

# Safeguards Due Diligence Report

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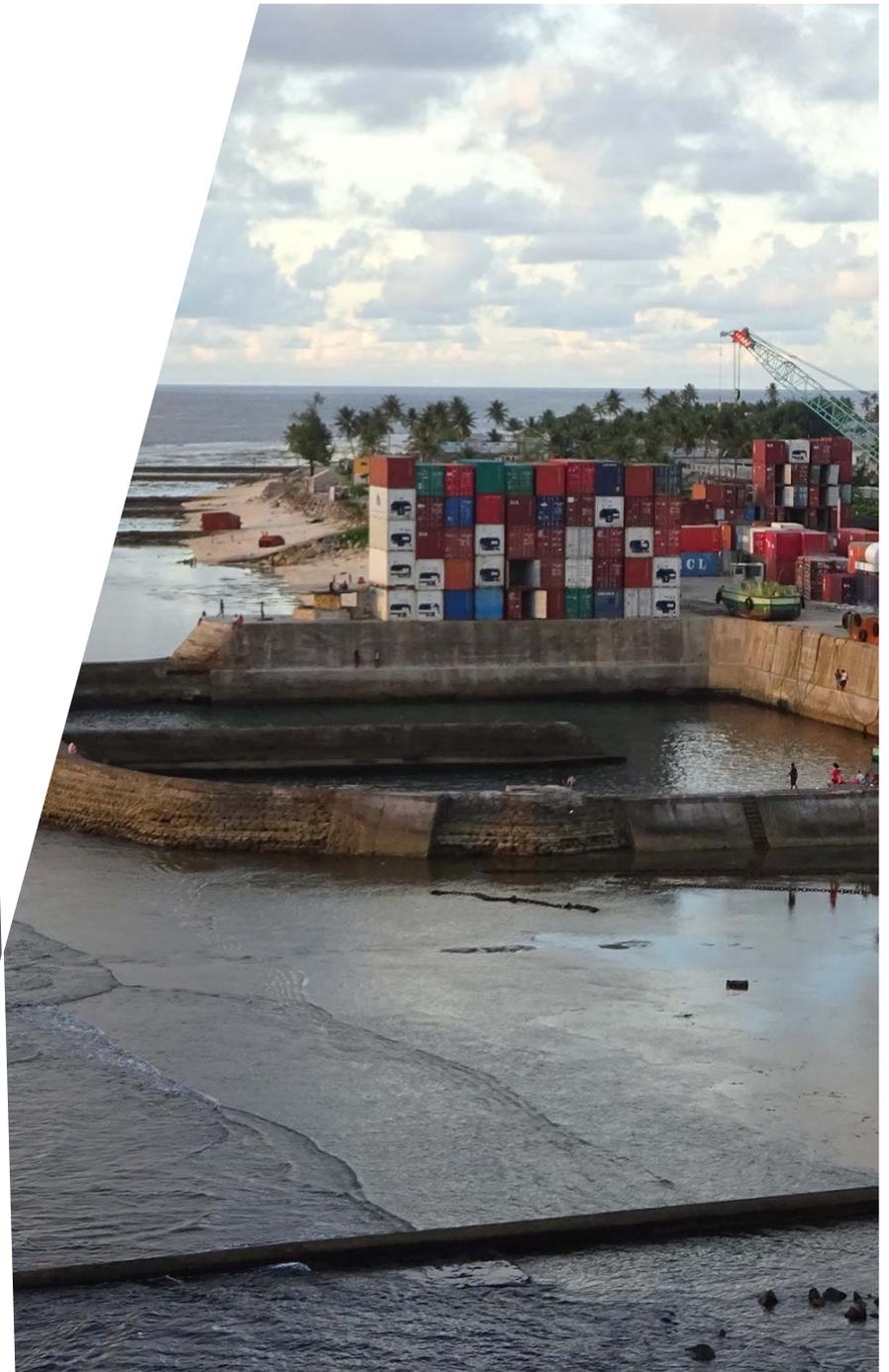
Report  
April 2017

## NAU: Port Development Project

Prepared by the Nauru Port Authority for the Nauru Government and the Asian Development Bank.

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# Safeguards Due Diligence Report Nauru Port Development Project – PPTA

Prepared by the Nauru Port Authority

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## Acronyms and Abbreviations

ADB	Asian Development Bank
AIDS	Acquired Immune Deficiency Syndrome
CEO	Chief Executive Officer
CDTA	Capacity Development Technical Assistance
CS	Construction Supervision
DCIE	Department for Conservation, Industry and Environment
DDR	Due Diligence Report
DMF	Design and Monitoring Framework
EA	Executing Agency
EMP	Environmental Management Plan
HIES	Household Income and Expenditure Survey
HIV	Human Immunodeficiency Virus
IA	Implementing Agency
IPSA	Initial Poverty Social Assessment
GoN	Government of Nauru
GRM	Grievance Redress Mechanism
M&E	Monitoring and Evaluation
MOF	Ministry of Finance
MOT	Ministry of Transport
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
NPA	Nauru Port Authority
NPDP	Nauru Port Development Project
NSDS	National Sustainable Development Strategy
PDA	Project Design Advance
PPTA	Project Preparatory Technical Assistance
SPS	Safeguard Policy Statement
STD	Sexually Transmitted Disease
TA	Technical Assistance
TOR	Terms of Reference

## Executive Summary

The Government of Nauru has requested ADB for project preparatory technical assistance (PPTA) and project design advance (PDA) for the preparation of a project to improve the port facilities at Aiwo.

The initial scope of the project intended the construction of a wharf for berthing vessels, an approach causeway from shore to wharf, and replacement of derelict buildings with new structures for the harbor master's office, staff amenities, gatehouse, plant workshop, secure fencing and a heavy duty industrial pavement in a container storage yard. The project also includes capacity building and institutional strengthening of Nauru Port Authority (NPA) to enhance the efficiency of port operations, port security, asset management, occupational health and safety and reforms to tariff structure.

Thorough assessments in the engineering, economic, environmental, financial, monitoring and social areas have been done during the PPTA and the PDA. Land areas are needed to expand the proposed port development project. All land lots are uninhabited customary land, which is already leased to government and other businesses in the port area.

## 1 Introduction

The report describes shortly the project context and its expected outcomes and impacts and components. Land is required to expand the port and the Nauru Port Authority intends to lease several portions of land, which are under customary ownership, but already in various lease agreements arranged by the government and businesses. Chapter III discusses identification and consultation of stakeholders and disclosure of project information to landowners of proposed site. Findings of the gender assessments are explained in a separate report.

The project does not trigger ADB Safeguards Policy as most civil works will be undertaken on existing government leased lands. Other required sites which are currently under lease by two private companies will be negotiated by the government according to government procedures and ADB safeguards principles. All the lands are customary-owned and will not change ownership during the lease period. There will be no physical and economic displacement due to the project.

## 2 Project Description

### 2.1 Projection rationale, expected outcomes and impacts

Nauru is the smallest independent republic in the world with a total land area of 21 square kilometers and 30-kilometer long coastline. It is comprised of an oval shaped island in the western Pacific Ocean with a population of approximately 11,000. Being an island nation, it is vulnerable to climate change and rising of sea level.

Nauru Port, located at Aiwo, west of the island, is limited in its ability to unload general cargo from container vessels and fuel from tankers. The common practice of unloading and loading containers is by (old) barges, which transfer one container each to the small harbor. At the harbor a crane lifts the containers on shore. In rough weather, vessels and barges cannot operate fully and unloading of around 200 containers differs from a few days to several weeks. Deep waters around the island do not allow anchoring of vessels and thus a system of moorings and buoys keeps these vessels off the reef. The unloading of a container vessel can take several weeks to complete, longer if interrupted by rough sea conditions. These practices pose significant safety issues for personnel as well as presenting great challenges to the efficient transfer of cargo and the supply chain for food, supplies, fuel and water for Nauru.

The small-boat harbor is vulnerable to delays caused by waves, which will be exacerbated by sea-level rise due to the relatively low level of the harbor's breakwaters. Coupled with projected increase in downtime due to increases in wave height with climate change, the port operations are vulnerable to lengthy delays with potential supply shortages for the population and the possibility of withdrawal of service by vessel operators.

During first site inspections, several options for the port development have been provided to the government and one selected. The selected option reduces time for unloading containers and provides direct ship to shore transfer of cargo, including containers and fuel, and potentially exports of phosphate and rock. The proposed port development will reduce the time to unload or load a cargo vessel from weeks to days and greatly improve the safety of personnel and goods by trained personnel and use of proper handling facilities and storage in secure container yards. The port would also allow the bunkering and transfer of fish from fishing vessels, potentially providing new commercial and employment opportunities for Nauru. The additional transfer of hundreds of containers, which are stored outside the port area on the shore into the main yard will allow free space and access to the shore. It is somehow discussed to use this free space as recreation area in future. The proposed option may allow more

frequent maritime transport from different international ports (Fiji, Solomon Islands, New Zealand and Australia).

An average of over two vessels per month visit Nauru port, including container/general cargo ships approximately every six weeks, a tanker to supply the island's fuel approximately eight times per year and bulk vessels loading phosphate for export up to one per month. At present, container vessels drift off the port and are unloaded at sea. Tankers and phosphate vessels would normally use the mooring buoys; however these are very difficult to maintain and at present are not available and these vessels rely on tugs brought in from the Solomon Islands for mooring. The effective and safe operation of the port facilities and equipment are central to maintaining trade and commerce with the outside world and essential to the nation's sustainable economic development.

## **2.2 Project objective:**

The main objective of the project is to provide a climate resilient port to allow reliable transport links for the import of food, goods and fuel and potentially export of phosphate and products including fish and limestone rock and aggregate.

## **2.3 Expected outcomes as of the DMF**

- > Efficiency in operation and management of Aiwo Port improved
- > Strengthened adaptive capacity and reduced exposure to climate risks
- > Reduced freight rates
- > Increased frequency and regularity of shipping services

## **2.4 Expected outputs:**

- > Priority port infrastructure constructed or rehabilitated
- > Capability of NPA staff strengthened
- > Efficient project management

By reducing time for unloading cargo and improving turnaround time, more essential goods will arrive into the country contributing to health, educational and social conditions for the population. More fresh produce will contribute to a healthier diet, which is a major problem in the country. It is anticipated that more goods arriving into the country will lead to a reduction of consumer prices, which will contribute to poverty reduction in the country. International vessels are encouraged to trade with the country in a safe and technically better equipped harbor area. Port workers will have risks for accidents minimized as container yards are cleared and technical facilities for secure handling of cargo are purchased. Administration blocks for Nauru Port Authority are proposed to be built within the extended port hosting several offices for NPA and probably customs and immigration. Institutional capacity for NPA will be strengthened through a well-developed and skilled port operation. NPA will create job opportunities for administration, port operation and seafarer related skilled and unskilled. If a capacity development programme is not outsourced, then a set of training will be planned and designed for further skills development. Although port labor in general is male dominated NPA is requested to create jobs for women and include female candidates in training courses for the port operations sector.

## **2.5 Expected impact/benefits:**

Expected direct benefits are significant with the entire population in Nauru benefiting from the mitigated impact of reduced shipping lines. The project will also strengthen institutional and community capacities for sustaining and replicating project results.

The project will provide for climate-resilient, secure berthing facilities which will have measurable benefits of minimizing downtime for shipping, allowing direct transfer of cargo, including containers and fuel, and, potentially, exports of phosphate, rock and, in the future, fish. The facility will reduce the turnaround for a cargo vessel from weeks to days and greatly improve the safety of personnel and goods. The port would also allow the bunkering and transfer of fish from fishing vessels, potentially providing new commercial and employment opportunities for Nauru.

The creation of new jobs will give chances to young men and women to gain some income and further improve their skills for future job opportunities. During construction, more jobs will be created and contractors will be held responsible to recruit men and women from Nauru for unskilled labor. A clause in their contract will include a percentage of female staff, who should be recruited wherever possible. Thus, the improvement of port infrastructure is an essential contributor to economic and social development of Nauru.

Another key issue, which has to be addressed is awareness about HIV/AIDS and gender issues especially for port workers and those recruited for civil works. Surrounding residential areas should be included in awareness programmes. Whilst training on HIV/AIDS and gender for workers will be part of the contractor, surrounding communities and residents must be addressed in different programmes organized by NPA.

## **2.6 Project components**

The project has three components:

### **2.6.1 Component 1: Detailed Design**

The wharf will be designed for vessels larger than currently calling at Nauru to ensure port facilities can accommodate longer and deeper vessels. Three development options have been considered. The selected option comprises a 30m wide wharf adjacent to a 50m wide berth pocket dredged into the reef with an approximately 170 m long breakwater on the seaward side. The berth pocket is aligned in the most favorable direction to minimize wave effects on the structures and moored vessels. The breakwater is located on the seaward side of the berth pocket to provide protection from waves from directions from west to north. The location is sheltered from waves from north through east to west of south by the island itself. Waves from the south west are rare and thus the berth optimizes the potential operability. Additionally to the final design, which will be generated by the existing Nauru Port Development Project, there will be activities relating to the procurement and tendering and appointment of a contractor to undertake the works. This stage will include the establishment of the necessary administrative and management arrangements and entities.

### **2.6.2 Component 2: Construction Activities**

These activities comprise preliminary and general, dredging, breakwater, piling, decking, services and onshore. Equipment and material will need to be mobilized to Nauru if not already available on the island. A lay down yard will be required adjacent to the site. The breakwater may be built as material becomes available from dredging or from dredged material stockpiled until after completion of dredging or from other material sourced on the island. Onshore works include Workshop, offices, amenities, gatehouse and paving of the container area.

### **2.6.3 Component 3: Port Reform and Project Management**

Part of the port reform are new buildings for the harbor master's office, staff amenities, gatehouse, plant workshop, secure fencing, and a heavy duty industrial pavement in a container storage yard.

The existing project also includes capacity building and institutional strengthening of Nauru Port Authority to enhance the efficiency of port operations. Consideration is being given to future works which might follow from this project including a possible cold store for storage and handling of fish. The reform includes consideration of the operating model for the port and possible outsourcing of the port management and operations. Other considerations include the improvement skills required by the port workers and the development of appropriate training and support.

## 2.7 Institutional arrangements:

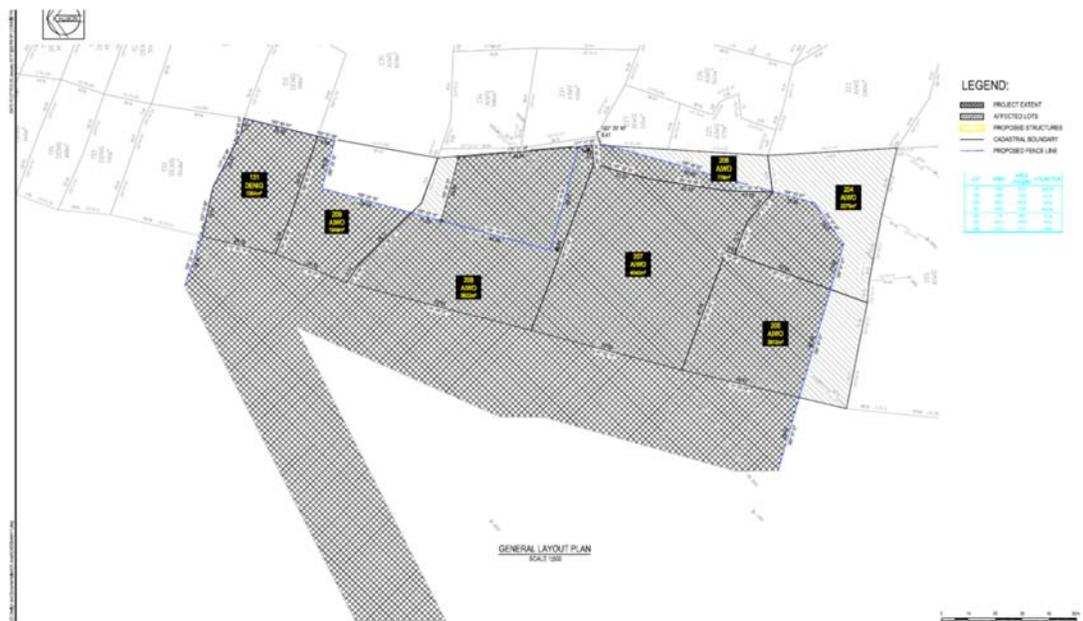
The executing agency (EA) for the project will be the Planning and Aid Division (PAD) of the Ministry of Finance (MOF). The PAD oversees the implementation of the National Sustainable Development Strategy (NSDS) which aims to coordinate all donor funded projects. PAD is the link between bilateral partners and government entities in order to harmonies development projects to ensure that assistance received is not duplicated between sectors. The Nauru Port Development Project (NPDP) is one of the projects that the PAD manages.

The project's Implementing Agency will be the Nauru Port Authority (NPA). Together with a Project Management Unit, PMU, NPA will manage and monitor project implementation activities, ensuring compliance with the government and ADB's requirements. An international firm will be the Supervising Consultant for project implementation. A Project Steering Committee will facilitate the responsibilities of the EA.

## 2.8 Scope of land requirement

The design of the proposed port development project stretches over a land area of seven lots of different land sizes (see also table 1). Cadastral surveys have been done over the years before the pre-feasibility study started. The existing port uses these lots, but also the mining company Ronphos, and Canstruct, which is the construction company to build new asylum seeker processing centers for the Australian government. These lots are under customary landownership and leased by said entities or by the government. Any further explanation see under section IV.

Figure 1 General layout plan of the proposed project



Although the proposed project will not need all land of the seven lots, NPA decided to enter into lease agreements for the whole land area. The total land mass for lease is 16,830 m<sup>2</sup>.

The desired lots are in district Aiwo, lot 204-209 and in district Denig, lot 131. See illustration below, which marks in yellow, the estimated land area for the port development and adjacent residential area.

Figure 2 Desired lots are in district Aiwo



## 2.9 Description of lots

All lots are within an industrial area and the illustration above shows that no residents are affected to be evacuated. The status of lease is further explained in table 3 under section IV. As the different land portions or lots are not fenced, it is difficult to visually identify the borders of the lots. The lots are cadastral surveyed.

- > Aiwo 204-205 is used by the current port, it contains deteriorated concrete buildings with steel and asbestos; 2275 m<sup>2</sup> and 2612 m<sup>2</sup>. The areas in both lots will be used for the proposed container yard.
- > Aiwo 206 – used as free space and truck movement, partly used by Ronphos, will also be used for the main container yard; 778 m<sup>2</sup>.

- > Aiwo 207 – has old concrete building, steel and asbestos – will be used for the main container yard; 4040m<sup>2</sup>
- > Aiwo 208 – is used as container storage and machinery, crane of Canstruct company. This area will be used for the proposed gate, security building/ customs building, parking and inspection bay areas; 3822 m<sup>2</sup>
- > Aiwo 209 – used by the current port for container storage; 1949 m<sup>2</sup>. This area is proposed to include Office Buildings and a future provision for cold storage.
- > Denig 131 – not used at the moment, a few containers stored; has an old deteriorated concrete building probably with asbestos. This area will be used for the proposed Shed; 1354 m<sup>2</sup>.

## 3 Consultation, Participation And Disclosure

### 3.1 Project stakeholders

Two field visits were undertaken to identify and meet with relevant stakeholders.

After identification of affected people and main beneficiaries, the specialist met with government officials, civil society representatives and landowners. Meetings and first contact were done with the Department of Finance Planning and Aid Division, and the Department for Conservation, Industry and Environment (DCIE). Several meetings were held with representatives from different sections of Departments of Land and Survey and Department of Justice.

Two meetings with landowners were organized by the CEO from NPA and the social specialist, where around 70 representatives of families from customary landowners participated.

Additional key interviews were held with presidents of the community committees from Aiwo district and Location. The two districts host the most affected people by the project: North of the proposed site lies Location (southern part of it) which is a rundown residential area with poor infrastructure (electricity and water) and deserted houses. Blocks of houses were built to accommodate workers for the phosphate mining from Pacific islands, but deserted in the early 90s. Most of the houses are now rented by Chinese shop owners and family members. Traditional landowners live in other places.

The divisions of the department of lands and surveys provided the specialist with the lists of all registered landowners of the selected lots including children.

#### 3.1.1 Primary stakeholders

Main beneficiaries for the project are the people of Nauru in general. The improvement of port infrastructure is an essential contributor to economic and social development of Nauru through different activities, more frequent cargo arriving in Nauru, frequent international trade, technical developed wharf area, safe loading and unloading of cargo for vessels, safe workplace conditions for workers, creation of new jobs for men and women, improving of the health situation of Nauruans by medical supply and affordable prices for fresh produce, which influences a healthier diet.

NPA as an institution is a beneficiary and will undergo changes by designed programmes improving management and operations processes and a tailored capacity building programme over the coming years.

There will be no involuntary resettlement, however residents around adjacent areas from Location in the North and Aiwo in the South will be impacted by noise, dust, traffic and restricted access to the shore. This will be mitigated through environmental management plan. Transportation operations could impose community safety risks, if not adequately managed. According to the provided information, observance

of vehicle management and safe driving rules is obligatory for company vehicles. These include regular check and maintenance of vehicles, speed limitation in populated areas. These measures are directed control disturbance factors and community risks.

### 3.1.2 Secondary stakeholders

These are stakeholders from various Departments / Finance Planning and Aid Division / Lands and Survey / Environment / Transport / Health and Education, other aid agencies, DFAT, and NSAs.

## B. Information disclosure, consultation and participation

While the proposed expansion of the port will occur within the current footprint of the existing facilities and the sites are either within an industrial area or at an effective distance from inhabited areas the project will engage, consult and provide information to relevant stakeholders. Based on the audit, there are no affected people and other stakeholders who could be potentially adversely affected by the project. Even then, project design and mitigation measures will incorporate environmental and social concerns if any during the final technical design stage of the expansion activities.

Other beneficiaries are customary landowners from seven different lots, which are needed for the development of the port. These portions will be leased by NPA. The payment of lease will benefit 426 family members from those landowners.

Two major meetings with customary landowners have been conducted by the specialist and the CEO from NPA on 2 and 9 December 2016. During discussions, landowners could express their concerns and questions about environmental and health related issues. Landowners were generally positive for the proposed port development project as they hope for more income through land leases and creation of jobs.

Main issues were:

- > Environmental damage, erosion, oil spill by vessels; how can this be minimized by the project and the government later? How can the project/government guarantee that their land will not be spoiled by truck traffic?
- > What assessments have been done e.g. climate change and wave movement?
- > Will neighboring residents be affected?
- > How can the government guarantee reduction of consumer prices once cargo arrives more frequently into Nauru?
- > Border control established for international ships and how does it affect the spread of transmittable diseases (HIV/AIDS, STDs)?
- > Landowners be represented as a member in the Board of NPA

There will be a separate meeting and a presentation by relevant international specialists, environment and engineering, where those concerns would be further discussed.

A question catalogue was prepared with answers from the specialists. This paper will be distributed during awareness about the project and in special landowner meetings in the future. Residents from Location settlement were concerned that their children will not have opportunity for swimming once the port is developed. The CEO explained that the access to the new wharf will be fenced to avoid any hazards and accidents for residents. Children and residents from that small affected area (two houses) will have to go for swimming and fishing to a place further north on the beach, which is in walking distance.

NPA will ensure that communication of information about environmental and social management will be regularly delivered to their personnel to ensure that they are sufficiently informed and are able to fulfil their responsibility in a manner compliant with the environmental, health and safety (EHS) regulations. Appropriate information and trainings will be provided to personnel depending on the level of their involvement in EHS activities and their respective responsibilities. All port personnel will be informed of the EHS policies, regulations, procedures and programs pertinent to their job. Trainings will be organized and periodic information may be developed to communicate information on progress made by the civil works contractor in environmental and social management.

Stakeholders will be engaged to ensure that they are adequately informed about the contractor's and NPA's environmental and social performance. In addition, NPA-PMU will also prepare and submit semi-annual safeguards monitoring report. NPA will also periodically prepare information bulletins to inform stakeholders and the public on environmental and social aspects. The extent of information to be communicated to specific stakeholder groups (e.g. governmental bodies, monitoring agencies, etc.) and the communication methods will be defined by the management depending on the separate requirements of each stakeholder. The decision body about awareness and consultation will be the NPA Board of Managers and another level higher, the Project Steering Committee.

Primary and secondary stakeholders will be members of the Committee. Customary Landowners expressed their wish to be represented in the NPA Board of Governors.

NPA as the Project Management Unit will prepare a Stakeholder Engagement and Communication Plan upon the project approval. The Communication Plan will be based on methods used in similar projects and follow custom and tradition for communication requirements. Once the process for dialogue with stakeholders at different levels has been established, consultations will be undertaken to share information about the project, receive information from communities and beneficiaries, and discuss potential impacts and mitigation measures. Disclosure of project documents including safeguards assessments and plans will comply with ADB Public Communications Policy 2011 and relevant requirements under laws of the Government of Nauru. The plan will also set out the grievance redress mechanism that will be implemented to resolve any project-level complaint or issue. Results of consultations and communications during implementation will be recorded, monitored and included in the quarterly progress reports.

## 4 Due Diligence and Audit of Existing Site

### 4.1 Involuntary resettlement

The project is category C for involuntary resettlement in accordance to ADB Safeguard Policy Statement (SPS) 2009. There will not be any involuntary resettlement impacts causing physical and economic displacement. Fishing grounds for sale and personal consumption can still be accessed in an alternative fishing ground area north of the wharf.

The project is also category C for Indigenous Peoples according to ADB SPS. There are no Indigenous People defined as distinct and vulnerable in the project area. An Indigenous Peoples Plan will not be required.

### 4.2 Nauru land acquisition and regulatory framework

It appears that there was no authority under Nauruan custom in the holding and dealing with land before colonialization. This does not mean that custom did not affect dealings about land, but research showed that Nauruans did not sell land before European influence. Before Independence Land Acquisition was regulated by the *Nauru Land Committee Ordinance Act 1952*. This Act provided the legal framework for

land distribution and disputes. The Committee comprised of elected Chiefs and Elders from the districts. The Act guaranteed land ownership for Nauruans.<sup>1</sup>

Nowadays, the Land Act from 1976 regulates all legal land issues in Nauru. It distinguishes land as (i) phosphate bearing, worked-out phosphate (ii) bearing or (iii) non-phosphate bearing.<sup>2</sup> As land is an essential asset for families and clans it is not allowed to sell land to foreigners or Non-Nauruan citizens. It is regarded as criminal offence and charged with up to six months' imprisonment.<sup>3</sup>

The government has the right to lease land for public interest and this is done in general for 77 years but nowadays for 20 years or less.

'Where the Republic requires to obtain for any public purpose a lease of any land for a period not exceeding seventy-seven years, an easement, way leave or other right similar or analogous thereto in respect of any land, or a license to enter upon any land and remove sand therefrom, the Minister may notify the owners of the land of the requirement and the public purpose and request them to grant the lease, easement, way leave, other right or license, as the case may be, or may cause them to be so notified and requested.' Nauru Land Act 5 (3), 1976

Land is inherited through a mixed system of matrilineal and patrilineal ways. There are no individual landowners but clans and families. The island is divided in land portions and for each number or portion the rightful landowners are listed down. This includes all members of a family/clan including children. The families cannot sell their land, this is not a traditional practice. The government also only leases land from customary landowners. In general land leases are issued for 20 years, but could be shorter in time. Families within a clan have different shares on the piece of land.

### 4.3 Land acquisition process

The list of landowners is issued by Land Records and send over to Department of Lands and Survey. The Department of Lands and Survey prepares the land leases after they receive the right names of landowners and their officers contact the right landowners to request for signature to the lease agreements. The documents are sent to the Department for Justice following landowners consent. The Chief Justice signs the lease agreements on behalf of the government.

The signatures of 75% of all landowners for the desired land portion is required if the land is in public interest. This is applicable to the extension of the port as it is in public interest.

Lease payment is done after valuation of land; there is a flat rate, which is paid by the government for:

- > Public schools and hospital: AU\$4.00 /m<sup>2</sup>
- > Cemetery: AU\$3.60 / m<sup>2</sup>
- > At the moment the government pays AU\$8.50/ m<sup>2</sup> for all leases in the port area. Payment is done on a yearly basis and all landowners including children get a share.

### 4.4 Nauru Port

The port operates on several sections of land, which are all customary land with different status of leases. No lease is under dispute or has existing legacy issues. Lots 204, 205, and 209 are leased by the government and are valid until 2020. Although the leases expire in 2020, NPA would like to renew all leases in this year. Lots 206 and 207 are under lease agreement with Ronphos and for 131 there

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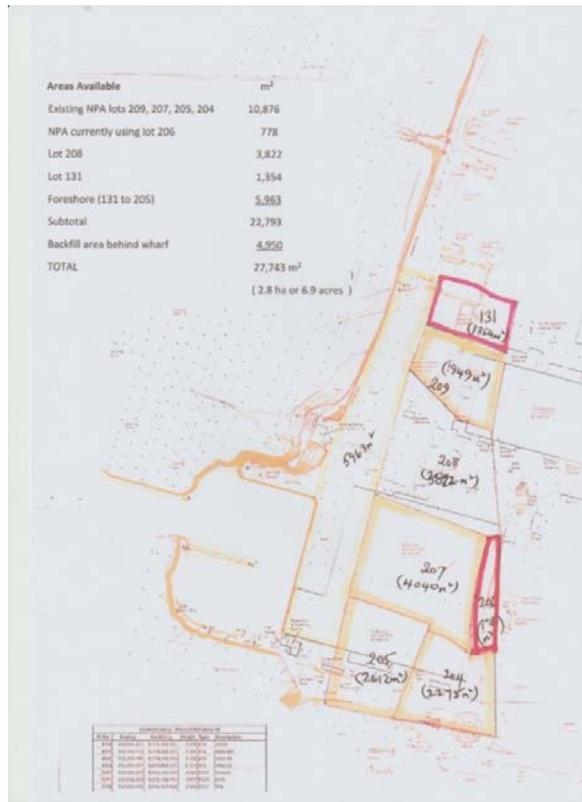
<sup>1</sup> <http://www.un.org/esa/agenda21/natlinfo/countr/nauru/land.pdf>

<sup>2</sup> Republic of Nauru (1976). *Nauru Land Act*. Nauru

<sup>3</sup> Ibid

was an old government lease. Lot 208 is leased by Canstruct, a company, which has worked on the building of a new asylum seeker processing center by the Australian Government.

Figure 3 Map showing Lots 204, 205, 206, 207, 208, 209, 131 and foreshore area



After the first meeting with landowners from Lot 208 on 2 December 2016, the landowners did not object the possibility to come to an agreement with the government on a lease. The lot is leased to Canstruct at the moment, which will expire in May 2017. Landowners are known to NPA as of existing lists from the lands department and from previous experience and contact by the CEO from NPA. Their general condition was that the government should consider recruiting family members for security purposes, which is already practiced by Canstruct, the current lease holder. This will give their families additional income. The discussion is currently underway within NPA as it might trigger similar requests from landowners holding the other land lots Aiwo 204 – 209 and Denig 131. Lease negotiation with landowners will address any potential asymmetry of information and bargaining power of the parties involved. An independent party to document the negotiation and settlement processes where applicable will be required.

The foreshore area, by the Lands Department identified as man- made land (5,963 m<sup>2</sup>) is public land. A total of 16,830 m<sup>2</sup> will be leased by NPA.

Table 1 List of landowners and leases for port development project

District	Portion No	No of people	M <sup>2</sup>	Status of lease	Activity
Aiwo	204	122	2275	old Government lease till 31 March 2020 to be updated (copy available)	NPA seeks new lease now
Aiwo	205	38 (same landowners)	2612	Old lease to be confirmed (no copy available)	NPA seeks new lease now
Aiwo	209		1949	old Government lease till March 2020 and needs to be updated (copy available)	NPA seeks new lease now
Aiwo	206	111	778	Ronphos till 31 March 2020 (no copy available) Verbally confirmed	NPA seeks new lease now
Aiwo	207	68	4040	Ronphos till 31 March 2020 (copy available)	NPA seeks new lease now
Aiwo	208	53	3822	Canstruct until departure of Canstruct this year (mid 2017)	New lease, when old expires; Negotiation with landowners for beneficial requests (recruitment for security) in a separate MoU
Denig	131	34	1354	Old government lease, needs to be renewed and updated	New lease now
Total to be leased		426	16,830		
Foreshore area (131 to 205)			5963		
Backfill			4959		
Total land mass			27,743		

Table 2 Advantages / disadvantages of land leases

Lot	Advantages	Disadvantages / Risks	Activities	Comments
208	<ul style="list-style-type: none"> <li>Big area for container yards and free movement of trucks</li> <li>Adjacent sections are leased by NPA (207 and 209)</li> </ul>	<ul style="list-style-type: none"> <li>Now used by Canstruct, which will finish by April 2017</li> <li>Landowners ask additional payment per container from said company</li> <li>Landowners not easy to negotiate with</li> <li>NPA will not pay money/container</li> <li>Landowners expressed concern on environmental damages of their land in second meeting 8 Dec 2016 and asked for separate presentation by specialists</li> <li>Land negotiations might delay project implementation</li> <li>Landowners ask for additional 'benefits' for family members (e.g. being recruited as security service for port)</li> </ul>	<ul style="list-style-type: none"> <li>Organize a meeting with Ronphos, to identify who leases the land, when lease expires and who will renew it under what conditions</li> <li>Meet with Lands Department (Management) to confirm lease agreements</li> <li>Initiate meetings with representatives of landowners with Lands Committee and NPA</li> <li>Meeting with stakeholders and environmental specialist recommended</li> </ul>	<ul style="list-style-type: none"> <li>Meeting with landowners only preliminary;</li> <li>Short introduction into the port development design and upcoming project</li> <li>Lease process will be followed with meetings and consultations; initiate process and continue in 2017</li> <li>In a second landowner meeting from 8 Dec. 2016, landowners expressed their wish to come into negotiation with the government</li> <li>Environmental concerns to be addressed by consultants in meetings and presentations within PPTA;</li> <li>Under Nauruan land law, payment for land, which is not used for mining, is limited to one amount ( 8.50 AUD /m<sup>2</sup>)</li> </ul>
131	<ul style="list-style-type: none"> <li>needed for turnaround point of trucks from wharf or storage of containers</li> <li>Movement of trucks with containers</li> </ul>	<ul style="list-style-type: none"> <li>Customary landowners; there might be an old lease as it was used by the Department of Fisheries and an old coastal storage building is on the land;</li> <li>Negotiations should start as soon as possible</li> <li>length of lease process under Nauruan land laws and regulations might delay project;</li> <li>Landowners express concern on environment</li> </ul>	<ul style="list-style-type: none"> <li>Status of land must be confirmed at Lands Records</li> <li>If no lease, then meetings with landowners will be initiated</li> <li>Responsible driver of process is NPA</li> <li>Start in 2016 if possible</li> <li>Process continues in 2017</li> <li>Meeting with stakeholders and environmental specialist recommended the coming weeks to reduce concerns</li> </ul>	<ul style="list-style-type: none"> <li>Meeting with landowners are only preliminary;</li> <li>Short introduction into the port development design and upcoming project</li> <li>Landowners have chance to contribute with questions on project and land;</li> </ul>
206 + 207	<ul style="list-style-type: none"> <li>Main area used for container yard</li> <li>Leased to Ronphos.</li> </ul>	<ul style="list-style-type: none"> <li>Additional negotiations with landowners for lease to NPA</li> </ul>	<ul style="list-style-type: none"> <li>Land negotiations between government/NPA and landowners to start in 2017</li> <li>Meeting with stakeholders and environmental specialists recommended</li> </ul>	<ul style="list-style-type: none"> <li>According to a member from Law and Justice, a land lease agreement can be done in a few weeks under Nauruan land law (depending on possible issues being resolved)</li> </ul>

NPA seeks to lease all land areas from Aiwo lots 204-209 and Denig 131. This is not new information but confirming what was discussed last year. As not all old leases have the right purpose of lease and

some expire in 2020, NPA decided to initiate the process now for all. The process has started in January 2017 and it is planned by NPA to have all leases in place before construction begins. There is no clear time schedule as the Department of Lands and Surveys is the implementing institution of those leases and NPA the driving entity.

#### **4.5 Future activities**

Leases will be in place for all lots before civil works start. The leases are prepared by officers from Department of Lands and Survey. NPA will inform landowners about their intention to rent their land. The Land Officers will coordinate with NPA in whatever issues they will encounter in the process. The government needs only 75% of signatures from the landowners. Potential issues such as request for additional benefits will be discussed as they arise. Initiating the renewal of the lease early will allow for more time to address any unanticipated issues with the landowners.

#### **4.6 Project potential benefits and adverse impacts**

The port is located within industrial area, so development will not change the social sphere in the project area. There is no indigenous peoples in the project site.

The biggest risks during construction work are risk of accidents and impact on public safety. The proper training of the drivers is required in order to ensure the efficient and safe operation of the trucks in accordance to the international best practice. Civil works contractors should also establish their own rules and regulations on how to ensure compliance with standard operating procedures and safety during construction.

There will be positive social impacts. The project implementation will create additional jobs for the local population. The employment of local staff will improve economic condition and employment at local level and will support local communities, albeit the number of jobs may not be large.

The construction phase will impact adjacent residents in area 132, southern part of 'Location' and 203, a small peripheral area around the port in Aiwo district. Location consists of landowners and ex-workers of the phosphate mine, who are renting houses. These residents will be part of the project awareness. During construction phase, people from Location will be impacted by noise and probably dust. Residents around that area may not be able to do their fishing but alternative site further north of Location can be used for fishing. The contractor will prepare and implement a community liaison plan to inform the residents about the potential negative impacts and mitigating measures and as well as opportunities for possible local employment.

Noise, dust, and truck traffic during excavation work will have impact on vulnerable groups like children (section 132 specifically), which will be addressed in the EMP. The NPA will prepare awareness activities about the planned port development although it is still in its preliminary phase. Different media, local radio and TV could be utilized. The NPA plans to employ a community liaison person, who is responsible for engaging and consulting with residents and affected people. The communities are proposed to establish a committee of 1-2 person/section of landowner groups with adjacent residents in 132. This group will be the representative of affected people. Any issues arising could be addressed through this committee or directly to the port liaison person. The bidding contractor for the implementation of the port construction would prepare and environment management plan to in the bidding document to address issues about noise, dust, employment of unskilled labor, gender inclusiveness and training of workers in HIV and AIDS.

## 5 Grievance Redress Mechanism

Effective grievance and dispute resolution mechanisms are essential for the success of any project. The project will establish a grievance redress mechanism (GRM) jointly with the contractor who will have the responsibility to answer all construction-related grievances in a timely and appropriate manner. The contractor will engage a community liaison person for any community related grievances, and if not resolved, will follow the same channel as described below. Any technical, construction, labor law, gender and other social issues and grievances, when Nauruan personnel is engaged, have to be dealt straight with the Project Manager of the PMU and then with the EA and the Cabinet if issues cannot be resolved.

Customary landownership and environmental damage are among the possible areas of disputes at the community level. While land lease agreements will be finalized before constructions begins there is no guarantee that no disputes will arise such as related to local employment or other project benefits. The grievance mechanism should be able to effectively resolve these types of disputes.

The NPA/PMU will establish a grievance redress mechanism to receive and address, in coordination with government authorities all project related concerns and jointly with the contractor for construction-specific issues. The PMU will inform affected persons about how they have access to the grievance redress mechanism. The PMU will maintain a complaints register and will show the details and nature of the complaint, the complainant's name, the date and actions taken as a result of the investigation.

NPA will employ a Liaison/Public Relation Officer, who is responsible to deal with stakeholders' issues and complaints and has to refer to authorities if issues cannot be solved. The position for this officer will be budgeted for 2017/18. All other grievances related to construction and contractor's work will be dealt with the Project Manager jointly with the contractor.

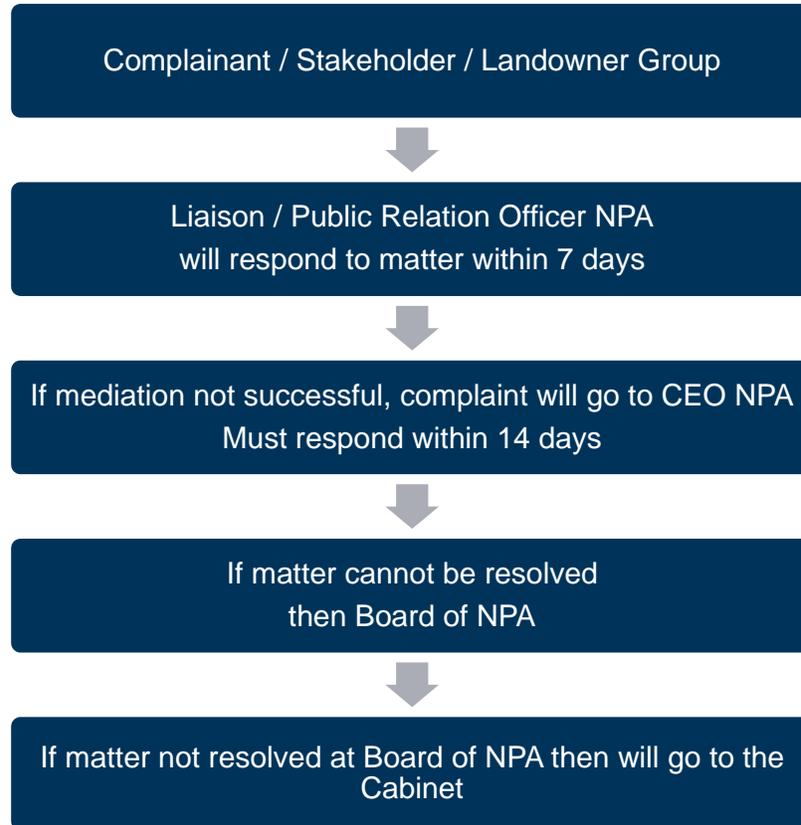
It is recommended that affected persons will form a committee related to the implementation of the project. A complainant can lodge a project-related issue through the elected committee or directly to the Liaison/Public Relation Officer.

The complaint then will be directed to the NPA Public Liaison Officer, who then must respond to it by direct contact or in writing within seven days. Depending on the nature of the complaint the officer will resolve it by consultation with the complainant or pass it on to the NPA CEO's office. All related grievance issues will be dealt through the CEO's office and/or through the government and other legal systems. All environmental issues will be directed to the Ministry of Environment if issues cannot be resolved at the NPA level.

The CEO has to respond to the complainant within 14 days, if the matter cannot be solved, then it will go up to the Board of Management, the last step then is the Cabinet (or Court). Figure 4 presents the complaint process.

Figure 4

Complaint process



## 6 Project Safeguards Monitoring Arrangements

The assessment has shown that there are no major social impacts for the implementation of the project. Noise and dust will be addressed and monitored in the Environmental Management Plan (EMP), which will be prepared for the Pre-Construction (design), Construction and Operational phases of the project. The EMP outlines specific mitigation measures and actions to be undertaken to ensure minimal environmental impacts (marine and terrestrial among others) that will arise from the project.

The project will have a performance monitoring system in place developed by the PMU/PIU. Awareness on HIV/AIDS and gender issues especially for port workers and those recruited for civil works will be part of the Monitoring and Evaluation Framework. The training on HIV/AIDS and gender for workers will be mostly the contractor's responsibility. NPA will try to organize different HIV/AIDS, gender and port safety and security programs for surrounding communities and residents.

Social safeguards monitoring will be included in the reporting on a monthly and quarterly basis. Reports on Gender Action Plan performance and indicators will be part of the project quarterly report. The PMU will submit a Semi-annual Safeguard Monitoring Reports.

Public consultation and stakeholder participation plan, disaggregated by gender, will be part of the overall monitoring procedure during implementation of the project.

## **Conclusion**

The due diligence confirmed that all lands required are within the existing port area with government lease and other sites under lease by 2 private entities to be negotiated by the government. One of the private leases will expire in May 2017 which the government will enter into negotiation with customary land-owners. No lease is under dispute or has existing legacy issues. There will be no involuntary resettlement impacts and no physical and economic displacement. Potential impacts on fishing will be mitigated through alternative fishing site within the same area. There are no indigenous peoples considered as distinct and vulnerable. A Resettlement Plan and Indigenous Peoples Plan are therefore not required. NPA-PMU will prepare a Stakeholder Engagement and Communication Plan for follow-up consultations and continuous engagement and participation among key stakeholders.

## Annex 1 List of People Met – Nauru Port Development Project

Name	Position	Contact
Branessa Tsiode	Department of Finance, PAD, Social Sector Planning	
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Isaac Aremwa	Board Chairman NPA	
Henry Cocker	Deputy Secretary Planning & Aid Division (PAD), Ministry of Finance.	<a href="mailto:henry.cocker@naurugov.nr">henry.cocker@naurugov.nr</a>
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Gabrissa Hartman	Community Leader, Location	<a href="mailto:shirani.hartman@gmail.com">shirani.hartman@gmail.com</a> 558 7503
Tyron Capelle	Department of Lands, Director Lands Committee	557 3154
Peniasi Nakautaga	Director Lands and Survey	5573035/5540669
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Ramrakha Detenamo	A/Director Nauru Bureau of Statistics	<a href="mailto:ramrakha.detenamo@naurugov.nr">ramrakha.detenamo@naurugov.nr</a> 556 6248
Lindsay Thoma	Nauru Bureau of Statistics	<a href="mailto:lindsay.thoma@naurugov.nr">lindsay.thoma@naurugov.nr</a>
Various landowners from land sections 202-209; 131 in meetings		
Mr. Grahma Leing	Secretary of Justice	<a href="mailto:ovalaublue@gamil.com">ovalaublue@gamil.com</a>
Ms. Mavis Depaune	Secretary - Department of Commerce, Industry and Environment (DCIE).	<a href="mailto:monmave@gmail.com">monmave@gmail.com</a> 557 3369

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