



SIAM-2, C-4 Component

# Environmental, Risk and Resource Management

## EIA Regulations and Environmental Monitoring Final Report

Field Visits Samoa: 7-11 November 2005,  
20 – 26 May 2006 and 20 – 23 June 2006

July 2006

Prepared for

**Ministry of Natural Resources, Environment  
and Meteorology**

By

BECA International Consultants Ltd.



draft report

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Ministry of Natural Resources, Environment & Meteorology  
Apia  
SAMOA

12 July 2006

**Attention: Vitaoa Peleiupu Fuatai**

Dear Sir

**EIA Regulations and Environmental Monitoring**

Attached please find the draft final report on EIA Regulations and Environmental Monitoring prepared by David Hill. We would be pleased if you would circulate this for comment after which we will finalise the report. We would like to receive any comments by the end of August. The hard copies will be delivered under separate cover.

Yours sincerely  
Graeme Roberts  
Manager - Planning



*on behalf of*

**Beca International Consultants Ltd**

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## Revision History

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A	David Hill	Draft Report	12 July 2006

## Document Acceptance

Action	Name	Signed	Date
Prepared by	David Hill		12 July 2006
Reviewed by	Graeme Roberts		17 July 2006
Approved by	Graeme Roberts		18 July 2006
on behalf of	<b>Beca International Consultants Ltd</b>		

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# 1 Report

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## 1.1 Purpose of Visits

The purpose of the three visits was threefold:

- (i) To establish the required scope of regulation and the current institutional arrangements relevant to that;
- (ii) To refine and conclude the draft Planning and Urban Management (Environmental Impact Assessment) Regulations – particularly in light of the fact that the Planning and Urban Management Agency (“PUMA”) had been re-assigned to the Ministry of Natural Resources, Environment and Meteorology, its original “home”; and
- (iii) To gather further information from the wider Ministry of Natural Resources, Environment and Meteorology, as well as PUMA, about the environmental monitoring sub-component and systems currently in place for tracking and monitoring consents and permits, and determine what compliance monitoring arrangements would be most appropriate in the circumstance.

At the conclusion of my initial scoping visit I posed three options for the Regulations – including the option of not having Regulations at all because these are not strictly necessary under the Planning and Urban Management Act 2004. A policy workshop held to consider those options on the afternoon of Wednesday 11<sup>th</sup> November 2005 concluded that a streamlined version of the Regulations, based on the existing Lands, Surveys and Environment Act 1989 draft EIA Regulations, should be pursued.

On the Regulations, meetings were held with various senior PUMA staff (including Taulealeausumai La'avasa Malua), the SIAM-2 project manager in-country (Mr Ted Wells), and various other parties. Contact was made with Ms Lalatoa S Mulitalo, Parliamentary Counsel, Office of the Attorney General, who will have the key role of moving these Regulations through Cabinet.

A half-day technical workshop on the draft Regulations was held at the Pasefika Inn on 24<sup>th</sup> May 2006 for which widespread invitations, including a public notice, were sent out. Forty six people attended from private and public sectors. The workshop was opened and chaired by the Chief Executive Officer of the Ministry of Natural Resources, Environment and Meteorology, Dr Tu'u'u Ieti Taulealo. A list of attendees is included as Appendix 1(1) to this Report.

A further and final workshop was held at the same venue on the 21<sup>st</sup> June 2006 to confirm the changes made subsequent to the first technical workshop. Twenty two people attended, primarily from the public sector. This workshop was also opened and chaired by the Chief Executive Officer of the Ministry of Natural Resources, Environment and Meteorology, Dr Tu'u'u Ieti Taulealo. A list of attendees is included as Appendix 1(2) to this Report.

On the monitoring component, meetings were held with the relevant sections of the Ministry including, in particular, the land management, environment and conservation, and PUMA sections. Copies of tracking databases, corporate and management plans, etc have been accessed and copied for further analysis.

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## 1.2 Draft Regulations

The draft Regulations are included as Appendix 2 to this Report. These are now in final form and have been tested through 2 workshops.

A draft of information to be translated into Samoan for the Cabinet Paper is also included as Appendix 3.

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## 1.3 EIA Overlaps

As indicated previously, MNREM still has EIA powers and functions under the Lands, Surveys and Environment Act 1989. In my opinion these potential contradictions need to be sorted out and the two acts harmonised with respect to EIA. This was a point picked up quickly by the Office of Attorney General and could hinder progress of the draft Regulations through Cabinet.

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## 1.4 Monitoring Programme

As PUMA has, since the election, been reassigned to the Ministry of Natural Resources, Environment and Meteorology (“MNREM”) under a common Minister, the prospect of integrating the necessary elements of the monitoring / compliance systems has improved. However the possible cost is the loss of the immediacy of contact that had been established as a consequence of PUMA being located in the Ministry of Transport, Works and Infrastructure – [particularly the building consent and roading reserve functions).

Internal discussions were held on the question of improving administrative arrangements. The following points were confirmed as being an accurate overview description of the current state of play:

1. The SIAM2 monitoring segment arose out of a PUMA paper entitled “Environment Monitoring Framework – 28 June 2004”. That paper noted the two broad thrusts of monitoring requirement being:
  - a) State of the Environment reporting, requiring regular and periodic monitoring, assessment and review; and
  - b) Consent compliance monitoring, which is condition-based and, depending on the scale and nature of the activity, may involve baseline monitoring which can be also used to support State of the Environment reporting.
2. MNREM has no single, networked database hardware.
3. The Government of Samoa has no inter-agency network for cross-checking etc for building consents, business licences, land registration, import permits and development consents etc.
4. All MNREM divisional / sectional databases - e.g. terrestrial and marine - are maintained by individuals on their local PCs, with few formal backup routines in place other than occasional downloads to CD or DVD.

5. Key information, such as land titles and development consent applications, is kept in a manual paper record / register. Some of this information is transferred to an electronic database for the purpose of tracking – e.g. the DC processing tracking system.
6. There is no systematic database for follow-up, compliance monitoring. The hazard mapping database has integrated fields for updating station information but these are infrequently used.
7. New information that might be relevant, such as studies published as part of project-funded development work, are not generally archived for reference, recording, research and/or public access.
8. No bibliography of relevant research / work is held by MNREM.
9. Some documents are accessible through the MNREM website which is independently hosted.
10. The MNREM Management Plan 2006 – 2008 contains numerous output and performance measures on the theme of compliance, monitoring and enforcement but consistently notes staff, skills and resource shortages.

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### 1.5 Compliance monitoring pre-requisites

The following areas are all required to be strengthened if a coherent and reliable compliance and monitoring system is to be put in place:

- i) All relevant existing resource information must be captured in a single or linked core database;
- ii) All relevant applications for consents, permits, licenses etc must be able to be inter-linked across agencies;
- iii) All relevant new information must be able to be captured in the core database;
- iv) An updated bibliography of relevant studies etc held within MNREM (along with their usual location) must be developed;
- v) All databases and non-sensitive information must be publicly available;
- vi) All instances and/or visits for compliance and enforcement must be centrally logged along with any recommendations etc for action;
- vii) All information should be location and land title based;
- viii) Ideally information would be properly layered into a GIS format for mapping purposes.

As not all of this can be done in one bite, the sensible place to start is with the DC information.

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### 1.6 Compliance Monitoring Recommendations

The following short term and longer terms actions are recommended:

- i) Develop inter-departmental MoU to confirm the involvement, sequencing, rotation and determination of related activity applications.
- ii) Develop co-operative arrangements with other statutory agencies for the purpose of efficient and cost-effective inspection and enforcement.
- iii) Develop internal and inter-agency information access protocols for processing officials and the general public.

- iv) Develop a whole-of-government protocol for the location, electronic storage and retrieval of information.
- v) Develop an integrated technical library resource and research capability within MNREM.
- vi) Develop guidelines for the placement of official information (including external research and study reports) on the Ministry website.
- vii) Develop a set of standard conditions for consent for the purpose of more efficient compliance monitoring.
- viii) Develop a programme of work to determine planning standards for urban and rural residential, commercial and public sector activities, including:
  - a) Open space;
  - b) Yards;
  - c) Health and hygiene;
  - d) Shading and light;
  - e) Minimum construction (including noise);
  - f) Wastewater and stormwater discharge;
- ix) Develop a priority listing of monitoring requirements for the purpose of agency capacity training and development. That listing will include:
  - a) acoustic / noise monitoring;
  - b) water quality monitoring;
  - c) air quality monitoring
- x) Develop a priority schedule of capital expenditure for monitoring equipment requirements.

## 2 Next Steps

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### 2.1 EIA Regulations

These draft Regulations are in final draft form but as yet no formal comment has been received on them from the Office of the Attorney-General (although drafts have been referred to the Office).

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### 2.2 Environmental Monitoring

This sub-component was further workshopped during the visit in June. This confirmed that any significant progress in this area is critically dependent upon a Government decision about electronic record keeping across the public service. Compliance monitoring is at best perfunctory at present due to lack of both human and physical resources. While some indicative recommendations are made above, the real issue to be addressed goes well beyond PUMA or MNREM and should, more properly, be addressed in that wider context.

## Appendix 1 – Workshop Attendees

Attendees at the 2 workshop held on Wednesday the 24<sup>th</sup> May and 21<sup>st</sup> June at the Pasefika Inn:

First Name	Last Name	Company	EIA1ws	EIA2ws
David	Hill	Hill Young Cooper	x	x
Eiko	Fuimaono	MNREM (PUMA)	x	x
Fetoloai	Yansall-Alama	MNREM (PUMA)	x	x
Fiona	Sapatu	MNREM (PUMA)	x	x
Jude	Kohlhase	MNREM (PUMA)	x	x
Ming	Leung Wai	Leung Wai Law Firm	x	x
Taulealeausumai Laavasa	Malua	MNREM (PUMA)	x	x
Ted	Wells	Beca	x	x
Theresa	Potoi	MNREM	x	x
Tu'u'u Dr Ieti	Taulealo	MNREM	x	x
Afamasaga	Faasili	MWCSD		x
Craig	Barr	Otago university		x
Elizabeth	Kerstin	MNREM (PUMA)		x
Fetofou	Ajono	MCIT		x
Ioane O	Okesene	Samoaatel		x
Kenneth	Benish	Samoa Testing and Inspection		x
Leiataua Isikuki	Punivalu	IPA Ltd		x
Mulipola Ausetalia Titimaea	Titimaea	MNREM (Meteorology)		x
Peni	Mulitalo	Samoa Red Cross		x
Terry	Bourke	SDUP		x
Alefosio	Matulino	Airport Authority	x	
Amosa	Pouoa	MWTI	x	
Ann	Rasmussen	MNREM	x	
Asuao	Kirifi	Agriculture	x	
Aukuso	Leavasa	MNREM	x	
Bronwyn	Sesega	PECL	x	
Cedric	Schuster	PECL	x	
Clark	Peteru	SPREP	x	
D O Oliva	Vaai	Yazaki/Same	x	
Faafouina	Mupo	Fire Department	x	
Faasili	Afamasaga	MWCSD	x	
Filomena	Nelson	MNREM	x	
Fiu	Elisara	Siosiomaga Society	x	
George	Hadley	Princess Tui Ltd	x	
Jessica	Read	MWCSD	x	
Joe	Reti	PECL	x	

<b>First Name</b>	<b>Last Name</b>	<b>Company</b>	<b>EIA1ws</b>	<b>EIA2ws</b>
Leulualii Malifa	Tasi		x	
Malama	Momoemausu	MNREM	x	
Margaret	Rimoni-Yoshida	PECL		
Meapelo	Maiai	UNDP	x	
Mulipola	Anetonio	MAF	x	
Namai M	Sua	MOR (Customs)	x	
Nixole	Donnison	PUMA	x	
P N	Tugaga	Colonial Insurance	x	
Patrick	Rasmussen	SAME	x	
Paulo	Stowers	Samoatel	x	
Pipi Peniamina	Leavai	MNREM	x	
Sahaara	Sesega-Anae	Samoa Water Authority	x	
Sala	Msaia	NUS	x	
Samuela Sesega	Sesega	PECL	x	
Stuart	Brown	PUMA/KBR	x	
Taulealea	Tiotio	EPC	x	
Tepa	Suaesi	MNREM	x	
Vitaoa Peleiupu	Fuatai	MNREM	x	
William	McGoldrick	MNREM	x	

# Appendix 2: Draft Planning and Urban Management (Environmental Impact Assessment) Regulations 2006

## PLANNING AND URBAN MANAGEMENT (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2006

### SAMOA

#### Arrangement of Provisions

1. *Title and commencement*
  2. *Interpretation*
  - PART I*
  - EIA AND PEAR*
  3. *EIA Required*
  4. *Forms of EIA*
  5. *Qualifying criteria for EIA*
  6. *Content of Preliminary Environmental Assessment*
  7. *Content of comprehensive EIA*
  8. *Baseline and Compliance Monitoring Schedule*
  - PART II*
  - REVIEW OF PEAR AND EIA*
  9. *Review of PEAR and EIA*
  10. *External Review may be undertaken*
  11. *Public consultation*
  - PART III*
  - MISCELLANEOUS*
  12. *Application and other fees*
- SCHEDULE 1: Content of EIAs*
- SCHEDULE 2: Fees*

*Schedule*

**PURSUANT** to section 105 of the Planning and Urban Management Act 2004, **I, MALIETOA TANUMAFILI II**, Head of State, acting on the advice of Cabinet **HEREBY MAKE** the following Regulations:

**DATED** at Apia this                      day of                      2006

.....  
*Malietoa Tanumafili II*

**HEAD OF STATE**

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**REGULATIONS**

1. **Title and Commencement** – (1) These Regulations shall be known as the Planning and Urban Management (Environmental Impact Assessment) Regulations 2006.  
  
(2) These Regulations shall come into force on the date they are assented to by the Head of State.
2. **Interpretation** – In these Regulations, unless the contrary intention appears:  
  
“Agency” has the same meaning as stated in section 2 of the Principal Act;  
“Board” has the same meaning as stated in section 2 of the Principal Act;  
“Building” has the same meaning as stated in section 2 of the Principal Act;  
“Chief Executive Officer” means the Chief Executive Officer of the Ministry;  
“Development” has the same meaning as stated in section 2 of the Principal Act;  
“Development application” means an application for consent under Part V of the Principal Act to carry out development;  
“Development consent” means consent under Part V of the Principal Act to carry out development;  
“Environment” has the same meaning as stated in section 2 of the Principal Act;  
“EIA” means an Environmental Impact Assessment, required for public and private development proposals as set out in these Regulations, and includes a PEAR;  
“Land” has the same meaning as stated in section 2 of the Principal Act;

“Minister” means the Minister for the time being responsible for the Principal Act;

“Ministry” means the Ministry for the time being responsible for the administration of the Principal Act;

“Owner” in relation to any development project includes the person under whose authority a building or other structure is proposed to be constructed on any land, or for whose benefit such is proposed to be constructed, irrespective of whether such person owns the land on which the proposed building or other structure is to be constructed;

“PEAR” means the form of EIA referred to in sub-regulation 4(2) as a Preliminary Environmental Assessment Report, and applied in accordance with these Regulations;

“Principal Act” means the Planning and Urban Management Act 2004 (“the PUMA”), or any subsequent enactment that replaces that Act;

“Proponent” means the person proposing and assuming responsibility for any development proposal.

## PART I

### PEAR and EIA

3. **EIA Required** – (1) If, as part of any development consent application made pursuant to section 37 of the Principal Act, an EIA is required by the Agency pursuant to section 42 of that Act, such an EIA must be prepared and provided in the manner prescribed under this Regulation, unless the Agency directs otherwise in writing.
  - (2) In deciding whether to require an EIA, the Agency will take into consideration all the information and documentation provided with the application.
4. **Forms of EIA** – (1) A Preliminary Environmental Assessment Report and a comprehensive EIA shall be the two forms of EIA.
  - (2) A Preliminary Environmental Assessment Report (PEAR) may be required by the Agency for any development application to which any of the qualifying criteria specified in these Regulations apply, but which the Agency considers is not likely to have a significant adverse impact on the environment.
  - (3) A comprehensive EIA may be required by the Agency for any development application to which any of the qualifying criteria specified in these Regulations apply, and which the Agency considers is likely to have a significant adverse impact on the environment.
  - (4) As a consequence of learning more about any particular development the Agency may, within 1 month of issuing any such requirement, alter its requirement, including changing its requirement from a PEAR to a comprehensive EIA or vice versa.

- (5) A requirement or alteration under this Part shall be notified in writing to the proponent of any such development.
- 5. Qualifying Criteria for EIA** – An EIA may be required where the Agency considers that the development application and its associated activities could give rise to any of the following:
- (a) adverse impacts on people, an existing activity, building or land;
  - (b) adverse impacts on a place, species or habitat of environmental (including social and cultural) importance;
  - (c) adverse impacts in conjunction with natural hazard risks;
  - (d) adverse impacts on or in the coastal zone;
  - (e) adverse impacts on or in any waterway or aquifer;
  - (f) adverse impacts arising from the discharge of any contaminant or environmental pollutant;
  - (g) adverse impacts associated with land instability, coastal inundation, or flooding;
  - (h) adverse impacts on the landscape or amenity of an area;
  - (i) adverse impacts on public infrastructure;
  - (j) adverse impacts on traffic or transportation; and
  - (k) any other matter for consideration stated in section 46 of the Principal Act.
- 6. Content of Preliminary Environmental Assessment Report** – The PEAR shall be submitted in accordance with:
- (a) The Principal Act; and
  - (b) any EIA guidelines, development standards or planning provisions approved for this purpose by the Board; and/or
  - (c) any form specified or provided by the Agency; and/or
  - (d) any direction made in writing by the Agency; and
  - (e) Schedule 1, Part 1, unless otherwise directed by the Agency in writing.
- 7. Content of Comprehensive EIA** – The EIA shall be submitted in accordance with:
- (a) The Principal Act; and
  - (b) any EIA guidelines, development standards or planning provisions approved for this purpose by the Board; and/or
  - (c) any form specified or provided by the Agency; and/or
  - (d) any direction made in writing by the Agency; and
  - (e) Schedule 1, Part 2, unless otherwise directed by the Agency in writing.

- 8. Baseline and Compliance Monitoring Schedule** – (1) In addition to the requirements stated in sections 6 and 7 above, all EIAs shall be accompanied by a Schedule outlining a programme of baseline and compliance monitoring, appropriate to the nature and scale of the application.
- (2) The Schedule shall outline the baseline monitoring proposed to be undertaken and also any subsequent monitoring (together with its proposed frequency and methodology) intended to ensure compliance.

## **PART II**

### **REVIEW OF PEAR AND EIA**

- 9. Review of PEAR and comprehensive EIA** - (1) The Agency shall review, or cause to be reviewed, any PEAR or comprehensive EIA required and submitted as part of a development consent process.
- (2) In undertaking (1), the Agency shall, as part of that review:
- (a) circulate the EIA to all other agencies known to have, or to be likely to have, a statutory or functional interest in the application, for their written comment; and
  - (b) specify such period for the receipt of any comments as is reasonable in the circumstance, taking into account the nature and scale of the application and its associated documentation.
- (3) The Agency shall prepare a written review report to be considered, pursuant to section 46 of the Principal Act, alongside other relevant material before a decision on any development consent application is made.
- 10. External Review may be undertaken** – (1) The Agency may determine that it does not possess, or has not currently available to it, the necessary specialist skills to appropriately review an EIA or part thereof. In such a circumstance it may identify a suitable external reviewer and commission a report from that person.
- (2) Prior to commissioning any such report under subsection (1), where the Agency intends to recover the associated costs from the proponent, agreement to that course of action must be obtained in writing from the proponent.
- (3) If the proponent does not agree to the course of action proposed by the Agency, and fails to provide an alternate option to the satisfaction of the Agency, the development application shall be deemed to be suspended until such time as this matter is resolved.
- 11. Public Consultation** – (1) The Agency may determine that further public consultation on an EIA is required either:
- (a) by the applicant; or

- (b) by the Agency.
- (2) The Agency must advise the proponent in writing of any such determination within 2 weeks of receiving the EIA, including full details of the public process it proposes the applicant or the Agency undertake and the reasons for that determination.
- (3) Any public consultation proposed under this Part must be consistent with any Board-approved guideline and shall be completed before a decision is taken on the development application pursuant to section 47 of the Principal Act.

### **PART III**

#### **MISCELLANEOUS**

- 12. Application and Other Fees** – (1) Each EIA shall be accompanied by the relevant fee, as provided for in Schedule 2.
- (2) Fees for services provided in relation to these Regulations shall be paid as prescribed in Schedule 2.

## SCHEDULE 1

### CONTENT OF EIAs (ss 6 and 7)

#### Part 1:

- (1) A PEAR shall contain the following particulars:
  - (a) A brief description of the development proposal;
  - (b) A brief description of the area to be affected and the nature of the proposed change to the area (including a location map and site plan);
  - (c) A brief justification for the development proposal;
  - (d) A summary of the stakeholder consultation undertaken, the general issues raised, and responses to those issues;
  - (e) An assessment of all reasonably foreseeable adverse and positive environmental impacts, including long-term and short-term, primary and secondary consequences;
  - (f) An indication of possible alternatives to mitigate any identified adverse environmental impacts; and
  - (g) An indication of measures that the proponent intends to take to mitigate or avoid identified adverse environmental impacts.

#### Part 2:

- (1) A comprehensive EIA shall, where relevant, contain the following particulars:
  - (a) **Summary** – Each EIA shall contain a summary of the development proposal and its consequences. The summary shall include:
    - (i) A statement of all major conclusions and recommendations;
    - (ii) An outline of any issues that are controversial;
    - (iii) An outline of issues that remain to be resolved;
    - (iv) A summary of the stakeholder consultation undertaken, the general issues raised, and responses to those issues;
    - (v) An outline of the preferred choice among any alternatives; and
    - (vi) Details of any proposals to mitigate significant adverse impacts.
  - (b) **Description and purpose of activity** - Each EIA shall include a description of the development proposal (including any phasing or sequencing of activities), a statement of its underlying purpose, and the long-term and short-term objectives sought by the proponent. The statement shall further:
    - (i) Generally describe the proposal's technical, economic, and environmental characteristics, taking into consideration current engineering and supporting utility / infrastructural data;

- (ii) Show the precise location and boundaries of the proposal on a detailed map; and
  - (iii) Provide a justification of the rationale for the proposal including such supporting information as is appropriate.
- (c) **Alternatives** - Each EIA shall review the environmental impacts of the development proposal and any practical alternatives to the proposal. In this section the proponent shall:
- (i) Review and evaluate all reasonable alternatives, including locations and methods and the alternative of no action; and
  - (ii) Identify the proponent's preferred alternative or alternatives;
- (d) **Affected environment** - Each EIA shall:
- (i) Describe the local environment in the vicinity of the proposal as it exists before commencement of the proposal;
  - (ii) Review and evaluate possible conflicts or inconsistencies between the development proposal and relevant applicable objectives of national, regional or local land use and marine / coastal plans (including Development Plans) and policies.
- (e) **Environmental consequences** - Each EIA shall include an analysis of the environmental consequences of the development proposal and, to the extent relevant, may include the following:
- (i) A review of direct and indirect environmental effects, their significance, and risks;
  - (ii) A consideration of any potential cumulative environmental impacts that might arise in conjunction with other activities in the location;
  - (iii) A consideration of the environmental effects of alternatives;
  - (iv) An assessment of the likely need for additional infrastructure, including energy and public utilities;
  - (v) An assessment of impacts on the area's physical locality and amenity (including visual quality), its historic and cultural resources, and the design of the built environment;
  - (vi) An assessment of social impacts on the local population and its uses of the land;
  - (vii) An assessment of the implications of the use of potential environmental pollutants;
  - (viii) A review of options proposed to mitigate adverse environmental impacts;
  - (ix) A description of any unavoidable adverse environmental impacts, including any permanent change in the physical, biological, social or cultural characteristics of the affected environment or in the possible future use of that environment;

- (x) An analysis of the costs and benefits that may result from the development proposal;
  - (xi) The identification of any irreversible or irretrievable commitments of resources required for the development proposal.
- (f) **Mitigation and conditions** – each EIA shall:
- (i) Identify any significant environmental impacts that cannot be avoided;
  - (ii) Identify appropriate mitigation measures to minimise any significant environmental impacts arising from the preferred alternative; and
  - (iii) Recommend any proposed conditions.

**SCHEDULE 2**  
**FEES (s12)**

- |    |                                    |                     |
|----|------------------------------------|---------------------|
| 1. | For processing a PEAR              | \$ to be determined |
| 2. | For processing a comprehensive EIA | \$ to be determined |
| 3. | For public consultation            | \$ to be determined |
| 4. | For any additional site inspection | \$ to be determined |

# Appendix 3: Draft Cabinet Paper (Information for translation into Samoan)

## Draft Cabinet Paper – PUMA (EIA) Regulations

### **Faatomuaga**

Approval is sought from Cabinet for the attached Regulations relating to the undertaking of Environmental Impact Assessments (“EIA”) under the Planning and Urban Management Act 2004 (“PUMA”). Section 105 of that Act provides for Regulations for this purpose.

### **Faamatalaga**

The draft Regulations have been developed as part of the World Bank’s Second Infrastructure Asset Management Programme (SIAM 2) – Investing for Sustainable Growth and Protection (Sustainable Management: C4 Environment Risks and Resource Management).

The Regulations have been developed and modified from the draft EIA Regulations previously written in 1998 for the Lands, Surveys and Environment Act 1989 (“the LS&E Act”). These latter draft Regulation have never been adopted. Modification was required for the following reasons:

1. The Planning and Urban Management Agency (“the Agency”) has a slightly different statutory mandate from that of the Ministry under the LS&E Act.
2. The matters included within the respective definitions of “environment” under the two Acts differ. In particular, PUMA has a more wide-ranging brief in the area of social and community planning, amenity and urban form.
3. Under PUMA, EIA is an optional part of the Development Consent application process.
4. Under PUMA, the Development Consent process, including notification and public submission, is specified.

The draft Regulations have been discussed and workshopped on two occasions in May and June 2006 with representatives from the public and private sectors.

## **Fuafuaga**

The draft Regulations introduce two forms of EIA: a Preliminary Environmental Assessment Report (“the PEAR”) for development applications whose activities are considered by the Agency as unlikely to have a significant environmental impact, and a full EIA for those that are considered likely to have a significant impact. An indication of the format and content for each is given in a Schedule. The draft Regulations also give some guidance on matters for which one or other form of EIA might be required.

As the requirement for an EIA under PUMA is an optional part of the development consent application process, the draft Regulations state that, when required by the Agency, this must be completed prior to any decision being taken on the application.

The draft Regulations require the Agency to produce a written report on the EIA, and make provision for external review of the EIA where the skills are not available to the Agency. The independent referee and the cost for any external review is to be paid by the applicant, with the applicant having an opportunity to suggest an alternative to that proposed by the Agency.

Provision is made for the payment of fees and services by way of a Schedule. At this stage no fee structure has been proposed. It is proposed that this Schedule be included but the fee detail left for a subsequent amendment.

## **Lipoti**

The draft Regulations have been widely circulated. The Office of the Attorney General has been consulted.

## **Talosaga**

That Cabinet approves the draft Planning and Urban Management (Environmental Impact Assessment) Regulations attached.

## **Fautuaga**

That the draft Planning and Urban Management (Environmental Impact Assessment) Regulations be adopted.

Ma lou fa’aaloaloa lava.