



## **Seventeenth meeting of the Noumea Convention**

Seventeenth ordinary meeting of the contracting parties to the convention for the protection of the natural resources and environment of the South Pacific Region and related protocols (Noumea Convention)

Apia, Samoa  
31 August 2023

### **Agenda Item 7.3: Reviewing approaches to oil spill response mechanisms for the Pacific.**

#### **Purpose of paper:**

1. To seek support and endorsement from Parties for the development of a new regional oil spill response mechanism 2026 – 2035 (PACPLAN-Plus).

#### **Background:**

2. The issues of marine pollution in the Pacific Regional Waste and Pollution Management Strategy 2016-2025 (Cleaner Pacific 2025) are the Pacific Ocean Pollution Prevention Programme 2015-2020 (PACPOL 2020) which covers four priority areas including the Pacific Islands Regional Marine Spill Contingency Plan 2019 (PACPLAN 2019), and the Pacific Regional Marine Litter Action Plan 2018-2025 (PMLAP 2025).
3. Despite being reviewed, revised and adopted in 2019, the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN) 2019 is already showing signs that its evolution from a template regional contingency plan (2000 and 2014) to a more strategic document (2019) for supporting the implementation of a sophisticated multi-country planning and response system, is not yet complete.
4. PACPLAN is now not only the largest and most extensive collective spill preparedness and response mechanism across the globe, but also the least well-funded, least well governed, least supported by its own members and its metropolitans, least well-staffed, and delivers only a small and infrequent portion of what other entities with similar responsibilities do.
5. Although the PACPLAN addresses a priority area in PACPOL under the framework of the Cleaner Pacific 2025, it lacks resources and capability required for a strategic framework or plan for professional development of its own or national members staff, no exercise plan, no national plan member support or review, and very little presence in the way SPREP, as its administrator and support agency, agreed to in the 2019 PACPLAN edition. Cohesion between the various groupings of member states and territories is also beginning to slip, with little pan-Pacific dialogue about program planning and delivery.

6. In short, it is neither serving its members nor its metropolitans from a risk management perspective. Having said that, there is no fault or blame being raised. The current PACPLAN is an entity of a different time. In the meantime, other more significant and existential issues have arisen, taking focus, time, effort and funding away from it. SPREP's Pollution Team comprising of the Pollution Adviser and Marine Pollution Officer (DFAT funded PACPLAN Resilience Project Officer), has the responsibility for PACPLAN oversight, but plastic pollution, climate change, waste, biofouling, ballast water, and a myriad of other arguably more urgent and significant issues have diluted the available effort.
7. The Australian DFAT-funded PACPLAN Resilience Project is designed to assist countries Australia is responsible for to fully implement the relevant International Maritime Organisation (IMO) Conventions, and across all PICTs, as it can. But the project's scope, funding and reach is limited. What it has done, however, is identify, in some stark terms, some of the major shortcomings of the PACPLAN as it currently exists.

**Examples of specific challenges and issues that could be addressed during a reform process.** *(see Annex One for more detailed descriptions)*

- a. **Addressing the financial and other costs of not being fully prepared.** Increasing costs of response and of restoration, rehabilitation or recovery are now likely prohibitive for many PACPLAN members, without insurance, donors or other support. The *Solomon Trader* response costs are in excess of USD\$10 mil. Cost of response should not be the overriding and determining factor about whether a response and cleanup is necessary or desirable.
- b. **Risk:** Shipping into the Pacific Islands is little different to other countries. Tankers, containers, fishing, and cruise vessels call. Other vessels transit. Call frequency may be lower, but they come into ports less well prepared to deal with them or their incidents. So the risk remains. Help is often delayed by distance and time.
- c. **Conventions, laws and systems.** Many PACPLAN members have not ratified the IMO Conventions necessary, nor are they members of the Noumea Convention or its Emergency Protocol. Some are missing laws, others National Plans.
- d. **A more strategic approach.** The PACPLAN of today is not offering all it could, for effective and efficient regional capability. Globally, similar regional agreements and entities exist to deliver such programmes for members, and we need to learn from these, about how to establish regional strategic and operational capacities to support member states, how to fund sustainably, how to cooperate with international agencies to garner support, etc.
- e. **Capability development** through collaboration in disaster and emergency management through the emerging Pacific Emergency Incident Management Systems, now in use or in training to address all natural, technological and health disasters.

- f. **Legal capacity** for addressing criminal liability for financial and other risks management. The international system for addressing oil spills, as a technological threat is historically well-developed, with international planning, response and recovery regimes in place. However, the international and domestic law that underpins incidents, emergencies, salvage, response, insurance and compensation is complex and crucial to outcomes. In a spill there is almost always a liable criminal party (the spiller) and insurance. Decisions made in the first few hours determine success or otherwise.
- g. **Forensic capability**. To make the criminal case and so set up to get compensation or behaviour change, often requires evidence and successful prosecution (or at least the threat of one). A current proposal to collaborate with USP's Institute of Applied Science is looking to partially address the paucity of analytical capability, but the long and tortuous path from evidence collection to successful prosecution involves many steps and actors, and so needs its own focus.
- h. **New risks and threats** from spills other than oils and hazardous and noxious substances. Other significant types of spill risk to the Pacific include maritime casualties (near spills and physical damage from grounding or sinking), and losses of other pollutants (i.e. cargo, plastic pellets and other fuels – ammonia may be coming).
- i. **World War II Wrecks**, a legacy of the WWII there are over 800 WWII Wrecks in PICTs EEZ with over 50 of these wrecks identified as high risk because of the potential for bunker fuel spillage. A corrosion study by Earthwatch in 2008 estimated the hull of these wrecks would begin to fail by 2023. The current Australia funded WWII Wreck project in Chuuk Lagoon in FSM with Major Projects Foundation is working to remove some of the bunker fuel oil.
- j. **Unsalvaged vessels**, whether cleared of normal pollutants or not, litter the Pacific. These create their own threats, whether from simple local unsightliness in otherwise pristine areas, to threats of ecological damage from rust (excess iron oxide can change a coral dominated area into an algal dominated ecosystem) or from the older wrecks of the pacific wars, leaking oil and very toxic oils.
- k. **Rigid tiered response** as constraints on support. Within PACPLAN, three levels or Tiers of incident and response are defined, as has been the norm worldwide. This concept is long out-of-date. It has no nuance in its rigid stepwise approach within PACPLAN. Countries should be able to ask and receive assistance to address their spills and responses as they grow in capability and confidence, without having to change Tier. This type of change will flow through to national planning, regional capability delivery and international support and assistance.
- l. **Alignment between PACPLAN and the Cleaner Pacific 2025 strategy**. The key pollution management and control programme in the region, the [Cleaner Pacific 2025: Pacific Regional Waste And Pollution Management Strategy](#), which addresses many forms of waste and pollution, but does not specifically address spilled oils, chemicals and cargoes.

- m. **The governance of PACPLAN.** To ensure good governance, but to provide necessary technical and policy oversight, a new governance structure involving all members and SPREP could be the PACPLAN Strategic Committee. This group should be able to adjust the new PACPLAN Strategy between large formal reviews, as context and needs require. Governance sets the outcomes, objectives, responsibilities, accountabilities, principles, processes, etc of the deliveries.
- n. **Sustainable funding** This will always be an issue. Current funding models appear to be annual, with limited donor or SPREP planning, to especially in planning, training and capability building. There is a risk that the value of the PACPLAN Resilience Project will quickly diminish, as changes in maritime and Pacific context, risk, threat and expectations will certainly change over the same period.
- o. **Rapid Response.** Timely advice and support, especially with legal advice, or technological intelligence, early in the response, can prevent damage, save time and effort, and produce a better result. There is a need for regional capabilities as not every country (member or metropolitan) can hold or offer all the needed resources. One option is to develop a team, of regional experts, as a rapid-deployment strike team, the Pacific Ready Response Taskforce.

#### **Proposed Approach to Review:**

- 8. Should members decide that a review is necessary, there are many options for conducting this, from a specially dedicated consultant team, to a SPREP-led PACPLAN member-based review team. All of these would involve a team. The issues are complex and diverse. The membership needs are equally complex and diverse. The stakes are high in monetary terms, both for a new preparedness system and for not getting right.
- 9. The costs of the review need to be identified and agreement from members to support the review, especially if it involves seconded team members from PACPLAN member or metropolitan states.
- 10. The following hybrid and two-phase process is proposed to ensure the time is taken to get the right result, that is acceptable to members and metropolitans, and to link it with the many national, regional and global entities as stakeholders in a sustainable Pacific system.
- 11. **Phase 1: Feasibility of PACPLAN.** During 2023/24, a virtual review team, led by SPREP, and funded from the existing mandate and scope of the PACPLAN Resilience Project, be established to develop a concept paper, outlining, with evidence and the need or desire for change (or not), the ways other regions go about their business, and what might be possible and acceptable to members and metropolitans. The options would be evaluated and costed. This would be presented to an extra ordinary meeting in 2024 for discussion and endorsement, in principle for change, and funding for the next phase. These would likely encompass new ways or structures to address some or all of the issues raised above.

12. Phase 2: Development of PACPLAN-plus. During 2024/25, should there be agreement on the desired new approach, a new regional oil spill response mechanism 2026-2035 (PACPLAN-plus), would be developed to be brought back to the 2025 Noumea Convention COP-18 for final agreement. This phase will also have consultation costs.
13. Where possible, regional meetings, workshops and other opportunities for face-to-face discussion and debate will be used. These will include SPREP meetings, the SpillCon and Regional Workshop in Brisbane 2023, the Cleaner pacific Round Table in 2024, and likely a specially set up workshop in 2025, to discuss the finer structural, governance, funding, resourcing, staffing, responsibility, etc. details of any final proposal (or options) to be set for endorsement in late 2025.

**Recommendations:**

14. The Parties are invited to:

- 1) **Note** the analysis of PACPLAN evolution and the need for change;
  - 2) **Endorse** the development of a regional marine oil spill response mechanism 2026-2035, PACPLAN-Plus through a two phased approach and for the Secretariat to commence Phase 1: Feasibility of a new regional PACPLAN approach.
- 

15 July, 2023