





# Stocktake of Existing and Pipeline Waste Legislation: PALAU



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10th Pacific Islands Conference NATURE CONSERVATION AND PROTECTED AREAS Nature Conservation Action for a Restlient Profile

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### Introduction and Acknowledgements

- This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
- 2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
- 3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

### Methodology

- 4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
- 5. Particular databases drawn for the research included those maintained by PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries.
- 6. Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.
- 7. For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

### **Outline of Report**

- 8. This report contains the UoM team's findings relating to:
  - A stocktake of the existing legislative environment for waste management in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
  - A **stocktake of pipeline legislative initiatives** in the participating countries, including an assessment of their impact and approximate timeframe for development.

- 9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
- 10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
  - A brief overview of the legal system and relevant sources of law;
  - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
  - A summary of available information on pipeline legislative initiatives.
- 11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

# **Legislative Summary**

### **Overview of the legal system**

- The Republic of Palau is an independent country in a Compact of Free Association with the United States of America (USA). It is a federation of 16 states in an archipelago of comprising 340 islands, 8 of which are inhabited. The population of Palau is 21,431 (estimate from the 2020 Palau Country Review). The official languages are English and Palauan.
- 2. In 1885, Spain claimed the Caroline Islands and sold them to Germany in 1899 under the terms of the German–Spanish Treaty. They were administered as part of German New Guinea until 1914 when Japanese forces invaded Palau. After World War I, Japan administered Palau under the League of Nations South Seas Mandate. The USA captured Palau from Japan in 1944. From 1947 until independence in 1994, Palau was part of the Trust Territory of the Pacific Islands administered by the USA under a United Nations mandate.
- 3. In 1981 Palau became self-governing and in 1994 it gained full independence under a Compact of Free Association with the USA under which the USA is responsible for defence and security of Palau and Palau receives financial aid from the USA. Palau became a member of the United Nations in 1991.
- 4. Palau is a democratic constitutional republic with a government structure consisting of the national government and 16 state governments with their own legislative and executive powers. The Head of State and Head of Government is the President. The Cabinet consist of the heads of the major executive departments. A Council of Chiefs, composed of one traditional leader from each of the Republic's states, advises the President on matters concerning traditional laws, customs and their relationship to the Constitution and the laws of Palau.
- 5. Palau's legislative branch, the Palau National Congress or Olbiil Era Kelulau, is bicameral, consisting of the Senate (upper house) and House of Delegates (lower house). There are two courts of general jurisdiction and one specialised court, the Land Court.
- 6. The Palau legal system is a mixed system of Anglo-American common law and customary law. Sources of law are the Constitution (the supreme law), customary or traditional law which has equal authority to statutes, laws found in the National Code passed by the Olbiil Era Kelulau, unrepealed USA laws and Trust Territory laws applicable to Palau, and rules of the common law.
- 7. Palau's Constitution provides, in Article VI that the national government 'shall take positive action to attain these national objectives and implement these national policies: conservation of a beautiful, healthful and resourceful natural environment; promotion of the national economy; protection of the safety and security of persons and property.' Article XIII of the Constitution includes section 6, the 'Harmful Substances Ban', which provides that '[h]armful substances such as nuclear, chemical, gas or biological weapons intended for use in warfare, nuclear power plants, and waste materials therefrom, shall not be used, tested, stored, or disposed of within the territorial jurisdiction of Palau without the express approval of not less than three-fourths of the votes cast in a referendum submitted on this specific question'.

### Legislation impacting waste governance

8. Governance over waste issues in Palau is shared between the national government and state governments. State governments have the primary responsibility for waste management. The national government administers the general environmental protection law relating to pollution control and has responsibility for infrastructure planning and public awareness relating to the issue of solid waste.

- 9. An analysis of the national waste situation has been undertaken through the National Solid Waste Management Strategy: The Roadmap towards a Clean and Safe Palau 2017 to 2026. This Management Strategy covers the 10-year period from 2017–2026, with an action plan designed to be implemented for the first half of the period 2017–2021. A general review of the Strategy will be undertaken in 2021 to update its relevance to current needs and plan for the next activities for the remaining period of the Strategy. A key aim of the Strategy is to synergise efforts in waste management among different line agencies and the wider community.
- 10. The following tables provide a stocktake of the existing legislative environment for waste management and governance in Palau, located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.
  - Table 1 details the legislation on waste management and governance in Palau found through the UoM's stocktake research.
  - Table 2 lists the key policy instruments and reports.
  - Table 3 notes the relevant departments administering waste management-relevant laws.

### Table 1: Legislation impacting waste governance in Palau

Legislation	Regulations or orders
Constitution (as consolidated 2008)	'Zero Disposable Plastic' Policy, Executive Order No. 417 (8 August 2018)
Article VIII vests executive powers in the President.	Executive order of the President establishing a policy that all government offices and agencies shall immediately stop the practice of providing disposable plastic and polystyrene beverage containers to employees and guests. This includes, but is not limited to, disposable plastic water bottles and polystyrene cups.
National Code Title 24: Environmental Protection (as at 2014)	Solid Waste Management Regulations 2013 (Chapter 2401-31)
Environmental Quality Protection Act (Amendment) and Tourism Reorganization Act (Amendment), RPPL No. 10-20 2018	Regulations for the management, including storage and disposal, of solid wastes. 'Solid waste' means garbage, refuse, and other discarded solid
Pristine Paradise Environmental Fee, RPPL No. 10-02 2017 (Amendment)	materials including solid waste materials resulting from industrial and commercial operations, and from community activities, but does not include
Establishes the Environmental Quality Protection Board, a semi-autonomous public agency responsible for enforcing solid was management practices.	solid or dissolved material in domestic sewage, or other substances in water sources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common
Powers and duties of the Board (as updated by Environmental Quality Protection Act (Amendment) and Tourism Reorganization Act (Amendment)) include:	water pollutants. This definition is intended to include liquid waste materials such as waste oil, as well as pesticides, paints, solvents, and hazardous waste.
• establishing and provide for the continuing administration of a permit system, whereby a permit shall be required for the discharge by any person of any pollutant in the air, land, or water, or for the conduct by any person of any activity, including, but not limited to, the	A permit is required for a person to establish, modify or operate any solid was disposal facility.
operation, construction, expansion or alteration of any installation which results in or may result in the discharge of any pollutant in the air, land or water.	Marine & Fresh Water Quality Regulations 2013 (Chapter 2401-11)
<ul> <li>promulgating and enforcing nuclear and other hazardous wastes regulations.</li> </ul>	Provides it is the policy of the Republic of Palau that there shall be no direct
• promulgating and enforcing regulations on monitoring, inspection and record-keeping procedures.	or indirect discharge of sewage or other waste into any planned or intended ground or surface source of drinking water. All sewage and waste shall
	receive the degree of treatment necessary to protect the beneficial uses of
s 162(b) states that where the Board finds a discharge of waste occurring or threatening to take	waters of the Republic of Palau before discharge.
place, the Board shall require the discharger of waste to submit to the Board, for its approval, a	Wastewater Treatment and Disposal Regulations 2019
detailed time schedule of specific actions the discharger will take to correct the situation or prevent a violation of the requirements.	Provision for issue of Registration certificates by the Board for wastewater treatment and sewerage plants.
s 129 empowers the Board to promulgate and enforce regulations.	Ozone Layer Protection Regulations
A new s 3413 provides that every non-Palauan passport holder departing from the Republic must	· · · · · · · · · · · · · · · · · · ·
be assessed, and shall pay, an environmental protection departure fee (the 'Green Fee') of \$15 —	

brought in by the RPPL No. 10-02 amendment in January 2017.	<ul> <li>Prohibits importation into the Republic of 'any plastic foam, or any goods that contain plastic foam' manufactured using controlled ozone depleting substances.</li> <li><u>Pesticides Regulations (Chapter 2401-33 EQPB Regulations)</u></li> <li>These Regulations establish and maintain a system of control over the importation, distribution, sale and use of pesticides by persons within the Republic of Palau.</li> <li><u>Air Pollution Control Regulations</u></li> <li>Prohibits open burning of waste, including grass, weeds, wire, twigs, branches, insulation, vehicle bodies and their contents, paper, garbage, tires, waste materials, tar products, rubber products, oil, and similar smoke producing materials.</li> </ul>
National Code Title 11: Business and Business Regulation, Chapter 16: Recycling Program (as at 2014) Plastic Bag Use Reduction Act, RPPL No. 10–14 2017 (Amendment) (see below)	Beverage Container Recycling Regulations 2009 Regulations for national beverage container recycling program. Impose
<ul> <li>Following the 2017 RPPL No.10–14 amendment, s 1604 establishes a 'revolving fund within the National Treasury' known as the 'Recycling Fund'. The Ministry may use the money to 'conduct recycling education, plastics education programs consistent with s 2103 (ban of importation of plastic products), and demonstration projects; and promote recyclable market development activities'.</li> <li>Under s 1605, a beverage distributor is obliged to pay to the Ministry, a deposit beverage container fee on each deposit beverage container manufactured in or imported to the Republic. The fee is \$0.10/container.</li> <li>s 1609 authorises the Minister to promulgate, amend and enforce appropriate rules and regulations to carry out the duties and powers under the Act, including: the collection, purchase, sale or other disposal of beverage containers; the prohibition of importing empty beverage containers for the purpose of redeeming them in Palau; and other matters necessary for the administration of the chapter.</li> <li>Persons who knowingly, wilfully and unlawfully violates or refuses to comply with any provisions of the Chapter, or with any regulation may be imprisoned for up to 90 days and or fined up to \$500 (s 1617).</li> </ul>	restrictions on import and fees. The importation of used deposit beverage containers is prohibited under s 9. 180 days after the first Deposit Beverage Container is redeemed at a particular redemption centre, there is a duty on the Redemption Centre to ensure that Deposit Beverage Containers are removed beyond the outer border of the Exclusive Economic Zone of Palau (s 14). Violation or failure to comply with Regulations incurs both civil and / or criminal penalties.
Plastic Bag Use Reduction Act, RPPL No. 10-14 2017 (to create a new Chapter 21 in Title 11 of the National Code, see above)	None identified

This legislation amended Title 11 of the Palau National Code to prohibit businesses from importing or distributing plastic bags to customers and to authorise a plastics education program to educate the public on the effects of plastic use.	
'Plastic bag' is defined in s 2101 to mean 'a bag provided by a retail establishment to a customer for the purpose of transporting groceries or other retail goods and not specifically designed for multiple re-use but does not include biodegradable or compostable plastic bags'.	
Biosecurity Act 2014 (RPPL No. 9-58) In accordance with its biosecurity aims the legislation places obligations on masters and captains of ships entering Palau waters to secure and properly manage 'garbage' including organic wastes.	None identified
National Code Title 34: Public Health, Safety and Welfare (as at 2014)	Environmental Health Regulations 2004
Governs sanitation, sewer use and discharges and accumulation of rubbish	Article 12 establishes minimum standards governing the operation and maintenance of solid waste storage, collection and disposal systems.
	Toilet Facilities and Wastewater Disposal Regulations 1996
	Regulations for sewerage and wastewater disposal.
National Code Title 40: Revenue and Taxation, Division 2: Unified Tax Act	Customs Regulations 2015
Gives authority to and empowers the Director of the Bureau of Revenue, Customs and Taxation to promulgate rules and regulations to carry out the provisions of Division 2.	Regulations and rules for control of imports including prohibited products e.g. plastic bags.
National Code Title 17: Crimes (as at 2014) Penal Code of the Republic of Palau, RPPL No. 9-21 2013	None identified
s 2509 creates the offence of 'Criminal Littering' i.e. if a person knowingly places, throws, or drops litter on any public or private property or in any public or private waters, except: in a place designated by the Republic of Palau for the disposal of garbage and refuse; or Into a litter receptacle. 'Litter' means rubbish, refuse, waste material, garbage, trash, offal, or debris of whatever kind or description, and whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste.	

### Table 2: Policies and reports impacting waste governance in Palau

Policies and reports	Description
National Solid Waste Management Strategy: The Roadmap towards a Clean and Safe Palau 2017 to 2026	<ul> <li>The Strategy considers solid wastes generated households, institutions and commercial settings on the main island. The Strategy does not cover liquid and gaseous waste.</li> <li>Aims include to: synergise efforts in waste management among different line agencies and the wider community; improve environment, health and socio-economic conditions of the people of Palau by managing wastes properly through 3R+ return programs and provision of safe and environmentally sound collection, storage, treatment and disposal systems; and sustain the initiatives on waste management through the commitments of the government and the stakeholders adopting this Strategy.</li> <li>Guiding Principles include <ul> <li>Reduce, Reuse, Recycle, Return</li> <li>Polluter Pays Principle</li> <li>Multi-Sectorial Approach</li> <li>Precautionary Approach</li> </ul> </li> </ul>
2008–2015 National Solid Waste Management Plan (draft)	<ul> <li>Adherence to regional and international conventions.</li> <li>This Management Plan was succeeded by the new Solid Waste Management Strategy 2017–2026. The outcomes of the review of the 2008–2015 National Solid Waste Management Plan were taken on board in the development of the updated National Solid Waste Strategy and Action Plan 2017–2026.</li> </ul>
Palau Responsible Tourism Policy Framework 2017–2021	<ul> <li>One of the Government's objectives is to enhance Palau's recycling efforts and increase community and business participation. Key performance indicators include:</li> <li>National strategy or policy in place to support waste reduction program</li> <li>Volume of solid waste recycled</li> <li>Palau's responsible tourism policy means that Palau's national sustainable development strategy, state master plans, land-use plans, and disaster plans uphold tenets including that tourism development and management avoids damage to Palau's biodiversity and ecosystems, works to eliminate unsustainable consumption and minimize pollution and waste.</li> </ul>
Palau National Plan for Implementation of the Stockholm Convention on Persistent Organic Pollutants (2013)	Submitted in fulfilment of Palau's obligations as a party to the Stockholm POPs Convention
Palau Climate Change Policy 2015	At p. 17 — in order to 'establish the enabling framework to build resilience to climate change and disasters within Palau's utilities while reducing the carbon footprint from utilities', Palau seeks to '[a]ssess the viability of introducing waste-to-energy technologies and waste reduction/recycling measures'.
Palau Review of Natural Resource and Environment Related Legislation (SPREP, 2018)	Summary of Waste Management Pollution in Palau.

### Table 3: Government departments with waste responsibilities in Palau

Responsible government departments and agencies	Responsibilities
Environmental Quality Protection Board (EQPB)	Administers the Environmental Protection Act and its regulations, and has enforcement powers under s 162 of the Act. Also has powers to issue permits under the Public Health, Safety and Welfare Act for discharges to sewer systems. The EQPB also has responsibility for implementation of relevant MEAs such as the Stockholm POPs Convention.
Ministry of Public Infrastructure, Industries and Commerce	Administers the beverage container recycling program.
	Responsibility for undertaking public education campaign under the Plastic Bag Use Reduction Act.
Ministry of Finance	Administers the beverage container recycling program in conjunction with the Ministry of Public Infrastructure, Industries and Commerce.
Bureau of Revenue and Taxation	Part of the Ministry of Finance. Empowered by the Unified Tax Act to promulgate rules and regulations to carry out its provisions.
Ministry of Natural Resources, Environment and Tourism	Responsibility for undertaking public education campaign under the Plastic Bag Use Reduction Act together with Ministry of Public Infrastructure, Industries and Commerce
Bureau of Public Health	Administers the Public Health, Safety and Welfare Act Division 2 on sanitation.
Ministry of Justice	Administers criminal laws of National Code.
Bureau of Public Works	Responsibility for the National Solid Waste Management Strategy together with EQPB. Includes Solid Waste Management Office.

# **Pipeline activities**

- 1. The following sections provide details of identified pipeline legislative activities for waste management in Palau, summarised in Table 4 below.
- 2. Information on these activities was obtained primarily from the desktop research and the online survey. The UoM team hopes to obtain further information on pipeline activities through interviews with in-country stakeholders.
- 3. A general review of the National Solid Waste Management Strategy: The Roadmap towards a Clean and Safe Palau 2017 to 2026 will be undertaken in 2021 to update its relevance to current needs and to plan for the next activities for the remaining period of the Strategy.
- 4. Palau has long-standing regulations for its container deposit scheme. This scheme is being expanded to include larger containers, to boost the success of the recycling work in that country. The Solid Waste Management Office in the Bureau of Public Works has reportedly expanded the glass bottle and metal can recycling centre, with plans to make it tourist attraction.
- 5. Palau is partnering with the Chemicals and Waste Management Programme in UNEP to strengthen capacity to implement chemical and waste management in accordance with relevant MEAs. This will involve an assessment of existing infrastructure, and also work to establish central waste management system for chemicals and waste, and a national register of chemicals.
- 6. The 2008-2015 National Solid Waste Management Plan mentions Bill No. 5-96-3 which 'seeks to ban imports of single use disposable plastic objects such as cups, plates, flatware and other containers, although not plastic packaging'. The UoM team has not able to verify whether this legislation was passed. It may have been superseded by the Plastic Bag Use Reduction Act 2017 that bans individuals and businesses from importing plastic products.
- 7. Palau has recently introduced a ban on sunscreen products containing chemicals such as Oxybenzone, Ethyl paraben, Octinoxate, Butyl paraben, Octocrylene, 4-methyl-benzylidene camphor, Benzyl paraben, Triclosan, Methyl paraben, and Phenoxyethanol to protect its surrounding coral reefs.

Pipeline activities	Description	Timeframe
Review of National Solid Waste Management Strategy: The Roadmap towards a Clean and Safe Palau 2017 to 2026	Wider review of the action plan at the end of the first 5 years.	2021.
Expansion of CDS	Expansion to larger containers. Expansion of recycling centre.	<u>News reports</u> are that the expanded centre was to be up and running by October 2019.
Chemical Waste Management System	Partnership with UNEP Chemicals and Waste Management Programme to strengthen capacity to implement chemical and waste management in accordance with relevant MEAs.	Three year program: <u>https://www.unenvironment.org/news-</u> <u>and-stories/story/palau-puts-</u> <u>environment-first-through-sound-</u> <u>chemicals-and-waste-management</u>
Sunscreen ban	Ban on sunscreens containing 'reef toxic' chemicals.	In effect from 1 January 2020.

### Table 4: Pipeline activities for Palau

# **Stocktake of Relevant Multilateral Environmental Agreements**

- 1. The relevant multilateral environmental agreements for the stocktake were the:
  - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
  - Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
  - Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
  - Minamata Convention on Mercury (Minamata Convention); and
  - Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).
- 2. The Table below provides details of the membership of Palau in these MEAs. Specifically, it lists:
  - The relevant MEAs to which Palau is party and the date the MEA was in effect;
  - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
  - Details of any implementing legislation or policies for the relevant MEA.

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
Basel Convention	7 Dec 2011	Ms. Roxanne Y. Blesam Chief Executive Officer Environmental Quality Protection Board (EQPB) P.O. Box 1421 Koror, Palau Phone: +680 775 3772 Fax: +680 488 2963 Email: eqpb@palaunet.com, eqpbfranz@yahoo.com	No specific implementing legislation but see <u>Palau</u> <u>National Plan for</u> <u>Implementation of the</u> <u>Stockholm Convention</u> <u>on Persistent Organic</u> <u>Pollutants (2013).</u>
Stockholm Convention	7 Dec 2011	Not specified.	No specific implementing legislation.
Minamata Convention	21 Jun 2017	Not specified.	No specific implementing legislation.
Waigani Convention	Signed 16 Sep 1995 but no ratification.	Hon. Billy G. Kuartei Minister of State The National Capitol Ngerulmud Republic of Palau 93939 Tel: (680) 767-2490/2509 Fax: (680) 767-2443 Email: minister@palaumos.net	
Rotterdam Convention	Not party.		

### **Table 5: MEAs and implementing legislation**



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