



# THE COOK ISLANDS

STRONGER INVESTMENT CLIMATE  
FOR SUSTAINABLE GROWTH

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FOR SUSTAINABLE GROWTH



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## ABBREVIATIONS

ADB	Asian Development Bank
ANZ	Australia and New Zealand Banking Group
BCI	Bank of the Cook Islands
BSP	Bank South Pacific
BTIB	Business Trade and Investment Board
CIAA	Cook Islands Airport Authority
CIIC	Cook Islands Investment Corporation
CINSF	Cook Islands National Superannuation Fund
CIPA	Cook Islands Ports Authority
CIREC	Cook Islands Renewable Energy Chart
CITC	Cook Islands Tourism Corporation
CSB	Capital Security Bank
CSO	community service obligation
EEZ	exclusive economic zone
EIA	environmental impact assessment
ERP	economic reform program
FSC	Financial Supervisory Commission
GDP	gross domestic product
GNI	gross national income
ICI	Infrastructure Cook Islands
ICT	information and communications technology
IEA	Island Environment Authorities
km	kilometer
kW	kilowatt
NIIP	National Infrastructure Investment Plan
NIPS	National Investment Policy Statement
NPL	nonperforming loan
NSDP	National Sustainable Development Plan

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OECD	Organisation for Economic Co-operation and Development
PFM	public financial management
PPP	public–private partnership
ROA	return on assets
ROE	return on equity
SOE	state-owned enterprise
TAU	<i>Te Aponga Uira</i> (Rarotonga Power Authority)
TCI	Telecom Cook Islands
WATSAN	Water, Waste and Sanitation Unit
WCPFC	Western Central Pacific Fisheries Commission

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## FOREWORD

The Government of the Cook Islands has identified private-sector-led growth as key to the country's sustainable development. This private sector assessment (PSA) identifies eight policy areas that should be prioritized, and recommends the most important, strategic steps that the government should focus on to improve the business environment.

The Cook Islands has a high-performing economy relative to other countries in the Pacific region; its future prospects are positive given continuing growth in the country's tourism sector, and the potential resource revenues from the government's seabed minerals prospecting activities.

Yet, the Cook Islands faces significant challenges in realizing its full potential. The business entry process—while incorporating some best practice elements—is slow, discretionary, dependent on outdated laws, and discourages foreign investment. Bureaucratic problems also make it difficult for businesses to engage foreign workers, despite their expertise and ability to significantly contribute to business productivity.

The government should be commended for its efforts toward gender equality through equal participation in the economy, and its commitments to international gender targets and conventions. However, the country continues to face significant constraints that limit women's full engagement in employment and industry. These constraints are evident in several areas, including pay inequity and outdated legislation, and violence against women impacts their ability to positively contribute to the labor pool.

The Cook Islands tourism sector relies on its ability to provide a pristine natural environment for visitors. The country needs to strengthen its capacity to strategically assess development projects to ensure that they do not degrade the country's fragile and unique national environment, and represent the most efficient and equitable use of limited resources to benefit landowners, developers, and the wider community. Enhancing sustainability also requires improving the quality and maintenance of infrastructure services to effectively to achieve the targets highlighted in the National Infrastructure Investment Plan.

The financial sector in the Cook Islands performs relatively well, but there has been a steady fall in domestic credit to the private sector in recent years. The causes need to be better understood to develop actions that will reverse the trend. A task force has been established to explore options for improving the country's highly inefficient payment system; its mandate should also be extended to addressing weaknesses in the existing collateral framework.

Several countries in the Pacific region have embraced secured transactions reform, which allows the use of movable property as collateral for loans in cases where immovable (usually land) property ownership is more complex to prove. Using movable property allows people (and businesses) who would otherwise be unable to pledge assets as security against a loan to use credit to invest and grow their businesses. It also satisfies

lenders that, in case of default, they will be able to recover their investment. In the Cook Islands, where land ownership is fragmented, landowners largely live overseas and the land registry is also ineffective. A more effective collateral framework would provide greater opportunity for individuals and businesses to secure loans, and more security for the lenders that offer them finance.

The Asian Development Bank (ADB), through the Pacific Private Sector Development Initiative (PSDI) and the Pacific Subregional Office (SPSO), has been working closely with the Government of the Cook Islands in several of these areas. For example, PSDI was involved in the 2013 regional workshop for insurance regulators on the role of, and potential for, insurance services in wider financial inclusion (including in the Cook Islands). In 2015, PSDI supported the Bank of the Cook Islands to introduce a new liquidity risk management policy consistent with the Cook Islands Financial Supervisory Commission's Prudential Statement on Liquidity Risk Management. PSDI is also supporting company law and registry reform in the Cook Islands, and has been requested by the government to prepare a new companies bill for consideration in 2016.

Since 1976, ADB has supported the Cook Islands through a combination of funding agreements (including loans, grants, and technical assistance) totaling over \$64 million. Through SPSO, ADB will continue to support the Cook Islands in infrastructure development, renewable energy and energy efficiency, information and communication technology, public sector management, private sector participation, and capacity development. ADB is committed to the country's success and prosperity.

I trust that this PSA will provide our counterparts in government with the strategic focus needed to continue the reforms that are vital to growing the economy in a time of great competition for the same market share. Continuing close engagement with the private sector and encouraging foreign investment, together with environmental responsibility and climate change adaptation, will require a strong vision and an even stronger resolve. We look forward to a continued, close partnership with the Cook Islands on this exciting journey.

**Xianbin Yao**

Director General  
Pacific Department  
Asian Development Bank

## EXECUTIVE SUMMARY

The Cook Islands is among the best performing Pacific island economies. In the mid-1990s, an economic crisis reoriented the economy from that dominated by government, to one encouraging private-sector-led growth. This has led to significant prosperity relative to other countries in the region.

The economy of the Cook Islands is primarily based on tourism. Other important sectors include marine resources, agriculture, and financial services. Yet, the short- to medium-term prospect for substantive growth in these nontourism sectors is limited.

The economy is closely aligned with New Zealand's. It uses the New Zealand dollar as currency, and New Zealand is the source for the majority of its goods imports and tourists. Movements in the New Zealand dollar appear to have limited impact on the Cook Islands' private sector.

The country requires continued economic growth to support improvements to social programs, and to help address emigration pressures from Cook Islanders' open access to New Zealand and Australia through citizenship and residency agreements.

Economies grow and create jobs as a result of productive investment. However, private sector investment in the Cook Islands has been sluggish since 2009. New investment is needed, particularly in the tourism sector, to sustain and improve the country's living standards.

## THE WAY FORWARD

The Government of the Cook Islands is committed to pursuing sustainable development through private-sector-led growth. The country already features many characteristics that support private sector investment, including an internationally competitive tax regime, an open trade regime, and good standards of education and health care. Yet, more can be done and suggested priorities follow.

### **Enhance policy transparency and continue to strengthen public sector performance**

Written policies are lacking for many areas related to investment, or are outdated. In many cases, the country's laws are also not readily accessible, and there is a lack of written information clearly explaining many regulatory requirements.

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The government needs to continue improving public sector performance efficiency. Economic development efforts are fragmented and spread across seven government agencies.

### **Improve the business entry process**

The business entry process comprises regulatory requirements that investors must comply with to invest in the Cook Islands. Importantly, the process should be transparent, fast, and inexpensive, as it is the gateway through which businesses enter—and thereafter contribute—to the formal economy.

While the country's process follows good practice by limiting the number of requirements, several of these are problematic. Company registration is paper-based, and relies on outdated legislation. Also, the process regulating foreign investment entry into the country is unwelcoming because it is time consuming and relies on discretionary decision-making.

This is particularly problematic for a microeconomy with limited sources of long-term investment capital. The onerous foreign investment approval process also means that government is devoting few resources to investment promotion.

Despite significant gaps in the local labor pool, businesses' ability to access foreign workers is also unduly difficult. The process regulating the issue of work permits lacks transparency, is time consuming, and includes the same requirements regardless of the position. There are also concerns over the treatment of foreign workers while in-country.

### **Strengthen land market functioning and land management processes**

The Cook Islands' existing land tenure system has provided businesses with access to land for development purposes; yet, its weaknesses include fragmented land ownership, an ineffective land registry, and cumbersome leasing procedures. This reduces the land market's efficiency, as well as land's potential contribution to economic development.

Development has increased the pressure on environmental resources. However, land use planning is not being done. As a result, the most appropriate uses of available land are not considered; and development is occurring in environmentally sensitive areas.

The existing mechanisms to regulate development at specific project sites could benefit from further strengthening. Decision-makers—within the environmental impact assessment (EIA) process—are politically appointed, rather than selected on technical expertise. This, coupled with minimal access to external scientific advice, undermines the potential quality of EIA decisions.

## Improve financial system functioning

While the Cook Islands' financial sector performs relatively well given its domestic market's small size, bank lending to the private sector has been on a downward trend since 2009. This is partly due to a nonperforming loan (NPL) problem resulting from weaknesses in the collateral framework, and difficulties in assessing borrower risk. Challenges to effectively using land as security for loans suggest that greater use of movable assets as collateral should be explored. Several countries have already introduced successful reforms to address this issue.

The payment system is also highly inefficient; and platforms needed for individual financial institutions to interconnect as a system are minimal. This raises the cost of payment transactions, and prevents the country from taking advantage of new technologies.

The Cook Islands National Superannuation Fund (CINSF, or the fund) is increasing the country's saving rate. CINSF's primary objective is providing adequate retirement incomes for contributors, without exposing the fund to undue risk. All funds are invested offshore. The Cook Islands National Superannuation Act 2000, however, allows for up to 20% of funds to be invested within the country. This means that CINSF has the potential to evolve into a significant participant in the domestic financial market, as long as investments consistent with its primary objective are found.

## Advance gender equality to stimulate private-sector-led growth

Gender equality contributes to private sector development by supporting women's increased participation in the economy, and by increasing diversity and innovation. The government is committed to women's and men's equal participation, including in the formal economy. While there have been gains toward gender equality targets, constraints remain, including gender pay inequity and biases or gaps in legislation. These prevent optimal use of available labor resources. The particular problem of violence against women negatively impacts all sectors.

## Improve core infrastructure services quality and sustainability

While there are weaknesses in all infrastructure areas, water, sanitation, and solid waste services are particularly concerning given the importance of a quality natural environment to the tourism industry's sustainability. The Cook Islands National Infrastructure Investment Plan 2015 and Budget Estimates 2014/2015 Book 3: Capital Plan aim to address weaknesses in infrastructure provision.

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It is critical to efficiently and effectively implement planned investments, appropriately adapt these for climate change, and sustainably maintain assets. In the Cook Islands, these are hindered by fragmented service delivery, and limited service provider regulation and oversight.

### **Strengthen the policy and legislative framework for state-owned enterprises**

Overall, the country's state-owned enterprise (SOE) portfolio return on equity (ROE) is below the cost of capital. Its ROE is also less than what comparable private sector firms would be expected to deliver. Governance and legislative framework aspects make it difficult to achieve performance improvements. SOE purpose is insufficiently defined, and rules around community service obligations are confused. A transparent, skills-based director selection process is absent; the same applies to a clear contracting and public-private partnership framework.

### **Address competition-related concerns**

The Cook Islands faces several competition-related issues, including single suppliers in key markets, discriminatory regulatory practices for small enterprises, and concerns over high prices and anticompetitive business practices. The country lacks a competition policy that clearly articulates its objectives and the measures to be used to achieve them.

## KEY CHALLENGES AND RECOMMENDATIONS

Challenges	Key Recommendations
<p><b>Enhance policy transparency and continue to strengthen public sector performance</b></p>	<ul style="list-style-type: none"> <li>• Prepare clear written policies addressing all investment-related areas, and consider doing this in the form of a national investment policy statement.</li> <li>• Make all legislations available free and electronically, preferably through a single website.</li> <li>• Develop written plain language guides that identify and describe requirements to comply with key business regulatory processes.</li> <li>• Halt further public sector size increases, and continue to streamline public sector organizational structures and systems to improve performance efficiency. Consider revisiting recommendations from the 2011 Public Finance Management and Public Sector Performance Review Functional Analysis Report.</li> </ul>
<p><b>Improve the business entry process</b></p>	<ul style="list-style-type: none"> <li>• Undertake the planned comprehensive review of the Companies Act 1970–1971 to bring in line with modern companies legislation. Once new company legislation has been agreed upon, develop an electronic registry allowing online filing and internet searches.</li> <li>• Compile information clarifying foreign investment participation in the economy, and consider including foreign investment registration as a component of the electronic, online company registry once established.</li> <li>• Review the foreign investment approval process to enhance its transparency, and strategically align it with potential growth sectors needing new investment.</li> <li>• Adopt a more strategic, transparent, and streamlined system for issuing work permits that provides employers with easier access to foreign workers to address shortages in the citizen labor pool.</li> <li>• Introduce regulations to the Employment Relations Act 2012 that establish clear expectations about what constitutes a safe and appropriate work environment. Explore options for establishing an independent labor dispute tribunal that workers (citizen and foreign) and employers can access at a reasonable cost.</li> <li>• Develop an investment promotion strategy to proactively encourage new investment in the economy, particularly the tourism sector.</li> </ul>

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Table continued

Challenges	Key Recommendations
<b>Strengthen land market functioning and land management processes</b>	<ul style="list-style-type: none"> <li>• Examine existing land policies and processes to determine how they can be best adapted to improve the functioning of the land market. This requires               <ul style="list-style-type: none"> <li>– building on existing efforts of the Ministry of Justice to create an accurate and comprehensive electronic land register that includes information on land titles, as well as other instruments that affect title such as leases, mortgages, and occupation rights;</li> <li>– reviewing the process for dealing with leases, subleases, and assignments to simplify it and reduce transaction costs; and</li> <li>– holding discussions with landowners to identify feasible options for addressing land fragmentation and absentee ownership.</li> </ul> </li> <li>• Engage with landowners to identify a strategy to enable the gradual introduction of orderly land use planning and zoning.</li> <li>• Strengthen the environmental impact assessment process by selecting members to sit on Island Environment Authorities (IEAs) based on technical expertise, and introduce a mechanism to enable IEAs to readily access technical advice if necessary.</li> </ul>
<b>Improve financial system functioning</b>	<ul style="list-style-type: none"> <li>• Establish a task force to understand the reasons behind the fall in domestic credit to the private sector, and develop practical strategies to address the situation. The task force should               <ul style="list-style-type: none"> <li>– understand the extent of the remaining nonperforming loan problem and its causes;</li> <li>– identify gaps in bankruptcy provisions;</li> <li>– review the legal framework for using movable property as collateral for loans, and assess whether reforms in this area would support increased lending to business; and</li> <li>– investigate the feasibility of establishing a credit bureau linked to one based in New Zealand.</li> </ul> </li> <li>• Investigate options for improving domestic interbank clearing and settlement, including the feasibility of integrating the Cook Islands payment system into the New Zealand payment system.</li> <li>• Assess the potential that the Cook Islands National Provident Fund (CINSF, or the fund) could play in the domestic economy, consistent with its primary objective of providing adequate retirement incomes for contributors. This should include public consultations to determine CINSF members' openness to having the fund play such a role, and to assess whether the superannuation supervision bill provides a suitable prudential framework for this to occur.</li> </ul>

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Table continued

Challenges	Key Recommendations
<p><b>Advance gender equality to stimulate private-sector-led growth</b></p>	<ul style="list-style-type: none"> <li>• Continue to implement the recommendations of the National Policy on Gender Equality and Women’s Empowerment &amp; Strategic Plan of Action 2011–2016 by               <ul style="list-style-type: none"> <li>– strengthening institutional capacity within government to support policy implementation, and</li> <li>– developing accountability mechanisms and tracking procedures to monitor implementation across all sectors.</li> </ul> </li> <li>• Invest in initiatives that encourage and support women to establish and grow businesses, particularly in the outer islands.</li> <li>• Encourage collaboration between government and all development partners (private sector, civil society, faith-based organizations, and donors) to end violence against women. This includes supporting enactment of the family law bill and crimes bill.</li> <li>• Amend the Matrimonial Property Act 1991–1992 to include <i>de facto</i> relationships.</li> </ul>
<p><b>Improve core infrastructure services quality and sustainability</b></p>	<ul style="list-style-type: none"> <li>• Address priorities identified in the Cook Islands National Infrastructure Investment Plan (NIIP), particularly infrastructure services (sanitation, solid waste, and water) that are deteriorating the quality of the natural environment.</li> <li>• Ensure that climate change adaptation is included in all infrastructure project designs.</li> <li>• Integrate the NIIP into government planning and budgeting processes, and ensure that it is monitored and updated over time.</li> <li>• Explore opportunities to improve efficiency by consolidating service delivery into fewer institutions, particularly in energy, sanitation, solid waste, and water.</li> <li>• Complete the establishment of the new asset management system, and ensure that infrastructure asset registers are comprehensive and effectively maintained.</li> <li>• Ensure that there are effective cost recovery systems to help manage demand, encourage conservation, and provide funds for investment and maintenance.</li> <li>• Separate the infrastructure regulation function from service delivery, and consider combining these regulatory functions into a single, multisector regulator.</li> </ul>
<p><b>Strengthen the policy and legislative framework for state-owned enterprises</b></p>	<ul style="list-style-type: none"> <li>• Clearly define the principal objective of a state-owned enterprise (SOE) as maximizing the public investment’s net worth.</li> <li>• Establish clear rules to identify and fund community service obligations.</li> <li>• Establish transparent, skills-based criteria to select and appoint SOE directors.</li> <li>• Formally require SOEs to always investigate options to contract out activities and services they provide, and to look for opportunities to work with the private sector through joint arrangements.</li> </ul>
<p><b>Address competition-related concerns</b></p>	<ul style="list-style-type: none"> <li>• Develop a coherent competition framework for the Cook Islands.</li> </ul>

## IMPLEMENTING REFORMS

The reform priorities and recommendations presented in this private sector assessment (PSA) are based on a review of available information, including discussions with government officials, donors, and business people. It summarizes the overall business environment in the Cook Islands, and focuses on key areas constraining future investment. Therefore, it proposes a starting point from which reform initiatives can be developed and implemented.

Given the capacity constraints within government and the business community, it will be important to carefully review the PSA's recommendations to identify areas where the country's limited available resources can be most productively employed. The government is strongly encouraged to consult with the private sector before deciding on its reform agenda, to ensure that the agenda accurately reflects business priorities. This will also help generate private sector willingness to participate in efforts to develop specific reforms, and to create a sense of local ownership that will help to make reform implementation a success.

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# 1 INTRODUCTION AND OVERVIEW OF THE ECONOMY

The Cook Islands is among the best performing of the Pacific island economies. In the mid-1990s, an economic crisis reoriented the economy away from being government-dominated, to one that encouraged private-sector-led growth. However, the economy remains narrowly based on tourism and needs new investment to continue growing. Potential for developing nontourist-based industries is more limited. The country requires continued economic growth to support improvements to social programs, and help address emigration pressures resulting from open access of Cook Islanders to New Zealand and Australia.

This private sector assessment assesses the Cook Islands' policy framework to identify areas that constrain private sector investment in the economy. It is based on a review of government planning documents; available economic reports; and discussions with government officials, donors, and representatives of the private sector.

## A small, geographically isolated but relatively affluent country

The Cook Islands is located in the center of the Polynesian Triangle.<sup>1</sup> The country comprises 15 main islands, with a total area of 240 square kilometers (km<sup>2</sup>). The islands are scattered in two

groups over approximately 2 million km<sup>2</sup> of ocean. The total population in 2011 was 17,794, of which 84% (14,990) were residents.<sup>2</sup> Most people live on Rarotonga, where the capital, Avarua, and main commercial and government centers are located.

In 1965, the Cook Islands became self-governing in free association with New Zealand. This association provides Cook Islanders with New Zealand citizenship, and the right to work and residency in New Zealand. As a result of various reciprocal entry agreements between New Zealand and Australia (the main being the Trans-Tasman Travel Arrangements, allowing unrestricted living, visiting, travelling, and working rights for citizens of either country), Cook Islanders also have open access to work and residency in Australia.

Per capita, the Cook Islands is the most prosperous Pacific island economy (Figure 1). Its gross national income (GNI) more than quadrupled between 2000 and 2013 (from \$5,546 to \$23,026), and is between 5.1 times (Tonga) and 7.4 times (Vanuatu) that of its Polynesian neighbors. Its GNI is nearly 2.1 times that of Palau.<sup>3</sup>

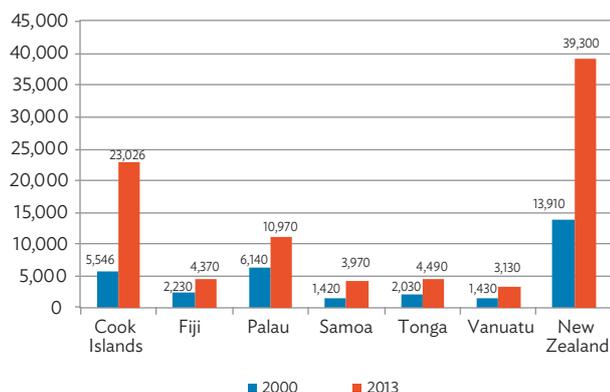
Labor force participation is relatively high, with approximately 72% of Cook Islanders in some form of employment (footnote 2). The country also

<sup>1</sup> The Cook Islands is in the South Pacific Ocean. It is 2,300 kilometers (km) east of Fiji, 4,730 km south of Hawaii, 3,010 km northwest of New Zealand, and 1,140 km west of Tahiti. The remote Northern Group comprises seven low-lying, sparsely populated coral atolls with little arable land. The eight islands in the Southern Group include Rarotonga, where the capital, Avarua, is situated. Five of these eight islands are elevated, fertile, and volcanic in origin.

<sup>2</sup> The difference between the total population and resident population represents short-term visitors and tourists. Source: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2013. *Cook Islands Census of Population and Dwellings 2011. Metadata Documentation*. Avarua.

<sup>3</sup> The per capita GNI figures are based on total population, therefore actually understate the per capita income of Cook Islands residents.

**Figure 1: Comparative Gross National Income Per Capita—2000 and 2013 (\$)**



Sources: ADB. 2014c. *Key Indicators for Asia and the Pacific 2014*. Special Chapter. Poverty in Asia: A Deeper Look. Manila. [http://www.adb.org/sites/default/files/publication/43030/ki2014\\_0.pdf](http://www.adb.org/sites/default/files/publication/43030/ki2014_0.pdf); ADB. 2015a. *Asian Development Outlook 2015: Financing Asia's Future Growth*. Manila. <http://www.adb.org/sites/default/files/publication/154508/ado-2015.pdf>; and World Bank. World Development Indicators. <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators#> (accessed 3 July 2015).

enjoys a high standard of health care and education. It is one of the few Pacific island countries offering a wide range of welfare support to children, the sick, and the elderly. The Cook Islands is on track to achieve the Millennium Development Goals by the end of 2015, and reported achieving Goal 4 (“reduce child mortality”) and Goal 5 (“improve maternal health”) by 2010.<sup>4</sup>

## Economic reforms in mid-1990s emphasized the need for private-sector-led growth

The Cook Islands economy grew strongly from the early 1980s until 1994, driven by tourism and public spending. A significant crisis emerged in 1996. Successive governments had used public sector employment to deliver political patronage and as a form of social security, particularly on the outer islands. Continuous tourism growth, generous aid flows, and external borrowing had masked this behavior.

However, a tourism decline precipitated a monetary and fiscal crisis, resulting in lost confidence in the Cook Islands currency and the government’s inability to meet its financial commitments. In response, the Cook Islands currency was withdrawn and the New Zealand dollar became the country’s sole currency. An economic reform program (ERP) was also implemented to restore macroeconomic stability and reduce the government’s domination of the economy. The ERP was also introduced to create an outward-looking, competitive economy led by a growth-oriented private sector.<sup>5</sup>

The ERP reduced the size of the public service, cut other expenditures, and introduced tax reforms. This restored financial stability, and enabled

<sup>4</sup> The Millennium Development Goals include eight goals with corresponding indicators. The goals include eradicating extreme hunger and poverty; achieving universal primary education; promoting gender equality and empowerment; reducing child mortality; improving maternal health; combating HIV/AIDS, malaria, and other diseases; ensuring environmental sustainability; and global partnerships for development. The Cook Islands added a ninth MDG for improved governance at the national level. Sources: Asian Development Bank (ADB). 2015b. *Asian Development Bank & Cook Islands: Fact Sheet*. 31 December 2014. Manila; United Nations Development Programme. MDGs in Cook Islands, Niue, Samoa and Tokelau. <http://www.ws.undp.org/content/samoa/en/home/mdgoverview/>; and Government of the Cook Islands, Office of the Prime Minister, Central Planning and Policy Office. 2010. *National Millennium Development Goals Report: Cook Islands 2010*. Avarua.

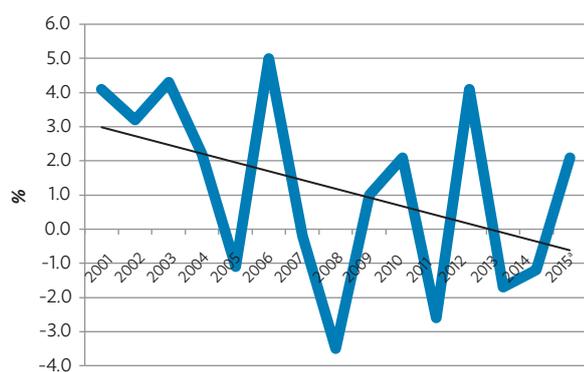
<sup>5</sup> E.S. Duituturaga. 2011. *Political Economy and Championing Reforms in the Cook Islands and Samoa*. In R. Duncan, ed. *The Political Economy of Economic Reform in the Pacific*. Pacific Studies Series. Manila: ADB.

the government to successfully restructure its unsustainable external debt levels. As a result, the economy experienced a return to growth.<sup>6</sup>

## Volatile economic growth since 2000

The Cook Islands economy has experienced significant swings in economic output since 2001 (Figure 2). While annual gross domestic product (GDP) grew at an average rate of 1.2% in 2001–2015, the country also experienced several years of economic contraction. In 2007 and 2010, this

**Figure 2: Cook Islands Gross Domestic Product at Constant Prices, 2001–2015 (% annual change)**



<sup>a</sup> Forecast

Sources: For 2001–2009, Asian Development Bank (ADB). 2014c. *Key Indicators for Asia and the Pacific 2014*. Cook Islands Country Table: 31 July. [https://sdb.sadb.org/sdb/s/KI\\_fileDownload.jsp?key=COO&scope=country&file=CT\\_COO.pdf](https://sdb.sadb.org/sdb/s/KI_fileDownload.jsp?key=COO&scope=country&file=CT_COO.pdf); and for 2010–2015 (forecast), ADB. 2015a. *Asian Development Outlook 2015: Financing Asia's Future Growth*. Manila.

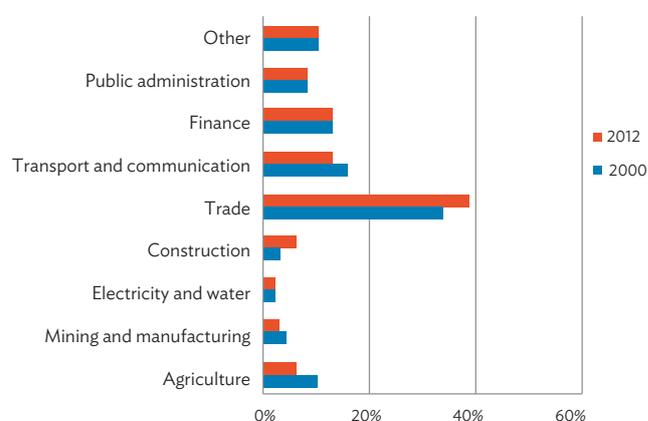
volatility was largely due to the global economic crisis and beyond the government's control.

Yet, the economy's small size and narrow focus make it particularly vulnerable to external shocks.

## Economy narrowly focused on tourism

The trade sector dominates the economy, and includes restaurants and accommodation (Figure 3).<sup>7</sup> The trade sector's share of total GDP

**Figure 3: Cook Islands Contribution to Gross Domestic Product by Industry at Constant Prices, 2000 and 2012 (%)**



Source: ADB. 2014c. *Key Indicators for Asia and the Pacific 2014*. Cook Islands Country Table: 31 July. [https://sdb.sadb.org/sdb/s/KI\\_fileDownload.jsp?key=COO&scope=country&file=CT\\_COO.pdf](https://sdb.sadb.org/sdb/s/KI_fileDownload.jsp?key=COO&scope=country&file=CT_COO.pdf)

<sup>6</sup> During the 1990s crisis, government expenditures had reached 50% of gross domestic product (GDP) and public servants represented about 60% of the paid labor force. The country's debt-to-GDP ratio was 139%. Due to the ERP, public servant numbers decreased by almost 60% (from 3,205 to 1,319), government expenditures fell to 31% of GDP, and the debt-to-GDP ratio was reduced to 60%. These measures enabled the economy to register strong growth in 1999 and 2000 (an annual average of 8.3%) following 4 years of economic contraction, when annual growth between 1995 and 1998 averaged -1.9%. Source: ADB. 2002. *Program Performance Audit (PPA) Report on the Economic Restructuring Program in the Cook Islands—PPA: COO 30346*. Manila.

<sup>7</sup> The contribution of agriculture and fisheries to the economy is likely to be undervalued, because household production in these areas is excluded from GDP estimates. These primary sectors are important for household consumption. A 2013 macroeconomic assessment recommended addressing this gap. Source: S. Narube and C. Lightfoot. 2013. *Cook Islands: Macroeconomic Assessment* (Financed by the Technical Assistance Special Fund under the Pacific Economic Management—Enhanced Economic Management [Subproject 2] Technical Assistance Project). *Consultant's Report: Project Number: 43045-032*. Manila: ADB and Avarua: Government of the Cook Islands, Ministry of Finance and Economic Management.

increased from 32.4% in 2000, to an estimated 39.3% in 2012.

The national system of accounts in the Cook Islands does not have a way to estimate tourism's contribution to the economy. Still, tourism is considered the country's leading sector, and is thought to dominate economic activity. It accounts for an estimated 60% of GDP.<sup>8</sup>

While merchandise exports increased in 2013 due to an increase in fish exports, the amounts remain small relative to merchandise imports. However, the country's negative merchandise balance is more than offset by a positive net services balance based on tourism.<sup>9</sup>

Besides tourism, other key sectors contributing to the economy include marine resources, agriculture, and financial services. The short-to-medium prospect for substantive growth in nontourism sectors appears limited, and it is critical that the tourism industry remains dynamic and healthy.

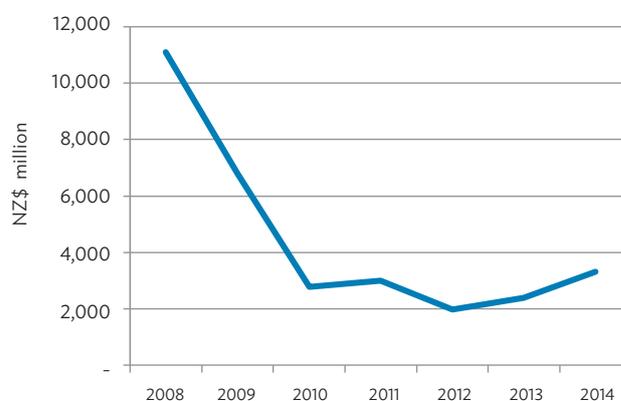
### Sluggish private sector investment

Economies grow and create jobs as a result of productive investment. Data on private sector investment levels in the Cook Islands are not readily available. However, the Ministry of Finance and Economic Management tracks commercial building permits, providing a good indication of businesses' outlook for the economy. When an economy is expanding, businesses will invest in new buildings,

purchase equipment, and improve existing facilities to meet anticipated growing demand.

The value of commercial building approvals issued in the Cook Islands was relatively flat in the 5 years over 2010–2014. While the figure slightly improved in 2014, the 5-year total is still considerably lower than in 2008 and 2009 (Figure 4). This is despite continuous growth in the country's visitor numbers. Encouraging new investment is needed, particularly in the tourism sector, to sustain and improve the country's standard of living.

**Figure 4: Cook Islands Value of Commercial Building Approvals, 2008–2014 (NZ\$ million)**



NZ\$ = New Zealand dollar.

Source: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015b. *Miscellaneous Statistics March Quarter 2015—Table 7.1 Building Approvals*. <http://mfem.gov.ck/mfemdocs/stats/statistical-series/miscellaneous/2015-2/934-miscellaneous-statistics-tables-march-2015>

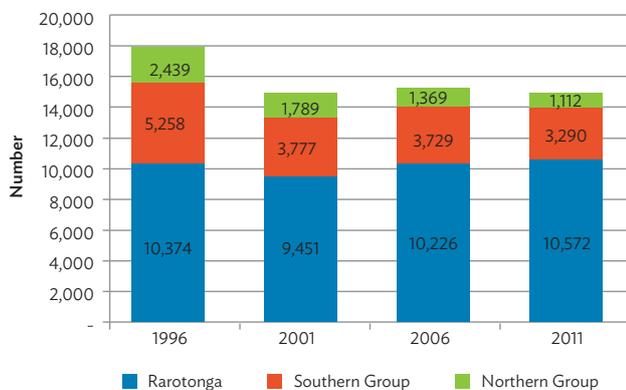
<sup>8</sup> Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

<sup>9</sup> Total goods exports in 2013/2014 are estimated at \$21.6 million (an increase of \$12.6 million over 2012/2013), but still represent just 15% of total estimated goods imports (\$141.4 million). Including the estimated services trade, the estimated balance of trade for 2013/2014 is forecasted to be a surplus of \$109.5 million. Source: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

## Depopulation a significant challenge

Depopulation has been an issue in the Cook Islands since the 1970s. Over 1996–2011, the total resident population declined by 17%, from 18,071 in 1996 to 14,974 in 2011 (Figure 5). The decline, however, has

**Figure 5: Cook Islands Resident Population—1996, 2001, 2006, and 2011**



Sources: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2001. *Cook Islands 2001 Census of Population and Dwellings: Main Report*. Avarua. [http://www.mfem.gov.ck/docs/Stats/1.Statistics/5.Census%20and%20Surveys/4.Census%20Report/CensusRprt2001\\_web.pdf](http://www.mfem.gov.ck/docs/Stats/1.Statistics/5.Census%20and%20Surveys/4.Census%20Report/CensusRprt2001_web.pdf); Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2006. *Cook Islands 2006 Census of Population and Dwellings: Final Report*. Avarua. <http://www.mfem.gov.ck/docs/Stats/1.Statistics/5.Census%20and%20Surveys/4.Census%20Report/COOKISLANDS%20CENSUS%20REPORT2006.pdf>; and Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2013. *Cook Islands 2011 Census of Population and Dwellings: Main Report*. Avarua. <http://www.mfem.gov.ck/docs/Stats/2012/Census/2011%20Cook%20Islands%20Population%20Census%20Report.pdf>

been limited to the outer islands. Over this period, the population of the Southern Group fell by 37% and the Northern Group by 54%, resulting in major diseconomies of scale faced in delivering public services to these scattered outer islands.

Much of the population decline can be attributed to public sector downsizing under the ERP. Because Cook Islanders are New Zealand citizens, they can freely move to New Zealand and Australia to live and work. Many people on the outer islands who lost their government jobs took advantage of this option rather than remain in the Cook Islands.

Approximately 76,000 ethnic Cook Islanders live in New Zealand and Australia.<sup>10</sup> The country faces an ongoing challenge to create sufficient economic opportunities and affordable services to keep Cook Islanders, particularly youth, from emigrating.

<sup>10</sup> Based on information in the 2013 New Zealand Census and 2011 Australian Census, 60,255 New Zealanders and 15,726 Australians identify themselves as ethnic Cook Islanders. In the 2011 Australian census, over 6,000 people born in the Cook Islands were living in Australia. This was a 21% increase from that recorded in the 2006 Australian census. Sources: Government of Australia, Department of Social Services, Settlement and Multicultural Affairs. 2014. *The Cook Islands-born Community*. <https://www.dss.gov.au/our-responsibilities/settlement-and-multicultural-affairs/programs-policy/a-multicultural-australia/programs-and-publications/community-information-summaries/the-cook-islands-born-community>; and Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

## 2 POLICY FRAMEWORK TO ENCOURAGE INVESTMENT

### Recommendations:

- Prepare clear written policies addressing all investment-related areas, and consider doing this in the form of a national investment policy statement.
- Make all legislation available free and electronically, preferably through a single website.
- Develop written plain language guides that identify and describe requirements to comply with key business regulatory processes.
- Halt further public sector size increases, and continue to streamline public sector organization structures and systems to improve performance efficiency. Consider revisiting recommendations from the 2011 Public Finance Management and Public Sector Performance Review Functional Analysis Report.

### ENCOURAGING BROAD-BASED PRIVATE SECTOR INVESTMENT

a vibrant private sector depends heavily on a well-functioning state that encourages entrepreneurship, innovation, and competition. The government is expected to play a key role to

- ensure a stable macroeconomic environment;
- establish and protect property rights, and provide a mechanism to resolve property disputes;
- provide law and order and a safe environment in which to invest and conduct business;
- ensure that transactions costs associated with starting, operating, and closing a business are kept low;
- establish an environment in which contracting can be done confidently;

- promote access to finance by providing mechanisms for lenders to reduce their risks, and ensure that laws on the pledging of collateral promote effective lending, and at low cost;
- promote competition by ensuring that markets are competitive and minimizing intervention, which includes preventing state-owned enterprises from crowding out private-sector activity and effectively regulating monopolies; and
- ensure that the infrastructure framework supports economic development by opening infrastructure provision through public-private partnerships, contracting out, and outright privatization where appropriate, and not directly through government or state-owned businesses.

Effective governance is needed to successfully encourage a supportive investment climate.

That means developing stable policies that do not change suddenly or unexpectedly, as this increases uncertainty and discourages investment. Policy reform, when it occurs, should be based on meaningful consultation with the business community and other stakeholders.

Effective governance also means encouraging the delivery of high quality public goods, while refraining from producing private goods through the public sector. This implies recognizing the importance of public goods for doing business; and identifying weaknesses that negatively affect property rights, the legal system, and the business regulatory framework. It also means that the government must possess sufficient technical and administrative capacity to efficiently and effectively administer public spending, regulate the marketplace, and establish an independent judiciary to adjudicate disputes.

## THE COOK ISLANDS NATIONAL SUSTAINABLE DEVELOPMENT PLAN

The Government of the Cook Islands established a national vision for the country in 2007, called the *Te Kaveinga Nui* (Pathway for Sustainable Development in the Cook Islands). The vision sets out strategic outcomes to be achieved by the year 2020, and was developed with wide public input. Strategic outcomes include achieving a stable resident population of 25,000, and establishing core infrastructure services on all the country's islands capable of supporting economic development. Both are very challenging goals, given the outer islands' ongoing depopulation trend. The vision stipulates

that outcomes are to be achieved largely through private-sector-led economic growth.

National sustainable development plans (NSDPs) have been prepared to implement the vision. The first NSDP covered the period 2007–2010 and accompanied the *Te Kaveinga Nui* vision, and the second covered the period 2011–2015.<sup>11</sup> The plans are continually evolving. The NSDP 2007–2010 included 216 key strategic targets across 8 strategic goals, which were never monitored or reported upon. The NSDP 2011–2015 streamlined the number of indicators to 80 across 8 goals, and has been more successful in aligning the budget process and business planning to the larger national vision.

The NSDP 2011–2015 explicitly acknowledges a number of important investment-related policy areas. These include

- sustaining macroeconomic stability;
- reforming policies and regulations regarding foreign investment, immigration, trade, and competition; and
- improving the accessibility of core infrastructure services, including pursuing an energy policy of 100% renewable production by 2020.

However, progress in implementing the NSDP 2011–2015 has been mixed. Most success appears to have been achieved in macroeconomic stability, and continued economic growth due to tourism. There has been less success with infrastructure, but public capital investment—funded largely by grants and loans—has gone into improving water,

<sup>11</sup> Source: Government of the Cook Islands, Office of the Prime Minister, and Ministry of Finance and Economic Management. 2007. *Te Kaveinga Nui (Pathway for Sustainable Development in the Cook Islands): Living the Cook Islands Vision—A 2020 Challenge. National Sustainable Development Plan (2007–2010)*. Avarua; and Government of the Cook Islands, Office of the Prime Minister, and Ministry of Finance and Economic Management. 2011. *Te Kaveinga Nui: National Sustainable Development Plan 2011–2015*. Avarua.

septic systems, and seaports. Monitoring the plan continues to be difficult due to a lack of reliable data.<sup>12</sup>

The third NSDP will be developed in 2016, and its number of goals and indicators are expected to be further refined to improve clarity and align more easily with government business plans. The plan is also expected to shift emphasis toward developing the country's key economic centers in Rarotonga and Aitutaki. This shift is based on the premise that ensuring sustainable growth in these centers will create a foundation for spreading benefits to other parts of the country.

### Lack of written policies and practical information about many regulatory processes

While the NSDP 2011–2015 defines the country's aspirational goals and the strategies it intends to achieve. Often, formal written policies either do not exist, or are outdated. Estimates indicate that only 30% of the policy framework is considered up-to-date and relevant.<sup>13</sup>

A lack of clear written policies creates confusion and uncertainty, which negatively impacts the attractiveness of a country's investment climate. To address this gap, some countries have developed a national investment policy statement (NIPS).<sup>14</sup>

An effective NIPS provides a consolidated, unequivocal, publicly documented, transparent record of a country's investment policy. It is focused on direct investment, and addresses the areas identified in the table in this report's Executive Summary.

Because a country's NIPS gives politicians a common understanding of the existing investment policy, they can use it as a foundation when proposing amendments. It is also a sound reference for developing appropriate legislation and policy implementing procedures.

Legislation in the Cook Islands is unnecessarily difficult to access, and information to help business people comply with many regulatory requirements is not readily available—which hinders the business operating environment's transparency. Most countries now make their legislation easily and publicly accessible online. Yet, in the Cook Islands, legislation is not accessible through a single website, and can often only be purchased from Parliament in hard copy (paper) format.

There is also no practical, plain language guide describing the different regulatory requirements with which a business must comply. In many cases, this information is only obtained by speaking directly with government administrative staff. This is a costly, inefficient way of sharing information.

<sup>12</sup> A brief progress report on the NSDP 2011–2015 implementation is provided in the 2014/2015 budget. Source: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

<sup>13</sup> The policy development framework is still in its infancy. There is a particular need for greater appreciation of evidence-based policy, which has hampered the resourcing and commitment required to establish the data collection and reporting systems needed to develop sound policy. The current estimate of up-to-date policy is based on an internal assessment conducted in 2014 by the Central Policy and Planning Office, within the Office of the Prime Minister. Sources: Personal communication, Office of the Prime Minister Central Policy and Planning Office; and Government of the Cook Islands. 2013b. *Navigating Stormy Seas through Changing winds—Developing an Economy whilst preserving a National Identity and the modern challenges of a Small Island Developing State. The Cook Islands National Report for the 2014 Small Islands Developing States (SIDS) Conference and post 2015 Sustainable Development Goals (SDGs)*. Avarua.

<sup>14</sup> For example, see Vanuatu's National Investment Policy. It provides a good example of the range and type of information a NIPS should contain, but has not been updated since 2005 (the original NIPS dated from 1996). Source: Government of Vanuatu. 2005. *National Investment Policy: March 2005*. Port Vila.

## Policies in several areas support private sector investment

Assessment is difficult due to the lack of clearly articulated, updated, written policies. Existing policies and supporting institutions that generally support private sector investment include the following areas:

**Tax policy.** The Cook Islands has an internationally competitive tax regime, and the most recent tax review was completed in 2013. Tax rates on personal and company income are simple and low. The corporate tax rate is 20% (the same as in Fiji), and the lowest in the Pacific island region. Income tax exemptions are only offered to international airlines operating in the country. Yet, the international company tax rate is considerably higher (28%) than the domestic rate, and should ideally be aligned. The Cook Islands also has a broad-based value added tax, which was increased from 12.5% to 15.0% effective April 2014.<sup>15</sup>

**Trade policy.** The Cook Islands has few import levies, rates are modest, and exemptions are limited.<sup>16</sup> As a result of the 2013 tax review, import levies on tobacco, soft drinks, and alcohol were eliminated and replaced with an excise regime on products, regardless of source. The review also eliminated protective import tariffs on pork products, sea freighted eggs, and ice cream. Import protection is now afforded to just two products:

seasonal vegetables and pearls. The process of converting from manual to electronic customs clearance also began in 2014 (footnote 15).

**Contract enforcement.** The Cook Islands legal system is based on New Zealand and English common law. It operates a three-level court system. The High Court of the Cook Islands is the court of originating jurisdiction, with the right of appeal to the Court of Appeal of the Cook Islands, and a further right of appeal available to the Sovereign in Council (Privy Council) in London.

The judiciary comprises senior or retired judges of the High Court and Court of Appeal of New Zealand. Locally appointed justices of the peace deal with small claims and offences. The High Court has civil, criminal, and land divisions. Civil cases are addressed during 1-week sessions, and five of these sessions were held during fiscal year 2013–2014. The Civil Division deals mostly with family-oriented and probate actions, rather than commercial matters. While information concerning average time required to make a civil decision is lacking, timeliness is a problem as a considerable backlog of cases is carried over each year. To address the problem, the Ministry of Justice is extending the amount of time that the Civil Division sits.<sup>17</sup>

The High Court's capacity to efficiently deal with disputes associated with land matters is more problematic. The issue is discussed in this

<sup>15</sup> Sources: Government of the Cook Islands, Ministry of Finance and Economic Management. 2013a. *Cook Islands Government 2013 Tax Review: September 2013*. Avarua; and Government of the Cook Islands, Ministry of Finance and Economic Management. 2013b. Press Release: Changes to the Cook Islands Taxation System. <http://www.mfem.gov.ck/mfemdocs/ceo/171-20131203-press-release-changes-to-the-cook-islands-taxation-system/file>

<sup>16</sup> The Business Trade and Investment Board has the authority to approve duty exemptions on vehicles imported into the country. Levies are not charged on jet fuel; and fuel to outer islands is either not taxed, or taxed at a reduced rate in Aitutaki.

<sup>17</sup> Of the 132 civil actions lodged in the Civil Division in 2013–2014, 42% were still awaiting decision at the end 2014. Moreover, 84 civil actions were carried over from previous reporting periods; and many of these actions were also not decided in 2013–2014. The problem is exacerbated by criminal and civil sessions being presided over by the same judge. These sessions follow one another, with criminal matters heard the first week, followed by civil matters the second week. Criminal matters often take more than 1 week, reducing the time available to address civil matters. Source: Government of the Cook Islands, Ministry of Justice. 2014. *Annual Report: 2013–2014 Financial Year*. Avarua.

report's Land chapter. The Cook Islands introduced an Arbitration Act in 2009, and mediation and arbitration are encouraged to reduce the pressure on the court system.

**Human resources.** Learning for Life: Cook Islands Education Master Plan 2008–2023 is aligned with NSDP 2011–2015, and provides strategic direction for the education sector.<sup>18</sup> Outcomes of the early childhood, primary, and secondary school system are good, with national literacy and numeracy progress on track to achieve 2015 targets, although boys lag girls in some areas and schools.

The Cook Islands Tertiary Training Institute also offers a range of internationally accredited vocational training programs, including food and beverage, culinary arts, drain laying, automotive engineering, carpentry, and electrical courses. The program quality is good and an apprenticeship program is in place, but links to the business community could be further improved through closer dialogue and regular labor market assessments.<sup>19</sup>

Labor legislation was modernized with the passing of the Employment Relations Act 2012. Provisions now include 6 weeks of paid maternity leave. Employers are responsible for making the maternity payment to foreign workers, while the government provides it for citizen workers. The Act also includes a small paternity leave benefit, and tightens up the process that employers must follow to terminate an employee.

### Sound public spending policies

Rigorous public financial management (PFM) is essential to ensure that government expenditures

and revenues are well managed. This enables predictable and sustainable budget balances to be developed each year that do not constrain private sector growth. Sound PFM also means that an undue debt burden does not accumulate.

The PFM system in the Cook Islands is largely a creation of the mid-1990s economic reform program (ERP). The system is based on a clear legislative framework, and the rules are well documented. It includes a set of fiscal responsibility ratios, which are used as a tool to guide public spending decisions. The ratios include a revenue boundary to limit diversion of resources away from the private sector, an expenditure boundary to control expansion in the size of the public service, and prudential boundaries to ensure that debt is managed at a sustainable level.

The 2014/2015 Half-Year Economic and Fiscal Update suggests that the government is largely adhering to its target ratios, thereby providing the country with a stable macroeconomic environment (Table 1).

Tax revenue to gross domestic product (GDP) and the overall budget balance to GDP are two areas where targets are not being met. For tax revenue, the Ministry of Finance and Economic Management indicates that the target is being marginally exceeded as a result of recent tax reforms, in particular the increase in the value added tax rate.

The overall budget balance target is also breached, driven by major capital investments in the water and renewable energy sectors and financed by concessional lending. Both areas need investment

<sup>18</sup> Government of the Cook Islands, Ministry of Education. 2007. *Learning for Life: Cook Islands Education Master Plan 2008–2023*. Avarua.

<sup>19</sup> C. Scott and C. Newport. 2012. *Evaluation Report for: The Evaluation of the Cook Islands Education Sector Partnership*. Wellington: New Zealand Government, Ministry of Foreign Affairs and Trade; and personal discussions with Ministry of Education staff.

**Table 1: Cook Islands Fiscal Responsibility Ratios, 2013–2018 (%)**

Type	Benchmark	2013/2014 Actual	2014/2015 Budget	2014/2015 HYEFU	2015/2016 <sup>a</sup>	2016/2017 <sup>a</sup>	2017/2018 <sup>a</sup>
<b>Fiscal Envelope</b>							
Tax revenue to GDP	25.0	26.9	26.1	27.0	27.3	27.6	27.4
<b>Expenditure control ratios</b>							
Personnel to total revenue	40.0	37.3	37.6	37.8	37.6	38.1	37.8
<b>Prudential ratios</b>							
Net debt service to total revenue	5.0	3.7	3.4	3.5	3.5	3.8	5.1
Budget overall balance to GDP	+/-2.0	(3.0)	(7.0)	(7.3)	(7.1)	(5.4)	(3.3)
Net debt to GDP	35.0	20.0	19.6	21.5	22.3	21.8	20.2

( ) = negative, GDP = gross domestic product, HYEFU = half-year economic and fiscal update.

<sup>a</sup> Estimate.

Source: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014a. *Cook Islands Government 2014/2015 Half-year Economic and Fiscal Update*. Avarua. <http://www.mfem.gov.ck/mfemdocs/ceo/751-final-2014-15-half-year-economic-and-fiscal-update/file>

and, if implemented effectively, will provide a foundation for future economic growth. Despite increased borrowing, net debt levels continue to be sustainable in the short-to-medium term.

## CONTINUE EFFORTS NEEDED TO IMPROVE PUBLIC SECTOR PERFORMANCE

While public service personnel expenditures as a percentage of total government revenue remain within the target level, the size of the public service has increased steadily since the ERP reforms were made (Table 2). From a low of 8.0% in May

1999, the public sector accounted for 14.0% of the resident population in June 2014. While there is no “right” size for a public sector, the trend of continued increases in the number of public servants in the Cook Islands—despite a declining resident population—will need close monitoring to ensure that it does not crowd out potential private sector employment.<sup>20</sup>

More important than the size of the public service is ensuring that existing government resources are effectively used. A functional analysis of the public service was undertaken in 2011 in an effort to better align government activities

<sup>20</sup> The Organisation for Economic Co-operation and Development (OECD) produces statistics for its member countries on employment in general government as a percentage of the labor force. In 2008, the OECD average was just below 15%. In 2011, the figure for the Cook Islands was 22.5%. While higher-than-the-average, it was similar to a number of OECD countries (Denmark, Finland, France, Norway, and Sweden), all of which had ratios above 20% in 2008. Sources: OECD. *Public Employment: Key Figures*. <http://dx.doi.org/10.1787/888932390538> (accessed 22 July 2015); and Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2013. *Cook Islands 2011 Census of Population and Dwellings: Main Report*. Avarua. The Cook Islands public sector wage bill as a percentage of GDP is about 13%, which is similar to those of its larger Pacific island neighbors—the percentages for Fiji, Samoa, Tonga, and Vanuatu range from around 9% to 11%. The Cook Islands bill is considerably less than that of its smaller neighbors—the percentages for Kiribati, the Marshall Islands, the Federated States of Micronesia, Palau, and Tuvalu range from approximately 21%–31%. Sources: ADB Pacific Subregional Office staff; and ADB. 2014d. *Pacific Economic Monitor Midyear Review—July 2014*. Manila. Within the Cook Islands, the private sector dominates the job market on Rarotonga, accounting for 71% of all jobs. Overall, the private sector also accounts for a larger share of jobs in the Southern Group at 55%, versus 42% for the public sector. Yet, employment in the Northern Group is dominated by the public sector, which accounts for 78% of all jobs. Source: Government of the Cook Islands, Ministry of Internal Affairs; and Ministry of Finance and Economic Management, Statistics Office. 2015. *Economic activity and labour force of the Cook Islands—Analysis of the 2011 Population and Housing Census: February 2015*. Avarua.

**Table 2: Cook Islands Public Service Employment, 1996–2014**

Date	Number Public Service Employees	Resident Population	% Resident Population
April 1996	3,205	18,071	17.7
May 1999	1,319	16,575	8.0
June 2002	1,667	15,017	11.1
June 2011	1,736	14,974	11.6
June 2014	1,885	13,500	14.0

Sources: Public service employment estimates for 1996–2002: ADB. 2002. *Program Performance Audit (PPA) Report on the Economic Restructuring Program in the Cook Islands—PPA: COO 30346*. Manila. <http://www.adb.org/sites/default/files/evaluation-document/35196/files/ppa-coo-30346.pdf>; for 2011: ADB. 2012. *Sector Assessment (Summary): Public Sector Management for the Cook Islands Economic Recovery Support Program—Subprogram 2*. Manila. <http://www.adb.org/sites/default/files/linked-documents/42503-023-coo-ssa.pdf>; and for 2014: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua. [http://procurement.gov.ck/wp-content/plugins/ck\\_procurement/uploads/095837\\_26-11-2014\\_2014-15%20Budget%20Book%203%20-%20Capital\\_Plan.pdf](http://procurement.gov.ck/wp-content/plugins/ck_procurement/uploads/095837_26-11-2014_2014-15%20Budget%20Book%203%20-%20Capital_Plan.pdf). Resident population estimates for 1996–2002: Secretariat of the Pacific Community and Government of the Cook Islands. 2005. *Demographic Profile of Cook Islands 1996–2002*. Noumea. <https://www.spc.int/prism/country/ck/stats/NewsEvents/CIDemogProf.pdf>; for 2011: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2013. *Cook Islands 2011 Census of Population and Dwellings: Main Report*. Avarua. <http://www.mfem.gov.ck/docs/Stats/2012/Census/2011%20Cook%20Islands%20Population%20Census%20Report.pdf>; and for 2014: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2014c. *Cook Islands Statistical Bulletin: Vital Statistics and Population Estimates—June Quarter 2014*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/vital-statistics-and-population-estimates/524-vitals-statistics-2nd-qtr-2014/file>. In March 2015, the estimated resident population was 13,000, an almost 4% decrease from the June 2014 estimated figure. Source: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015c. *Cook Islands Statistical Bulletin: Vital Statistics and Population Estimates—March Quarter 2015*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/vital-statistics-and-population-estimates/848-vital-stats-1st-qtr-2015/file>

to national priorities and improve performance efficiency.<sup>21</sup> The analysis recommended that government adopt a more uniform, robust, and transparent performance management system based on a significantly streamlined set of ministries and crown agencies. It also recommended more limited focus on core enabling and regulatory roles, with other services to be delivered through partnerships with the private sector.<sup>22</sup>

Economic development was addressed in the 2011 analysis. At the time of the 2011 review,

government's efforts in this area were spread across two ministries (the Ministry of Marine Resources and the Ministry of Agriculture), and four crown agencies (the Business Trade Investment Board, the Cook Islands Pearl Authority, the Cook Islands Tourism Corporation, and the Financial Services Development Authority).

Three different ministers drive policy, each agency has its own chief executive officer; and there are four advisory boards. The 2011 review recommended reorganizing the six agencies

<sup>21</sup> L. Yeoman and W. Numanga. 2011. *Public Finance Management and Public Sector Performance Review Functional Analysis Report (TA 7646 COO)*. Manila: ADB.

<sup>22</sup> The review recommended reducing the number of ministries and crown agencies by 40% (from 32 to 18). The existing 12 government ministries and 20 crown agencies were to be amalgamated into 8 core ministries, along with 10 crown agencies (as defined by the Constitution or demanded by international treaties). While there has been some reduction in the number of ministries and crown agencies, the 2014/2015 budget indicates that the number still totals 27 (13 ministries and 14 crown agencies). Sources: L. Yeoman and W. Numanga. 2011. *Public Finance Management and Public Sector Performance Review Functional Analysis Report (TA 7646 COO)*. Manila: ADB; and Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

into one or two ministries to better coordinate strategic planning and service delivery, and reduce administrative overheads.

Government's economic development efforts remained fragmented at end-December 2014.<sup>23</sup>

Continuing efforts are required to ensure that (i) government focus remains on core functions, (ii) sector plans are coordinated and closely aligned with development objectives in the new NSDP, and (iii) limited resources are efficiently and effectively used.

<sup>23</sup> The Seabed Minerals Authority was newly established in June 2012 and began operations in March 2013, increasing the total number of economic-development-related agencies to seven. The Seabed Minerals Authority also has its own advisory board.

### 3 BUSINESS ENTRY

#### Recommendations:

- Undertake the planned comprehensive review of the Companies Act 1970–1971 to bring in line with modern companies legislation. Once new company legislation has been agreed upon, develop an electronic registry allowing online filing and internet searches.
- Compile information clarifying foreign investment participation in the economy, and consider including foreign investment registration as a component of the electronic, online company registry once established.
- Review the foreign investment approval process to enhance its transparency, and strategically align it with potential growth sectors needing new investment.
- Adopt a more strategic, transparent, and streamlined system for issuing work permits that provides employers with easier access to foreign workers to address shortages in the citizen labor pool.
- Introduce regulations to the Employment Relations Act 2012 that establish clear expectations about what constitutes a safe and appropriate work environment. Explore options for establishing an independent labor dispute tribunal that workers (citizen and foreign) and employers can access at a reasonable cost.
- Develop an investment promotion strategy to proactively encourage new investment in the economy, particularly the tourism sector.

Business entry refers to the regulatory requirements with which investors must comply to establish a business entity in a country. It is critical that this process is transparent, fast, and inexpensive, being the gateway through which businesses enter, and thereafter contribute, to the formal economy.

The business entry process typically includes a set of compulsory general requirements for all investors, plus additional conditions specific to foreign investors. Table 3 identifies the

requirements that apply in the Cook Islands and the relevant implementing agency.

The general requirements' main purpose is to inscribe the business or company in the public registry to (i) identify the legal owners or representatives, (ii) record their contact information, and (iii) enable the business to begin paying taxes.

The general requirements can also include other registrations, including those associated with pension funds and workers compensation

**Table 3: Cook Islands Business Entry Requirements**

All Investors	Foreign Investors
<p><b>General</b></p> <ul style="list-style-type: none"> <li>• Business name and company registration (Ministry of Justice)</li> <li>• Tax registration (Ministry of Finance and Economic Management)</li> <li>• Superannuation registration (Cook Islands Superannuation Fund)</li> </ul> <p><b>Foreign Workers</b></p> <ul style="list-style-type: none"> <li>• Foreign worker work permit (Ministry of Foreign Affairs and Immigration)</li> </ul>	<ul style="list-style-type: none"> <li>• Foreign investment approval (Business Trade and Investment Board)</li> <li>• Foreign investor work permit (Ministry of Foreign Affairs and Immigration)</li> </ul>

Source: Cook Islands Business Trade and Investment Board staff.

programs. General requirements in the Cook Islands are few, and follow good practice.<sup>24</sup> Company registration is the main area needing attention, as its existing process is manual and based on outdated legislation.

The global trend in most economies is toward increasing openness. In developing countries with fewer citizen investment options, foreign investment is particularly important as a driver of economic growth. Yet, few developing countries are completely open; many require foreign investors to register prior to investing, clarifying the sectors they intend to operate in. The Cook Islands also follows this practice. Unfortunately, the process used by the Business Trade and Investment Board is opaque and time consuming to comply with.

A country's department of immigration approvals are another component of the entry process. The approvals apply to foreign investors who wish to reside in a country to implement their investment, and to foreign citizens who wish to work outside of their country of citizenship. The Cook Islands requires foreign investors and workers to both obtain work permits, and the process for issuing these permits is problematic.

### MANUAL COMPANY REGISTRATION BASED ON OUTDATED LEGISLATION

The Company Registration Unit within the Registry Division at the Ministry of Justice performs domestic company registration under

<sup>24</sup> General entry requirements vary between countries. The Cook Islands requirements compare favorably with many other Pacific island countries, which comprise more steps and often include a general business license requirement. In addition to the requirements in Table 3, Fiji requires investors to register with the National Training and Productivity Centre (the former Training and Productivity Authority of Fiji) at the Fiji National University; obtain approvals from the National Fire Authority and Ministry of Employment, Productivity, and Industrial Relations; and obtain a general business license from the relevant municipal authority. General business entry requirements for many countries worldwide are available through the World Bank's Doing Business initiative. Information is available at <http://www.doingbusiness.org>

the Cook Islands Companies Act 1970–1971.<sup>25</sup> The Cook Islands economy had approximately 926 active companies as of June 2014.<sup>26</sup> The registry is paper-based, and registering a new company and lodging annual returns requires submitting paper documents. While registry-held data is public information, external searches must be done in person at the Ministry of Justice.

The Companies Act 1970–1971 is based on the New Zealand Companies Act 1955. Yet, New Zealand modernized its legislation in 1993. Changes included codification of director’s duties, expanding shareholder rights, introducing a solvency test as a guide for when a company can engage in certain types of transactions, and streamlining the approach for company formation.<sup>27</sup> The Cook Islands passed an amendment to its Companies Act in 2013 in an effort to simplify its company formation process. The amendment, however, has not yet been made effective.

In May 2014, the Asian Development Bank completed a feasibility assessment for shifting from the existing manual registry to an electronic, online registry like the international company registry, which has been online since December 2011.<sup>28</sup> The assessment found that, while the 2013 amendment will simplify the company formation process for

new companies once it takes full effect, existing companies would still be forced to comply with many parts of the old Companies Act 1970–1971. The assessment found this both impractical and unfair to existing companies which, for example, will be obliged to retain the old memorandum as one of their core documents.

The assessment recommended a comprehensive review of the existing Cook Islands law prior to implementing the online system, to provide the most beneficial reform possible. This review would result in the Cook Islands company law being better synchronized overall with New Zealand law, not just provisions related to company formation. It would also simplify registry software development by reducing the types of entities included in the database. The government has accepted this recommendation and requested funding assistance from New Zealand to undertake the work.

## PROBLEMATIC FOREIGN INVESTMENT APPROVAL

Foreign investment provides a country with a range of benefits. It is a source of long-term investment capital, creates jobs, transfers technology, and fosters competition. It also stimulates knowledge transfer through training workers, and introducing

<sup>25</sup> International company registration is permitted under separate legislation administered by the Financial Supervisory Commission. At end-December 2014, there were 1,079 international companies and 394 foreign limited liability companies registered with the commission. Source: Government of the Cook Islands, Financial Supervisory Commission of the Cook Islands. Registry. <https://www.fsc.gov.ck/cookIslandsFscApp/content/about-us/registrar>

<sup>26</sup> There were 88 new domestic companies formed during fiscal year 2013/2014. A total of 637 companies also renewed their registration during the year. A further 201 companies were believed still active, but had failed to pay their renewal fee by the end of the fiscal year. All are private companies; there are no domestic public companies in the Cook Islands. Source: Government of the Cook Islands, Ministry of Justice. 2014. *Annual Report: 2013–2014 Financial Year*. Avarua.

<sup>27</sup> Using the modern approach, a company can be formed by submitting a simple form that collects certain biographical information about the company, including its relevant addresses and identifying its shareholders and directors. Before the amendment, each private company was required to register a multipage Articles of Association and a large Memorandum of Association prior to incorporation. The memorandum was required to specifically state the activities in which the company could engage; and before a company could engage in a new activity, it had to amend its memorandum.

<sup>28</sup> ADB. Cook Islands: Feasibility Analysis for Electronic, Online Registry System—April 2014. Consultant’s Report (TA 8378-REG). Unpublished.

<sup>29</sup> OECD. 2002. *Foreign Direct Investment for Development—Maximizing Benefits, Minimizing Costs*. Paris.

new management practices and organizational arrangements. Moreover, studies have found that foreign investment contributes to raising productivity and income growth in host countries, beyond the levels that domestic investment would normally trigger.<sup>29</sup>

Countries that are genuinely interested in attracting foreign investment regulate its entry using a simple, transparent, and automatic registration process. The process is typically based on a negative list approach, whereby a set of predetermined lists of activities are developed to limit foreign investor participation within the economy. While limiting foreign investment has little economic justification, many countries do this for political reasons.

Limits are often established in sectors considered nationally strategic, such as media and defense. The lists typically comprise two types: reserved and restricted. Reserved activities are areas limited to citizen investments, while restricted activities are open to foreign investments. The latter are subject to the investment meeting certain conditions, such as foreign equity limits or minimum investment levels.

Many countries establish a minimum investment level that applies to all investments. In some cases, higher thresholds for specific sectors may also be established. When a foreign enterprise applies to invest in the country, they are simply asked to identify themselves, along with the business activities they intend to pursue in the country. The decision to issue a registration certificate is based solely on comparing the applicant's proposed activities against the predetermined lists.

An activity not on the lists is freely open to foreign investment without needing approval, just registration. The proposed investment is not economically or financially assessed, so a registration officer can typically decide on approval within days of the application being submitted. Once registered, the foreign investment is given a reasonable period of time to commence operation and show that it has achieved any conditions attached to its activities. Registration certificates are open-ended after that.

Foreign investors who wish to reside in the country to implement their investments must also comply with immigration requirements, to ensure that they are not a health or security threat. Their residence permits are usually open-ended once the investment is operational, and any conditions associated with their registration certificate have been met.<sup>30</sup>

The Cook Islands states that it welcomes and encourages foreign investment.<sup>31</sup> Foreign investment entry into the Cook Islands is regulated under the Development Investment Act 1995–1996 and the Development Investment (Investment Code) Order 2003. The Act requires any foreign enterprise to obtain approval from the Cook Islands Business Trade and Investment Board (BTIB) prior to commencing business in the country. A foreign enterprise is defined as a person who is not a Cook Islander, or a business entity in which a third or more of the shares are owned or controlled by non-Cook Islanders.

Unfortunately, the regulatory process in the Cook Islands does not follow the good practice model

<sup>30</sup> Many countries in the region, such as Fiji, Samoa, and Solomon Islands, use this type of simple foreign investment registration model. A general discussion of good practice in this area is found in Investment Climate Advisory Services. 2010. *Investment Law Reform—A Handbook for Development Practitioners*. Washington, DC: World Bank Group.

<sup>31</sup> For more information, see the Cook Islands BTIB website at <http://www.btib.gov.ck>

described earlier. Rather than encouraging foreign investment, the country's process is a deterrent, and has several issues:

- **Almost all of the economy's sectors reserved for citizen enterprises.** The Investment Code states that Cook Islanders' investments should be given priority over foreign citizens. The code allows foreign citizens to invest in any area of the economy via a minority (less than 33%) shareholding. Yet, the Code's reserved investment areas exclude foreign enterprise participation in most sectors, including agriculture, marine resources, and tourism. This says to potential investors that foreign investment is not really welcome in the country.
- **Discretionary foreign investment approval process.** Despite the economy's "reserved" nature, foreign enterprises may be given investment approval in four circumstances: (i) if there are no Cook Islands enterprises already doing business in the proposed sector; (ii) if there is potential unmet demand, and enterprises in the Cook Islands have neither the interest nor resources to address it; (iii) the foreign investor must make a capital investment in cash of NZ\$1.0 million (for Rarotonga) or NZ\$500,000 (any other island), and should involve Cook Islanders in the investment ownership; and (iv) the foreign investment must be deemed to generate a verifiable net economic contribution to the country.

The Investment Code provides a list of criteria that should be considered when assessing an investment's potential net economic contribution. BTIB, not an administrative officer, makes all application decisions. Because the decision-making process is subjective, applicants must spend considerable time and money developing their investment proposals without knowing whether or not they will be approved. The Board's decision-making appears to be quite flexible. For example, despite the specified minimum investment levels, it is not uncommon for projects to be approved at lower levels.<sup>32</sup>

Importantly, once foreign enterprises are established in the Cook Islands, they cannot freely sell their investment to whomever they chose. They must demonstrate, to the Board, that they have made a genuine effort to first sell the business to Cook Islanders. Therefore, a foreign investor faces considerable uncertainty both in trying to enter the Cook Islands, and when choosing to sell an investment.

- **Time consuming approval process, with few resources devoted to investment promotion.** Because BTIB makes all foreign investment decisions, they cannot be made quickly. The Board generally meets at the end of each month, and applications lodged in the first half of the month can typically be considered at that month's Board meeting. While BTIB does not track application processing times, decisions likely take more than 2–4 weeks.

<sup>32</sup> Many of the capital investment values of approved foreign investments in 2013 were less than \$500,000. Source: Personal communication from BTIB staff in December 2014.

Countries using a simple, automatic foreign investment registration system can make application decisions in just a few days.<sup>33</sup>

BTIB has a small foreign investment unit comprising three staff (from a total of 12). Their primary roles are assessing applications, preparing these for Board review, and monitoring compliance of Board decisions. The majority of the operating budget earmarked for foreign investment is used to fly outer island Board members to meetings, and their sitting allowances. This leaves minimal resources for investment promotion activities, despite parts of government recognizing that new investment is needed,<sup>34</sup> and evidence suggesting that investment promotion can be a potent tool for this purpose.<sup>35</sup>

- **Investor work permit issuance creates uncertainty.** It is good practice to consider whether a foreign investor is welcome to participate in a particular activity, separately to whether a foreign citizen may be a health or safety threat if allowed to reside in the country. The BTIB process requires applicants to file

documentation on both issues simultaneously. A foreign investor could, therefore, expend unnecessary time and money to comply with police clearances and health checks if the proposed investment is not approved.

The Board makes a determination regarding both issues: whether the proposed investment is welcome in the country, and if the proponents are felt to be “fit and proper persons.” In most countries, the latter is the responsibility of immigration department officials. While entry to, and residence of foreign citizens in, the Cook Islands are similarly immigration responsibilities, decision-making authority regarding foreign investors has been delegated to BTIB.

Once the Board has approved an application, BTIB informs the Ministry of Foreign Affairs and Immigration of its decision. The foreign investor must then visit the ministry to obtain their initial work permit, which is normally issued for only 1 year, and must be renewed annually.<sup>36</sup> This creates unnecessary uncertainty for investors, because the time horizon for generating a positive

<sup>33</sup> For example, Fiji has a foreign investment application processing time of 5 days as legislated by Section 5(d) of its Foreign Investment (Amendment) Act 2004. The foreign investment registrar within Investment Fiji makes all application decisions. In practice, applications are processed within 3–5 days. Source: Parliament of the Fiji Islands. 2004. *Foreign Investment (Amendment) Act 2004*. Suva.

<sup>34</sup> For example, discussions with staff at the Cook Islands Tourism Corporation during December 2014 noted that there had been minimal new investment in the accommodation sector over the previous 10 years. Staff saw a real need for new investment to increase and improve the country's tourism investment portfolio. The Cook Islands needs the investment to stay competitive with developments in neighboring competitor countries, address accommodation capacity constraints, and take full advantage of government underwriting the Air New Zealand Los Angeles–Rarotonga and Sydney–Rarotonga flight routes.

<sup>35</sup> Investment promotion typically includes four areas directed primarily at foreign investors: (i) national image building, (ii) investment facilitation, (iii) investor generation, and (iv) policy advocacy. A 2012 global study found that investment promotion led to higher foreign investment inflows to developing countries by decreasing information asymmetries. Moreover, spending on investment promotion was found to be relatively cost effective; each United States dollar spent increased foreign investment inflows by \$189. The analysis also investigated whether an investment promotion agency's positive performance was due to providing better information to potential investors, or whether the positive performance reflected and capitalized on existing incentives. The study did not find proof to support the idea that incentives increased targeted sectors' inflows. It did find, however, that those sectors targeted by investment promotion agencies received greater foreign investment. The study's outcome was that providing information led to increased investment inflows, rather than providing fiscal incentives. Sources: ADB. 2015c. *Growing the Non-Oil Economy: A Private Sector Assessment for Timor-Leste*. Manila; and T. Harding and B.S. Javorcik. 2010. Roll out the Red Carpet and They Will Come: Investment Promotion and FDI Inflows. *Working Paper 221*. San Rafael, CA: Forum for Research in Empirical International Trade.

<sup>36</sup> Government of the Cook Islands, Ministry of Foreign Affairs and Immigration. Business Investment. <http://www.mfai.gov.ck/index.php/immigration/business-investments.html>

return on investment is much longer. The opportunity to apply for permanent residency status exists, but the number of certificates that can be in effect at any one time is limited. This option can only be pursued by non-New Zealand citizens after they have resided in the Cook Islands for 10 years.<sup>37</sup>

Foreign investment in the Cook Islands is a sensitive issue, with apparent perception and frustration that business is overly controlled by foreign enterprises.<sup>38</sup> There is a lack of readily available data on the level of foreign investment in the country, and its importance to the economy. While BTIB has information on the number of approvals issued and annually collects information from foreign enterprises, it neither compiles this information nor makes it readily and publicly available. Given sensitivities surrounding foreign investment, efforts should be made to compile, analyze, and regularly publish this data.

The Cook Islands needs to decide how open to foreign investment it wishes to be, based on wide consultation. Part of that consultation should involve raising awareness about levels of foreign investment in the economy, its benefits and costs, and links to development plans for the country's key economic sectors. Limits imposed on foreign investment, using clear and predefined lists, should then be incorporated into a more transparent regulatory system.

The best regulatory approach for attracting foreign investment is the negative list approach

described earlier in this chapter. An alternative, based on a positive list, could also be considered. The latter approach is generally not used because it is not as investor-friendly as the negative list approach, and does not easily accommodate the development of new industries. Yet, if carefully developed, a positive list approach could create a more welcoming environment for foreign investors than under the existing regime.

The positive list would include specific sectors and activities for which the Cook Islands is actively seeking new investment capital, subject to the foreign enterprise achieving a realistic minimum investment threshold after a specified period. Applications for activities on this list would be processed quickly at the administrative level and without BTIB involvement. Owners of investments in these areas would be allowed to sell to whomever they wanted, without having to demonstrate that they could not find a suitable citizen buyer. They would also be eligible for permanent residency or long-term work permits once the required minimum investment level was achieved.

Foreign investors wishing to invest in sectors not on the positive list would need to go through a more onerous assessment process. Ideally, decision criteria identified in the existing Investment Code would be organized into a more transparent points-based system that could be administered without BTIB involvement. This would remove much of the discretion in the system, giving foreign investors a clear understanding before they applied whether (or not) their proposal will be approved or not.

<sup>37</sup> New Zealand citizens residents may apply for permanent residency after 3 years, but a maximum number of 650 permanent residency certificates may be in effect (with limited exceptions). Decisions regarding permanent residency are at the discretion of the minister responsible for immigration, but applicants are expected to have made a significant contribution or investment in the country. Source: Government of the Cook Islands, Ministry of Foreign Affairs and Immigration. Permanent Residency in the Cook Islands. <http://www.mfai.gov.ck/index.php/immigration/pr-and-applying-for-permanent-residency.html>

<sup>38</sup> For example, see T. Wynne. 2014. Time to take our place at the table? Cook Islands News. 26 February. <http://www.cookislandsnews.com/item/44965-time-to-take-our-place-at-the-table/44965-time-to-take-our-place-at-the-table>

Alternately, simply changing the definition of a foreign enterprise to exclude New Zealand citizens would significantly increase the potential source of investment capital into the country. Such a policy is inconsistent with the most favored nation principle, whereby a host country is expected to treat investors from a given foreign country no less favorably than investors from any other foreign country. However, for the Cook Islands, this type of policy can be defended based on the two countries' citizenship relationship.

Efforts to improve the foreign investment approval process should be incorporated into an investment promotion strategy, which the Cook Islands does not have. To address the gap, it should focus on tourism due to its economic importance, and the lack of recent investment in the sector. The strategy should (i) be based on an assessment of competitor countries, (ii) identify the types of investments and enterprises that the Cook Islands is interested in attracting, and (iii) include practical measures to help entry. The Government of the Cook Islands does not offer tax incentives. This policy is consistent with good practice, which finds that a country's investment climate quality, rather than tax incentives, is the most crucial element to attracting investment.<sup>39</sup> If tax incentives are developed as an element of the investment promotion strategy, these should be awarded with as little discretion and much transparency as possible, using automatic and legally defined criteria.

Developing an investment promotion strategy will require close collaboration between BTIB, the Cook Islands Tourism Corporation, the

Ministry of Finance and Economic Management, other government agencies, and private sector stakeholders.

## LACK OF STRATEGIC AND TRANSPARENT SYSTEM TO REGULATE FOREIGN WORKERS

Immigration is a sensitive issue in many countries. It involves finding an acceptable balance between attracting investment with a liberal foreign worker regime, while protecting the local labor market and national security.

Businesses, whether foreign or citizen, need to be able to select staff that they assess to be best for them. Particularly important for hiring managerial and specialist technical staff, this also applies to all other employees. Businesses look for employees who have particular skills, are readily available, can be expected to remain employed, and are cost effective. An employer also looks for employees experienced in applying their particular skill and experience within the employer's industry. If possible, a potential employee's experience in the investor's company (or similar) also benefits the employer.

Foreign investors, especially, want to appoint management and specialist staff whose known skills and experience will help to minimize their investment risk. Failure to acknowledge these concerns and establish a transparent, streamlined mechanism for issuing work permits to foreign workers creates a serious impediment to investment.

<sup>39</sup> For example, see S. James. 2009. *Incentives and Investments: Evidence and Policy Implications*. Washington, DC: World Bank Group.

The small resident population in the Cook Islands, coupled with ongoing outmigration of ethnic Cook Islanders, means that the local labor pool is insufficient to meet the economy's demand for workers.

In 2011, there were 1,197 foreign citizens employed in the Cook Islands' labor force, representing about 16% of total employment.<sup>40</sup> The majority of these foreign citizens live on Rarotonga. The foreign labor force includes both foreign workers and foreign investors, a significant portion of whom have been issued with permanent residence. Over the 2-year period July 2012–July 2014, the Ministry of Foreign Affairs and Immigration processed approximately 530 work permits. Most permits were issued to nationals of the Philippines (37%) and Fiji (35%). While information is not readily available regarding the sectors and occupations filled by these work permit holders, the 2011 Census indicates that most foreign workers are employed in the accommodation and food services (27% of total workers), and wholesale and retail (16% of total workers) sectors (footnote 40). In both sectors, the majority of foreign workers were employed in moderate or highly skilled occupations.

Despite the local labor pool's inability to meet existing business demand for skilled workers, accessing foreign workers is time consuming and difficult. The process is regulated under the Entry, Residence and Departure Act 1971–72.<sup>41</sup> Two types of work permit are issued:

- (i) **Short term.** These permits are valid for short periods with no legislated time

frame, allowing businesses and other organizations to engage a foreign worker for specific tasks. Requests are processed through BTIB.

- (ii) **Long term.** These permits are normally issued for 1 year. Applications must be submitted by the prospective employer, and are processed by the Ministry of Foreign Affairs and Immigration. Employers may apply for an “in principle” approval prior to recruiting an employee. A work permit can be renewed for up to two 1-year periods, after which the worker must return to their country of origin. Employers who wish to extend a foreign worker's employment beyond 3 years must justify why a foreigner is still required, and provide satisfactory evidence that steps have been taken to train a citizen for the position.

Key issues associated with the process include:

- **An opaque system for regulating work permits.** There is a lack of a clear written policy and implementing procedures for regulating the issuing of work permit. This makes it difficult for ministry staff to consistently implement the system, creating uncertainty and frustration for businesses. Firms complain of constantly changing rules depending on the ministry staff member.<sup>42</sup>
- **An overly difficult and time consuming process.** Businesses indicate that it typically takes 3–4 months from when they first begin to prepare a new application on behalf of a foreign worker, to receiving approval

<sup>40</sup> Government of the Cook Islands, Ministry of Internal Affairs; and Ministry of Finance and Economic Management, Statistics Office. 2015. *Economic activity and labour force of the Cook Islands—Analysis of the 2011 Population and Housing Census: February 2015*. Avarua.

<sup>41</sup> Government of the Cook Islands. 1972. *Entry, Residence and Departure Act 1971–72*. Avarua.

<sup>42</sup> Feedback received from a number of businesses consulted in December 2014.

(footnote 42). For larger businesses with many employees, this can create a significant administrative burden, since all long-term permits must be renewed annually. Given the time and cost of bringing a foreign worker into the country, work permits should ideally be issued for 2–3 years. This would align the permit with the length of the typical employment contract, particularly for highly skilled worker contracts.<sup>43</sup>

Further complications arise because several agencies are involved in the assessment process. For a long-term permit, the Ministry of Health reviews medical examination reports, which must be submitted by all applicants. On completing the review, the ministry prepares a written approval or rejection letter, adding to the time required to process work permits. This also increases process costs, since the ministry charges its own fee for its assessment (payable in addition to the work permit fee charged by the Ministry of Foreign Affairs and Immigration). Some countries have removed medical clearance requirements for all temporary foreign workers, limiting the requirement to nationals from certain countries (or jobs) where a significant health risk may exist.<sup>44</sup> Other countries that

require medical clearances from all applicants often do the assessment within their immigration ministries or departments, rather than push the responsibility onto their national health service.<sup>45</sup>

For short-term permits, the Entry, Residence and Departure Act 1971–72 stipulates that every foreign enterprise wishing to “carry on business” in the Cook Islands must apply to the BTIB for an approval certificate. The term is broadly defined, and includes an overseas-based individual or company periodically providing a service in the Cook Islands. For example, if a business based in the Cook Islands wishes to hire a non-Cook Islander information technology professional (or company) that resides and is based in New Zealand to address a pressing computer network issue, the New Zealand individual (or company) must first seek BTIB approval.

The BTIB appears to recognize that short-term technical assistance of this kind is not the same as establishing a foreign investment in the country, and has delegated decision-making for these cases to BTIB staff. Yet, besides the Investment Code, there are no written rules to guide staff in these decisions.

<sup>43</sup> It is important to note that the vast majority of investors employ foreign workers only because it makes business sense. Employing a foreign worker is invariably more costly than employing a similarly qualified citizen. This is because the foreign worker must receive a package that compensates them for living away from their home country, and often includes such costs as accommodation and home leaves allowances. Their base salary will also probably be higher, due to a number of wider economic issues. For these reasons, an investor will seek to replace foreign workers with nationals when the investor is convinced that the skills (including qualifications, experience, and capability) are available locally. Therefore, the market mechanism can be relied upon to create very strong localizing pressures.

<sup>44</sup> For example, Canada only requires medical examinations for foreign citizens applying for temporary work permits for periods of time greater than 6 months, to 2 years if they (i) are nationals of certain “high risk” countries, or have lived and travelled for 6 months in these countries; or (ii) are filling an occupation where the public health must be protected, such as care attendants in nursing homes. The Cook Islands (along with New Zealand and other Polynesian countries) are not included in Canada’s list of “high risk” countries, and citizens of these countries are eligible to work in Canada under its Temporary Worker Program without having to complete a medical examination. Source: Government of Canada. Medical exam requirements for temporary residents (visitors, students and workers). <http://www.cic.gc.ca/english/information/medical/medexams-temp.asp>

<sup>45</sup> Fiji, for example, requires applicants to complete medical examinations when applying for long-term work permits (up to 3 years). The Department of Immigration in Fiji does not require Ministry of Health review of health reports, although it may consult with them from time to time. Source: Personal communication with Department of Immigration officials, March 2014.

The cumbersome, two-step system likely encourages some businesses to evade the requirement. This creates an uneven playing field as not all businesses comply. It also likely results in lost tax revenue, as withholding tax is not collected from the noncompliant local businesses.

Good practice is to establish a relatively automatic process that enables employers to access foreign workers for up to 3–6 months in a year, for purposes such as attending Board meetings, providing training, and/or undertaking specialist and technical work. The process would simply require the employer to notify the Ministry of Foreign Affairs and Immigration of the incoming worker prior to arrival, the task they will perform, and a valid contract of service (if the worker is from an independent company). The ministry would then process the application quickly, usually at minimal cost, and inform the tax authority of the pending withholding tax liability.

- **A one-size-fits-all approach.** For long-term work permits, the same requirements and assessment process appear to be used regardless of the nature of the position. Employers, for example, are generally required to first advertise all vacant positions—both highly and lower skilled—in the local media. Yet, good practice would take a more strategic approach by distinguishing between highly skilled positions not easily filled by the local labor pool, and lower skilled positions. Application requirements and the assessment process would then be tailored to each group.

Under such a system, local advertisement may be required for lower skilled positions, but not for higher skilled positions generally

accepted to be in short supply. Classifying positions this way requires compiling information from employers and training institutions about gaps in the labor market. There is also potential to develop creative programs to help meet employer needs. Potential programs could include a temporary youth foreign worker program, which enables tourism-related employers to bring in vocational training college and university graduates from other Pacific island countries to work during the tourism high season.

The Ministry of Foreign Affairs and Immigration has indicated that it is in the process of developing a written policy for foreign workers, which is a positive step. To ensure that the new regulatory system is a reasonable fit for all parties, it is important for the ministry to develop the policy in close consultation with employers, training institutions, and other stakeholders, as well as other agencies involved in the process.

Adopting a more strategic and transparent system that provides employers with easier access to foreign workers to address acknowledged labor shortages should be emphasized. Wider government department involvement in making day-to-day permit decisions should be minimized, and decision-making should be centralized within the Ministry of Foreign Affairs and Immigration. The ministry should also consider issuing permits for longer periods than is existing practice, particularly for foreign workers filling highly skilled occupations.

### Foreign worker welfare and working conditions

Concerns have been raised about some employers' treatment of foreign workers while they are in

the Cook Islands.<sup>46</sup> The Employment Relations Act 2012 establishes minimum standards for employment conditions. It specifies the contents of employment agreements; and addresses issues such as maximum hours, annual leave, minimum wage, and public holidays. However, there are no regulations specifying what constitutes a safe and appropriate work environment. Employees (and employers) are expected to resolve their grievances on their own through negotiation, mediation, and arbitration. They also must bear the cost associated with hiring third parties to help them settle a dispute.

The Act does provide the Ministry of Internal Affairs with the power to investigate a work situation, but it does not give it the legal authority

to intervene if a breach occurs. While the same system applies to both citizen and foreign workers, the latter are disadvantaged because they can be deported under the Entry, Residence and Departure Act 1971–72 if their employment contract is terminated. A set of clear workplace expectations is needed to ensure that workers are safe and not exploited. For foreign workers, this should address minimum expectations concerning accommodation.

Options should be explored toward creating an independent labor dispute tribunal that employees and employers can access at reasonable cost. Foreign workers should have equal access to the tribunal, along with the right to remain in the Cook Islands to settle an employment related dispute.

<sup>46</sup> Between January 2013 and October 2014, the Ministry of Internal Affairs received 108 enquiries, including complaints. The enquiries were evenly split between citizen and foreign workers. There have also been media reports detailing investigations by the Cook Islands Workers Association into instances of mistreatment. Sources: Personal discussions with Ministry of Internal Affairs staff; and Cook Islands News. 2014. Foreign worker abuse increasing: CIWA. 24 November. <http://www.cookislandsnews.com/national/economy/item/49311-foreign-worker-abuse-increasing-ciwa>

## 4 LAND

### Recommendations:

- Examine existing land policies and processes to determine how they can be best adapted to improve the functioning of the land market. This requires
  - building on existing efforts of the Ministry of Justice to create an accurate and comprehensive electronic land register that includes information on land titles, as well as other instruments that affect title such as leases, mortgages, and occupation rights;
  - reviewing the process for dealing with leases, subleases, and assignments to simplify it and reduce transaction costs; and
  - holding discussions with landowners to identify feasible options for addressing land fragmentation and absentee ownership.
- Engage with landowners to identify a strategy to enable the gradual introduction of orderly land use planning and zoning.
- Strengthen the environmental impact assessment process by selecting members to sit on Island Environment Authorities (IEAs) based on technical expertise, and introduce a mechanism to enable IEAs to readily access technical advice if necessary.

Most businesses require physical premises from which to operate, and land for buildings and productive activities. Land plays two important roles, as (i) an input into economic activity, and (ii) collateral used by businesses to access finance. Sustained economic prosperity requires stable, clearly defined, and well-protected property rights regarding land. While the Cook Islands land tenure system has provided businesses with secure access to land for development purposes, it has a number of weaknesses including fragmented ownership, cumbersome leasing procedures, and an ineffective land registry. This reduces the land market's efficiency, as well as its potential contribution to economic development.

Increasing development pressures on the country's very small land base (240 square kilometers or 59,280 acres) has increased land value and made it a more prized commodity, particularly on Rarotonga and Aitutaki. These two islands have experienced a rapid expansion in tourism. Development pressures have also increased the strain on local environmental resources. While tourism development has occurred primarily in fragile coastal zone areas, it has also moved into equally fragile water catchment areas and sloping areas prone to erosion. Moreover, the growth in tourist numbers has increased water demand and the supply of solid and sewage waste.

A key role of government is to manage land development to meet community needs and safeguard natural resources. Typically, land use planning and site development controls ensure that development complies with land use plans; and will not create environmental, social, and cultural damage; or public health and safety concerns. The Cook Islands does not actively plan how its land base is used. While the country has established mechanisms for regulating development at specific project sites (through environmental impact assessments and building approvals), they could be further strengthened.

## PROBLEMS RELATED TO THE LAND TENURE SYSTEM

Most land in the Cook Islands is customary.<sup>47</sup> The Land Division of the High Court of the Cook Islands (referred to as the Land Court) has jurisdiction to investigate the title to customary land; and determine the owners' interests in most parts of the country, except for the islands of Mangaia, Mitaro, Nassau, and Pukapuka. Land on these islands is dealt with in accordance with local custom, unless the traditional chiefly authority (the *Aronga Mana*) requests Land Court assistance. The Land Court is also expected to investigate title claims based on custom, but the legislation has no definition of the term, nor is there consensus as to what constitutes customary land ownership.

The Land Court can issue two types of land title—freehold orders or *Ariki* land. A freehold order provides a designated individual or individuals with legal ownership to a defined land area. This type of land is defined as “native freehold title.” *Ariki* land gives title to a native chief (or *Ariki*) and his or her successors in office. Most customary land in the Cook Islands is native freehold, with women holding equal inheritance rights to men.

While land under native freehold title cannot be bought or sold, except for government purposes, ownership can be passed down to descendants. The descendants must submit an application to the Land Court to claim their ownership interest; and, if approved, the decision is recorded in the Cook Islands Register of Land Titles.<sup>48</sup> A system of leases and occupation rights has been introduced, to facilitate native freehold land use without changing its underlying ownership.

Leases were formally introduced in 1891 to enable foreign citizens to obtain secure tenure to business premises and small plantations, but were seldom used by Cook Islanders before the 1960s. Lease (or sublease) terms are negotiated between the lessor (landowners) and lessee (prospective tenant). However, the Land Court must approve the overall lease, including the negotiated terms.

<sup>47</sup> There is also a small amount of state (or Crown) land, representing about 1% of the total land area. Under the Cook Islands Act 1915, the government may take any land in the Cook Islands for any public purpose. Anyone with a right, title, or interest that is extinguished by such an action is entitled to compensation. The high water mark demarcates the limit of customary land, and land below the high water mark is state land. Sources: M. Pulea. 1993. *Review of Environmental Law in the Cook Islands (Strengthening Environment Management Capabilities in Pacific Island Developing Countries)*. Apia: South Pacific Regional Environment Programme, and Sydney: Australian Centre for Environmental Law, Faculty of Law, University of Sydney; Pacific Islands Forum Secretariat. 2001. Session 1: Land Issues in the Pacific. Background paper for the consideration and discussion of Ministers at the Forum Economic Ministers Meeting. Rarotonga. 19–20 June; R. Crocombe, M. Tongia, and T. Araitia. 2008. Absentee landowners in the Cook Islands: consequences of change to tradition. *Making Land Work: Volume two—Case studies on customary land and development in the Pacific*. Canberra: Commonwealth of Australia, Australian Agency for International Development. pp. 153–171; and Government of New Zealand. 1915. *Cook Islands Act 1915*. Wellington.

<sup>48</sup> The Cook Islands uses a deed title system rather than the Torrens title system. In the Torrens title system, a person who is registered in a land registry as an owner of parcel of land has an indefeasible title of the land. Torrens title has gradually replaced the deed system in most common law jurisdictions. In contrast to Torrens title, deeds registration system is merely a registration of all important instruments related to that land. To establish one's title to the land, a person (or usually their purchaser's attorney) has to ascertain that all the title documents are properly executed, “a chain of title” is established, and there are no encumbrances on the land that harm its title.

The Leases Restrictions Act 1976 also introduced a political element to the process by requiring leases, subleases, and assignments with a 5-year term or more to be first approved by the Leases Approval Tribunal, whose members are appointed by the Minister of Justice. The Leases Restrictions (Amendment) Regulations 2006 outline a lengthy list of application decision-making criteria, including ensuring that all relevant legislation provisions have been respected; the lease instrument has been properly prepared, explained, and understood by the parties involved; and landowners and Cook Islanders have been given first right of refusal in lease.

Landowners, who live on the island on which the land is situated, need to meet and reach written consensus to the transaction. Objections raised by landowners who do not live on the island where the land is located are also considered. The monetary consideration paid and annual rent payable to landowners is also assessed to determine if it is fair and reasonable.<sup>49</sup> The maximum lease term permitted is 60 years.

Occupation rights were initially introduced in the 1940s to permit landholding groups to allot exclusive land rights to one or more individual co-owners. The initial purpose of planting long-term crops was later extended for housing. Occupation rights can be granted to any Cook Islander, but are generally granted to close relatives who usually co-own the land. As with leases, occupation rights must be approved by the Land Court. Land that is under

occupation rights cannot be leased to an outsider. The land must first be returned to the landowning group before any such decision can be made, and the land must also be used within a set period of time (typically 5–7 years).

While occupation rights may be used as security for a loan, commercial banks rarely accept these as collateral because they are unable to take control of defaulted land. As a result, land users have shown a growing tendency to acquire leases rather than occupation rights.

Key problems associated with the existing land tenure system in the Cook Islands include the following:

- **Fragmented ownership.** Due to a Land Court decision in 1957, children inherit equally in all registered native lands of all ancestors.<sup>50</sup> Every person inherits an equal share in all the lands of both parents, all four grandparents, all eight great-grandparents, and so on. The ruling has become binding on all subsequent Land Court decisions.

Tourism growth and demand for land has meant more people trying to activate their land rights. This has led to the fragmentation of title, under which hundreds of people have rights to small blocks of land.<sup>51</sup> This has been further complicated by Cook Islanders' increased mobility, resulting in many registered

<sup>49</sup> The Lease Restrictions (Amendment) Regulations 2006 specify the criteria that the Leases Approval Tribunal uses when making its decision regarding a lease, sublease, or assignment of a lease or sublease.

<sup>50</sup> R. Crocombe, M. Tongia, and T. Araitia. 2008. Absentee landowners in the Cook Islands: consequences of change to tradition. *Making Land Work: Volume two—Case studies on customary land and development in the Pacific*. Canberra: Commonwealth of Australia, Australian Agency for International Development. pp. 153–171.

<sup>51</sup> A 2005 survey of selected blocks of land in Avarua, Rarotonga illustrates the high degree of fragmentation. One such block contained six sections on an inland road with a total area of 11.3 hectares, of which approximately half was steep and largely unusable land. In 1908, the Land Court originally allocated the six sections to 38 owners—an average of about six per section. By 2005, the number of registered owners had increased to 1,109—an average of 170 per section. However, the last recorded succession in one case was in 1916, and the register is still being updated. As a result, the number of people with current or latent rights in each section could be 1,000 or more.

landowners residing overseas. Absentee owners often maintain an interest in land through occupation rights.<sup>52</sup>

In practice, co-owners of a section of land are forced to develop an internal system to allocate use. This requires family meetings, which are often difficult because of (i) the large number of people involved, and (ii) many co-owners living in other countries. Disputes (or fear thereof) over title or allocation are common; and, because rental income is paid in tiny shares to all owners, landowners resident in the Cook Islands—with more power to grant leases—have a reduced incentive to lease the land because they would only receive a small share of the rental income. Land fragmentation also means that young people find it difficult to acquire suitably sized allotments, even in families with adequate land area.

Some legal options are available to address fragmentation. Land co-owners can exchange land rights with one another to consolidate their interests; yet, this is seldom done because the process is cumbersome, has high legal costs, and must be redone every generation. There is also a provision for absent co-owners who do not intend to return to the Cook Islands to give or sell their rights to resident co-owners. Again, this is not common practice. Under the Land (Facilitation of Dealings) Act 1970 and its 1973 Amendment, landowners can also use a trust to hold and manage a plot of land for the benefit of all owners. However,

high administrative costs make the option feasible only where large investments are involved.

- **An ineffective land registry.** The Land Information Division of the Ministry of Justice is responsible for maintaining the Register of Land Titles.<sup>53</sup> The division is transitioning from a paper-based register to an electronic registry developed in-house. Shifting data from paper-based to the new electronic registry has been plagued by processing errors, which are still being corrected, and which are compounded by neither register being up-to-date.

A new landowner is entered into the register once the Land Court approves their succession application. Yet, the Land Court only meets twice a year for a total of 4 weeks. The volume of applications, and the Court's short sitting time, has generated significant backlog, many of which relate to succession.<sup>54</sup> Moreover, due to limited court stenographers, the High Court is struggling to prepare transcripts for decisions already made. The growing backlog of succession decisions yet to be transcribed dates back to 2003.

The register also only includes Cook Islanders who have title to a particular parcel of land. There is no statutory requirement to register other legal instruments that affect title to the land, such as leases, mortgages, and occupation rights. As a result, the existing register does not fulfill a land registry's primary purpose, which is to establish a priority

<sup>52</sup> For example, a 2005 survey work conducted in two districts (Ruatonga and Arerenga) found that, of 87 occupation rights and 47 leases approved by the Land Court, 60% in Ruatonga and 68% in Arerenga were held by Cook Islanders living in other countries.

<sup>53</sup> Information in this section is sourced from Government of the Cook Islands, Ministry of Justice. 2014. *Annual Report: 2013–2014 Financial Year*. Avarua; and discussions with the Secretary of the Ministry of Justice, and Heinz Matysik of Little & Matysik during early December 2014.

<sup>54</sup> Of 932 applications received by the Land Court in the 2013–2014 fiscal year relating to land in Rarotonga, Aitutaki, and Mauke, 488 (52%) were related to succession. The Land Court was unable to deal with approximately 32% of these applications during the fiscal year.

ranking of claims regarding land and make that information readily publicly available.

- **Cumbersome leasing procedures.** The process for leasing and subleasing land is slow and costly.<sup>55</sup> Applications need several stages of administrative review, particularly if the proposed leaseholder is a foreign investor. The requirement for informing landowners and obtaining their consent is particularly problematic given the fragmented nature of land ownership, the high numbers of absentee landowners, and the poor condition of the Registry of Land Titles.

In 2014, the legal cost of making a lease transaction was estimated at between NZ\$12,000 and NZ\$15,000, and the transaction can take 6–8 months to complete. Introducing statutory provisions is needed to simplify the process, ideally limiting the advertising and consent requirements to Cook Islands residents. The Property Law (Amendment) Act 1995–96 (the principal Act being the Property Law Act 1952) has also created uncertainty for businesses when selling their business, including their land lease. The law does not allow the lessee to pass on a lease under its existing terms, without paying the lessor a percentage of the net proceeds from the sale of their business. This is being

interpreted as grounds for renegotiating a lease before it is transferred. The requirement is, in effect, expropriating a property right without compensation.

## INADEQUATE LAND USE PLANNING AND CONTROL OVER DEVELOPMENT ACTIVITIES

The Cook Islands is experiencing significant pressure on its environment and natural resources—particularly on Rarotonga and Aitutaki, where most tourism development has occurred. Impacts include erosion, lagoon pollution, beach degradation, groundwater contamination, and loss of wetlands critical for flood retention during heavy rains.<sup>56</sup> This is due to the largely uncontrolled and, in some cases, improper development in environmentally sensitive areas such as the foreshore, wetlands, and sloping lands. The challenges will only increase as economic development continues and climate change effects become more pronounced.

### Land Use Planning

Small islands with limited resources must use them efficiently to meet people’s competing needs for water, food, building materials, and economic and leisure pursuits. They also must use these resources sustainably so that underlying natural systems are not degraded. This is best achieved through comprehensive land use planning to allocate land

<sup>55</sup> Information in this section is sourced from S. Knowles. 2012. *Cook Islands Banking Review July–2012*. Avarua: Government of the Cook Islands, Ministry of Finance and Economic Management; and personal discussion with Heinz Matysik of Little & Matysik in early December 2014.

<sup>56</sup> Environmental issues considered significant with current or threatened impacts include: (i) land (includes availability, reclamation, land use controls, and rural degradation), (ii) water (includes rainwater storage and/or water conservation, groundwater pollution and/or contamination, soil erosion, biodiversity [includes loss of species and/or ecosystems, protected area and/or gene pool establishment]), (iii) coastal development (includes coastal erosion and/or degradation, beach sand mining, marine pollution), (iv) urban industrial development (includes solid waste management, sewage and refuse disposal, liquid waste management, urban planning and development, tourist facility development), and (v) agriculture (includes agricultural practices; agricultural intensification, e.g. chemicals). Source: D. Leslie. 2008. *Land Use Policy for the Cook Islands (Draft)*—Prepared for the Government of the Cook Islands and the Land Resources Division, Secretariat of the Pacific Community. Nelson, New Zealand: Land Resources and Media Services.

to the most appropriate use—or combination of uses—despite changing circumstances.<sup>57</sup>

There is no government agency dealing with land use planning in the Cook Islands, nor are any spatial development plans in effect. The Land Use Act 1969 is administered by the Ministry of Justice but has never been implemented.<sup>58</sup> Several other parts of government also have responsibilities related to land use planning.

Under the Cook Islands Act 1915, the central government has powers to take land for public purpose. Infrastructure Cook Islands (until January 2014, the Ministry of Infrastructure and Planning) oversees building control, as well as the engineering and construction of physical works. Its urban and physical planning division is responsible for land and resource planning and management, within its infrastructure development role. The National Environment Service administers permit issuance and environmental impact assessment (EIA) approvals for projects and activities in environmentally sensitive areas.

An effective legal framework and institutional capacity is needed to enable orderly land use planning. Land use plans need to be carefully developed and efficiently implemented, because they restrict the way that land can be used. The unresolved, fundamental issues connected with land tenure have been a key issue hampering the implementation of the Land Use Act 1969. Overcoming landowner uncertainty over the

process will require close community involvement and gradual introduction, for land use planning to be successfully implemented.

## Environmental Impact Assessments

EIAs are used to evaluate development projects prior to their implementation, so that their potential negative impacts on the physical environment, or on social and cultural conditions, can be understood and mitigated. In the Cook Islands, EIA use is regulated under the Environment Act 2003. The Act is effective in four islands: Aitutaki, Atiu, Mitiaro, and Rarotonga. For an EIA to be effective, it needs to be administered using an inexpensive, fair, participatory, and rigorous process that applies the best practicable science available.

The Act establishes Island Environment Authorities (IEAs) as the bodies responsible for making EIA consent decisions. IEA members are appointed at the discretion of the Minister for the Environment, rather than by legislated criteria requiring members to have appropriate technical expertise. Members of the Rarotonga IEA are mainly members of Parliament; resulting concerns have raised issues of politicized and insufficiently science-based decisions.<sup>59</sup>

While IEAs are expected to seek expert advice when making consent decisions, decision-making is, ultimately, discretionary; and there is no built-in process enabling an IEA to receive technical advice, if needed.

<sup>57</sup> Land use planning involves the systematic assessment of land and water potential, alternatives for land use, and economic and social conditions to select and adopt the best land use options. It enables policymakers to select the land uses that will best meet the needs of the people and communities, while safeguarding resources for the future.

<sup>58</sup> The Land Use Act 1969 stipulates orderly development through a zoning system; and that any building construction in a zoned area requires prior approval the Land Use Board comprising five members, one of whom is the Chief Judge of the Land Court. The board also makes recommendations to the Minister of Justice to establish any zone or class of zones.

<sup>59</sup> For example, see E. Samoglou. 2014a. EIA process vulnerable to politics: NGO. Cook Islands News. 19 September. <http://www.cookislandsnews.com/item/48494-eia-process-vulnerable-to-politics-ngo/48494-eia-process-vulnerable-to-politics-ngo>

## 5 FINANCIAL SECTOR

### Recommendations:

- Establish a task force to understand the reasons behind the fall in domestic credit to the private sector, and develop practical strategies to address the situation. The task force should
  - understand the extent of the remaining nonperforming loan problem and its causes;
  - identify gaps in bankruptcy provisions;
  - review the legal framework for using movable property as collateral for loans, and assess whether reforms in this area would support increased lending to business; and
  - investigate the feasibility of establishing a credit bureau linked to one based in New Zealand.
- Investigate options for improving domestic interbank clearing and settlement, including the feasibility of integrating the Cook Islands payment system into the New Zealand payment system.
- Assess the potential the Cook Islands National Provident Fund (CINSF, or the fund) could play in the domestic economy, consistent with its primary objective of providing adequate retirement incomes for contributors. This should include public consultations to determine CINSF members' openness to having the fund play such a role, and to assess whether the superannuation supervision bill provides a suitable prudential framework for this to occur.

An effective financial system plays two key roles in facilitating economic development: (i) financial intermediation, and (ii) facilitating payments. In the first, it mobilizes and pools savings; then efficiently channels these savings to investments that boost productivity, increase output, and create jobs. In the second, it enables the efficient transfer of money between people and businesses to facilitate the exchange of goods and services. This payment role has been heavily influenced by new information communication technologies such as electronic settlements, internet banking, and mobile banking. These technologies have significantly reduced the cost associated with making payments, and changed the way modern banking is done.

While the financial sector in the Cook Islands performs relatively well, given its small domestic market, commercial bank lending to the private sector began a downward trend in 2009. Yet, the reasons behind this trend are unclear, and are likely due (in part) to high nonperforming loan (NPL) levels which, while falling, remain above 2006 levels. Moreover, the underlying causes behind the NPL problem—weaknesses in the collateral framework and difficulties assessing borrower risk—have yet to be addressed. The platforms needed for individual financial institutions to efficiently interconnect as a system are also lacking. This raises payment transaction costs and prevents the country from taking advantage of new technologies being adopted in other countries.

## FINANCIAL SECTOR OVERVIEW

The Cook Islands financial sector comprises a domestic sector and an offshore sector. The domestic financial sector comprises three commercial banks, one national superannuation fund, one domestic insurance company and several insurance intermediaries (agents and brokers), and one money transfer operator. The domestic commercial banks include the Australia and New Zealand Banking Group (ANZ), Westpac Banking Group (Westpac), and Bank of the Cook Islands (BCI). ANZ and Westpac are overseas subsidiaries of Australian banks, and the Government of the Cook Islands wholly owns BCI. On 10 July 2015, Westpac sold its banking operations in the Cook Islands to Bank South Pacific (BSP).<sup>60</sup>

There is no equity, corporate bond market, or stock exchange. The Cook Islands also does not have a development finance institution. Within the domestic banking sector, ANZ was estimated in 2013 to hold the largest share of the market with 45%, followed by Westpac at 40%, and BCI at 15%.<sup>61</sup> Due to the small size of the domestic insurance sector, large risks tend to be placed with insurers in overseas markets.

The offshore financial sector comprises three licensed international banks, six trustee companies specializing in asset protection, and several insurers.

The international banks include ANZ, Westpac (BSP from July 2015), and Capital Security Bank (CSB). CSB is a private offshore bank that offers deposit services and private banking products, and, although it also holds a domestic license, mainly services international customers.

All financial institutions (domestic and offshore), except the Cook Islands National Superannuation Fund (CINSF, or the fund), are licensed and supervised by the Financial Supervisory Commission (FSC).<sup>62</sup> A superannuation supervision bill has been drafted, covering the establishment and management of savings held in the CINSF, and bringing it under FSC regulation and supervision.

The offshore financial center's contribution to the economy of the Cook Islands is unclear;<sup>63</sup> still, importantly, its operations must comply with international norms. Failing to comply would damage the country's international reputation, and likely have negative impacts on foreign investment and visitor numbers.

The government has actively ensured that its offshore center keeps abreast of changing international financial standards and best practice. For example, it has initiated a range of legislative reforms to address issues highlighted in the

<sup>60</sup> Westpac announced on 15 January 2015 its intention to sell its operations in five Pacific island countries, including the Cook Islands, to BSP by mid-2015. BSP is headquartered in Papua New Guinea (PNG), and has operations in Fiji, PNG, and Solomon Islands. Sources: Westpac Group. 2015. Media Centre: Westpac to sell its operations in five Pacific Island Nations. 29 January. <http://www.westpac.com.au/about-westpac/media/media-releases/2015/29-january1>; and Westpac Group. Global Locations: Westpac in the Pacific. <http://www.westpac.com.au/about-westpac/global-locations/westpac-in-the-pacific/>

<sup>61</sup> S. Narube and C. Lightfoot. 2013. Cook Islands: Macroeconomic Assessment (Financed by the Technical Assistance Special Fund under the Pacific Economic Management—Enhanced Economic Management [Subproject 2] Technical Assistance Project). *Consultant's Report: Project Number: 43045-032*. Manila: ADB and Avarua: Government of the Cook Islands, Ministry of Finance and Economic Management.

<sup>62</sup> The Financial Intelligence Unit is responsible for supervision of the offshore financial center. The unit was integrated into the FSC in 2012.

<sup>63</sup> Past estimates suggest that the offshore financial center contributes about 8% to the Cook Islands gross domestic product. The estimate, however, is difficult to verify in the absence of robust data and rigorous reporting.

country's 2012 Organisation for Economic Co-operation and Development (OECD) Global Forum Phase 1 Peer Review.<sup>64</sup> The Trustee Companies Act was passed in November 2014 (replacing the Trustee Companies Act 1981–82), and several other pieces of legislation have also been drafted: financial intelligence unit bill, currency declaration bill, and financial transactions reporting bill to replace the Financial Transactions Reporting Act 2004.<sup>65</sup> The OECD Phase 2 Peer Review results were released in March 2015.<sup>66</sup>

The Cook Islands uses the New Zealand dollar as its currency. Due to the economy's close alignment with New Zealand, movements in the dollar appear to have limited impacts on the Cook Islands private sector.<sup>67</sup>

The government has also proposed establishing a sovereign wealth fund for the eventual proceeds of seabed mining revenue. Recommendations for designing the fund were prepared in 2012.<sup>68</sup> However, seabed mining is unlikely to begin in the short term.

Insufficient information is readily available to assess whether, and which, financial services are available and affordable to disadvantaged and low-income parts of the economy. Westpac (until mid-2015) and ANZ have a limited branch and agency network, but offer some financial literacy training. BCI has branches on all islands within the country. No microfinance or credit unions appear to operate, and anecdotal information suggests that new entrepreneurs (both men and women) find accessing small start-up loans difficult.<sup>69</sup>

## FINANCIAL INTERMEDIATION PROBLEMS

### Commercial bank lending has declined

Credit to the private sector has fallen consistently since 2009, both in nominal terms and as a percentage of gross domestic product (GDP) (Table 4). In nominal terms, credit to the private sector declined from NZ\$292.7 million in December 2009, to NZ\$249.0 at the end of December 2013.

<sup>64</sup> The Global Forum is charged with in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004, which has been incorporated in the United Nations Model Tax Convention. The standards provide for international exchange, on request, of foreseeable relevant information for the administration, or enforcement of the domestic tax laws of a requesting party. All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases: Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Source: OECD. 2012. *Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Cook Islands 2012—Phase 1: Legal and Regulatory Framework*. Paris: OECD.

<sup>65</sup> Government of the Cook Islands, Financial Supervisory Commission of the Cook Islands. 2014. *Annual Report 2013–2014*. Avarua.

<sup>66</sup> OECD. 2015. *Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Cook Islands 2015—Phase 2: Implementation of the Standard in Practice*. Paris: OECD.

<sup>67</sup> Approximately 75% of Cook Islands' goods imports over 2009–2013 were sourced from New Zealand, and about 66% of its visitors in 2010–2014 were New Zealand residents. A strong New Zealand dollar, however, has made alternative travel destinations attractive to New Zealanders; and destinations such as Bali, Hawaii, and Viet Nam have experienced double digit growth from New Zealand. Despite this trend, the Cook Islands has performed well in retaining New Zealander visitor arrivals since 2012. Sources: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015f. *Cook Islands Statistical Bulletin: Migration Statistics—June 2015*. Avarua; and C. Wilson, R. Corbett, and D. Lanham. 2015. *Evaluation Report for Cook Islands Tourism Sector Support*. Wellington: New Zealand Government, Ministry of Foreign Affairs and Trade Aid Programme.

<sup>68</sup> D. Emery. 2012. *Cook Islands: Recommendations on the Design of a Sovereign Wealth Fund and a Loan Repayment Fund Aide Memoire*. Washington, DC: International Monetary Fund, Pacific Financial Technical Assistance Centre.

<sup>69</sup> Source: Discussion with private sector representatives in the Cook Islands in December 2014.

**Table 4: Selected Cook Islands Banking Sector Indicators, 2009–2013**

Indicator	2009	2010	2011	2012	2013
Deposits (NZ\$ million)	248.5	185.7	237.9	233.5	178.8
Credit to Private Sector (NZ\$ million)	292.7	285.8	265.9	248.9	249.0
Loan-to-Deposit Ratio (%)	117.8	153.9	111.7	106.6	139.3
Credit to Private Sector as % of Gross Domestic Product	85.2	80.7	73.4	65.6	58.3

NZ\$ = New Zealand dollar.

Sources: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2014a. *Cook Islands Statistical Bulletin: Banking Statistics—December Quarter 2013*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/banking-statistics/234-banking-statistics-december-2013/file>; Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015a. *Cook Islands Statistical Bulletin: Banking Statistics—December Quarter 2014*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/banking-statistics/2014/801-banking-statistics-dec-qtr-2014/file>; and gross domestic product figures (in NZ\$) from ADB. Statistical Database System. <https://sdb.sdb.org/sdbs/> (accessed 1 July 2015).

As a percentage of GDP, it fell from 85.2% to 58.3% in this same period.<sup>70</sup>

Despite the declining trend, access to finance in the Cook Islands continues to be similar to, or better than in, neighboring Pacific island countries. For example, credit to the private sector as a percentage of GDP in 2009–2013 was relatively stable in Fiji and Samoa (averaging 62.5% in Fiji and 39.3% in Samoa), while it declined from 47.1% in 2009 to 28.2% in 2013 in Tonga. However, credit to the private sector in the Cook Islands as a percentage of GDP is considerably below that of countries with developed financial markets, which typically have ratios of 100% or more. Australia's ratio, for example, averaged 124.1% between 2009 and 2013.<sup>71</sup>

Base lending rates for business loans offered by the two largest banks in the Cook Islands (ANZ and Westpac) have moved in tandem, falling from 9.95% during the period 2009–2012, to 9.50% between 2012 and 2015. Base lending rates offered by the CSB have been consistently lower than its competitors, ranging from a high of 8.95% over the period 2009–2012, to 7.70% between 2014 and 2015.<sup>72</sup>

The 2012 Cook Islands Banking Review indicated that the level and spread of interest rates in the Cook Islands are not dissimilar to those of other Pacific island countries. Yet, they were higher than those in New Zealand, possibly due to offshore funding, the smaller scale, and country risks.<sup>73</sup>

The 2012 Banking Review also highlighted the NPL problem. As a percentage of gross loans,

<sup>70</sup> In nominal terms, credit to the private sector declined again in 2014. It totaled NZ\$236.5 million in December 2014, with a slight increase (at NZ\$247.3 million) projected for the March quarter 2015. Due to a lack of GDP figures for 2014, it was not possible to calculate the ratio of private sector credit to GDP. However, it is expected that GDP at current market prices increased in 2014, which means that private sector credit as a percentage of GDP ratio also further decreased in 2014. Source: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015c. *Cook Islands Statistical Bulletin: Banking Statistics—March Quarter 2015*. Avarua.

<sup>71</sup> World Bank. World Development Indicators. <http://databank.worldbank.org/data/reports.aspx?source=2&country=&series=FD.AST.PRVT.GD.ZS&period=#> (accessed 5 August 2015).

<sup>72</sup> Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015a. *Cook Islands Statistical Bulletin: Banking Statistics—December Quarter 2014*. Avarua; and Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015e. *Cook Islands Statistical Bulletin: Banking Statistics—June Quarter 2015*. Avarua.

<sup>73</sup> S. Knowles. 2012. *Cook Islands Banking Review July–2012*. Avarua: Government of the Cook Islands, Ministry of Finance and Economic Management.

they reached a high of 15.9% at the end of 2012, a significant increase from the 1%–2% level experienced in 2006. The review attributed the increase to a function of the global recession starting in 2007, which left many borrowers struggling to meet payment obligations. Difficulties with collateral recovery, however, have hampered banks' ability to address the NPL problem.

The latest available figures indicate that the NPL ratio has fallen since 2012; it was 8.3% at end-December 2014.<sup>74</sup> While this trend is positive, NPL levels need to fall further to reach pre-2007 levels, or levels experienced by developed country neighbors.<sup>75</sup> High NPL levels, along with a perception that NPLs will be difficult to address, impact banks in several ways. They encourage banks to charge higher risk premiums on their loans; this also can lead to reduced lending, particularly on riskier ventures.

### The collateral framework has weaknesses

Collateral is the property that a borrower pledges to the lender to secure a loan. If a loan is not repaid, the lender can take ownership of the property which the borrower pledged to guarantee the loan. Collateral can either be immovable (such as land and buildings) or movable (such as equipment or inventory).

Banks in the Cook Islands have accepted land leases as the most prevalent type of collateral offered. Yet, fragmented land ownership, an

ineffective land registry, and cumbersome leasing procedures make it difficult for lenders to take possession of a land lease following a loan default. The lack of bankruptcy provisions in the Cook Islands exacerbates the situation. A bankruptcy law provides an orderly way to deal with a debtor's assets if they can no longer pay back their loans. It also provides processes that enable financially troubled businesses to restructure their finances, and quickly return their assets to productive use.

The 2012 Banking Review recommended establishing a task force to fully define the NPL problem, and to identify practical strategies to ensure that land leases—and other assets supporting these loans—can be more quickly returned to full economic use. The government accepted the recommendation in 2013.<sup>76</sup>

Given the challenges to effectively using land leases as security for loans, exploring how the country's economy can make greater use of assets as collateral should be considered. The Asian Development Bank, through the Pacific Private Sector Development Initiative, has been working with other countries in the region to develop an effective secured lending framework for movable property.<sup>77</sup> The framework would cover all economically important movable property, including inventory, equipment, accounts receivable, crops, and livestock. It would also allow potential lenders to establish a priority ranking in any collateral they accepted, by filing a notice of security interest in a publicly available registry.

<sup>74</sup> Source: NPL data provided by the Financial Supervisory Commission in April 2015.

<sup>75</sup> NPL ratios in Australia and New Zealand averaged 1.7% and 1.4% over 2010–2014, respectively. In contrast, debt distressed countries such as Ireland and Greece averaged 19.7% and 22.6% over this same period, respectively. Source: World Bank. World Development Indicators. <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators#> (accessed 28 July 2015).

<sup>76</sup> Government of the Cook Islands. 2013a. *Government Response to the 2012 Cook Islands Banking Review—August 2013*. Avarua.

<sup>77</sup> Between 2006 and 2013, six Pacific island countries introduced new secured transactions legislation and electronic registries: the Marshall Islands, the Federated States of Micronesia, Palau, Solomon Islands, Tonga, and Vanuatu. Papua New Guinea and Samoa have introduced new legislation and are proceeding toward registry implementation. New Zealand enacted secured transactions legislation in 1999, and Australia enacted similar legislation in 2009. Source: ADB. 2014f. *Unlocking Finance for Growth: Secured Transactions Reform in Pacific Island Economies*. Manila.

In the event of a borrower's default, the lender can seize and sell the collateral quickly and inexpensively, usually outside the judicial system. Introducing a secured transactions framework could be particularly beneficial for small and medium-sized businesses. The logical first steps in pursuing this option would be to raise awareness about its potential benefits, and review the existing legal framework.

It is important to note that introducing a modern secured transaction framework would have implications for the existing Companies Act 1970–1971 and company registry. Company charges are filed with the company registry. These filings are submitted by lenders, and are evidence of a company's property being pledged to stand as loan collateral. Implementing company charges within an electronic company registry is feasible, but will increase its cost. A secured transaction reform would be best undertaken in parallel with planned reforms to the Companies Act 1970–1971.

### There are difficulties in assessing borrower risk

One of the outcomes of the NPL problem is that the banks have tightened their processes in assessing and monitoring business risk. Yet, without a credit bureau, credit information on potential borrowers, such as the number of times they apply for loans, and whether they pay their bills on time, is limited. Reportedly, the banks cross-check with one another regarding a customer before advancing credit, but there is no formal system providing this type of information.

The 2012 Banking Review suggested that the Cook Islands might have the opportunity to become

part of a New Zealand credit bureau. This would provide a credit history of people and companies moving between the two countries. While a sensible option, its feasibility—and any potential legal or operational impediments—would need exploring. The government also accepted this recommendation, and tasked the FSC to investigate its viability.

The government established a Banking Review Task Force in early 2015, but so far its focus has been limited to investigating the potential for the Cook Islands to join the New Zealand payments system. It would be sensible to expand the task force terms of reference to better understand the causes behind the steady decline in domestic credit to the private sector, and develop an action plan to reverse the trend (footnote 76).

## INEFFICIENT PAYMENT SYSTEM

The Cook Islands existing payment system is highly inefficient. There is no real-time system for interbank clearing and settlement of electronic payments, and no interbank interoperability across payment infrastructure. Anecdotal information suggests that many businesses hold accounts with multiple domestic banks to avoid interbank transaction charges, and have New Zealand-based business accounts for overseas payments (footnote 73). This increases the cost of doing business.

In November 2014, the government announced its intention to investigate the feasibility of the Bank of the Cook Islands joining the New Zealand payments system, with the expectation that ANZ and Westpac (at that time) would also link customers to their New Zealand operations over

time.<sup>78</sup> Given the small size of the Cook Islands, this is likely to be a more cost-effective solution to improve payment efficiency than investing in a domestic electronic clearing system.<sup>79</sup>

## COOK ISLANDS NATIONAL SUPERANNUATION FUND

The CINSF is increasing the national savings rate. The fund was established by the Cook Islands National Superannuation Fund Act 2000; it provides pensions for retired workers, and is a compulsory scheme. Employers and employees are required to each contribute a percentage of gross wages to the fund (3% in year 1, 4% in year 2, and 5% thereafter). The fund's trustee and investment manager are based in New Zealand. As of 30 June 2015, the fund had a market value of NZ\$99.8 million, and was invested entirely overseas in a mix of fixed interest and equity investments.<sup>80</sup>

In January 2014, the High Court of the Cook Islands determined that the 2000 Act was invalid, because it breached the Constitution by depriving employers and employees of property through compulsory fund contributions. The Court of Appeal overturned this decision in November 2014,

and declared the Act valid.<sup>81</sup> However, the Court of Appeal recommended that the Act be reviewed to determine whether amendments were warranted. This prudent approach should help build support for the fund, and any such review should include wide consultations with employers and members.

The 2000 Act allows the CINSF Board, after consultation with the responsible minister, to direct trustees to invest up to 20% of the fund within the Cook Islands. The fund, therefore, could play a major role in the domestic financial market as a source of long-term investment capital. Yet, pursuing this option would need to be consistent with the fund's primary objective: generating adequate retirement incomes for contributors without exposure to undue risk. From July 2015 members were, for the first time, given the choice of three different investment options (with differing risk and return levels).<sup>82</sup>

As the fund is managed externally and invested entirely in non-Cook Islands assets, investing a proportion of it in domestic assets should only be considered if the proposed investment is consistent with (i) the fund's overall risk-return profile, and (ii) the country's prudential framework.

<sup>78</sup> Government of the Cook Islands, Ministry of Finance and Economic Management. PRESS RELEASE. Cook Islands to Investigate the Feasibility of BCI Joining New Zealand Payments System. <http://www.mfem.gov.ck/latest-news-18/528-press-release-cook-islands-to-investigate-the-feasibility-of-bci-joining-new-zealand-payments-system>. There will be a similar need for BSP's Cook Islands operation to also join the New Zealand payment system.

<sup>79</sup> Westpac's decision to sell its Cook Islands' operation to BSP is likely to make the process of joining the New Zealand payment system more complicated, given that BSP, like BCI, is not licensed in New Zealand, and its home regulator is the Bank of Papua New Guinea.

<sup>80</sup> Cook Islands National Superannuation Fund. Fund Performance as at 30 June 2015. <http://www.cinsf.com/index.php/fund-performance/71-fund-performance-as-at-30-june-2015>

<sup>81</sup> Government of the Cook Islands, Ministry of Finance and Economic Management. CINSF Appeal. <http://www.mfem.gov.ck/latest-news-18/507-cinsf-appeal>

<sup>82</sup> Cook Islands National Superannuation Fund. 2015. *Statement of Investment Policy and Objectives—March 2015*. Auckland: Aon New Zealand/Public Trust; and Cook Islands National Superannuation Fund. Articles—Media Release: Investment Choice for CINSF Members. <http://www.cinsf.com/index.php/component/content/article/16-updates/reports/55-media-release-investment-choice-for-cinsf-members>

## 6 GENDER EQUALITY AND WOMEN'S ECONOMIC EMPOWERMENT

### Recommendations:

- Continue to implement the recommendations of the National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016 by
  - strengthening institutional capacity within government to support policy implementation, and
  - developing accountability mechanisms and tracking procedures to monitor implementation across all sectors.
- Invest in initiatives that encourage and support women to establish and grow businesses, particularly in the outer islands.
- Encourage collaboration between government and all development partners (private sector, civil society, faith-based organizations, and donors) to end violence against women. This includes supporting enactment of the family law bill and crimes bill.
- Amend the Matrimonial Property Act 1991–1992 to include *de facto* relationships.

Gender equality contributes to private sector development by supporting women's increased participation in the economy (as employers, employees, producers, and consumers); and by increasing diversity and innovation, generally. Global research suggests that educating women, and utilizing their earning capacity to the same extent as that of men, uses labor optimally and increases economic productivity. Women's increased education and economic participation reduces poverty, and infant and maternal mortality

and morbidity. It also contributes to agricultural productivity and supports the growth of micro and small enterprises; and also contributes to investment in children, improving the productivity of future generations.<sup>83</sup>

The Government of the Cook Islands is committed to ensuring women's and men's equal participation in all aspects of life, including the formal economy. The Constitution prohibits sex-based discrimination.<sup>84</sup> The country acceded to

<sup>83</sup> See N. Kabeer and L. Natali. 2013. Gender Equality and Economic Growth: Is there a Win-Win? *IDS Working Paper Volume 2013 No 417*. Brighton: Institute of Development Studies; J. Ward et al. 2010. *Evidence for Action: Gender Equality and Economic Growth*. London: The Royal Institute of International Affairs (Chatham House); and Government of Australia, Australian Agency for International Development. 2012. *Delivery Strategy: Pacific Women Shaping Pacific Development 2012–2022*. Canberra.

<sup>84</sup> Yet, the Constitution does not include direct and indirect discrimination in its definition of discrimination. Indirect discrimination is a particularly important concept, recognizing that discrimination is not always obvious or direct; it may be disguised within laws, policies, and practices that appear to apply to all persons equally, but in practice do not. As the Constitution does not bind private actors, it provides no mechanism for enforcing the prohibition on discrimination. However, there is a plan to amend the Constitution and strengthen its equality and nondiscrimination provisions. Source: T. Braun, ed. 2012. *Stocktake of the Gender Mainstreaming Capacity of Pacific Island Governments: Cook Islands*. Noumea: Secretariat of the Pacific Community.

the Convention on the Elimination of all Forms of Discrimination Against Women in 2006, and has also endorsed several other key international and regional policy frameworks with strong gender equality mandates.<sup>85</sup>

In 2011, the government adopted the National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016.<sup>86</sup> The Strategic Plan of Action identifies outputs and key actions to improve the enabling environment for women's full participation in economic development. Policy priorities include increasing economic opportunities for women; increasing women's access to productive assets; improved working conditions, supporting women and men to fulfill their role as parents; and eliminated pay disparities.

## GENDER AND PRIVATE SECTOR EMPLOYMENT

Two analyses of census data in the Cook Islands show gains toward gender equality targets in education, workforce participation, and senior management positions.<sup>87</sup>

Access to basic education is high for both boys and girls. In 2013, the national primary net

enrolment ratio was 95% (96% for boys and 94% for girls); at the national junior secondary level, the net enrolment rate was 85% (81% for boys and 88% for girls). Enrolment rates at the senior secondary level are lower, with more girls (60%) attending than boys (51%).

The 2011 census indicated that about the same number of men and women were in full- and part-time postsecondary training. Women were following the global trend of dominating in fields traditionally linked to social reproduction (education, health, and welfare); and underrepresented in technical and trade related fields (construction, mechanical, and electrical trades).<sup>88</sup>

Labor force participation rates overall are also relatively high, with around 70% of men and 60% of women in some form of employment. These rates are comparable to those in Australia and New Zealand.<sup>89</sup> Yet, there are significant differences between Rarotonga and the outer islands. In Rarotonga, most men (80%) and women (71%) work, and almost all are in paid employment. Labor force participation is lowest in the Southern Group, and there is a more significant gap between men (66%) and women (50%). Labor force participation for men in the Northern Group is similar to that in

<sup>85</sup> These include the (i) United Nations, Fourth World Conference on Women. 1995. *Beijing Declaration and Platform for Action*. Beijing; (ii) Secretariat of the Pacific Community. 2004. Volume 1: Revised Pacific Platform for Action on Advancement of Women and Gender Equality 2005 to 2015—A Regional Charter. Proceedings of the 9th Triennial Conference of Pacific Women 16–19 August 2004 and 2nd Pacific Ministerial Meeting on Women 19–20 August 2004. Nadi; (iii) United Nations Millennium Development Goals; and (iv) Pacific Islands Forum Secretariat. 2007 [update from 2005]. *The Pacific Plan for Strengthening Regional Cooperation and Integration*. Suva.

<sup>86</sup> Government of the Cook Islands, Ministry of Internal Affairs, Gender and Development Division. 2011. *Cook Islands National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016*. Rarotonga.

<sup>87</sup> Government of the Cook Islands, Ministry of Internal Affairs; and Ministry of Finance and Economic Management, Statistics Office. 2015. *Economic activity and labour force of the Cook Islands—Analysis of the 2011 Population and Housing Census: February 2015*. Avarua; and Government of the Cook Islands, Ministry of Internal Affairs, Gender and Development Division; Ministry of Finance and Economic Management, Statistics Office; and Secretariat of the Pacific Community, Human Development Programme. 2015. *Cook Islands 2012 Gender Profile*. Noumea: Secretariat of the Pacific Community.

<sup>88</sup> Government of the Cook Islands, Ministry of Internal Affairs, Gender and Development Division; Ministry of Finance and Economic Management, Statistics Office; and Secretariat of the Pacific Community, Human Development Programme. 2015. *Cook Islands 2012 Gender Profile*. Noumea: Secretariat of the Pacific Community.

<sup>89</sup> In Australia, 72% of men and 59% of women are in the labor force. In New Zealand, 74% of men and 62% of women are in the labor force.

Rarotonga, but has the greatest gap between men (80%) and women (61%).<sup>90</sup>

Men outnumber women in jobs with status, power, and authority although the proportion of women in these types of roles has increased to near equality. In 2001, women held 36% of jobs as legislators, senior officials, and managers. By 2011, women occupied 48% of these roles (footnote 88).

The government recognizes that pay equity between men and women is a problem, and has included it as an area for action in the National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016. Pay equity is complex, as numerous variables need considering for an accurate understanding of where, and how, bias occurs.

Assessing earnings is challenging, as average or median annual income figures do not reflect women's and men's choices about (or opportunities to) working in full- or part-time employment. Hourly wage figures are more accurate for those in waged jobs but do not show earnings for women and men who are starting businesses, those engaged in income generation, or those substituting income through own account production.

In 2011, the national average hourly wages were NZ\$9.99 for men and NZ\$9.71 for women. Yet, these figures mask more significant disparities for both genders in the outer islands. In the Northern

Group, women earned an average hourly wage of only NZ\$4.77, compared to men at NZ\$5.82. However, in the Southern Group, women earned NZ\$7.13 an hour—a higher rate than men's average wage of NZ\$6.58 an hour.<sup>91</sup>

Another analysis tool is to view the pay gap between men and women in the Cook Islands. This method uses a ratio that compares average annual earnings of women to men; a ratio of 100 indicates that there is no gap, and a ratio below 100 indicates that women earn less than men. Census data show a positive trend, with the gap narrowing from 71 (2001) to 80 (2011), although women's annual earnings remain considerably lower than those of men. Still, annual wage figures do not clearly show gender relations in employment because they do not reflect that more women (16%) than men (11%) work part-time. Work patterns are often linked to women's multiple roles as caregivers for children and the elderly (footnote 88).

The Employment Relations Act 2012 contains important protections for women employed in the private sector. Provisions include 6 weeks' maternity leave at the minimum rate of pay, based on a 40-hour work week; and a guaranteed return to the same position held prior to the leave.<sup>92</sup> Paternity leave is also given for 5 days (2 paid, 3 unpaid) (footnote 92). Although the legislation would be enhanced with more extensive paternity leave to encourage shared childcare responsibilities, this is a commendable first step.

<sup>90</sup> Government of the Cook Islands, Ministry of Internal Affairs; and Ministry of Finance and Economic Management, Statistics Office. 2015. *Economic activity and labour force of the Cook Islands—Analysis of the 2011 Population and Housing Census: February 2015*. Avarua.

<sup>91</sup> Hourly wage estimates were based on taking the midpoint of the annual income range reported, dividing this by 52 to get a weekly income, and then dividing by the number of hours per week that the respondent reported they worked. Only census respondents reporting one job and one source of income were used in generating the estimates. This represented about 70% of those in paid employment. Source: Government of the Cook Islands, Ministry of Internal Affairs; and Ministry of Finance and Economic Management, Statistics Office. 2015. *Economic activity and labour force of the Cook Islands—Analysis of the 2011 Population and Housing Census: February 2015*. Avarua.

<sup>92</sup> Government of the Cook Islands. 2012. *Employment Relations Act 2012*. Avarua.

After maternity leave, women are still more constrained than men by social and family expectations that they will provide ongoing care for children. Childcare facilities are minimal, and many women in the private sector rely on family members for childminding. Over 71% of women above 15 years have at least one child, and 2% have more than 10.<sup>93</sup> Consequently, providing childcare is critical to encouraging women's private sector participation.

## CONSTRAINTS TO WOMEN'S ENGAGEMENT IN BUSINESS

Census data indicate that almost twice as many men (10%) as women (6%) are self-employed; and 7% of men are employers, compared to 5% of women (footnote 90). Men and women are also engaged in unpaid work. For women in the outer islands, this includes sewing and handicraft done as unpaid work but which could be sold, bartered, or used in traditional ceremonies. Women in the outer islands have limited capacity to turn this goods production into business opportunities, as they lack access to markets, technologies, and the skills to undertake e-commerce.

Additional barriers include stricter gender roles imposed on women outside Rarotonga, including restricted participation in decision-making determining how resources are used and shared.<sup>94</sup> A 2015 report also identified gaps in business

training accessibility, relevance, and support for women entrepreneurs. The report also identified a lack of microfinance products.<sup>95</sup>

There are nine women development officers throughout the Cook Islands working under their respective Islands Administrative Councils, with the specific role to develop and revitalize traditional women's handicrafts to generate income. These officers focus on preserving the cultural heritage aspect of handicrafts; and do not have the mandate, capacity, or resources to overcome the barriers faced by women in outer islands.

Yet, these officers represent a potential mechanism and entry point for enhanced support to women in the outer islands; as do more formal business support organizations, such as the Cook Islands Business and Professional Women's Association. Other organizations can advocate to ensure that women's interests are represented in law reform and policy debates.

## VIOLENCE AGAINST WOMEN

There is extensive data on violence against women, which show that 53% of women surveyed in the Cook Islands (15–64 years of age) have experienced physical and/or sexual violence.<sup>96</sup> This impacts on women's ability to participate equitably in the development process; and affects women's physical well-being, autonomy, and mental health.

<sup>93</sup> Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2013. *Cook Islands 2011 Census of Population and Dwellings: Main Report*. Avarua.

<sup>94</sup> Sources: UN Women, Asia and the Pacific. Cook Islands. <http://asiapacific.unwomen.org/en/countries/fiji/co/cook-islands>; and E. Samoglou. 2014b. More help for women in business. Cook Islands News. 7 September. <http://www.cookislandsnews.com/item/48314-more-help-for-women-in-business>

<sup>95</sup> T. Thompson and D. Fox. 2015. *Get the Skills, Gain the Knowledge, Take Control: A report on the training and capacity needs of Cook Islands Women Entrepreneurs*. Tupapa: Government of the Cook Islands, Ministry of Internal Affairs.

<sup>96</sup> Government of the Cook Islands, Ministry of Health, Cook Islands National Council of Women, and United Nations Population Fund. 2014. *Te Ata O Te Ngakau (Shadows of the Heart): The Cook Islands Family Health and Safety Study*. Avarua. Note that percentages reflect lifetime experiences of partner and nonpartner violence.

Violence against women results in direct productivity losses for employers due to absenteeism and reduced output, and high costs for governments providing legal and institutional support to victims.<sup>97</sup> The National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016 identifies ending violence against women and girls as a policy priority, and proposes a number of strategic actions to achieve this aim. Actions include strengthening legal frameworks, improving services to victims, undertaking community mobilization, engaging men to end violence against women, and developing treatment options for perpetrators (footnote 86).

The Cook Islands does not have a domestic violence law, and its sexual offences law (under the Crimes Act 1969) is outdated and ineffective.<sup>98</sup> To support legislative reform, a working group was formed in 2007 to develop a program of systematic legislative reform that is consistent with the Convention on the Elimination of all Forms of Discrimination Against Women recommendations. A draft family law bill and the draft crimes bill are partly the result of this group's work.<sup>99</sup>

The family law bill, endorsed by the Cook Islands Cabinet, contains comprehensive measures to protect women from domestic violence, including protection and police safety orders, mandatory reporting by doctors and teachers of child sexual abuse, and victims' compensation. The draft

crimes bill contains domestic violence offences and introduces a progressive framework of sexual assault offences. The enactment of these two bills will bolster the country's response to violence against women. Yet, victims' services still need strengthening for shelters, medical services, and counseling; and for public awareness campaigns in the community.

## FURTHER BARRIERS

Gender focal points—and organizations working on gender equality—are important to achieving overall gender equality, and particularly to improving women's private sector participation. The Gender and Development Division, within the Ministry of Internal Affairs, is responsible for implementing the National Policy on Gender Equality and Women's Empowerment & Strategic Plan of Action 2011–2016. Yet, the division is under-resourced with only two staff members and, in 2007–2008, received only 1% of recurrent government expenditure (footnote 88).

The policy, and the Plan of Action's economic empowerment section, outline the need to increase women's access to productive assets. While some protections are in place, amendments are needed. For example, inheritance law in the Cook Islands is equitable, and allows both women and men to inherit property or assets. The Property (Relationships) Act 1976 of New Zealand (until

<sup>97</sup> A. Moustafa et al. 2014. *The State of Human Development in the Pacific: A Report on Vulnerability and Exclusion in a Time of Rapid Change*. Suva: United Nations Development Programme. Also see H. Waters et al. 2004. *The economic dimensions of interpersonal violence*. Geneva: World Health Organization.

<sup>98</sup> Government of the Cook Islands. 1969. *Crimes Act 1969*. Avarua.

<sup>99</sup> Members of the working group include the Crown Law office; Office of the Prime Minister; Office of the Minister of Islands Administration; Department of Police; and ministries of education, health, justice, and internal affairs. Sources: Government of the Cook Islands, Ministry of Internal Affairs, Gender and Development Division; Ministry of Finance and Economic Management, Statistics Office; and Secretariat of the Pacific Community, Human Development Programme. 2015. *Cook Islands 2012 Gender Profile*. Noumea: Secretariat of the Pacific Community; and Government of the Cook Islands, Ministry of Internal Affairs, Gender and Development Division. 2009. *Response to the United Nations Questionnaire on the Implementation of the Beijing Platform for Action and the Outcome of the Twenty-Third Special Session of the General Assembly*. Rarotonga.

2002, the Matrimonial Property Act 1976 of New Zealand and applied in the Cook Islands by the Matrimonial Property Act 1991–1992) supports equal division of property, which helps promote women’s financial independence.

Equal division of property prevents excluding a woman’s claim on property on the basis that she does not legally own property, or has not financially contributed to the purchase of marital (or relationship) property. This is especially important because much of the work women do is unpaid.<sup>100</sup> However, the Matrimonial Property Act 1991–1992 is dated and needs to be amended; it does not extend to *de facto* relationships, which represent approximately 25% of relationships in the Cook Islands (footnote 93).

Despite these legislative protections, cultural norms and practices limit women’s access to productive assets. Women are expected to do the

bulk of caregiving and household work, restricting their access to employment and from moving into formal business from small income generating schemes. Natural resource use patterns are also gendered, and constrain women’s engagement in more highly paid resource extraction and tourism activities—such as commercial sport fishing and diving businesses.

Gender disaggregated data is critical to determine policy and law in relation to all these factors. The Cook Islands census gathers important gender disaggregated data on employment, education, health, marital status, and unpaid work. Gender analyses of this data have made it more transparent, and the Cook Islands Family Health and Safety Study provides invaluable insight into crimes of physical and sexual violence against women.<sup>101</sup> Gaps remain in the areas of sexual harassment, women’s use of time, and in their participation in decision-making at various levels.

<sup>100</sup> However, the legislation enables one spouse to argue that their contribution has been greater than the other. Source: Government of New Zealand. 2014. *Property (Relationships) Act 1976*. Wellington.

<sup>101</sup> Government of the Cook Islands, Ministry of Health, Cook Islands National Council of Women; and United Nations Population Fund. 2014. *Te Ata O Te Ngakau (Shadows of the Heart): The Cook Islands Family Health and Safety Study*. Avarua.

## 7 OTHER ISSUES

### Recommendations:

- Improve core infrastructure services quality and sustainability:
  - Address priorities identified in the Cook Islands National Infrastructure Investment Plan (NIIP), particularly infrastructure services (sanitation, solid waste, and water) that are deteriorating the quality of the natural environment.
  - Ensure climate change adaptation is included in all infrastructure project designs.
  - Integrate the NIIP into government planning and budgeting processes, and ensure that it is monitored and updated over time.
  - Explore opportunities to improve efficiency by consolidating service delivery into fewer institutions, particularly in energy, sanitation, solid waste, and water.
  - Complete establishment of the new asset management system, and ensure that infrastructure asset registers are comprehensive and effectively maintained.
  - Ensure that there are effective cost recovery systems to help manage demand, encourage conservation, and provide funds for investment and maintenance.
  - Separate the infrastructure regulation function from service delivery, and consider combining these regulatory functions into a single, multisector regulator.
- Strengthen the policy and legislative framework for state-owned enterprises:
  - Clearly define the principal objective of a state-owned enterprise (SOE) as maximizing the public investment's net worth.
  - Establish clear rules to identify and fund community service obligations.
  - Establish transparent, skills-based criteria to select and appoint SOE directors.
  - Formally require SOEs to always investigate options to contract out activities and services they provide, and to look for opportunities to work with the private sector through joint arrangements.
- Address competition-related concerns:
  - Develop a coherent competition framework for the Cook Islands.

## PROBLEMATIC ASPECTS OF INFRASTRUCTURE PROVISION

Reliable, reasonably priced infrastructure is essential to an economy that encourages investment, entrepreneurship, and growth. In many countries, the principle driver in demand for improved and extended infrastructure services is population growth and urban drift. In the Cook Islands, demand is primarily being driven by the need to support high quality tourism, along with the need to provide services to a population spread over a vast area of ocean.

The Cooks Islands also needs to prepare for climate change, and achieve increased sustainability through initiatives such as renewable energy. It is important to note that, while the country needs investments in infrastructure to sustain growth in tourism and other economic sectors, growth prospects are limited. This constrains infrastructure investments' financial sustainability, making it especially important to manage projects well and deliver positive economic returns.<sup>102</sup>

### The quality of some core infrastructure services is deteriorating

While there are weaknesses across all infrastructure areas, water, sanitation, and solid waste services on Rarotonga and Aitutaki are particularly concerning. Because the country's tourism sector depends

heavily on the quality of its natural environment, it is important to have systems capable of providing ready access to potable water, and that effectively deal with sewage and garbage.

- **Water.** Improvements are needed on Rarotonga to reduce the existing network's leakages. Water treatment is necessary to address concerns over waterborne diseases.
- **Sanitation.** Existing, privately owned and maintained septic tank systems have been treating sewage inadequately, leading to deteriorating water quality in Rarotonga's lagoons. While new sewage regulations have been established, the challenge is to ensure effective implementation.
- **Solid waste.** Both Rarotonga and Aitutaki have purpose-built landfills. If these are not carefully managed, their potential life span will be reduced.

The government recognizes infrastructure's importance to investment and economic growth; and the challenges that natural hazards, and climate change, pose to infrastructure development and maintenance. Given the country's high vulnerability, it is critical that infrastructure planning addresses projected climate changes.<sup>103</sup> An infrastructure master plan was initially prepared in 2007, but had several problems including limited consultation, unclear links with other national strategies, and no clear champion to coordinate its implementation.

<sup>102</sup> It is often assumed that core economic infrastructure projects will self-sustain by generating economic growth. This implicit assumption is problematic anywhere, especially in remote microstates unable to take advantage of economies of scale.

<sup>103</sup> Key anticipated climate changes include continued sea level rises and more intense cyclones. Sea levels in the Cook Islands have been rising at a rate of 4 millimeters (mm) per year since 1993, a rate slightly above the global average range of 2.8 mm–3.6 mm per year. This trend is expected to continue over the coming decades and is expected to cause flooding in coastal lowland areas. Cyclones are the predominant natural hazard in the Cook Islands. Over the past 40 years, the country has experienced on average just over one cyclone per season, although the number of cyclones per season has varied widely (with none in some seasons, and up to six in others). In the future, the frequency of cyclones is expected to decrease, while the category intensity of those that occur is expected to increase and require higher standards of infrastructure construction. Source: Government of the Cook Islands, Ministry of Finance and Economic Management, and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney.

An updated Cook Islands National Infrastructure Investment Plan (NIIP) was developed in 2014 and published in May 2015.<sup>104</sup> The NIIP identifies and prioritizes a package of infrastructure investments to address the country's future development needs. A multicriteria analysis was used in developing the priority list; and addresses economic, social, environmental (including climate change), and

project sustainability considerations. The NIIP includes 24 projects to be implemented by 2023.<sup>105</sup> The projects address all of the infrastructure sectors identified in this private sector assessment (Table 5). Of this total, 16 were included in the government's Budget Estimates 2014/2015 Book 3: Capital Plan and 2014/15 budget.

**Table 5: Overview—Infrastructure Provision in the Cook Islands**

Sector	Scope of Service	Institutions Providing Service	Regulation and Monitoring	Status
<b>Air transport</b>	Rarotonga and Aitutaki—international airports	Cook Islands Airport Authority	Civil Aviation Authority of New Zealand and Ministry of Transport	<ul style="list-style-type: none"> <li>Facilities reaching capacity—an airports master plan is being developed</li> </ul>
	Other islands—airstrips	Island governments	Island governments and Ministry of Transport	<ul style="list-style-type: none"> <li>Loose surfaced and poorly maintained—some upgrading occurring</li> </ul>
<b>Road transport</b>	Rarotonga—roads	Infrastructure Cook Islands (ICI) <sup>a</sup>	ICI and police	<ul style="list-style-type: none"> <li>Narrow road widths, damage occurring from heavy vehicles—some upgrading occurring</li> </ul>
	Other islands—roads	ICI	Island governments	<ul style="list-style-type: none"> <li>Good width sealed road on Aitutaki, but needs second coat</li> <li>Some sealed roads on other southern islands, but all northern islands roads unsealed</li> </ul>
<b>Marine transport</b>	Rarotonga and Aitutaki—seaports	Cook Islands Ports Authority (CIPA)	CIPA	<ul style="list-style-type: none"> <li>Rarotonga port recently reconstructed, and Arorongi jetty providing alternative for cruise ships</li> <li>Master plan being developed to enlarge and deepen Aitutaki harbor and develop marina</li> </ul>
	Other islands—harbors	Island governments and ICI	Not regulated	<ul style="list-style-type: none"> <li>Mangaia, Mauke, and Mitaro harbors recently upgraded, and upgrading of Manihiki harbors planned. Other islands have basic harbor facilities</li> </ul>

*continued on next page*

<sup>104</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney.

<sup>105</sup> The NIIP also further evaluated the climate change adaptation of 9 of 24 priority projects. However, climate change adaptation in the Cook Islands is still ad hoc and not automatically included in every infrastructure project design. It will be important to address this gap going forward. Source: Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney.

Table 5 continued

Sector	Scope of Service	Institutions Providing Service	Regulation and Monitoring	Status
	Interisland shipping	Private	Ministry of Transport	<ul style="list-style-type: none"> <li>Poor condition of existing ships, with infrequent and irregular service</li> </ul>
<b>Energy</b>	Rarotonga—electricity	<i>Te Aponga Uira</i> (Rarotonga Power Authority) (TAU)	TAU Board	<ul style="list-style-type: none"> <li>Diesel generation with tariff fully commercial and among highest in the Pacific, but program in place to encourage private sector renewable power generation</li> </ul>
	<ul style="list-style-type: none"> <li>Aitutaki</li> <li>Other islands</li> </ul>	<ul style="list-style-type: none"> <li>Aitutaki Power Supply</li> <li>Island governments</li> </ul>	Island governments and ICI	<ul style="list-style-type: none"> <li>Largely diesel generation with tariff subsidized by central government, but program underway to introduce photovoltaic systems with battery storage</li> </ul>
<b>Water</b>	Rarotonga	ICI	Ministry of Health and ICI	<ul style="list-style-type: none"> <li>Major project underway to improve water system suffering from leaking pipes and unmanaged demand</li> </ul>
	Other islands	Island governments	Ministry of Health	<ul style="list-style-type: none"> <li>Small water distribution systems and water tanks</li> </ul>
<b>Sanitation</b>	National	Private	Sewage and Sanitation Board and ICI	<ul style="list-style-type: none"> <li>Septic tank systems generally not well maintained, but upgrading program underway</li> </ul>
<b>Solid waste</b>	Rarotonga and Aitutaki	ICI	Ministry of Health	<ul style="list-style-type: none"> <li>Purpose-built facilities but user fees insufficient to cover cost of administration; limited recycling</li> </ul>
	Other islands	Island governments	Environment	<ul style="list-style-type: none"> <li>Open pits</li> </ul>
<b>Information and communication technology</b>	National	Telecom Cook Islands	Not regulated	<ul style="list-style-type: none"> <li>Monopoly operator providing regionally competitive service throughout country, majority shareholder in process of selling its share in company</li> </ul>

<sup>a</sup> In January 2014, the Ministry of Infrastructure and Planning became Infrastructure Cook Islands. See <http://www.ici.gov.ck/>

Source: Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney.

The following breakdown of planned capital spending by sector over the period 2013–2018 includes significant investments to address two of the discussed issues: (i) improving water supply on Rarotonga (NZ\$59.3 million, with NZ\$66.2 million across the country in total), and (ii) upgrading sanitation systems across the country (NZ\$18.2 million) (Table 6). The other major planned infrastructure project included in the Capital Plan addresses the energy sector, to introduce photovoltaic power systems in the outer islands (NZ\$57.5 million).

While the NIIP identified the following projects as priorities, they are not included in the existing Capital Plan: (i) transport (improving the Rarotonga airport terminal, upgrading and/or developing the Aitutaki harbor, and road sealing on Aitutaki), (ii) energy (building a new power station on Rarotonga), and (iii) information and communication technology (fiber optic cable). They were all deemed to require further planning and have been deferred to future years.

The NIIP and associated Capital Plan are significant achievements. However, it is essential that

**Table 6: Cook Islands Capital Plan, 2013–2018** (NZ\$ million)

Sector	2013/2014 Committed Spending	2014/2015– 2017/2018 Estimate	5-Year Total	% Total
Transport	4.6	18.0	22.6	10.7
Energy	15.2	43.1	58.3	27.6
Water	11.7	54.5	66.2	31.3
Sanitation	0.1	18.1	18.2	8.6
Solid waste	0.1	0.2	0.3	0.1
Information and communication technologies	0.1	0.7	0.8	0.4
Others	5.2	39.7	44.9	21.2
<b>Total</b>	<b>37.0</b>	<b>174.3</b>	<b>211.3</b>	
<b>Funding source (%of total)</b>				
Donor grants				50.0
Government of the Cook Islands				33.0
Loans				17.0

NZ\$ = New Zealand dollar.

Source: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua. [http://procurement.gov.ck/wp-content/plugins/ck\\_procurement/uploads/095837\\_26-11-2014\\_2014-15%20Budget%20Book%203%20-%20Capital\\_Plan.pdf](http://procurement.gov.ck/wp-content/plugins/ck_procurement/uploads/095837_26-11-2014_2014-15%20Budget%20Book%203%20-%20Capital_Plan.pdf)

the planned projects are efficiently and effectively implemented, appropriately adapted for climate change, and the resulting assets are sustainably maintained. Importantly, the NIIP should not be treated as a one-off exercise. It should be integrated into the government's planning and budgeting processes, then monitored and updated as necessary.

Given the country's vulnerability to potential climate change impacts, it will also be important to encourage businesses in the Cook Islands to undertake their own climate change adaptation efforts. The government introduced the *Kaveinga Tapapa: Climate & Disaster Compatible*

Development Policy 2013–2016 in 2013, which provides a coordinating mechanism for developing actions and resources to address climate change.<sup>106</sup>

The business community's participation as a key stakeholder is critical in implementing this policy, particularly when developing adaptive priorities and strategies for key economic sectors such as agriculture, marine resources, and tourism. An important starting point is to provide climate data to businesses, particularly short- and medium-term projections of localized climate impacts, plus examples of good adaptive practices. This will assist businesses to incorporate climate change risks into their investment and business plans.

<sup>106</sup> Government of the Cook Islands, Office of the Prime Minister, Climate Change Cook Islands. 2013. *Kaveinga Tapapa: Climate & Disaster Compatible Development Policy 2013–2016*. Avarua.

## Infrastructure service delivery is fragmented, and there is limited regulation and oversight of services provision

Infrastructure services provision in the Cook Islands involves a large number of agencies for such a small population (Table 5). Effort is fragmented, making effective coordination difficult. Moreover, where infrastructure has been managed by government departments, maintenance expenditure has been insufficient to adequately maintain the assets.

Areas ripe for service delivery consolidation include energy, water, sanitation, and solid waste. Responsibilities are spread between the state energy provider, *Te Aponga Uira* (Rarotonga Power Authority or TAU, a state-owned enterprise [SOE]), and several government institutions. These are Aitutaki Power Supply; the Infrastructure Cook Islands' Water, Waste and Sanitation Unit; and island governments.

Previous infrastructure assessments have advocated creating a single public utility authority covering all these services.<sup>107</sup> The government has committed to creating a new SOE to manage water supply on Rarotonga after the system upgrade. Moving service provision from a government department to a corporatized agency, such as an SOE, could potentially improve asset management. However, TAU already delivers power on Rarotonga; and has effective energy billing, metering, and customer service systems in place. A cost recovery

regime for water will require identical systems; it would be sensible to leverage TAU's existing services and activities, rather than create another SOE structure.

Yet, TAU is fully occupied managing Rarotonga's diesel-based electricity system transition to renewable sources. TAU may be asked to support the new photovoltaic power systems on the outer islands. While acknowledging these challenges, a forward-thinking strategy is required to eventually bring services together into a single, efficient corporatized entity.<sup>108</sup> TAU is the logical agency for this role.

Strong asset management and effective cost recovery systems are essential to improve the financial sustainability of infrastructure investments. The government, with support from the Asian Development Bank (ADB), is completing an asset management system, including asset registries for all of government, including in the outer islands, and SOEs. A national asset management policy and strategy have been drafted, along with asset management regulations. Cabinet will consider these in 2015.<sup>109</sup>

Ensuring cost recovery for infrastructure service provision is needed, particularly for water and solid waste services. Customers do not pay for the water they consume; introducing user fees is necessary to reduce wasteful usage, and provide sustainable funds for investment and maintenance. This needs doing in a socially conscious way, so that the general

<sup>107</sup> For example, see AECOM New Zealand. 2014. *Te Mato Vai—Water Supply Master Plan for Rarotonga*. Auckland.

<sup>108</sup> An assessment done by the Te Mato Vai Project Management Unit in May 2014 recommended establishing a separate SOE solely for water—sanitation, solid waste service management, and sludge management would remain with the Ministry of Infrastructure Planning (renamed Infrastructure Cook Islands). The water SOE would contract out meter reading, billing, and revenue collection to TAU; and use the private sector for services such as water quality analysis, information technology, and legal services. Source: Te Mato Vai Project Management Unit. Institutional and Water Specialist Assignment Report—Input 1—(May 2014). Unpublished.

<sup>109</sup> The ADB technical assistance project *Cook Islands: Asset Management for Sustainable and Improved Services Delivery* (Project 43422-012) closed on 31 March 2015.

public finds the change acceptable. User fees related to solid waste also need review, as they are insufficient to administer the waste facilities on Rarotonga and Aitutaki.

There is also limited regulation and oversight of infrastructure service provision. Reportedly, energy is the only sector with a regulating commissioner overseeing service provider performance (footnote 104). The government's National ICT Policy 2010 also commits to establishing a communication services regulator.<sup>110</sup> Good practice separates the regulatory and service delivery functions, and ensures that respective agencies are given operational independence and held accountable for performance. Given the country's small size, a multisector regulatory body for infrastructure services in the Cook Islands could be the most cost effective means to address this gap.

## GOVERNANCE AND LEGISLATIVE FRAMEWORK WEAKNESSES FOR STATE-OWNED ENTERPRISES

The Cook Islands has four 100% government-owned SOEs. Three provide infrastructure services—the Cook Islands Airport Authority, Cook Islands Ports Authority, and TAU. The fourth—the Bank of the Cook Islands—provides domestic banking services. The Cook Islands Investment Corporation (CIIC) acts as the holding company and ownership monitor for all the SOEs. Through its subsidiary, the Cook Islands Government Property Corporation, CIIC owns properties such as schools

and hospitals. CIIC also holds the government's 40% shareholding in Telecom Cook Islands (TCI).

Generally, governments are not good long-term SOE owners, due to the high risk of politicized decision-making that undermines operational performance. Despite ongoing reform programs endeavoring to impose commercial discipline on SOEs, they continue to underperform compared with the private sector. Experience shows that privatization, supported by robust regulatory arrangements, is the most effective way to achieve long-term improvements in state asset productivity.<sup>111</sup>

For essential infrastructure, where private sector providers do not exist and the regulatory environment is underdeveloped; the SOE structure is beneficial compared to noncorporatized government operations, such as a ministry. The three infrastructure SOEs in the Cook Islands achieved an average return on equity (ROE) of 1.2% over 2009–2013 (Table 7).

The one noninfrastructure SOE, the Bank of the Cook Islands, had an average ROE of 8.1% over the same period; this lifted the country's overall SOE portfolio performance to from –1.4% in 2009 to 2.1% in 2013 (Table 7). While these results are better than those seen in some other Pacific island countries' SOE portfolios,<sup>112</sup> they fall well below SOEs' cost of capital. For example, comparable private sector firms would be expected to achieve annual returns of 8%–15%.<sup>113</sup>

<sup>110</sup> Government of the Cook Islands. 2010. *National ICT Policy 2010*. Avarua.

<sup>111</sup> In 1984, New Zealand launched an SOE reform program. The program initially led to dramatic improvements in SOE profitability, resulting in an average portfolio ROE of 8.7% by 2000. After that, performance steadily declined: portfolio ROE averaged 7.9% in 2000–2005, and 4.3% in 2005–2010. In 2012 and 2013, outcomes were even worse, with the portfolio ROE averaging –17.4% and 0.1%, respectively. Source: ADB. 2014b. *Finding Balance 2014: Benchmarking the Performance of State-Owned Enterprises in Island Countries*. Manila.

<sup>112</sup> Over 2002–2012, the Fiji SOE portfolio ROE averaged 0.5%, Samoa –0.1%, and Tonga 3.2%. Source: ADB. 2014b. *Finding Balance 2014: Benchmarking the Performance of State-Owned Enterprises in Island Countries*. Manila.

<sup>113</sup> While there is no legislated ROE target for the Cook Islands SOEs, CIIC informally expects its SOEs to achieve a 10% ROE.

**Table 7: Cook Islands State-Owned Enterprise Portfolio, 2009–2013 (%)**

Item	2013		Average 2009–2013	
	ROA	ROE	ROA	ROE
Cook Islands Airport Authority	(6.3)	(7.2)	(2.1)	(2.4)
Cook Islands Ports Authority	(4.5)	(25.4)	1.1	(0.7)
Te Apongi Uira	3.1	3.3	6.8	7.4
Subtotal Infrastructure SOEs	(2.4)	(3.4)	1.1	1.2
Bank of the Cook Islands	2.3	10.0	1.9	8.1
Total Portfolio	(0.7)	(1.4)	1.4	2.1

( ) = negative, ROA = return on assets, ROE = return on equity, SOE = state-owned enterprise.

Sources: Asian Development Bank. A Gap Analysis on the State-Owned Enterprise portfolio in Cook Islands—reviewing the financial performance and the current legislative, governance and monitoring frameworks. Consultant's report (TA 7430-REG). Unpublished; Government of the Cook Islands, Cook Islands Investment Corporation. Annual Report for the Year Ended 30 June 2011. Unpublished; Government of the Cook Islands, Cook Islands Investment Corporation. Annual Report for the Year Ended 30 June 2012. Unpublished; and Government of the Cook Islands, Cook Islands Investment Corporation. Annual Report for the Year Ended 30 June 2013. Unpublished.

Encouragingly, the Cook Islands relies much less heavily on SOEs than many of its Pacific island neighbors.<sup>114</sup> There is also an active interest, from its infrastructure SOEs, to involve the private sector through public–private partnership (PPP) arrangements.<sup>115</sup> The Cook Islands Airport Authority uses service contracts to undertake most activities, except airport security; and the Cook Islands Ports Authority also uses these contracts to provide stevedoring services. TAU has introduced schemes allowing businesses to generate power from renewable sources and feed it into Rarotonga's electricity grid.

The government is interested in encouraging improved financial and operational performance

across its SOE portfolio. A 2011 review<sup>116</sup> identified several priority issues that need addressing to achieve this aim:

- **Insufficiently defined SOE purpose and confused rules around community service obligations.** Both the CIIC Act 1998 (and its three amendments in 1998, 1999, and 2000) and legislation establishing each SOE fail to clearly determine SOEs' primary obligation to operate as a successful business. A clear, unambiguous focus is critical to delivering strong SOE performance. SOEs are also commonly expected to pursue social policy issues, known as community service obligations (CSOs); and this expectation must

<sup>114</sup> The Government of Fiji owns 22 SOEs, the Government of Samoa owns 17, and the Government of Tonga owns 18. Source: ADB. 2014b. *Finding Balance 2014: Benchmarking the Performance of State-Owned Enterprises in Island Countries*. Manila.

<sup>115</sup> A PPP is a procurement (contractual) process to provide services, or deliver assets through public and private sector cooperation, for periods from 5 years to 30 years. PPPs have several forms, but most common include (i) service contracts, (ii) management contracts, (iii) concessions, and (iv) build-own-lease (BOL) or build-operate-transfer (BOT). Under a service contract, the private sector provides a service (such as road maintenance or transport) for a fee. Under a management contract, the private sector manages, but does not own, public assets. Under concessions contracts, the private sector modernizes public assets to deliver a specific output. Under BOL or BOT contracts, the private sector builds a new asset such as a hospital or power generation unit. The asset is then leased back to the public sector (e.g., hospital), or its output (e.g., power) is sold to the public sector or directly to consumers.

<sup>116</sup> ADB. A Gap Analysis on the State-Owned Enterprise portfolio in Cook Islands—reviewing the financial performance and the current legislative, governance and monitoring frameworks. Consultant's report (TA 7430-REG). Unpublished.

be clearly separated from each SOE's principal objective. Where the government wishes an SOE to undertake a CSO, costs need to be fully identified, documented, and funded so that the CSO does not compromise the SOE's commercial focus. The existing legislation lacks precision regarding CSO costing and contracting.

- **Lack of a skills-based director selection and appointment process.** Evidence suggests a direct correlation between poor governance practice and poor SOE performance.<sup>117</sup> Critically, SOE directors should be appointed because they are the best qualified to (i) fill a particular vacancy, and (ii) assist the SOE to operate as a successful business. While SOE legislation clearly states that CIIC is responsible for appointing SOE directors; in practice, whether this always happens is unclear. To remove potential political involvement in the process, the CIIC Act should clearly articulate CIIC's responsibility for appointing SOE directors, and specify a transparent skills-based process for performing this task.
- **Lack of a contracting and PPP framework.** Despite existing private sector participation in SOE investment and management, there is scope for new PPP opportunities. To ensure that opportunities for contracting out and PPPs continue to be encouraged and optimized, it would be useful for CIIC and the SOEs to develop a clear contracting and PPP framework.

At government request, ADB developed a draft SOE reform policy addressing these issues. The

policy has yet to be endorsed by the cabinet or implemented.

## LACK OF A COHERENT COMPETITION FRAMEWORK

Effective competition promotes the most efficient use of a country's resources. This is particularly important in small, developing countries where resources tend to be scarce. Effective competition also provides continuing incentives for business to innovate, allowing consumers to benefit from lower prices, better quality, and greater variety of goods and services.

Competition policy's primary objective is enhancing consumer welfare. Competition policy addresses all government measures that can impact competition, and generally includes

- (i) measures that enhance competition in markets, such as a liberalized trade and investment regime, transparent and simple business entry and exit regulations, limits to government participation in the economy, and greater reliance on market forces; and
- (ii) a competition law, which provides a mechanism to identify and investigate specific impediments to competition resulting from anticompetitive behavior, and to take remedial action where appropriate. Good practice introduces competition legislation (and supporting institutions) only after an appropriate competition policy has been established.

<sup>117</sup> ADB. 2011. *Finding Balance 2011: Benchmarking the Performance of State-Owned Enterprises in Fiji, Marshall Islands, Samoa, Solomon Islands, and Tonga*. Manila.

The Cook Islands has neither a competition policy, nor a stand-alone competition law. The Control of Prices Act 1966<sup>118</sup> provides for a Price Tribunal with powers to fix goods and services prices; and investigate complaints about exploitative trade practices, including those that effectively reduce (or limit) competition. Yet, the Act is an outdated product of different economic times, and does not provide guidance on addressing complicated competition-related issues. The Price Tribunal also lacks the resources to effectively investigate the complaints it receives. A draft commerce bill was developed in 2001, but has not been introduced.

Price controls had been applied to a wide range of products at the wholesale and retail levels; yet, in 2014, controls were limited to petrol, diesel, gas, petrol, and some basic types of bread.<sup>119</sup>

The Fair Trading Act 2008 established a Consumer Commissioner to protect consumers, under the Ministry of Internal Affairs.<sup>120</sup> The commissioner's role is to prevent misleading and unfair trading practices, develop standards regarding product and service information and safety, and investigate consumer complaints.

Key competition-related issues include:

- **Single suppliers in key markets.** Government monopolies deliver infrastructure services in airports, electricity, seaports, solid waste, and water. A partially government-owned legislated monopoly also provides telecommunications

services. Many of these monopoly suppliers lack effective, independent regulation and oversight. There are also limited suppliers in other sectors such as international sea freight services, which are regulated through licensing arrangements.

- **High prices.** There are concerns that the economy's small size means that there are insufficient competing enterprises to keep prices low. As a result, there are calls to reintroduce price controls to curb the high cost of living.<sup>121</sup>
- **Discriminatory regulatory practices.** Concerns have been raised that regulatory requirements make it more difficult for small enterprises to compete in certain markets. For example, before 2012, small retailers could maintain a bonded stock of tobacco and alcohol on their premises. Due to compliance problems, the Customs Department revoked this option for all small retailers, rather than just those businesses not following the rules. Yet, larger, duty free operators are still able to have bonded warehouses for tobacco and alcohol.<sup>122</sup>
- **Alleged anticompetitive practices.** Complaints of alleged anticompetitive practices, such as predatory pricing, have been raised with the Price Tribunal.<sup>123</sup>

A country's degree of openness to trade and private sector investment has an important bearing on competitiveness, as does its attitude toward the entry, growth, and exit of business enterprises.

<sup>118</sup> Government of the Cook Islands. 1966. *Control of Prices Act 1966*. Avarua.

<sup>119</sup> B. Chapman-Smith. 2014. Price jump follows VAT rise. Cook Islands News. 17 May. <http://www.cookislandsnews.com/item/46805-vat-rise-seen-as-opportunity/46805-vat-rise-seen-as-opportunity>

<sup>120</sup> Government of the Cook Islands. 2008. *Fair Trading Act 2008*. Avarua.

<sup>121</sup> For example, see P. Webb. 2014. High cost of living a major concern. Cook Islands News. 29 November. <http://www.cookislandsnews.com/item/49373-high-cost-of-living-a-major-concern/49373-high-cost-of-living-a-major-concern>

<sup>122</sup> Discussion with Mr. James Beer, Member of Parliament for Muriënia, during early December 2014.

<sup>123</sup> R.L. Smith. Competition Policy for the Cook Islands. Unpublished.

While the Cook Islands has a liberal trade policy regarding goods, it imposes significant restrictions on foreign investment and services. This only reduces competitive pressures within the economy. Easing, and making these restrictions more transparent, would promote competition. Entry into certain markets is also restricted through legislated monopolies or licensing and regulations. Eliminating, or reducing, these barriers would also promote competition.

These types of liberalizing reforms should only be contemplated after careful analysis. For example, liberalizing the country's telecommunications sector can be expected to promote more generally efficient and innovative service provision. Yet, there is a risk that it could jeopardize existing services to outlying islands and marginal customers. There is

also the question of how the sector will be regulated. TCI is a self-regulating monopoly. In the future, it should ideally operate as a participant regulated in a transparent, predictable, and procompetitive manner—alongside other market participants. Ensuring that the chosen regulatory mechanism is not overly costly for government to administer, or for service providers to comply with, will be important.

The government should resist establishing price controls beyond the few basic commodities for which they are currently used. Price controls distort market signals, discourage investment, and encourage low quality production and service provision. A better approach is to develop a coherent competition framework appropriate for the unique situation in the Cook Islands.

## APPENDIX 1: OVERVIEW OF KEY ECONOMIC SECTORS

### TOURISM

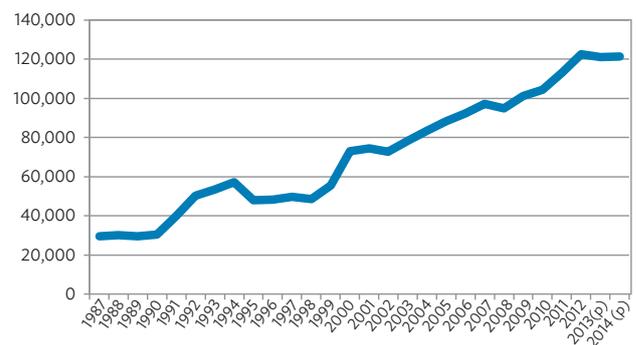
Tourism is the largest sector in the Cook Islands, accounting for around 60% of the economy.<sup>1</sup> Visitor numbers have grown fairly consistently since 2000 (Figure A1.1). The industry is concentrated on Rarotonga, while Aitutaki has developed into an important secondary center.

New Zealand accounts for approximately 66% of visitors, and has been the largest contributor to tourism growth since 2010 (Figure A1.2). Australia is the second most important source market, and has also experienced steady growth. Europe and North America are the other two major source markets; and, while visitor numbers from Europe have declined since 2010, overall numbers from North America have slightly increased.

The government makes a significant investment in the country's tourism sector. In addition to funding the Cook Islands Tourism Corporation (CITC), with an annual budget of around NZ\$6.0 million, the government funds two underwrite arrangements with Air New Zealand to provide once-weekly return air services (at an estimated annual cost of NZ\$12.0 million) between Los Angeles–Rarotonga, and Sydney–Rarotonga.

Under the underwrite arrangements, the government is required to compensate Air New Zealand for any shortfall between the revenue it generates on the routes and its total operating

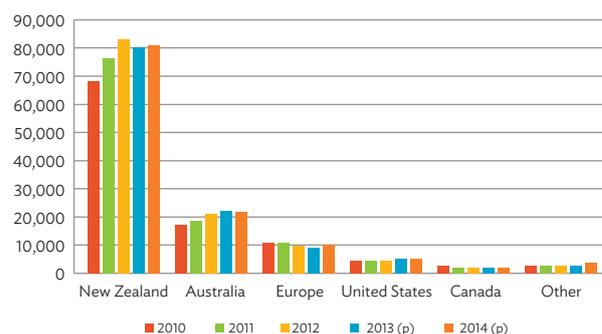
**Figure A1.1: Cook Islands Visitor Arrivals, 1987–2014**



(p) = provisional.

Source: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015d. *Cook Islands Statistical Bulletin: Migration Statistics—June 2015*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/tourism-and-migration-statistics/952-migration-statistics-report-june-2015/file>

**Figure A1.2: Cook Islands Visitor Arrivals by Country of Usual Residence, 2010–2014**



(p) = provisional.

Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015d. *Cook Islands Statistical Bulletin: Migration Statistics—June 2015*. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/tourism-and-migration-statistics/952-migration-statistics-report-june-2015/file>

<sup>1</sup> Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

costs, including a profit margin. A 2013 economic analysis of the underwrite arrangements indicated that the arrangements generate an annual net positive contribution to economic activity within the Cook Islands of about NZ\$5.3 million.<sup>2</sup>

Since 2010, the Government of New Zealand has provided an annual grant of roughly \$3.0 million. These funds, earmarked for the Cook Islands Investment Corporation, are used to support CITC's destination development and destination marketing activities.

The industry experiences accommodation capacity constraints during the June–August high season.<sup>3</sup> New private sector investment in accommodation will be needed to sustain industry growth in the peak visitor season. There are also concerns that much of the existing hotel room stock requires refurbishment to remain competitive with other tourism destinations, and attract visitors from the North American and European long-haul markets during low season months. Yet, the sector has experienced very little new investment or reinvestment in recent years. CITC's Activity Progress Report for 2013–2014, for example, notes that there has been only one major accommodation development in the country in the past decade. The sector lacks an investment strategy, although

CITC has indicated that it is attempting to address the gap.<sup>4</sup>

## MARINE

Fishing dominates the country's marine sector. While aquaculture had contributed significantly to the economy, its importance has declined. Marine products account for most goods exports (see table), and also have scope to increase contribution within the local economy by replacing imported seafood.

### Fishing

Inshore fishery resources in the Cook Islands are limited due to the country's small land area and coastline. Yet, the Cook Islands has the fifth largest exclusive economic zone (EEZ) within the Pacific island region. Its EEZ is divided into a northern and southern fishery. Its northern offshore fishery is the more productive, with the main fishing grounds located from Penrhyn in the east to Pukapuka in the west, and south of Suvarrow.

Total catch from the offshore fishery has increased substantially. Over 2004–2009, the total catch came mainly from longline vessels and averaged 2,960 metric tons (mt) per year.<sup>5</sup> In 2014, the total catch (from longline and purse seine vessels) was

<sup>2</sup> The economic analysis indicated that the Los Angeles–Rarotonga route generates a net positive contribution just under NZ\$6 million per year, whereas the Sydney–Rarotonga route generates a marginally negative net contribution. Source: A. Schiff. 2013. *Economic Analysis of Cook Islands Air Route Underwrite Agreements*. Auckland: Covec.

<sup>3</sup> In 2013/2014, Cook Islands visitor accommodation capacity utilization averaged 74%, with 2 months of the year averaging above 90%. Source: Government of the Cook Islands, Ministry of Finance and Economic Management. 2014c. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

<sup>4</sup> It is also important to note that the underwrite arrangements will likely see existing Air New Zealand B767–300 aircraft replaced with larger airplanes with significantly more seating capacity (300 passengers versus the current 230). This will place even greater pressure on the need to improve the quality and capacity of existing accommodation stock. Source: C. Wilson, R. Corbett, and D. Lanham. 2015. *Evaluation Report for Cook Islands Tourism Sector Support*. Wellington: New Zealand Government, Ministry of Foreign Affairs and Trade Aid Programme.

<sup>5</sup> Food and Agriculture Organization of the United Nations, Fisheries and Aquaculture Department. *Fishery and Aquaculture Country Profiles: The Cook Islands*. <http://www.fao.org/fishery/facp/COK/en>

## Cook Islands Marine Product Exports, 2009–2014 (NZ\$'000)

Year	Fish	Pearls	Pearl Shell	Live Fish	Total Marine	Total Exports	Marine % of Total
2009	1,950	1,197	–	211	3,358	4,396	76
2010	3,790	1,575	–	220	5,585	7,163	78
2011	2,390	369	213	147	3,119	3,956	79
2012	5,312	259	105	96	5,772	6,552	88
2013	12,129	142	49	19	12,339	12,984	95
2014	20,350	364	–	91	20,805	21,276	98

– = no data available, NZ\$ = New Zealand dollar.

Sources: Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2014b. Cook Islands Statistical Bulletin: Overseas Trade Statistics—June Quarter 2014. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/overseas-trade-statistics/729-overseas-trade-june-quarter-2014-1/file>; and Government of the Cook Islands, Ministry of Finance and Economic Management, Statistics Office. 2015b. Cook Islands Statistical Bulletin: Overseas Trade Statistics—December Quarter 2014. Avarua. <http://www.mfem.gov.ck/mfemdocs/stats/statistical-series/overseas-trade-statistics/973-overseas-trade-dec-qr-2014/file>

estimated to be 21,000 mt.<sup>6</sup> A considerable portion of the increased catch is due to increased purse seine catches for skipjack tuna under the South Pacific Tuna Treaty with the United States.<sup>7</sup> The Cook Islands has a national annual purse seine allocation of 30,000 mt set by the Western Central Pacific Fisheries Commission (WCPFC).

The Cook Islands' main fishery is the longline albacore fishery. The majority of its catch is offloaded, frozen, to canneries in American Samoa. In 2013, 45 longliner licenses were issued, with

a total albacore catch of 6,500 mt. In contrast, 60 licenses were issued in 2012, and the total catch reached 8,800 mt.

The government's key strategic priority regarding its longline fishery is to encourage increased landing of catches and onshore processing, particularly in Rarotonga.<sup>8</sup> At the national level, the Ministry of Marine Resources manages the fishery based on the Longline Fishery Plan 2008.<sup>9</sup> The plan establishes limits on fishing effort and catch, and the allocation of fishing rights, including catch quantities, time

<sup>6</sup> Cook Islands News. 2015. Fish exports top \$20 million. 18 May. <http://www.cookislandsnews.com/national/local/item/51786-fish-exports-top-20-million>

<sup>7</sup> The Cook Islands has previously fallen outside the normal fishing grounds of the United States purse seine fleet. During the mid-2000s, the United States fleet's average annual catch was about 13 mt in the Cook Islands EEZ. The increased purse seine catches in Cook Islands waters are likely attributable to the El Niño–Southern Oscillation, which affects where tuna spawn, juvenile growth and survival, and where the adults feed. During La Niña events, tuna are mostly caught further west (around Papua New Guinea and the Federated States of Micronesia). When the trade winds ease during El Niño episodes, tuna follow the warm pool as it expands east. Source: Secretariat of the Pacific Community. 2012. *Oceanic fisheries and climate change. Policy Brief 15/2012*. Noumea.

<sup>8</sup> Government of the Cook Islands, Ministry of Marine Resources; and Secretariat of the Pacific Community. 2013. *Cook Islands Offshore Fisheries Policy*. Avarua and Noumea.

<sup>9</sup> The longline albacore fishery (along with other tuna fisheries) is also managed at the regional level through the WCPFC; as well as other regional bodies such as the Forum Fisheries Agency (FFA) and the Secretariat of the Pacific Community (SPC). The WCPFC is responsible for managing tuna stocks in its area, as agreed by its member countries. Stock assessments and other scientific analyses are conducted by SPC, while FFA deals with regional level management issues. The Cook Islands is also a member of the Te Vaka Moana (South Pacific Fisheries Cooperation) group of countries, which also includes fisheries administrations from New Zealand, Niue, Samoa, Tokelau, and Tonga. Te Vaka Moana works cooperatively to sustainably develop and expand members' domestic fisheries. Source: Government of the Cook Islands, Ministry of Marine Resources. 2008. *Marine Resources (Longline Fishery) Regulations 2008*. Avarua.

restrictions, fishing areas, and fishing gear. The Cook Islands is a signatory to the Tokelau Arrangement, the final text of which was agreed to in October 2014.<sup>10</sup> The Tokelau Arrangement provides a cooperative framework for coastal states to set sustainable management measures for albacore tuna within their EEZs. Under the agreement, the Cook Islands has been allocated a total annual catch of 9,698 mt. The Ministry of Marine Resources is in the process of passing new regulations to enable it to implement the Tokelau Arrangement.<sup>11</sup>

While potential for onshore processing in the Cook Islands is limited, the country has had some success encouraging greater domestic landing of fish caught by longline vessels within its EEZ. In 2014, over 2,000 mt of fish was landed in Rarotonga. This was mainly frozen offshore catch that was mostly transhipped to container ships destined for overseas markets. It also included about 200 mt of fresh chilled tuna that was either exported via air freight to overseas markets or consumed locally. The Ministry of Marine Resources believes potential exists to achieve annual exports of 7,000 mt (1,000 mt of fresh chilled tuna, and 6,000 mt of frozen fish).<sup>12</sup>

Fisheries-related revenues in fiscal year (FY) 2013/2014 totaled NZ\$5.5 million (NZ\$0.8 million

from the South Pacific Tuna Treaty with the United States, NZ\$2.8 million from catch revenue, and NZ\$1.9 million from licenses). This was 4.7% of total government revenue (footnote 1).

## Aquaculture

Black-lip pearl farming, in the Northern Group Islands, has contributed substantively to the economy. At its peak in 2000, there were 81 farms operating with 2 million shells in the water, providing NZ\$18 million in export earnings and 20% of gross domestic product (GDP). Manihiki provided 95% of output, with the remainder from Penrhyn and Rakahanga. However, the industry has since collapsed due to declining average world prices caused by overproduction of lower quality pearls; and pearl oyster disease outbreaks in Manihiki that stemmed from poor management practices and climate change.<sup>13</sup>

Over the period 2009 to 2013, domestic pearl production has remained relatively stable at between 280,000 and 300,000 shells. Despite this, the value of pearl exports steadily declined over this period (from NZ\$1.2 million to NZ\$0.14 million), suggesting a greater proportion of pearls are being sold in the domestic market, or being stockpiled. The government introduced a pearl production revitalization program in 2013, funded by New Zealand (footnote 1).

<sup>10</sup> The first Tokelau Arrangement annual meeting was held in Tuvalu in early May 2015, and was attended by the Cook Islands Ministry of Marine Resources Offshore Director. Sources: Pacific Islands Forum Fisheries Agency. 2015. Record of Proceedings of the First Annual Meeting of the Participants to the Tokelau Arrangement. Funafuti, Tuvalu. 8 and 10 May; and Pacific Islands Forum Fisheries Agency. 2014. *Tokelau Arrangement Explanatory Note and Tokelau Arrangement for the Management of the South Pacific Albacore Fishery*. Honiara.

<sup>11</sup> The Cook Islands signed the agreement in late 2014, together with six other Pacific region countries. Source: M. Wilson. 2014. Cook Islands sign tuna pact. Cook Islands News. 1 December. <http://www.cookislandsnews.com/item/49392-cook-islands-sign-tuna-pact/49392-cook-islands-sign-tuna-pact>

<sup>12</sup> Cook Islands News. 2015. Fish exports top \$20 million. 18 May. <http://www.cookislandsnews.com/national/local/item/51786-fish-exports-top-20-million>

<sup>13</sup> Government of the Cook Islands, Ministry of Marine Resources; and Secretariat of the Pacific Community. 2012. *Cook Islands Aquaculture Development Plan 2012–2016*. Avarua and Noumea.

The Cook Islands Aquaculture Development Plan 2012–2016 was prepared in 2012 to encourage this sector’s development (footnote 13). Beside pearls, a further nine commodities were seen to have high feasibility and impact: giant clams, trochus, tilapia, land crab, Malaysian crab, mantis shrimp, sea grapes, eel, and milkfish. Of these, the top priorities were pearls, giant clams, trochus, and tilapia. Apart from pearls, none have been commercially successful.

## AGRICULTURE

The Cook Islands has experienced a steady overall decline in commercial and semicommercial agricultural activity, with the number of participating households falling from 18% (1988) to 9% (2011). This has occurred predominantly on islands (other than Rarotonga) where specific crops for export, such as bananas and pineapples, were developed and then died. While Rarotonga has also lost specific export crops such as pawpaw, it has managed to maintain a small (but important) commercial agriculture sector supplying local produce to residents, hotels, and restaurants.<sup>14</sup>

In 2013, the agriculture sector accounted for 3.2% of GDP. Agriculture exports steadily declined from 2009, and were about NZ\$0.45 million in 2013—or 3.5% of total exports (footnote 1).

A 2014 study identified a range of challenges affecting the sector, including rising wages and land values.<sup>15</sup> It recommended reorienting the sector toward producing fruit and horticultural items for

domestic markets, including tourism. This requires increasing agricultural productivity through

- investing in more efficient farming systems capable of producing consistent, high quality supply;
- improving farmer access to information on market demand and supply chain coordination; and
- strengthening farmers’ access to finance.

## OFFSHORE FINANCIAL CENTER

The Cook Islands has had an active offshore financial center since 1981. It is regulated by the Financial Supervisory Commission, and comprises six trustee companies and three international banks. These companies provide a range of services including the incorporation of international companies, international trusts registration, international partnerships and limited liability companies, and other related services. Asset protection trusts have been the industry’s main area of business.

The offshore financial center has experienced slow growth since 2008, with the number of service providers unchanged since that year. The total number of registrations has increased, but at a slow rate. At end-December 2013, there were 2,575 international trusts (2,440 at end-2008), 1,044 registered international companies (890 at end-2008), and 362 limited liability companies (25 at end-2008).<sup>16</sup>

<sup>14</sup> Government of the Cook Islands, Ministry of Agriculture; and Ministry of Finance and Economic Management, Statistics Office. 2014. *Cook Islands 2011 Census of Agriculture & Fisheries*. Avarua.

<sup>15</sup> Food and Agriculture Organization of the United Nations, Sub-regional Office for the Pacific Islands. 2014. *Linking farmers to markets: Realizing opportunities for locally produced food on domestic and tourist markets in Cook Islands*. Apia.

<sup>16</sup> Sources: Government of the Cook Islands, Financial Supervisory Commission of the Cook Islands. Registry. <https://www.fsc.gov.ck/cookIslandsFscApp/content/about-us/registrar>; and Asia/Pacific Group on Money Laundering and Offshore Group of Banking Supervisors. 2009. *Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism—Cook Islands*. Sydney: Asia/Pacific Group on Money Laundering.

The sector collected NZ\$1.4 million in net fees for services provided during FY 2013/2014 (footnote 1). The government is interested in growing the sector in a healthy and sustainable way, by ensuring industry regulation continues to comply with international standards and best practice,

and adding new services and client markets. For example, new legislation allowing a company or companies to self-insure (called “captive insurance”) was introduced in 2013, and the first captive insurance registration is expected to occur in 2015.

## APPENDIX 2: POLICY FRAMEWORK FOR PRIVATE SECTOR INVESTMENT

The table describes important policy issues that governments should consider when seeking to create an attractive environment for private sector investment.<sup>1</sup> It identifies many of the key policy

areas to be addressed, describing policies that support sustainable development and steady economic growth.

Policy Area	Description of Supportive Policies
<b>Fiscal and monetary</b>	<ul style="list-style-type: none"> <li>• <b>Macroeconomic stability.</b> Policies encourage low and stable inflation, the maintenance of debt at levels that can be sustainably met, an exchange rate policy that does not distort trade or inhibit growth, and an adequate level of net international reserves.</li> </ul>
<b>Investment</b>	<ul style="list-style-type: none"> <li>• <b>Private sector investment, including foreign investment, is encouraged.</b> Areas prohibited to private investment are kept to a minimum; and, if foreign investment is restricted, it is done using a transparent and fast registration system.</li> <li>• <b>Effective investment promotion.</b> This involves a cost-effective strategy to promote the country as an investment destination, facilitate investment, and advocate for policy reform.</li> <li>• <b>Efficient business entry and exit.</b> The process for starting a business is simple, transparent, and fast; and clear and efficient procedures are in place to enable businesses to reorganize or wind-up if they become insolvent.</li> </ul>
<b>Trade</b>	<ul style="list-style-type: none"> <li>• <b>Competitive tariff regime and border procedures.</b> The policy regime allows competitive industries to develop and flourish, rather than try to develop competitiveness behind policies that seek to favor some industries over others; and the time and cost associated with importing and exporting goods is internationally competitive.</li> <li>• <b>International market access.</b> Efforts are made to expand market access through international trade agreements.</li> </ul>
<b>Tax</b>	<ul style="list-style-type: none"> <li>• <b>Simple tax system that is supportive of exporting, and is efficiently administered.</b> The direct tax system is characterized by relatively low marginal tax rates. If incentives are offered, they are limited in number, automatic, and performance-based; and used to achieve specific objectives. The indirect tax system avoids cascading effects on inputs for export-oriented businesses. Ongoing effort is made to reduce the compliance cost to business of tax processes and procedures.</li> </ul>
<b>Land and environment</b>	<ul style="list-style-type: none"> <li>• <b>Secure access to land.</b> Land ownership is clearly identified and registered; and mechanisms are in place to facilitate dealings in land, and resolve associated disputes, in an efficient and fair way.</li> <li>• <b>Effective mechanisms for managing impacts on the environment and local communities.</b> Integrated planning and development control regimes ensure that development activities are assessed for their potential adverse effects on communities, public health and safety, and environmental resources; and associated risks are effectively mitigated.</li> </ul>
<b>Contract enforcement</b>	<ul style="list-style-type: none"> <li>• <b>Effective mechanisms for enforcing contracts and resolving disputes.</b> A legal framework and institutions are in place that ensure timely and effective enforcement of contracts, protection of property rights, and resolution of disputes. Alternative systems of dispute resolution are also available to provide widest possible scope of protection, at a reasonable cost.</li> </ul>

*continued on next page*

<sup>1</sup> This table first appeared in ADB. 2015c. *Growing the Non-Oil Economy: A Private Sector Assessment for Timor-Leste*. Manila.

Table continued

Policy Area	Description of Supportive Policies
<b>Human resources</b>	<ul style="list-style-type: none"> <li>• <b>Coherent and comprehensive human resource development strategy supported by effective labor market regulations.</b> The human resource development strategy is aligned with broad development and investment policies, and capable of responding to new skills needs created by changing technologies and economic structures. Core international labor standards are promoted and enforced, and labor market regulations effectively balance achievement of social objectives with the need for market efficiency.</li> <li>• <b>Equal economic opportunities available for men and women.</b> There is gender equality in policy and laws, supported by gender-balanced government institutions with an understanding, and capacity, to effectively integrate gender concerns in their work.</li> </ul>
<b>Physical infrastructure</b>	<ul style="list-style-type: none"> <li>• <b>Quality, accessible, and cost-effective infrastructure services.</b> There is a process in place to evaluate needs with respect to core infrastructure services, and prioritize development expenditures to meet demand. Regulatory authorities and infrastructure agencies have operational independence and capacity to deliver services, and are held accountable for their performance.</li> </ul>
<b>State-owned enterprises</b>	<ul style="list-style-type: none"> <li>• <b>Limited use of state-owned enterprises.</b> Government's commercial involvement in the economy is restricted to areas where true market failure exists. Robust state-owned enterprise (SOE) legislation is in place that promotes corporatization, privatization, and public-private partnerships. Legislation ensures that SOEs are governed in a transparent and accountable way. SOEs are centrally monitored and hard budget constraints are imposed on commercialized SOEs, similar to what firms in the private sector face.</li> </ul>
<b>Competition</b>	<ul style="list-style-type: none"> <li>• <b>Effective competition framework.</b> Competition laws and policies are transparent and predictably implemented. A competition authority is in place with adequate resources, political support, and independence to effectively prevent, correct, and sanction anticompetitive practices.</li> </ul>
<b>Financial sector</b>	<ul style="list-style-type: none"> <li>• <b>Financial sector that efficiently provides payment services, mobilizes savings, and allocates financing to firms wishing to invest.</b> A regulatory framework encourages financial deepening and inclusion, competition in financial services, efficient financial intermediation and movement of funds; and ensures prudential oversight of risk taking. Property rights are well-defined, and supported by an efficient secured transactions framework that enables investors to pledge land and movable property as collateral. There is also a supportive environment for credit information collection that allows sharing of information, while protecting consumer rights.</li> </ul>

Source: Adapted from the Organisation for Economic Co-operation and Development. 2006. *Policy Framework for Investment*. Paris. <http://www.oecd.org/investment/investment-policy/36671400.pdf>

## APPENDIX 3: NATIONAL SUSTAINABLE DEVELOPMENT PLAN 2011–2015

The table summarizes the goals and strategies included in *Te Kaveinga Nui: National Sustainable Development Plan 2011–2015*. Activities intended to implement strategies with a direct bearing on the

investment climate are included, along with progress toward achieving plan goals. Progress updates are based on information in the 2014/2015 Budget.

### *Te Kaveinga Nui: National Sustainable Development Plan 2011–2015*

Goals	Strategies	Examples of Private-Sector-Related Activities	2013 Progress Assessment Report
<b>A vibrant Cook Islands economy</b>	<ul style="list-style-type: none"> <li>Ensure tourism destination excellence</li> <li>Unlock potential from marine resources and agricultural production</li> <li>Identify and exploit trade opportunities</li> <li>Build financial services</li> <li>Support cultural and creative industries</li> <li>Sustain macroeconomic stability</li> <li>Ensure proactive economic development policies underpinned by environmental sustainability principles</li> </ul>	<ul style="list-style-type: none"> <li><b>Tourism.</b> Underwrite key airline routes (Los Angeles and Sydney) and allocate marketing funds to support their success.</li> <li><b>Macroeconomic stability.</b> Maintain fiscal discipline, control public service expansion, keep national debt within a sustainable level, and limit diversion of resources away from the private sector.</li> <li><b>Business regulation.</b> Reform policies and regulations on labor relations, foreign investment, intellectual property, competition, immigration, and trade; streamline and simplify licensing; and outsource functions to business whenever possible.</li> </ul>	<ul style="list-style-type: none"> <li><b>On track.</b> Economic growth continues on the back of steady growth in tourism. Efforts to diversify the economic base have not yet come to fruition.</li> </ul>
<b>Infrastructure for economic growth</b>	<ul style="list-style-type: none"> <li>Improve access to and quality of water</li> <li>Improve waste management facilities</li> <li>Improve transportation infrastructure</li> <li>Improve telecommunications</li> <li>Strengthen asset management</li> <li>Enable robust construction</li> <li>Build capacity in the infrastructure sector</li> </ul>	<ul style="list-style-type: none"> <li><b>Water.</b> Rehabilitate water infrastructure, improve water quality, and introduce cost recovery water delivery.</li> <li><b>Transport.</b> Establish public–private partnerships in road management; and upgrade seaports, airstrips, and terminals.</li> <li><b>Telecommunications.</b> Connect to O3B Network and strengthen telecommunications regulatory framework.</li> <li><b>Construction.</b> Review the Building Controls and Standards Act 1991.</li> </ul>	<ul style="list-style-type: none"> <li><b>Mixed results.</b> Significant uptake in infrastructure development, particularly in water, ports, and sanitation. Yet, this is not reflected in monitoring due to fragmented and incomplete data.</li> </ul>

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Table continued

Goals	Strategies	Examples of Private-Sector-Related Activities	2013 Progress Assessment Report
<b>Energy security</b>	<ul style="list-style-type: none"> <li>• Strengthen institutional framework for energy sector</li> <li>• Use only proven renewable energy technologies</li> <li>• Provide incentives for renewable energy</li> <li>• Upgrade existing energy infrastructure</li> <li>• Build capacity in the energy sector</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Renewable energy.</b> Provide 50% of energy demand from renewable sources by 2015, and 100% by 2020; and build on net metering policy to encourage private sector participation in harnessing renewable energy sources.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Mixed results.</b> Progress is slower-than-expected.</li> </ul>
<b>Opportunity for all who reside in the Cook Islands</b>	<ul style="list-style-type: none"> <li>• Ensure quality education system</li> <li>• Provide quality health services for all</li> <li>• Ensure gender equality</li> <li>• Provide support to children, youth, persons with disabilities, and the elderly</li> <li>• Ensure promotion and preservation of unique culture, language, and social heritage</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Education.</b> Ensure that every child is literate and numerate by end of Year 8, and training programs are aligned with community and market-based needs.</li> <li>• <b>Gender.</b> Create enabling environment for women’s full participation in economic and social development.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Mixed results.</b> Education indicators show positive trends, while most health indicators are trending negatively. Other social statistics are mixed. There is slow progress on gender equality’s political aspects, and financial constraints are impacting the delivery of other social services.</li> </ul>
<b>Resilient to disasters and climate change</b>	<ul style="list-style-type: none"> <li>• Ensure strong governance arrangements for disaster risk management and climate change adaptation</li> <li>• Enhance community preparedness, response, and recovery</li> </ul>		<ul style="list-style-type: none"> <li>• <b>Mixed results.</b> Progress is slower-than-expected, but climate change and disaster management are addressed in the development of the National Infrastructure Investment Plan.</li> </ul>

continued on next page

Goals	Strategies	Examples of Private-Sector-Related Activities	2013 Progress Assessment Report
<b>Sustain and use natural resources efficiently</b>	<ul style="list-style-type: none"> <li>• Improve management of water resources</li> <li>• Implement waste minimization programs</li> <li>• Implement ecosystem approach to managing marine resources</li> <li>• Implement sustainable land use practices</li> <li>• Protect biodiversity and ecosystems</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Water.</b> Develop a national policy, plan, and legislative and regulatory framework for managing water resources.</li> <li>• <b>Marine resources.</b> Develop integrated management plans for utilizing marine resources.</li> <li>• <b>Land use.</b> Establish policies and legislation to ensure coordinated and sustainable land use management.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Off track.</b> Information is highly fragmented and incomplete for all islands. The issue will be addressed in the planned national state of the environment assessment. The National Environment Service is expected to do this work.</li> </ul>
<b>Good governance</b>	<ul style="list-style-type: none"> <li>• Strengthen role of Parliament and hold managers accountable for performance</li> <li>• Strengthen electoral system</li> <li>• Ensure government service delivery is efficient and effective</li> <li>• Promote partnerships with civil society and the private sector</li> <li>• Strengthen external relations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Service delivery.</b> Better align government functions with legislative mandates and development aspirations; ensure public is better informed of government policies and activities, and improve the public financial management system's accountability and transparency.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Mixed results.</b> Progress in this area has been difficult to quantify. There have been some improvements in financial governance frameworks. Yet, overall improvements in performance management and governance have been slower-than-expected.</li> </ul>
<b>Safe, secure, just, and stable society</b>	<ul style="list-style-type: none"> <li>• Ensure legislative and regulatory frameworks reflect sustainable development goals</li> <li>• Improve access to justice and ensure quality enforcement of laws</li> <li>• Improve land management and land information systems</li> <li>• Provide quality policing</li> <li>• Ensure border security</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Land management.</b> Ensure that land information is as accurate as possible, with well managed accessibility.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Off track.</b> Data to report on is insufficient.</li> </ul>

Sources: Government of the Cook Islands, Ministry of Finance and Economic Management. 2011a. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua; and Government of the Cook Islands, Office of the Prime Minister; and Ministry of Finance and Economic Management. 2011. *Te Kaveinga Nui: National Sustainable Development Plan 2011–2015*. Avarua.

## APPENDIX 4: INFRASTRUCTURE SERVICES OVERVIEW

### AIR TRANSPORT

The Cook Islands Airport Authority (CIAA) manages the country's two main airports in Rarotonga and Aitutaki.<sup>1</sup> CIAA, a state-owned enterprise (SOE), is 100% government-owned. The Civil Aviation Authority of New Zealand and the Cook Islands Ministry of Transport have regulatory and monitoring responsibility for these airports. The Rarotonga International Airport became operational in 1973, was officially opened in 1974, and has a 2,400-meter (m) concrete airstrip capable of handling aircraft up to Boeing 747s. It is serviced by three scheduled international airlines (Air New Zealand, Virgin Australia, and Air Tahiti), and handled over 265,000 international passenger movements (in-and-out flights) in 2013.

Aitutaki Airport is the country's next busiest. It has a 1,800 m chip-sealed surface, and is serviced by the privately owned domestic airline (Air Rarotonga) and its 36-seat Saab aircraft. The Aitutaki Airport handled over 55,000 passenger movements in 2013. Past and future international passenger movement growth is stressing capacity at the Rarotonga International Airport; the CIAA received technical assistance in 2014 and 2015 toward developing a master plan to determine the most appropriate strategy for improving air transport infrastructure at the Rarotonga and Aitutaki airports.

There are also (loose) coral-surfaced airstrips in the Southern (Aitu, Mangaia, Mauke, and Mitaro)

and Northern Island groups (Manihiki, Penrhyn, and Pukapuka). Outer island governments and communities administer and service these airstrips with technical assistance from Infrastructure Cook Islands (ICI) and CIAA. An Air Rarotonga-operated 12-seat Embraer Bandeirante aircraft services the outer islands.

These airstrips are poorly maintained and receive limited maintenance funding. Upgrading all these airstrips to a sealed service has been considered for many years. The highest priority airstrip for upgrade is Atiu, given its tourism potential. Funding has been allocated in the Budget Estimates 2014/2015 Book 3: Capital Plan (or Capital Plan) to seal this runway in 2015/2016.

### ROAD TRANSPORT

Infrastructure Cook Islands (ICI) manages the country's road network; but the private sector is involved in road design, construction, and maintenance.

Rarotonga has a total road network of 295 kilometers, with 70% sealed. Narrow road widths, heavy vehicle damage to road surfaces, and increased traffic—including an increase in cycling—has created the need for an improved road foundation and surface. These are needed to maintain a service level that is acceptable to a quality tourism destination. In 2014/2015, work began under Project City 3 (a NZ\$5 million road

<sup>1</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; and Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua.

upgrade initiative) to reconstruct roads between the airport entrance to Avarua, and through Tupapa. These roads were damaged during the laying of new water mains.

Funding has also been budgeted to widen the road and construct footpaths in the Muri area (2015/2016), which carries some of Rarotonga's highest pedestrian traffic outside Avarua. Funding has also been allocated to reinstate roads following future water system upgrades (2014/2015 through 2017/2018). ICI and the Cook Islands Police Service have regulatory and monitoring responsibility for roads on Rarotonga.

Aitutaki has a considerable length of good width sealed road on its main distributors, but needs a second coat seal to protect and secure it. Other islands in the Southern Group have minimal lengths of sealed roads within their main villages. All Northern Group Islands have coral-sand-based roads with loose surfacing.

## MARINE TRANSPORT

The Cook Islands Ports Authority (CIPA) manages the Port of Avatiu international seaport and Arorangi jetty on Rarotonga, and the Arutanga harbor on Aitutaki.<sup>2</sup> CIPA is a 100% government-owned SOE, and is also responsible for regulation and monitoring at the ports it manages.

The Port of Avatiu reconstruction was completed in 2013, providing it with a deeper harbor, increased capacity to cater for larger vessels, and more storage and operational areas. Two international shipping lines, Matson and Transam, service the Cook Islands

and operate on an approximate 3-week cycle. The Port of Avatiu handled 50 ship movements and 2,376 containers in 2013.

The private sector provides stevedoring services, and CIPA is also interested in outsourcing its in-house marshaling work (moving containers in the port's storage area). The western marine jetty at Avatiu also provides berthage for local marine and/or fishing operators; yet, it is stressed and operates at capacity. The Arorangi jetty was opened in 2012, offering an alternative for cruise ship operators when the port is busy.

Arutanga Harbor on Aitutaki handled 373 containers in 2013. There are plans to enlarge and excavate its main entrance channel to better accommodate interisland ships and visiting yachts. There are also plans to deepen the area in front of the existing fishing club to use as a marina. The Cook Islands is not taking sufficient advantage of the cruise yacht business; a marina would provide an opportunity to grow this market. A master plan for the project will be finalized in 2015/2016.

Island governments administer unregulated harbor facilities on the other islands, with technical support provided by ICI and CIPA. Harbors on Mangaia, Mauke, and Mitaro were recently upgraded and climate proofed. While work began in 2013/2014 to upgrade the two harbors on Manihiki, other islands have basic harbor facilities that require climate proofing and refurbishment.

The private sector provides interisland shipping services, operating under licenses issued by the Ministry of Transport. There are two national

<sup>2</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua; and AECOM New Zealand. 2010. *Infrastructure Services Delivery Improvement—Mid-Term Report September 2010*. Wellington.

shipping services: Taio Shipping and Cook Islands Towage. While the age and condition of the ships are concerning, as is service frequency and regularity, market conditions are not conducive to acquiring replacement vessels under commercial terms. A clear strategy to improve the quality and frequency of interisland shipping is needed.

## ENERGY

Cabinet endorsed the National Energy Policy in 2003, which aims “to facilitate reliable, safe, environmentally acceptable, and cost-effective sustainable energy services sustainable energy services for the people of the Cook Islands.”<sup>3</sup> The National Sustainable Development Plan 2011–2015 established the goal of achieving 50% of the Cook Islands electricity from renewable sources by 2015, and 100% by 2020. The Cook Islands Renewable Energy Chart (CIREC), published in 2012, acts as the road map for achieving these targets. The Renewable Energy Development Division is responsible for implementing the CIREC, and falls within the Office of the Prime Minister.

*Te Aponga Uira* (Rarotonga Power Authority, or TAU)—a 100% government owned SOE—is responsible for electricity generation, distribution, and retailing on Rarotonga. TAU’s total installed capacity is around 12 megawatts (MW) and powered by nine diesel generators. It provides 24-hour power, serves approximately 4,300

customers, and generated 27.7 gigawatt-hours of power in 2011. TAU accounts for the majority of electricity produced in the Cook Islands.

TAU’s tariff is fully commercial. Its rate for commercial customers is NZ\$0.81 per kilowatt-hour (kWh), among the highest in the Pacific islands region. TAU is adding electricity produced from renewable sources into the grid, to replace that generated by diesel. It has introduced net and gross metering schemes that allow customers to feed power into the grid from their own solar systems. The net metering scheme restricts systems to a maximum of 2 kilowatts (kW), while the gross metering scheme allows 7 kW three-phase systems. At December 2014, the gross metering scheme’s feed-in tariff was NZ\$0.45 per kWh. Independent power producers may also apply to produce power above 7 kW and sell it to the grid. The feed-in tariff for larger installations is individually negotiated.

In October 2014, TAU added 960 kW of electricity to its grid from a new solar farm (*Te Mana o te Ra*, or Power from the Sun) at the Rarotonga International Airport. This investment was donor-funded (the New Zealand Aid Programme). TAU estimated that, by mid-2015, it could have a total of 3.7 MW of renewable energy if the grid is able to accept it. This would amount to approximately 18% of TAU’s gross generation. To further increase renewable energy’s share of TAU’s generation will require investment in a storage system, and options for doing this are being explored.

<sup>3</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua; Government of the Cook Islands, Office of the Prime Minister, Renewable Energy Development Division. 2012. *Te Atamoa o te Uira Natura—The Cook Islands Renewable Energy Chart Implementation Plan*. Avarua; *Te Aponga Uira O Tumu Te Varovaro*. Annual Report 2012–2013. Unpublished; International Renewable Energy Agency. 2013. *Pacific Lighthouses: Renewable energy opportunities and challenges in the Pacific Islands region—Cook Islands*. Abu Dhabi; ADB. 2014e. *Sector Assessment (Summary): Renewable Energy Subsector (Renewable Energy Sector Project, RRP COO 46453)*. Manila; and discussion with Te Aponga Uira (Rarotonga Power Authority) staff during in December 2014.

Electricity generation in Aitutaki is supplied by Aitutaki Power Supply (APS), which is managed by a board comprising chief executive officers of the Cook Islands Investment Corporation and TAU; and representatives from Aitutaki. The three APS 820 kilovolt-ampere diesel generators provide 24-hour power to 650 domestic and 100 commercial customers.

Electricity is provided on most other islands, using small diesel generators and distribution networks. Island governments manage their own systems. Due to limited affordability, the government subsidizes part of the electricity generation cost. In 2013, the subsidy accounted for about 2% of national budget expenditure.

The CIREC is implemented beyond Rarotonga using a phased deployment of photovoltaic systems and battery storage, with retained diesel backup. The Northern Island Group's transformation to photovoltaic mini-grid systems began in 2013/2014, and is largely donor-funded. Transformation of the Southern Island Group is expected to begin in 2015/2016, to be funded through a mix of donor grants and borrowing. It is unclear whether Island governments will assume responsibility for maintaining the new photovoltaic systems, or whether this task will be shifted to TAU.

## WATER

ICI provides Rarotonga's water. Its Civil Division is responsible for maintaining the island's water system. The Water, Waste and Sanitation Unit (WATSAN) was created in 2011 under the former Ministry of Infrastructure and Planning to improve

service delivery of water, waste, and sanitation services in the country.<sup>4</sup>

Spring and surface water intakes supply Rarotonga's water network. These intakes are situated 49–90 meters above sea level. The system uses a gravity system to distribute water, and employs trunk mains to convey flow from the intakes down to the transmission network, which consists of interior and coastal ring mains and regular cross connections. A distribution network (of smaller diameter submains) supplies water to users.

The system has a range of problems, including leaking pipelines leading to high losses, and inefficiently operated distribution systems. Customers have regularly seen water availability for up to 50% of the population reduced, or nonexistent, over long periods of time. Water from the system is not disinfected, causing diarrhea and other waterborne diseases. Water production and consumption are also not metered, and customers are not charged a fee for the water they use.

The policy and legislative framework for managing water resources is uncertain. A national policy for water was drafted in 2010 but has yet to be finalized. The main document of any legal standing covering water supply on Rarotonga is the Rarotonga Waterworks Ordinance 1960. The water resources management bill 2006 has yet to be promulgated.

The government has committed itself to improving water supply on Rarotonga through the *Te Mato Vai* project. The project's goal is to

<sup>4</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua; AECOM New Zealand. 2014. *Te Mato Vai—Water Supply Master Plan for Rarotonga*. Auckland; and information available on the WATSAN website at <http://watsan.gov.ck/>

deliver potable water to all properties connected to the existing water supply network. The project represents the country's largest capital investment (NZ\$60 million between 2013/2014 and 2017/2018) since the Rarotonga International Airport was built; and is funded by the New Zealand Government, a concessional loan from the People's Republic of China, and the Government of the Cook Islands.

Project design is based on a water supply master plan approved in 2014, with work carried out by international and local construction companies through public tenders. The government has approved the principle of cost recovery and user charges for water supply after project completion, along with creating an SOE to manage the upgraded system.

On the other islands, water is typically sourced from rainwater tanks, although some islands have small water distribution systems administered by island governments. Climate change has produced severe drought conditions and caused water shortages throughout the islands. The government has funded water tank programs to add storage capacity, but water usage continues to outstrip supply.

## SANITATION

None of the islands in the country has a central sewerage system.<sup>5</sup> Generally, sewage from residential properties, smaller commercial properties, and businesses run to individual septic tanks; and effluent runs into distribution soakage systems. Larger commercial properties operate

satellite treatment systems—to varying degrees of purification—prior to effluent distribution to landscaped areas.

Tourist accommodation development has increased the volume of sewage generated on the beachfront in Rarotonga and Aitutaki. A 2011 survey concluded that 90% of septic tank systems on Rarotonga treated sewage inadequately due to poor design, construction, and/or lack of maintenance.

The Cook Islands Sanitation Policy and Public Health (Sewage and Wastewater Treatment and Disposal) Regulations were both introduced in 2014.<sup>6</sup> The 2014 Regulations strengthen the Public Health (Sewage) Regulations 2008 and Public Health Sewage Code 2008. They establish the Sewage and Sanitation Board (chaired by the Director of Public Health), which is responsible for registering sanitary engineers and technicians, registering septic tank manufacturers, and approving registration of sewage treatment unit designs. WATSAN is responsible for monitoring and enforcing the sewage regulations.

Over 2011–2014, WATSAN oversaw the replacement of over 100 septic tanks to private residential homes in the densely populated tourism area of Muri Beach, Rarotonga. This area was initially focused on because of Muri Lagoon's deteriorating water quality. A follow-up 4-year sanitation program, jointly funded by the governments of the Cook Islands and New Zealand, was budgeted to begin in 2014/2015. It aims to improve a further 1,000 domestic septic systems on Rarotonga and Aitutaki.

<sup>5</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; Government of the Cook Islands, Ministry of Finance and Economic Management. 2014b. *Cook Islands Government Budget Estimates 2014/2015—Book 3: Capital Plan*. Avarua; J. Evans. 2011. *Visitor Arrivals to the Cook Islands and the Environment*. Avarua: Te Ipukarea Society; and information available on the WATSAN website at <http://watsan.gov.ck/>

<sup>6</sup> Government of the Cook Islands, Ministry of Infrastructure and Planning. 2014. *Cook Islands Sanitation Policy*. Avarua; and Government of the Cook Islands, Executive Council; and Ministry of Health. 2014. *Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014*. Avarua.

Longer-term, one major (or a few smaller) treatment stations are needed on Rarotonga, to allow total reticulation of liquid waste with over-the-reef outfalls. Aitutaki will likely need a similar treatment facility if tourist numbers continue to increase. Septic tank upgrades are also needed on the outer islands.

## SOLID WASTE

Rarotonga and Aitutaki have purpose-designed waste facilities, including recycling centers with compaction equipment that compresses and bundles recyclables.<sup>7</sup> Both facilities were built in 2005, and are administered by WATSAN. The Rarotonga facility has a 15-year design life span, while Aitutaki's is 20 years. With good management, the life spans of both facilities could be extended beyond these timeframes.

ICI provides twice-weekly, free-of-charge waste collection to Rarotonga residents; a private contractor is engaged to uplift recyclables, although little recycling is undertaken or promoted. Businesses are responsible for their own waste collection. Aitutaki's system is similar, except that its island government manages residential collections. Island governments are responsible for waste management in the other islands. They generally use open pits for solid waste disposal, and there are no provisions for proper hazardous waste storage.

The Cook Islands National Solid Waste Management Strategy 2013–2016 was developed in 2013. It advocates developing streamlined legislation around solid waste prevention, recycling, and management; and establishing a single, dedicated entity responsible for solid waste throughout the country. The strategy also notes that user fees are insufficient to cover the cost of administering existing solid waste facilities, and recommends introducing a sustainable financing system for this purpose.

## INFORMATION AND COMMUNICATIONS TECHNOLOGY

Telecommunications in the Cook Islands are regulated under the Telecommunications Act 1989.<sup>8</sup> The Act provides Telecom Cook Islands (TCI) with a statutory monopoly in providing fixed line telephony, broadband, and mobile voice and data to residential and business customers. TCI is an integrated, self-regulating operator that is 60% owned by Teleraro, and 40% by the Government of the Cook Islands.<sup>9</sup>

The majority of the population has access to mobile telephones and internet services throughout the country, including in the outer islands. The 2010 Review of Pacific Regional Digital Strategy showed that TCI was performing well relative to other

<sup>7</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; and Government of the Cook Islands, Ministry of Infrastructure and Planning; Water, Waste and Sanitation Unit. 2013. *Cook Islands National Solid Waste Management Strategy 2013–2016*. Avarua.

<sup>8</sup> Government of the Cook Islands, Ministry of Finance and Economic Management; and Pacific Region Infrastructure Facility. 2015. *Cook Islands National Infrastructure Investment Plan 2015*. Sydney; ADB. Telecommunications sector liberalization, Cook Islands: Memorandum prepared by the Pacific Private Sector Development Initiative for the Government of the Cook Islands, Ministry of Finance and Economic Management. Unpublished; and BuddeCom. 2014. *Cook Islands—Telecoms, Mobile and Broadband—Market Insights and Statistics*. <http://www.budde.com.au/Research/Cook-Islands-Telecoms-Mobile-and-Broadband-Market-Insights-and-Statistics.html>

<sup>9</sup> Teleraro is a subsidiary of the Blue Sky Group, which also provides communication services in American Samoa and Samoa. It purchased its stake in TCI from Spark New Zealand in February 2015. Source: Bluesky. 2015. *Media Releases & Articles: Bluesky Group Expands to Cook Islands*. 23 February. <http://www.bluesky.co.ck/view/page/media-releases-articles/story/bluesky-group-expands-to-cook-islands/>

Pacific operators.<sup>10</sup> Implementation of the O3b satellite network in 2013 increased TCI's delivery speed, allowing some data increase volumes with no increase to rates.

In an effort to improve the supply and lower the cost of broadband internet service, the government is exploring the feasibility of linking the country to an international submarine cable. A 2003 study identified a connection to Tahiti, French Polynesia (which is connected to Hawaii via the Honotua cable system) as the most feasible option. However,

it is unclear whether such an option would be cost effective.<sup>11</sup>

The 2010 National Information and Communications Technology (ICT) Policy indicated that government would review the Telecommunications Act 1989; and amend it—or develop new legislation—to allow competition in communication services provision, including internet and mobile services. The policy also commits to establishing a communication services regulator to develop and monitor communication policy, and to administer ICT legislation.

<sup>10</sup> Network Strategies. 2010. Final report for the Pacific Islands Forum Secretariat—Review of Pacific Regional Digital Strategy. Part A: Technological Capacity. *Network Strategies Report Number 29029*. Auckland.

<sup>11</sup> H. McGarry and N. Jones. 2013. *Cook Islands: Report on the Feasibility of an International Submarine Cable System for the Cook Islands for The Minister of Telecommunications and the Government of the Cook Islands*. Consultant's report (TA 7787-REG). Manila: ADB.

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## The Cook Islands

### *Stronger Investment Climate for Sustainable Growth*

The Cook Islands is among the best performing Pacific island economies, with many structures in place that support private sector investment, including an internationally competitive tax regime, an open trade regime, and good standards of education and health care. Future prospects are positive due to the growing tourism sector, and potential resource revenues from seabed minerals prospecting activities are another favorable development. The Government of the Cook Islands is committed to pursuing sustainable development through private-sector-led growth.

Yet, the Cook Islands faces significant challenges in realizing its full potential, including a sluggish business entry process that discourages foreign investment, inadequate infrastructure that threatens to degrade the natural environment, complex land ownership and inadequate land use planning processes, and a weak collateral framework. This private sector assessment identifies priority policy areas and recommends the most important, strategic steps that the government should focus on to improve the business environment.

This report was produced by the Pacific Private Sector Development Initiative, a regional technical assistance facility cofinanced by the Asian Development Bank (ADB), the Government of Australia, and the New Zealand Government.

### About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to the majority of the world's poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.



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