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Bismarck Solomon Seas Ecoregion

Solomon Islands' Fisheries, Marine and Coastal Legislation and Policy Gap Analysis.

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Acronyms

ABS	Access and Benefit Sharing
ACIAR	Australian Centre of International Agricultural Research
ADB	Asian Development Bank
AMCA	Arnavon Marine Conservation Area
BDM	Beche-de-mer
CBD	Convention on Biological Diversity
CBFM	Community Based Fisheries Management
CBMP	Community Based Management Plan
CBO	Community Based Organisation
CBS	Community Benefit Sharing
CBSI	Central Bank of Solomon Islands
CFP	Coastal Fisheries Programme
CITES	Convention on International Trade in Endangered Species
DFEC	Department of Forests, Environment and Conservation
DFMR	Department of Fisheries and Marine Resources
DWFN	Distant Water Fishing Nation
EBM	Ecosystem Based Management
ECD	Environment and Conservation Division
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EU	European Union
FAO	Food and Agriculture Organisation
FFA	Forum Fisheries Agency
FSM	Federated States of Micronesia
FSPI	Foundation of the South Pacific International
GEF	Global Environment Fund
GHG	Greenhouse Gas
GMCA	Gizo Marine Conservation Area
ICZM	Integrated Coastal Zone Management
IFAW	International Fund for Animal Welfare
IMO	International Maritime Organization
IWC	International Whaling Commission
IWP	International Waters Programme
LMO	Living Modified Organism
LRFFT	Live Reef Food Fish Trade
MDG	Millennium Development Goals
MOU	Memorandum of Understanding
MPA	Marine Protected Area
NBSAP	National Biodiversity Strategic Action Plan
NCSA	National Capacity Self-Assessment
NEMS	National Environmental Management Strategy
NERRDP	National Economic Recovery, Reform and Development Plan
NGO	Non Government Organisation
NSDS	National Sustainable Development Strategy
NZ	New Zealand
NZAID	New Zealand Aid
OFP	Oceanic Fisheries Programme
PGA	Provincial Government Act
PNG	Papua New Guinea
POPS	Persistent Organic Pollutants
RAMSI	Regional Assistance Mission to the Solomon Islands
RMO	Resource Management Ordinance
RSIP	Royal Solomon Islands Police

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SI	Solomon Islands
SIG	Solomon Islands Government
SOPAC	South Pacific Applied Geosciences Commission
SPC	Secretariat of the Pacific Communities
SPP	South Pacific Programme
SPREP	South Pacific Regional Environment Programme
TDA	Tetepare Descendants' Association
TK	Traditional Knowledge
TNC	The Nature Conservancy
UNCCD	United Nations Convention to Combat Desertification
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nations Development Programme
UNFCC	United Nations Framework Convention Climate Change
VDS	Vessel Day Scheme
WCPFC	Western and Central Pacific Fisheries Commission
WFC	WorldFish Center
WWF	Worldwide Fund for Nature

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This document constitutes a legislative and policy gap analysis of the Solomon Islands, and includes a summary of powers of respective legislation relating to marine and coastal resource management, biodiversity conservation and community benefit sharing. This report has included details on the relevant Acts - Fisheries Act 1998, Wildlife Protection and Management Act 1998, Environment Act 1998 and the Provincial Government Act 1997. However, a more detailed coverage of the legislative framework is provided in other bodies of work, mainly the 2003 and 2006 International Waters Programme (IWP) reports:

- Haurae, J (2003). *National Assessment of Environment, Natural Resources and Relevant Related Legislation and Regulation in Solomon Islands, Strategic Action Programme for the International Waters of the Pacific Small Islands Developing States*, International Waters Programme Solomon Islands, Technical Report 2003/02.
- McDonald, J Prof (2006). *Marine Resource Management & Conservation in Solomon Islands: Roles, Responsibilities and Opportunities*. Griffith Law School, Griffith University Queensland, Australia. (International Waters Programme Report).

These two comprehensive reports have contributed much of the background legal information which has been drawn on in the research for this WWF legislative and policy gap analysis. The author wishes to acknowledge the work undertaken by John Haurae and Jan McDonald and thanks International Waters Programme for the valuable assessments undertaken through its programme. Also used was Berdach James T and Llegu Michelle, *Asian Development Bank TA: 6204-REG Solomon Islands Country Environmental Analysis: Mainstreaming Environmental Considerations in Economic and Development Planning Processes*, Draft Final Report November 2005.

While this current report has referred significantly to the information provided by the 2003 and 2004 IWP reports, it is much broader in its scope and has collected the views, comments and recommendations of a wide group of stakeholders (government and non-governmental) to identify the gaps both from a legal and a practical perspective.

This report also provides an assessment of how Solomon Islands legislation meets its obligations under international conventions and treaties, as well as regional conventions and treaties. The later are an important component of Solomon Islands' management of its natural resources due to its participation in regional forums such as the Pacific Island Forum, SPREP, SPC and FFA.

The author also wishes to acknowledge and thank those people who participated in this project either through personal interviews and focus group meetings, contribution by email, provision of reports and information. Thank you also to John Haurae who was also a consultant on this project and provided valuable information, facilitation in the Honiara focus group, commentary and editorial input to the report.

Jackie Healy (May 2006)

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1.0 Introduction

In April 2006, as part of the Bismarck Solomon Seas Ecoregion (BSSE) conservation programme, WWF Solomon Islands' Country Programme initiated a review of national policies and legislation that relate to conservation and sustainable use of marine, coastal and fisheries resources consistent with key international conventions.

The project analysed gaps in legislation and policies, considered representation of stakeholders in decision-making processes and in protected areas management, and policies regarding coastal and migratory fish stocks.

It included collecting information on sustainable usage and protection of marine resources, biodiversity conservation, capacity within agencies, and community benefit sharing.

The information collected through literature reviews, interviews with stakeholders and focus group meetings has been compiled in the following report. It includes findings on the gaps in legislation and policy as well as recommendations.

2.0 Summary of findings

There is overwhelming evidence that the current key pieces of legislation relating to this topic (*Fisheries Act 1998*, *Wildlife Protection and Management Act 1998* and *Environment Act 1998*) are not achieving their stated objectives nor are they meeting Solomon Islands' obligations under international and regional treaties and conventions. The reasons for this can be summarised as a lack of supporting regulations and fisheries and environmental management plans, failure to implement the Wildlife and Environment Acts, lack of enforcement and a serious shortage of staff, skills and resources within the implementing agencies (Department of Forests, Environment and Conservation (DFEC) and Department of Fisheries and Marine Resources (DFMR)). In addition, there has been a lack of political will, capacity and resources to meet the obligations of international and regional conventions.

Despite the gaps in the national legislation, it appears that at the community or provincial level, there is power for managing marine resources through decentralized powers under the *Fisheries Act 1998* and powers devolved under the *Provincial Government Act 1997*. However, there are many issues which need to be addressed to make this effective, such as dealing with land ownership over lagoons, reefs and coastal waters, developing a national framework to support Marine Protected Areas (MPAs) and tabu areas and their regulations, as well as enforcement and monitoring of these areas.

In terms of biodiversity conservation, the general findings are that there is no framework to support protection of biodiversity or endangered wildlife and their habitats. Solomon Islands has not completed its National Biodiversity Strategic Action Plan, which is a requirement under the International Convention on Biological Diversity, nor does the government have any specific policies relating to environmental management and protection, other than the 12 year old National Environmental Management Strategy (NEMS) document and the DFMR fisheries management policy. In addition, there is no legislation protecting genetic resources or traditional knowledge or otherwise facilitating community benefit sharing or access and benefit sharing (ABS).

Other supporting pieces of legislation such as the *Town and Country Planning Act 1979* and the *Research Act (Chapter 152 of Laws of SI) revised (1996)* are largely ineffective due to being out of date, a lack of regulations in the case of the Research Act and in the case of the Town and Planning Act, being in conflict with the other more modern pieces of legislation.

However, during the implementation of the gap analysis it was evident that there is a strong focus at this time on the effectiveness of the existing national fisheries and environmental legislative framework, as it relates to implementation within Solomon Islands and also in terms of meeting its international and regional obligations under conventions and treaties and the country's ability to manage sustainability its natural

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resources. For example, the International Waters Programme (IWP) recently finalized the "Marine Resource Management and Conservation in Solomon Islands: Roles, Responsibilities & Opportunities" report which looked at key pieces of legislation and the provincial level legal framework for coastal fisheries. This complements the 2003 IWP report on the "National Assessment of Environment, Natural Resources and Relevant Related Legislation and Regulation in Solomon Islands". In addition, the new Corporate Plan 2006-2008 for the DFMR is expected to be finalized in June 2006.

There are several initiatives planned which provide opportunities for WWF, through this gap analysis, to provide input. A major review of the Fisheries Act, its regulations and provincial ordinances is planned with support from the New Zealand government. The Secretariat of the Pacific Community (SPC) is preparing to conduct a review of the fisheries legislation relative to coastal fisheries which is scheduled at the end of August. One of the emphases of the plan is to develop a community fisheries programme in Solomon Islands which puts in place a legal framework to provide local communities with the power to manage their fisheries resources (SPC pers coms 2006). SPREP has commenced work from the Marine Action Plans (2003-2007) to strengthen legislation and policies within member countries to support conservation of dugong and marine turtles.

The Department of Forests, Environment and Conservation is preparing to initiate drafting the long overdue regulations to support the Wildlife and Environment Acts. In addition, the new Minister has called for the establishment of a taskforce to develop national environmental policy.

Both DFEC and DFMR are undertaking major recruitment programmes and consideration is now turning to sourcing funds to provide suitable office accommodation for these agencies.

Another project of relevance is the National Capacity Self Assessment (NCSA) which is in part looking at Solomon Islands' compliance in relation to Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), and United Nations Convention to Combat Desertification (UNCCD). While this project is in still in progress, there is an opportunity for a two way flow of information between the NCSA and the WWF gap analysis.

3.0 Project Context and Objectives

In 2005, the BSSE programme was successful in winning a five year grant from the European Commission. The aim of the programme is *"to conserve the globally significant marine biodiversity of the Bismarck Solomon Seas, and improve the sustainability of livelihoods of coastal communities in Indonesia (Papua), Papua New Guinea, and Solomon Islands, through improved protection and management of coastal and marine resources, maintenance of marine and coastal ecosystem functions, promotion of sustainable fisheries, and support to governments and regional bodies to ensure integration of the environmental dimension into development processes"*.

In this context, WWF Solomon Islands initiated the legal gap analysis as a key activity towards achieving one of the stated objectives of the programme:

"To support development of national and regional policy and legislative frameworks for conservation and sustainable use of marine, coastal and fisheries resources consistent with the objectives of key international conventions".

In July 2003, a visioning workshop, held in Madang PNG, identified the main challenges for the BSSE as:

- Growing coastal populations and poorly designed coastal developments - including industry and mining;
- Unregulated fishing (ie overharvesting, destructive techniques etc);
- Increasing market demand for particular marine species (sea cucumber, shark fin etc);

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- Lack of scientific data and monitoring capacity in the region;
- Pollution from both land and sea sources;
- Irresponsible and insensitive tourism practices; and
- Climate change and coral bleaching events.

The visioning workshop report (WWF SPP, 2003) noted that across the BSSE there were different management policies supporting and protecting the use and management of marine resources. The report said that "Where there is an absence of a policy framework safeguarding marine or coastal habitats, it is evident that pressures are increasing." It is within this context that WWF Solomon Islands has initiated a legal gap analysis, the results of which are outlined in this report.

4.0 International and Regional Conventions, Treaties and Programmes

Solomon Islands is a party to numerous international and regional instruments, either directly through signing and ratifying or through being affected by non binding legal instruments which impact on the environment and Solomon Islands' natural resources. *(See Appendix 1 for complete table of international and regional conventions affecting Solomon Islands).*

Some of the key legal and non binding instruments affecting conservation, biodiversity protection and marine resource management, use and protection are:

International Legal Instruments:

- 1982 United Nations Convention on the Law of the Sea (UNCLOS);
- Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.
- Convention on Biological Diversity (CBD)
- United Nations Framework Convention on Climate Change (UNFCCC)
- United Nations Convention to Combat Desertification (UNCCD)
- The Stockholm Convention on Persistent Organic Pollutants (POPs).
- 1993 FAO Compliance Agreement (Solomon Islands is not a party but the agreement sets up important principles for fisheries management).
- International Whaling Commission

Non Binding Instruments which impact on fishing:

- Agenda 21 Programme of Action for Sustainable Development.
- 1995 FAO Code of Conduct for Responsible Fishing.
- 2002 World Summit on Sustainable Development (Johannesburg Declaration on Sustainable Development/the Johannesburg Plan of Implementation)
- Lome FAO Ministerial Statement on Fisheries
- 1995 Kyoto Declaration on Food Security.
- Millennium Development Goals

Regional Agreements:

- Pacific Islands Forum Fisheries Agency Convention (1979 FFA Convention,)
- Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America;
- Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific;
- Niue Treaty on Cooperation in Fisheries Surveillance & Law Enforcement in the South Pacific Region;
- 1982 Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Concern;
- Palau Arrangement for the Management of the Western Pacific Purse Seine Fishery;
- 1995 FSM Arrangement for Regional Fisheries Access Licenses
- Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean was agreed to by Pacific Island countries in 2000, and entered into force 2004.
- The Pacific Plan (Pacific Island Forum)

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These instruments are important mechanisms for guiding the Solomon Islands' government in its management of fish stocks, marine resources, biological diversity and genetic resources, as well as issues affecting the country such as poverty reduction, food security, climate change, pollution and desertification. However, such instruments also carry obligations on participating countries and require a level of commitment. The Solomon Islands' government and its implementing agencies are struggling with the obligations placed on them by some conventions. The significant amount of travel required by ministers and heads of departments exacerbates an already overwhelming shortage of staff, particularly for the DFEC (pers coms DFEC Permanent Secretary S Likaveke, 2006). Key strategy documents have not been completed such as the National Biodiversity Strategic Action Plan (NBSAP) and National Sustainable Development Strategy (NSDS). These strategies would advance the integration of the principles of conservation of biological diversity and sustainable development and management of resources into national programmes and decision making. However, of more concern is the belief that there is a lack of commitment at the political level to observe these obligations (pers coms UNDP).

These international and regional instruments also require some changes in member countries legislative framework. For example, the Fisheries Act 1998 needs to be reviewed since the Solomon Islands became a party to the "Tuna Convention", known formally as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The legislation also pre-dates the FAO Code of Conduct for Fisheries.

In an assessment of the *Obligations to Protect Marine Ecosystems under International Conventions and Other Legal Instruments (2001)*, Dr Transform Aqorau, FFA Legal Counsel, looked at a number of instruments which impact on fisheries such as the Tuna Convention, the CBD and FAO Fisheries Code of Conduct. Such instruments "attempt to establish a global framework for the conservation and management of marine environments and resources" and their inclusion of conservation was positive "as it is a step away from the traditional species and stock focus" (Aqorau, 2001). However, while the instruments promote a more regional approach to marine resource management, Aqorau feels that the drawback is that many States are not a party to them and the instruments are often vague and ambitious. He also raised the issue of enforcement, particularly of Illegal, Unregulated and Unreported fishing and the lack of resources for implementing many of the measures are often a problem, particularly for developing nations.

The following is a look at some of the key instruments impacting on Solomon Islands at a regional and international level.

4.1 International Conventions, Treaties and Programmes

National Capacity Self Assessment Review

Currently the Solomon Islands' government is undertaking a National Capacity Self Assessment (NCSA) to determine its capacity to carry out the commitments under the three United Nation conventions, namely the Convention on Biological Diversity (CBD), Framework Convention on Climate Change (UNFCCC) and Convention to Combat Desertification (UNCCD). The NCSA is a Global Environment Fund (GEF) initiative and part of the self assessment is to investigate progress towards achieving the commitments under the three conventions and to identify capacity needs for achieving the conventions' objectives. At the time of this report, the NCSA was still in progress and no formal report was available on the outcomes of the assessment.

Framework Convention on Climate Change (UNFCCC)

The UNFCCC entered into force in 1994, and was established to stabilise greenhouse gas (GHG) concentrations in the atmosphere to a level that would prevent dangerous anthropogenic interference

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with the climate. Parties to the Convention are required to:

- make available to the COP (Convention of Parties) national inventories of emissions;
- to formulate, implement and publish national and regional programmes containing those measures to mitigate climate change;
- to promote and co-operate in the development, application and diffusion of technologies, practices and processes that control, reduce or prevent GHG emissions
- to promote sustainable management; and
- to co-operate in scientific, technical and socio-economic systematic and development of data relating to climate change.

The NCSA report will provide an assessment of Solomon Islands' progress towards meeting these obligations.

Convention to Combat Desertification (UNCCD)

The Convention was established to combat desertification and mitigate the effects of drought in countries experiencing serious conditions, particularly Africa. It entered into force in December 1996. The provisions under the Convention require affected (developing nation) parties to:

- prioritise action relating to desertification and drought;
- address the causes of desertification and establish strategies in line with the principles of Sustainable Development;
- facilitate awareness and participation of local populations; and
- enhance legislation to provide an enabling environment

Each party shall develop National Action Programmes which should

- include long term strategies to combat desertification and drought;
- prescribe measures to prevent desertification and drought;
- enhance national climatological and hydrological capabilities;
- promote policy and institutional framework;
- encourage effective participation; and
- require regular review of implementation.

The NCSA report will provide an assessment of Solomon Islands' progress towards meeting these obligations

Convention on Biological Diversity

The main convention concerning the protection of biodiversity and ultimately the long term sustainable use of marine resources is the Convention on Biological Diversity (CBD). According to *The Convention on Biological Diversity, Perspectives for Implementation*, (WWF 1996),

"Loss of biological diversity is a global concern: it can impoverish human life and the course of human development. The Convention on Biological Diversity (CBD) represents the first united effort by national leaders to address the rate at which the world's natural resources are being degraded and destroyed. It is a legally binding agreement which recognises the importance of conserving biological diversity as well as the sustainable use of natural resources. The Convention is intended to encourage and enable all countries to conserve biological diversity to ensure that its use in national development is sustainable and to reconcile natural interest with the maintenance of highest possible levels of global biodiversity. It does so by recognising the sovereign rights of a national to exploit its own biological resources, in keeping with their environmental policies, and by making them responsible for the future of these resources."

The CBD has three main objectives set out in 42 Articles. These include the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. It is important to note that "the full definition of biodiversity contained in the

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Convention on Biological Diversity encompasses diversity from the genetic level through to the species and the community/ ecosystem level," (WWF NZ, 2005). This must be considered in the development of any new legislation, regulations and management plans.

Key requirements of the CBD are the development of national plans, strategies or programmes for the conservation and sustainable use of biological diversity (such as NBSAP), or the adaptation of existing strategies and integration of these strategies into the national programmes and policies for these purposes (Art.6). It also requires protection of biological diversity in situ - recommending the establishment of a system of protected areas or areas where special measures are needed to be taken to protect biological diversity (Art 8). Another important area is the integration of conservation and sustainable use of biological diversity into national decision-making (Art.10) (CBD text 1992).

Without the benefit of the NCSA stocktake report, it is difficult to comment fully on Solomon Islands' obligations under the CBD. However, it is clear that Solomon Islands has not achieved a number of the key commitments. The NBSAP has not been completed, sustainable use and conservation of biological diversity has not been mainstreamed into national programmes and decision making, there are no laws protecting traditional knowledge or genetic resources and there is no national legislation for establishing systems of protected areas. However, marine turtle conservation does have a national strategy and is now subject of a draft MOU between Solomon Islands, Indonesia (Papua) and PNG governments.

Solomon Islands has initiated development of the National Biosafety framework dealing with living modified organisms (LMOs); there are a number of NGOs working to establish marine protected areas (the Arnavon Marine Conservation was developed 10 years ago) however, there is no national system of site selection, guidelines and processes for establishing MPA. In addition, the Environment Act, which should provide strict guidelines for pollution control and land based developments through an environmental impact assessment process, has not been implemented for lack of regulations.

Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Despite preparing the *Wildlife Protection and Management Act 1998* as a vehicle for delivering on the CITES obligations for trade in wildlife, Solomon Islands has not signed this treaty.

At a CITES workshop in Fiji 2002, it was reported that CITES is one of the few conventions that has a strong influence on non-signatory countries through its Standing Committee which can issue a ban prohibiting parties from accepting imports of listed species from countries that they consider are engaging in unsustainable level of trade. "Trade as a non-party state still entails compliance with the CITES requirement for the shipping of Appendix II plants and animals. Solomon Islands needs to comply in essence, with CITES requirements for documentation and management," (CITES Workshop Report 2002).

Former Director of DFEC, Moses Biliki (2002 SPREP Aquaculture workshop paper), confirms Solomon Islands has passed the necessary domestic legislation required to effect CITES at the domestic level. However, further regulations, MPAs, aquarium trade management plans and Integrated Coastal Zone management plans were needed. He said "existing legislation is enough to initiate and implement such plans" (Biliki, 2002). It appears that despite not having regulations in place the Wildlife Act can help achieve the goals of CITES in terms of export and import of wildlife.

The 2004 Fisheries Annual Report has "accession to CITES" as an objective (Act 5) and states that a joint Cabinet Paper was submitted to the Attorney General's office for the necessary clearance prior to submission to Cabinet for consideration. The three departments involved were Foreign Affairs, Environment and Conservation and Fisheries and Marine Resources. As at 2006, Solomon Islands still has not signed the treaty.

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In 2003, Solomon Islands became the subject of significant international condemnation for agreeing to export dolphins to Mexico. The export permit was given by a previous Minister of Forests, Environment and Conservation.

A media statement by the CITES Secretariat on 30 July 2003, reported the CITES Management Authority of Mexico had sought advice in relation to two export permits issued by the Solomon Islands Ministry of Forests, Environment and Conservation authorising the export of 120 specimens of bottlenose dolphins (*Tursiops truncatus*). *"This species is listed in Appendix II of the Convention, which means that it can be traded internationally if the provisions of Article IV of CITES are complied with, notably if the export is found to be non-detrimental to the survival of the species by a designated scientific authority. The Solomon Islands is not a Party to the Convention. However, its government has previously advised the CITES Secretariat that its Ministry of Forests, Environment and Conservation is competent to issue documents comparable to those required by CITES. It has also designated a scientific institution capable of advising that an export is not detrimental to the survival of the species."* (CITES media statement 30 July 2003).

A key issue was whether there was demonstrated scientific backup to the export of the dolphins. However, it was widely understood at the time that no stock assessments had been undertaken of any dolphin species. Despite the Wildlife Act being in place, there were no supporting regulations. There was no requirement for a species stock assessment or for the exporter to develop a management plan for the trade. The final comment in the media statement was "The Secretariat has encouraged the Solomon Islands on several occasions to accede to the Convention, which would facilitate more effective regulation of trade in wildlife from the country, and hopes that it will do so soon".

In November 2005, the former Minister for Fisheries and Marine Resources issued a ban on the export of dolphins (Supplement to the Solomon Islands Gazette, SI No 32, Legal Notice No 124).

International Whaling Commission (IWC)

As a financial member of the International Whaling Commission, DFMR claims that at IWC meetings, Solomon Islands has always maintained the principle of sustainable management as per its Fisheries Act. However, it recognizes that decisions made at the IWC meetings "tend to be more political rather than resource management focused" (Draft Ministerial Briefing Note 2006). The current arrangement is that Solomon Islands' membership fee to the IWC has been paid by Japan in past years. The DFMR is reviewing this arrangement so that in future, funds for the IWC membership fee would come from the Department of Finance.

During the gap analysis, the requirement for a separate Act for whales and other marine mammals was raised (J Haurae, 2006). During the Honiara focus group sessions (May 2006), this suggestion was supported. Given Solomon Islands' refusal to join in the WWF South Pacific Whale Sanctuary project, it may be a difficult task to introduce an Act specifically for the conservation and protection of whales and other marine mammals. However, as there is a new national parliament and new Ministers for Fisheries and Environment, this presents an opportunity to open discussions on conservation of whales and other marine mammals.

The Director of DFEC, Joe Horokou (pers coms April 2006) advised that the group International Fund for Animal Welfare (IFAW) is considering funding and assisting with the drafting of a section of the Wildlife Act regulations for a component on whales.

Millennium Development Goals

Solomon Islands is a party to the Millennium Development Goals initiated at the United Nations Millennium Summit in 2000. There are eight goals which aim to reduce poverty and improve people's lives:

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1. Eradicate extreme poverty and hunger;
2. Achieve universal primary education;
3. Promote gender equity and empower women;
4. Reduce child mortality;
5. Improve maternal health;
6. Combat HIV/AIDS, malaria and other diseases;
7. Ensure environmental sustainability; and
8. Develop global partnerships for development

According to *the Solomon Islands National Economic Recovery, Reform and Development Plan 2003-2006*, (NERRDP), as of October 2003, "in general, Solomon Islands has lagged behind in its progress towards meeting the Millennium Development Goals". And an EU country profile assessment states that Solomon Islands "is unlikely to meet the majority of the Millennium Development Goals by 2015", (Europa website, 2006).

The MDGs are important as they provide national targets for Solomon Islands and are a way of assessing the country's progress. At an agency level, the DFMR is undertaking activities in relation to rural livelihoods for fishers which are aimed at poverty reduction and food security (MDG 1 Target 2). However, the goal to ensure environmental sustainability (MDG 7) which aims to "Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources," (Target 9) are largely outstanding given there are no biodiversity or sustainable development action plans and the Asian Development Bank, Country Environmental Assessment (Berdach & Llegu 2005) found there was a "weakness thus far in integrating environmental considerations into the country's economic and development planning processes". DFEC is limited in its capacity to undertake activities towards the environmental goal of the MDGs as the Environment and Wildlife Acts are not able to be implemented without regulations and the Environment and Conservation Division of DFEC is severely under staffed and resourced at this time.

4.2 Regional Conventions, Treaties and Programmes

Solomon Islands is a member of the Pacific Islands Forum which was established in 1971 as regional grouping of countries which work together on a range of issues including economic development (such as fisheries development and management, through FFA and SPC, as well as political and environmental issues, through SPREP and SOPAC. The access to shared resources and support on a regional level also entails regional obligations on behalf of participating countries. The following is a summary of some key regional organisations providing regional support but also the commitments required of member countries in the form of supporting regional plans.

Pacific Islands Forum Fisheries Agency Convention (1979)

In 1977, the members of the Pacific Islands Forum decided to establish a South Pacific Regional Fisheries Agency "open to all Forum countries and all countries in the South Pacific with coastal state interests in the region who support the sovereign rights of the coastal state to conserve and manage living resources, including highly migratory species, in its 200 mile zone," (8th South Pacific Forum Resolution Port Moresby, Papua New Guinea 1977). The functions of the Agency are to:

- a. *collect, analyse, evaluate and disseminate to Parties relevant statistical and biological information with respect to the living marine resources of the region and in particular the highly migratory species;*
- b. *collect and disseminate to Parties relevant information concerning management procedures, legislation and agreements adopted by other countries both within and beyond the region;*
- c. *collect and disseminate to Parties relevant information on prices, shipping, processing and marketing of fish and fish products;*
- d. *provide, on request, to any Party technical advice and information, assistance in the development of fisheries policies and negotiations, and assistance in the issue of licences, the collection of fees*

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- or in matters pertaining to surveillance and enforcement;*
- e. seek to establish working arrangements with relevant regional and international organisations, particularly the South Pacific Commission; and*
- f. undertake such other functions as the Committee may decide."*

Solomon Islands agreed to host the FFA which was established in Honiara and works on behalf of the member countries, which are in turn required to provide the agency with available and appropriate information including:

- *catch and effort statistics in respect of fishing operations in waters under their jurisdiction or conducted by vessels under their jurisdiction;*
- *relevant laws, regulations and international agreements;*
- *relevant biological and statistical data; and*
- *action with respect to decisions taken by the Committee.*

The FFA plays a major role in assisting the member countries to conform with and meet their obligations under the new Tuna Convention (see below).

Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean

This convention (known as the Tuna Convention) was adopted in Honolulu on 5th of September 2000 and came into force in June 2004. It is one of the first regional fisheries agreements to be adopted since the conclusion in 1995 of the Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea (UNCLOS 1982) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (FFA, 2004). The objective is to "ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean" (FAA, 2004), in accordance with UNCLOS. Under this regional agreement, the Western and Central Pacific Fisheries Commission was established as the main implementing body. Solomon Islands has signed and ratified the Convention.

Part II of the Convention, Articles 5, 6, 7 and 8 specify the details of the conservation and management of highly migratory fish stocks. It applies the precautionary approach, adopts measures to ensure long-term sustainability of highly migratory fish stocks, protects biodiversity in the marine environment, aims to prevent overfishing, and takes into account the interests of artisanal and subsistence fishers. It stipulates measures for fishing gear, enforces the need for data collection and for enforcing conservation and management measures through effective monitoring, control and surveillance.

Article 6 (S1C) states members of the Commission shall "develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans where necessary to ensure the conservation of such species and to protect habitats of special concern."

The Tuna Convention and subsequent meetings of the WCPFC have also significantly increased the obligations for participating countries in terms of Flag State responsibilities, recording of foreign fishing vessels and increased powers of enforcement and boarding of vessels. According to Aqorau, the new Tuna Convention, subsequent decisions of the Commission and the FAO Code of Conduct for Responsible Fisheries, make the current Solomon Islands Fisheries Act out of date (T. Aqorau, pers coms 2006). Therefore, the Act needs to be reviewed as Solomon Islands now has increased powers and responsibilities relating to establishment of records of fishing vessels which have to be marked with Commission marks, and increased Flag State responsibilities and enforcement powers. The Tuna Convention sets new standards for collection of data and gives broader powers to fisheries officers to inspect fishing vessels which come into port (Aqorau, 2006).

According to Aqorau, the Fisheries Act is largely geared towards licensing of foreign fishing boats, especially

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through Access Agreements and it is now time to look beyond Access Agreements. Under the new Tuna Convention, principles for fisheries management are the same for local and foreign vessels, and both kinds of vessels must provide the same level of information.

The FFA is developing a legislation template of best practice fisheries management which will be used during reviews of member countries' fisheries management legislation. These reviews are part of the ongoing work of FFA, which has secured funding through the Global Environment Fund (GEF) to mount a systematic review of member countries' legislation in 2007. The review of Solomon Islands' fisheries legislation is due by the end of 2006.

The SPC Oceanic Fisheries Programme (OFP) Strategic Plan

The SPC Oceanic Fisheries Strategic Plan outlines the need for member countries to cooperate regionally when managing their fisheries under conventions and treaties relating to highly migratory species. The plan emphasises that Solomon Islands and other Pacific nations have a duty to conserve tuna resources in their Exclusive Economic Zones (EEZ) and to include non target species such as billfish, sharks, turtles, seabirds and marine mammals.

According to SPC, these coastal states cooperate through their participation in the FFA which has implemented management initiatives relating to access for foreign fishing vessels, obligations for data provision and participation in observer programmes. The actions of countries such as Solomon Islands are governed by multilateral and bilateral treaties and agreements such as the US Treaty, FSM Arrangement and Palau Arrangement. The SPC's oceanic fisheries programme provides support in terms of "data processing and management, data summaries and analyses, stock assessments and advise on the effectiveness of potential management measures" in close collaboration with the FFA. According to the SPC OFP, the Western and Central Pacific Fisheries Commission (WCPFC) is the principal vehicle through which coastal states and fishing states are to cooperate in fisheries management. The OFP will continue to provide scientific services to the WCPFC in the areas of data management and stock assessment. The relationship between the OFP and the WCPFC is therefore an integral part of this Strategic Plan which states the greatest challenges facing the region within the area of competence of the Oceanic Fisheries Programme are:

- *"That Pacific Community members, both individually and collectively, have access to accurate and comprehensive scientific data on regional oceanic fisheries, and to high-quality scientific information and advice on the stocks that are targeted or otherwise impacted by those fisheries. This is required for PICTs to discharge their responsibilities for the management of fisheries in their EEZs, and for them to cooperate within the WCPFC and FFA frameworks in regional oceanic fisheries management.*
- *The need to understand the broader pelagic ecosystem that supports these fisheries in order to support new attempts to manage fisheries on a more holistic ecosystem basis.*
- *Cutting across both of these issues is the challenge of developing and retaining human resources in-country to monitor fisheries, manage data, provide technical support to fisheries management and participate meaningfully in regional management discussions."*

Solomon Islands DFMR has recognized the shortfalls in its current national legislation to deal with the new obligations and expanded powers under the Tuna Convention and other conventions and agreements. It is expected that the planned reviews and the new Corporate Plan will overcome the current gaps.

SPC Coastal Fisheries Programme (CFP) Strategic Plan

The SPC Coastal Fisheries Programme (CFP) Strategic Plan is focusing effort into an ecosystem based approach (EBM) to coastal fisheries management, recognizing that there are many factors

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impacting on coastal fisheries such as land based activities and tourism. It advocates the ecosystem approach as opposed to individual management plans for separate fisheries. The CFP plan recognizes that the EBM approach will require building of "institutional systems that can consider all of the human impacts on coastal ecosystems, and get different agencies working together to achieve a common vision of how the coastal ecosystems that currently support fisheries should be maintained, and usage allocated and controlled."

This important objective is imperative to Solomon Islands, but as determined from the current gap analysis, the country is not in a position to undertake this in any holistic way without support. From an oceanic fisheries point of view, NZ and FFA will provide input and support. However, at the inshore or coastal level, we have already seen that the DFMR is understaffed and under resourced. This approach also calls on cooperation across agencies and there has been evidence of this not happening at the national level for various reasons (other priorities, lack of resources, political will). However, SPC has indicated that it will undertake a review of the inshore fisheries of Solomon Islands with a view to developing a framework for community based management planning (Ueta Fa'asili pers coms 2006).

Fisheries Access Agreements:

The Solomon Islands Fisheries Act 1998 gives power to the Minister for Fisheries, with the approval of Cabinet, to enter into access agreements with any distant water fishing nations or regional agreements with Pacific Islands States or with any competent regional fisheries agency respectively (DFMR Draft Ministerial Briefing Note, 2006). Solomon Islands currently has bilateral agreements with the EU (purse seiners and longliners), Japan (purse seiners and long line and pole and line vessels), Korea (purse seiners), Taiwan (purse seiners and long line), and New Zealand (purse seiners), and a multilateral fisheries treaty with the US (purse seiners).

The DFMR believes access agreements are still needed but agrees that better negotiations are required. Solomon Islands, with the other parties to the Palau Agreement, has agreed to move to a new system of allocating tuna resources by the Vessel Day Scheme (VDS) where purse seine boats are allocated a certain number of days for fishing in member countries' EEZ waters. This arrangement by Parties to the Palau Agreement (PNA) replaces the vessel control scheme which caps the number of purse seine vessels which can fish in the EEZs of FFA member countries. According to the DFMR, under the current scheme "the purse seine vessel is given to the Distant Water Fishing Nations (DWFNs) whereas the VDS is given to the tuna resource owning countries, hence the right to sell their days to whoever offers the best price". The allocation of days to each member country was based on the 2004 catch data. The new scheme may provide a more equitable arrangement for negotiating countries such as Solomon Islands.

In terms of benefit sharing of the tuna resource for Solomon Islands, in the past the DFMR has tried to encourage local participation in the use of the tuna resource both in fishing and processing to maximize return to the country. However, this has not been realized and according to the draft briefing note to the new Fisheries Minister (2006), "the result has been that, apart from Soltai, most of the fish that are caught in our waters were never landed in SI for processing." In recognizing this issue, the DFMR is advocating a change in policy to increased landing in Solomon Islands of fish caught in its EEZ waters and believes this will improve the economic return to Solomon Islands through value-added products, local employment and other spin offs.

The Pacific Plan - Pacific Island Forum Secretariat

The Pacific Plan was endorsed by leaders at the Pacific Islands Forum meeting in October 2005. The goal is to "enhance and stimulate economic growth, sustainable development, good governance and security for Pacific countries through regionalism" (Pacific Plan, 2005). The plan calls for the following immediate actions:

- *"Maximise sustainable returns from fisheries by development of an ecosystem-based fishery management planning framework; encouragement of effective fisheries development, including value-*

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adding activities; and collaboration to ensure legislation and access frameworks are harmonised.

- *Development and implementation of National Sustainable Development Strategies (NSDS), using appropriate cross-cutting and Pacific relevant indicators.*
- *Development and implementation of national and regional conservation and management measures for the sustainable utilisation of fisheries resources.*
- *Development and implementation of policies and plans for waste management".*

According to Aqorau, the Pacific Plan's main principle is to ensure that Pacific Islanders benefit from the development of fisheries. It incorporates ecosystem based management and development of new legal frameworks and "is driving the FFA in the direction it is already heading".

The DFMR says that while the Pacific Plan is new, the department is working on some activities towards sustainable fisheries through the regional body FFA. DFEC does not have the staffing capacity at this point to contribute to the goals of the Pacific Plan.

SPREP Action Plan 2003-2007

As a signatory to the South Pacific Region Environment Programme (SPREP) Convention, Solomon Islands has an obligation to observe the strategic directions of the *SPREP Action Plan 2003-2007*.

This plan recognises that environment and conservation are difficult areas to include or mainstream into national level thinking through out the South Pacific region. It identifies the causes as "a lack of institutional capacity (especially at national level), limited infrastructure development, lack of coordination and integration of environment and conservation activities, limited economic alternatives, lack of political support and good governance, and limited funds". For many countries in this region, "addressing basic needs such as alleviating poverty, food security and earning money for survival are often a more immediate priority," (SPREP, 2003-2007). However, mainstreaming conservation is an important part in SPREP's plan and "recognizes that a successful conservation strategy will improve quality of life through a vibrant economy, a prosperous society and a healthy environment". Mainstreaming is also a part of the obligations of the CBD, the MDGs and "integrating environmental considerations in economic development" was one of the 10 key strategies of the National Environmental Management Strategy 2003.

The strategic plan identifies that a key to ensuring effective mainstreaming of sustainable resource management is the need for supportive legislation, policies and plans at the national level in member countries.

During the process of this legislative gap analysis, it has become clear that the Solomon Islands' government in part falls into the description or regional countries' outlined above in SPREP's introduction to its 2003-2007 Action Plan. With few exceptions, the key objectives stated above are not being met and this is largely due to the factors described by SPREP.

The Asian Development Bank (ADB) supports this conclusion. In 2005, ADB undertook a country environmental analysis of mainstreaming environmental considerations in economic and development planning processes in Solomon Islands. The subsequent report found, "*The lack of a national sustainable development policy; the absence of a well-articulated statement regarding environmental mainstreaming as a clear policy objective in the NERRDP and other policy documents; and weak institutions and lack of a budget allocation that reflects a genuine commitment to support effective environmental monitoring and management, all point to weakness thus far in integrating environmental considerations into the country's economic and development planning processes.*"

The report stated that the legislative framework in Solomon Islands can go part way to addressing

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environmental concerns and natural resource management issues, but there is a gap in enforcement and putting the laws into operation due to "limited capacity, lack of financial resources, weak commitment, and poor governance." The report summarised the following barriers to effective environmental management and mainstreaming in Solomon Islands:

- (i) *"institutional weaknesses in environmental and natural resources management at the national, provincial, and community level;*
- (ii) *policy and legal framework that needs to be further strengthened;*
- (iii) *absence of effective mechanisms for linking and integrating the customary land tenure system with modern systems for land management, leading to exclusion of traditional resource users from meaningful dialogue, thus limiting their decision-making power, and reducing the benefits that flow to the communities that are directly dependent on the use of these resources for their sustenance;*
- (iv) *absence of political will, and poor governance, that impede sustainable economic growth;*
- (v) *increasing population that puts added pressure on resources that are already threatened or dwindling; and*
- (vi) *data gaps that constrain effective and informed decision-making and planning for sustainable development. Because these weaknesses create an environment in which abuses can flourish, significant and often irreversible losses of environmental values and depletion of natural resources occur as a result."*

Recommendations for the Solomon Islands government are a key of the ADB report. It would be an obvious place for the government to start in terms of sustainable use of marine resources and biodiversity conservation, not just for the reasons of sound environmental principles but also because the country's food security and future social, economic and environmental well being depend on it. It would also support the objectives of the SPREP Action Plan 2003-2007.

SPREP Marine Species Action Plan 2003-2007

SPREP also has a Marine Species Action Plan 2003-2007. The action plans for dugong and marine turtles included a review of member countries' legislation in regard to these two priority species. However, SPREP marine species coordinator Lui Bell advised the review has not happened but SPREP has started to collect information for this activity (pers coms 2006).

The dugong action plan states: "There appears to be inadequate policy and legislation for the conservation and management of dugongs in dugong range states." Action 12: called on SPREP to coordinate a review of local and national dugong and habitat protection legislation and regional/international agreements currently in force in SPREP member countries with the outcome of "current legislation and enforcement for protection of dugongs in PNG and Solomon Island is strengthened by 2007".

A similar objective applies to marine turtles, "to review local and national marine turtle and habitat protection legislation and regional/international agreements currently in force in SPREP member countries". The review was to have been completed by 2003 and include issues such as penalties and enforcement protocols; species covered by legislation; habitat protection; sustainable catch estimates; open and closed harvest seasons; local customs and arrangements; national EEZ protection; and regional agreements.

The Solomon Islands has used the SPREP Marine Action plan for turtles for its own in-country turtle conservation activities and is preparing to participate in a tri-national MOU on turtle conservation with countries of the BSSE (Solomon Islands, Indonesia (Papua) and PNG).

5.0 National Level Legislation, Policies and Programmes

5.1 National Economic Recovery, Reform and Development Plan

In October 2003, the Solomon Islands Government released its National Economic Recovery, Reform and Development Plan 2003-2006, Strategic and Action Framework (NERRDP). The plan is the medium-term development strategy policy document of the government and sets out strategies, policies and actions to be taken for economic recovery, social restoration, reform and development during the period of the plan. It aims to address issues affecting the economy and well being of Solomon Islanders following the ethnic tension period from 1999 to 2003 and therefore concentrates on five key strategic areas:

- Normalising law and order and security situation;
- Strengthening democracy, human rights and good governance;
- Restoring fiscal and financial stability and reforming the public sector;
- Revitalising the productive sector and rebuilding supporting infrastructure; and
- Restoring basic social services and fostering social development.

In terms of sustainable use of marine resources and biodiversity protection there are no specific policies which articulate the government's position. However, there are sector-specific strategies, policy actions and outcomes and in the case of fisheries, the concept of sustainable utilisation is included. The NERRDP also recognises the need for new fisheries legislation, management plans and reform of the DFMR.

NERRDP Fisheries Activities (Chapter 6, A4):

- *"Facilitate the rational management and conservation of coastal fisheries and aquatic living resources through their sustainable utilisation;*
- *Rehabilitate and promote the privatisation and commercialisation of rural fisheries centres;*
- *Promote aquaculture development of aquatic organisms such as seaweed, pearl culture, prawns etc;*
- *Promote tuna fisheries development through foreign and local investment;*
- *Increase revenue through licensing of more tuna fishing vessels under access agreements and domestic licensing arrangements;*
- *Improve the monitoring of fish catches, their exports and value and to share such information with Customs, CBSI and related agencies;*
- *Review existing and formulate new legislation and management plans; and*
- *Reform and building capacity of the Department of Fisheries and Marine Resources".*

NERRDP Environment Activities (Chapter 6 A4):

The strategies identified for the DFEC, if completed in the NERRDP time frame, would have filled many of the present gaps identified as part of this review. It clearly identifies the need to finalise the Environment and Wildlife Acts to enable implementation, recognises the obligations under the various UN conventions on biological diversity, climate change, prevention of desertification and pollution control. The plan forms the basis for a sound work plan for a functioning DFEC and recognises the need for reforming and building the capacity of the division responsible for environment and conservation.

It includes:

- *"Completing national process for gazettal and enforcement of Environment Act 1998 and the Wildlife Protection and Management Act 1998, preparing regulations and enforcing the Acts;*
- *Selecting a pilot site for International Waters Programme focussing on coastal fisheries and*

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developing the pilot site;

- *Developing and implementing a National Biodiversity Strategy and Action Plan, national Framework for Biological Safety and national programme for national capacity self-assessment for biodiversity, climate change and land degradation;*
- *Developing and implementing National Implementation for Stockholm Convention of Persistent Organic Pollutants and national action plan for mitigating land degradation and drought;*
- *Review the national environment management strategy (NEMS);*
- *Drafting legislation for access benefit sharing of genetic resources;*
- *Completing National Pollution Prevention Plan; and*
- *Reforming and building capacity of Environment and Conservation Division".*

These policy actions can be considered as overarching policy guidance required for agencies such as DFMR and DFEC to carry out their activities. This is the case with DFMR which stated (Honiara Focus Group 2006) the NERRDP was used to guide its work plans and develop the new corporate plan. However, DFEC has been unable to complete many of the activities specified in the NERRDP due to a lack of staff. Actions underway include implementation of the NCSA and development of a National Biosafety Framework, implementation of the IWP and the DFEC is about to undertake a major recruitment process.

NERRDP does not integrate the concepts of sustainable development and biological diversity protection across governmental departments and work programmes and this needs to be rectified in the next NERRDP. Also of concern is the statement in NERRDP 2003-2006 that there is no natural resource constraint to achieving increased opportunities and fair distribution of opportunities for people to improve their living standards. This is erroneous as little is known about the status or sustainability of Solomon Islands' biodiversity and marine resources - the last State of the Environment report was done in 1993. NERRDP was prepared prior to the escalation of logging of forests, and under the assumption of a new Forestry Act being approved by Parliament, as well as increased capacity of key agencies such as DFMR and DFEC. It does not take into account the recent findings of the Audit Reports into the DFMR and Forestry Division which have raised concerns over apparent misappropriation of funds and massive loss of income generating opportunities to the Solomon Islands' economy.

The NERRDP Implementation Report, (September 2005), an assessment of the progress of NERRDP, raises concerns about capacity and management within the public service as an area that needs addressing. There is opportunity to do this through the significant technical and development assistance being provided to Solomon Islands.

5.2 National Fisheries Policy and Legislation

5.2.1 National Fisheries Policy

During the gap analysis, interviewees were, in the main, unaware of the Solomon Islands Government's fisheries policy. However, DFMR does have a policy relating to the operation of the department. It states the DFMR is "vested with the responsibility of developing and managing , in cooperation with provincial authorities, the exploitation of all fisheries and marine resources found within the Fishery Limits in such a manner as to secure optimum social and economic benefits for the people of SI, specifically;

- To achieve and maintain self-sufficiency in supply of fish to the domestic market;
- To improve cash income throughout the fisheries sector by way of assisting Solomon Islanders in developing their resources through self-employment.
- To maximise participation of SI nationals in commercial fishing and associated activities.
- To improve the foreign exchange position of SI by encouragement of local processing fisheries resources into value-added products, and
- To encourage farming of aquatic resources." (Draft briefing note to new Fisheries Minister 2006).

This policy does not articulate the need for sustainable fisheries management as stated in the objective of

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the Fisheries Act 1998. However, the draft Ministerial briefing note explains that the NZ AID Institutional Strengthening Program will support the implementation of the department's new Corporate Plan 2006-2008 to address the following five broad components:

- *Organisational leadership and management:*
 - *DFMR planning and implementation*
 - *Leadership management and human resources development*
- *Resource management:*
 - *Tuna management plan*
 - *Inshore fisheries management plans*
 - *Legislation supporting sustainable management and economic development*
- *Rural livelihoods*
 - *Expanded provincial opportunities*
 - *Expanded aquaculture activities*
- *Improved SIG revenue from Licensing*
 - *Fisheries compliance systems*
- *Project Management*
 - *Project administration*

This external support from the New Zealand government, together with the ongoing role of the FFA and the proposed review of coastal fisheries by the SPC, provide optimism for the future of the DFMR as an organisation supported by sound legislation and regulatory framework, to achieve many of the shortfalls identified. Aqorau (pers coms 2006) suggested it was timely for the national government to develop a White Paper on national fisheries policy with a broader marine and coastal fisheries component and new legislative powers to give it the legal force.

5.2.2 Fisheries Act 1998

The DFMR Annual Report 2004 states that the DFMR's principle legal basis is the Fisheries Act 1998, "which provides the legal framework for fisheries management and development in Solomon Islands, with the objective of ensuring the longterm conservation and the sustainable utilisation of the fishery resources of Solomon Islands for the benefit of Solomon Islanders."

This Act includes the following fisheries conservation and management principles.

- "(a) *that Solomon Islands fisheries resources shall be managed, developed and conserved so as to ensure through proper conservation and management measures that the maintenance of those resources are not endangered by over-exploitation and are utilised at a level that shall ensure their optimum sustainable yield;*
- (b) *the principle that the marine biodiversity, coastal and aquatic environments of Solomon Islands shall be protected and managed in a sustainable manner;*
- (c) *the application of the precautionary approach to the conservation, management and exploitation of fisheries resources in order to protect the fisheries resources and preserve the marine environment;*
- (d) *the sustainable utilisation of Solomon Islands fisheries resources so as to achieve economic growth, human resource development, employment creation and a sound ecological balance, consistent with its national development objectives;*
- (e) *principle of sustainable yields and allowable catch which may be supported or adopted nationally or internationally from time to time;*
- (f) *any relevant international obligations or bilateral or multilateral agreements which Solomon Islands is a party to, or applicable rules of international law relating to the exercise of jurisdiction by Solomon Islands within its waters;*
- (g) *any customary rights of customary rights holders over or in relation to any area within Solomon Islands waters; and*
- (h) *any fisheries management and development plans made in accordance with this Act."*

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Feedback during the gap analysis agrees that the legislation (first drafted in 1995) has sound principles for sustainable use and biodiversity protection. According to Director of DFMR Eddie Oreihaka, however, "the current Act does not match with the new Tuna Convention or with inshore fisheries management which needs to empower communities to enforce their by-laws in MPAs and tabu areas" (pers coms 2006). Also, provincial government powers need to be better defined. This view was endorsed by Aqorau, who says the Act predates the Tuna Convention and the FAO Code of Conduct for Responsible Fisheries.

The IWP legal review (McDonald, 2006) states that *"The Fisheries Act 1998 (FA) provides the legal basis for a comprehensive and responsive national fisheries management regime. It promotes a precautionary approach to fisheries management and encourages the long-term sustainable management of fish stocks (FA ss3-4). While it makes no explicit mention of marine biodiversity, it has a range of provisions capable of advancing the conservation of Solomon Islands' significant marine resources. The most important of these are the management plans and licensing requirements"*.

The Act is then outdated in terms of the international conventions but is sound in principle. The problems appear to be largely with implementation and enforcement. The regulations are outdated (1972 vintage with subsequent amendments), there are no formally endorsed fisheries management plans being implemented either nationally or provincially, and the Fishing Advisory Council is not functioning (a key role of the Fisheries Advisory Council is to endorse fisheries management plans). There is a significant shortage of skilled staff within the department to carry out its functions nationally. It cannot provide the necessary support to fisheries officers located in the provinces or to the communities wishing to undertake community based fisheries management plans. There is a strong reliance on NGOs, CBOs and research bodies such as WWF, TNC and WorldFish Center to support the objectives of the DFMR in terms of working at community level on MPAs, community based management plans and by-laws.

In addition, the Auditor General's department issued a scathing report into the actions of certain sectors of the DFMR, particularly relating to licenses and fees for foreign fishing vessels. It also reported that the Tuna Management Plan was not being implemented, the Fishing Advisory Council not functioning and the draft regulations are not gazetted (Audit Report 2005).

The report made a number of recommendations including that "a general review should be carried out on the Department of Fisheries and Marine Resources, with the aim of reviewing the structure of the organization, the staffing arrangements and management practices. In addition, many of the breaches in the law should be referred to the appropriate authorities so that the proper processes can take place and recovery action be taken where Government funds have been improperly received by staff". The report also recommended external support for the DFMR to implement the National Tuna Management and Development Plan, fisheries and financial management procedures and contract negotiations, particularly relating to bilateral agreements.

Based on interviews with various DFMR staff in April and May 2006 and the focus group meeting in Honiara, it appears that these issues will be part of the review supported by NZ, FFA and SPC.

According to Haurae (pers coms 2006), a main feature of the Fisheries Act is the obligation of the Director to prepare and keep under review a Management and Development Plan. A similar plan is envisaged for the Provincial Governments. Currently there are none being implemented. Even if there is, implementation could be problematic. Management plans have to be translated into legislation whether at the national or provincial level. Major delays can happen at this stage. In other jurisdictions (Australia), the legislation is made in such a way that management plans have legal effect and are enforceable once the plan is adopted. Fisheries Department may want to consider this approach (Haurae, 2006).

The DFMR 2004 Annual Report stated an activity for the period was "to review current fisheries legislation and fisheries management plans to ensure gaps are catered for and weaknesses strengthened. This will ensure that fisheries resources are sustainably exploited and managed." It stated that regulations under the Fisheries Act 1998, "which are more comprehensive and cover a wider scope in fisheries", had been completed and submitted for vetting and gazettal. These included inshore fisheries, live reef fish trade and aquaculture. However, the fisheries regulations did not have accompanying policies and there was not

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appropriate consultation in the preparation of the draft regulations. They were considered problematic and have been condemned. The drafts were put through the legal drafting office twice but rejected each time. Therefore, the department operates under the 1972 regulations with amendments as required (J. Gordon, AG Office, Honiara Focus Group, May 2006).

An important area of the implementation of the Fisheries Act which needs review is stakeholder/community input into the management of offshore and coastal fisheries resources. At the community level, as stated above there is a need for recognition of community based management plans, MPAs and tabu area by-laws. At the national level, without the proper functioning of the Fisheries Advisory Council, community level input is restricted, particularly into the lucrative offshore (tuna) fishing industry. The DFMR advises that the role of the Fisheries Advisory Council will be reviewed as part of the finalisation of the Corporate Plan 2006-2008 and the review of fisheries legislation.

Issues relating to offshore fisheries have been discussed above. However, the management of fisheries which have a great relevance to the people of Solomon Islands is coastal or inshore fisheries. This relates to artisanal and subsistence level fishing, industries such as the marine aquarium trade and targeted species including trochus, beche-de-mer and spawning aggregation sites. The Fisheries Act decentralises power over management of inshore fisheries to the provinces. The powers for provincial and community level management of fisheries are discussed in 6.0 below.

5.2.3 Community Based Management Plans and Marine Protected Areas:

A key issue raised during the gap analysis was the power available legislatively to enable the establishment of MPAs and recognition of community based management plans. Given that the powers for management of coastal areas are decentralized to provinces, it is important that this level of government has the ability and capability for MPA/CBMP establishment and management. It is widely agreed that the community level is the appropriate place for management of coastal resources but there needs to be supportive legislative framework and resourcing. The Honiara Focus Group felt that national recognition or legislation for MPAs (or a system of protected areas) was needed but first a policy statement from the national government was required, and that this may need to be initiated by DFMR through a Cabinet Paper.

Prof Jan McDonald (IWP 2006) says there is an absence of a national legal framework for the recognition of community based management plans, MPAs and community level by-laws. However, she says that provincial governments already have the power to manage resources at the community level and do not necessarily need national legislation. McDonald advocates a system of protected areas and resource management that reflects the connection between Solomon Islanders and their land as means of avoiding legal conflict over management of resources, *"Nothing requires national legislation to achieve these objectives. Well-equipped and committed provincial governments are far better placed - politically and physically - to assist in the kind of community-development approach to resource management that best suits Solomon Islands. As the tier of government closest to landowners, and that best reflects the country's cultural and ethnic diversity, provincial government has a critical role to play in advancing good resource governance"* (IWP Report 2006).

The issue of management of MPAs and tabu areas for communities is discussed further under the section on Provincial level powers (Section 6). However, this matter is causing concern for stakeholders and there are initiatives at the NGO level aimed at trying to clarify or resolve the problems.

5.2.4 Enforcement and Recognition

Enforcement was a major issue raised during interviews as discussed above. It seems to be a common issue for South Pacific small island states. In 2005, a workshop on Fisheries Legislation

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and Community-based Fisheries Management was facilitated by SPC and other regional organisations. In a summary address by Masanami Izumi, Fishery Officer, FAO/SAPA, it was found that fifty percent of respondents to a questionnaire on problems with coastal fisheries, quoted inadequate or outdated fisheries regulations and or inadequate enforcement as problems. Many of the presenters discussed issues relating to enforcement and management and those quoted below advocated a stronger role for communities in the management of marine resources.

Michael King in his presentation on enforcement of regulations, stated that the enforcement of national regulations is rarely successful, *"Effective national regulations rely on strong government enforcement around the entire country and this is both time consuming, expensive and sometimes traditionally impossible. Often, there is little stakeholder input into the formation of national regulations. The community is given no ownership of either the resource or the problem and therefore feels no responsibility or accountability."* King suggested an alternative was for fishing communities themselves to devise and enforce their own fisheries regulations and suggested although prosecution should be regarded as a measure of last resort, necessary regulations must be rigorously enforced.

Blaise Kuemlangan and Martin Tsamenyi stated in their presentation on drafting fisheries legislation that, *"Community-based fisheries management is a response to the difficulties of managing and enforcing fisheries legislation in the conventional top-down management approach. It is important that there is a clear policy and legal basis for community based-fisheries management. Although there is general legal reference to some form of community-based fisheries management in most Pacific Island States, there are no clear policies and laws to give effect to it in many of the countries."*

They identified four legal steps for implementing community-based fisheries management: (a) the Constitution; (b) customary marine tenure; (c) legislation and (d) judicial decisions, and suggested it is important that community based fisheries management is operationalised through fisheries legislation.

Eric Kingma at the same workshop reported that *"In order to enforce regulations, there must legislation in place to give communities authority to manage fisheries, and there should be a CBFM plan in place with corresponding regulations. If there are no regulations, it makes enforcement very difficult, because regulations are the back bone of the CBFM plan. He said that there basically are two types of compliance: a) voluntary compliance and b) enforcement compliance."*

The presentation on the use of community by-laws in fisheries management by Ueta Fa'asili & Etuati Ropetia suggested that the success of village by-laws is related to community ownership. *"Regardless of legislation or enforcement, the responsible management of marine resources will only be achieved when fishing communities themselves see it as their responsibility. Communities of villages which set their own by-laws are more likely to respect and abide by these rules than those set by a government authority. Village by-laws, therefore, represent a fisheries management tool, which has great potential for solving many problems involving the conservation of the inshore marine environment."*

A strong point from the workshop is that when a community takes ownership of a management plan, it has an interest to see that the plan is successful.

In summary, the interviews, focus groups and research generally agreed that the objective of the *Fisheries Act 1998* aimed to achieve sustainable use of marine resources; the FFA was an important vehicle for supporting management of the offshore fisheries, and decentralisation of responsibility for coastal or inshore fisheries to provincial level was appropriate. Yet there were many areas where the implementation of the Act was problematic and not working towards achieving its objectives. These included:

- Not meeting requirements of latest international/regional Conventions (ie Tuna Convention);
- No current regulations (drafted regulations condemned by Attorney General's office with the advice to start again);
- No licensing guidelines as required by the Act;
- No management plans for most fisheries;
- Management plans for tuna and live reef food fish trade drafted but not implemented due to inactivity of Fishing Advisory Council;

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- Fishing Advisory Council not functioning;
- Lack of enforcement of existing regulations;
- Perceived impropriety (Auditor General's report);
- Lack of capacity and manpower to support provincial level implementation of responsibility ie development of fisheries management plans, enforcement; and
- Reliance on NGOs and scientific/academic institutions to support the role of DFMR.

5.2.5 Summary Honiara Focus Group - Fisheries Issues (Table 1)

The following table provides a summary of the fisheries issues raised during interviews, research and discussion in the Honiara Focus Group meeting in May 2006.

Fisheries Act	Issues Raised by Participants	Comments by author
<p>1. International & regional obligations</p>	<ul style="list-style-type: none"> • Fisheries Act does not address the requirements of new Tuna Convention and FAO Code of Conduct. • Lack of capacity and commitment at political level. • Demand on govt/ministerial staff for overseas travel. 	<ul style="list-style-type: none"> • SPC, FFA and NAZI to review Act, regulations, provincial ordinances. • DFMR Corporate plan drafted - finalise in June 2006. • Best practice fisheries management legislative framework to be drafted by FFA.
<p>2. Policies</p>	<ul style="list-style-type: none"> • People unaware of Fisheries Policy - DFMR not meeting own policy on management and protection of coastal and marine biodiversity and environment in SI (ie not supporting provincial governments, developing management plans) • Millennium Development Goals - comments - poverty reduction/food security. • The Pacific Plan (Ecosystem Based Management) - limited resources. • National Economic Recovery, Reform and Development Plan (NERRDP) • Need policies regarding ownership/ access to shorelines, lagoons and coastal waters. • Ownership issues - traditional ownership recognised in constitution. 	<ul style="list-style-type: none"> • Fisheries do have policy but may need to be better defined. • SIG should review the Act and develop a white paper on Fisheries Policy - seek input to include a broader marine and coastal fisheries component. • Corporate plan will help define policies and fill gaps. • Dept working on fisheries management plans - inshore, WorldFish Center (BDM). • MDG - Activities towards poverty alleviation and food security - rural livelihoods work with fishers. Educational component. • Some activities under new Pacific Plan - work through FFA for sustainable management of fisheries. • NERRDP used to guide depts work plans and develop the corporate plan (promote tuna, encourage seaweed farming) • Strategic plan has rural livelihood component. • Fisheries Act should be reviewed to take account of all new conventions/ agreements. • Customary ownership - complicated. AG office trying to look at this. Not in fisheries mandate to provide policy.
<p>3. Regulations</p>	<ul style="list-style-type: none"> • Drafted but condemned by AG office. • Do not cover all inshore fisheries • Powers of Minister (need consultation with Director) 	<ul style="list-style-type: none"> • SPC look at inshore fisheries regulations. • Need to start again on regulations.
<p>4. Management plans</p>	<ul style="list-style-type: none"> • Integrated Coastal Zone Management (ICZM) Plan not developed. • Tuna management plan reviewed - not implemented • Live Reef Food Fish Trade plan drafted but not implemented. 	<ul style="list-style-type: none"> • ICZM missing from 1998 Act. • Management plans need endorsement by Fisheries Advisory Council - council not functioning. To be reviewed under corporate plan and legislative review. • Need to increase awareness and

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Fisheries Act	Issues Raised by Participants	Comments by author
4. Management plans	<ul style="list-style-type: none"> No other fisheries management plans Need to include community resource management plans into provincial ordinances and obtain legal backing at provincial and national level. 	<p>education on sustainable management.</p> <ul style="list-style-type: none"> Need provincial management plans to go along with national regulatory plans. Community plans catered for in provincial ordinances but needs to be looked at.
5. Offshore Fisheries	<ul style="list-style-type: none"> Legislation does not match with new CMS or FAO agreement - new Flag State responsibilities, enforcement and recording powers. Legislation written at the time to deal with licensing of foreign fishing vessels hence access agreements. Access agreements no longer relevant (?) Access agreements not properly negotiated. Problem with legislation - regulations put in place to control joint ventures between provinces and foreign fishing companies • but can strangle development of resource by local operators. 	<ul style="list-style-type: none"> Review by NZ, best practice framework to be developed by FFA Access agreements still relevant although management approach has been sifted from licensing of vessels to the Vessel Day Scheme (VDS). New VDS to be implemented next year. Should be easier to manage and negotiate. Problems with control of joint ventures in 1990s but no longer.
6. Inshore Fisheries	<ul style="list-style-type: none"> Responsibility delegated to Provinces Requirement for register of customary fishing rights and ownership at provincial level - not done Requirement for management plans for inshore/coastal fisheries but none in place. MPAs - need legal framework Need national recognition in legislation for community based fisheries management plans. MPAs - Community based management needs regulation or by-laws to empower the community or (chiefs/elders). Confusion over power to prosecute. Local courts not functioning properly - problems with dealing with breaches of local customary laws 	<ul style="list-style-type: none"> Inshore fisheries to be reviewed by SPC. BDM management plan next one planned with support from WFC. MPAs - need clear govt policy. Need Cabinet paper and government political will. Aswani/ Aqorau to develop legal framework model for WP, WWF appointed lawyer to draft RMO for crown land. SPC planning to develop a community fisheries programme in Solomon where local communities will be empowered to manage their inshore fish stocks. The review of the legislation will help to put in place a legal framework to allow local communities in Solomons the power to manage their fisheries resources.
7. Sustainable Development	<ul style="list-style-type: none"> No National Sustainable Development Plan. Sustainable development and biodiversity protection not mainstreamed into government policies and strategies. 	<ul style="list-style-type: none"> Seen as more responsibility of Env Dept. Legislative review should also consider this in consultation with Env. Dept. Currently not mainstreamed (See ADB report)
8. Biodiversity	<ul style="list-style-type: none"> No provisions in place to protect marine biodiversity No National Biodiversity Strategic Action Plan Not fulfilling CBD (See National Capacity Self Assessment) 	<ul style="list-style-type: none"> Same comment as above for Sustainable Development

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Fisheries Act	Issues Raised by Participants	Comments by author
<p>9. Enforcement</p>	<ul style="list-style-type: none"> Confusion over whether there is the power under Provincial ordinances to enable enforcement of local or community level by-laws for MPAs and tabu areas. Appears this is a gap in the legislation. 	<ul style="list-style-type: none"> Needs to be addressed at national level first then down to provincial level. Problem with linking national and provincial. Unless addressed by national law will be problematic.
<p>10. Capacity</p>	<ul style="list-style-type: none"> National level - DFMR understaffed and lacking in qualified and skilled staff. Institutional gap. Provincial level - no resources, limited support staff for officers, no funding/ resources to implement initiatives. Department too focused on tuna and migratory stocks - need a coastal marine fisheries unit. NGOs doing much work that should be done by DFMR 	<ul style="list-style-type: none"> All points under capacity agreed by focus group. . Department undertaking recruitment campaign. NGOS doing work of fisheries - in some cases true but resources an issue for DFMR. NGOs need to continue work in relationship with DFMR to help with projects
<p>11. Aquaculture. (Includes Marine Aquarium Trade and Live Reef Fish Food Trade).</p>	<ul style="list-style-type: none"> No management plans for aquaculture industries and marine aquarium trade Regulations - condemned. Need alignment with policies plus consultation. No controls over collection of specimens for marine aquarium trade - no specific regulations, policies or management plan in place. Need permitting system for collectors. Need stronger regulations controlling against import of species - to protect marine environment and industry No consultation with other agencies such as DFEC in drafting of regulations. Need specific regulations or separate Act for pearling Need for code of conduct for responsible aquaculture (WWF Policy) Need operational guidelines & development plans to control cumulative impacts of aquaculture (WWF) Objectives of Act are to ensure conservation and sustainable use of fisheries resources and for an enhanced role of Prov. government and clear recognition of customary rights (ie LRFFT) - but support not always avail. • Import and export of live fish in conflict with Env. Act (Act amended Nov 2005) 	<ul style="list-style-type: none"> Mostly all true. Regulations condemned. Pearling should be under the regulations not separate legislation (otherwise problematic). Capacity issues with supporting provincial level activities.
<p>12. Community Input</p>	<ul style="list-style-type: none"> Fishing Advisory Council not functioning - therefore limited input for community/ stakeholders. Most appropriate way for community input is through the management of their coastal resources - community fisheries 	<ul style="list-style-type: none"> True Review of Fisheries will also include a review of the role of the Fishing Advisory Council

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Fisheries Act	Issues Raised by Participants	Comments by author
<p>12. Community Input</p>	<p>management plans - but no fisheries management plans so community input restricted.</p> <ul style="list-style-type: none"> • Need more community consultation - encourage a sense of ownership over plans and decisions. 	
<p>13. Community benefit sharing</p>	<ul style="list-style-type: none"> • Fisheries policies being changed to make more transshipments in SI so that more benefits come back to Solomon Islanders. • Confusion on role of development fund and how to access it. • No policies on community benefit sharing. • No clear policies or legislation protecting traditional knowledge " 	<ul style="list-style-type: none"> • True • Development Fund administered by FFA - Role being reviewed and PS of Planning and Ministries of Finance and Fisheries meeting to make decision on how to allocate funds into various components.
<p>14. Relationships</p>	<ul style="list-style-type: none"> • Confusion over role of Fisheries, Wildlife and Environment Acts • Need for more consultation and integration between agencies. " 	<ul style="list-style-type: none"> • True, perhaps need departmental level working group. Need to strengthen area of working with Env. Dept.

5.3 National Environment Legislation

5.3.1 Environment Act 1998 Objectives and Principles:

The text of the Environment Act 1998 states it is "*An Act to make provision for the protection and conservation of the environment; the establishment of the Environment and Conservation Division and the Environment Advisory Committee and for matters connected therewith or incidental thereto.*"

The Environment and Conservation Division (ECD) comes under the Department of Forests, Environment and Conservation and its functions are to -

- (a) *protect, restore and enhance the quality of the environment of Solomon Islands, having regard to the need to promote sustainable development;*
- (b) *develop, establish and administer systems of prevention and control of pollution in both the industrial and non-industrial sectors;*
- (c) *develop national standards to promote sustainable development and to monitor those standards through environmental auditing;*
- (d) *assist in developing legislation for systems of environmental planning at national, provincial and local level, and the development of national, provincial and local environmental plans;*
- (e) *collaborate with relevant public authorities in assisting in the conservation and management of world heritage properties;*
- (f) *promote the participation of the community in environmental decision-making;*
- (g) *ensure freedom of and access to information on environmental matters, and in particular to ensure that the community has access to relevant information about hazardous substances arising from, or stored, used or sold by any industry or public authority;*
- (h) *set compulsory standards for environmental improvement;*

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- (i) *conduct public education and awareness programmes about the environment;*
- (k) *promote the study of the environment through research, surveys, listing and classification.*

The Act's objectives relate mainly to development control and prevention of pollution. However it has a broad objective to "comply with and give effect to regional and international conventions and obligations relating to the environment". In working to achieve these objectives, the Act stipulates the ECD be guided by the following principles:

- (a) *the precautionary principle, that lack of scientific certainty should not be used as a reason for not acting to prevent serious or irreversible environmental damage or degradation;*
- (b) *fairness for future generations in that the present generation should ensure that the health, diversity, and productivity of the environment is maintained or enhanced for the benefit of future generations;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation and pricing of environmental resources.*

5.3.2 Issues relating to the Environment Act

In interviews with both the Permanent Secretary and Director of ECD, it was stated that the Division is not meeting all its international obligations, particularly under the CBD. It has not completed the NBSAP (discussed in detail under the CBD section above) and the ADB report has noted that environmental considerations are not being mainstreamed into national policies and programmes. However, there is also a major gap in environmental policies for Solomon Islands as the main document which can be considered setting agency level policy direction is the outdated National Environmental Management Strategy (NEMS, 1993). The NBSAP would provide an overarching policy on biodiversity but would be too narrow as a policy statement for the entire Division. The NERRDP does provide policy actions but is not a specific environmental policy.

The new Minister for DFEC, within the first month of being appointed, has called for the establishment of a taskforce to develop a national environmental policy statement as a priority (WWF pers coms May, 2006).

The Environment Act has been gazetted but has not been implemented as it has no regulations supporting its implementation. Therefore, according to the Director, Joe Horokou, it is difficult to suggest which areas of the Act need review until the regulations have been drafted and put into effect (pers coms 2006). The Director said "that in the initial stages of drafting the Act, it was planned to have a holistic piece of legislation which included MPA establishment and issues pertaining to cultural heritage. However, due to the limited capacity of the department, it was felt this was too much for it to deal with and so the legislation was reduced in scope".

Other issues arising from the gap analysis in relation to this Act, despite its lack of implementation and lack of regulations, are that it may be reactive rather than proactive as it is focussed largely on pollution and development controls (Farrier, 2003). The Act does refer to guiding principles of biodiversity protection and the precautionary principle, however, it does not specifically deal with community based management planning, MPA or protected area systems establishment. In addition, key commitments under international conventions such as the CBD are not being met. The NEMS and State of the Environment reports are each more than 12 years old. A State of the Environment Report should be released each year by DFEC, however the last one for Solomon Islands was completed in 1993. The Director said these important documents needed to be reviewed and that an NBSAP would feed into the development of a revised NEMS.

The Division is seeking to raise funds to commission the drafting of regulations for both the Wildlife and Environment Acts. Many of the identified gaps may be addressed as part of this process. According to the Director, currently the Act does not really allow for MPAs and biodiversity protection

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but this could be achieved under appropriate regulations. He also felt that a protected area system needs separate legislation, for both land and marine areas. The division is looking towards this but has not set a timeframe. The Honiara focus group agreed it was important to have national legislation for protected area systems but felt that there needed to be a national government level policy statement first.

According to MacDonald (IWP, 2006), "There is a notable absence of national legislation dealing with the establishment of protected areas, protection of endangered species or conservation of biodiversity. Nothing in the national framework facilitates planning and management by customary landowners to address the cumulative impacts on biodiversity of subsistence practices. Nor does it encourage the protection of biodiversity on either customary or alienated land." However, she was not optimistic that a new law would be beneficial given the time required to develop new laws and the limitations on implementation of existing environmental laws.

5.3.3 Capacity and Resources

Lack of capacity in DFEC is a major issue. The department is now embarking on a recruitment programme to employ an additional 12 staff with the aim of reaching the full complement of 15 by the end of the year. It is also considering deploying two staff into the provinces. The Permanent Secretary (Likaveke, pers coms 2006) said another idea to reduce the shortage of resources, particularly in the provinces, was to encourage the appointment of provincial environmental officers (such as in Malaita). The Division could offer training courses and support to the provincial officers.

Another capacity issue for the Environment and Conservation Division is lack of suitable office accommodation. The PS says there is not enough space and the facilities for staff are poor. He plans to build new office accommodation and stressed that improved capacity in the Division was important because of its international commitments and linkages, but also because there has been concern expressed by the government over the low level of outputs from the Division. The PS said this could be caused by too many international commitments in terms of overseas conferences and meetings for the Divisional staff.

Better collaboration with the provinces and Fisheries Department was raised as important for the Division. Once it has more staff and the Environment Act is in force, there can be more collaboration. The lack of policies and limited staff capacity has also affected the Division's ability to effectively implement NERRDP and Pacific Plan activities.

However, the ADB report (Berdach & Llegu 2005), states the additional Divisional staff approved for 2006 may not be sufficient to meet the Division's requirements across Solomon Islands as *"little or no money is available to support the very important functions of data gathering, compliance monitoring, and other field-based activities that the department is mandated to perform, or to develop state-of-the-art facilities and capabilities in data management, geographic information systems (GIS) and similar technologies, that are needed to support informed environmental management and decision-making,"*

5.3.4 Community and Stakeholder Participation

The Environment Act requires development of a community participation policy for the Division and establishment of an advisory committee. Without these, the ECD is not adequately facilitating community input into environmental issues and considerations. This is not a gap within the legislation as such but is another capacity issue. In 2005, the Division did establish the Solomon Islands Sustainable Development Council. However, the Director feels this is not necessarily the best approach as the ECD is not seen to have enough sway in development issues at this stage. The Ministry of Planning is considering setting up its own sustainable development forum and this might be more appropriate. It might also be a good starting point for incorporating the concept of mainstreaming environmental considerations and sustainable development principles into government national strategies, programmes and policies.

5.3.5 Gaps in the Environment Act

The Honiara focus group agreed that there needed to be uniformity between the *Environment Act 1998 and the Town and Country Planning Act 1979*. The TCP Act is outdated and does not cover rural or customary areas. According to John Haurae (IWP report 2003), development of land issues may be in conflict between the Environment and TCP Acts. The TPC Board has no requirement to consider environmental concerns when reviewing development applications or local planning schemes. However, he points out that the supremacy provision in Section 4 of the Environmental legislation over other provisions in other Acts (except the Constitution), affects the operation of other Acts. He recommends changes to ensure uniformity between the two Acts. Prof David Farrier in his assessment of environmental laws in Pacific Island countries concurs that there is a lack of linkages between the Environment Act and the Town and Country Planning Act because it does not cover customary land only urban areas (Farrier 2003).

The ADB report (Berdach & Llegu 2005) states that due to some weaknesses, the Environment Act "could benefit from review and further strengthening" and recommends "steps need to be taken to harmonize existing laws in other sectors, to ensure greater consistency between them and the Environment Act". The report also suggests that there is a shortfall in environmental government processes dealing with social and environmental impacts of development projects and suggest there needs to be "an overall strategic process to assess the social and environmental impacts of development projects to determine whether they will produce net benefits to Solomon's society."

Along similar lines, Farrier (2003) raises the issue of development controls and planning processes. He asserts that more attention needs to be given to the development of community-driven, strategic land use planning processes. With regard to Solomon Islands Environment Act specifically, he believes it is reactive rather than proactive, "It responds to particular issues - development proposals, pollution incidents - as and when they arise". He says legislation should be more proactive and set out in advance guidelines for development in specific areas according to their capacities. This is an initiative shared by the ECD Director who also plans to ensure the Environment Act becomes proactive by including development guidelines and determining where certain types of developments can occur (Horokou, pers coms 2006).

Although Farrier is talking specifically land use, land based impacts are an important factor when dealing with marine environments and marine resources. He recognizes that the Environment Act does refer to the need for strategic land use planning through the function of the ECD, to assist in developing legislation for systems of environmental planning at national, provincial and local level, and the development of national, provincial and local environmental plans. However, the listing of prescribed developments in the Act may be too narrow. A proactive approach would be to "channel land use change by putting in place strategic land use planning systems which cover both urban and rural areas, and extend to all land tenures, freehold, customary and government" (Farrier, 2003).

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5.3.6 Honiara Focus Group - Environment Issues

The following table provides a summary of the environmental issues discussed as part of the interviews, research and discussion during the Honiara Focus Group meeting May 2006.

Environment Act	Issues	Comments
1. International & regional obligations	<ul style="list-style-type: none"> No National Sustainable Development Plan (required by NERRDP and Pacific Plan) NBSAP not completed (required by the CBD) Lack of capacity and commitment at political level. Demand on gov't/ministerial staff for overseas travel. 	<ul style="list-style-type: none"> SI party to CBD and other protocols and treaties under CBD. Recommend that the DFEC be staff so that obligations are complied with and enabling the country to access international and regional assistance.
2. Policies	<ul style="list-style-type: none"> No specific environmental policy State of the Environment report 1992 (dated) National Environmental Management Strategy (NEMS) not fully implemented - seen as key policy document for Environment (dated) Millennium Development Goals? The Pacific Plan? National Economic Recovery, Reform and Development Plan? 	<ul style="list-style-type: none"> Recommend State of the Environment report is updated annually. Since no policies/no staff, not able to effectively implement NERRDP and Pacific Plan.
3. Regulations and objects of the EA	<ul style="list-style-type: none"> None - needs regulations to implement Act. 	
	<ul style="list-style-type: none"> Framework of development and pollution controls but does not assist communities develop and implement community based management regimes. 	
	<ul style="list-style-type: none"> Need uniformity between Env. Act and Town & Country Planning Act (outdated Act). Env. Impact Assessment procedures in place but need strategic land use planning and guidelines for sustainable and appropriate development. 	<ul style="list-style-type: none"> T&C Planning Act is 1970s legislation and needs to be repealed and redrafted. Hard to implement. Especially in urban centres.
	<ul style="list-style-type: none"> Established the SI Sustainable Development Council - not a way of achieving environmental policy into sustainable development policy. Env Dept needs an advisory council - will allow community input. 	<ul style="list-style-type: none"> Planning Department setting up own Sustainable Development council - more appropriate.
	<ul style="list-style-type: none"> Act responds to pollution and development proposals - lacks development guidelines and strategic land/ natural resource use guidelines. 	<ul style="list-style-type: none"> Powers of director should be strengthened so appropriate development only occurs after EIA report done and accepted.
	<ul style="list-style-type: none"> Inconsistency with Fisheries Act regarding export of live fish. 	<ul style="list-style-type: none"> Env Act amended in Nov 05

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Environment Act	Issues	Comments
	<ul style="list-style-type: none"> Inconsistency with Fisheries Act regarding export of live fish. 	<ul style="list-style-type: none"> Env Act amended in Nov 05
4. Biodiversity	<ul style="list-style-type: none"> Absence of national legislation dealing with the conservation or protection of natural resources - No biodiversity conservation or protected areas legislation, despite being national policy priority since the 1993 National Environmental Management Strategy, and despite SI's accession to CBD in 1995 (McDonald). 	
5. Management Plan	<ul style="list-style-type: none"> National Environmental Management Strategy and State of the Environment Report out of date. Act states need for local, provincial & national environmental plans MPAs not really covered - needs to be addressed. 	<ul style="list-style-type: none"> Recommend updating NEMS.
6. Community input	<ul style="list-style-type: none"> No advisory council Need community participation policy 	<ul style="list-style-type: none"> Recommend council be established and perform duties specified under the Act.
7. Community benefit sharing "	<ul style="list-style-type: none"> No legal instrument to protect traditional knowledge and genetic resources. Need for research best practice policy? Research Act - outdated Act without regulations. 	<ul style="list-style-type: none"> Need best practice policy on research and review Research Act so ownership of data is held by govt and copies of reports provided to govt and relative departments.
8. Capacity	<ul style="list-style-type: none"> No staff - recruiting about to take place No office accommodation for staff 	<ul style="list-style-type: none"> As for Wildlife Act. PS planning a new office but needs funding.
9. Relationships	<ul style="list-style-type: none"> Confusion over role of Fisheries Act, Wildlife Act and Environment Act. 	<ul style="list-style-type: none"> Need for more consultation and integration between agencies.



5.4 Wildlife Protection and Management

5.4.1 Wildlife Protection and Management Act 1998

The preamble to The Wildlife Protection and Management Act 1998 is *"An act to provide for the protection, conservation and management of wildlife in Solomon Islands by regulating the export and import of certain animals and plants; to comply with the obligations imposed upon Solomon Islands under the Convention on International Trade in Endangered Species of Wild Fauna and Flora and for other matters connected therewith or incidental thereto"*.

This is achieved by regulating:

- (a) *the export of specimens that are, or derived from, native Solomon Islands animals or native Solomon Islands plants;*
- (b) *the export and import of specimens that are, or are derived from animals, or plants of a kind that are threatened with extinction;*
- (c) *the export and import of specimens that are, or are derived from, animals, or plants, of a kind that require, or may require, special protection by regulation of international trade in such specimens;*
- (d) *the import of animal specimen or plants specimen which could have an adverse effect on the habitats of native Solomon Islands animals or native Solomon Islands plants; and*
- (e) *the management of flora and fauna to ensure sustainable uses of these resources for the benefit of Solomon Islands.*

The Wildlife Act suffers the same problems as the Environment Act in that it has been gazetted but not implemented. It has no supporting policies or regulations. And while its main purpose is to assist Solomon Islands comply with CITES, the country has not signed the treaty.

McDonald (IWP 2006) raises a concern that the Act does not establish a legal regime for wildlife or threatened species protection. *"The impact of wildlife trade on local biodiversity is unknown, as there has been no baseline assessment of species abundance or monitoring of population health in areas where capture for trade occurs. The Act has no provisions to cover the protection of endangered species in their natural habitat and is therefore incapable of meeting broader biodiversity conservation goals by protecting habitat or establishing protected areas for key species"*. McDonald points out that despite there being provision for the Minister to approve management programs for certain species, including in situ protection and conservation, "Reading the Act as a whole, however, it is clear that the purpose of such approved management programs is to satisfy the scientific requirements regarding the impact of trade in species".

It was generally agreed by the Honiara focus group meeting that the Wildlife Act does not protect biodiversity and that there should be a separate act for setting up protected areas. While there are recommendations for the Act to be reviewed, the Director of ECD said that as with the Environment Act, the Wildlife Act has not been implemented so it is difficult to review it without seeing how it works - he suggests that it is preferable to wait for the regulations to be developed, implement the Act and see where the gaps are.

An issue which was raised as part of the gap analysis was in relation to the marine aquarium trade and live reef fish trade. There has been confusion over the roles of various government agencies in terms of permits. The Fisheries Department controls permitting over the harvest of marine species while the Environment Division controls permits for the export of the marine species. Up until November 2005, the Fisheries and Environment Acts had been in conflict, however, the Environment Act was amended to ensure consistency between the two pieces of legislation. It was felt by the Honiara focus group however, that there was still confusion over roles and this needed to be clarified.

According to the IWP 2006 report, under the Wildlife Act, provincial governments can also grant an export

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permit in cases where the applicant holds a valid provincial business licence for wildlife trade. However, only Malaita has tailored its licensing process to make specific provision for wildlife trade. The report explains that *"The Malaita Province Wildlife Management and Licensing Ordinance 1995 establishes a specific process for licensing wildlife trade activities, but the process does not contemplate the prior undertaking of any evaluation of whether a species can withstand the pressures of trade. The provincial executive could certainly require such an assessment, as part of its discretion to approve or deny a permit, but would need to set licence fees at a level high enough to cover the cost of such research. While a provincial licence is necessary, it is not sufficient to make trade legal. For that, a permit under the national law is required."*

The lack of knowledge of the impact of the wildlife trade on certain species was discussed by the Honiara and Gizo focus groups which expressed concern about the lack of national or provincial level management plans for industries that involve export of marine products. The live reef food fish management plan has been drafted but not implemented. There are no other management plans for the marine aquarium trade or for the beche-de-mer industry.

The sea-cucumber management plan will be developed shortly at provincial level (West and Isabel Provinces) through the WorldFish Center sea-cucumber project funded by ACIAR and this will be done in coordination with a national sea-cucumber fishery management plan. However, this will ultimately require the Fishing Advisory Council to be re-established as its role is to endorse all fisheries management plans.

The Director of ECD said that in future, the division is trying to ensure when dealers apply for export licences, they also develop management plans. However, in the industry itself, concern has been expressed that the current licensing regime does not cover collectors of specimens for the marine aquarium trade and that some kind of permitting system is required to ensure sustainability of the marine resources. According to Cletus Oengpepa, Manager WorldFish Western Pacific Research Center, Nusa Tupe, the advantages of a permit system will be the control of what fishermen are doing but the disadvantages, particularly in rural areas, will be that the benefits of farming and collecting will be confined to those who have licenses. "This means less people will take part in the industry, but there is a need for the control and for management plans which include quotas, size limits, seasons relation to spawning times, gear type," (pers coms Oengpepa, 2006).

WorldFish Center, through its research programmes and the recently initiated Sustainable Livelihoods Project, is teaching participating communities sustainable methods of harvesting marine species for the marine aquarium trade. However, the numbers of people involved are limited and broader awareness and education is required to ensure harvesting on a broader level remains sustainable. Part of the project objective is to seek Marine Aquarium Council certification (for sustainability) and to review legislation and policies to support a sustainable marine aquarium industry in Solomon Islands.

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5.4.2 Summary of Honiara Focus Group - Wildlife Act

The following is a summary of the issues regarding the Wildlife Act as part of the interviews, research and Honiara Focus Group meeting in May 2006.

Table 3 <i>Wildlife Act</i>	Issues	Comments
1. International & regional obligations	<ul style="list-style-type: none"> Wildlife Act aimed at compliance with CITES - primary purpose is to regulate export and import of listed species of wildlife. Lack of capacity and commitment at political level. Demand on govt/ministerial staff for overseas travel 	<ul style="list-style-type: none"> SI not party to CITES yet. Act contemplates early accession to the treaty. Number of international obligations not complied with. Lack of capacity at political level. Recommendation that SI takes steps to ratify CITES asap.
2. Policies	<ul style="list-style-type: none"> No policies 	<ul style="list-style-type: none"> True
3. Regulations	<ul style="list-style-type: none"> No regulations - possibly about to be drafted 	
Biodiversity	<ul style="list-style-type: none"> No protection - Gap in legislation - the impact of wildlife trade unknown on biodiversity. 	
	<ul style="list-style-type: none"> Whales & other marine mammals - need separate legislation. 	<ul style="list-style-type: none"> Recommend separate legislation for marine mammals.
	<ul style="list-style-type: none"> Does not establish legal framework or regime for wildlife or threatened species protection. 	<ul style="list-style-type: none"> Recommend an inventory be taken to verify which wildlife species are endangered and those which should be stricted/protected.
	<ul style="list-style-type: none"> No provision to cover protection of endangered species in their natural habitat - does not protect habitat or establish MPAS for threatened species (McDonald) 	
	<ul style="list-style-type: none"> Part II conflicts with Part I. 	<ul style="list-style-type: none"> Recommend be rectified to ensure consistency.
	<ul style="list-style-type: none"> DFEC trying to ensure when dealers apply for licences that they have established management plans. 	<ul style="list-style-type: none"> Licensing regime needs to be clear and consistent.
5. MPAs	<ul style="list-style-type: none"> The Act has no provisions to cover the protection of endangered species in situ and is therefore incapable of meeting broader biodiversity conservation goals by protecting habitat. (McDonald) Is there a need for separate legislation setting up protected area systems (land and sea)? 	<ul style="list-style-type: none"> Yes needs separate legislation but should be dealt with more effectively at the provincial level.
6. Relationships	<ul style="list-style-type: none"> Confusion over role of Fisheries Act, Wildlife Act and Environment Act. Need for more consultation / integration of agencies. 	<ul style="list-style-type: none"> Such as export of live reef fish for export under marine aquarium trade. Currently more than one permit needed for export.
7. Capacity	<ul style="list-style-type: none"> No staff - recruiting No office accommodation for staff 	<ul style="list-style-type: none"> Recommend that the department be properly resourced.

6.0 Provincial Powers for Environmental and Marine Resource Management

6.1 Provincial Powers

Responsibility for management of coastal and inshore fisheries has been decentralised to the individual provinces (Section 9 Fisheries Act 1998) where "subject to the provisions of the Provincial Government Act, each Provincial Assembly may make Ordinances not inconsistent with this Act or any regulations made under this Act, for the regulation of fisheries within its provincial waters," (Section 10 Fisheries Act 1998).

Power for making ordinances over wildlife and marine resources is also devolved under the Provincial Government Act 1997. The IWP Report 2006 states that "*Provincial legislative authority derives from a combination of the Provincial Government Act 1997 (PGA) and the accompanying devolution orders (PGA s33). Regulatory or executive powers derive from valid provincial ordinances or may be delegated to the province under national statutes, devolution orders, or by negotiation between the province and responsible national authority (s31(1)). The Devolution Orders made in respect of each province give them legislative competence over a range of matters of direct relevance to natural resource management.*"

The Provincial Government Act 1997 Schedule 3 provides a list of activities for which the provinces have responsibility and have the power to pass ordinances:

- *Trade and Industry* - Local licensing of professions, trades and businesses, local marketing.
- *Cultural and Environment Matters* - Protection of wild creatures, coastal and lagoon shipping,
- *Agriculture and Fishing* - Protection, improvement and maintenance of fresh-water and reef fisheries.
- *Land and Land Use* - Codification and amendment of existing customary law about land. Registration of customary rights in respect of land including customary fishing rights. Physical planning except within a local planning area
- *Local Matters* - Waste disposal
- *Rivers and Water* - Control and use of river waters, pollution of water,
- *Corporate or Statutory Bodies* - Establishment of corporate or statutory bodies for provincial services including economic activity. (Provincial services include "Conservation of the Environment" and "Fishing").

According to J Haurae (IWP Report 2003), the Provincial Government Act, which replaced the Local Government Act (Cap 117), adequately provides the legal basis for the protection of the environment. "Inadequate resources however, have been the main hindrance to effective implementation. There is no inconsistency with other legislation which guarantees the smooth administration of the Act".

A number of people have argued that this is the level best suited to the management of marine and fisheries resources. The power is available legislatively, however, there are a number of issues such as the lack of management plans for fisheries, lack of enforcement of regulations and bylaws relating to resource management, local courts for dealing with breaches of customary law are in some cases dysfunctional, resources for fisheries officers are insufficient and there is confusion and complexities over ownership of lagoons, reefs and coastal waters. (Custom ownership is only to the high water mark - people have customary fishing rights but not ownership over waters - J Haurae pers coms 2006).

The ADB report (Berdach & Llegu 2005) claims that "*in most cases, little has been done to empower provincial governments, either through the Devolution Order or the (Town and Country) Planning Boards, to effectively implement devolved environmental management functions at the local level. Some of this weakness is partially offset through the activities of other institutions, especially non-governmental organizations (NGOs), academia, and the private sector. Customary landowners also have a potentially large role to play in environmental management matters.*"

6.2 Community Based Management and Enforcement

John Lequata, Principal Fisheries Officer and Acting Director (Research) confirms that the Fisheries Act has delegated responsibility to provinces for community based management and MPAs, but it needs to give power to communities (pers coms 2006). He said MPA management is where people have a say in the management of resources but community based management needs to have some form of regulation or by-laws to empower the community (Chiefs). "It needs regulations to enforce rules at the community level but this could possibly be done through the provinces".

According to Aqorau, while decentralisation of the coastal fisheries management to provinces is positive, the process is not clear about provincial ordinances and national fisheries legislation (pers coms 2006). He said "Powers under S7 could be used to form a fisheries management plan, define the area geographically and set regulations in place. However, the preference is for provincial level plans - it is not difficult for provinces to make regulations and legislation or by-laws which are decided on by communities. The law here does recognise customary rights." However, he said there is a big question for community based fisheries management and MPAs, for example Section 11 of the Fisheries Act recognises customary fishing rights but these have to be registered with provinces. Aqorau said that "While it is appropriate to give responsibility to provinces, they do not have the resources in this case for recording customary fishing rights or for the enforcement of closures."

Aqorau also raises questions of prosecutions and the lack of capacity in the local courts system where breaches of customary law are heard. It was unclear how enforcement of MPAs will be achieved. If people breach regulations of an MPA, they can be charged through customary law such as trespassing or violation of customary law. However, he felt the local courts which hear such cases, are largely dysfunctional and not able to deal with this level of enforcement.

Stephen Dalipada, Country Programme Manager for WWF, uses the Simbo Megapode Ordinance in the Western Province as an example of how a provincial level ordinance has caused problems in the past with prosecutions in the local courts. He asks, "What happens when people don't comply with court orders because penalties are too low?" He also felt that the traditional chief system in Melanesia was breaking down and no longer provided a viable means of enforcing traditional customs or local bylaws for MPAs or tabu areas.

For the Western Solomons, Aswani and Hamilton (March 2004) propose networks of small MPAs under secure customary sea tenure, "Socially, small MPAs situated within secure marine territories build upon practices with which the community members are familiar, and thus the inhabitants are better able to grasp the biological value of the programme and understand the use restrictions it entails." They say that as a result, monitoring and enforcement are less problematic but qualify this approach by specifying criteria for site selection. "It is of paramount importance, however, to select sites in which: 1) there is minimal public contest over natural resources, 2) boundaries are well defined and recognised regionally, 3) there is little or no poaching by neighbouring groups, 4) there is a capacity to monitor and enforce rules, and 5) the majority of inclusive stakeholders endorse the management initiative", (Aswani, Hamilton 2004).

Dr Aqorau has been requested by Dr Shankar Aswani, who is working with the Roviana and Vonavona communities on MPA establishment, to develop an MPA legal framework for best practice management and to develop regulations that allow community groups to enforce by-laws. This would be regulated at the provincial government level under an ordinance which gives legal backing to the work Aswani is doing. It would not cover specific issues or individual species, but would be a legal framework with high level principles tested against national fisheries legislation. It would also provide a framework to enforce areas subject to customary marine tenure. Aqorau suggested using the magistrate's courts that are functioning better than local courts. The framework would enforce legal principles that recognise application of customary law. This would need consultation with the province (Aqorau pers coms 2006).

The existing Western Province ordinance is problematic as it relates only to custom owned land and there

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is a significant amount of alienated or crown owned areas. Therefore, WWF has also commissioned the drafting of new legislation for the Western Province to enable the development of an ordinance to give effect to the establishment of MPAs over alienated waters of Gizo, which will accommodate different land ownerships. It aims to provide for biodiversity conservation, enshrinement for community rights, and power for communities to establish MPAs and to fit under an MPA system (Gizo Focus Group 2006).

McDonald (IWP Report 2006) advises that Isabel Province already has a new ordinance based on the Western Province Ordinance which she says *"attempts to address some of the gaps in that law and provides a mechanism for local enforcement of management rules that the province considered to be very important. It also makes provision for the establishment of protected areas on alienated land, and for the creation of areas with a predominantly conservation (rather than resource management) focus. The latter provisions are aimed at safeguarding the special status of the Arnavons Marine Conservation Area as a wildlife sanctuary."*

FSPI is working with DFMR to develop legal instruments for MPAs in Marau (Guadalcanal), Gella (Central Province) and Langa Langa (Malaita). In Langa Langa, the community has developed an MOU for its own tabu areas, similar to a resource management plan. The MOU will be registered under the Fisheries Act and signed by the Malaita Province and the Minister for Provincial Government.

According to Regional Manager, Silverio Wale, FSPI will work with DFMR and stakeholders to adapt the MOU to be in line with the Fisheries Act and the provincial ordinance. Currently Langa Langa falls outside the Malaita Fisheries Ordinance. Malaita Province has a legal officer who is working closely with the Langa Langa community to resolve this problem. The three communities have based their MPAs on custom laws. Enforcement will be by the chiefly system through the Marau Leaders Council, Gella Council of Chiefs and Langa Langa Association. Marau and Gella can set penalties themselves through their community but the Langa Langa Association is not yet recognised. Once recognised, the community will have the power to penalise law breakers.

Patrick Mesia, National Coordinator of IWP agrees that the community level approach is important for addressing the problems affecting management of marine resources. He said that IWP was using two methods for addressing the problems of overharvesting - MPAs and guidelines on how to use marine resources through a community fisheries management plan. The plan includes regulations and rules decided by the community in discussion with the elders, with input from other organisations. However, Mesia says the challenge is enforcement, *"If only one community has the knowledge of what the management plan is about and the importance of biodiversity conservation, what happens with other communities who use the same resource but do not have the knowledge?"*

His solution was national recognition in national legislation. IWP is working with a sponsored law student to see if it can include community resource management plans into provincial ordinances and obtain legal backing at provincial and national level.

There is obviously a need for integration of work by these NGOs and agencies when developing legal frameworks to meet the needs of MPA establishment and implementation at the provincial and community level. This is also an area where SPC will be working and therefore coordination is critical to avoid duplication of effort.

Timothy J H Adams, Fisheries Resource Adviser, SPC, (Marine and Coastal Workshop 1996) expresses how complex the issues of management and enforcement are for small island governments. He warns against placing all trust in communities to manage their resources wisely, given the changing economic circumstances and the move to more Westernised thinking but, *"At the same time, small-island government fishery managers cannot expect to regulate coastal fisheries entirely at the government level. Artisanal and subsistence multispecies fisheries are too widespread and diffuse, and most small-island government resources and specialised manpower are too few to even approach the task of monitoring fisheries on a reef-by-reef basis"*.

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Adams suggested instead a basic (flexible) regulatory infrastructure with information and support to the community. The kind of support needed from small-island governments included:

- *"providing information to local communities to supplement the loss of oral knowledge, and providing a network through which local communities can share experiences;*
- *defining local communities and their borders of jurisdiction, including a mechanism for review and appeal;*
- *maintaining a basic infrastructure of resource management regulations, including the provision for more detailed local community action, and a mechanism whereby communities can bring offenders to justice, where such offences are not resolvable within community systems;*
- *monitoring and applying resource-specific restrictions at strategic bottlenecks, particularly trade and export outlets. This is not a trade restriction, although it is viewed by many as such, but is the most realistic way of effectively applying resource maintenance measures such as size limits and conservation measures for endangered species."*

In *Modern Institutional Framework for Reef Fisheries Management*, Adams (1995) advocates compliance with regulations may be a more appropriate approach than enforcement and suggests that before fisheries regulations are formalised, they be trialled as guidelines at the community level. He also discusses how customary management can be interrupted by immigration of people into an area once considered traditional. Gizo is perhaps a classic example of a large influx of people from different areas of Solomon Islands and Kiribati, and has a mix of custom owned and alienated areas. This is causing significant issues for WWF in relation to the establishment of the Gizo Marine Conservation Area (See previous discussions on Western Province Ordinance).

Farrier (2003) questions whether the "command/control legislation and enforcement" approach is appropriate and suggests it should be a last resort, particularly in relation to enforcement in areas of customary land tenure. "Where regulation seeks to constrain private and customary land use and development in a context in which this has traditionally been unfettered, enforcement agencies are going to be particularly reluctant to bring criminal proceedings." He raises the complexity of management of community-based conservation areas, "On the one hand, there is a suspicion of legal mechanisms because of the fear that this may mean command and control regulation implemented by central government agencies. On the other hand, there is a very persuasive argument that legal underpinning is needed, not to empower governments, but rather to empower communities, by clarifying and delimiting the respective roles which each will play"(Farrier, 2003). Overall, he claims that 'community-driven and owned' means "that communities are more likely to comply with rules where they have been closely involved in their development and policing."

This view is shared in a paper on the live reef food fish trade in Solomon Islands by Donnelly, Davis & Lam, and (2002) who advocate "local empowerment in combination with centralised guidelines and an appropriate legislative framework". They recommend an integrated approach to fisheries management which "requires definition of custom tenure boundaries and customary rights to access and resource use. Traditional owners have a vested interest in managing their marine estate efficiently and in a sustainable manner", (Donnelly, Davis & Lam 2002).

McDonald is a strong advocate of provincial level leadership for resource management and protection. (Refer to IWP's report by Prof Jan McDonald, 2006 for a full analysis of provincial government powers and ordinances). She concludes that "...*Most provinces already have laws with which to support and lend legal authority to community resource management arrangements. They introduce some form of legislation to allow for registration of resource management plans for customary land and many have measures to protect particular species or their habitat. They already reflect many of the key principles of environmental governance by advocating community decision-making and enforcement and keeping power with traditional resource owners. Some of their provisions are outdated, however, and penalties may be too small to act as meaningful deterrents. Moreover, few are comprehensive in their coverage and - most importantly - none have been implemented. It should be emphasised that the biggest weakness in the provincial community resource management regimes is the complete absence of any enforcement,*" (McDonald, 2006).

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However, in *Provincial Strengthening and Environmental Governance in Solomon Island*, (publication pending), McDonald warns that greater leadership and commitment from its provincial governments is needed to achieve effective environmental governance as the economic and social stability of the country depends upon a healthy and sustainably managed natural resource base. She predicts the population growth and development aspirations of people will increase pressure on the limited resources resulting in more potential disputes over land and coastal fisheries. McDonald recommends a combination of "community-level decision-making and broader national and bio-regional strategic planning".

6.3 Land Tenure and Customary Fishing Rights

One issue which frequently was raised in the discussions on community based management of fisheries was land tenure. The issue of whether customary land owners own the reefs and coastal lagoons is causing confusion and conflict. According to Haurae (IWP report 2003) "The current legal system charged with the responsibility of dealing with customary land dispute is inadequate and is causing more confusion". He suggests that relevant issues are not just land and water, but also "recording and land use".

The issues of traditional land ownership and customary fishing rights are complex. The Attorney General's office has taken steps towards looking at this matter. (J Gordon, Honiara Focus Group, 2006). Both the Fisheries Act and the Solomon Islands' Constitution recognise custom fishing rights and customary ownership. However, previous high court decisions have clearly found that traditional owners do not own land under the high water mark (Haurae, pers coms 2006).

The *Provincial Government Act 1997*, Schedule 3 requires registration of customary rights in respect of land including customary fishing rights. However, it has been suggested that this has not happened for reasons such as lack of capacity at the provincial level, but it could also be that the process will cause additional conflict. In the Gizo focus group meeting (May 2006), it was suggested that a registration process should also include not just customary owners but also the multiple users of a resource or area to reduce the potential for conflict. The example of the Arnavon Marine Conservation Area (AMCA) was cited as a case study where by an MOU is in place with the local provinces involved (Isabel and Choiseul), the land owners and the Wagina Gilbertese community, which is an important user group. The MOU provides a practical approach to enabling conservation at the community and provincial level.

Haurae states that the Constitution recognizes customary ownership of customary land but, "It is the ownership of the resources that needs to be addressed and transferred to the person having customary rights over the land" (IWP report 2003). According to McDonald, "The extent of this recognition and protection is comparable only to that formally given to private property under any Common Law system of land ownership," (IWP Report 2006). She says this protection "merely provides that any government acquisition of customary land must be preceded by consultation with landowners and must be compensated" and "that the alienation or acquisition should be for as short a time as possible to achieve the public purpose being sought".

The NERRDP has stated objectives and policy actions relating to land ownership issues which are:

- *"An accelerated land title registration process, which takes into account customary ownership research to ensure incontestable registration (ongoing from early 2004)*
- *Establish a Land Disputes Tribunal to replace the existing cumbersome procedures and which will determine a resolution in custom (late 2004)."*

The NERRDP assessment (September 2005) reports that the possibility of establishing a body to deal exclusively with disputes over customary land is being assessed. Additionally, re-establishing and building capacity of local courts was initiated in Western and Choiseul provinces, and Local Courts and Customary Land Appeal Courts commenced hearing cases in Malaita and local court hearings have started in Makira province.

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Therefore, McDonald argues that provincial powers to licence businesses can be used to impose performance standards on logging and mining activities and they can also leverage implementation of national environmental impact assessment procedures. "Provincial legislative jurisdiction over wild creatures, coastal fisheries, water pollution, land use planning, and a range of other relevant matters confers broad environmental law-making powers".

The following table provides a summary of the issues relating to provincial level powers and resource management discussed by representatives of the Honiara Focus Group meeting held in May 2006.

6.4 Honiara Focus Group - Provincial Powers -Table 4

The following table is a summary of the issues relating to Provincial level powers and management as part of the interviews, research and Honiara Focus Group meeting in May 2006.

Provincial Powers	Issue	Comments
<p>1. Provincial powers</p>	<ul style="list-style-type: none"> The Devolution Orders (under Prov. Govt. Act) give provinces powers to deal with broad range of matters of direct relevance to natural resource management The legal framework gives provincial powers to protect landowners and the environment and to facilitate community-level natural resource management. Some constraints, but not a serious impediment to the provinces taking a stronger role. Need a reordering of priorities and commitment to implement and actively promote provincial laws (McDonald). The existing legal framework for environmental protection and resource conservation supports greater provincial involvement. Provinces - broad environmental law-making powers for wild creatures, coasta fisheries, water pollution, land use planning. 	<ul style="list-style-type: none"> Only some provinces have ordinances to deal with environment. Need more robust regulations and framework to deal with these various environmental
<p>2. MPA establishment & customary fishing rights</p> <p>3. Enforcement</p>	<ul style="list-style-type: none"> Community based fisheries mgt and MPA as tools for sustainable use of resources - good but gaps - Fisheries Act recognises customary fishing rights which have to be registered with provinces. Nothing in national framework facilitates planning and management by customary landowners to address the cumulative environmental impacts of subsistence practices. Nor does it encourage protection of biodiversity on either customary or alienated land. Provisions outdated and penalties small but weakness is absence of implementation or enforcement. Traditional system of chiefs is breaking down - may not be appropriate for local level enforcement of by-laws. May be better to use community based organisations or councils (CBOs). Provinces generally retain the right to nominate authorised enforcement officers, but no ordinance addresses use of committee decision-making process. 	<ul style="list-style-type: none"> Government must put in place policy recognising customary ownership at the local level to ensure community empowered and has a sense of ownership if environmental concerns are to be addressed properly - confusion over who should be responsible. Seen to be driven by central govt. Lack of legislation and lack of resources. Lack of political will at provincial level.

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Provincial Powers	Issue	Comments
	<ul style="list-style-type: none"> Unknown how enforcement of MPAs will be achieved -breaches of regulations can be charged through the customary laws through the local court system - charge with trespassing or violation of customary law - concern that local courts are not able to perform this role. Not clear about RMO and national fisheries legislation enforcement - responsibility transferred to Provinces. Provincial powers need better definition. Lack of resources inhibits enforcement of provincial or community level by-laws. Encourage compliance (incentive/ management option) - more beneficial than enforcement? 	
4. Capacity	<ul style="list-style-type: none"> Provincial fisheries officers under resourced and financed - not enough support from national level. Capacity building at the provincial level could deliver lasting returns for environmental governance. 	<ul style="list-style-type: none"> Lack of resources, political will.
5. Community Benefit Sharing	<ul style="list-style-type: none"> No legal instrument to protect traditional knowledge and genetic resources. Need for research best practice policy? Research Act - (outdated Act without regulations). 	<ul style="list-style-type: none"> See above comments No obligations on people doing research - Committee under research act not operated for five years.

6.5 Gizo Focus Group Summary, Western Province

A focus group session was held in Gizo in May to specifically look at the provincial level practicalities of working with communities to establish MPAs or sustainable fisheries. Representatives included WWF Gizo staff and the manager of the WorldFish Western Pacific Research Center, Nusa Tupe.

The following summary of two scenarios (setting up MPAs and sustainable fisheries) provides a snapshot of localized issues facing NGOs and scientific organizations and a series of recommendations.

Scenario 1: Describe your organisation's experiences in establishing an MPA or community based management plan. Discuss:

National or provincial level legal instrument used (any gaps?)

- No legislation that fits - have Western Province Ordinances
- GMCA - jurisdiction for those having perpetual estate and customary land - what rights for Gizo?
- Constitutional changes - could fill key gaps under legislation.
- Lack of knowledge for people in rural areas - what are guiding principles?
- Existing RMO for customary land. With adaptations - developing new legislation for Gizo Marine Conservation Area (GMCA) to accommodate different land ownerships. Aims to provide for biodiversity, enshrinement of community rights, power for communities to establish MPAs and fit under an MPA system.
- GMCA - umbrella legislation to deal with a range of communities

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Recommendation:

The new Western Province legal framework for MPAs to include conservation of biodiversity and community rights (traditional knowledge, intellectual property rights)

Process undertaken (any issues/problems)

- Disagreement from community over selection of sites for protection under GMCA - over benefit sharing in particular.
- Confusion over land ownership/jurisdictions - WWF trying to bring communities together and recognising differences over land ownership - to use basic principles of management as a form of agreement.
- 2002 - drafted the legislation but caretaker government could not act - stalled
- 2006 - legislation development re-started and now under legal review

Does this process enable sustainable use of marine resources as well as protection of biodiversity at the community level?

- Process of GMCA successful at getting community empowerment - is increasing in GMCA process. Biggest concern is community support high but individuals and outsiders - using/poaching from community based MPAs
- Sense of community ownership is increasing - less feeling that WWF is benefiting

Enforcement: what power to enforce rules and by-laws, how are rules/by-laws enforced ie police, fisheries officer, rangers, community committee, chiefs?

- Relying on community self enforcement/community responsibility
- Long term aim is to have wardens supported through new legislation - WWF will provide the capacity building on enforcement.
- Police enforce Fisheries Act - live corals, BDM
- Fisheries Officer - 1 person, never comes to GMCA meetings, under pressure from communities to enforce rules, has no boat.

Prosecution - local courts, magistrate's court or community punishment?

- RAMSI - live coral confiscated 2005 (harvested to build jetty)
- one trochus seizures by police (undersized trochus) in Dec 2005

Are there other ways besides enforcement to encourage people not to break rules?

- Increased community sense of ownership/empowerment
- Community monitoring
- Scientific information/status reports on resources
- Working with church leaders - reference to biblical principles vs chief system breaking down

Capacity/Resources of Fisheries officers - status and effect?

- Not enough staff, no resources
- Low moral/confidence
- Current officer not from the West
- Ineffective

Relationship between Fisheries Department and NGO/CBO activities such as MPA establishment, research and data collection, management planning - status and effectiveness?

- Weakness in getting endorsement of WWF and WFC activities from government departments - for reasons of gov't feelings of loss of control, intellectual property rights, publicity for outsiders (NGOs)
- Difficulties engaging Fisheries staff who are under-resourced, under staffed and low morale

Recommendations:

Link WWF and other conservation NGO work objectives in NERRDP; and

Raise awareness for Department of Fisheries and Marine Resource Management to understand why WWF work is important to national/ provincial government objectives.

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Community consultation/input to management of fisheries and marine resources at local, provincial, and national level. Is there a process for this to happen?

- Socio-economic surveys get used at provincial level - too early to tell if this happens well
- No process exists for community consultation/input into government decisions- usually ad hoc.

Land/reef/coastal waters ownership and customary fishing rights?

- Clear understanding of jurisdiction/ownership needed
- Gizo communities are fearful of losing access to fishing grounds

Community benefit sharing: protection of traditional knowledge and genetic resources, research practices/codes of conduct?

- Concern over Intellectual Property Rights
- Wide awareness of importance of protecting genetic resources and traditional knowledge in Marovo but not in Gizo. This will become a bigger issue in Gizo in futures years.
- Tetepare Project aware of importance - Tetepare Descendants' Association has developed and uses a Research Code of Conduct - researchers also require a permit from the SIG Education Department

Any general or specific comments/recommendations in relation to legislation and policies in terms of gaps/powers relating to sustainable coastal and marine resource use and conservation, biodiversity protection, community benefit sharing, community input?

- Within GMCA level of knowledge about policy, legislation by the communities is weak - lack of knowledge of fisheries regulations - legal size limits, prohibited species
- Enforcement is weak - do RSIP know the regulations?
- Lack of good information re legislation and policies
- Impact of logging - enforcement of Logging Code of Practice is weak.

Scenario 2 - Describe your organisation's experiences in working in the fisheries /aquaculture sector:

National or provincial level legal instruments (ie legislation, regulations, policies, international/regional conventions) which relate to this activity?

- No aquaculture legislation/regulations national or provincial level
- WorldFish Center currently uses existing fisheries regulations and SPC or FAO policies for best practices/regional policies.

Recommendations:

Need wider consultation when drafting new legislation (legal, NGOs, CBOs, non-state actors, government, province; and Need policy review for aquaculture in Solomon Islands.

Process undertaken (any issues/problems)?

- See above.

Does this process enable sustainable use of marine resources as well as protection of biodiversity at the community level?

- People in rural areas have a lack of knowledge of what are guiding principles for protection of biodiversity.
- Collection Methods - WorldFish Center is developing sustainable collection methods and this will be more effective if done through awareness programme. However it only targets communities participating in project. To have a bigger impact in marine biodiversity protection, government and NGOs need effective regulations in the long run. Good to specify under Fisheries Regulations sustainable harvesting methods.
- Need to be legislated and included in management plans

Recommendations:

For marine aquarium trade and live reef fish trade, need structural control on who does what -

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specify under Fisheries Regulations sustainable harvesting methods.

What controls/mechanism are in place to manage the sector/industry, ie national/provincial regulations, permitting system?

- Aquaculture - sea is perceived as all government land.
- Seaweed - regulations on land.
- Marine aquarium council certification - use regional benchmarks.
- Licensing for Export - Environment Department
- Licensing for Harvest - Fisheries Department
- Control/Inspection - Fisheries Department

Capacity/Resources of Fisheries officers in relation to management of the industry/sector - status and effect?

- Fisheries officers should be seconded to projects where possible (ie with NGO organisations) to ensure transfer of skills and capacity and to ensure projects continue after NGO involvement completed. Also provides a feedback mechanism to the Fisheries Dept.

Recommendation:

Need fisheries officers to be seconded to areas of work undertaken by NGOs to increase fisheries officers' capacity and to ensure work is maintained.

Relationship between Fisheries Department and NGO/CBO activities such as MPA establishment, research and data collection, management planning - status and effectiveness?

- It shouldn't matter who does the work provided it follows national policy.
- Level of skills within Fisheries (and other government departments) on data analysis is low. Are current RAMSI advisers transferring such skills across government agencies?

Recommendations:

Need institutional strengthening for Fisheries Division; and MOUs between NGOs and SIG need to cover specific areas of work to ensure that NGOs abide by the national regulations and legislative framework and policies.

Community consultation/input to management of fisheries and marine resources at local, provincial, and national level. Is there a process for this to happen?

- For villages participating in research, a deeper understanding of community rights with respect to research is needed.
- Social issues need to be scaled up. Socio-economic impacts and effects of WFC and WWF work should be given a higher priority at provincial and national levels.
- In terms of beche-de-mer management plans - there is community consultation and input - village surveys, information on use of resources, socio economic use of resources - feeds into the national level.
- Need regular review of research to see if the result of the research is being taken up.

Land/reef/coastal waters ownership and customary fishing rights?

- *Registration of customary fishing rights*
- Record/identify true customary owners, recognise multiple resource users
- Land registration - is it appropriate? Could cause problems like Vanuatu - loss of control for local resource owners.
- If only registering customary fishing rights, this could cause more conflict - has to be clear guidelines on what the purpose of registration is. Need to include multiple users (i.e. Arnavon Marine Conservation Area MOU)

Recommendation:

Customary fishing rights registration process should be clear and have an awareness and education component to ensure people understand their rights. Do a clear record and identification of custom owners plus recognise multiple users as well to reduce conflict.

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Community benefit sharing: protection of traditional knowledge and genetic resources, research practices/codes of conduct?

- Under WorldFish Center MOU, research is owned by WFC and the Government.
- WFC also has contractual arrangements with staff to ensure protection of WFC intellectual property rights.
- Needs government to formulate an Act or policy - legislation that would ensure research findings and traditional knowledge to be the property of Solomon Islands government

Recommendation:

Need national legislation to cover traditional knowledge, genetic resources etc to protect the country and individuals.

Any general or specific comments/recommendations in relation to legislation and policies in terms of gaps/powers relating to sustainable coastal and marine resource use and conservation, biodiversity protection, community benefit sharing, community input?

- Situation at Nusa Tupe with research MPA - WorldFish Center has an MOU with the national and provincial government over the Crown land. Also applied to the Lands Department for access to the offshore areas.
- Arnavon Marine Conservation Area - MOU with landowners, provincial and national governments and user groups (ie Wagina).
- Would like to see the government, when it receives the gap analysis report, take up the key recommendations and work to address the gaps with NGO support.

Recommendation:

Environment Act 1998 should supersede all other Acts.

7.0 Community/Access and Benefit Sharing

The gap analysis scope of works included a review of community benefit sharing (access and benefit sharing (ABS)) in Solomon Islands. This is a broad topic and can include economic return from fisheries resources, use of genetic resources, traditional knowledge and scientific data. Solomon Islands Government has no policies on community benefit sharing and no clear policies or legislation protecting traditional knowledge. In this regard, while this leaves Solomon Islanders open to unfair use of their resources, it also means that the government is not meeting its obligations under the Convention on Biodiversity.

One of the objectives of the CBD is the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. According to J C Medaglia in his analysis of countries undertaking steps towards addressing access and benefit sharing, the aim "Is to control the access to biological, genetic, and biochemical resources and to protect all knowledge, innovations, and practices of local communities and indigenous people." He says the inequitable situations of the past where firms from the North used genetic resources and traditional knowledge of peoples of the South, without payment, is being dealt with as part of the CBD. However, "the benefits it may bring depends on each individual country and on the capacity for cooperation and coordination that exists among them for establishing policies and laws to regulate access to their biological natural resources and TK, and for the sharing of the benefits thereof." (Medaglia, undated).

The Cartagena Biosafety Protocol is a subsidiary to the Convention on Biological Diversity. Solomon Islands acceded to the Cartagena Biosafety Protocol on 26 October, 2004. Its main objective is to contribute to ensuring an adequate level of protection in the field of safe transfer, handling and use of Living Modified Organisms (LMOs) resulting from modern biotechnology, that may have adverse effects on the conservation and sustainable use of biological diversity. It takes into account risks to human health, and has a focus on transboundary movement of LMOs.

Development of a National Biosafety Framework to enable Solomon Islands fulfills its obligation under the

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Protocol has started. A core group comprising stakeholders both from the public sector, NGO's and the private sectors has been established. The Protocol has important implications on the protection of the environment. The challenges that are faced in other sectors that are the subject of this study equally apply to the Cartagena Protocol (Haurae, pers coms 2006).

Other necessary measures to protect Solomon Islands' resources relate to the process of allowing research to be undertaken in Solomon Islands. Scientists need research permits before being allowed to carry out scientific work in Solomon Islands and they need permission from the province in which the work is to be undertaken. (Haurae, pers coms 2006). There is also the *Research Act (Chapter 152 of Laws of SI) revised (1996)* but it has no regulations and little detail. The National Research Committee which is supposed to implement the provisions of the Research Act, has not been convened for more than five years (P Roughan pers coms 2006). According to Haurae, there are no provisions under the Education Act either. However, when applying for research permits, applicants must go through the Ministry of Education for approval. Protection of copyright and patents can be achieved through registration of trademarks and patents law and there are very weak provisions for regulating plant material exports via the Quarantine Act and provisions.

Dr Paul Roughan, who is leading the team developing the Biosafety Framework, is also involved in the launching of a local knowledge-focused NGO, the 'Islands Knowledge Institute', and this area is one area that the group is keen to work in advocating better policy and implementation" (pers coms 2006).

It was agreed in both the Honiara and Gizo focus group meetings that there is a need for best practice policy on research and a review of research underway.

8.0 Conclusions

This legislative gap analysis, the comprehensive reports commissioned by IWP, the NCSA, the ADB country environmental analysis, and interviews with government and non-governmental stakeholders, have shown that the national level legal framework in principle has the power to manage sustainably the marine resources of Solomon Islands. However, there are gaps, particularly for biodiversity conservation and habitat protection, recognition of MPAs and community based management plans, as well as issues with implementation, enforcement, capacity.

The three key national level pieces of legislation - *Fisheries Act 1998, Wildlife Protection and Management Act 1998 and the Environment Act of 1998* either do not have regulations (such as Environment and Wildlife Acts) and are not being implemented, or as with the Fisheries Act, its current regulations were first gazetted in 1972 and the latest draft of new regulations has been rejected by the Attorney General's Office.

The national fisheries legislation is out of date in terms of international conventions, particularly the new Tuna Convention and the FAO Code of Conduct for Fisheries, and a number of Solomon Islands' obligations under the Convention on Biodiversity are outstanding. While the Wildlife Act was enacted to meet the obligations of CITES, Solomon Islands has not signed the treaty. In addition, Solomon Islands is unlikely to meet the majority of the Millennium Development Goals by 2015.

Despite claims of lack of political willpower at the national level towards meeting international obligations, the Solomon Islands Government has taken a major step towards considering a tri-national MOU with the governments of Indonesia (Papua) and PNG for the conservation and protection of marine turtles, their habitats and foraging areas in the BSSE. There have been two preparatory meetings to develop the text and the regional and national level frameworks to facilitate the MOU. It is anticipated that signing of the MOU will take place in 2006, subject to agreement by the new Solomon Islands Government. This is an example of how, with the necessary political willpower, effective ecoregional scale conservation can be achieved. However, there is also the possibility that like many other regional and international agreements, signing does not necessarily mean there is the capacity to implement.

Nationally and provincially, there are a lack of coastal or inshore fisheries management plans, and the

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existing tuna and live reef fish trade management plans have not been implemented. Neither the Fisheries nor the Environmental Advisory Councils are operating, there is a lack of agency capacity and resources, and no national provision exists for recognition of protected area systems or community based management plans. These shortfalls not only impact on sustainable management of the country's marine resources but also limit the opportunities for community and stakeholder input into the use of these resources.

However, the overwhelming body of comment is that there are sufficient powers at the provincial level for marine resource management and conservation. Additionally, it is clear that the preferred approach is for community level management. This is still problematic as the lack of capacity, resources, management plans and enforcement will continue to be major issues no matter what changes are made to the legislative framework.

There are a number of positive initiatives which if implemented thoroughly and with appropriate broad stakeholder participation and consultation, provide opportunities for organisations such as WWF and other non-state actors to have valuable input. For example, DFMR will undergo a recruiting drive and a major review of the legislation, regulations, coastal fisheries management and provincial ordinances. It is also finalising a new corporate plan for 2006-2008. It is anticipated that this review, supported by NZ, FFA and SPC will help to fill many of the gaps existing in legislation and its implementation. SPREP has taken the first steps towards its review of member country legislation and policy affecting conservation and protection of dugongs and marine turtles.

The DFEC is also undergoing a recruitment process and is considering placement of a small number of officers in provinces. There are also plans for the drafting of regulations for the Wildlife and Environment Acts for the Act's implementation, and for an exploration of funding mechanisms to complete the long overdue NBSAP. The new Minister responsible for Environment has called for the development of a national environmental policy for Solomon Islands. The Honiara office of the UNDP has initiated a graduate training programme with Japanese funding whereby it will host a graduate student, on a two year training programme to work in UNDP. The graduate will be trained in areas that fall under the portfolio of the UNDP Environment Programme. This position will work closely with government. This promising step towards addressing the shortage of educated people in the environmental field needs support at a much broader level to fill the skills and knowledge gaps of public servants across the board.

The National Capacity Self Assessment (NCSA) is in progress and will provide a clear picture of Solomon Islands' capacity needs and progress towards achievement of commitments under the international conventions relating to biodiversity, climate change and desertification. The NCSA coordinating team is keen to have dialogue with WWF following the completion of the gap analysis.

A major ongoing concern is the standard of national capacities in government, both human, systems and management of the public service. According to the NERRDP Implementation Report (2005), management is a major cause of weak and weakening capacities in the government and "capacity building should be an essential component of technical assistance, not just to establish or develop systems, but also to assist the development of national human capacities and capabilities". The report says that at present, apart from a few instances such as the capacity building in the legal and justice areas, this opportunity is lost and there is very little national capacity building resulting from the substantial technical assistance deployed in the country" (NERRDP Implementation Plan).

The next phase of NERRDP is in draft and provides an opportunity for stakeholders such as NGOs and others working in the conservation and marine resource management area to have input.

The Asian Development Bank's country environmental analysis of Solomon Islands (Berdach & Llegu 2005) is an important tool for the Solomon Islands Government. It is a comprehensive review of progress towards mainstreaming environment into economic considerations. It identifies ways to improve environmental sustainability in various sectors, provides an environmental roadmap that identifies indicators and sets targets to measure environmental performance and describes mechanisms to strengthen the policy and legal framework of government so that environmental considerations are more effectively incorporated.

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At the national government level, commitment is needed to introduce environmental considerations, sustainability principles and biodiversity protection into the country's policies, programmes, strategies and activities. This is imperative not just for the sustainability of the environment but for sustainable economic development, poverty reduction and food security for the nation. It will also provide the policy guidance for the provinces in the important role they play in marine resource management and protection. With a new national parliament it is appropriate that partners and stakeholders work together to provide input into new policy directions, programmes and strategies of the new government.

9.0 Recommendations:

The following recommendations have been suggested by participants in the legal gap analysis and drawn from research, reports and articles referenced during the course of the project. The recommendations are not prioritized.

National Policy/Programmes

1. The Ministry of Finance, National Reform and Planning be encouraged to integrate sustainable development, environmental principles into future country strategic plans such as the National Economic Recovery, Reform and Development Plans.
2. Outstanding activities in NERRDP 2003-2006 (Section 6 Key Strategic Areas, A4 Revitalising the Productive Sector {Fisheries} and Rebuilding Supporting Infrastructure {Environment} be incorporated into the planning for the next phase of NERRDP..
3. Link WWF and other conservation NGO work objectives in the next phase of NERRDP which is in the drafting stage.
4. WWF provide a copy of this gap analysis report to the National Capacity Self Assessment (NCSA) process and obtain a copy of the NCSA report when finalised.
5. The Solomon Islands Government review and respond to the Asian Development Bank Country Environmental Analysis: *Mainstreaming Environmental Considerations in Economic and Development Planning Processes* report and implement the findings as appropriate and within the government's capacity to do so).
6. That a joint Cabinet Paper be prepared seeking a national policy statement of commitment to protected area systems establishment in Solomon Islands together with an implementation plan which includes development of guidelines for the selection, establishment, and management of MPAs.
7. The relevant government agencies and departments to undertake broad based consultation when drafting new legislation, policies and regulations (include legal, NGOs, CBOs, non-state actors, government and province).
8. Increase focus of overseas technical and development assistance on building national capacities within Solomon Islands Government including human, systems and management across the public service.

Wildlife

9. The new Solomon Islands Government takes the necessary steps to accede to the Convention on International Trade in Endangered Species and sign the treaty as soon as possible.
10. *Wildlife Protection and Management Act 1998* be reviewed to remove contradictions to ensure consistency with other relevant laws.

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11. Regulations be drafted, in consultation with stakeholders, which include measures for protection of vulnerable species, biodiversity and habitat, and support the implementation of the *Wildlife Protection and Management Act 1998*.
12. New regulations to include provision for biodiversity protection and conservation through proper species and habitat assessments and management planning processes.
13. An inventory be taken to verify which wildlife species are endangered and those which should be restricted/protected.
14. WWF and other NGOs open discussions with the Solomon Islands Government on support for the South Pacific Whale Sanction and request Solomon Islands declare its EEZ a whale sanctuary.
15. That national legislation is enacted protecting marine mammals.
16. WWF encourage the appropriate government agencies to participate in the SPREP review of national legislation in Solomon Islands (and other member countries) to ensure it is supportive of measures to protect dugong and marine turtles in Solomon Islands (SPREP Marine Species Action Plan 2003-2007).
17. Any reviews of Solomon Islands legislation to also consider the policy and legislative requirements of the draft Solomon Islands, Indonesia (Papua) and PNG Tri-national MOU on marine turtle conservation

Fisheries

18. That WWF Solomon Islands and other relevant stakeholders provide input into the SPC review of Solomon Islands' fisheries legislation and coastal fisheries framework development, planned for August 2006.
19. The proposed review of fisheries legislation, regulations, provincial ordinances and finalisation of the Department of Fisheries and Marine Resources Corporate Plan 2006-2008, include wide stakeholder participation and consultation.
20. The review of the fisheries legislative framework to include provision for Integrated Coastal Zone Management plans, and provisions to meet the requirements of the new Tuna Convention, FAO Code of Conduct for Responsible Fisheries and other recent Conventions.
21. Review Solomon Islands' national fisheries policies with view to developing new policies with a broader marine and coastal fisheries management perspective. (When preparing new national policies the following *WWF/IUCN Marine Policy Goals should be considered - i) to maintain the biodiversity and ecological processes of marine and coastal ecosystems, ii) to ensure that any use of marine resources is both sustainable and equitable, and iii) to restore marine and coastal ecosystems where there functioning has been impaired*).
22. Department of Fisheries and Marine Resources draft a new set of fisheries regulations (with appropriate reference to policies and with broad based consultation - need to reflect regional benchmarking on best practice fisheries management).
23. New fisheries regulations to include an aquaculture component requiring i) identification and protection of vulnerable species and habitats, ii) environmental impact assessments, and iii), and individual farms should set up operational guidelines and development plans that will help control cumulative impacts and ensure mitigation measures are taken.
24. Develop a code of conduct for responsible aquaculture and operators in the marine aquarium trade.
25. New fisheries regulations include structural controls over the marine aquarium trade and live reef fish

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- trade and include requirement for use of sustainable harvesting methods (with a view to achieving Marine Aquarium Council Certification).
26. Re-establish the Fisheries Advisory Council with cross sectional representation.
 27. Seek Fisheries Advisory Council endorsement for, and implement, the Tuna Management and Development Plan and the Live Reef Food Fish Trade management plan.
 28. Establish a timetable for development of national and provincial level management plans for fisheries such as beche-de-mer, pearling, trochus, marine aquarium trade, and aquaculture.
 29. Department of Fisheries and Marine Resources develop a joint Cabinet Paper on developing national level policies and legislation for MPAs and community based fisheries management plans.
 30. Raise awareness for Department of Fisheries and Marine Resource to understand why WWF's marine work is important to national/ provincial government objectives.
 31. Fisheries officers to be seconded to all areas of work undertaken by NGOs to increase fisheries officers' capacity, provide feedback to DFMR and to ensure work is maintained once NGO involvement ceases.
 32. Institutional strengthening required for Department of Fisheries and Marine Resources

Environment

33. WWF encourage the new Minister for the Environment to include broad stakeholder involvement in the development of an overarching environmental policy statement for Solomon Islands. (When preparing new national policies the following *WWF/IUCN Marine Policy Goals* should be considered - i) to maintain the biodiversity and ecological processes of marine and coastal ecosystems, ii) to ensure that use of marine resources is both sustainable and equitable, and iii) to restore marine and coastal ecosystems where there functioning has been impaired.)
34. State of the Environment report be updated annually as required by the Act.
35. National Environmental Management Strategy be reviewed and updated.
36. National Biodiversity Strategic Action Plan be completed.
37. Appropriate regulations, which include strategic land use planning with development guidelines for specific land use systems, be drafted for the Environment Act in broad consultation with stakeholders.
38. The Environment and Conservation Division develop a community participation policy to ensure appropriate avenues for community/stakeholder input into environmental issues and considerations, as per the requirements of the Act.
39. The Environment and Conservation Division establish an advisory council to advise the Director and enable community/stakeholder input, as per the requirements of the Act.
40. The Environment and Conservation Division be staffed and adequately resourced so that international and regional obligations under Conventions, Treaties and other programmes are complied with and enable Solomon Islands to access available support and funding.
41. Powers of the Director of the Environment and Conservation Division be strengthened so that appropriate development proposals can only proceed after an Environmental Impact Assessment report has been completed and accepted.
42. Review the *Town and Country Planning Act 1979* to ensure uniformity with the Environment Act 1998

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and broaden its powers to include all land tenures - freehold, customary and government.

Provincial

43. Provincial Governments be supported by national agencies to comply with the devolved powers for coastal marine resource management and to develop registers of customary fishing rights (including user groups), and ecosystem based/integrated coastal zone management plans for artisanal/ subsistence and commercial fisheries.

44. Government, NGOs, regional organisations and the legal fraternity to work together to develop a complementary legal framework for community based management of marine resources/MPAs (need to eliminate duplication and avoid future confusion over multiple ordinances/frameworks particularly in the Western Province).

45. New provincial level legal frameworks for MPAs to include conservation of biodiversity and protection of community rights (traditional knowledge, intellectual property rights).

46. MOUs between NGOs and SIG need to cover specific areas of work to ensure that NGOs abide by the national regulations and legislative framework and policies.

Land Tenure and Customary Fishing Rights

47. Government to put in place a policy recognising customary ownership at the local level to ensure communities are empowered and have a sense of ownership if environmental concerns are to be addressed properly

48. Customary fishing rights registration process should be clear and have an awareness and education component to ensure people understand their rights. Need to record and identify custom owners plus recognise multiple users to reduce conflict.

Community/Access and Benefit Sharing

49. Solomon Islands Government, in consultation with stakeholders, develops a national best practice policy on research.

50. Research Act (Chapter 152 of Laws of SI) revised (1996) either needs reviewing, expanding or to have regulations developed.

51. Solomon Islands Government to pursue the protection of genetic resources and traditional knowledge of its people through national level policies, legislation and frameworks.

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Appendix 1 Status of International and Regional Conventions and Treaties

The following table provides a list of legal instruments (binding and non binding) to which Solomon Islands is a party.

NO	TREATY	STATUS
1	International Plant Protection Convention, done at Rome December 6, 1951	
2	Plant Protection for the South- East Asia and the Pacific Region (as amended) done at Rome, February 27th 1956.	Acceded to in 1980
3	South Pacific Nuclear Free Zone Treaty, done at Rarotonga September 10th 1985	Ratified in 1985
4	Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, done at London, December 29th 1972	Acceded to by Solomon Islands Government in 6th March, 1984.
5	Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, done at Noumea, November 1986	
6	Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific, done at Noumea, November 1986	
7	Convention for the Protection of the Natural Resources and the Environment of the South Pacific, done at Noumea, November 8th 1986.	Acceded to by Solomon Islands Government in 10th August 1989.
8	Vienna Convention for the Protection of the Ozone Layer, done at Vienna, March 22nd 1985	Acceded to by Solomon Islands Government in 1993
9	Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16th 198.	Acceded to by Solomon Islands Government in 1993
10	United Nations Convention on Biological Diversity, done at Rio, June 5th 1992	Ratified on October 3rd 1995
11	United Nations Framework Convention on Climate Change, done at New York, May 9th 1992	Ratified by Solomon Islands Government in 1995.
12	Kyoto Protocol to the United Nations Framework Convention on Climate Change, done at Kyoto, December 11th 1997	Ratified on March 13th 2002
13	Waigani Convention to Ban the Importation of Hazardous and Radioactive Waste, done at Waigani, PNG, September 16th 1995	Ratified October 10th 1998
14	Agreement Establishing the South Pacific Regional Environment Program (SPREP), done at Apia, June 16th 1993	Ratified September 19th 1998
15	Treaty on Fisheries Between the Government of Certain Pacific Islands States and the Government of the United States of America, done at Port Moresby, April 2nd 1987.	
16	Convention for the Prohibition of the Use of Driftnet Fishing In the South Pacific, done at Wellington, November 24th 1989	
17	Niue Treaty on the Co-operation on Fisheries Surveillance and Law Enforcement in the South Pacific Region, done at Niue April 22nd 1992.	
18	Palau Arrangement for the Management of the Western Pacific Purse Seine Fishery, done at Suva, October 28th 1992.	
19	Federated States of Micronesia Arrangement for Regional Fisheries Access, done at Honiara November 30th 1994.	

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NO	TREATY	STATUS
20	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10th December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted at New York, August 4th 1995.	Acceded to by Solomon Islands Government on 13th February 1997.
21	International Convention for the Regulation of Whaling, adopted at Washington, December 2nd 1945.	
22	United Nations Convention on the Law of the Sea, done at Montego Bay, December 10th 1982.	
23	First Arrangement Implementing the Nauru Agreement setting forth minimum Terms and Conditions of Access to the Fisheries Zones of the Parties, done in 1982 but completed in Palau 5th May 1993.	
24	Second Arrangement Implementing the Nauru Agreement setting forth additional Minimum Terms and Conditions of Access to the Fisheries Zones of the Parties, done at Palau 19th September 1990.	
25	United Nations Convention to Combat Desertification, done at Paris, 14th October 1994.	Acceded to by Solomon Islands on 16th April 1999.
26	Convention for the Protection of the World Cultural and Natural Heritage, adopted at Paris on 23rd November 1972.	Acceded to by Solomon Islands Government in 1992.
27	Comprehensive Nuclear Test Ban Treaty, adopted at New York, 10th September, 1996	Signed by Solomon Islands Government in 3rd October, 1996.
28	Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, was agreed to by Pacific Island countries among others in 2000. Came into force in 2004	
29	Pacific Islands Forum Fisheries Agency Convention (1979 FFA Convention,)	
30	The Stockholm Convention on Persistent Organic Pollutants (POPs).	
31	Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs)	
32	Convention on the International Maritime Organization 1948,	Came into force 1958.
33	International Convention for the Safety of Life at Sea (SOLAS), 1974.	
34	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.	
35	International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969	
36	Lome FAO Ministerial Statement on Fisheries 1979.	
37	The Cotonou Agreement between the European Union (EU) member states and the African, Caribbean and Pacific 2000.	
38	Bilateral Fisheries Access Agreements with Japan, Korea, Taiwan, New Zealand, and a Fisheries Partnership Agreement with the European Commission and a Multilateral Fisheries Treaty with the US.	

Appendix 2 - Stakeholder who Participated in the Legislation and Policy Gap Analysis

Interviews were held in April and May 2006 with the following people:

Steve Likaveke, Permanent Secretary (DFEC)
 Joe Horokou, Acting Director (DFEC)
 Tia Masolo, Officer (DFEC)
 Nesta Leguvaka, NCSA Coordinator (DFEC)
 Eddie Oreihaka, Director General (DFMR)
 John Legata, Principal Fisheries Officer (Research) and Acting Director
 Rosalie Masu, Fisheries Officer (Research)
 Gideon Tiroba, Project Manager, Commercialisation of Seaweed Production in Solomon Islands
 Ismael Toorawa, Programme/Operations Manager, UNDP Honiara Sub Office
 Dr Transform Aqorau, Legal Counsel, Pacific Islands Forum Fisheries Agency
 Cletus Oengpepa, Manager, WorldFish Western Pacific Research Center, Nusa Tupe
 Stephen Dalipada, Country Programme Manager, WWF Solomon Islands
 Silverio Wale, Country Manager, FSPI
 Patrick Mesia, National Coordinator, International Waters Programme
 Steward Tabo (Former) A/Executive Officer, ECANSI
 Michelle Lam, Formerly with the Marine Aquarium Council
 John Hauriae, Lawyer, Honiara Solomon Islands

The following people responded via email communications

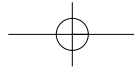
Ueta Fa'asili, SPC
 Lui Bell, Marine Species Officer, SPREP
 Paul Roughan, Biosafety Framework Programme
 Prof Jan McDonald (formerly Manager Environment Programme, UNDP)
 John Read, Tetepare Descendants' Association
 Shankar Aswani, University of California Santa Barbara
 Dr Norm Duke, Centre for Marine Studies, University of Queensland
 Reuben Sulu, University of the South Pacific
 Chris Nelson, Librarian/Coord Pacific Islands Marine Resources Information System (PIMRIS), USP

Honiara Focus Groups

Sylvester Diake, Under Secretary Fisheries
 Simon Alekera, Dept Fisheries
 Eddie Oreihaka, Director General, Fisheries
 John Legata, Principal Fisheries Officer (Research) and Acting Director
 Robert Maneiria, Dept Fisheries
 Gideon Tiroba, Project Manager, Commercialisation of Seaweed Production
 Jean Gordon, Crown Counsel, Attorney Generals Office, specialty area in Law of the Sea.
 Peter Ramohia, The Nature Conservancy
 Patrick Mesia, National Coordinator, International Waters Programme
 Stephen Dalipada, Country Programme Manager, WWF Solomon Islands
 John Hauriae, Lawyer, Honiara Solomon Islands

Gizo Focus Group:

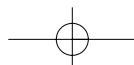
Laurie Wein, Conservation Manager, WWF Solomon Islands
 John Pita, BSSE Coordinator, WWF Solomon Islands
 Joanne Pita, WWF Solomon Islands
 Bruno Manele, Solomon Islands
 Salome Topo, WWF Solomon Islands
 Cletus Oengpepa, WPRC Manager, WorldFish



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The following people were contacted but not able to arrange meetings:

Rev. Lesley Boseto Luru Land Conference, Allan Tippet Bero, Tetepare Descendants' Association & Rudolf Dora, Foreign Affairs



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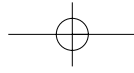
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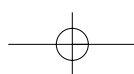
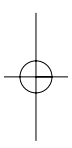
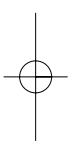
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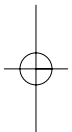
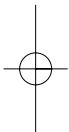
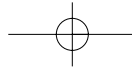
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