



Stocktake of Existing and Pipeline **Waste Legislation:** **NIUE**



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About this Report

Introduction and Acknowledgements

1. This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

Methodology

4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
5. Particular databases drawn for the research included those maintained by PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries.
6. Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.
7. For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

Outline of Report

8. This report contains the UoM team's findings relating to:
 - A **stocktake of the existing legislative environment for waste management** in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
 - A **stocktake of pipeline legislative initiatives** in the participating countries, including an assessment of their impact and approximate timeframe for development.

9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
 - A brief overview of the legal system and relevant sources of law;
 - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
 - A summary of available information on pipeline legislative initiatives.
11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

Legislative Summary

Overview of the legal system

1. Niue is a self-governing country in free association with New Zealand. It is a coral island with an area of 260 square kilometres and a resident population of around 1,500 people.
2. Niue became a British Protectorate from 1901 and was then annexed to New Zealand in 1901. It was part of the Cook Islands dependency until the Niue Act 1966 (NZ), which provided for increased self-government.
3. Niue achieved independence on 19 October 1974 and has sovereign responsibility for its internal affairs. New Zealand retains responsibility for external affairs and defence at the request of the Government of Niue.
4. Niue is a sovereign state, a constitutional monarchy and a parliamentary democracy with a Westminster system of government. The Head of government is the Prime Minister. There is a unicameral parliament and a three-tiered court system. Thirteen villages on the island have elected village councils.
5. Niue has a common law legal system. Sources of law are the Constitution, Acts of the Legislative Assembly, regulations, Niuean custom and the common law of Niue. Article 33 of the Constitution recognises customary land title and section 23 of the Niue Amendment Act (No 2) 1968 prescribes that Niuean custom in relation to land is to be recognised.

Legislation impacting waste governance

6. Waste management issues in Niue are governed under general environmental and public health legislation. There is no specific legislation for waste management. Given the lack of natural water sources on the island, another important piece of legislation relevant to preventing water pollution is the Water Act 2012.
7. An analysis of the national waste situation was undertaken in the National Integrated Waste Management Strategy 2010-2015. This was developed after a previous Waste Management Plan from 2000 could not be fully implemented due to insufficient resources. Implementation of the National Integrated Waste Management Strategy and accompanying Action Plan are to be coordinated by the Niue Department of Environment. The Action Plan refers to the Environment Department taking the lead in establishing a body to oversee implementation of the Strategy.
8. The following tables provide a stocktake of the existing legislative environment for waste management in Niue, located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.
 - Table 1 details the legislation for waste management and governance in Niue, found through the UoM's stocktake research.
 - Table 2 lists the key policy instruments and reports.
 - Table 3 notes the relevant departments with responsibilities for waste management.

Table 1: Legislation impacting waste governance in Niue

Legislation	Regulations
<p>Environment Act 2015</p> <p>General environmental protection legislation including provision for development consents for certain activities affecting environment, including those related to waste disposal, activities affecting freshwater supplies and air quality or the atmosphere. Carrying out these activities without a development consent is an offence</p> <p>Section 15 deals with disposing of waste or other matter, and removal and disposal of asbestos. Method of disposal must be authorised by Act or Regulations or have development consent.</p> <p>Section 38 lists the functions of the Environment Department which include design and implementation of programs for waste management and pollution control</p> <p>Under section 39 the Department also has functions relating to MEAs and their implementation in Niue.</p> <p>Section 49 authorises environment officers to seize and remove certain wastes, including vehicles, vessels, trailers, satellite dishes, solar panels, gas cylinders, whiteware or e-ware.</p> <p>Section 53 gives general powers to Cabinet to make regulations.</p>	<p><u>Reg 2017-01a Environment (Development Consent & EIA) Regulations 2017</u></p> <p>Schedule 2 sets out a number of waste-relevant activities that require development consent. This includes landfills, recycling or collection stations, drainage or disposal systems, wastewater and sanitation schemes, and human waste disposal systems.</p>
<p>Mining Act 1977 (as at 2006, vol 2, p.1085)</p> <p>Creates the Office of Chief Mining Inspector. Regulates mining wastes and empowers cabinet to make relevant health and safety regulations.</p>	<p>None identified.</p>
<p>Pesticides Act 1991 (as at 2006, vol 3, p.1405)</p> <p>Section 4 establishes a Pesticides Committee including the Director of Health, whose functions and powers include to 'promote the efficient, prudent and safe use of pesticides by the public generally'.</p>	<p>None identified.</p>
<p>Public Health Act 1965 (as at 2006, vol.3 p.1491)</p> <p>Specifies sanitation requires for food premises, buildings and dwellings and creates related offences and inspection powers.</p>	<p>None identified.</p>
<p>Village Councils Act 2016</p> <p>Section 18 specifies the functions of village councils which include provision of health and sanitation services, services for the purposes of establishing and maintaining village cleanliness and for the prevention of pollution of water sources and land resources.</p>	<p>None identified.</p>

<p>Water Act 2012 (as at 2012) N.B. Environment Act 2015 (amends Water Act s 54) Objective to provide for sustainable water management on Niue, including prevention of pollution.</p> <p>The Environment Director has responsibility for water quality and its protection including functions related to licensing, inspecting, overseeing and regulating activities that have the potential to pollute water.</p> <p>Section 38(1) prohibits the disposal of any matter underground by means of a water bore, or in such a way as may pollute any groundwater. 38(2) requires activities listed in Schedule 2(e.g. waste collection and disposal sites and facilities, sewerage treatment and disposal operations) to apply for a water pollution control licence. Penalties are specified for contraventions.</p> <p>Section 50 on disposal of waste water provides the outlet from sinks, basins, washing machines or swimming pools or water catchment on any premises shall be fed into a soak hole constructed to the satisfaction of the Environment Director or shall be disposed of in such other manner as the Environment Director may require.</p>	<p><u>Reg 2017-01 Water Regulations 2017</u></p> <p>Specifies information requirements for water pollution licences.</p>
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Table 2: Policies and reports impacting waste governance in Niue

Some policies and reports are not available online or are available only on a password protected website maintained by SPREP. The UoM team have requested access to these documents from SPREP.

Policy	Description
Solid Waste Strategy 2006	Not available online.
Infrastructure Plan Section N – Solid Waste 2016 Asset Management Plan	Not available online.
Infrastructure Plan Section F – Water and Wastewater 2016 Asset Management Plan	Not available online.
Drinking Water Safety Plan 2009	Discusses risks to water safety from wastewater, industrial waste, agricultural waste and seepage from piggeries, septic tanks and dumpsites.
Food and Nutrition Security Policy 2015-2019	Table 2 outlines the contributions of the Ministry of Infrastructure to food utilisation (through water and sanitation) and food stability (through water and sanitation, and waste management). Policy Area 3 – Management and use of natural resources identifies revised and implemented national water and sanitation and waste management plans as an expected output.
Health Strategic Plan 2011-2021	Strategic Action 3.4 (‘Promote the delivery of effective and efficient pharmacy services) highlights disposal of health waste as a goal in table 5 and table 3.
National Biodiversity Strategy and Action Plan 2015	Theme 5 is ‘Management of waste and pollution’, Theme 6 is ‘Management of water resources’.

	Improvement of waste management and control of pollution a consistent goal across themes. Note: Refers to outdated Environment Act 2003.
National Implementation Plan for Stockholm Convention, 2005	Submitted in fulfilment of Niue's obligations as a party to the Stockholm POPs Convention.
National Integrated Waste Management Strategy 2010-2015 (copy of accompanying Action Plan on file with SPREP and UoM team)	Includes legislative/regulatory/institutional overview, assessment of situation as at 2010, with sections on waste reduction, reuse, recycling, collection and disposal. Action Plan includes Priority Action to 'consult with the Crown Law Office to identify a way forward in developing the necessary waste regulations as identified in the report: <i>Analysis of environment-related legislation in Niue.</i> ' Note: Refers to outdated Environment Act 2003 and Village Councils Act 1967.
National Strategic Plan 2016-2026	'National Development Pillar' Environment and Climate Change includes statements on Waste Management and Pollution.
Sustainable Coastal Development Policy 2008	Goal 3 on p 15 is 'Pollution Control and Waste Management', including objectives and action strategies. Note: Refers to outdated Environment Act 2003.

Reports	Description
Analysis of environment-related legislation in Niue (Powell IWP-Pacific report)	Discusses transboundary movement of hazardous wastes noting lack of laws in Niue for this purpose. Outlines options for legislative reform.
Niue SOE Final 2019	Not available online.
State of Conservation Report – Niue	Not available online.
Guidelines showing the EIA process in Niue	Not available online.
PacWaste Project: Asbestos Report for Niue 2015	Not available online.
Fifth National Report to the Convention on Biological Diversity 2014	Impacts of waste dumps discussed under heading 3.5 Pollution as a main threat to biodiversity in Niue. Under heading 8, 'Solid and Hazardous Wastes and Pollution' is one of seven strategies within 'Environment' goal of Niue's National Integrated Strategic Plan 2009-2013. Target 8 on page 25 is to bring pollution to levels that are not detrimental to ecosystem function and biodiversity by 2020.
Institutional Arrangement for Waste Management in Niue 2018	Outlines responsibilities of various government departments and ministries relating to different types of waste.
Niue Country Report from Seventh Regional 3R Forum in Asia and the Pacific	Report on 3Rs in Niue (reduce, reuse, recycle). Discusses reduction and reuse of municipal solid waste, increase in recycling, a goal of 'zero waste', management of e-waste/healthcare/hazardous waste.
Niue Second National Communication Relating to the United Nations Framework Convention on Climate Change 2014	Emissions from waste sector discussed at p 42. Waste management and protection of environment from waste identified as priority. Note: Refers to outdated Environment Act 2003.
PacWaste Hazardous Waste Country Profile: Niue 2016	Report by SPREP PacWaste project on healthcare, asbestos and e-waste proposed actions and impacts.

PacWaste Healthcare Waste Baseline Report for Niue 2014	Report on healthcare waste management structure in Niue, identification of key issues, options analysis and recommendations. Note: Refers to outdated Environment Act 2003.
Review of Natural Resource and Environment-Related Legislation: Niue (SPREP) 2018	Overview of environment-related legislation in Niue as of January 2018. Includes section on waste management and pollution.
Sewage disposal system available in Niue 2011	Excel data on prevalence of various forms of sewage disposal systems in Niue.
Sustainable Integrated Water Resources and Wastewater Management in the Pacific Island Countries: Niue 2007	Report on various forms of waste that affect Niue water supply and recommended measures to manage impacts. Note: Refers to outdated Environment Act 2003 and Water Act 1996.

Table 3: Government departments with waste responsibilities in Niue

Government departments	Responsibilities
Department of Environment, Ministry of Natural Resources	Administers the Environment Act 2015, including designing and implementing, in collaboration with other departments where relevant, programs for waste management and pollution control. Under the Water Act 2012 s 12(2), the Environment Director may cause a program of investigation and monitoring of water quality to be prepared, which may provide for the collection, collation and analysis of data including, without limitation, the quality of water resources.
Office of Chief Mining Inspector	Role created by the Mining Act 1977.
Department of Health, Ministry of Social Services	Administers the Pesticides Act 1991, Public Health Act and has functions under the Water Act 2012. Under the Water Act 2012 s 12(3), the Health Director may cause a program of investigation and monitoring of public water supply quality to be prepared, which may provide for the collection, collation and analysis of data including, without limitation, the quality of water in the public water supply system.
Department of Public Works	Functions under the Water Act 2012 (as amended). Under s 12(1), the Public Works Director may cause a program of investigation and monitoring of water resources to be prepared, which may provide for the collection, collation and analysis of data including, ... (c) any other matters in connection with the availability of groundwater or its suitability for use or its protection from depletion, wastage or pollution of water resources.
Department of Agriculture, Forestry & Fisheries, Ministry of Natural Resources	Responsibility for the Stockholm Convention and Waigani Convention implementation

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management in Niue, summarised in Table 4 below.
2. Information on these activities was obtained primarily from the desktop research and the online survey. The UoM team hopes to obtain further information on pipeline activities through interviews with in-country stakeholders.
3. As detailed further in the concluding section of this report on MEAs, Niue is currently party only to the Stockholm and Waigani Conventions. It is not a party to the Basel, Minamata or Rotterdam Conventions but this has been identified as a key priority for 2020. The Action Plan accompanying the National Integrated Waste Management Strategy 2010-2015 (NIWMS) also refers to a priority action of developing waste regulations to address the transboundary movement of hazardous wastes impacting Niue.
4. A Niue Waste Recycling facility was to be built and be operational by the end of 2019. The intention is for this facility to begin with glass bottles and PET plastic bottles and then expand to other types of materials e.g. steel and aluminium cans, paper and cardboard, e-waste, lead-acid and lithium batteries and end-of-life vehicles. It is not clear what legislative framework, if any, is in place to support this activity.
5. Like many other Pacific Island nations, Niue is introducing a ban on single-use plastic bags, straws and polystyrene boxes. News reports indicate this commenced on 1 July 2019. These reports refer to 'practical measures' being taken to phase out plastic bags, although mention has also been made of introducing the ban through regulations (as opposed to new legislation).

Table 4: Pipeline activities for Niue

Pipeline activities	Description	Timeframe
Ratification of MEAs	Niue is currently not party to the Basel, Minamata and Rotterdam Conventions. If ratification proceeds, national implementing legislation would be necessary, such as waste regulations for hazardous waste shipments identified as a priority in the Action Plan accompanying the NIWMS.	Key priority for 2020.
Niue Waste Recycling Facility	Recycling facility for glass and PET bottles, extending to other wastes. Unclear whether supporting legislation in place.	Due to be operational end of 2019.
Ban on single-use plastics	Prohibition on use of single-use plastic bags, straws and polystyrene boxes.	<u>Reported</u> to have commenced 1 July 2019 but no supporting regulations identified online.

Stocktake of Relevant Multilateral Environmental Agreements

1. The relevant multilateral environmental agreements for the stocktake were the:
 - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
 - Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
 - Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
 - Minamata Convention on Mercury (Minamata Convention); and
 - Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

2. The Table below provides details of the membership of Fiji in these MEAs. Specifically, it lists:
 - The relevant MEAs to which Fiji is party and the date the MEA was in effect;
 - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
 - Details of any implementing legislation or policies for the relevant MEA.

Table 5: MEAs and implementing legislation

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
Stockholm Convention	1 Dec 2005	Mr Haden Talagi Director, Environment Department P.O. Box 80 Alofi, Niue Island Phone: +683 4021 or 4011 Email: haden.talagi@mail.gov.nu	No specific implementing legislation but see National Implementation Plan for Stockholm Convention 2005.
Waigani Convention	21 Aug 2003	Mr Haden Talagi Director, Environment Department P.O. Box 80 Alofi, Niue Island Phone: +683 4021 or 4011 Email: haden.talagi@mail.gov.nu	No specific implementing legislation.
Basel Convention	Not party		
Rotterdam Convention	Not party		
Minamata Convention	Not party		



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