About this Report

UNDP has commissioned ITP consultant, Mr Joe Wyder to undertake the *Nauru Energy Road Map (NERM) Review* assignment.

This document is part of this assignment and follows on from the updated NERM 2018 to 2020.

Contacts

ITP: Joe Wyder

UNDP Project Manager: Thomas Jensen

Cover Photo

The Nauru Utilities Corporation (NUC) power house and office is located at Aiwo. The sign includes their vision ‘Makur Dogin Naoero’ - working for Nauru.

Photo credit: ITP

Prepared by:

**ITP Renewables (ITP)**

| PO Box 6127 | O'Connor ACT 2602 | L1, 19 Moore Street |
| Australia | | Turner, Canberra |

| Ph: 61-2 6257 3511 | Fx: 61-2 6257 3611 |

www.itpau.com.au

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# LEGISLATIVE GAP ANALYSIS

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**Glossary**

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<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>AUD</td>
<td>Australian Dollar</td>
</tr>
<tr>
<td>CIE</td>
<td>Department of Commerce, Industry and Environment</td>
</tr>
<tr>
<td>DoA</td>
<td>Department of Agriculture</td>
</tr>
<tr>
<td>DoF - PAD</td>
<td>Department of Finance – Planning and Aid Division</td>
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<td>DoJ</td>
<td>Department of Justice</td>
</tr>
<tr>
<td>DoT</td>
<td>Department of Transport</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GIZ</td>
<td>Deutsche Gesellschaft für Internationale Zusammenarbeit</td>
</tr>
<tr>
<td>GoN</td>
<td>Government of Nauru</td>
</tr>
<tr>
<td>IPP</td>
<td>Independent Power Producer</td>
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<tr>
<td>IRENA</td>
<td>International Renewable Energy Agency</td>
</tr>
<tr>
<td>ITP</td>
<td>IT Power Australia, trading as ITP Renewables</td>
</tr>
<tr>
<td>kl</td>
<td>kilolitres</td>
</tr>
<tr>
<td>kW</td>
<td>kilowatt</td>
</tr>
<tr>
<td>kWh</td>
<td>kilowatt hour</td>
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<tr>
<td>LGA</td>
<td>Legislative Gap Analysis</td>
</tr>
<tr>
<td>LPG</td>
<td>Liquid Petroleum Gas</td>
</tr>
<tr>
<td>MDG</td>
<td>Millennium Development Goals</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt</td>
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<tr>
<td>MWh</td>
<td>Megawatt hour</td>
</tr>
<tr>
<td>NEPF</td>
<td>National Energy Policy Framework</td>
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<tr>
<td>NERM</td>
<td>Nauru Energy Road Map</td>
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<tr>
<td>NGO</td>
<td>Non-governmental Organisation</td>
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<tr>
<td>NRC</td>
<td>Nauru Rehabilitation Corporation</td>
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<tr>
<td>NSDS</td>
<td>National Sustainable Development Strategy</td>
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<tr>
<td>NUA</td>
<td>Nauru Utilities Authority</td>
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<tr>
<td>NUC</td>
<td>Nauru Utilities Corporation</td>
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<tr>
<td>ODA</td>
<td>Overseas Development Assistance</td>
</tr>
<tr>
<td>PPA</td>
<td>Pacific Power Association</td>
</tr>
<tr>
<td>PSC</td>
<td>Project Steering Committee</td>
</tr>
<tr>
<td>PV</td>
<td>Photovoltaic</td>
</tr>
<tr>
<td>RE</td>
<td>Renewable Energy</td>
</tr>
<tr>
<td>RO</td>
<td>Reverse Osmosis</td>
</tr>
<tr>
<td>RONPHOS</td>
<td>Republic of Nauru Phosphate Company</td>
</tr>
<tr>
<td>RPC</td>
<td>Regional Processing Centre</td>
</tr>
<tr>
<td>SE4ALL</td>
<td>United Nations Sustainable Energy for All initiative</td>
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<tr>
<td>SPC</td>
<td>Secretariat of the Pacific Community</td>
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<td>SPREP</td>
<td>Secretariat of the Regional Environment Programme</td>
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<tr>
<td>TWGEN</td>
<td>Technical Working Group on Energy in Nauru</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNFCCC</td>
<td>United Nations Framework Convention on Climate Change</td>
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1. Executive Summary

This report is part of the Nauru Energy Road Map (NERM) review assignment commissioned by the UNDP. The purpose of this Legislative Gap Analysis report is to:

- Identify any gaps between Nauru’s vision, goals and targets for the energy sector and existing energy related primary and subsidiary legislation.
- Suggest and outline any revision to existing legislation and/or proposed new legislation (including an overall energy sector law) needed to effectively implement the updated NERM 2018 to 2020, as well as relevant higher level planning documents.

Drafting new legislation is a time consuming process and enforcement requires various resources. Many of the Activities in the updated NERM 2018 to 2020 can proceed without new primary or subsidiary legislation. However, there are significant gaps in the legislative framework for the energy sector in Nauru and this review has sought to list its recommendations in two categories, priority areas and long-term approaches.

Recommended priority areas

These recommendations relate to Activities in the updated NERM 2018 to 2020.

1. No new legislation is needed to establish the proposed NERM Coordination Committee (Activity C3.5, Q1 2018). However, a Ministerial (or Cabinet) direction to establish the NERM Coordinating Committee, and define its role, functions and operations as well as the Department of Commerce, Industry and Environment (CIE) as the NERM Coordinating Committee secretariat may be useful to maximise participation.

2. Review and update NUC Regulations 2012 (Activity E2.3, Q1 2018). The draft NUC Power System Rules and Regulations provide a basis for this but need to be updated to include the framework for distributed photovoltaics (Activity C1.6, Q2 2018).

3. Develop a legislative and governance framework for the energy sector, an overall Energy Act or other appropriate legislation (Activity C1.1, Q1 2019). This could incorporate defining CIE’s energy responsibilities and authority, reporting and monitoring as well as the requirements for Minimum Energy Performance Standards (MEPS) and labelling (Activity E3.2, Q4 2018).

4. Review of regulatory or policy barriers (e.g. import duties) to efficiency and renewables investments, (Activity C1.5, Q1 2019).

Recommended long-term approaches

These recommendations relate to further legislative work that the Government of Nauru (GoN) may need to consider once key aspects of the NERM Activities are implemented.

5. Towards the end of the updated NERM 2018 to 2020, this legislative gap analysis should be updated and expanded to cover related issues in transport and fuels (e.g. vehicle efficiencies, electric vehicles and fuels quality) in more detail. Consideration should also be made in expanding the scope to cover environmental management issues.
6. Consider revising the NUC Act to potentially improve governance as well as introduce competition and facilitate private investment. While the GoN has decided to not have an independent energy regulator and allow NUC to be responsible for all electrical energy issues, this approach may need to be reviewed in the future.

7. Consider new primary or subsidiary legislation for vehicle fuel efficiency standards and labelling as well as any issues associated with the introduction of electric vehicles.

8. Consider new primary or subsidiary legislation to improve building standards, labelling and energy efficiency of existing and new buildings.

9. Consider new primary or subsidiary legislation for fossil fuels, alternative fuel, renewable energy and other energy data release and publication.

The final recommendation relates to NUC’s website not being available for the duration of this assignment and CIE’s preference to not have a website.

10. Consider subsidiary legislation to require NUC and CIE to have publically available websites that are updated frequently.
2. Introduction

2.1 NERM Review Assignment

At the start of September 2017, the UNDP engaged Mr Joe Wyder (ITP) to undertake three missions to Nauru to consult with energy sector stakeholders to produce:

i) Review Report of the Nauru Energy Road Map (NERM) 2014 - 2020,
ii) Updated draft NERM 2018 to 2020, and
iii) Legislative Gap Analysis report for the energy sector.

This document is the final Legislative Gap Analysis report which was refined after stakeholder consultations in Nauru in January 2018 and further feedback in February 2018.

2.2 Nauru Energy Sector

Nauru is one of the world’s smallest countries and one of the most remote. Total land area is 21km². In 2016, the World Bank estimated a population of about 13,050 people. Nauru’s currency is the Australian Dollar (AUD) and the per capita Gross Domestic Product (GDP) in 2016 was approximately $10,500 per year\(^1\).

\[\text{Figure 1: Nauru's location, (from: www.dfat.gov.au).}\]

Nauru faces economic, environmental and social challenges. Aid is an essential source of funding for Nauru’s development including implementation of the NERM.

Nauru’s National Sustainability Development Strategy 2005 - 2025 (NSDS) outlines the long-term plan for Nauru’s development. It was revised in 2009 and reviewed and updated again in 2017/18.

The Nauru Energy Policy Framework\(^2\) (NEPF) was endorsed by the GoN in 2009. The NEPF outlines a policy framework that builds on the energy priorities outlined in the NSDS.

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\(^1\) Converted to AUD from the 2016 USD amount provided here: https://data.worldbank.org/country/Nauru

\(^2\) http://prdrse4all.spc.int/node/4/content/nauru-energy-policy-framework
2.3 Government of Nauru’s Energy Vision

Nauru’s energy vision is documented in the energy sector goals of the NSDS:

‘Provide a reliable, affordable, secure and sustainable energy supply to meet the socio economic development needs of Nauru.’

2.4 Energy Outcomes

The energy sector outcomes for the NERM are outlined in the NEPF.

The outcomes are:

1. A reliable, affordable and safe power supply and services.
2. A reliable and safe supply of fossil fuels.
3. Universal access to reliable and affordable energy services.
4. An efficient supply and use of energy.
5. A significant contribution from renewable energy towards electricity supply.
6. Financial sustainability of the energy sector.
7. Efficient, robust and well-resourced institutions for energy planning and implementation.

2.5 NERM Targets

The NERM 2014 - 2020 was the implementation plan for the NSDS and NEPF and its targets for 2020 were:

i) 24/7 grid electricity supply with minimal interruptions.
ii) 50% of grid electricity supplied from renewable energy sources.
iii) 30% improvement in energy efficiency in the residential, commercial and government sectors.

The updated NERM 2018 to 2020 has six Actions Plans, capacity, power, renewables, efficiency, fuels, and transport.

2.5 Nauru Utilities Corporation

The Nauru Utility Corporation (NUC) is the government-owned utility responsible for public electricity and water. Fuels and LPG are sold by separate, private importers.

NUC’s powerhouse and desalination plant is located in Aiwo and two new diesel generators were commissioned in 2017. Generation in 2016/17 was 34.7 GWh with more than 9.4 million litres of diesel consumed, (~3.7 kWh / litre) and electricity sales of 24.9 GWh.

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3 NUC’s tender portal is www.tenderlink.com/nuc/ but the link to their website (www.nuc.com.nr) was not operational during the NERM Review assignment.
2.6 Methodology

This analysis of legislative gaps needs to take account of input from stakeholders on issues, priorities as well as experiences with relevant existing legislation including resources for enforcement and implementation. Being an island country with a small population presents significant governance and resourcing challenges. The optimal governance model and regulatory structures are decisions for the GoN.

The methodology for this report is summarised below:

- Identify and briefly summarise the relevant energy sector legislation.
- Identify the gaps between Nauru’s vision, goals and targets for the energy sector and existing energy related primary and subsidiary legislation.
- Recommend priority revisions to existing legislation and proposed new legislation needed to effectively implement the updated NERM 2018 to 2020, as well as higher level energy planning and policy documents.
- Suggest a long-term approach to how other energy sector governance issues and legislative gaps may be addressed.

Initial discussions with stakeholders in Nauru were held in late 2017, further consultations were held in January 2018. This report was finalised after feedback provided in February 2018.
3. Energy Sector Legislation

The main legislation for the energy sector is the NUC Act 2011 (amended 2016) and NUC Regulations 2012. Other potentially relevant Acts and Regulations include:


In addition, the following subsidiary legislation is potentially relevant:

2. Customs Proclamation (Prohibition of Export of Scrap Metal) 2007, Parent Act (as in force) - Customs Act 2014

The legislative gaps for the potentially relevant legislation is covered at a high level.

3.1 Stocktake Overview

The 2016 Stocktake of Energy Sector Institutions, Legislation, Policies and Fiscal Incentives in Fourteen Pacific Island Countries⁴, (Stocktake) undertaken by SPC summarised Nauru’s energy sector as follows.

Table 1: Energy Sector Institutions, as reported in ‘Stocktake’ 2016.

<table>
<thead>
<tr>
<th>Lead Agency</th>
<th>Energy Planning and coordination</th>
<th>Petroleum</th>
<th>Electricity</th>
<th>Renewable Energy</th>
<th>Energy Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CIE</td>
<td></td>
<td>NUC</td>
<td>NUC</td>
<td>NUC</td>
<td>None</td>
</tr>
</tbody>
</table>

| Formal Establishment          | Cabinet endorsed the 2009 NEPF   | NUC Act 2011 | NUC Act 2011 | NUC Act 2011      | None              |

| Consultative Body             | CIE Project Steering Committee (PSC) | Advisory Committee | Advisory Committee | Advisory Committee | None              |

| Mandated by                   | Established by CIE in 2011 as PSC for water projects | NUC Act 2011 and Regulation 2012 | NUC Act 2011 and Regulation 2012 | NUC Act 2011 and Regulation 2012 | None              |

Note: The Petroleum and Facilities Management Agreement with Vital Energy was signed in June 2015 and this requires Vital Energy to procure petroleum supply, operate and manage the petroleum storage facilities and sell and distribute product to the market in Nauru.

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⁴ [http://prdrse4all.spc.int/sites/default/files/energy_stocktake_report_web.pdf](http://prdrse4all.spc.int/sites/default/files/energy_stocktake_report_web.pdf)
Table 2: Energy Sector Legislation and Regulations, as reported in ‘Stocktake’ 2016.

<table>
<thead>
<tr>
<th>Petroleum</th>
<th>Ministry of Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price Control Act 2004</td>
<td>Provides powers to the government to control excessive prices and charges.</td>
</tr>
<tr>
<td>Prices Regulation Act 2008</td>
<td>Regulates that ADO and petrol are declared goods for the purposes of the Prices Regulations Act 2008. Monthly (new) prices are published by the Ministry of Finance.</td>
</tr>
<tr>
<td>Customs (Rates of Duty) Act 2010</td>
<td>An act to impose customs duty on goods, to prescribe the rates of such duty, to repeal the Customs Tariff Act 1997–2007 and for related purposes. Schedule 2 of the Act listed petrol and ADO as dutiable items at a rate of duty 0.60 per litre. Schedule 2 of the Act listed duty of 25% of value on all types of cars including those of a CC exceeding 3000 cc.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Electricity</th>
<th>Nauru Utilities Corporation</th>
</tr>
</thead>
<tbody>
<tr>
<td>The NUC Act 2011</td>
<td>An act to establish the Nauru utilities Corporation and for related purposes. Under the Act, the CEO of the NuC reports directly to the Minister of utilities</td>
</tr>
<tr>
<td>The NUC Regulations 2012</td>
<td>Part 2 – regulates the establishment of the Advisory Committee and its members and functions. Part 3 – regulates the recovery of fees from post-paid customers.</td>
</tr>
</tbody>
</table>

Note: The RONLAW website\(^5\) does not include the:

- Price Control Act 2004, as this Act was repealed by the Prices Regulation Act 2008, or
- Custom (Rates of Duty) Act 2010, as this was repealed by the Customs Tariff Act 2014.

The Department of Justice has indicated that if legislation is not on RONLAW then it is not in effect.

Table 3: Fiscal Incentives, as reported in ‘Stocktake’ 2016.

<table>
<thead>
<tr>
<th>Petroleum</th>
<th>Import Duty</th>
<th>Price Monitors</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jet A-1 is exempt.</td>
<td>Benzene and ADO for land and marine transport use is price monitored.</td>
</tr>
<tr>
<td></td>
<td>Petrol: AUD 0.60 per litre</td>
<td>LPG and kerosene prices (household) are not monitored.</td>
</tr>
<tr>
<td></td>
<td>ADO: AUD 0.60 per litre</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Electricity</th>
<th>Public Financing – Direct Grant</th>
<th>Import Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Nauru Government provides annual direct grant to NUC.</td>
<td>ADO for electricity generation is exempt.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lifelines Tariff</th>
<th>Residential rate: AUD 0.10 per kWh up to 300 kWh. AUD 0.25 per kWh for additional unit.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Renewable Energy</th>
<th>Public Financing – Direct Grant</th>
<th>Development partners such provided direct grants for the installations of renewable energy technologies, mainly solar PV.</th>
</tr>
</thead>
</table>

Note: While the Stocktake report was published in 2016, much of the information in the tables appears to be out-of-date. For example, the tables do not include the amendment to the NUC Act 2016.

The residential lifeline tariff in 2017/18 is:

- AUD 0.25 for first 200 kWh per month, and
- AUD 0.50 per kWh for additional units in that month.

This highlights the importance of publications documenting a publish month and year as well as the date that key information is collected.
Table 4: Energy Sector Policies, as reported in ‘Stocktake’ 2016.

<table>
<thead>
<tr>
<th>Department of Commerce, Industry and Environment</th>
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</thead>
<tbody>
<tr>
<td>Nauru National Energy Policy (NEP), 2009</td>
</tr>
<tr>
<td>The vision of the policy is ‘Reliable, affordable and sustainable energy, enabling the socio-economic development of Nauru.’ Seven strategic policy areas have been identified as critical for achieving the overall vision: Power, Petroleum, Renewable Energy, Consumers, Finance, Institutional capacity, and Energy conservation and efficiency.</td>
</tr>
<tr>
<td>Nauru Energy Road Map 2014-2020</td>
</tr>
<tr>
<td>The Government of Nauru in June 2014 endorsed the NERM. The purpose of the NERM, alongside other relevant planning documents, is to ensure the achievement of Nauru’s overall vision of ‘A future where individual, community, business and government partnerships contribute to a sustainable quality of life for all Nauruans.’ The NERM became the implementation plan of the NEP 2009.</td>
</tr>
<tr>
<td><strong>RE Target by 2020:</strong></td>
</tr>
<tr>
<td>· 50% of grid connected electricity supplied from renewable energy sources.</td>
</tr>
<tr>
<td><strong>Energy Efficiency Target:</strong></td>
</tr>
<tr>
<td>· 30% improvement in energy efficiency in the residential, commercial and government sectors.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Planning and Aid, Ministry of Finance</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Sustainable Development Strategy (NSDS) 2005-2025</td>
</tr>
<tr>
<td>The overall impact that the NSDS seeks is captured in the people’s vision for development and is stated as: ‘A future where individual, community, business and government partnerships contribute to a sustainable quality of life for all Nauruans.’ The central message of the NSDS is ‘Partnerships for Quality of Life.’ Energy within the NSDS is included under the broader priority sector of ‘Infrastructure’ with a priority of: ‘Provision of enhanced utilities and transport services including the increased use of renewable energy, power (non-diesel generation).’</td>
</tr>
<tr>
<td>Nauru Economic Infrastructure Strategy and Investman Plan, 2011-2016</td>
</tr>
</tbody>
</table>

### 3.1 Nauru Utilities Corporation Act 2011

The NUC Act 2011 is 14 pages long and states ‘This Act commences on 1 August 2011’. It also states, ‘The purposes of this Act are to:

(a) ensure essential utilities services are provided by the Nauru Utilities Corporation;
(b) enable the Corporation to operate efficiently and independently while allowing for necessary oversight by the Minister to ensure the Corporation is financially viable and performs its functions fully and in a way that is not detrimental to customers; and
(c) ensure the powers and functions of the Corporation are exercised and performed in a safe way.’
The Act established:

- the NUC as a body corporate,
- the role of Chief Executive Officer (CEO) as being responsible for its operations, and
- an Advisory Committee to advise the Minister about matter related to the Corporation.

The Act outlines the basic functions of NUC in electricity, water and fuel. It also specifies financial management, budgeting, reporting and auditing requirements. It also indicates that ‘Cabinet may prescribe safety standards for the exercise of powers and the performance of functions of the Corporation’ and ‘Cabinet may make regulations under this Act’.

3.2 Nauru Utilities Corporation Regulations 2012

The NUC Regulations are 7 pages long and commenced in October 2012. They outline provisions for the Advisory Committee and the Recovery of Fees from Post-paid customers.

The RONLAW NUC Regulations 2012 webpage indicates the parent Act is the NUC Act 2011. However, the RONLAW web pages for the NUC Act 2011 and NUC (Amendment) Act 2016 have no links to subordinate regulations.

3.3 Nauru Utilities Corporation (Amendment) Act 2016

The NUC (Amendment) Act 2016 is 5 pages long and commenced in January 2016. It allows for cabinet to appoint an Acting CEO and replaces the Advisory Committee with a Board of Directors.

3.4 Sale of Second-hand Motor Vehicles Act 1973

This Act is 9 pages long and commenced in September 1975. This Act requires authorised motor vehicle examiners to prepare a list of defects before second hand vehicles can be sold. It also allows for Cabinet to make regulations for better implementation of the Act. The RONLAW website does not link to any subordinate legislation under this Act.

3.5 Customs Act 2014

This Act is 157 pages long and commenced in October 2014. This Act is ‘to regulate Customs controls, management and enforcement, revenue administration, border controls and border management, trade and travel facilitation, security, and for related purposes.’

It has seven subordinate legislation documents, these include a document that prohibits importing washing machines and air-conditioners directly from China.

3.6 Customs Tariff Act 2014

This Act is 14 pages long and commenced in October 2014. It has one Schedule, ‘The Tariff’ but this page is blank. The Customs Tariff Schedule is provided as separate primary legislation.

The Customs Tariff Schedule is 414 pages long. Section XVII Note 87 covers vehicles and refers to Appendix 1 for the Duty Rates. Appendix 1 is a table that documents various import duty rates from 8 to 35% for vehicles according to engine size.
This Appendix also includes example tables that refer to vehicles manufactured between 2002 and 2014. The Explanatory Notes for these tables state, ‘Classical vehicles are Defined as Vehicles Manufactured over 30 Years Old and Operational. Classical Vehicles are Exempted from the Manufacturing Year Restriction.’ A search of the Customs Tariff Act and Schedule for the key words ‘manufacturing’, ‘year’, ‘restriction’ did not provide any further information relating to vehicles.

3.6 Prices Regulation Act 2008

This Act is 16 pages long and commenced in September 2008. The introductory text states its purpose is ‘To make provision for the regulation and monitoring of essential goods and services and to protect consumers and users from certain restrictive practices that adversely affect the prices and availability of those goods and services and for related purposes.’

This RONLAW website for this Act has nine documents linked as subordinate legislation though six of these have been repealed. The Declaration for Declared Good 2008 declared petrol and diesel to be covered by this Act. The Price Control Order No 5. dated 13 October 2016 sets maximum wholesale and retail prices for diesel and petrol but the RONLAW website indicates that this order is not current.

Price Control Order No 6 is on the separate, subordinate legislation part of the RONLAW website and is dated 31 October 2017. It appears to contain the maximum retail prices of:

- Diesel $2.2111 / litre, and
- Petrol $2.2113 / litre.
4. Legislative Gaps

Nauru does not appear to have legislation relating to:

- Environmental approvals and management,
- Work, Health and Safety,
- Electrical safety, power quality and standards,
- Energy efficiency and building standards,
- Fuels safety and quality, and
- Land transport fuel efficiency.

The key energy sector legislation is the NUC Act and its 2012 regulations which currently are fairly minimal and mainly been superseded. The draft NUC Power System Rules and Regulations (35 pages) covers a wide range of topics including right-of-way, line extensions, service connections, metering, temporary suspension, power factor, disputes, fraud, reconnection, interruption, Standards and previous Regulations as well as a range of issues associated with billing.

Consultations with stakeholders in Nauru focused on the energy sector, so did not discuss the need for an overarching Environment Act. The Solid Waste Management in the Pacific Nauru Country Snapshot (June 2014) stated, ‘The Environmental Management Act was submitted for approval to the Parliament in mid-2011 it still has not been enacted.’ This report also states, ‘The Litter Prohibition Act 1983 is in force, but enforcement is poor.’

The consultations with the Department of Justice & Border Control indicated that there was already a busy legislative schedule and that energy was not seen as a priority in the first six months of 2018.

In addition, the consultations with the Department of Finance indicated that a Fuels or Petroleum Act was not required as the current contract with Vital Energy for fuel supply and handling is extensive. This contract is commercial in-confidence but its Table of Contents was provided for the purposes of this report.

Consultations with the Department of Transport indicated that additional legislation for vehicles and the transport sector was not a priority. It was reported that vehicles over 12 years old were not able to be registered. However, this may be referring to the understanding that vehicles older than 12 years (or manufactured prior to 2002) are not able to be imported. The relevant legislation for this understanding has not been located.

The following section is largely from the updated NERM 2018 to 2020 and discusses identified priority areas for improving energy sector legislation in Nauru.

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5. Legislative Priorities

The Activity references is this Section are to the Activities in the updated NERM 2018 to 2020.

5.1 NUC Regulations

In 2018, as part of the GoN's (UNDP/GIZ/EU supported), Enabling the Implementation of the Nauru Energy Road Map project, a review and update of the draft NUC Power System Rules and Regulations, including drafting sections related to embedded renewable generation, will be undertaken.

This will also include a review of existing, relevant technical international and regional standards for solar PV and their relevance for Nauru. The updated and expanded NUC Power System Rules and Regulations could be used to replace the NUC Regulations 2012.

This Activity has synergies with Activity C1.1 ‘Develop a legislative and governance framework for the energy sector’, see Section 5.2 below.

It also has synergies with Activity C1.6 is ‘Investigate options, develop and implement a framework for private sector (IPPs, businesses and residences) renewable energy grid-connection and relevant supporting instruments (e.g. net-metering).’

The installation, metering and billing requirements for rooftop PV systems need to be clearly specified and published. A consultant could be engaged to review NUC’s draft requirements for rooftop PV systems. The PV requirements need to be published on a website and be easy to understand as well as easy to find.

Several Pacific Island utilities have published Regulations and Guidelines for rooftop PV systems. Further information is available from the Pacific Power Association (PPA) and other organisations websites. For example, a useful document for installations is the Grid-connected PV Systems Installation Guidelines for the Pacific Islands published on SEIAPI’s website. SEIAPI also has prepared guidelines for the design of grid-connected solar PV systems.

IPPs usually refers to Independent Power Producers selling electricity to utilities from a ground mounted, large PV system through a Power Purchase Agreement. This is not seen as a priority due to the relatively, small size of Nauru’s load and the need for complex, grid-integration components for any further, large solar PV systems in Nauru.

5.2 Energy Act

Activity C1.1 in the updated NERM 2018 to 2020 is ‘Develop a legislative and governance framework for the energy sector.’

In 2018, there appears to be several entities with responsibilities in the energy sector. These responsibilities do not appear to all be legally mandated.

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The following is a list of agencies with key energy sector roles:

i) Department of Finance (DoF), including the Planning and Aid Division (PAD), allocates annual budgets, provides oversight of the NSDS, regulates prices for fuel, and coordinates development assistance (NERM 2014 - 2020).

ii) CIE, carries out energy policy and planning functions, as well as climate change mitigation and adaptation policy (NERM 2014 - 2020).

iii) NUC is the sole provider of grid electricity and water (NUC ACT 2011).

iv) Vital Energy procures fuel and manages the fuel tank farm (Petroleum Supply and Facility Management Agreement).

v) Department of Transport, regulates the transport sector (NERM 2014 - 2020).

It is recommended that a specialist legal consultant be engaged to consult with stakeholders and draft an Energy Act to clarify roles and authorities. Funds for providing preliminary technical input towards preparation of energy sector legislation are likely to be available in 2018 as part of the GoN's (UNDP/GIZ/EU supported) Enabling the Implementation of the Nauru Energy Road Map project.

The NUC Act 2011 establishes the Nauru Utilities Corporation and defines its power and functions for electricity, water and fuel. The NUC Regulations 2012 came into force on 18 October 2012. These Regulations are only 8 pages long and are limited to the Advisory Committee and Recovery of Fees from Post-paid Customers. The NUC Act was amended in 2016 to create a Board of Directors for NUC.

Page 23 of the NERM 2014 - 2020 states, ‘A legislative framework is required which provides for an appropriate governance regime including consideration of an overarching Energy Act. Having the appropriate legislation in place will be essential in improving the performance of the energy sector. The legislation should also promote and encourage active participation of the private sector and civil society.’

Page 67 of the NERM 2014 - 2020 states, ‘National energy legislation will be important in facilitating NERM implementation and in enabling good governance requirements to be met. Thus development and adoption of national energy legislation is essential for the success of the NERM implementation and overall development of the energy sector. Energy legislation should define the role of the government, in terms of planning, developing, and coordinating energy initiatives, energy sector regulation and creating a market where private sector and community stakeholders can engage effectively, for example, by the introduction of net-metering.’

In addition, there is no legislation in place to regulate the importation of energy consuming appliances. An Energy Act may provide an opportunity to clarify responsibilities, improve governance and reporting as well as implement Activities involving regulations.

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8 The Nauru Utilities Corporation Act 2011 describes the functions of the corporation, see http://ronlaw.gov.nr/nauru_lpms/index.php/act/view/799

9 The Agreement between GoN and Vital Energy is commercial in-confidence but was executed in June 2015. The Background section indicates that procuring fuel was part of the Request for Tender.

10 The NUC Regulations 2012 are provided at a separate part of the RONLAW website: http://ronlaw.gov.nr/nauru_lpms/index.php/subordinate_legislation/view/526
5.3 MEPS and Energy Labelling Information

Activity E3.4 is, ‘Prepare and enact appropriate legislation for Minimum Energy Performance Standards (MEPS) and labelling of high electricity consumption appliances such as air conditioners, freezers, refrigerators etc.’

This Activity could be implemented by incorporating this into the Energy Act or its regulations. It could also be implemented with separate legislation covering a range of efficiency issues. Several Pacific Island Countries have an Energy Efficiency Act, for example Tuvalu’s 2016 Energy Efficiency Act.

There is the Pacific Appliance Labelling and Standards (PALS) Program which supports establishment of Australian/New Zealand based MEPS and labelling in Pacific Island Countries. Nauru could consider joining this SPC run initiative.

5.4 Barriers

Activity C1.5 is ‘Review of regulatory or policy barriers (e.g. import duties) to efficiency and renewables investments’. This Activity could be used to reduce regulatory and policy barriers to efficiency and renewable energy investments. It also could be a useful background for examining more long-term issues for improving the sustainability of Nauru’s energy sector.

5.5 Recommended Long-term approaches

The following section outlines recommendations the GoN may need to consider once key aspects of the NERM Activities are implemented.

- Towards the end of the updated NERM 2018 to 2020, this legislative gap analysis could be updated and expanded to cover related issues in transport and fuels (e.g. vehicle efficiencies, electric vehicles and fuels quality) in more detail. Consideration should also be made in expanding the scope to cover environmental management issues.

- Consider revising the NUC Act to potentially improve governance as well as introduce competition and facilitate private investment. While the GoN has decided to not have an independent energy regulator and allow NUC to be responsible for all electrical energy issues, this approach may need to be reviewed in the future.

- Consider new primary or subsidiary legislation for vehicle fuel efficiency standards and labelling as well as any issues associated with the introduction of electric vehicles.

- Consider new primary or subsidiary legislation to improve building standards, labelling and energy efficiency of existing and new buildings.

- Consider new primary or subsidiary legislation for fossil fuel, alternative fuel, renewable energy and other energy data release and publication.

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13 Page 24 of the NERM 2014 - 2020 states, ‘There is no independent energy regulator in Nauru, as this would not be a cost-effective option given the size of the country.’
6. References

Draft NERM 2014 - 2020 (Jan 2014)
http://prdrse4all.spc.int/system/files/second_draft_nauru_energy_road_map_v6_0.pdf


http://prdrse4all.spc.int/system/files/nauru_policy__final.pdf

Nauru Framework for Climate Change Adaptation and Disaster Risk Reduction (2015)

Nauru’s Intended National Determined Contribution (2015)
http://www4.unfccc.int/ndcregistry/PublishedDocuments/Nauru%20First/Nauru_NDC.pdf

Pacific Climate Change Finance Assessment Nauru Case Study (2013)
http://prdrse4all.spc.int/system/files/pacific_climate_change_finance_assessment_nauru_case_study.pdf

http://prdrse4all.spc.int/sites/default/files/energy_stocktake_report_web.pdf

Legislative Drafting Manual (2015)

In addition, the following documents have been received from the UNDP and examined.

- Nauru Utilities Corporation water and electricity rates (1 July 2017).
- Feasibility Study: Solar Photovoltaics for Replacing up to 50% of Diesel Generation in Nauru, (July 2013).
  - Stakeholders’ Consultations flyer (2017),
  - Stakeholders’ Consultations Questionnaire (2017), and
  - Stakeholders’ Consultations Plan 23 August to 1 September 2017, (Draft).