laafai

Proceedings

The Pulefenua (island chief) welcomed all members present and asked for their cooperation in resolving the issue of agreeing to the site for the project. He introduced the project team and asked Vete to assist elaborate on the mission.

1. Vete paid his respects then summarized the 3 options, but also noting in particular the project's preference for site 1C.
2. The Pule Kaupule supported and with his knowledge of the landowners around Site 1C, pointed out the landowner by name, which made referencing to each site easier for the other elders who did not participate in the site visit etc.
3. Five elders spoke in support of 1C as it is deemed as the most appropriate by the contract engineers (Cardno).
4. One young elder reflected on possible environmental damage from the longshore drift and suggested a long jetty straight down from the existing ramp in the village, to connect to a harbour 400 metres away on the reef flat. [The idea can be attributed to a designed sketch proposed by Dr. Uschi Kaly for this particular area.
5. Other elders believe that the longshore drift dies out long before the south-end area for the project at 1C, therefore cannot have any environmental impact than it now has along the shore towards the main settlement.
6. A few more elders spoke in support believing that this area has been confirmed by environmentalists (principally Dr. Kaly) as the only option for construction of a harbour for Nukulaelae.
7. The island chief summed the discussion and put the motion for a vote by show of hands. **The overwhelming result was 17 votes.**
8. The Pulefenua thanked everyone for their participation and contribution, and reminded the elders that it is now also their responsibility to cooperate in making the project a success.

No other business was called and the meeting ended at approx 1530hrs.



### Appendix D: Procedures for Leasing Land for Project Site by Government

Stage of Lease Process	Institution responsible for Process	Projected Cost	Frequency
<b>Stage 1</b>  <b>Application to DOL to start the lease process.</b> Government agency to send a request letter to DOL.  Initial Meeting  Parties interested in leasing meet and discuss their requirements.	Ministry of Civil Aviation and Transport (MCT)  Department of Lands (DOL)	No costs involved.	Once
<b>Stage 2</b>  <b>DOL informs Kaupule of project and scope.</b>	Lands Court	The fee is \$10 administration cost.	Once
<b>Stage 3</b> <b>Survey &amp; Mapping of Proposed Lease Area</b>  Leasing parties present a draft MoU or similar to the Lands Court Clerk (on all islands including Funafuti). The Lands Court will appoint time to visit the proposed lease site with the parties.  After the visit, the Lands Court will allow sometime, normally a week for any claims to the proposed lease. After expiry of that allowance the Court will invite the Dept of Lands and Survey to provide proper legal boundaries for the lease 'a lease plan'.	Lands Court  Department of Lands	For outer islands this may cost something in fares and allowance for surveyors, as opposed to cases on the capitol Funafuti. These costs are clamable after completion of a case.	
<b>Stage 4</b> <b>Lease Agreement preparation</b>  The 'lease plan' is forwarded by the Lands Court to a legal practitioner or government attorneys to produce the lease agreement (normally a template exist in he Office of the attorney General).	Lands Court  Attorney General's Office		
<b>Stage 5</b>  <b>Signing of the Agreement</b>  The parties are summoned to sign the agreement, after having sighted the document before this signing.	Lands Court		

<b>Stage 6</b> <b>Payment of Lease</b>	Department of Lands & Ministry of Finance		Annually
<b>Stage 7</b> Payment of Annual Land Rent by Lessee to Lessors	Payment by Lessee to Lessors.	AUD 3,000 per acre annual rent	Annually

### Appendix E: Template for 3<sup>rd</sup> Party Verification Letter

We provide the independent verification of the Memorandum of Agreement (MOA)/Lease Agreement signed on \_\_\_\_\_(date) between the Kaupule (on behalf of the Tuvalu Government) represented by the \_\_\_\_\_and landowners of -----  
------(address of landowners) on the use of \_\_\_\_\_acre of land for \_\_\_\_\_ under the \_\_\_\_\_ (the Project) that (i) the landowners support the Project and its activities and have agreed to provide affected land through lease; (ii) consultations and negotiations with landowners have been undertaken meaningfully, freely and in good faith and the landowners have made informed decisions on use of land, and (iii) terms and conditions of the MOA/Lease Agreement have been explained to and understood and agreed by the landowners. The verification is based on our independent:

- Validation that consultations with the landowners have been undertaken and that they were provided with relevant information as per the Due Diligence Report and other project documents;
- Validation that the agreement is voluntary and that the landowners have fully understood and agreed to the agreements' terms and conditions;
- Validation that the landowner representatives signing the agreement duly represent the landowners or the lawful owner/s of the land;
- Validation that landowners or any other users/occupants will not experience major adverse impacts from land use by the project;
- Validation that any minor impacts have been identified, sufficiently addressed and documented by the project;
- Validation that compensation (if required by MOA) represents a fair and reasonable replacement cost based on market prices; and
- Validation that the agreement is in compliance with applicable laws of Tuvalu as well as safeguard requirements stipulated in ADB SPS (2009).

Signature:

Date:

Name of Verifier:

Official Stamp (if applicable):

**Appendix F: Photographs (available upon request from ADB)**

**Appendix G: Tuvalu Native Lands Act**



**Tuvalu**

**NATIVE LANDS ACT**

**2008 Revised Edition**

**CAP. 46.20**



Tuvalu

# NATIVE LANDS ACT

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**29 Amendment of Lands Code**

- (1) The Minister at the request of a Kaupule within whose area of authority an island wholly or partly lies may by order amend the Lands Code in respect of its application to that island.
- (2) The Minister shall cause a copy of every order made under this section to be laid before the Parliament at its sitting next following the date on which the order comes into operation.

**PART VI - LEASES****30 Leases and sub-leases invalid until approved and registered**

No lease or sub-lease of any native land shall be valid until it has been approved and registered in accordance with the provisions hereinafter contained.

**31 Approval and registration of certain leases and sub-leases**

- (1) A lease or sub-lease of native land, other than a native lease, shall require the approval of the Minister.
- (2) Any native or non-native who desires to obtain a lease of native land, other than a native lease, shall submit such lease for the inspection of the court of the island in which the land the subject of the lease is situate.
- (3) A lease of native land shall not be approved by the Minister unless the court of the island in which the land is situate has confirmed –
  - (a) that the land is the property of the lessor;
  - (b) that the lessor is not prohibited under the Lands Code from alienating the land for the term proposed; and
  - (c) that the lessor will be left with sufficient land to support himself and his dependents:

Provided that paragraph (c) shall not apply to any island or place designated by notice by the Minister under this subsection.

- (4) The Minister shall also satisfy himself:
  - (a) that the terms of the lease or sub-lease are not manifestly to the disadvantage of either party;
  - (b) that the agreement conforms with the requirement of regulations made under section 63; and
  - (c) that the fees prescribed have been paid.
- (5) Upon these conditions being fulfilled the Minister shall cause a copy of such lease or sub-lease to be registered in a book to be kept for that purpose and



known as the Leases Register or Sub-Leases Register as the case may be and shall cause an endorsement to be made on the lease or sub-lease recording the approval, the registered number and the date of registration.

### 32 Approval of native leases

- (1) Any native desiring to obtain a native lease shall submit the proposed lease to the court of the island in which the land the subject of the native lease is situate.
- (2) On being satisfied that the land to be leased is the property of the lessor and that the terms and conditions of the lease are fair both to the lessor and the lessee and that if the lease takes effect there will be sufficient land left to the lessor to support himself and his family, the court shall approve the lease and thereupon the president shall cause the registrar to enter a copy of the lease in the court register of native leases and to make an endorsement upon the lease to the effect that it has been approved and registered.

### 33 Term and extent of lease and sub-lease

No lease or sub-lease shall be granted for a longer period than 99 years or of any parcel of land of greater extent than 10 acres without the approval of the Minister.

### 34 Transfer of lease and sub-lease

No lease or sub-lease granted under the provisions of this Act, other than a native lease, shall be assigned or transferred without the approval of the Minister in the case of leases or sub-leases granted under section 33; and any such assignment or transfer approved as aforesaid shall be registered in the Leases Register or Sub-Leases Register as the case may be.

### 35 Transfer of native leases

No native lease shall be assigned or transferred without the approval of the court of the island in which the land the subject of the lease is situate.

### 36 Implied covenants by lessee

In any lease or sub-lease there shall be implied unless expressly stated to the contrary the following covenants by the lessee, that is to say —

- (a) that he will pay the rent thereby agreed at the times therein mentioned and all rates and taxes which may be payable in respect of the property during the continuance of the lease or sub-lease;