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Review of the Fiji National Energy Policy

Legislative Gap Analysis

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**Submitted to GIZ Secretariat of the
Pacific Community by:**

**Economic Consulting Associates
SMEC (New Zealand)**

Economic Consulting Associates Limited
41 Lonsdale Road, London NW6 6RA, UK
tel: +44 20 7604 45464546, fax: +44 20 7604 4547
www.eca-uk.com

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Abbreviations and Acronyms

CCCPIR	Coping with Climate Change in the Pacific Island Region
DoE	Department of Energy
DoT	Department of Transport
EE	Energy Efficiency
ESCO	Energy Service Company
FEA	Fiji Electricity Authority
FJD	Fiji Dollar
FCC	Fiji Commerce Commission
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GDP	Gross Domestic Product
IPP	Independent Power Producer (private single purpose investor)
LTA	Land Transport Authority
NECC	National Energy Coordination Committee
NECF	National Energy Consultative Forum
NEP	National Energy Policy
NEF	National Energy Forum
PPA	Power Purchase Agreement
PPP	Public Private Partnership
RBF	Reserve Bank of Fiji
RE	Renewable Energy
RESCO	Renewable Energy Service Company
SOE	State Owned Enterprise
SE4ALL	Sustainable Energy for ALL (UN Initiative)
SPC	Secretariat of the Pacific Community
UNDP	United Nations Development Program

Executive summary

This report is part of the National Energy Policy review and supplements the draft National Energy Policy (NEP) document and Strategic Action Plan (SAP). The purpose of this legislative gap analysis is to identify what new legislation is needed and which existing legislation needs to be amended to assist effective implementation of the NEP.

Our approach

Implementing new legislation, primary legislation in particular, takes time. This is particularly so where it involves creating new agencies or expanding the powers of existing agencies which, inevitably, will lead to concerns among existing agencies who fear losing out. In making our recommendations on how to address legislative gaps we have been conscious of this risk and the need to avoid making implementation of the NEP as a whole dependent on the passage of new legislation which may be subject to many delays.

We have, therefore, adopted a two-step process in our recommendations:

- ❑ **Initially, the NEP will be implemented as far as possible through the existing legal powers of the concerned agencies.** Primary legislative activity is limited to the most urgent amendments to existing legislation without which key parts of the NEP would fail.
- ❑ **The institutional and legal reforms needed to fully implement the NEP will be embedded through new primary legislation at a later stage, with adequate time allowed for this to be enacted.** Implementation of the NEP is not dependent on the passage of this legislation. However, it is necessary to ensure that measures under the NEP are sustained and to remove the risk of rapid reversal or change which would introduce uncertainty and risk private investment in particular.

As well as supporting the rapid implementation of the NEP, this two-step process has the advantage that it allows time to build consensus around the institutional reforms required and to pilot aspects of the NEP with the resulting lessons learned incorporated into the final legislation.

Recommended initial changes

Our recommended initial changes to implement the NEP include the following:

- ❑ **Issue a new Cabinet Decision or Decree to establish the NECC and empower DoE** – No new primary legislation is needed to establish the National Energy Coordination Committee (NECC), as the membership of NECC only includes already existing institutions. Therefore, a Cabinet Decision or Decree is sufficient to establish NECC, and provides for its mandates, functions and operations as well as empower the Department of Energy (DoE) as the NECC secretariat.

- ❑ **Revise the Electricity Act** – This is the only amendments to existing legislation that is required immediately. This should include specifying that: (1) Technical regulatory functions should be removed from Fiji Electricity Authority (FEA) and transferred to a new agency or unit under DoE. This includes the issuance of licences to operate electrical installation that is currently FEA’s responsibility. (2) The Commerce Commission will remain responsible for economic regulation; however it should be given powers to implement these responsibilities through a multi-year regulatory contract or similar instrument. (3) Allow DoE to enact secondary legislation (regulations) to cover specific topics in relation to the implementation of the NEP. (4) Give DoE the authority for developing an IPP framework, with FEA as the main implementing agency.
- ❑ **Enact new secondary legislation/regulations** – Including an IPP framework regulation, feed-in tariffs and net metering regulation, electrification fund regulation, renewable energy technology standards, Energy Service Company (ESCO) regulation, vehicle fuel efficiency standards and labelling regulation, and petroleum and alternative fuel data release regulation.
- ❑ **Change existing policy documents and regulations** – Including changes to the Department of Transport’s land and maritime policies, the Commerce Commission’s fuel pricing template, the Fiji Tax and Customs Incentives Brochure, the Public Health (National Building Code) Regulation.

Recommended longer-term changes

The initial changes that we recommended above are vulnerable to subsequent change. New over-arching primary legislation will be needed to ‘lock-in’ these changes and reduce the risk of radical revisions of policy in future. Therefore towards the end of the NEP period (2014-2020) this legislative gap analysis should be updated and **a comprehensive Energy Act be prepared.**

Provisions that the Energy Act should include the establishment of NECC, specific mandates for DoE, reporting & monitoring requirements to be followed by DoE, establishment of the National Energy Consultative Forum (NECF), clear allocation of the regulatory functions in the electricity sector, IPP framework, provisions for rural electrification and allocation of responsibility to DoE, provisions for renewable energy sources inventory and allocation of the responsibility to update and maintain this inventory to DoE, provisions for energy efficient transport policies, provisions for data collection on petroleum products, confirming the Commerce Commission’s responsibility of regulating fuel prices, provisions for biofuel research activities and the regulation of the usage and sale of biofuel products, and provisions for energy efficiency measures undertaken by DoE.

1 Introduction

This report is part of the National Energy Policy review and supplements the National Energy Policy (NEP) document and Strategic Action Plan (SAP).

Objective and scope of the legislative gap analysis

The Terms of Reference (TOR) requires a gap analysis of existing energy related legislation in relation to the needs of the revised energy policy. The purpose of the legislative gap analysis is to identify, if and what, new legislation is needed and which existing legislation needs to be amended to assist effective implement the National Energy Policy and Strategic Action Plan.

This gap analysis reviews legislation that is related to the energy sector. Focus is given to legislation that is directly related to the energy sector and an in-depth analysis is done. Where other legislation is relevant to the implementation of the proposed energy policy, it is identified and reviewed to ensure consistency with the new energy policy. This analysis is also mostly focused primary legislation. Relevant secondary legislation such as regulations and Cabinet Orders, has been identified and where possible reviewed and analyse.

Approach to the legislative gap analysis

The approach taken to review the relevant legislation is as follows:

- ❑ **Identify primary legislation** directly relevant to the energy sector and to the implementation of the proposed energy policy – Section 2.1
- ❑ **Review of other legislation** that are relevant and will be affected by the implementation of the energy policy. This is summarised in Section 2.2
- ❑ **In-depth analysis of key legislation** that has the greatest impact on the implementation of the proposed energy policy – Section 2.3
- ❑ **Identify and analyse any significant gaps** in the legislation that could affect the implementation of the policy – Section 3
- ❑ **Recommend actions** to be taken to ensure that the legislative framework can accommodate the implementation of the proposed energy policies – Section 4

In developing the recommendations, focus is given to changes that can be enacted rapidly in order to take advantage of the momentum to implement the energy policy sooner rather than later. Currently planned (and known) changes are also taken into account. These changes to existing legislation will enable the enactment of the energy policy without having to go through the lengthy process of enacting a new primary legislation. However, these changes will assist in setting up the scene and will support the enactment of a more comprehensive Energy Act, which will consolidate these changes, address other institutional issues and provide a solid basis for wider programmes incorporating lessons from initial implementation of the energy policy.

2 Review of legislation

There are a vast number of laws that are relevant to the energy sector. Therefore, this section starts by identifying key legislation that will be affected by or have an impact on the NEP, by policy area.

Once identified, each of the relevant legislation is then summarised, listing all the relevant clauses and how these may be affected by or have an impact on each of the policy areas. Through this process, the key legislation that has direct impact on the implementation of the proposed energy policy is identified and discussed in more detailed.

2.1 Identification of relevant legislation

For each of the policy areas in the NEP, related existing legislation is identified and summarised in Table 1 below. The governance and institutional arrangements detailed in the NEP are also considered a 'policy area'.

Table 1 Relevant legislation in relation to recommended energy policies

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree	
<i>Governance and institutional arrangement</i>																	
Improve coordination and direction																	
Improve planning and policy development	✓															✓	
Improve stakeholder consultation																	
Improve regulation	✓																
Improve reporting, monitoring and evaluation																	
<i>Grid-based power supply</i>																	
Increase private sector investment in large-scale electricity generation	✓		✓			✓	✓	✓	✓	✓	✓						
Increase private sector investment in small-scale grid-connected renewable generation	✓		✓			✓	✓	✓	✓	✓	✓						

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Strengthen transparency and effectiveness of the regulation of the electricity sector	✓		✓	✓								✓				
Improve efficiency and effectiveness of management of the electricity grid	✓			✓								✓				
<i>Rural electrification</i>																
Develop a national electrification master plan	✓											✓				
Establish an electrification fund	✓															
FEA to lead electrification by grid extension	✓		✓	✓												
Improve the effectiveness and sustainability of the existing management model for off-grid electrification	✓															

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Establish a framework for encouraging off-grid rural electrification projects by non-government providers																
<i>Renewable energy</i>																
Maintain a comprehensive assessment of Fiji's renewable energy resources	✓								✓			✓			✓	
Make all data on renewable energy resources available to the public and prospective investors through a single national repository	✓				✓	✓	✓	✓	✓	✓	✓	✓		✓		
Promote the use of renewable energy sources for both grid-connected and off-grid electricity supply	✓															
Research and promote new renewable energy technologies	✓								✓			✓		✓		

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Conduct further investigation into geothermal energy resources as a matter of priority	✓								✓					✓		
Promote and improve guidelines and technical standards for renewable energy technologies	✓					✓	✓	✓	✓	✓	✓			✓		
Work with industry associations to identify and remove barriers	✓															
<i>Transport</i>																
Promote the fuel efficiency of imported motor vehicles					✓					✓						
Investigate the potential and cost-effectiveness of energy efficiently solutions for sea vessels													✓			

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Support the development and implementation of a transport policy that encourages a shift towards more energy efficient forms of land transport					✓											
Explore costs and benefits of introducing mandatory fuel efficiency standards					✓								✓			
Promote the fuel efficiency of the existing motor vehicle fleet					✓											
Support voluntary actions and encourage partnership programs with business communities and industries										✓			✓			
Promote public transport																
Promote cycling and establishment of cycle-path in urban areas																

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Encourage town planning and work with local councils to encourage consideration of energy aspects in town planning																
<i>Petroleum and substitute fuels</i>																
Reduce the cost of imported petroleum products		✓	✓							✓		✓				
Improve the transparency of petroleum supply		✓	✓									✓				✓
Continue research to explore the options for widespread use of biofuel	✓				✓				✓	✓	✓	✓				✓
Encourage the use of relatively environmentally friendly petroleum products									✓							
Keep fuel standards up to date and ensure that they are adhered to																✓
Prepare and maintain contingency plans for fuel supply		✓														

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree	
Continue to apply national biofuel and ethanol fuel standards																✓	
<i>Energy efficiency</i>																	
Continue to increase public education and awareness of energy efficiency	✓				✓				✓								
Extend the current system of energy labelling and minimum energy efficiency standards																	✓
Develop and implement an energy information database									✓			✓					
Monitor and improve the existing customs and tax incentives that are in place to encourage the use of energy efficient appliances and equipment										✓							
Update the codes and standards for buildings and industry	✓																✓

Policy Recommendations	Electricity Act	Petroleum Act	Commerce Commission Decree	Public Enterprises Act	Land Transport Act	Land Conservation & Improvement Act	Native Land Trust Act	State Acquisition Act	Environmental Management Act	Revenue and Customs Authority Act	Foreign Investment Act	Statistics Act	Marine Transport Decree	Mineral (Exploration and Exploitation) Bill	State Services Decree	Trade Standards & Quality Control Decree
Promote energy efficiency in public sector	✓			✓												
Support voluntary efforts by the business community to improve energy efficiency	✓								✓							

The sub-sections below discuss the legislation relating to each policy area in more detail.

Policy Area I: Governance and institutional arrangements

The proposed energy policy recommends the establishment of a National Energy Coordination Committee (NECC). The NECC should be chaired by the Minister or Permanent Secretary responsible for the energy sector and its membership should include representatives of the relevant government ministries and agencies.

The main function of NECC is to coordinate energy planning and monitor policy development in the energy sector, including coordinating and monitoring the implementation of the National Energy Policy. This includes the aligning of policies and activities of all stakeholders with the overall energy policy, reviewing and approving planning and policy proposals prepared by the Department of Energy (DoE) and resolving any inter-ministry or inter-agency conflicts that may emerge. The NECC would meet at least two times annually with DoE being the secretariat.

There is a need to have a central agency that will be responsible for the implementation and the administering of the National Energy Policy. The Department of Energy (DoE) is best place to take on this responsibility, and most stakeholders agree with this assessment.

In the short term, no new primary legislation is needed to establish NECC. All relevant government ministries and agencies can continue to perform their roles and functions as per the existing laws. For example, Land Transport Authority may continue to perform its functions and duties as per the Land Transport Act, while the Department of Environment can continue to perform its functions and duties as per the Environmental Management Act. The role of NECC is to coordinate these functions and facilitate coherence within the energy sector.

A Cabinet Decree can be enacted to establish NECC and provide DoE with the mandate to oversee and coordinate the implementation of the National Energy Policy. The Decree, in conjunction with the revised Electricity Act, can also re-allocate the non-tariff regulation of the electricity sector from FEA to DoE. This should be sufficient to provide DoE with mandate it needed to perform the proposed functions of planning and policy development, non-tariff regulation, and monitoring and reporting envisaged in the National Energy Policy.

In the longer term, a new Energy Act can consolidate all energy sector legislation and provide a stronger mandate for NECC and DoE.

If DoE is strengthened through the recruitment of new staff members, the recruitment process needs to be consistent with that outlined in the State Services Decree 2009.

Policy Area II: Grid-based power supply

The most relevant legislation for this policy area is listed below:

- ❑ **Electricity Act** – this is the most important item of legislation. It establishes the Fiji Electricity Authority and provides its mandates in terms of power generation, operation of transmission and distribution lines, and its regulatory functions.

- ❑ **Commerce Act** – this legislation has been superseded by the **Commerce Commission Decree**, which establishes the Commerce Commission and outlines its functions, which includes regulating prices of monopolistic industries (including electricity and fuel), and reviewing access agreements for infrastructure facilities.
- ❑ **Public Enterprise Act** – this legislation governs the operations, including reporting and accountability, employment and finance, of Government Statutory Authorities (GSAs) and Government Commercial Companies (GCCs). FEA is a GSA; therefore it is also governed by the provisions of this Act.
- ❑ **Environmental Management Act** – this legislation is relevant in that it requires consideration for the environment in any infrastructure projects and may require an Environmental Impact Assessment for large infrastructure projects, which include some electricity generation projects.
- ❑ **Land Conservation and Improvement Act, Native Land Trust Act, and State Acquisition Act** – these acts govern the use of land in Fiji, and outline the procedure to obtain clearance for building infrastructure facilities in Fiji. The **State Acquisition Act** provides that the Government has the right to acquire any land in Fiji for public purposes, which include the provision of electricity supply.
- ❑ **Revenue and Customs Authority Act and Foreign Investment Act** – these acts are relevant for private investment in electricity generation in Fiji. The Foreign Investment Act outlines how a foreign company can invest in Fiji, while the Revenue and Customs Authority Act establishes the Fiji Islands Revenue and Customs Authority that is responsible for administering the Customs Act, Customs Tariffs Act, Income Tax Act, Tax Administration Decree and Value Added Tax Decree, all of which are relevant to any private investors in Fiji.
- ❑ **Statistics Act** – this act allows coordination between the Fiji Bureau of Statistics and other government department in terms of data collection. In this case, the grid-based electricity statistics can be recorded and published by the Fiji Bureau of Statistics to improve transparency in the sector.

Policy Area III: Rural electrification

The **Rural Electrification Policy** was accepted in 1993 and a Cabinet Decision was published to implement this policy. The policy establishes the Rural Electrification Unit under the Ministry, and gave it the responsibility to administer and control the rural electrification program. FEA is also given some responsibility under the policy to undertake rural electrification programs.

There is currently no co-ordinated national plan to complete the electrification programme and no comprehensive assessment of the least-cost means of doing so. While grid expansion by FEA has traditionally been the main form of electrification, there are also a number of diesel-based mini-grids operated by the Public Works Department or community cooperatives, and solar home systems maintained by private contractors who receive a subsidy from DoE.

In the existing legislative framework, the most relevant legislation is the **Electricity Act**, in that it governs the responsibility and functions of FEA, which include managing and operating all transmission grids and supplying electricity to customer within the grid areas.

Other relevant legislation include the **Commerce Commission Decree**, as the Commerce Commission has the function to regulate electricity tariffs proposed by FEA (including in rural areas), the **Public Enterprise Act**, as it requires FEA as a GSA to develop a corporate plan and business plan that should include grid extension plans, and the **Statistics Act** as it allows coordination with Fiji Bureau of Statistics in recording and publishing electrification rate in rural areas.

Policy Area IV: Renewable energy

The **Electricity Act** was developed and enacted at the time when renewable energy was not a major issue and therefore does not have any specific clauses or even mention electricity generation using renewable energy sources. As it is currently being reviewed, the revised Electricity Act should include clauses concerning electricity generation using renewable sources.

The **Environmental Management Act** is also relevant, in that it requires the Department of Environment to have a Resource Management Unit, whose function includes the formulation of a Natural Resource Inventory, which includes renewable energy sources.

However, geothermal resources are governed by the **Mineral (Exploration and Exploitation) Act**, and are currently managed by the Mineral Resource Department under the Ministry of Lands and Mineral Resources. There is a plan to amend this Act and in the future develop a Geothermal Decree and Regulation¹.

The **Land Conservation and Improvement Act**, **Native Land Trust Act** governs the use of land in Fiji, which include the use of land for electricity generation using renewable sources. The **State Acquisition Act** provides that the Government has the right to acquire any land in Fiji for public purposes, which include the provision of electricity supply.

In addition, in the **Climate Change Policy** rests the responsibility of implementing the policy and in coordinating climate change related projects to the Climate Change Unit, which are currently under the Ministry of Foreign Affairs. The Climate Change Policy includes public awareness and education programs in relation to climate change issues, and has provisions for climate change mitigation programs, which includes renewable energy for electricity generation and other industrial uses.

Similar to that of promoting private investment in grid-based power supply, in terms of promoting private investment in renewable energy generation, the **Revenue and Customs Authority Act** and **Foreign Investment Act** are relevant.

The Statistics Act is also relevant in that the Fiji Bureau of Statistics can collect and publish information on potential renewable energy sources.

¹ <http://www.lands.gov.fj/mrd/download/RoadMap/LegalReformRoadmap.pdf>

Policy Area V: Transport

The Ministry of Works, Transport and Public Utilities is currently in the evaluation process of selecting consultants to develop the Land and Maritime Transport Policies which is expected to be completed in 2014.

For land transport, the most relevant legislation is the 1998 **Land Transport Act**, which establishes the Land Transport Authority (LTA), and outlines the responsibilities and functions of LTA, which include recording and managing the vehicle registration, and regulates vehicle standards and set greenhouse gas (GHG) emission standards for land vehicles. The 1998 Act is currently being reviewed in consultation with the Office of the Solicitor General. Other regulations in relation to land transport are the responsibilities of LTA under this Act.

For maritime transport, the **Maritime Transport Decree 2013 (MTD) and the Ship Registration Decree 2013 (SRD)** has superseded the 1986 **Marine Act** and establishes the Maritime Safety Authority of Fiji. The MTD outlines the regulation of the safety aspect of vessels/ship and protection of the marine environment from any unlawful discharge that emanates from ships pipelines and off shore installations. The SRD outlines the regulation of vessel registrations and licencing.

Vehicle importation standards are regulated by Ministry of Industry and Trade, although there is no specific legislation allocating this responsibility. The Ministry of Industry and Trade issues standards for vehicle imports and issue import certification. The **Revenue and Customs Authority Act** also applies to vehicle importation.

Policy Area VI: Petroleum and substitute fuels

In terms of petroleum exploration and production, the governing legislation is the **Petroleum (Exploration and Exploitation) Act**. However, this act does not govern the importation of petroleum or other fuel products. Petroleum import prices are monitored by the Reserve Bank of Fiji. As with any other good imported into Fiji, the importation of petroleum and other fuel products are also governed by the **Revenue and Customs Authority Act**.

Under the **Trade Standards and Quality Control Decree**, the Ministry of Industry and Trade publishes and monitors the quality standards of imported fuels, while the wholesale and retail prices of petroleum and other fuels are regulated by the Commerce Commission under the **Commerce Commission Decree**.

The Biofuel Development Unit under the DoE has the responsibility to ensure timely implementation of biofuel industry in Fiji. However, the national biofuel and ethanol standards are governed under the **Trade Standards and Quality Control Decree**.

The use of biofuel for electricity generation and land transport, once developed, will have relevance to the **Electricity Act** and **Land Transport Act**, as both acts can provide incentives for the use of biofuel.

The Fiji Bureau of Statistics collects information on the consumption of petroleum and fuel products under the **Statistics Act**.

Policy Area VII: Energy efficiency

There is no specific legislation for energy efficiency; most energy efficiency related issues are included in sector legislation. For example, in relation to transport, the LTA collects information and register vehicles based on their fuel types.

The use of energy efficient appliances, such as refrigerators, are encouraged, and the standards for these appliances are governed under the **Trade Standards and Quality Control Decree** along with the **Minimum Energy Performance Standards and Labelling Program**, with the Department of Energy being responsible for regulating the labelling of energy efficient appliances. The **Revenue and Customs Authority Act** provides for customs and tax incentives for the importation of energy efficient appliances.

The Fiji National Building Code is set out as part of the **Public Health (National Building Code) Regulation 2004**, and currently does not have specific clauses for energy efficient building requirements.

The **Environmental Management Act** has some relevance in that the functions of the Department of Environment include improving public awareness and education on environmental matters.

2.2 Summary of relevant legislation

The table below summarises the legislation that we have identified is relevant to Fiji's energy sector.

Table 2 Summary of relevant legislations

Name of legislation	Description	Relevance to proposed energy policy
Electricity Act (Cap. 180) (currently being reviewed)	<p>This Act establishes the Fiji Electricity Authority (FEA) as a corporate body responsible for energy supply in Fiji whose general functions include the promotion and encouragement of energy generation in Fiji with a view to the economic development of Fiji, to secure the supply of energy at reasonable prices and to advise the Energy Minister on all matters relating to the generation, transmission, distribution and use of energy.</p> <p>FEA is entrusted with enforcing the Electricity Act and regulations, setting standards, examining and registering electricians, and is empowered to approve and license suppliers to serve certain areas. FEA is also governed by the requirements under the Public Enterprise Act.</p>	<p><i>Policy Area I – Grid-based power supply:</i> FEA is responsible for the supply of electricity through the grid, and for regulation related to grid-based power supply</p> <p><i>Policy Area II – Rural electrification and Policy Area III – Renewable energy:</i> Existing Electricity Act does not have provisions for implementing these policy areas.</p> <p><i>Policy Area VI – Energy Efficiency:</i> Existing Electricity Act does not have provisions for demand side management and energy efficiency.</p>
Land Transport Act 1998	<p>This Act establishes the Land Transport Authority as a corporate body responsible for the regulation of all road transport activities, including vehicle registration, drivers licencing, road traffic management and enforcement of road traffic rules.</p>	<p><i>Policy Area IV – Transport:</i> LTA is responsible for developing and enforcing safety and environmental standards of road vehicles, including vehicle emission standards</p>

Name of legislation	Description	Relevance to proposed energy policy
Environmental Management Act 2005	<p>The Environmental Management Act was enacted in 2005 and its objective is to apply the principles of sustainable development to the use and development of natural and physical resources; and to identify matters of national importance for the Fiji Islands.</p> <p>The Act outlines the responsibilities of the Department of Environment, which include the formulation of a Natural Resource Inventory, Natural Resource Management Plan, and National Environmental Strategy.</p> <p>The Act requires environmental impact of development activities that are likely to have a significant impact on the environment, including existing or proposed protected areas. Infrastructure projects in the energy sector are, thus, obliged to submit an Environmental Impact Assessment (EIA) for approval prior to their implementation.</p>	<p><i>Policy Area I – Grid-based power supply</i></p> <p>Electricity generation projects that has significant environmental impacts are required to submit an EIA</p> <p><i>Policy Area III – Renewable energy</i></p> <p>The Natural Resource Inventory includes inventory of energy resources. The current inventory includes solar, hydro and wind resources as energy resources, and geothermal power as mineral resources</p> <p><i>Policy Area VI – Energy efficiency</i></p> <p>Part of the responsibility of the Department of Environment is to raise public awareness on environmental matters, which include the sustainable use of natural resources</p>
Petroleum (Exploration and Exploitation) Act (Cap. 148) (revision 1985)	<p>The Petroleum Act was enacted in 1978 and was revised in 1985. The Act sets out definitions, financial provisions, keeping of records and accounts, data provision and confidentiality, rights reserved by Government and various obligations of the company.</p> <p>The Act is concerned with the laying of pipelines (development is administered under the Petroleum (Exploration and Exploitation) Act). Under the Petroleum Act, the Minister has largely unfettered power to permit the construction of pipelines for conveying petroleum in, on or under any public or private land, and imposing conditions thereupon. Under regulations, the release of oil from vessels and associated infrastructure into the sea is prohibited. In terms of onshore oil pollution, a \$100 fine applies in respect of the escape of petroleum which may percolate to the sea, stream or river.</p>	<p><i>Policy Area V – Petroleum and substitute fuels</i></p> <p>The Act outlines the procedure for exploration and exploitation and who holds the ownership and rights.</p>

Name of legislation	Description	Relevance to proposed energy policy
Commerce Act (1998) superseded by Commerce Commission Decree 2010	<p>The Act was enacted in 1998 and resulted in the establishment of a four member Commerce Commission in October of the same year. The Commission was dissolved by the Fiji Labour Party government in 1999. A new Commission was appointed in October 2000 by the then interim government. The Commerce Commission Decree was enacted in 2010, and it repeals the Commerce Act.</p> <p>The object of the Commission, as outlined in the Act is to (i) to promote effective competition in the interests of consumers; (ii) to facilitate an approximate balance between efficiency and environmental and social considerations; (iii) to ensure non-discriminatory access to monopoly and near monopoly infrastructure or services.</p> <p>The Act also outlines the procedure for entering into an access agreement in relation to infrastructure facilities and how prices of goods and services can be controlled in case of restricted competition. In case of restricted competition in the energy sector, the relevant Minister can impose price control.</p>	<p><i>Policy Area I – Grid-based power supply</i></p> <p>The Commission is responsible for registering an access agreement to any infrastructure facility, which include any contracts FEA has with other power producers</p> <p>The Commerce Commission also reviews FEA proposed tariffs and sets and publishes customers electricity tariffs</p> <p><i>Policy Area V – Petroleum and substitute fuels</i></p> <p>The Commerce Commission sets wholesale and retail fuel prices</p>
Public Enterprise Act 1996	<p>The Public Enterprise Act was enacted in 1996 and was revised in 2002. The Act established the Public Enterprises Reform Program</p> <p>The reform aimed at improving the overall operational and allocative efficiency of the public enterprises. This entailed the re-organisation of commercial sections of the Government Statutory Authorities (GSAs) and Government Commercial Companies (GCCs) through corporatisation and privatisation.</p> <p>The re-organised and corporatised government entities were to operate as successful businesses through the application of four key principles embodied in the Public Enterprise Act. These principles were (i) clarity of objectives of the public enterprise; (ii) management of autonomy and authority to pursue these objectives; (iii) strict accountability for performance by the board; and (iv) a level playing field through creation of a competitive and fair trading environment.</p>	<p><i>Policy Area I – Grid-based power supply</i></p> <p>FEA is a Government Statutory Authority, and therefore governed by this Act.</p> <p>The Act (1996) requires each GCCs and GSA's to submit a Corporate Plan with specification on (i) statement of corporate intent; (ii) employment and industrial relations plan; (iii) unaudited financial statements, annual reports and; (iv) an annual budget. Additionally, the Ministry of Enterprises nominates an observer to ensure that the ministry is informed of the activities and operations of the organisation concerned.</p> <p>Under the Act, Each GCC and GSA is required to pay at least 50 per cent of net earnings (after tax) to Government as dividends</p>

Name of legislation	Description	Relevance to proposed energy policy
Land Conservation and Improvement Act (Cap. 141) 1953	Establishes the Land Conservation Board and empowers the board to make conservation, closing and work orders.	<p><i>Policy Area I – Grid-based power supply</i></p> <p>The Land Conservation Board appointed under this Act has wide powers and can require an owner or occupier of any land to construct and maintain on the land such works for the conservation of the land or water resources and that includes infrastructure facilities in the energy sector.</p>
Native Land Trust Act (Cap. 134) (revision 1985) and Crowns Land Act (Cap. 132)	<p>The Native Land Trust Act (NLTA) revised in 1985, called for the establishment of the Native Land Trust Board (NLTB). The Act transfers all land rights from the mataqalis' to the NLTB. Under the Act, all native land is vested in the Board to be administered by the Board for the benefit of the Fijian owners. NLTB is the legal owner of all native land in Fiji, despite landowners acting as owners.</p> <p>The Act provides that the Trust Council may, with the approval of the Minister, declare any area of land (including reefs) as being of natural interest or beauty. Such an area of land or reef would be listed as a National Heritage Area.</p> <p>The NLTB is lawfully authorised to grant leases of portions of native land, which are not included in the native reserves. The customary owners have no choice as regards NLTB being the Legal owner (trustee) of their land.</p>	<p><i>Policy Area I – Grid-based power supply</i></p> <p>The Act provides a provision to create a conservation covenant with landowners, which would place restriction on the use or development of land. If an infrastructure facility is located on native land it is subject to the NLTA.</p>
State Acquisition of Land Act (Cap. 135) 1978	<p>Under this Act the state is empowered to acquire any lands in Fiji for public purposes – an explanation of the relationship between this Act and the Native Land Trust Act is needed.</p> <p>The Act provides the right to the relevant Minister during the period before a town planning scheme has been approved, to compulsorily acquire land. The test to be applied is where a town council is satisfied that the acquisition of any land under this section is expedient for the purpose which appears to it to be necessary in the interests of the proper planning of that area.</p>	<p><i>Policy Area I – Grid-based electricity</i></p> <p>The Act provides for the compulsory acquisition of land for public purposes. Public purposes include defense, town and country planning, and general public benefit.</p>

Name of legislation	Description	Relevance to proposed energy policy
Revenue and Customs Authority Act 1998, revision 2010	<p>This Act establishes the Fiji Islands Revenue and Customs Authority (FRCA), which has the functions of advising the State on matters relating to taxation and customs and excises and to liaise with appropriate Ministers and statutory bodies on such matters. The FRCA is also responsible for administering and enforcing laws including the Customs Act, Customs Tariff Act, Income Tax Act, Tax Administration Decree, Value Added Tax Decree amongst other.</p> <p>The FRCA has the right to make regulations with regards to the above acts.</p>	<p>All Policy Areas</p> <p>Relevant to all policy areas with regards to taxation and customs</p>
Foreign Investment Act 1999	<p>This Act governs all foreign investments in Fiji, and requires any foreign investors to obtain a Foreign Investment Certificate before commencing any business activities in Fiji. The Act outlines the procedures to be taken to obtain the Foreign Investment Certificate, and what information to be included in the application.</p> <p>The Act also specifies business activities that are reserved for Fijian national only, and restricted business that foreign investors must meet certain conditions before commencing business activities.</p>	<p>All Policy Areas</p> <p>Relevant to all policy areas with regards to foreign investment</p>
Maritime Transport Decree and Ship Registration Decree	<p>The Maritime Transport Decree establishes the Maritime Safety Authority of Fiji (MSAF), which has the responsibility for implementing and enforcing Fiji Islands' international obligations, including all international conventions, marine pollution incidents and the security of vessels and ports.</p> <p>MSAF is also responsible for registering vessels and keep records of registered vessels.</p> <p>The Ship Registration Decree on the other hand regulates the processes, procedures and requirements for the Registration of Ships. The registration of ships is particularly relevant for ships that carry out commercial activities within Fiji waters.</p>	<p><i>Policy Area IV – Transport</i></p> <p>MSAF has the right to approve application for vessel registrations and keep records of the types of vessels including fuel types</p> <p>MSAF is responsible for developing and enforcing safety and environmental standards for all vessels registered or entering into Fiji waters. This will include research and development on the usage of prototype vessel for future development towards the adoption of sustainable maritime transport methods in Fiji.</p>

Name of legislation	Description	Relevance to proposed energy policy
Statistics Act	This Act gives powers to the Government Statistician to collect, compile, analyse, abstract and publish statistical information relating to commerce, industrial, agricultural, social, economic and general activities and conditions of the people of Fiji, and to collaborate with other government departments in performing its functions.	All Policy Areas Relevant to all policy areas with regards to information collection, analysis and publications
Mineral (Exploration and Exploitation) Bill 2006	This Bill governs the exploration and exploitation of mineral resources in Fiji, which includes geothermal resources. The Bill outlines the application and granting processes, terms and conditions and statutory requirements of Exploration Licences, Development Licences, and Mining Leases. The Bill also deals with the compensation for various types of disruptions caused by the exploration and exploitation of minerals, the royalty payments to the Government of Fiji, and the health and safety requirement for all related activities.	<i>Policy Area III – Renewable Energy</i> Relevant to the development of geothermal energy
Trade Standards and Quality Control Decree 1992	This Decree establishes the Trade Standards Advisory Council, whose function is to consider and recommend to the relevant Ministers in respect to the quality of commodities, processes, practices and services imported into, produced or provided in Fiji. The Decree also established the Standards and Quality Control Office, which will administer, implement and monitor the compliance to standards and quality control measures outlined in the Decree. The Decree provides for the declaration of standards by relevant Ministers, which after being declared, the standards must be met by any provider or importer of the goods or services. The Decree also requires the publication of goods and services that should comply with quality standards, and outlines the quality control requirements, such as certificates, labeling, and licences.	<i>Policy Area V – Petroleum</i> Relevant to the development and enforcement of imported petroleum standards Relevant to the development of national biofuel and ethanol standards <i>Policy Area VI – Energy Efficiency</i> Relevant to the enforcement of energy efficient appliance standards
Public Health (National Building Code) Regulation 2004	The National Building Code provides the standard building codes, which include suitability of materials, fire-resistance and early fire hazard specifications. Currently, there are no specific requirements for energy efficiency in buildings.	<i>Policy Area VI – Energy Efficiency</i> Relevant to the development of energy efficiency standards in buildings

Name of legislation	Description	Relevance to proposed energy policy
State Services Decree 2009	This Decree governs the requirement for recruitment of state services staff. This Decree also establishes the Public Services Commission, and provide provisions for most state offices.	<i>Policy Area VII – Governance and Institutional Arrangement</i> Relevant to the recruitment of staff for any state services

2.3 Focus on key legislation

In this section we give a detailed review of five pieces of legislation that we have identified as being most critical to governance of the energy sector and has the most relevance to the implementation of the NEP:

- ❑ The Electricity Act
- ❑ The Land Transport Act
- ❑ The Environmental Management Act
- ❑ Commerce Commission Decree (repeals the Commerce Act)
- ❑ Minerals (Exploration and Exploitation) Bill

Other relevant legislation has been summarised in Table 2, and although they are relevant to the implementation of the new National Energy Policy, they do not have immediate impact on the implementation of the National Energy Policy. These legislation have been identified in order to provide a wide view of the legislative framework concerning the energy sector. Furthermore, the identified relevant legislation will not impede and some will even assists in the implementation of the National Energy Policy.

Electricity Act

The main purpose of the Electricity Act is to establish the Fiji Electricity Authority (FEA). Under this Act, the board members of FEA are appointed by the Minister responsible for energy² and the terms are also determined by the Minister. The board then appoints a General Manager and a Secretary with the approval of the Minister. Other staff members of FEA can be recruited from the market based on qualifications and experience and FEA may develop its own regulations in terms of staff recruitment and remunerations.

The functions and duties of FEA are outlined in Articles 13, 15, 28, and 66 of the Electricity Act. Based on these articles, the functions and duties of FEA can be categorised and summarised as follows:

- ❑ **Manage and operate all electrical installations** transferred from the Government – FEA has the right to generate, transmit, transform and distribute electricity, and operate and manage the assets involved in these activities
- ❑ **Supply electricity** to consumers – FEA is required to enter into a supply contract with individuals or companies to sell electricity as per the terms and conditions of the contract. FEA is not allowed to supply electricity to an area licenced to be supplied by a licensee

² Formerly the Minister for Lands, Energy and Mineral Resources, now the Minister for Works, Transport and Public Utilities (Energy and Water)

- ❑ **Issue and grant licences** for the supply and operation of an electrical installation³ – FEA has the right to determine the amount of licence fee, the licence conditions, and licence term (with a maximum of 21 years). Licences must include a map of the supply area and declare the voltage permitted and its allowable variations. FEA has the right to cancel licences if any of the conditions are breached. The Electricity Act does not explicitly include grounds on which FEA can refuse to grant a licence. However, the Act allows FEA to make regulations on the conditions to be met by licence applicants, and the conditions for suspension, extension and revocation of licences. In addition to licences, FEA also grants certificate of registration of all new electrical installations and charges a registration fee.
- ❑ **Technical regulation** – For the electricity sector, FEA may make regulations and develop technical standards and specifications, determine duties inspectors and procedures for inspections, develop and determine public enquiries and notice procedures, and develop and determine payments and collection methods.
- ❑ **Tariff setting** – Since the Electricity Act was enacted prior to the enactment of the Commerce Commission Decree, some of its provisions regarding tariff setting may be outdated and in need of revision to ensure consistency with the Commerce Commission Decree. According to the existing Electricity Act, FEA may make regulations in relation to the charges made for supplied electricity and charges to cover the cost connecting a customer to the distribution line. FEA may also set the maximum tariff that can be charged to customers.

It is important to note that Article 14 of the Electricity Act allows for the Minister responsible for energy to give directives to FEA in relation to its functions and duties. This gives the Minister the ability to provide policy direction and targets that FEA has to meet in performing its duties and functions.

The Electricity Act provides for the financial management of FEA in Article 18-25, in that FEA may charge fees in order to finance its operations, may borrow from financial institutions, and may invest its revenues. FEA is also required to submit an annual report, which includes audited financial statements, to the Minister. A copy of the annual report will also be laid before Parliament.

Another Article worth noting is Article 33, which gives FEA the right to require licensees of selected power stations to supply electricity to the grid. In doing so, FEA may require the licensee to upgrade and modify its systems in order to supply FEA with the amount of electricity required. The price for electricity supplied in this case should be determined by arbitration. The Electricity Act does not specify who should be the arbitrator, and currently this function is performed by the Commerce Commission.

The Electricity Act also provides for FEA's rights to acquire land and/or property needed to provide electricity supply and rights to enter property or land for inspections. It also defines types of offences and their respective penalties and FEA's rights to penalise offenders.

³ Installation is defined in the Act as "whole of any plant or apparatus designed for the supply or use or both of energy". This includes installations that are used to generate and transport electricity.

Other aspects covered by the Electricity Act include the use or joint use of transmission lines, disconnections for maintenance purposes, procedures to investigate accidents, and some dispute resolution mechanism.

Land Transport Act

The Land Transport Act was enacted to establish the Land Transport Authority, to regulate the registration and use of vehicles, the licencing of drivers of vehicles and the enforcement of traffic laws.

The Land Transport Authority (LTA) is responsible for the registration of land transport vehicles, licencing of drivers licence for land transport vehicles, to develop and implement traffic management strategies and practices, and develop and implement enforcement strategies in consultation with the Commissioner of Police consistent with road safety and road infrastructure protection objectives.

The Land Transport Act provides that the Minister, after consultation with the LTA may make regulations under the Act, which will be implemented and monitored by LTA. In relation to energy and to the proposed energy policies, these regulations under LTA include:

- Minimum vehicle standards relative to road safety and the environment
- Standards for the construction, dimension and weights of vehicles and the environmental and safety standards to be met by vehicles
- The type and standards of fuel and fuel systems to be used by motor vehicles and emission standards for motor vehicles
- The safety of hazardous materials, including petroleum products, gases, chemicals and explosives, being transported by road.

As part of the vehicle registration process, LTA collects information on registered vehicles such as fuel type, year of make, and other information that can be used to determine vehicles' energy efficiency.

Environmental Management Act

The Environmental Management Act was enacted for the protection of the natural resources and for the control and management of developments, waste management and pollution control, and for the establishment of a National Environment Council.

The National Environmental Council has the functions of approving the National State of the Environment Report (National Report) and the National Environmental Strategy, monitoring the implementation of the National Environmental Strategy, advice the Government on international and regional environmental commitments and treaties, and in general facilitates discussions on environmental matters.

The Environmental Management Act allows the Council to require the Department of Environment to become the coordinating department in terms of matters relating to the environment. The Department is required to create several units with distinct functions:

- ❑ **Resource Management Unit** – responsible for the formulation and review of the National Resource Inventory and the Natural Resource Management Plan, maintaining a natural resource information database and in general all matters relating to natural resources in Fiji.
- ❑ **Environmental Impact Assessment Unit** – responsible for examining and processing development proposals, and for implementing the EIA procedures
- ❑ **Waste Management and Pollution Control Unit** – responsible for the formulation of the National Solid Waste Management Strategy and in general all matters relating to the waste management and pollution control.

The Environmental Management Act requires the formulation and development of a Natural Resource Inventory, which includes inventory of all Fiji's natural resources classified into six categories: freshwater resources, marine resources, land resources, agriculture resources, energy resources and mineral resources. The formulation of the Natural Resource Inventory should be followed by the formulation of the National Resource Management Plan. Later on both of these documents should inform and be the basis for the National Environmental Strategy.

The first Natural Resource Inventory for Fiji was published in 2011 containing six volumes, one for each of the resource categories. Volume 5 (Energy Resources) of the Natural Resource Inventory includes solar, hydro and wind energy resources, while Volume 6 (Mineral Resources) includes geothermal energy sources.

The National Resource Management Plan and the National Environmental Strategy have not been published at the time this report was written.

Commerce Commission Decree

The Commerce Commission Decree repeals the Commerce Act, and provides a more up to date and comprehensive law concerning regulated industries and provides for consumer protection. As with the Commerce Act, the Commerce Commission Decree establishes the Commerce Commission, and outlines its functions and duties, which can be categorised as follows

- ❑ **Access agreements** – the Commerce Commission provides advice to the Minister for Industry and Trade about proposed access agreements, maintains a register of access agreements, facilitates negotiations about access to infrastructure or services under access regimes, and arbitrates disputes over access to infrastructure or services under access regimes
- ❑ **Control of Prices** – the Commerce Commission may fix and declare maximum prices, and where need be, quantities, for goods and services and rents. The Commerce Commission Decree empowers the Commission to recommend to the Minister to make a statutory order to control prices in the industries where competition is limited or is likely to be lessened and where it is necessary or desirable that the price of this good or service be controlled in the interests of users, consumers or suppliers. Where a statutory order is enforced, the Commission is empowered to set the new prices.

- ❑ **Consumer protection** – the Commerce Commission has the responsibility to promote the interests of consumers, to collect, examine and disseminate information in respects of matters affecting consumers, to receive and consider complaints from consumers, to provide advice to consumers and manufactures or suppliers, and to investigate fraudulent or deceptive practices in relation to matters that affects consumer interests.

Under the **Commerce (Control of Prices for Supply of Electricity and Ancillary Services) Order 2012**, the Commerce Commission is empowered to control and/or regulate the prices for electricity and ancillary services in Fiji. This includes the control of prices for the supply of electricity in all quantities, qualities and grades or classes, which entails that the Commerce Commission can also set the minimum price FEA may offer to Independent Power Producers (IPPs). In December 2012, the minimum IPP tariff rate was set to 25.65 Fijian cents.

The Commerce Commission Decree also gives powers to the Commerce Commission, with the Minister for Industry and Trade’s approval, to make Petroleum Price Control Order. Under the **Commerce (Price Control) (Petroleum Prices) Order**, the Commerce Commission determines the maximum prices for the sale of petroleum products, including motor spirits (unleaded), gasoil (diesoline), pre-mixed outboard fuel, kerosene for household use, and liquid petroleum gas (LPG).

Mineral (Exploration and Exploitation) Bill

The **Mineral (Exploration and Exploitation) Bill** states that all mineral resources, including geothermal resources, in or under any land in Fiji are and deemed to be the property of the State, and no person are allowed to carry out any activities involving the prospecting, exploration and development of minerals without a relevant licence.

There are different types of licences prescribed by the Bill:

- ❑ Prospector’s rights – gives a person the right to prospect for minerals and mark out areas of proposed mining lease
- ❑ Exploration licence – gives the holder the right to explore the area specified in the licence and mark out and apply for development licence or mining lease
- ❑ Development licence – gives the holder the right to develop the area specified in the licence and apply for mining lease or to retain the mineral resources within the area specified in the licence
- ❑ Mining lease – allows the holder to perform mining activities within the area specified in the lease.

For each of these types of licences, the Mineral Bill outlines the application process, criteria for granting the licence, and the terms, conditions and statutory requirements attached to the licences.

The Bill also include provisions for compensations paid for land, cultural and external disruptions, royalty payments to the government from development licence holders and mining lease holders, and health and safety requirements for any mining activities.

3 Analysis of legislative gaps

Based on our review of relevant legislation in the previous section, the gaps in existing legislation that can impede the implementation of the proposed National Energy Policy are identified and discussed below.

3.1 Lack of coordination in energy sector planning and policy development

None of the relevant laws provide for a central policy-making and planning entity for the energy sector or other means of coordination. Different legislation allocates responsibilities related to the energy sector to different government departments and/or other institutions, as summarised in Table 3. This lack of coordination contributes to a disjointed policy making process and unreliable implementation of policies.

Table 3 Summary of key actors in the energy sector

Name of institution/department	Name of legislation	Current responsibilities
Department of Energy		<ul style="list-style-type: none"> • Rural electrification • Biofuel development • Energy efficient appliances standards and labelling
FEA	Electricity Act	<ul style="list-style-type: none"> • Electricity generation, transmission and distribution • Develop grid extension plans • Technical regulation of electricity sector
Fiji Commerce Commission	Commerce Commission Decree	<ul style="list-style-type: none"> • Regulation of electricity tariffs • Regulation of fuel prices
Ministry of Industry and Trade	Trade Standards and Quality Control Decree	<ul style="list-style-type: none"> • Monitor the quality of imported petroleum imported and sold in Fiji
Reserve Bank of Fiji		<ul style="list-style-type: none"> • Monitors, records and publish information regarding imported fuel and fuel prices
Department of Environment	Environmental Management Act	<ul style="list-style-type: none"> • Coordinate all matters related to the environment • Develop, prepare and update the Natural Resource Inventory • Environmental Impact Assessment for infrastructure projects
Mineral Resource Department	Mineral (Exploration and Exploitation) Bill	<ul style="list-style-type: none"> • Development of geothermal resources

Name of institution/department	Name of legislation	Current responsibilities
Climate Change Unit (Ministry of Foreign Affairs)	Climate Change Policy	<ul style="list-style-type: none"> Implement policy and coordinate climate change projects
Land Transport Authority	Land Transport Act	<ul style="list-style-type: none"> Regulation of land vehicle standards
Maritime Safety Authority of Fiji	Maritime Transport Decree and Ship Registration Decree	<ul style="list-style-type: none"> Regulation of maritime vessels standards

The table above also shows that currently the Department of Energy does not have a legal mandate to implement the policies and programs entrusted in them.

3.2 Outdated and incomplete Electricity Act

The main legislative gap with respect to grid-based power supply, rural electrification, and renewable energy is the Electricity Act; more specifically:

- ❑ **Inappropriate regulatory framework** in the electricity sector- in the current arrangement under the Electricity Act, FEA is performing the regulatory function as well as being the service provider. This creates obvious potential for conflicts of interest, particularly as the National Energy Policy calls for the opening up of the power sector to greater involvement from entities other than FEA.
- ❑ **Outdated provisions regarding tariff setting** -the Commerce Commission is currently performing some of the economic regulation functions, such as tariff reviews. The existing Electricity Act does not require FEA to sign a multi-year regulatory contract with the Commerce Commission, nor does it require FEA to comply with regulations made by the Commerce Commission.
- ❑ **Unclear arrangement for supply into the electricity grid** - although there are provisions for the sale of electricity to FEA, there are no specific requirement for this arrangement. For example, there are no requirements for FEA and the licenced supplier to enter into a supply contract or power purchase agreements (PPAs).
- ❑ **No provisions for rural electrification** - the existing Electricity Act does not specifically address rural electrification. It also does not have clear provisions for off-grid electricity supply. This may hinder, for example, the proposed introduction of new rural electrification providers and a subsidy mechanism and efforts to make FEA comply with the proposed national electrification plan.
- ❑ **No provisions for renewable energy development** - although FEA are actively pursuing renewable energy development, in the existing Electricity Act there is a lack of obligations on FEA to promote and support renewable energy including, for example, obligations to connect to and purchase from qualifying facilities.

3.3 Lack of incentives for private investors

In terms of encouraging private sector investment in the electricity sector, the existing legislation, including Revenue and Customs Authority Act and Foreign Investment Act, are adequate and no changes are needed. However, there is a lack of clarity on how the electricity sector, in particular tariff setting and contracting, is regulated. This lack of clarity is a major constraint in increasing private investment in the electricity sector.

In addition, there is currently no one-stop-shop to assist investors. Investment Fiji has made a good start in developing and providing guidelines on energy related investments in Fiji. However, the procedure for investing in energy projects in Fiji is still very complicated, with many different institutions to seek approvals from. The situation as regards land access permits is particularly complex. The Land Conservation and Improvement Act and the Native Land Trust Act both govern the use of land for infrastructure projects. It is very difficult for private investors, especially foreign private investors, to work through the various pieces of legislation, as has been reported by several private sector participants to the National Energy Forum.

While this does not necessitate new primary legislation, it does suggest that coordination between DoE, with the lead planning role in the sector and the responsibility for housing all energy related information, and Investment Fiji, with a role as a one-stop shop, could drastically support private investment in the energy (and other) sectors.

4 Recommended legislative changes

Implementing new primary legislation takes time. This is particularly so where it involves creating new agencies or expanding the powers of existing agencies which, inevitably, will lead to concerns among existing agencies who fear losing out. In making our recommendations on how to address legislative gaps we have been conscious of this risk and the need to avoid making implementation of the NEP as a whole dependent on the passage of new legislation which may be subject to many delays.

We have, therefore, adopted a two-step process in our recommendations:

- ❑ **Initially, the NEP will be implemented as far as possible through the existing legal powers of the concerned agencies.** Primary legislative activity is limited to the most urgent amendments to existing legislation without which key parts of the NEP would fail.
- ❑ **The institutional and legal reforms needed to fully implement the NEP will be embedded at a later stage through new primary legislation,** with adequate time allowed for this to be enacted. Implementation of the NEP is not dependent on the passage of this legislation. However, it is necessary to ensure that measures under the NEP are sustained and to remove the risk of rapid reversal or change which would introduce uncertainty and risk private investment in particular.

Primary legislation requires the approval of the parliament, while secondary legislation such as regulations and cabinet orders can be enacted by the executive branch of Government. In general, the process to enact primary legislation can be lengthy and is prone to delays due to political issues. Therefore, when time is an important factor, the enactment of secondary legislation is preferred and can be a starting point to further enactment of primary legislation.

As well as supporting the rapid implementation of the NEP, this two-step process has the advantages that it allows time to build consensus around the institutional reforms required and to pilot aspects of the NEP with the resulting lessons learned incorporated into the final legislation.

4.1 Initial changes

Below we identify four types of initial legislative changes to be undertaken:

- ❑ A new Cabinet Decision or Decree to establish the NECC and empower DoE.
- ❑ The revision of the Electricity Act.
- ❑ Enactment of secondary legislation/regulations.
- ❑ Changes to existing policy documents and regulations.

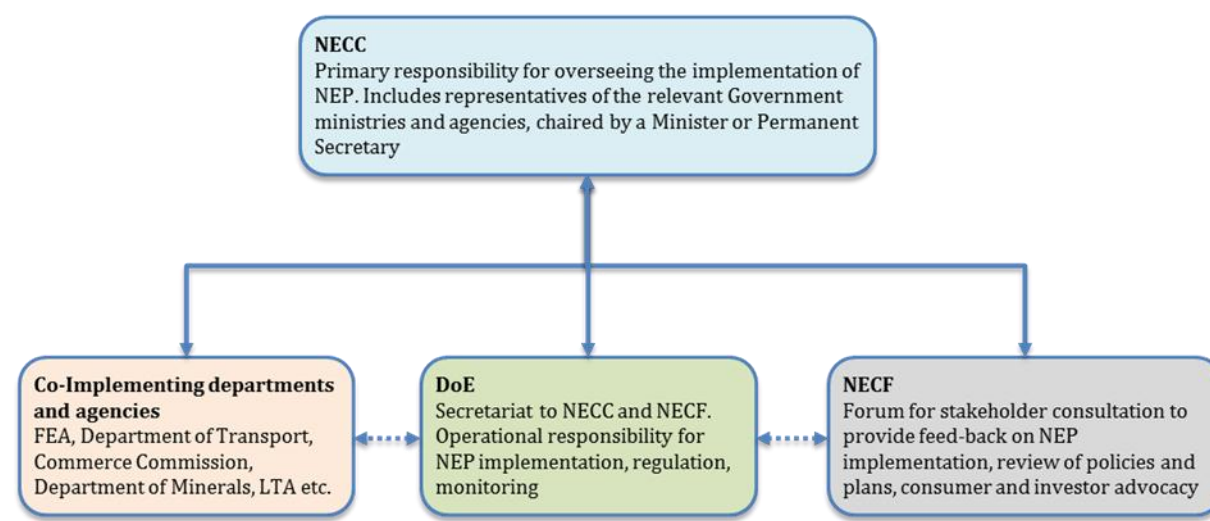
These are discussed in detail below.

New Cabinet Decision or Decree to establish the NECC and empower DoE

No new primary legislation is needed to establish NECC, as the membership of NECC only includes already existing institutions, as shown in Figure 1 below. Therefore, a Cabinet Decision or Decree is sufficient to establish NECC, and provides for its mandates, functions and operations. The Cabinet Order should also specify which relevant government ministries and agencies should be members of NECC, while the Secretariat of NECC should be under the Department of Energy.

At a minimum, the institutions/ departments identified in Table 3 as being responsible for various areas of the energy sector should be represented in NECC.

Figure 1 National Energy Policy implementation institutional arrangements



Source: Fiji National Energy Policy, October 2013

As the Secretariat of NECC, DoE's mandate to perform its functions as described in the new National Energy Policy can be included in the Cabinet Order. This will strengthened DoE's position as the main department responsible for the implementation of the new energy policy.

Revision of the Electricity Act

It is acknowledged that there is on-going work in reviewing and revising the existing Electricity Act. As we do not have a copy of the proposed revision of the Electricity Act, it is advised that the changes and revision proposed in this section should be made in conjunction with the on-going work.

To accommodate the implementation of the new energy policy, additional changes to the Electricity Act can be made to allow for:

- ❑ **Removal of conflicts of interest in regulation** – Technical regulatory functions should be removed from FEA and transferred to a new agency or unit under DoE. This includes the issuance of licences to operate electrical installation that is currently FEA's responsibility.

- ❑ ***Put in place provisions for a regulatory contract*** – The Commerce Commission will remain responsible for economic regulation. However, it should be given powers to implement these responsibilities through a multi-year regulatory contract or similar instrument.
- ❑ ***Define planning responsibilities*** - DoE will be responsible for the rural electrification and national electrification master plans, and the power development and asset management plans prepared by FEA will be expected to comply with these. The amended Act should also allow DoE to enact secondary legislation (regulations) to cover specific topics in relation to the implementation of the NEP
- ❑ ***Development and implementation of IPP framework*** – DoE will be responsible for developing the IPP framework, with FEA as the main implementing agency. The IPP framework will include competitive procurement process that FEA has to follow.

In the short term, we propose that these changes are enacted in the form of amendments to that Act rather than as a new Act. The required legislation would, therefore, amend specific sections of the Electricity Act or add new or delete existing sections

Enactment of new secondary legislation/regulations

Secondary legislation or regulations can be enacted to accompany and supplement the revised Electricity Act in the implementation of the National Energy Policy. DoE will be responsible for developing and publishing (following the approval from NECC) the following regulations:

- ❑ **IPP framework regulation** – this regulation will provide guidelines on competitive procurement process for IPPs and principles to be applied in all power purchase agreements. The regulation should require FEA to follow the competitive procurement process, and have the negotiated power purchase agreement approved by DoE and the Commerce Commission.
- ❑ **Feed-in tariffs and net metering regulation** – this regulation will built on the current feed-in tariff mechanisms set by the Commerce Commission, and will distinguish between technologies or size of generation. The regulation will outline the feed-in tariff calculations and procedures for the implementation of net metering schemes.
- ❑ **Electrification fund regulation** – This will open up opportunities for new providers in rural electrification and improving the certainty of cost-recovery for rural electrification by replacing the current budgetary allocations with a rural electrification fund able to commit to multi-year support.
- ❑ **Renewable energy technology standards** – outlines the renewable energy technology standards in use or likely to be used in Fiji.
- ❑ **Energy Service Company (ESCO) regulation** – his regulation should govern the establishment of ESCOs and how arrangements should be made to share energy

savings between projects and ESCOs. This regulation should be based on pilot or public sector demonstration project.

In the transport sector, the Land Transport Authority, with the approval from NECC, should develop and publish:

- ❑ **Vehicle fuel efficiency standards and labelling regulation** – this regulation will provide standards for vehicle fuel efficiency standards for imported vehicles, and provide for the procedure and application of labelling of imported vehicles in terms of fuel efficiency.

In terms of petroleum and alternative fuel regulation, DoE should coordinate with the relevant department in the Ministry of Industry and Trade, to develop and publish (with NECC approval):

- ❑ **Petroleum and alternative fuel data release regulation** – this regulation will require suppliers and retailers of petroleum products to provide information to the DoE with regards to fuel quality. The regulation should also refer to the fuel quality standards, be it petroleum standards or biofuel and ethanol quality standards, and that all supplier and retailers must comply with the relevant standards.

Changes to existing policy documents and regulations

In addition to the changes in existing legislation, there are other government issued documents and regulations that will need to be amended to accommodate the implementation of the NEP, including:

- ❑ **Department of Transport's land and maritime policies** – the land and maritime policies will need to be reviewed and updated to incorporate the new targets set out in NEP. A national Transport Policy should be developed in accordance with the NEP, which should include the promotions of public transport, cycling and cycle paths, and energy aspects of town planning.
- ❑ **Commerce Commission's fuel pricing template** – this should include a more transparent calculation process to determine retail fuel prices.
- ❑ **Fiji Tax and Customs Incentive Brochure** – this brochure, published by the Fiji Revenue and Custom Authority, need to be updated to include any tax and customs incentives for energy efficient vehicles or appliances, or any renewable energy technologies.
- ❑ **Public Health (National Building Code) Regulation** -this regulation should be reviewed and amended to include provisions for energy efficiency measures in buildings.

4.2 Longer-term legislative changes

In the longer term, we recommend that a new and comprehensive **Energy Act** be enacted. It will act as an overarching primary legislation that governs the energy sector with the main objectives of:

- ❑ Consolidating the various legislation in the energy sector.
- ❑ Expanding the functions and responsibilities of DoE.
- ❑ Providing primary legislative background to energy sector coordination.
- ❑ Confirming and providing primary legislative background to the actions that are already being undertaken as part of the initial changes.

The Energy Act should cover all policy areas in the NEP, including, at a minimum, the following provisions:

- ❑ The **establishment of NECC**, its objectives, functions, memberships and operating procedures such as bi-annual meetings and quorum
- ❑ **Specific mandates for DoE**, such as its responsibilities as the Secretariat of NECC, its planning and policy development functions as proposed in the new National Energy Policy
- ❑ **Reporting, monitoring and evaluation requirements** to be followed by DoE, and any other relevant key actors in relation to the implementation of the NEP
- ❑ **Establishment of the National Energy Consultative Forum (NECF)**, its objectives, functions, memberships and operating procedures
- ❑ **Clear allocation of the regulatory functions in the electricity sector**, with DoE responsible for technical regulation and the Commerce Commission responsible for tariff regulation
- ❑ **IPP framework**, based on the experience of implementing the IPP framework regulation, allocating the responsibility of procuring IPPs to FEA, the approvals of PPAs by DoE and Commerce Commission
- ❑ **Provisions for rural electrification** and allocation of responsibility to DoE, who will have the power to enact regulation concerning rural electrification, such as feed-in tariffs and net metering, with the approval from NECC. DoE may also set rural electrification targets and whether this should be met through grid-extension or other systems.
- ❑ **Provisions for renewable energy sources inventory** and allocation of the responsibility to update and maintain this inventory to DoE. DoE will have the power to enact regulation on renewable energy technology standards and be responsible to monitor compliance with the standards.

- ❑ **Provisions for energy efficient transport policies**, which include references to relevant Acts, such as the Land Transport Act, Maritime Transport Act and Ship Registration Act, and allocate responsibilities to the Land Transport Authority for the development and enactment of energy efficient and fuel efficient vehicle standards. The Energy Act should also clearly allocate the responsibility of developing and monitoring a national transport policy to the Department of Transport.
- ❑ **Provisions for data collection on petroleum product quality, usage, and prices**, and confirming the Commerce Commission's responsibility of regulating fuel prices. The Energy Act should require all suppliers and retailers to provide information to DoE according to the Petroleum and Alternative Fuel Data Release Regulation.
- ❑ **Provisions for biofuel research activities and the regulation** of the usage and sale of biofuel products, and allocate the responsibility of biofuel development to DoE, which include the development and monitoring of biofuel and ethanol quality standards
- ❑ **Provisions for energy efficiency measures** and allocate responsibility of the development and monitoring of energy efficiency measures to DoE. This may include the development of energy efficiency standards and labelling for appliances, revision of the National Building Code, and the establishment of ESCOs.
- ❑ **Reference other relevant legislation and other relevant government documents.**

The enactment of the Energy Act does not necessary mean that the Electricity Act should be repealed. The changes recommended for the Electricity Act are in general in accordance to the provisions in the Energy Act, and therefore the two acts can be complementary. This also applies to other existing legislation relevant to the energy sector, such as the Land Transport Act, Environmental Management Act and others discussed previously. The Energy Act should make clear references to existing legislation.

We recommend that this legislative gap analysis be reviewed and updated towards the end of this NEP period (2014-2020), with the objective of further defining the content of the Energy Act, based on progress made with respect to the recommended initial legislative changes.

4.3 Summary of recommendations

Table 4 below summarises our recommended initial and longer-term legislative changes, as well as listings the existing legislation and the lead agencies relevant to each policy area.

Table 4 Summary of recommendations				
Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
<i>Governance and institutional arrangement</i>				
Improve coordination and direction	[None]	[None]	Enact Cabinet Decision or Decree to establish NECC	The Energy Act will establish and provide legal mandate for NECC
Improve planning and policy development	[None]	[None]	The Cabinet Decision or Decree should allocate responsibility for energy sector planning and policy development to DoE	The Energy Act will clarify the role and functions of DoE
Improve stakeholder consultation	[None]	[None]	DoE, with NECC approval, to establish National Energy Consultative Forum (NECF)	The Energy Act will establish NECF
Improve regulation	[None]	[None]	Amend Electricity Act to transfer technical regulatory functions in the electricity sector to DoE and to refer to the Commerce Commission Decree for tariff regulation	The Energy Act will clearly allocate regulatory functions to relevant institutions and provide for clear separation between policy making, regulatory and service provision functions
Improve reporting, monitoring and evaluation	[None]	[None]	The Cabinet Decision or Decree should allocate responsibility of implementing and monitoring the progress of the National Energy Policy to DoE	The Energy Act will outline the reporting, monitoring and evaluation processes required to implement and monitor progress of the NEP and allocate this responsibility to DoE

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
<i>Grid-based power supply</i>				
Increase private sector investment in large-scale electricity generation	Electricity Act	FEA	Amend Electricity Act to allow for the development of IPP framework DoE, with NECC approval, to publish regulation on IPP framework FEA to procure IPPs as pilot project	Include IPP framework in the Energy Act
Increase private sector investment in small-scale grid-connected renewable generation	Electricity Act	FEA	DoE, with NECC approval, to publish regulation on feed-in tariffs and net metering for small scale private generation FEA to implement regulation with pilot projects	Include provisions to allow DoE to update and manage this regulation in the Energy Act
Strengthen transparency and effectiveness of the regulation of the electricity sector	Electricity Act, Commerce Commission Decree	FEA, Commerce Commission	Amend Electricity Act to clearly allocate regulatory functions to DoE (technical regulation) and Commerce Commission (tariff regulation), and to allow for regulatory contracts between FEA and Commerce Commission	Regulatory framework to be clearly outlined in the Energy Act
Improve efficiency and effectiveness of management of the electricity grid	Electricity Act	FEA	Amend Electricity Act to allocate planning and policy development to DoE, and allow DoE to develop processes to be followed by FEA in power development and asset management planning FEA to update power development and asset management plan	Include provisions to allocate planning and policy development functions to DoE in the Energy Act

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
Rural electrification				
Develop a national electrification master plan	Electricity Act	FEA	DoE to update rural electrification policy FEA to update power development plan NECC to approve national electrification master plan	Include provisions for the development of the national electrification master plan in the Energy Act
Establish an electrification fund	[None]	[None]	DoE to implement rural electrification policy and national electrification master plan through the use of national budget allocation and enact new regulation to establish an electrification fund.	Include provisions for the establishment of an electrification fund in the Energy Act
FEA to lead electrification by grid extension	Electricity Act	FEA	DoE to develop electrification obligations for FEA along with funding mechanisms FEA to implement and meet obligations	FEA obligations should be included in the national electrification master plan with funding from the electrification fund
Improve the effectiveness and sustainability of the existing management model for off-grid electrification	[None]	DoE – Rural Electrification Unit	DoE to update rural electrification policy	Rural electrification targets should be included in the national electrification master plan with funding from the electrification fund
Establish a framework for encouraging off-grid rural electrification projects by non-government providers	[None]	DoE – Rural Electrification Unit	DoE, with NECC approval, to publish procedures for tendering off-grid electrification by non-government providers	Include off-grid electrification framework in the Energy Act
Renewable energy				
Maintain a comprehensive assessment of Fiji's renewable energy resources	Environmental Management Act	Department of Environment	DoE, with NECC support, to coordinate with other key actors to assess and compile information on renewable energy sources and develop renewable energy sources inventory	Include provisions in the Energy Act for a comprehensive renewable energy sources inventory and allocate responsibility to maintain and update the inventory to DoE

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
Make all data on renewable energy resources available to the public and prospective investors through a single national repository	[None]	Investment Fiji	DoE to coordinate with Investment Fiji to publish renewable energy sources inventory	Include provisions in the Energy Act to annual update the renewable energy sources inventory
Promote the use of renewable energy sources for both grid-connected and off-grid electricity supply	Climate Change Policy	Climate Change Unit (Ministry of Foreign Affairs)	Rural electrification policy and feed-in tariff and net metering regulations approved by NECC and published	Include provisions in the Energy Act to allow DoE to update and manage relevant regulations
Research and promote new renewable energy technologies	[None]	Fiji Customs and Revenue Authority	Update the Fiji Tax and Customs Incentive Brochures to include and highlight tax incentives for renewable energy technologies	Include references to the Tax and Incentive Brochure in the Energy Act in relation to renewable energy technologies
Conduct further investigation into geothermal energy resources as a matter of priority	Mineral (Exploration and Exploitation) Bill	Department of Mineral Resource	Department of Mineral Resources to explore funding options for geothermal development FEA to implement pilot geothermal IPP project in accordance with the IPP framework	Include IPP framework in the Energy Act
Promote and improve guidelines and technical standards for renewable energy technologies	[None]	[None]	DoE, with NECC approval, to publish regulation on technical standards for renewable energy technologies	Include provisions in the Energy Act to allow DoE to monitor and update the regulation
Work with industry associations to identify and remove barriers	[None]	[None]	DoE, with NECC approval, publish regulation to remove barriers to uptake of renewable	Include provisions in the Energy Act to allow DoE to monitor and update the regulation

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
<i>Transport</i>				
Promote the fuel efficiency of imported motor vehicles	Land Transport Act	Land Transport Authority	LTA, in coordination with DoE and with NECC approval, to publish regulation on vehicle fuel efficiency standards and labelling of imported vehicles	Include references to the Land Transport Act and provisions to allow LTA to monitor and update the regulation in the Energy Act
Investigate the potential and cost-effectiveness of energy efficiency solutions for sea vessels	Maritime Transport Decree and Ship Registration Decree	Maritime Safety Authority of Fiji	DoE, in coordination with the MSAF, to prepare feasibility study and run pilot programme on energy efficient sea vessels	Include references to the Maritime Transport Act and provisions to allow future development of energy efficient sea vessel regulation in the Energy Act
Support the development and implementation of a transport policy that encourages a shift towards more energy efficient forms of land transport	Land Transport Act, Maritime Transport Act	Department of Transport	DoT to publish national transport policy in accordance with the new NEP and SAP	Include reference to a national transport policy and provisions to allow DoT to monitor and update the policy in the Energy Act
Explore costs and benefits of introducing mandatory fuel efficiency standards	[None]	[None]	DoE, with coordination with LTA and approval of NECC, to publish fuel efficiency standards for imported vehicles and vessels	Include provisions in the Energy Act to allow DoE to monitor and update the regulation
Promote the fuel efficiency of the existing motor vehicle fleet	Land Transport Act	Land Transport Authority	DoT and LTA to launch information campaign and improve enforcement of vehicle maintenance	Include references to the Land Transport Act and provisions to allow LTA to monitor and update the fuel efficiency regulation in the Energy Act
Support voluntary actions and encourage partnership programs with business communities and industries	[None]	[None]	DoE to conduct interviews and report on stakeholders view	

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
Promote public transport	[None]	[None]	DoT to ensure that the new transport policy adequately address the promotion of public transport	Include reference to a national transport policy and provisions to allow DoT to monitor and update the policy in the Energy Act
Promote cycling and establishment of cycle-path in urban areas	[None]	[None]	DoT to ensure that the new transport policy adequately address the promotion of cycling and cycle-paths	Include reference to a national transport policy and provisions to allow DoT to monitor and update the policy in the Energy Act
Encourage town planning and work with local councils to encourage consideration of energy aspects in town planning	[None]	[None]	DoT to ensure that the new transport policy adequately address energy aspects of town planning	Include reference to a national transport policy and provisions to allow DoT to monitor and update the policy in the Energy Act
<i>Petroleum and substitute fuels</i>				
Reduce the cost of imported petroleum products	Commerce Commission Decree	Commerce Commission	Commerce Commission to review and amend pricing template for retail fuel prices	Include reference to the Commerce Commission Decree and provisions to allow the Commerce Commission to continue to regulate fuel prices in the Energy Act
Improve the transparency of petroleum supply	[None]	[None]	DoE to collect data and enter into national energy information system DoE, with NECC approval, to develop regulation to mandate the release of data by suppliers and retailers	Include provision that requires suppliers and retailers to provide data to DoE and allocates responsibility of monitoring and updating the national energy information system to DoE
Continue research to explore the options for widespread use of biofuel	[None]	DoE - Biofuel Development Unit	DoE to continue with biofuel research and to upscale successful pilot projects DoT to investigate biofuel use for vehicles	

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
Encourage the use of relatively environmentally friendly petroleum products	[None]	[None]	Update the Fiji Tax and Customs Incentive Brochures to include and highlight tax incentives for the use of environmentally friendly petroleum products	Include references to the Tax and Incentive Brochure in the Energy Act in relation to the use of environmentally friendly petroleum products
Keep fuel standards up to date and ensure that they are adhered to	Trade Standards and Quality Control Decree	Ministry of Industry and Trade	MIT, in coordination with DoE, to review fuel standards, and with approval of NECC, to publish new standards based on review results	The Energy Act should transfer the responsibility for the review and updating of fuel standards to DoE
Prepare and maintain contingency plans for fuel supply			Ministry of Planning to review contingency plan and with approval of NECC publish new regulation if needed	Include provisions for contingency plans for fuel supply in the Energy Act
Continue to apply national biofuel and ethanol fuel standards	Trade Standards and Quality Control Decree	Ministry of Industry and Trade	MIT, in coordination with DoE, to review biofuel and ethanol standards, and with approval of NECC, to publish new standards based on review results	The Energy Act should transfer the responsibility for the review and updating of biofuel and ethanol standards to DoE
Energy efficiency				
Continue to increase public education and awareness of energy efficiency	[None]	[None]	DoE to launch targeted information campaign to businesses and households on energy efficiency measures	Include in the Energy Act provisions to allocate the responsibility for energy efficiency promotion, development and monitoring to DoE
Extend the current system of energy labelling and minimum energy efficiency standards	Trade Standards and Quality Control Decree	DoE under the Minimum Energy Performance Standards and Labelling Program	DoE to expand energy labelling programme and update minimum energy efficiency standards	The Energy Act should transfer the responsibility for updating, monitoring and enforcing the minimum energy efficiency standards to DoE
Develop and implement an energy information database	[None]	[None]	DoE to collect data and integrate into an energy information database	Include in the Energy Act provisions to allocate the responsibility of updating and managing the energy information database to DoE

Policy Areas	Existing Legislation	Current lead agency	Initial Changes	Long-term legislative changes
Monitor and improve the existing customs and tax incentives that are in place to encourage the use of energy efficient appliances and equipment	Revenue and Custom Authority Act	Fiji Customs and Revenue Authority	Update the Fiji Tax and Customs Incentive Brochures to include and highlight tax incentives for energy efficient appliances	Include references to the Tax and Incentive Brochure in the Energy Act in relation to energy efficient appliances
Update the codes and standards for buildings and industry	Public Health (National Building Code) Regulation	Ministry of Industry and Trade	DoE to review building code and, with NECC approval, to publish regulation for a new building code to include energy efficiency measures	Include provisions to allow DoE to update and manage this regulation
Promote energy efficiency in public sector	[None]	[None]	DoE, in coordination with the Public Service Commission, to review public service procurement rules and, with NECC approval, to publish new procurement rules and budgeting process to encourage energy efficiency projects DoE, with NECC approval, to publish regulation establishing ESCO	Include in the Energy Act provisions to establish ESCOs and to allow DoE to update and manage the ESCO regulation
Support voluntary efforts by the business community to improve energy efficiency	[None]	[None]	DoE to conduct interviews and report on stakeholders view	