



ANNUAL REPORT

2019/2020



“RESILIENCE THROUGH GOOD GOVERNANCE”

THEME: Resilience through Good Governance

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1. OMBUDSMAN'S OVERVIEW



This report is for FY2019/2020, 1 July 2019 to 30 June 2020.

I am pleased to introduce the Annual Report for the Office of the Ombudsman for FY2019/2020, in accordance with section 25 of the Ombudsman Act 2001.

The Annual Report provides an account of our work for the reporting year. I am committed to providing a high quality and accessible complaint handling service for all. We have continued to investigate all complaints within our jurisdiction, and pursue public awareness of our core functions. There has been attainment of targets, despite the intervention of the COVID – 19 pandemic.

We acknowledge the support from the Speaker of the Legislative Assembly and the Government of the Kingdom.

I thank all the staff for the hard work and unfailing efforts to carry out their duties.


.....
'Aisea Havea Taumoepeau, SC
Ombudsman

The seal of the Office of the Ombudsman, Tonga, is a circular emblem. It features a central shield with a cross and other symbols, surrounded by a wreath. The words "OFFICE OF THE OMBUDSMAN" are written in a circle around the top, and "TONGA" is at the bottom, flanked by two stars.

1.1 OMBUDSMAN DNA

The law is clear on the DNA of a person, eligible for appointment as ombudsman: (*Section 3, Ombudsman Act*)

- (a) It requires a person of integrity, resolution and high standing in the community;
- (b) With extensive experience in law, government administration and governance;
- (c) Having been admitted to practice as a law practitioner in Tonga or in a commonwealth country; and
- (d) Who is not subject to a court declared debt, or has been declared by a court, or a court appointed receiver, as bankrupt.

1.2 GOOD GOVERNANCE

Ombudsman core functions are aimed at, improving transparency, accountability and responsiveness of the public sector. In addition, it is to also increase, trust, fight corruption, improve citizen participation, and improve the effectiveness and efficiency of the public sector.

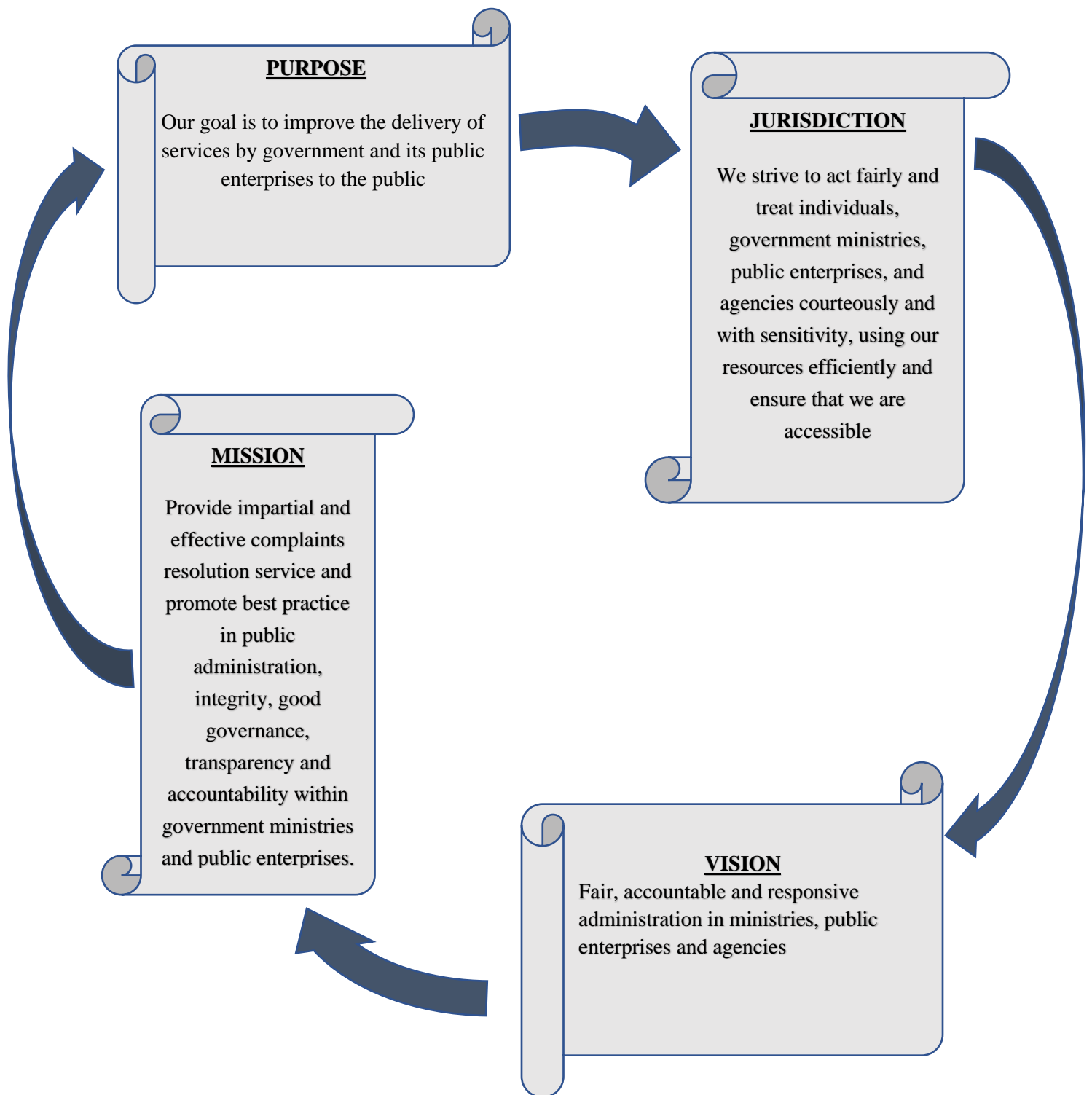
The International Ombudsman Institute, (*IOI Best Practice Paper-Issue 2- August 2017*), confirms the two core functions of an ombudsman. They are, the resolution of injustices suffered by individuals, and improving public services through learning from the investigations it undertakes. It is also essential that the office, checks that the changes it has recommended to public service providers, have been implemented. Once they have been implemented, follow up of the desired outcome is vital, in ensuring the injustice suffered by the complainant, is not suffered by subsequent users of the service.

1.3 THE LAW

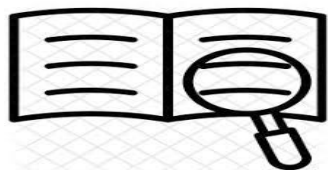
The last major amendments to the *Commissioner for Public Relations Act, 2001* were brought into effect on 16 December 2016. These brought into effect the following major changes;

1. The name, Commissioner for Public Relations, is changed to Ombudsman. This brought Tonga on par with the rest of the world.
2. The authority to appoint the Ombudsman shifted from Cabinet to the Speaker with the consent of the Legislative Assembly. This shift affirms the independence of the investigative work into any decision or recommendation made, or any act done or omitted, relating to a matter of administration of a government ministry or agent. The Legislative Assembly is out of jurisdiction.
3. The staff are employed by the Ombudsman and no longer employees of the Public Service Commission.
4. The Ombudsman has the authority to publish reports.

2. INTRODUCTION



3. OPERATIONS



142

Total Cases Received
In reporting period

83

Pending cases at the
commencement of the
Reporting period



124

Total Cases
Closed



267

Total Phone Calls



205

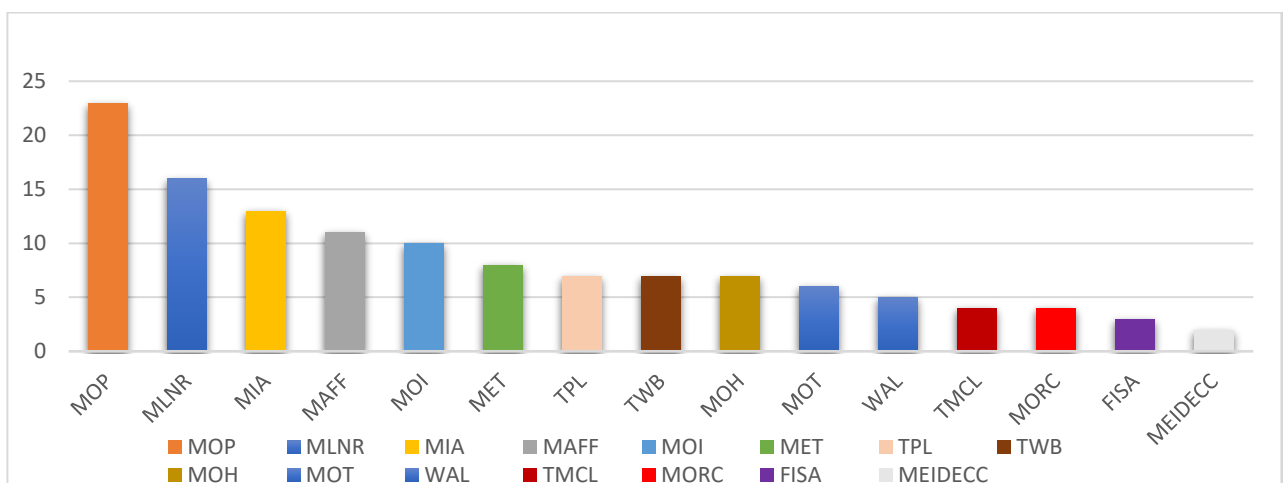
Office Visits

3.1 INVESTIGATION

The complete complement of investigators in the investigation division including the Director, is seven (7). Due to leave, vacancies and Ministry of Finance restrictions on recruitment, the division is short staffed for most of the reporting period.

The investigation team conducted 225 investigations during the reporting period. There were 83 cases carried over from previous years, made up of 3 from 2017, 6 from the first half of 2018 and 52, from 2018/19. Most of these outstanding cases were land and police complaints.

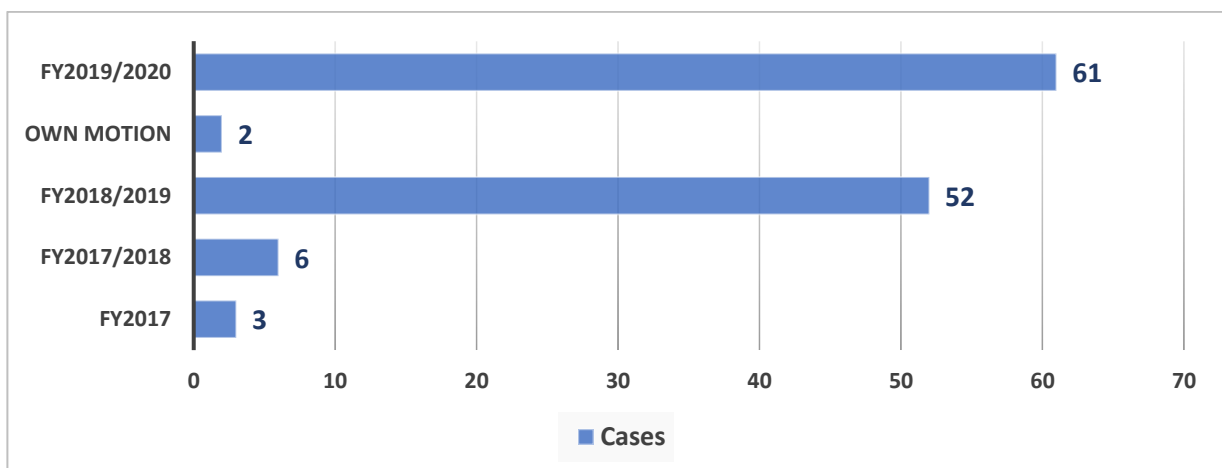
MDA's Complaints FY 2019/2020



The challenges were overcome to successfully resolve 124 cases. A total of 124 complaints were closed. Included in that figure are 3 cases carried forward from 2017, 6 from 2018 and 52 from 2018/2019.

Outreach, for this period included, media, island hopping to Vava'u and Ha'apai, and participation in the UNDP-REACH Initiative.

Closed Cases for reporting period.



Final Reports

During the reporting period, 16 cases were closed and final reports issued as detailed in the table below, cases numbered 8 – 14 related to poor roads and treated as a group complaint. The issues addressed by these reports included poor roads; stevedore licences, exclusion from pension benefits of persons age 70 and currently employed; reimbursement of fees unlawfully paid to immigration on foreign passport with less than 6-months validity, impact on the environmental change; land erosion on beach frontage; and safety of waste collectors.

#	Case Reference	Complainant
1	OMB18/19-110	Taniela Hufanga
2	OMB19/20-16	Ma'afu Lino Latu
3	OMB18/19-218 OMB18/19-217	Paula Tu'utafaiva Salesi Mataele
4	OMB19/20-28	Soane Vili
5	OMB19/20-19 OMB19/20-20	Paulo Manu Sione Samate
6	OMB18/19-2	Mapa Hafoka
7	OMB18/19-116	Siosi'ana Tonga
8	OMB18/19-178	Sosefo Lolo
9	OMB18/19-179	Siale Mafi
10	OMB18/19-188	Talifolau Lolo
11	OMB18/19-196	Viliani 'Epenisa
12	OMB18/19-198	Sioeli Talia
13	OMB18/19-199	Latu Kaafi
14	OMB18/19-122	Saimone Fa'ukafa
15	OMB19/20-111	Tevita Palu
16	OMB/OM18/19-2	Own Motion MOP
17	OMB/OM18/19-1	Own Motion WAL
18	OMB19/20-37	Milemoti Moala
19	OMB18/19-154	Alilia Masima
20	OMB18/19-1	'Olivia Foliaki
21	OMB18/30	Tupou Lindberg

Thematic report

Highlights of investigated cases are discussed here, in detail under specific themes with the relevant public service provider.

- 1. Ministry of Internal Affairs/District and Town Officer gratuity**
- 2. Ministry of Lands & Natural Resources/Unresponsive**
- 3. Public Enterprises/Utility Boards**
- 4. Ministry of Education and Training/Untrained Teachers Benefits**
- 5. Ministry of Agriculture/Agricultural Instructor Benefits**
- 6. Ministry of Infrastructure/ 'Eua roads, group complaints**

A complete report of specific cases is attached as Appendices. They are, set out in the table below Appendix 6 details outreach program I the report period.

Appendix	Case No	Complaints	MDA	Page
1	OMB 18/19 – 178 & 179; 188; 196; 198 & 199	Sosefo Lolo,Siale Mafi.Talifolau Lolo,Viliani 'Epenisa,Sioeli Talia,Saimone Ve'a and Latu Kaafi	Ministry of Infrastructure	29 - 43
2	OMB 18/19 - 2	Mapa Hafoka	Ministry of Finance	44 - 53
3	OMB 19/20 -111	Tevita Palu	Ministry of Infrastructure	54 - 61
4	OMB 18/30	Tupoutu'a Tonutonu Lindberg	Final Report	62 - 74
5	OMB 18/19 - 1	'Olivia Foliaki	Final Report	75 - 101
6	List of Outreach Programs conducted in FY 2019 / 2020			102 - 109

1. Ministry of Internal Affairs/District and Town Officer gratuity

Local government, District and Town Officers are elected every 4 years. The most recent election was in 2019. They were under the Prime Minister until 2012 when they were transferred to, the newly established Ministry of Internal Affairs. It was a positive move in developing local government.

Complaints against Town Officers has increased significantly in the past 3 years. 84 per cent of the complaints were against Town Officers' administration of community funds and exercise of his duties. Allegations included, favoritism, lack of transparency in distribution of benefits, and lack of financial accountability.

Gratuity

The District & Town Officers' are required by *the District & Town Officers' Act*, to serve consecutively for 15 years before qualifying for a gratuity. The gratuity, equates to two-third of the annual salary for two years. An amendment to the Act in 2000, provided that service for more than eight years qualified an officer to one-third of the annual salary for 2 years. In 2016 the amendment of 2000, was repealed.

These amendments have been the subject of many complaints. More than 50 officers were voted out in the District & Town Officers election of 2019. Many had served more than 8 years.

Town Officers are not entitled for leave or allowance. They are front-liners on emergency, and natural disasters as the authority of local government. They do not have support staff, office or transport.

Acting Town Officer

One complaint was about a Town Officer who was about to travel overseas went to the Ministry to get approval. In so doing, he complied with the Ministry's requirements and proposed a fellow villager to act on his behalf during his absence. The Town Officer was not aware, that in such case the District Officer becomes acting Town Officer. However, the Ministry approved of the Town Officer's proposed acting nomination. He informed his fellow villager to act as Town Officer and travelled overseas.

Months later, the acting Town Officer was seeking payment of his acting allowance. The Ministry informed him that he cannot be paid for the first month because the policy provides the District Officer shall be acting Town Officer.

According to the Ministry, this was done in order to safeguard the salary that may be paid out if someone else is acting. The District Officer paid for acting in the role.

2. Ministry of Lands /Unresponsive

The majority of complaints against the Ministry of Lands as unresponsive to communications and failure to honour, services paid by complainant to the ministry. Two complainants have passed away while awaiting response for their complaints, referred to the Ministry.

There are currently 10 complaints awaiting response from the Ministry. We have complaints against mistakes made by the Ministry in the registration of lands, and/or registration of what is known to the Ministry as Government reserve plots of land. The Ministry is very slow to address complaints.

The oldest land complaints in our system, are three years old. The delay is due to “tardy” work by the Ministry. All effort is made to work with the ministry to resolve these complaints. There were 20 complaints carried forward from previous years, in addition to the current 10 new cases.

3. Public Enterprises

Tonga Water Board (7)

Tonga Water Board (“TWB”) has been a success story, in the way they have dealt with complaints against them by the public. We also find that in so doing, the number of complaints against TWB have decreased. TWB is proactive and responsive to the people and attentive to complaints referred to them from this Office.

Out of the 7 complaints we received during the reporting period, 5 were about high-water bill. Three reasons were identified. Firstly, the monthly invoice was not delivered for the months of February through May 2020 due to the COVID-19 lockdown, restrictions in movement and social distancing. Second, TWB found leakages within the properties, and thirdly, water usage spike for no apparent reason and while the month average usage for past months were consistently lower.

In these cases, TWB offered discount for the customers. The Chief Executive Officer of TWB has discretionary powers under s56 of the Tonga Water Board Act 2000 to remit, excuse or defer part or the whole of any payment, if justified.

One complaint worth note regarding TWB charging of outstanding water bill and reconnection fees of water used by someone else on a new owner of the property. In fact, the outstanding bill was registered on another person’s name and not the new owner. TWB has undertaken to ensure they do not repeat the same and charge a new owner or charge outstanding bill not in the name of the new owner.

Two other complaints against change of policy regarding gratuity more than 10 years ago shall be closed for out of time.

Tonga Power Ltd (7)

Complaints against Tonga Power Ltd (“TPL”) varies against the service being provided to dissatisfaction over salaries against the skills and experience brought in to the job. Other complaints worth noting include charging the wrong bill to the wrong person, because the system has two different customers with exactly the same name even though they have different account, and addresses. There has been no complaint against high power bill. This was also the trend from the previous year.

Waste Authority Limited (5)

Four complainants are solid waste collectors with Waste Authority Ltd (“WAL”) against the benefits, their salaries, overtime cut and related administrative issues. Other issues raised include the safety gears afforded for the waste collectors, the health-risk and their general safety during work and at the working environment. No complaint was against the service nor for the fees charged to customers.

Tonga Communications Corporation (1)

A single complaint against Tonga Communications Corporation (“TCC”) regarding unauthorised deduction of credit. By comparison we have 4 complaints of the same nature for the previous year. It is worth noting that we have received few inquiries into the same issues from the smaller outer islands about network outages which disconnect them from the network while they have bought monthly packages with TCC.

Complaints on poor roads conditions (7)

A Ha‘apai town officer from a community complaint about the poor condition of the agricultural and community roads at Lotofoa, and in particular the road access to the Ministry’s Quarry. He said the latest maintenance of that road was about 8 years ago carried out, by the community with equipment from the Ministry. He raised his concern with the Ministry (Ha‘apai branch) many times, but no action has been taken. The road conditions worsen. It’s becoming inaccessible to smaller vehicles. In response, the Ministry said all roads in Ha‘apai will be reconstructed and tar-sealed through the Government’s Premier Priority Inclusive Sustainable Community Partnership Roads Transportation and Communication Infrastructure Project (“the Premier Road Project”) by 2022.

4. Ministry of Education and Training/Untrained Teachers Benefits

Untrained Teacher's benefit is a monetary entitlement for teachers who entered the teaching profession and teach in schools without prior teacher's training. It started in 2016 to recognize the years of service as untrained teachers. The monetary values are transferred to the teacher's retirement account and can be drawn if the teacher is already retired.

The first lot on the transfer scheme was sent on December 2016 to Ministry of Finance.

The Process:

The Ministry of Education & Training ("the Ministry") provides the relevant employee information, that is, confirmation of employment to Treasury, which vets and forward for final approval by the Auditor-General. The names of the approved teachers confirmed as entitled, are then submitted to the Retirement Fund for payment to the beneficiary's account.

- The process, for some beneficiaries took 2 years.
- Reasons for delay given was, lateness by the Ministry to Finance.

5. Ministry of Agriculture/Agricultural Instructor Benefits

Agriculture Instructor was also an unestablished post used in the 1960s through the late 1980s. These were daily paid employees for the Ministry of Agriculture, Fisheries and Forestry.

It was a Public Service Commission ("PSC") decision on 29 September 2017 (PF.5297)¹ that recognized the employees unestablished years of service in the computation of monetary entitlement. Only retirees, were entitled to this benefit. Those who were still working had entitlements transferred into their Retirement account with the Retirement Fund Board ("RFB").

The first list of agriculture instructors were submitted by the Ministry was on 28 April 2017, re-confirmed on 12 May 2017. A new list was submitted to Public Service Commission on May 2020, as there were others who were entitled who were omitted from the list provided by the Ministry.

¹ No:498, PSC 11, 29 September 2017

Process:

The Ministry provided confirmation of employment to Treasury, who checked for final approval by the Auditor-General. The approved payment, is submitted to the Retirement Fund Board for credit to the beneficiary's account.

Findings

- The process is too long and non-responsive, to the employees ²
- There was a one year delay in receiving entitlements. The long delay was said to be due to the Audit Office verification of names provided by the Ministry for payment.³
- All 9 cases are awaiting approval from Finance, and confirmation of employment years by Public Service Commission.

² OMB18/19 – 206; Submitted in: 01/05/19 – Closed:16/01/20

³ OMB 18/19 -206: Vao Langi Case.

6. Ministry of Infrastructure/ 'Eua Group Complaints

'Eua Roads Complaints

Six growers have been travelling Hala Poutelefoni for many years to and from their plantations up the high plateau at the southern end of the island. The location is west of Ha'atu'a. The poor condition of the road deteriorated further due to heavy machineries owned by Aotearoa-Tonga Forest Product Ltd for logging and transportation to its lumber mill at Ha'atu'a.

The complainants claimed to have complained many times to the Ministry ('Eua branch). The response, was always, awaiting response from the Ministry's Headquarter. In addition, there is no road maintenance equipment in 'Eua, and the road maintenance budget for 'Eua of, \$50,000 for that financial year exhausted. In addition, all road maintenance and repair must follow schedule approved by the Ministry with prior agreement with the Member of Parliament of their electorate. Only roads that are included in the schedule can be repaired.

The Ministry confirmed that Hala Poutelefoni is scheduled to be repaired under the Premier Road Project.

The Ministry's Land Transportation Division was unaware of the statutory requirements for enforcing the Road Act (Revised 2016)

Issues

The common factors in these complaints may be summarized in the following trends:

1. Lack of funding is the main problem facing almost all community and agricultural roads throughout Tonga.
2. The Ministry lacks road construction machineries and equipment. The one set of machineries and equipment is used for the road construction in Tongatapu and shipped to and/from the outer islands.
3. As a consequence, road maintenance especially on community and agricultural roads tend to be very slow. Heavy rain during rainy seasons derail progress as it converts puddle into potholes. Gravel paved community and agricultural roads in the absence of proper engineering and amateur workmanship.
4. Some of the roads are repaired by the communities funded by the Legislative Assembly constituency funds. These roads also do not last and a waste of taxpayers' money! Until the next heavy rain, all will turn into mud pools.

Recommendations:

The investigation report recommended the Ministry:

1. enforce the proper use of that roads according to law and discourage heavy machineries from unnecessary damaging of the roads;
2. hold anyone who damage the roads to account;
3. consider repairing the road and enforcing its statutory obligations; and
4. consider investigating the complainants claims against Aotearoa-Tonga Forest Product Ltd



3.2 COMMUNICATION & MEDIA

The conduct of outreach programs to inform, educate and raise public awareness about the core functions of the Office has continued. It has been instrumental in raising national awareness on what the office can do the public complaints against governments. These drives, give contacts and details of process for accessing these services.

Communications & Media, marked the beginning of the Financial year 2019/20 with a series of outreach programs across the Kingdom. There were visits to Ha'apai and Vava'u. Information booths, were set up in Tongatapu, and the outer islands, Éua, Haápai, Vavaú and the Niua, at the Royal Agricultural Shows

Meeting and outreach to government, civil and community-based organizations are ideal opportunities to embrace and touch base with the public at large. These programs, empower the people to engage and lodge complaints in seeking a free resolution of the dispute. The outreach and awareness drive, is a team effort of all the divisions of the office.

Achievements

The Office carried out 87 outreach programs (OPs) in various genres during the FY 2019/20. The OPs covered government ministries, public enterprises, communities and non-government organizations. They were carried out using various traditional and new media genres including physical outreaches to MDAs, PEs, communities, media, clinics, schools, visits, events and signage.

The total number of OPs is a decrease from 141 OPs carried out in 2018/19. This was due mainly to the sudden precautionary measures enforced by the government and health authorities because of the threat of the COVID-19 pandemic in early 2020. The Office of the Ombudsman supported these measures and resorted to carrying out the OPs using radio, TV, website and the social media especially Facebook. Since late March, the use of these platforms was exhausted in order to still reach out to the public. Key information was relayed over these platforms since the beginning of the national lockdown in late March to mid-April. It enabled the public to still lodge complaints and make enquiries on the help they sought from the Office.

Island Hopping

Two (2) outreach visits of the Office were made to Ha'apai in October 2019 and to Vava'u in March, 2020. Amongst the 87 OPs made during the year, 15 were made in Ha'apai while 8 OPs were held in Vava'u. The Chief Executive Officer of the Office, Mrs. 'Alisi Taumoepeau, SC, led both visits and OPs to government offices, prisons, schools and communities. The culmination of the visit to Ha'apai was a speech on the theme - "The Constitution and the Cross" made by the CEO during the 44th Anniversary of the Mystery Cross at the FWC of Pangai. About 500 people, youth and children from Lifuka and the outer islands attended the anniversary open-air program at the mystery cross. It was

also an opportunity for the Office to hold clinics and give out brochures to the people especially youth and students after the formal program. An OP was also held to the Governor of Ha’apai, Rev. Dr. Mohenoa Puloka.

The visit to Vava’u was for two (2) days late March, just before the national lock-down. The CEO led a courtesy call to the Governor, Lord Fakatulolo and his senior staff. The Lord Governor conveyed his support to the works of the Office of the Ombudsman, likening it to when “iron sharpens iron,” as in Proverbs 27:17. The OP team also visited and gave our brochures to Officers-in-charge of the Ministries of Police and Prisons, Agriculture and Forests, as well as government and church schools.

Social Media

The monthly radio and TV program for June focusing on the theme of Independence included one of the successful complainants. The program titled “Tau’ataina” recorded a REACH of over 16,000 as well as thousands of viewers and engagements on Facebook, as shown below.



(Facebook Insights on the program for June on the theme of “Tau’ataina” or Independence.)

The monthly program of the Office is broadcast on the following platforms:

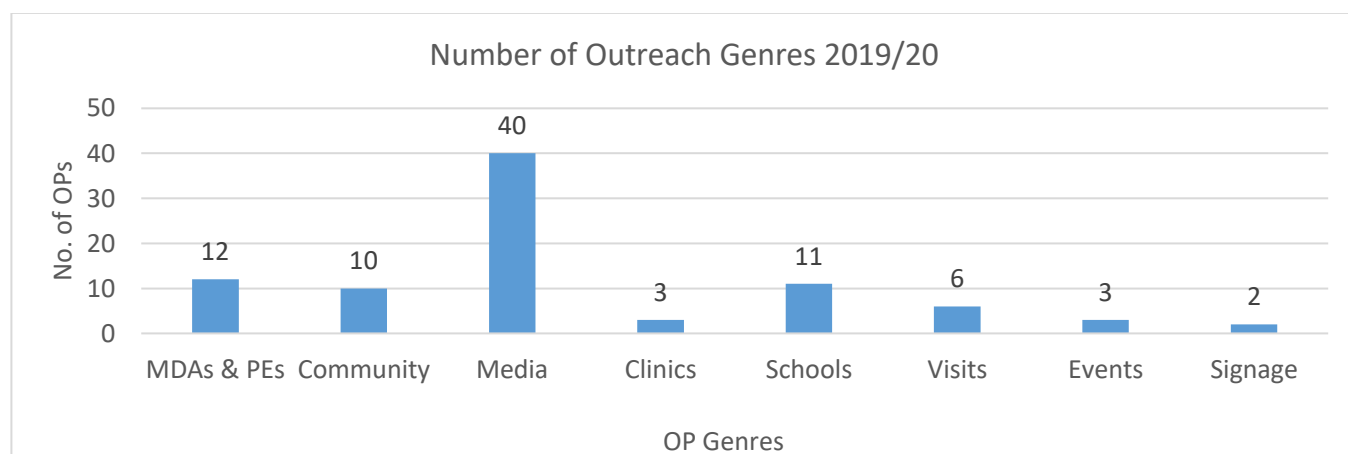
- i. Radio Tonga
- ii. Radio 87.5 FM
- iii. Radio 88.1
- iv. TV Tonga
- v. Website – www.ombudsman.to
- vi. Facebook page – Office of the Ombudsman
- vii. Overseas Tongan radio programs (as requested by interested program)

This report also covers the statistics for Facebook and Website responses (Followers, Likes and Visits) during 2019/20.

Facebook			Website	
Month	Followers	Likes	Month	Visits
Jul-19	21	22	Jul-19	974
Aug-19	37	34	Aug-19	1088
Sep-19	39	37	Sep-19	1494
Oct-19	48	48	Oct-19	1016
Nov-19	83	77	Nov-19	1146
Dec-19	32	30	Dec-19	896
Jan-20	55	54	Jan-20	1236
Feb-20	27	27	Feb-20	1513
Mar-20	20	17	Mar-20	1450
Apr-20	38	38	Apr-20	1274
May-20	22	20	May-20	884
Jun-20	118	72	Jun-20	1801

REACH Mission

The Office was also invited to take part in the REACH Mission organized and funded by the United Nations Women in collaboration with the Women's Affairs Division (WAD) of the Ministry of International Affairs (MIA). Through REACH, the Office set up information booths and received enquiries, complaints and visits from many people. This multi-stakeholders' approach enabled people of Nukuleka, Talafo'ou, Navutoka, Manuka, Kanokupolu and Ha'atafu to hear first-hand about the services and how to contact us directly for enquiries and/or complaints.



Combined Outreach Program

During the year, the Ombudsman led a combined outreach to all Chairpersons, Directors and management teams of all Public Enterprises. About 60 of them attended where they were again reminded of the importance of good governance in their respective decision-making process and services. A list of outreach program conducted in the reporting year is set out in *Appendix 6*.



3.3 INFORMATION TECHNOLOGY

Information Communication Technology is vital in this digitized age and the government as well as other agencies are migrating all manual filing into automated system. The office under the guidance of NiuIT has been working collaboratively in ensuring a much-anticipated Case Management System (CMS) for the Investigation Division. The CMS was procured by Ministry of Finance in 2018 and awarded the successful bidding to NiuIT for the amount of \$88,575.00. This project is in its final stages and will be ready for use in the coming months taking into account in-house training for investigation staff. The transition into our newly launched CMS systems, launch and named by the Speaker of the Legislative Assembly as TATALA in underway.

In the inaugural Pacific Leadership Program in February 2020, a common theme for Ombudsman and Leadership Code institutions around the Pacific was the implementation of a satisfying PMS. A majority of the institutions identified the need to have a more focused system, placing emphasis on the unique role the institution plays in the investigation of public administration.

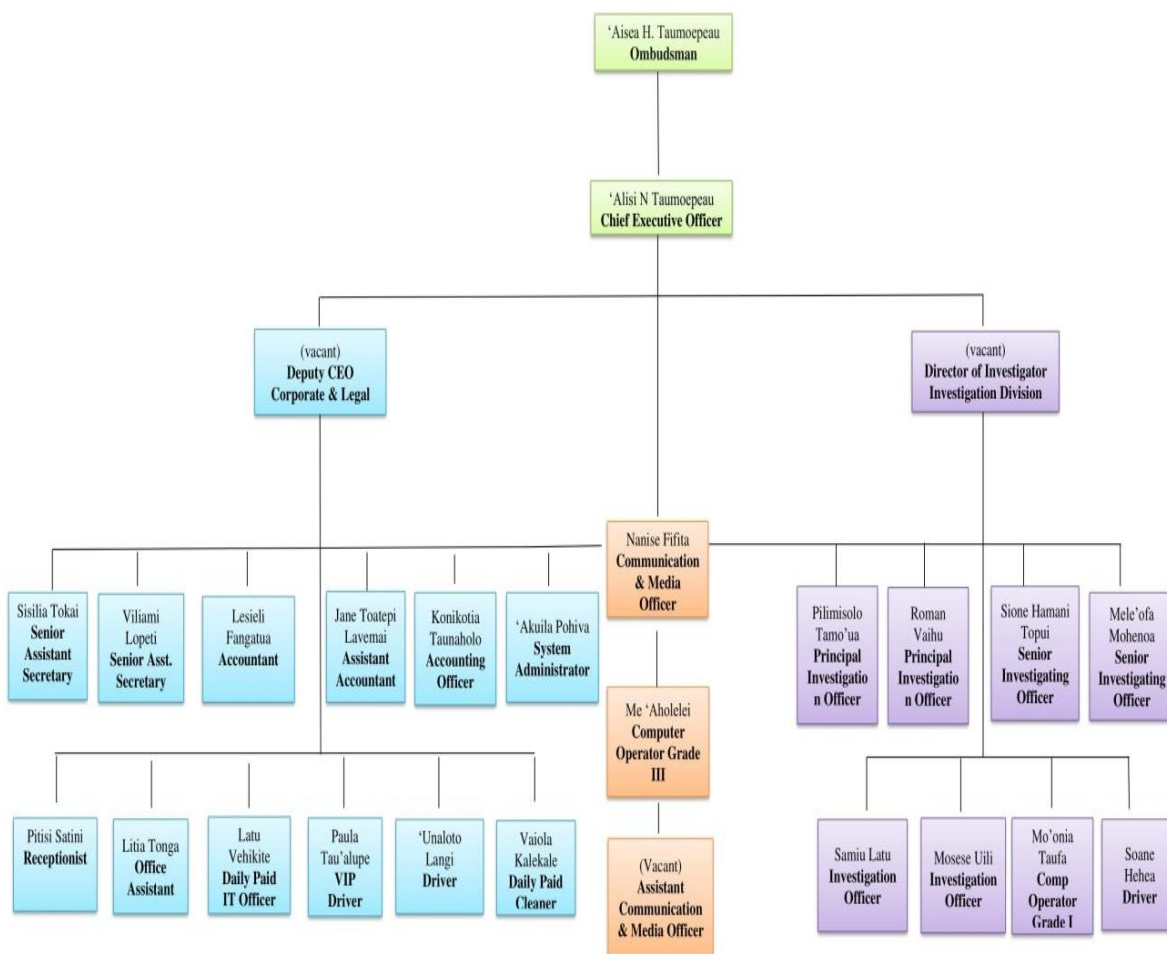
The New Zealand Ombudsman Office has commenced zoom sessions with all the institutions, including ours to share some recent literature on PMS around the world. Most importantly, these sessions provide a back drop for a possible system. These sessions take place on a fortnightly basis and we are half way through the sessions.

There is a sense of optimism of the background information taken into account in order to produce a more initiative based system over a ‘rear view mirror’ approach such as the current PMS approach.

3.4 LEGAL & CORPORATE

ORGANISATIONAL STRUCTURE

As of the 30th June 2020, the Ombudsman, heads the office with the Chief Executive Officer, and twenty (21) permanent staff inclusive, two (2) daily paid and one (1) contractual.



RETREAT

The office had a two (2) days retreat on the 15th and 16th August 2019, addressing Budget, Corporate and Annual Management Plans and team building at Liku'alofa Beach Resort. The theme of the retreat was **'Honoured to Serve Tonga, Advocating Integrity'**.

A thanksgiving mass for all staff was held at Basilica of St. Anthony of Padua Catholic Church, Nuku'alofa on the 26th January 2020 to mark the beginning of calendar year 2020. A Corporate Plan Retreat at Tano'a International Dateline Hotel on the 24th January 2020. The revised Corporate Plan 2020/21 – 2022/23 was submitted in compliance with instructions from the Prime Minister's Office (PMO) and the Ministry of Finance.

TRAINING

The office supports staff by providing in-house training on all aspects of the Ombudsman work. The office was represented in the following short-term training, workshop and conferences abroad:

Training	Date	Participating Staff
Ombudsman Investigators Training Workshop (Fiji)	31 st July - 01 st August 2019	SIO Mele'ofa Mohenoa, SIO Sione Hamani Topui, IO Samiu Latu & IO Mosese Uili
Human Rights and Climate Change Conference (Fiji)	05 th - 07 th August 2019	DIO 'Alisi N Taumoepeau SC
APNIC IT Conference and Workshop (Thailand)	05 th - 12 th September 2019	SA 'Akuila Pohiva
2019 Training Program for Young Leaders from Pacific Island Countries (China)	17 th August - 08 th September 2019	CMO Nanise Fifita
US Ombudsman Association Annual Conference 2019 (Hawaii)	16 th - 20 th September 2019	OMB 'Aisea Taumoepeau SC DI & A/CEO 'Alisi Taumoepeau SC
Pacific Network Operators Group - PacNOC (Fiji)	02 nd - 06 th December 2019	SA 'Akuila Pohiva
Pacific Leadership Forum 2020 (New Zealand)	25 th - 27 th February 2020	OMB 'Aisea Taumoepeau SC DI & A/CEO 'Alisi Taumoepeau SC ,DS Melelua Langi

HUMAN RESOURCE

Figure 1: Staff List as of 30th June 2020

Name	Designation	Qualification	Date of Appointment
'Aisea Havea Taumoepeau	Ombudsman	SC, LLB (VUW NZ) LLM;(Melb Aust) Barrister & Solicitor,NZ	21 st March 2015
'Alisi Numia Taumoepeau	Chief Executive Officer	SC, MACM (Faith, US) LLB/ LLM(HONS) VUW(NZ) Barrister & Solicitor, NZ	1 st July 2019
Roman Vaihu	Principal Investigation	BA/LLB (NZ), LLM (London, UK) Barrister & Solicitor, NZ	21 st July,2016
Pilimisolo Tamo'ua	Principal Investigation	Dip. Journalism (Berlin)	2 nd April 2003
Mele'ofa Mohenoa	Senior Investigator	BBS/Grad Dip, (NZ)	5 th August 2015
S. Hamani Topui	Senior Investigator	LLB & Profs (USP,)	3 rd July 2019
Samiu Latu	Investigator	LLB, (USP)	24 th June 2019
Moses Uili	Investigator	BA, (USP,)	6 th June 2018
Viliani Lopeti	Senior Assistant Secretary	BCom (USP, Fiji)	13 rd June, 2016
Sisilia Tokai	Senior Assistant Secretary	Cert. IT (NZ)	12 th August,2014
Nanise Fifita	Communication Media Officer	BA, (Aust) Cert (US) Dip,(UPNG)	8 th August 2018
Lesieli Fangatua	Accountant	Dip, Business, (TTI) BCom (USP)/Grad Dip (NZ)	9 th June, 2017
Konikotia Taunaholo	Accounting Officer	Dip (St Joseph Business)	16 th March 2018
Mo'onia Taufu	Computer Op Grade 1		3 rd August 2001
Me 'Aholelei	Computer Op Grade 3	Dip IT (TIHE)	15 th August 2015
'Akuila Pohiva	Systems Admin	Dip IT, DIP CS & IS (TIHE)	30 th May 2016
Pitisi Satini	Receptionist	Dip IT (TIHE)	27 th September 2017
Litia Tonga	Office Assistant	Dip Biz & Tourism (TIHE)	10 th October 2019
Paula Tau'alupe	VIP Driver		9 th November 2015
'Unaloto Langi	CSD-Driver	Cert. Panel PNT (TIHE)	4 th February 2019
Soane Hehea	ID- Driver	Cert. IT (TIHE)	22 nd January 2019
Jane Toatepi Lavemai	Contract Assistant Accountant	BCom (USP Fiji)	14 th October 2019
Latu Vehikite	IT Officer	Dip IT (TIHE)	07 th February 2020
'Ofa ki Vaiola Kalekale	Office Cleaner		03 rd February 2020

Figure 2: Staff who successfully completed academic qualification during the Fiscal Year 2019/20

Staff Member	Designation	Qualification	Date Awarded
Mr. Roman Vaihu	Principal Investigation Officer	Master of Law with Merit	31 st October 2019
Litia Tonga	Office Assistant	Diploma in Business	11 th December 2019
Jane T Lavemai	Assistant Accountant	Bachelor of Commerce	13 th December 2019

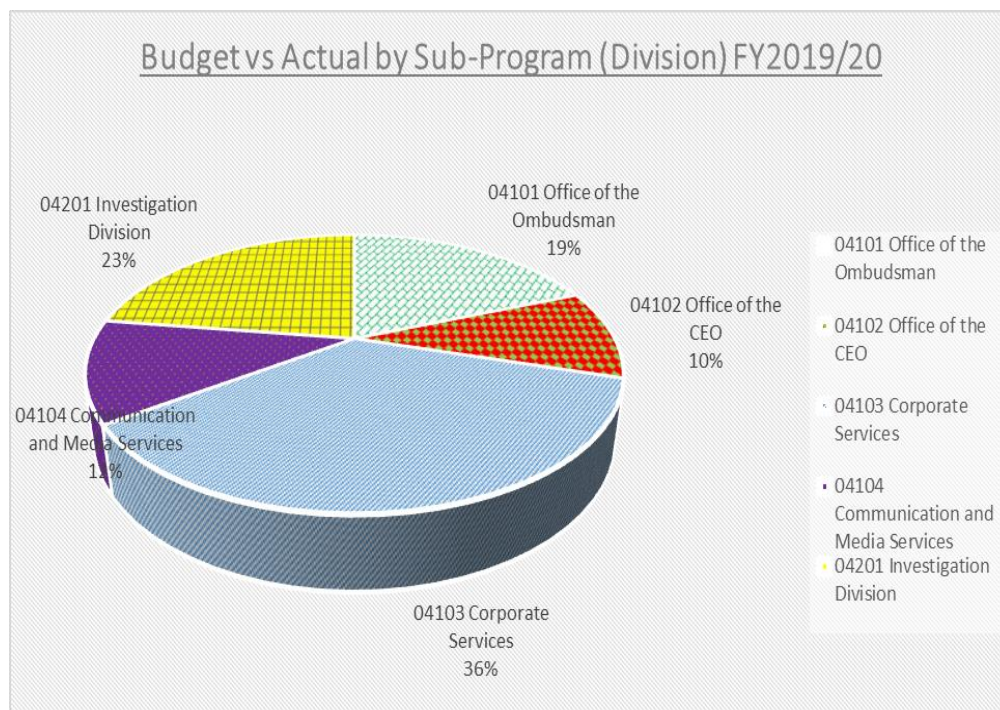
The office recruited five (5) employees during the fiscal year of 2019/20. The Director of Investigation was recruited. The position of Chief Executive Officer was also advertised and filled. An Office Assistant as well as three (3) daily paid staff was also recruited to assist with staff going on study leave and five (5) staff exiting the office. There are critical vacancies which have not been filled due to Covid 19 restrictions. All recruitments are on hold pending confirmation from Ministry of Finance, on funding availability.



FINANCIAL PERFORMANCE

The budget for the Financial Year 2019/20 was approximately \$1.6million. COVID 19 and austerity measures, impacted spending in the last months of the reporting period.

In the first quarter, 22.69% of the budget was spent as of 30th September 2019. The second quarter, 14.45% of the budget as at, 20th December 2019. The third quarter spent 21.98% of the budget as at 31st March 2020 and the last reporting quarter, 18.02% of the budget as at 30th June 2020.



Total Budget	\$1,628,600.00
Less: Actual Spent	\$1,339,554.10
Remaining Balance	\$289,045.90
Percentage of Total Budget Spent as of 30 th June 2020	82.25%

The approved budget for the Office of the Ombudsman 2019/20 compared to Actual Spent as of 30th June 2020 are summarized in table and graph below. The office had underspent in of the government covid-19 austerity measures, requested. We have crucial posts vacant and we are waiting for the completion of the Ministry of Finance processes.

Financial spending achieving Corporate Plan outputs:

Sub-Program Code	Sub-Program Name	Approved Budget 2019/20	Actual Spent as of 30 th June 2020
04101	Office of the Ombudsman	\$328,000.00	\$291,326.17
04102	Office of the CEO	\$152,200.00	\$67,424.54
04103	Corporate Services	\$600,200.00	\$545,177.39
04104	Communication and Media Services	\$155,500.00	\$104,927.32
04201	Investigation Division	\$392,700.00	\$330,698.68
	TOTAL	\$1,628,600.00	\$1,339,554.10

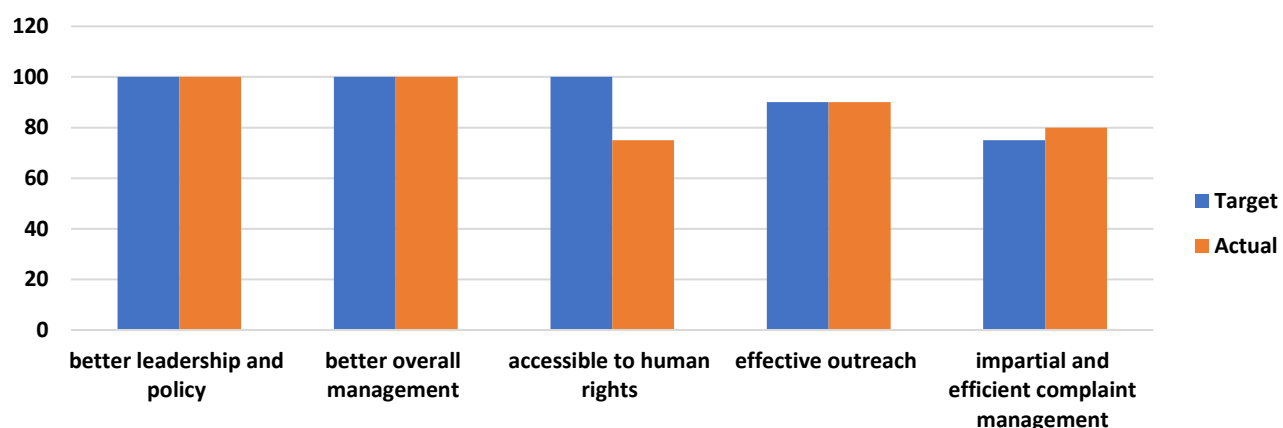
Performance against corporate plan output

Detailed below is the Office's performance against the measures in our Corporate Plan 2019/2020, Tonga Strategic Development Framework II, Sustainable Development Goals and our annual budget through the Appropriation Act 2019/2020. Both our External Outputs and Internal Outputs are discussed with analysis below.

External outputs include;

- i. **Leadership and policy advice which** focus on the leadership and overall management;
- ii. advocacy of human rights;
- iii. **Effective outreach:** focuses on organizing and implementing outreach and awareness programmes; and
- iv. **Impartial and efficient complaints management:** To protect impartiality and recognize efficiency in complaint handling

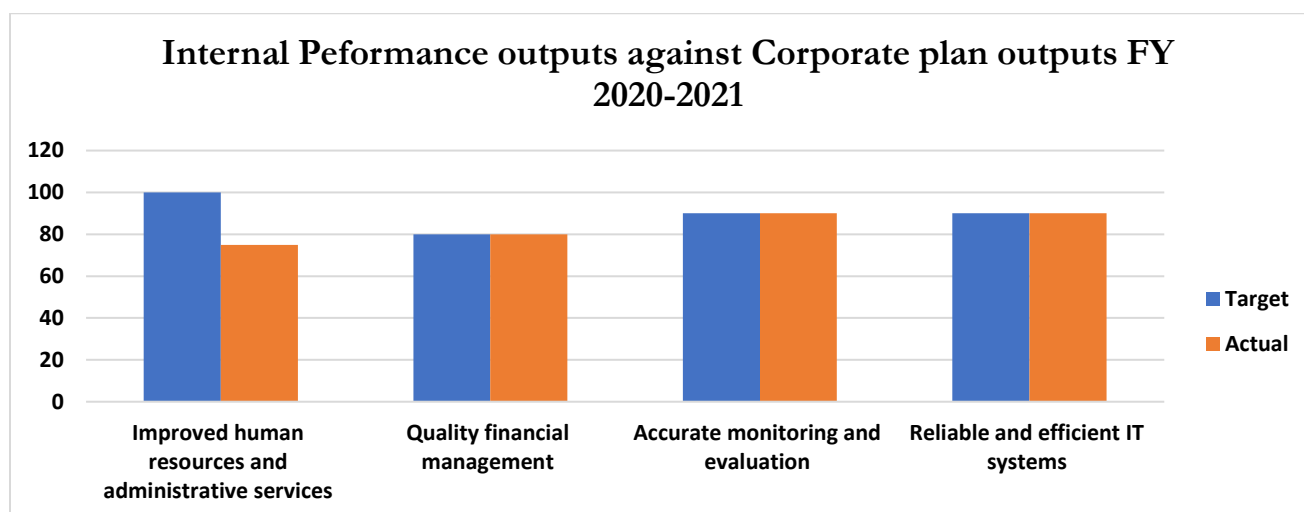
External performance outputs against corporate plans outputs FY 2020-2021



External Outputs	KPIs	Target	Result
Better leadership and policy advice	<ul style="list-style-type: none"> Plans approved and submitted to Cabinet/LA Timely & accurate recruitment of Advisors or Technical Assistance 	100%	100%
Better overall management	<ul style="list-style-type: none"> Timely & accurate direction on issues to resolve and/or complete 	100%	100%
Accessible to Human Rights	<ul style="list-style-type: none"> Conduct information sessions Convene stakeholder meetings Research, educate and publish relevant reports Own-motion investigations 	As required	75%
Effective outreach	<ul style="list-style-type: none"> Conduct MDA contact person sessions Participate in talk back radio, tv programmers and social media enquiries News release on published reports 	90%	90%
Impartial and efficient complaint management	<ul style="list-style-type: none"> Timely resignation of complaints Timely investigation on Own Motion investigations Accurate management of cases Timely management of complaints 	75%	80%

2. Internal outputs include the following:

- i. **Improved human resources and administrative services:** Focuses on the leadership and management of the office
- ii. **Quality financial management:** Under the guidance and directions of the CEO
- iii. **Accurate monitoring and evaluation:** Pursue advocacy and human rights
- iv. **Reliable and efficient IT systems:** Organizing and implementing outreach and awareness programmes



Internal Inputs	KPIs	Target	Result
Improved Human Resources and administration services	<ul style="list-style-type: none"> Timely filling of vacant posts Management of staff attendance Completion of PMS Promotion of Healthy living Provide clean working environment 	100%	75%
Quality Financial Management	<ul style="list-style-type: none"> Timely submission of expenditure reports to CEO Timely submission of forecasts to MoF Preparation of APP Timely preparation of salaries, tax forms and queries Timely processing on sun system for all orders 	80%	80%
Accurate monitoring & evaluation	<ul style="list-style-type: none"> Timely submission of all reports to HoD's and CEO 	90%	90%
Reliable and efficient IT Systems	<ul style="list-style-type: none"> Timely maintenance on office equipment and server. 	90%	90%

External Outputs:

1. Better leadership and policy advice:
The corporate services division achieved 100% for both target outputs vs results projected because of the following reasons: a. The corporate plan is always submitted on a timely basis; b. The plans submitted includes the recruitment of certain officers and the office has managed to notify the relevant ministries of this activity in the corporate plan
2. Better overall management: All issues are being followed and reported in accordance with the command chain.
All issues that must be addressed by higher authority is being discussed in a court like manner and minutes are prepared as evidence.
3. Accessible to human rights: The office conducts information sessions via in house trainings, meetings with outside stakeholders and publishes relevant reports regarding any information that may improve the work processes of the office. These meetings are conducted when required and so far, the office had managed to conduct important sessions throughout the year, this includes the Ombudsman own motion cases
4. Effective outreach: The office's communication and media services division conducts outreach programs via radio programs, tv programs, social media and published reports. This is the offices means of communicating with the general public regarding the offices mission and vision. The public reaches out to the office through these outreaches.
5. Impartial and efficient complaint management:

We highly assure all relevant stakeholders that all resignation complaints, investigation into own motion, managements complaints are submitted and processed on a timely basis

Internal Outputs:

1. Improve human resources and administration services:
The corporate services division aims to meet the timeliness for vacant positions on a yearly basis. This financial year did have its setbacks and delayed the recruitment of some positions, in addition to this the arrival of the Corona virus complicated it even further. Our division is also in charge of managing staff attendance and staff members are being warned in advance for improper conduct such as lateness etc. our division also caters for the prizes of our in-house healthy living competitions and applauds staff members for actively participating and finally the office works hard to provide a hygienic environment for all staff members
2. Quality financial management:
At the end of every month, the finance division submits an expenditure report detailing the offices overall spending for the month. Despite the offices overall ratings reported by the ministry of Finance, the accounts division has managed to submit monthly forecast on a timely basis, our main goal to date includes the drive to improve this year's ratings. Finally, all tax forms are prepared and submitted on the last day of every month and submitted to the ministry of revenue and all orders are being processed via the sun system and is reflected in the offices actual reports.
3. Accurate monitoring and evaluation:
all reports required to be submitted to the HOD's are submitted when required for further analysis.
4. Reliable and efficient IT systems: IT administrative officer ensures that he carries out as monthly services for all computer supplies as part of the monthly maintenance and we have seen him conduct these activities and attend to arising issues reported by the officers.

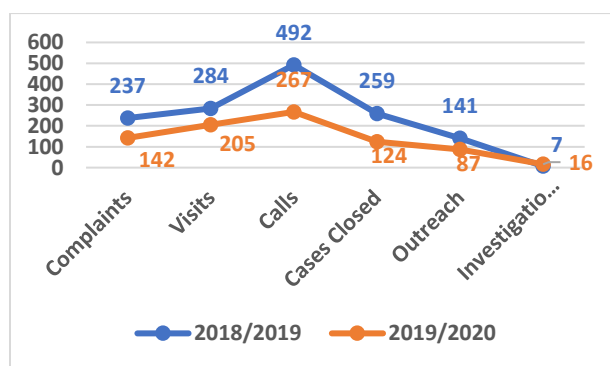
CONCLUSION

All institutions in government are partners in the integrity drive. We endeavor of maintain cordial working relationships with government organisations, public entities and the people. The good governance mandate belongs to all in the public sector.

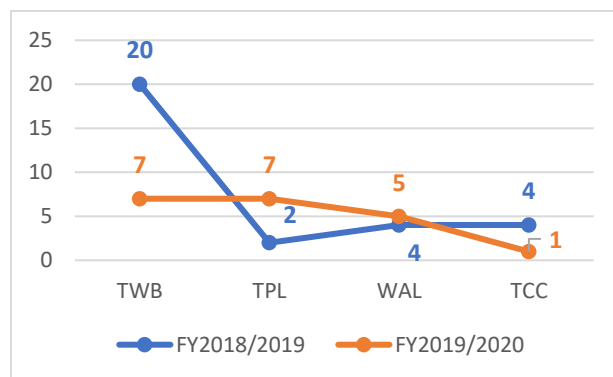
Integrity agencies. The Office of the Ombudsman supports and is intentional in forbearing the common goals of integrity agencies. The Office of the Auditor General, Attorney General, Police and Ombudsman are all committed to good governance, due process and rule of law. We continue to march to the beat of integrity and work to mobilise all the Public Sector the join the march.

Decrease in complaints. There has been a decrease in complaints against the ministries and public enterprises and agents in the reporting year as compared to the previous financial year.

Comparative Analysis 2018/2019 with 2019/2020



Complaints against Public Enterprise FY 2018/2019 – FY 2019/2020



Good Governance

We continue to blow the trumpet of good governance.

In ombudsmanship speak, “It is good for you, good for government and good for Tonga.”



APPENDICES

Appendix	Case No	Complaints	MDA	Page
Appendix 1	OMB 18/19 – 178 & 179; 188; 196; 198 & 199	Sosefo Lolo,Siale Mafi.Talifolau Lolo,Viliani ‘Epenisa,Sioeli Talia,Saimone Vea and Latu Kaafi	Ministry of Infrastructure	29 - 43
Appendix 2	OMB 18/19 - 2	Mapa Hafoka	Ministry of Finance	44 - 53
Appendix 3	OMB 19/20 - 111	Tevita Palu	Ministry of Infrastructure	54 - 61
Appendix 4	OMB 18/30	Tupoutu’a Tonutonu Lindberg	Final Report	62 - 74
Appendix 5	OMB 18/19 - 1	‘Olivia Foliaki	Final Report	75 - 101
Appendix 6	List of Outreach Programs conducted with in FY 2019 / 2020			102 - 109

APPENDIX 1



P.O. Box 847, Cnr of Lelue Road & Mateialona Road, 2nd Floor Retirement Fund Building, Nuku'alofa
Phone : (676) 26 980 / (676) 26984: Free Call 08 00 662

OMBUDSMAN'S FINAL REPORT ON THE COMPLAINT BY

**MR SOSEFO LOLO, SIALE MAFI, TALIFOLAU
LOLO, VILIAMI 'EPENISA, SIOELI TALIA,
SAIMONE VEA & LATU KAAFI**

CASES NO. OMB 18/19-178 & 179; 188; 196; 198 & 199

**Whether the 'Eua Branch of the Ministry of
Infrastructure has the capability to
maintenance Hala Poutelefoni**

8TH MAY 2020

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Executive Summary	3
Background	4
The Ombudsman's Role	4
The Complaint	5
Ministry's Response	5
The Ombudsman Investigation	5
The Premier Road Partnership Project	6
Lack of enforcement on damage to public roads	7
Relevant Legislation – Roads Act	7
Opinion	9
Recommendations	9
Response from the Ministry of Infrastructure	10

EXECUTIVE SUMMARY

1. This is a complaint lodged by Messrs Sosefo Lolo, Siale Mafi, Talifolau Lolo, Viliami 'Epenisa, Sioeli Talia, Saimone Vea and Latu Kaafi ("the complainants") – all growers from 'Eua against the bad condition of the main road to their plantations, and the ineffective action taken by the Ministry of Infrastructure ("the Ministry") in 'Eua to fix the road.
2. The complainants use the *Hala Poutelefoni* to their plantations up the plateau toward the southern end of 'Eua. *Hala Poutelefoni* is categorised by the Ministry as a Minor road, which can be paved or fixed with corals only and is not tar-sealed. Other categories include Routine and Periodic Maintenance, which refers to major development to main roads.
3. The complainants claimed to have talked to the staff of the Ministry in 'Eua ("Eua branch") several times but were told they should wait for the Ministry's head branch at Tongatapu to fix the *Hala Poutelefoni*.
4. The 'Eua branch do not have the equipment, technical expertise, manpower, the corals and budget to fix road all the minor roads in 'Eua. The annual budget for 'Eua roads for 2018/19 is \$50,000, which has been used.
5. The 'Eua branch, and all the residents we have talked to, blamed the damage to the plantation roads towards the Fungafonua plateau largely caused by the heavy equipment used by the Aotearoa-Tonga Forest Product Ltd ("Tonga Forest") in the harvest and transport of logs from the pine forests.
6. Further information was gathered, and include the views of a number of residents, and growers. Photographs and a report from the Officer-in-Charge at the Ministry's 'Eua branch are included and attached to this report.
7. The *Hala Poutelefoni* has been scheduled for repair under the Premier Road Partnership Project.

I am recommending five things in this Report pursuant to section 18(3) of the *Ombudsman Act 2001*:

- i) **Firstly** – that the Ministry consider repair the *Hala Poutelefoni* when the Premier Road Partnership Project comes to 'Eua;
- ii) **Secondly** – that the Ministry ensure all road users must comply with the *Road Act (Revised 2016)* to enforce the proper use of public roads, according to law;
- iii) **Thirdly** – that the Ministry consider work closely with the relevant authorities to ensure heavy equipment/vehicles acquire proper permits, and their use of the road is properly monitored according to s5, 7 & 8 of *Roads Act (Revised 2016)*;

- iv) **Fourthly** – the Ministry consider an investigation into the allegations brought against the Aotearoa Tonga Forest Product Ltd for damages to public roads;
- v) **Fifthly** – that the Ministry report back to me within three (3) months of the date this report is finalised to provide a follow up report on the recommendations.

BACKGROUND

- 8. The investigation was launched on 20th May 2019.
- 9. I assigned the investigation to my Investigation Team who undertook the investigation into the matter.
- 10. The team requested, received information from the Ministry, talked to the complainant, made site visits and meetings with the Ministry in ‘Eua to ensure that relevant information was provided by the Ministry.

THE ROLE OF THE OMBUDSMAN

- 11. Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to make any such investigation either on a complaint made to the Ombudsman by any person or on his own motion relating to a matter of administration by any department or by any officer of any such department. (Section 18(1) and (2) of the *Ombudsman Act 2001*).
- 12. My investigation is not an appeal process. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the act or decision and the procedure followed by the Ministry, and then form an opinion as to whether the act or the decision and the procedures followed by the Ministry, and then form an opinion as to whether the act or the decision was properly arrived at and was one that the Ministry could reasonably make.



THE COMPLAINT

13. The complainants were dissatisfied with the Ministry on two things. One, for unreasonably unattended to the bad state of the road to their plantations. Two, the lack of response to their queries regarding the need to fix the road.
14. The complainants want to know what the Ministry is doing to alleviate the problem.

MINISTRY'S RESPONSE

15. The Ministry responded on 12 August 2019, that its Office in 'Eua had not received such complaint from the complainants.¹
16. Complaint received at the Ministry's branch in the Outer Islands are referred to the Chief Executive Officer for a decision. All road maintenance and repair must follow schedule approved by the Ministry in agreement with Members of Parliament.² Only roads that are included in the schedule can be repaired.
17. There are three categories of road improvements. All small roads in the community and roads to plantations are Minor Roads; major road repairs is called Routine Maintenance, and Periodic Maintenance refers to major road upgrade with chip or tar-seal.

OMBUDSMAN INVESTIGATION

18. The Investigation Team witnessed the poor condition of the *Hala Poutelefoni*. It was almost untravellable by low-bedded trucks and smaller vehicles because of the many deep potholes therein.
19. Growers and residents blamed the heavy equipment and big log-transporting trucks³ owned by Tonga Forest for the damage to the *Hala Poutelefoni* and other minor roads up to the pine forests. About 60 growers use the same roads to their plantations. The livelihood of their families depends on their plantations, thus good condition roads is paramount important.
20. Mr Sione Tukia, Officer-in-Charge of the 'Eua branch ("the OIC") said that Tonga Forest has little regard to the welfare of others. Tonga Forest only care about their business. The damage to the minor roads has gotten worse.

¹ Letter from CEO Ministry of Infrastructure dated 12 August 2019

² *ibid*

³ 'Eua District Progress Report, 27 August 2019

“Since Tonga Forest Product Limited (now Aotearoa Forest Product) started logging in ‘Eua, their machinery and equipment have caused major damages to the minor roads ... Some of these roads were costly to fix and they were constructed recently. This is a huge problem. If there’s no action to stop ... then I think spending huge amount of money for road maintenance is wasted... On the hand a company who only care for its benefit ... keeps destroying the roads.”⁴

21. The Ministry’s ‘Eua branch do not have the machinery, equipment, and neither the corals nor the manpower. It’s \$50,000 budget to fix the roads in ‘Eua can only cover a few roads because ‘Eua branch has to purchase the corals, hire the machineries and equipment and/or pay out contractors to carry out the repair work.

**THE PREMIER PRIORITY INCLUSIVE SUSTAINABLE COMMUNITY
PARTNERSHIP ROAD TRANSPORTATION & COMMUNICATION
INFRASTRUCTURE PROJECT**

22. Government is currently embarked on a two-year national road development known as the Premier Priority Inclusive Sustainable Community Partnership Road Transportation & Communication Infrastructure Project (*“Premier Road Partnership Project”*).
23. Premier Road Partnership Project Manager, Mr Hekisou Fifita (*“the Project Manager”*) said the project is estimated at \$300 million to upgrade all roads including community roads and all public roads to new settlements, plantations, beachfront, and historical sites.⁵
24. The Project Manager said, funding of the project relies on contributions from donor partners. *“The project will include street names for all roads and the introduction of house numbering with a corresponding mailbox.”*⁶
25. The project began about October - November 2019 has completed road upgrade at communities in Tongatapu Constituent 10, and Vava‘u 16. It has started in ‘Eua and Ha‘apai around February 2020 but its progress was interrupted by the restrictions on Covid-19.
26. In responding to inquiries on 13 February 2020, the Project Manager confirmed that the *Hala Poutelefoni* will be upgraded when the project goes to ‘Eua.

“All minor roads in ‘Eua will be covered under the Premier Road Partnership Project, and including Hala Poutelefoni.”⁷

⁴ ibid

⁵ File note telephone inquiry dated 13 February 2020

⁶ ibid

⁷ ibid

LACK OF ENFORCEMENT OF THE PROPER USE OF PUBLIC ROADS

27. The Ministry seems to have done very little or nothing at all to take to task the people and/or body corporate who in their careless or reckless actions damaged the public roads. Tevita Lavemai, Deputy Director, Road Maintenance Division was not sure whether the Ministry has powers to regulate damages caused to public roads.

*“We often discuss at the Road Safety Taskforce ways to improve road safety. We put up warning signages in areas of the roads where fatal accidents occurred one too many. We are concerned with the careless or reckless actions that damaged the roads, such as dropped plough-disc and such damage caused by heavy vehicles and equipment to the roads in ‘Eua. The diggings by Tonga Water Board and/or TCC is a concern, too, because they cannot make good the damage done,” Mr Lavemai said.*⁸



“The Ministry is working on a bill to enable to regulate the damages to the roads, and to make the party that did the damage liable to the cost of fixing of the damage.”⁹

28. The powers to monitor the use of public roads and damage thereto is in the *Road Act Cap 50.04*.

RELEVANT LEGISLATION

29. Road Cap 50.04¹⁰

Section 5 (1) Any person who desires to transport on any public metalled road in any vehicle or by any other means anything which together with the vehicle or other means of transport used is of a total weight of more than three tonnes shall apply to the Minister of Lands for a written permit to transport the same.

(2) The application shall be made in writing and the applicant shall furnish the Minister the following particulars –

- (a) the description of the article to be transported;

⁸ Interview with Investigation Team dated 12 February 2020

⁹ *ibid*

¹⁰ Road Act Cap 50.04 (Revised 2016)

- (b) the dimensions and approximate weight of the article and the vehicle or other means of transport;
- (c) the means which it is proposed to use for such transportation;
- (d) the place from and to which and the roads over which it is proposed to transport the article;
- (e) the time during which it is proposed to transport the article

Section 6 - Power of Minister in Respect of Grant PF Permit

- (1) The Minister of Lands may at his discretion refuse to grant a permit applied for under section 5 hereof or may on the payment of the fees prescribed in the Schedule grant a permit subject to such terms and conditions as to time, lighting and the amount to be deposited to cover any damage done to the road as to him may seem fit.
- (2) The cost of making good any damage caused by transportation under a permit granted as aforesaid may be deducted from the amount deposited by the applicant for the permit.

Section 7. Offences

Any person who shall commit any of the following acts shall be liable on conviction to a fine not exceeding \$40, that is to say any person who –

- (a) In applying for a permit to transport any article for which a permit is required by section 5 hereof makes any misrepresentation or false statement of the particulars required;
- (b) Having obtained a permit fails to carry out any of the terms and conditions of the permit except as to time;
- (c) Damages any public road;
- (d) Interferes with or stops the ordinary traffic on a public road;
- (e) Leaves any article being transported or any vehicle on the road at night time without a light at each end of the same.

Section 8. When order to pay cost of repair may be made

Any person who without having obtained or having obtained by fraudulent misrepresentation a permit under section 5 hereof transports on any public metalled road any article for the transportation of which a permit issued by the Minister of Lands is required shall be liable on conviction to a fine of \$40 and the magistrate on such conviction may order the defendant to pay the estimated cost of any damage to the public road caused by the unlawful act of the defendant.

OPINION

30. That, I'm satisfied the Ministry has schedule all minor roads for maintenance and *Hala Poutelefoni* included;
31. That, the roads in 'Eua is monitored from the Ministry's headquarters in Tongatapu through close cooperation with the 'Eua branch, and because of limited resources, proper equipment, expertise, and available fund;
32. That, the road maintenance is carried out according to schedule set and agreed to by the Ministry, and Members of Parliament;
33. That, the relevant authorities must seek to comply with their statutory roles provide for in the *Road Act (Revised 2016)*;
34. That, the national restrictions put in place on work and movement of people since March 2020 in light of precautions to safeguard Tonga and its people from a possible spread of Covid-19 has affected the progress of the Premier Road Partnership Project.
35. That, the Ministry is commended for the support given to this investigation.

RECOMMENDATIONS

- vi) **Firstly** – that the Ministry consider repair the *Hala Poutelefoni* when the Premier Road Partnership Project comes to 'Eua;
- vii) **Secondly** – that the Ministry ensure all road users must comply with the *Road Act (Revised 2016)* to enforce the proper use of public roads, according to law;
- viii) **Thirdly** – that the Ministry consider work closely with the relevant authorities to ensure heavy equipment/vehicles acquire proper permits, and their use of the road is properly monitored according to *s5, 7 & 8 of Roads Act (Revised 2016)*;
- ix) **Fourthly** – the Ministry consider an investigation into the allegations brought against the Aotearoa Tonga Forest Product Ltd for damages to public roads;
- x) **Fifthly** – that the Ministry report back to me within three months of the date this report is finalised to provide a follow up report on the recommendations.

RESPONSE FROM THE MINISTRY OF INFRASTRUCTURE

36. On the 24th April 2020, I delivered my Provisional Report to the Ministry setting out my findings, opinions and recommendations. On the 7th May 2020¹¹, I received a letter from the Ministry accepting the recommendations of this Report.

As required under section 18(5) of the Ombudsman Act 2001, a copy of this letter is attached to this report as Annex 1.



Aisea H. Taumoepeau, SC
Ombudsman

8th May 2020

¹¹ Letter from Lopeti Heimuli, Acting Chief Executive Officer for Ministry of Infrastructure dated 6th May 2020

Annex 1

Ministry of Infrastructure
Fanga-'o – Pilolevu
Nuku'alofa

Tel: (676) 23100
Fax: (676) 25440
Email: inf@infrastructure.gov.to



Kingdom of Tonga

MINISTRY OF INFRASTRUCTURE

PO Box 52
Nuku'alofa
Kingdom of TONGA

RECEIVED
Apr 07/05/20

Handwritten notes: *AKD!*, *Prepare final report pls.*, *7/5/20*

Handwritten note: *mu*
Please prepare final report as directed by OMB and note the request for 3 months
[Signature]
4/5

6 May 2020

'Aisea H. Taumoepeau, SC
Ombudsman
Retirement Building
Nuku'alofa

Dear Sir,

Re: Provisional Report of Complaint from Sosefo Lolo, Siale Mafi, Talifolau Lolo, Viliami 'Epenisa, Sioeli Talia, Saimone Vea and Latu Kaafi against Ministry of Infrastructure

With reference to your letter dated 24 April 2020, Ref: 'ATH. 74/2020 OMB/A. 11, this letter is to provide our response on subject matter.

We have considered the provisional report and wish to thank you for allowing the Ministry to review it. The Ministry is in agreement with the provisional report, however given the impact of Covid-19, the operation of the Ministry has been reduced to only focusing on activities related to Covid-19. This is due to the financial instructions from Ministry of Finance.

Thus, we do kindly request your assistance as per recommendation five (v) of the provisional report to give us three months instead of within one month, to provide a follow up report on the recommendations please.

Apart from that, the recommendations (1-4) in the provisional report shall be addressed as follows;

1. Our Civil Engineering Division is currently incorporating this road into their workplan for 'Eua
2. Land Transport Division will ensure to include proper use of public roads in their upcoming television and radio programs.
3. The Ministry will work closely with the Ministry of Police to increase enforcement of heavy equipment and vehicles. The Ministry is currently the chair of the Road Safety Committee in which this issue should be tabled.
4. 'Eua Branch will investigate this allegations and report back to Head Office.

'Eua District Progress Report



Project: Minor Roads & Routine and Periodic Maintenance

Purpose of Report:

The purpose of this report is to provide information on what the Ministry of Infrastructure has archived and completed at 'Eua District particularly on Road Maintenance. This report will also show the upcoming works planned by the Ministry.

1. Completed Project

Year	Project Name	Km	Current Condition
2017	Chip Sealing of 'Ohonua to Ha'atu'a Rd	4.9	Good
2017	Routine Maintenance	15	Good
2018	Chip Sealing of 'Ohonua to Tufuvai Rd	1.5	Good
2018	Routine maintenance	15	Good

2. Issues for consideration

2.1 Damaging of roads

- Since Tonga Forest Product Limited started logging at 'Eua, their machinery and equipment cause damages to roads here in 'Eua. Note, some of these roads were costly to fix and they were just constructed recently. This is a huge problem because if there's no action to stop or minimize this issue, then I think spending huge amount of money for road maintenance is a wasted while on the other hand a company who only care for their benefit and their product keeps destroying the roads.

2.2 Need of Equipment

- Another concern and a need from our Ministry at 'Eua is a set of machinery and heavy plant for road maintenance. Our average budget each financial year are TOP 50,000 and we have no machinery other than the Steel Drum Roller. So to hire machinery (grader, loader, Truck) and purchase material (coral rocks) we cannot maintain 80% of 'Eua gravel road network each financial year. I know the Ministry are planning to provide machinery to 'Eua in the future and if that happens I believe it will be a huge development to the road network of 'Eua.

3. Upcoming Project

3.1 PERFORMANC BASED CONTRACT FUNDED BY WORLD BANK

'EUA ISLAND MAPS - ROAD MAINTENANCE & IMPROVEMENT

Date: 2019



LEGEND

- Year 1
- Year 2
- Year 3 - 5
- RRM Only

PBC Roads with PRM

Road Name	Length
Year 1	
Ohonua 1	0.915km
Ohonua 2	0.875km
Ohonua 3	0.60km
Angaha 1	2.60km
Houma 1	4.016km
Year 2	
Mataaho 01	1.980km
Pangai 3	0.89km
Hastua 2	1.17km
Year 3	
Mua 01	0.926km
Mataaho 02	0.505km
Petani 1	2.25km
Pangai 1	1.050km
Hastua 3	0.458km
Hastua 4	0.755km
Year 4	
Pangai 2	0.53km
Petani 2	0.21km
Pangai 4	0.24km
Pangai 5	0.24km
Pangai 6	0.308km
Mua 02	0.275km
Year 5	
Hastua 1	0.26km
Mataaho 3	0.28km
Mataaho 4	0.27km
Mataaho 5	0.255km
Tufuval 1	0.52km
TOTAL	22.358km

Summary Table

	Year	Length
PBC with PRM	Year 1	9.006km
PBC with PRM	Year 2	4.04km
PBC with PRM	Year 3	9.944km
PBC with PRM	Year 4	1.803km
PBC with PRM	Year 5	1.565km
PBC PRM only	-----	26.342km

Annex 1: Photo taken from Periodic Maintenance Works.

Spot Rehabilitation



Pre-coat (14mm)



Chip Sealing – Bituminous Surfacing



Annex 1: Photo taken from Periodic Maintenance Works.

Spot Rehabilitation



Pre-coat (14mm)



Chip Sealing – Bituminous Surfacing





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OMBUDSMAN'S FINAL REPORT ON THE COMPLAINT BY

MR MAPA HAFOKA

CASES NO. OMB 18/19-2

The Sin of Being Useful Disadvantaged for being useful

23RD APRIL 2020

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EXECUTIVE SUMMARY

1. This is a complaint by Mr. Mapa Hafoka (“the complainant”) formerly of Ha’alaufuli. He was dissatisfied with the Government’s Social Welfare Scheme (“the Scheme”) on Old Age Benefit for which he is not eligible because he is currently gainfully employed and paid a regular salary.
2. He is of the view that his salary shouldn’t hinder him from the Scheme benefit because he is employed on his own merits. The complainant has raised his concern with the Treasury in Vava’u as well as in other public forums including Parliamentary constituency meetings.
3. The purpose of the Scheme was to provide financial assistance for the elderly.
4. The Scheme is jointly administered by the Ministry of Finance and National Planning (“the Ministry”) and the National Retirement Benefit Fund Board.
5. Policy No. 6 of the Scheme provides that a person who is age 70 or older but is currently gainfully employed is not eligible.
6. The complainant is of the view Policy No. 6 is both discriminatory and does not recognize the expediency and practicality of people age 70 or older who are currently gainfully employed. It also sent out a wrong message that being useful can be a disadvantage.
7. The Policy has been revised twice since it started in September 2012. The first on the 1st July 2014, where the eligibility age was reduced from 75 to 70. The second on 1st July 2017 which made beneficiary who receives life pension payments eligible.
8. A third review was carried out in 2018 with a view to grant eligibility to currently gainfully employed age 70 or older but did not materialized.
9. The complainant passed away in October 2019.

I recommend two things in this Report pursuant to *section 18(3) of the Ombudsman Act 2001* -

10. That, the Ministry considers revising the policy to reflect the purpose by which the Scheme was established to include the people age 70 or older even though currently gainfully employed;
11. That, the Chief Executive Officer reports back to me within one (1) month before this report is finalised.

BACKGROUND

The investigation was launched on 11th July 2020.

I assigned the investigation to my Investigation Team who undertook the investigation into the complaint.

The team requested, received information from and held meetings with the Ministry, and relevant stakeholders and include several discussions with the complainant in Vava'u to ensure that relevant information was provided by the relevant government agencies.

THE OMBUDSMAN ROLE

Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to make any such investigation either on a complaint made to the Ombudsman by any person relating to a matter of administration by any department or by any officer of any such department.

My investigation is not an appeal process. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the action or decision and the procedure followed by the Ministry, and then form an opinion as to whether the actions, decisions and procedures were properly followed.

My role as in pursuant with section 18 (1) and (2) of the of the Act is to consider the administrative conduct or decisions of any government Ministry or departments and to form an independent on whether conducts was fair and reasonable.

THE COMPLAINT

12. This is the second complaint lodged by the complainant to this Office on the same issue – the first on the 26th July 2017, the second a year later on the 11th July 2018.
13. The complainant is a prominent community leader. He held the *Talking Chief* title *Piu 'o e Kolo Fahina*¹, which means the mentor, that the people of Ha'alaufuli looks up to. He was elected District Officer by his constituent for three consecutive terms. Hahake constituency consists of the communities of Ta'anea, Tu'anekivale, Houma, Koloa, Ha'akio and Mangia.²
14. The public was told that Government values the contributions of the elderlies to the society, therefore the monthly stipends.³
15. The complainant said Policy No. 6 is discriminatory, and at best biased.

¹ File Note dated 31st January 2020

² Original Complaint form

³ Ibid

“Living to be age 70 or longer is a blessing from God. The Scheme is supposed to recognize the positive contributions of Tonga’s older generation to family, community and the Tongan society as a whole. However, the opposite is true and it is very disappointing that our Government does not see the positive with the currently gainfully employed age 70 or older.

“How can Government grant benefit for retiree who currently receives pension benefits and not us the currently gainfully employed. What kind of recognition is this? How can you explain not rewarding the usefulness?”

*“Why is longevity and usefulness being punished”.*⁴

THE POLICY – PURPOSE OF THE SOCIAL WELFARE SCHEME

16. The aftermath of the world financial crisis in 2008 soon spread quickly to other countries not affected by the Banking crisis⁵ including Tonga. Being one of the major backbones of the country’s revenue, “remittances decline by 14 per cent (in pa’anga terms)”⁶ during the financial year of 2008/2009⁷ which saw many Tongan families suffered fiscally.⁸
17. During Hon. Tu’ivakano’s tenure as Prime Minister, his government came up with the idea to create a scheme aimed to assist elderly people in financially supporting themselves.⁹
18. The policy also known as the Old Age benefit was enforced in September 2012, initially for people age 75 and above in Tonga to be paid TOP\$65 monthly stipends.¹⁰
19. The Minister of Finance (at the time) Hon. Lisiate ‘Akolo said the fund was taken out of the Ministry’s budget as part of the government’s initiative to aid the elderly people.¹¹ “It is true that Tonga is facing economic difficulties but this is an economy of love for our elderly.”¹²
20. The scheme is administered by the National Retirement Benefits Funds (“NRBF”) responsible for the designing and managing of policy.

⁴ Ibid

⁵ Chen, W., Mrkaic, M. & Nabar, M. (2019). The Global Economic Recovery 10 Years After the 2008 Financial Crisis. *IMF Working Papers*

⁶ Fontenay, P. D., & Utoikamanu, S.T.T. (2009). Tonga: economic survey 2009. *Pacific Economic Bulletin*, 24, 1-18.

⁷ Ibid

⁸ File Note of Meeting with Sione Faleafa dated 25th February 2019

⁹ Ibid

¹⁰ Matangitonga. (2012, September 21), *PM launches Tonga’s first social benefits scheme for elderly*. Retrieved from <https://matangitonga.to/2012/09/21/pm-launches-tongas-first-social-benefits-scheme-elderly>

¹¹ Ibid

¹² Ibid

POLICY REVISED 2014, 2017

21. The policy was revised in July 2014, reducing the eligibility age to 70.¹³ The Minister of Finance (at the time) Hon. Dr. 'Aisake Eke told the House, "this amount is small but Government do wish to ensure a well-designed, caring and responsible support for the elderly."¹⁴ "It is important when we consider the welfare of our country we take into consideration the welfare of its citizens."¹⁵
22. The revised policy of 2017 made retirees who still receives normal salaries from Government eligible, and not the currently gainfully employed.
23. The Chief Executive Officer of NRBF stated that in spite of the financial predicament, the government has been able to put the elderly first.¹⁶

¹³ Parliament of Tonga. (2014). 70 years old to receive TOP\$65 pay a month. Retrieved from <https://www.parliament.gov.to/media-centre/latest-news/latest-news-in-english/172-70-year-old-to-receive-top-65-pay-a-month>

¹⁴ Ibid

¹⁵ Ibid

¹⁶ RNZ. (2014, August 26), *Tongans 70 and over now get the pension*. Retrieved from <https://www.rnz.co.nz/international/pacific-news/252977/tongans-70-and-over-now-get-the-pension>

Annex 1:

POLICY FOR THE GOVERNMENT SOCIAL WELFARE SCHEME (SWS)

1st July 2014

1. A monthly social welfare stipend of TOP\$65.00 be paid to national aged person of 70 years and over, until death.
2. Review Date is 1st July 2015;
3. Beneficiary shall be a Tongan citizen by birth and has been living in Tonga for the last 12 months;
4. Beneficiary shall not be a citizen of any overseas country and getting similar benefits;
5. All benefit payments shall be tax free;
6. A person who is 70 years old and over but still working and earning formal salary shall not be eligible to register in this scheme;
7. Beneficiary who receives life pension payment or other similar retirement benefits from Government, Public Enterprises and Parliament shall not be entitled to this social welfare benefit.
8. The National Retirement Benefits Fund shall be responsible for the management and administration of the Scheme, and reporting to the Minister for Finance & National Planning.
9. Social welfare payment shall cease when the entitled beneficiary leaves overseas and resumes when returns to Tonga.
10. Financial institutions should exempt taxes, fees and other bank charges on the elderly bank accounts.
11. Proper birth certificates shall be provided for confirmation of age eligibility for registration and payment.
12. Aged person without proper birth certificate shall provide an Affidavit to the National Retirement Benefits Fund as proof of date of birth.
13. The NRBF shall be responsible for the design of the management and operational policies for the Government Social Welfare Scheme.

Annex 2:

REVISED GOVERNMENT SOCIAL WELFARE SCHEME POLICY 1ST JULY 2017

1. A monthly social welfare stipend are as follows:
 - I. Increase the \$65 social protection monthly stipend to the old age (70+) as follows
 - a) Age 70 to 75 to receive \$70 per month;
 - b) Age 76 to 79 to receive \$75 per month; and
 - c) Age 80 plus to receive \$80 per month.
2. Review Date is 1st July 2017;
3. Beneficiary shall be a Tongan citizen by birth and has been living in Tonga for the last 6 months;
4. Beneficiary shall not be a citizen of any overseas country and getting similar benefits;
5. All benefit payments shall be tax free;
6. A person who is 70 years old and over but still working and earning formal salary shall not be eligible to register in this scheme;
7. Beneficiary who receives life pension payment or other similar retirement benefits from Governments, Church Organizations, Statutory Bodies, Public Enterprises and Parliament shall be entitled to this social welfare benefit;
8. The National Retirement Benefits Fund shall be responsible for the management and administration of the Scheme, and reporting to the Prime Minister and the Minister for Finance & National Planning;
9. Social welfare payment shall cease when the entitled beneficiary leaves overseas for more than three (3) months and resumes when returns to Tonga;
10. Financial institution should exempt taxes, fees and other bank charges on the elderly bank accounts;
11. Proper birth certificates shall be provided for confirmation of age eligibility for registration and payment;
12. Ages person without proper birth certificate shall provide an Affidavit to the National Retirement Benefits Fund as proof of date of birth;
13. Any other aged persons that claim to be eligible to be considered under the merit of their claims;
14. The National Retirement Benefits Fund and Social Welfare shall be responsible for the design of the management and operational policies for the Government Social Welfare Scheme.

24. There were two group of people who were ineligible for the scheme when it begins 2012, and as shown in Nos. 6 and 7 of the **Annex 1** above, which were:
- a. persons 70 or older who are currently gainfully employed like the complainant.
 - b. those who receive pension or retirement benefits from Government, Public Enterprises and Parliament.
25. The scheme was again revised and by July 2017 Policy No. 7 was amended therefore beneficiaries who receive pension and retirement assistance from the Government, Public Enterprises and Parliament were eligible.
26. Policy No. 9 was revised as shown in **Annex 2**, that payment will cease to be paid to beneficiary if outside Tonga more than three (3) months. The monthly stipends will continue upon the recipient's return.
27. The category that remained ineligible for the policy were those who are 70 or older but are currently gainfully employed like the complainant.

THE MINISTRY'S RESPONSE

28. In response to the Ombudsman letter dated 12th July 2018, the Ministry on 24th August 2018 confirmed work is under way to revise the Scheme yet again with a view to enable the group disadvantaged by Policy No. 6 eligible.¹⁷
29. Information was sought from the Statistics Office but had no data on the currently gainfully employed. Based on the 2016 census it was estimated their numbers at between 400 to 500.
30. The Ministry was concerned the change will affect the 2018/2019 Budget.
31. The Ministry is of the view that the currently gainfully employed would not be affected if there is no change to Policy No. 6. It continue to say, that "the scheme was designed for elderly people who do not have a source of income."¹⁸
32. The Ministry informed this Office on the 10th June 2019, that the policy change was not successful during the budget preparation for the Financial Year 2019/2020.¹⁹

¹⁷ Email dated 24th August 2018

¹⁸ Ibid

¹⁹ Email dated 10th June 2019

OMBUDSMAN'S OPINION

1. After considering the entirety of the information and documents before me I am satisfied that the Scheme was in recognition of the contribution of the elderly population to the Tongan Society in all walk of life;
2. That, the Scheme provides financial support for people age 70 or older;
3. That, barring the currently gainfully employed age 70 or older, while allowing eligibility for the retirees currently receives regular pension and/or retirement benefits from Government, Public Enterprises, and Parliament is unfair, unjust and wrongfully discriminatory;
4. That, the complainant was an extra-ordinary public servant, renowned community leader who was well-liked by his constituents. His passing at age 85 as the serving District Officer speak volumes for the man he was;

RECOMMENDATIONS

I'm recommending two things in this Report pursuant to *section 18(3) of the Ombudsman Act 2001*

1. That, the Ministry considers revising the policy to reflect the purpose by which the Scheme was established to include the people age 70 or older even though currently gainfully employed;
2. That, the Chief Executive Officer reports back to me within three (3) months, of the actions taken to implement 1 above.



'Aisea H. Taumoepeau, SC
Ombudsman

23rd April 2020



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OMBUDSMAN'S REPORT ON THE

COMPLAINT BY

MR TEVITA PALU

Case No. OMB19/20 – 111

**Whether the action of the Director of Civil Aviation
unfair and unreasonable in the assessment of RTL's
application for Senior Persons**

20TH MAY 2020

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EXECUTIVE SUMMARY

1. This is a complaint from Mr Tevita Palu (*“the complainant”*), who is Chief Executive Officer of Realtonga Airlines (*“CEO RTL”*) against the Director of Civil Aviation (*“the Director”*) of the Ministry of Infrastructure (*“the Ministry”*) for unreasonable delay in the assessment of an application by Realtonga Airlines (*“RTL”*) for Senior Persons (*“the application”*) to amend the RTL’s Air Operator Certificate (*“AOC”*).
2. The complainant lodged the application on 29 April 2020. He was informed by the Director the assessment would take 90 days. The complainant is of the view 90 days is too long and unreasonable. He is of the view that the four applicants have been Senior Person before and have the qualification and experience required for the Senior Person’s role.
3. The complainant further claimed the Director lacks independence, impartiality and integrity by helping the Minister of the Ministry and Government to establish a new national airline. In doing so, he claimed Government is unnecessarily interfering and not in the best interest of RTL.
4. He wants the Director to assess the application in a timely manner.
5. On 14 May 2020, the Director directed CEO RTL to complete the applications.
6. The Director has powers under the Civil Aviation Act 2014.

BACKGROUND

7. The investigation was launched on 7 May 2020.
8. I assigned the investigation to my Investigation Team who undertook the investigation into the matter.
9. The team requested, received information from the Ministry and the complainant to ensure that relevant information was provided by the Ministry and the complainant.

THE ROLE OF THE OMBUDSMAN

10. Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to make any such investigation either on a complaint made to the Ombudsman by any person or on his own motion relating to a matter of administration by any department or by any officer of any such department. (Section 18(1) and (2) of the *Ombudsman Act 2001*).
11. My investigation is not an appeal process. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the act or decision and the procedure followed by the Ministry, and then form an opinion as to whether the act or the decision and the procedures followed by the Ministry, and then form an opinion as to

whether the act or the decision was properly arrived at and was one that the Ministry could reasonably make.

THE COMPLAINT

12. The complainant is dissatisfied with the Director on the timeline of three months given to assess the applications. He is of the view the three months is too long and unreasonable. He claimed it is a tactic used by the Director to delay the approval of his applications for new Senior Persons and in order that his current AOC is expired at the end of May.
13. The complainant further claimed the Director lacks integrity and is not impartial, therefore compromises the independence of his role.
14. That Government is unnecessarily interfering with the operation of RTL in poaching his Senior Persons, and is working on establishing a new national airline.

THE OMBUDSMAN'S INVESTIGATION

15. My Investigation Team have met and discussed its role and process with the complainant and RTL legal Advisor Mr Kitone Boniu Waqavonovono ("Kitone") on 7 May 2020. The complainant was requested to provide relevant information and documents.
16. The Ombudsman sent a referral of the complaint to Acting Chief Executive Officer of the Ministry ("the ACEO") the same day. He was requested to respond before end of business on 14 May 2020, which he did, and attached therewith relevant documents including correspondences between the Director and CEO RTL on the applications.
17. The entirety of the information from both parties were assessed on 15 May 2020. We requested further documents from the Director on 18 May 2020 which was instantly provided.
18. On 19 May 2020, Kitone was invited and discussed the applications in relation to the complaint with this Office.
19. It was confirmed the applications has been returned. There is no applications with the Director.

REQUIRED TIME TO PROCESS OF APPLICATION

20. Civil Aviation Rules, Part 119 requires that application for issue, renewal or make amendment to an Air AOC requires all relevant documents and appropriate fees paid.
21. No application will be processed until all required documentation is received.¹
22. The Director considered the applications incomplete and the prescribed fees has not been paid. He advised CEO RTL on 14 May 2020 to take back the applications and provide the relevant documentations, and include the financial status.

¹ List of documents requested by Director, marked Annex A

23. The Director is of the view the most important requirement is financial proof that AOC can be compliance with Section 56(2)² of the Civil Aviation Act and Tonga Civil Aviation Rules.
24. Part 119 also provide that applications for initial issue of a AOC is at least 90 days, and 60 days for renewal.³
25. Two of the applicants are currently outside the Kingdom. The Director requires RTL to provide evidence of their health, police records and employment.⁴
26. RTL legal advisor is of the view the information sought by the Director “aren’t required for an amendment application for Senior Persons (Fit & Proper Person).”

“The proper process as per the amendment application forms are that we only need to submit either the Questionnaire or the Declaration Form with the applications and applicants CV.”⁵

“Proof of this is an application to amend we lodged in May 2019 for ‘Uluaki Taumalolo which was approved by the current Director – none of the information were required by CAD.”⁶

27. The Director is adamant the information he require is of paramount importance. In that, all applicants must confirm they are committed to work for RTL as Senior Persons.

“‘Uluaki’s application had no issues because it was complete and the only applicant. This application consists of four persons and a lot of information I am required by law to confirm. Some of the applicants are working overseas. I need to know they are committed to working for RTL, for without the Senior Persons the AOC is invalid.”

“CEO RTL submitted an incomplete application package. He must complete the application form in full and submit to the Director with payment of fees not less than 90 days before the date of intended operation, unless a shorter period is acceptable to the Director (Rule 119.9).”

RTL LAYS OFF ITS SENIOR PERSONS

28. The Director has been in communication on emails and meetings with the complainant on 21, 22 and 23 April 2020. The complainant was asked to advised on the status of RTL’s AOC. The complainant responded on 23 April 2020 and admit:

² ibid

³ ibid

⁴ ibid

⁵ Email from RTL Legal Advisor Kitone B. Waqavonovono dated 19 May 2020

⁶ ibid

“This is to confirm that most of our Senior Persons were offered redundancy. This is a result of the Covid-19 as explained in our meeting.⁷ But confirmed that its AOC remain intact, and that he had signed an MOU with its Senior Persons.”⁸

29. The Director said, that application to change RTL’s Senior Persons is not just a change of the Senior Persons to the AOC. The most critical and integral issue is the financial position.⁹
30. CEO RTL put his Senior Persons on MOU until about the first week of May 2020, so that RTL’s AOC remain intact. Further, according to CEO RTL redundancy is the only way forward so that his Senior Persons could access their retirement fund.

THE APPLICATION FOR NEW SENIOR PERSONS

31. By 29 April 2020 CEO RTL lodged the application for new Senior Persons but at the same time discussion is on-going with Government.
32. The Director requires that RTL provides particular information and documents relates to the current employment status of the two of the new applicants for Senior Person who resides and work in New Zealand and the United Kingdom, respectively.
33. On 14 May 2020, CEO RTL proposes a joint venture with Government.¹⁰

INDEPENDENCE OF THE DIRECTOR

34. Section 14(4) of the Civil Aviation Act, requires the Director to be independent:
- “... the Director shall act independently and shall not be responsible to the Minister or the CEO for the performance or exercise of such functions or powers.”*
35. Government has not submitted any application for AOC.
36. The Director has advised Government in a meeting on 29 April 2020 (*CEO RTL was present*), it will take at least 90 days to process an AOC (*according to Rules*) if Government decide to apply for one.
37. In revising the second MOU with the current Senior Persons and Minister of the Ministry (*draft no. 2*) which was signed on 30 April 2020, CEO RTL proposes a clause that reads:

⁷ Email from CEO RTL, dated 23 April 2020

⁸ *ibid*

⁹ Ministry’s response, dated 14 May 2020

¹⁰ Email from Director, dated 18 May 2020

“Honourable ‘Akosita Havili Lavulavu, in her capacity as Minister of Infrastructure, shall immediately direct the Civil Aviation Department (CAD) to urgently assess and approve the Company’s Senior Person’s application lodged by the Company to CAD provided the nominated person’s meet the standard requirements of being a Senior Person.”

38. The Director through the Ministry’s legal advisor points out that such a clause violates the Civil Aviation Act, therefore delete the propose clause and informed the CEO RTL via email:

“This is unlawful, and as you know as an operator, it is express violation the Civil Aviation Act. The CAD Director by law cannot be subject to a Ministerial direction whatsoever in relation to an application. The Hon. Minister will not agree to sign on an illegal clause. Please be assured the CAD Director is legally obliged to assess the application, but cannot be directed to urgently do so, or to approve it.”

PROPOSE NEW NATIONAL AIRLINE

39. In the event RTL cannot operate it is reasonable for Government to explore any other possible alternatives.
40. Discussions in on-going between Government, RTL and Senior Persons – Maikolo Fa’asolo, Samuela Folaumoetu’i, Clive Fua and ‘Uluaki Taumalolo.
41. The involvement of Director is critical to ensure that RTL AOC is valid and in order that air transport continues, and more importantly carried out safely.

GOVERNMENT INTERFERENCE

42. The Director also denied working together with Cabinet against RTL.

“I have worked tirelessly with Government and the Senior Persons to ensure Air Service is safe and is not disrupted. I have helped to facilitate meetings between the Senior Persons, CEO RTL and Government to sign the current MOU (30 April 2020) which is the vehicle to enable the RTL AOC to maintain domestic air service in Tonga.

The Director does not support the CEO RTL’s claim that Government interferes with the safety decisions on aviation. He said this about the applications:

“He claimed he has an urgent application, he knew his MOU with these Senior Persons were close to deadline and submitted one or two days before deadline. The most important issue here is that, the Senior Persons were not willing to sign the MOU with just him, but with RTL and Government.”

OPINION

That, I'm satisfied the actions of the Director was not unfair/unreasonable/contrary to law;

The original applications were incomplete. There is no application with the Director nor has the fees paid (as required by law), therefore the applications cannot be processed;

That, RTL has attempted to influence the Minister of Infrastructure to direct the Director to quicken the assessment and approval of his purported applications;

I find that the Director has maintained his independence, impartiality and integrity in the process;

That the Ministry is commended for the support given to this investigation

The matter is now closed.

The block contains a handwritten signature in blue ink, which appears to be 'Aisea H. Taumoepeau'. To the right of the signature is the official seal of the Office of the Ombudsman of Tonga. The seal is circular with a blue border containing the text 'OFFICE OF THE OMBUDSMAN' at the top and 'TONGA' at the bottom, separated by two stars. The center of the seal features a stylized emblem of a traditional Tongan house (fale) and a tree.

'Aisea H. Taumoepeau, SC

Ombudsman

20th May 2020



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OMBUDSMAN'S FINAL REPORT ON THE COMPLAINT BY

MRS TUPOUTU'A TONUTONU LINDBERG

CASE NO. OMB 18/30

**Whether the Marine & Ports Division of the Ministry of
Infrastructure has an obligation to enforce a 5 knots speed
limit at Port of Refuge Harbour, Vava'u**

30TH JUNE 2020

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EXECUTIVE SUMMARY

1. This is a report regarding a complaint by Mrs Tupoutu'a Tonutonu Lindberg (*"the complainant"*) of 'Utulei about the lack of response and enforcement by the Marine & Ports Division of the Ministry of Infrastructure (*"the Ministry"*) of a 5 knots speed limit around the 'Utulei channel and the Port of Refuge Harbor at Neiafu, Vava'u. The complainant claimed that an increasing number of boats including *MV Tongiaki*, and whale watch boats do not observe the "speed limit" even though the Ministry had put up signages since 2014 notifying the public about the 5 knots speed limit. The speeding boats have caused unnecessary high waves to flow into her property, damage her boat, and causing severe coastal erosion to the seafront.
2. The complainant laments the lack of enforcement by the Ministry which have caused smaller boats to ignore the marked navigational routes at the channel and sail at high speeds in and out closer to her shore.
3. The complainant lodged her complaint with this office on 5th March 2018.
4. The complaint was referred to the Ministry on 16th March 2018. The Ministry responded on 24th April 2018 and admitted the problem as outstanding due to limited resources and manpower in Vava'u. The Ministry undertook to resolve the matter progressively.
5. I am recommending two things in this Report pursuant to section 18(3) of Ombudsman Act 2001:
 - (i) That the Ministry revise its relevant legislation to include provisions to expressly regulate the 5 knots speed limit at the entrance and the harbour; and to include offence and penalty provisions to enable notice of infringement, spot fines and prosecution as enforcement;
 - (ii) That the Chief Executive Officer report back to me in due course to provide a follow up report on the recommendations.

BACKGROUND

6. The investigation was received on 2 March 2018.
7. I assigned the investigation to my Investigation Team who undertook the investigation into the matter.
8. The team requested and received information from the Ministry and the complainant to ensure relevant information were provided.

THE ROLE OF THE OMBUDSMAN

9. Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to make any such investigation either on a complaint made to the Ombudsman by any person or on his own motion relating to a matter of administration by any department or by any officer of any such department. (Section 18(1) and (2) of the *Ombudsman Act 2001*).
10. My investigation is not an appeal process. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the act or decision and the procedure followed by the Ministry, and then form an opinion whether the act or the decision and the procedures followed by the Ministry was properly arrived at and was one that the Ministry could reasonably make.

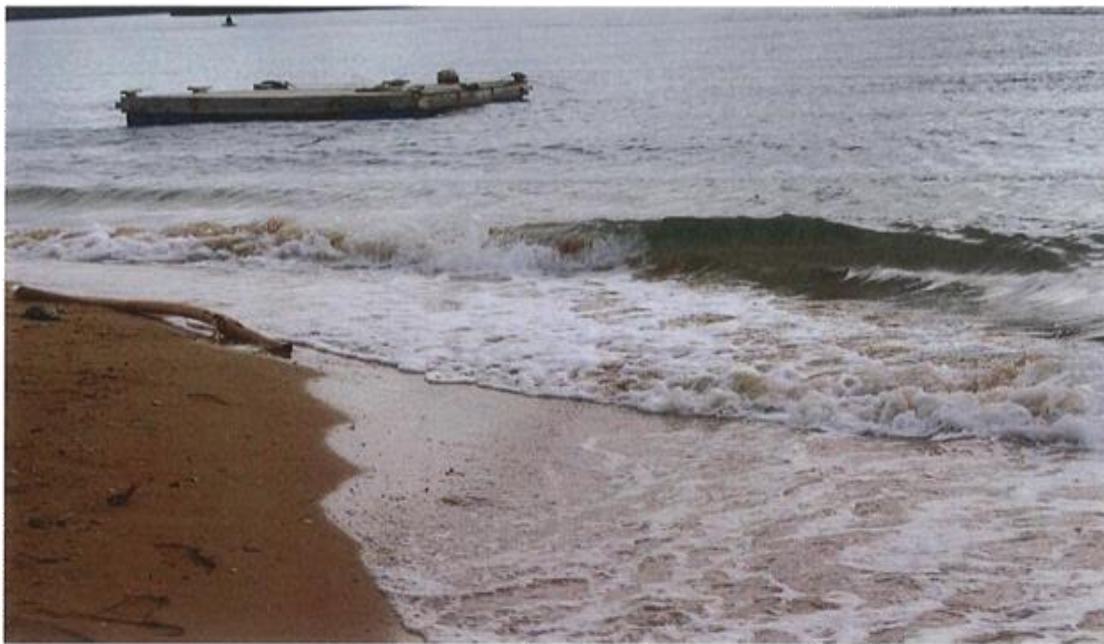
THE COMPLAINANT & 5 KNOTS SPEED LIMIT

11. The complainant lives on the beachfront of 'Utulei. She lodged her complaint on 2nd March 2018 that the 5 knots speed limit is not observed by the local boats including the whale-watching boats and the *MV Tongiaki*. Her complaint was that these speeding boats caused unnecessary high waves which overturned and damaged her own boat including the flow of sea water past her fence and onto her property. These waves have also caused coastal erosion. She had complained many times to former Ministers of the Ministry and to former Members of Parliament, and of Vava'u 14 and 15 Constituency but little to nothing was done.¹



A small game-fishing boat entering the 'Utulei channel at high speed creating unnecessary high waves causing erosion to the low-lying beachfront at 'Utulei

¹ Complainant's complaint dated 2 March 2018



At low tide in the low-lying beachfront at ‘Utulei, speeding boats can cause waves to overflow into the complainant’s lawn

RELEVANT LEGISLATION

12. Transport Act 2009

Provides the Ministry with the function to:

Section 5(a) administer the integration of the land, sea and air transport sectors in the Kingdom; and (c) to regulate the integrated transport sector in the Kingdom and 9(1) The Ministry is empowered to (a) do any action that may be required to be done in the process of integrating the land, sea and air transport sectors ²

13. *Further under section 9(1) the Ministry is empowered to (g) establish any facility that is conducive to the enhancement of transport services in the Kingdom, and; (h) ensure that provision of transport services are conducted in a safe manner*

RESPONSE FROM THE MINISTRY

14. In response to the Ombudsman referral letter of 16 March 2018, the Ministry admitted that the issue complained about has been the subject of complaints dating back to previous years and that Marine & Ports office in Vava‘u had received complaints regarding speeding boats from residents of ‘Utulei³

² Transport Act 2009

³ Ministry’s response to Ombudsman referral dated 24 April 2018

15. The Ministry acknowledged the issues complained about being longstanding and accepted “that it is our obligation to enforce the speed limit”.⁴ Even though the Ministry had put up signboards in 2014 at the Halaevalu Wharf and the ‘Utulei channel notifying the public of the 5 knots speed limit, the Ministry lacked the man power and resources for effective enforcement. “Our Officer in Charge at Vava‘u acknowledged the consequences caused by speeding vessels such as erosion and damages to small boat ... apologized to the complainant and informed her that Marine & Ports Office in Vava‘u is at their best efforts working on the matter but is limited by the lack of staff and resources.”⁵
16. The Acting CEO of the Ministry Mrs Kelela Tonga (“the Acting CEO”) said that although there is no specific provision for speed limit provided in the relevant legislations but the Ministry is generally empowered under s5(c) of the Transport Act 2009. Further, under section 9(1)(g) of the Transport Act provides the Ministry with general powers to put up signboards with 5 knots speed limit to enhance transport services.
17. Upon receipt of the complaint the Ministry took action by broadcasting a 5 knots speed limit notice every morning to all vessels in Vava‘u since last April 2018 via the Vava‘u Cruises Net frequency⁶ and provided written warning letters to all boats owner in Vava‘u of the need to observe the speed limit.
18. On 14th April 2018 a meeting with the Ministry was conducted to confirm timeline for implementation re: proposed way forwards as per Ministry response⁷ dated 24th April 2018. It was agreed that a meeting be held with domestic vessel owners and masters at Vava‘u to remind them of the speed limit within the harbor and possibility of prosecution⁸.

SHIP OWNERS’ MEETING

19. The meeting with the ship owners of Vava‘u was held on 9th June 2018 at the Governor’s Office at Neiafu. It was well attended both by local and expatriate boat owners and included resort owners and managers. An officer from the Ombudsman office attended the meeting and include the complainant, the Town Officers of ‘Utulei and ‘Utungake and supporters of the complainant from the communities – ‘Utungake and ‘Utulei. Police and Customs were also represented. The meeting was chaired by the Acting CEO.

⁴ ibid

⁵ ibid

⁶ Notice to Mariner, Coastal Warning 1/18

⁷ Ministry’s response dated 24 April 2018

⁸ File on meeting with the Ministry dated 14 April 2018

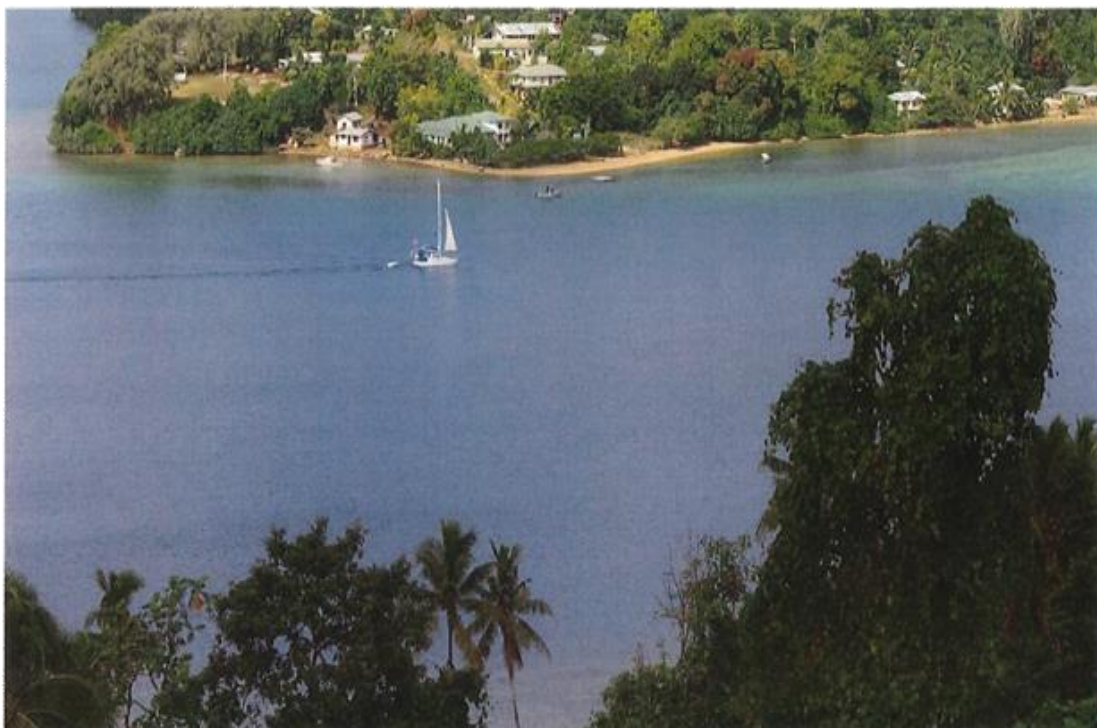
20. The Acting CEO told the meeting that the Ministry will review the legislation to enable infringement notice and prosecution of both skipper and owner of a boat apprehended and who do not observe the speed limit.

“All vessels are required to observe the 5 knots speed limit starting from Lotuma Island off ‘Utungake/Pangaimotu through the ‘Utulei Channel and within the Port of Refuge Harbour.”

21. The Acting CEO who is the incumbent Director of Marine & Ports reminded the gathering the speed limit is a requirement of the law and the “Ministry is seeking their cooperation not only to ensure that we live and work according to law but also to ensure that our actions do not contribute to harming others’ safety, their property and the environment.”



Waves have reduced this once proud flag stand at the ‘Utulei beachfront to rubble



A seemingly peaceful 'Utulei with boats sailing at minimum speed and keeping to the navigational course. A view from top of Mt Talau

THE COMPLAINANT'S PLEA

22. The complainant told the meeting that she first raised the issue back in 2009 with Mr Paul Karalus who was then the Minister of Transport.⁹

"The past three Governments had done nothing."

23. According to the complainant the name 'Utulei is a reference by her ancestors to how boats must navigate the channel in and out the Port of Refuge harbour. 'Utu is to get in or out of the port and once in or out the boat "must change its course - le 'ei hence the name 'Utulei.

"We are trying very hard to preserve the coastline, and our land," said the complainant. "You can help us," she pleaded ship owners and skippers "to respect the law and observe the speed limit in order to help everyone live in harmony with nature. Keeping to the speed limit will also reduce the noise level because at present the noise is just horrendous ..."

24. The complainant was thankful to the Ministry and to Acting CEO for affording special attention to her complaint. *"I am so happy that having complained for many years to Ministers, CEOs and MPs of three consecutive governments, the Ministry this year has actioned and moved things forward."*

⁹ Minutes of the Ship owners Meeting in Vava'u dated 9 June 2018

A warning letter re: speed limit, sent by the Ministry in March to all ship owners was effective in that most boats went very slow coming in or out the harbour. Officer in Charge and staff of the Marine & Ports in Vava'u were proactive and more responsive since the complaint went to the Ombudsman."

THE MINISTRY'S PROPOSED ACTIONS

25. The Acting CEO told the meeting the Ministry will consider the following as a way forward and some will be implemented sooner than others depending on time and resources¹⁰.

- (a) To consider whether the 5 knots speed limit can be a condition for registration of all vessel.
- (b) Put up three new sign-boards, one at Lotuma Island facing toward the open seas, the second at 'Utulei facing Halaevalu Wharf and the third at Halaevalu Wharf
- (c) Put up buoys as markers to avoid boats coming closer to 'Utulei shores (there are existing buoys as markers already in place, and mariners need to enter the harbour and exit accordingly)
- (d) The speed limit to start from Lotuma Island and into the harbour and vice-versa
- (e) To inform the support crafts of Cruise ship to observe the 5 knots speed limit
- (f) Mariners especially whale watch and tours must manage time in order not to rush into harbour at the last moment for ferry or flight schedules
- (g) Acceleration testing is prohibited within the Harbour

26. The Ministry further noted that –

- (a) Emergencies are exempted the speed limit, but the speed limit shall be observed during normal operation.
- (b) Vessels with engine breakdowns within the harbour can be tested for acceleration within the harbour but Marine Officer in Charge must be informed and be present.
- (c) It was reported that the Police boat is known for exceeding the speed limit in and around the Harbour and channel. The Ministry emphasized that Police must observe the speed limit, too.

27. All who attended the meeting agreed with the proposed action items as reasonable and would assist boat owners and skippers of all vessels to observe the speed limit.

¹⁰ ibid

The expatriates ship owners undertook not only to inform but to ensure their Tongan skipper observe the speed limit.

28. The Ministry undertook to notify the public through radio announcements highlighting the outcome of the meeting, both in Tongan and English.¹¹
29. The complainant was happy with the outcome of the meeting and so as the ship owners who stayed back after the meeting and talked with the Marine Officers, and people of ‘Utulei. Most of the ship owners undertook to ensure that their skippers who were mostly locals, observe the 5 knots speed limit.

SITE VISIT TO ‘UTULEI

30. A site visit to ‘Utulei on 9th June 2018 by the Acting CEO and Ministry staff in Vava‘u was carried out to witness the impact of the waves caused by passing boats to the low-lying and beachfront homes. The Ombudsman also visited the area on 21st of June 2018 and saw the damage that had been caused by the waves. Erosion was evident which is severely affecting one house at the very edge of the water.



This family’s house is threatened by the waves. The water was 20 metres away decades ago. A proper designed breakwaters structure using local rocks can reduce wave action on the shoreline.

¹¹ ibid

OPINIONS

31. The Ministry has the powers pursuant to section 9(1)(g) and (h) of the Transport Act to establish facilities to enhance transport services and to ensure safety. The erection of sign posts with speed limits for vessels is to promote safety and enhance the management of vessels and its administration.
32. The Transport Act has no specific provision to enforce and regulate a 5 knots speed limit at vulnerable spots in the harbour.


RECOMMENDATIONS

I am recommending two things in this Report pursuant to section 18(3) of Ombudsman Act 2001:

- (i) That, the Ministry revise its relevant legislation to include provisions to expressly regulate the 5 knots speed limit at the entrance and the harbour, and to include offence and penalty provisions to enable notice of infringement spot fines and prosecution as enforcement;
- (ii) That the Chief Executive Officer report back to me in due course to provide a follow up report on the recommendations.

RESPONSE FROM THE MINISTRY OF INFRASTRUCTURE

33. On the 31st October 2018, I delivered my provisional Report to the Ministry setting out my findings, opinions and recommendations. On the 19th December 2018, I received a letter from the Ministry accepting the recommendations of this Report. As required under section 18 (5) of the Ombudsman Act 2001, a copy of this letter is attached to this report as Annex 1.
34. The climate change issues that impact the 'Utulei seafront and evident in various shores throughout the Kingdom are dealt with in the 'Olivia Foliaki Report and is herewith appended.


'Aisea H. Taumoepeau, SC
Ombudsman

30th June 2020

Annex 1 A

RECEIVED
19/12/18

'Alaivaha'amama'o Bypass Road
Fanga 'o Pilolevu

Tel: +(676) 23100 / 23201

Fax: +(676) 25440

Email: info@infrastructure.gov.to



Kingdom of Tonga

MINISTRY OF INFRASTRUCTURE

PO Box 52
Nuku'alofa
Kingdom of TONGA

18th December, 2018

'Aisea H. Taumoepeau SC
Ombudsman
Ombudsman Office
Retirement Fund Building
NUKU'ALOFA

Dear Sir,

Re: Complaint by Mrs. Tupoutu'a Tonutonu Lindburg

Thank you for the opportunity to provide our comment on the provisional report. We respectfully seek further clarification on the following matters:

The two-month timeframe

Does this mean that (a) the law is recommended to be revised within two months, OR (b) a report on status of the Ministry's compliance is recommended to be provided within two months?

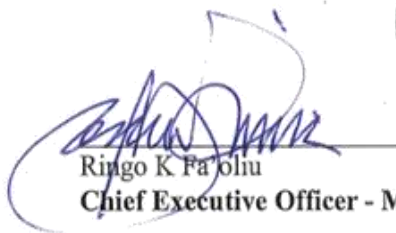
If it is (a), we respectfully submit that two months is insufficient time. The final decision to revise the law will rest with Cabinet, and the Ministry's process from drafting, to public consultation, to Cabinet approval, and (if approved by Cabinet) finally to the *Gazette* will exceed two months.

The amendments recommended

We will seek legal advice from the Attorney General's office as to whether, in the absence of any specific power to regulate marine speeds, they would agree with your interpretation of Sections 5 and 9 of the *Transport Services Act* as the sufficient enough to enable the Ministry to implement your recommendations.

We also respectfully ask for more specificity and clarity on what "relevant legislation" you are referring to as needing to be revised by the Ministry. If you are unable to clarify, we would also refer this question to the Attorney General's office for advice.

Sincerely,



Ringo K. Pa'oliu
Chief Executive Officer - Ministry of Infrastructure





P.O. Box 847, Cnr of Lelue Road & Mateialona Road, 2nd Floor Retirement Fund Building, Nuku'alofa
Phone : (676) 26 980; (676) 26984, 0800662: Fax (676) 26 982

OMBUDSMAN'S FINAL REPORT ON THE COMPLAINT BY

MRS. 'OLIVIA FOLIAKI

CASE NO. OMB 18/91-1

**Whether erosion to the coastal shoreline of 'Utulei is
caused by sea-level rise and what should be the
appropriate remedy**

10TH JUNE 2020

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EXECUTIVE SUMMARY

1. This is a complaint by Mrs. 'Olivia Foliaki ("the complainant") of 'Utulei, Vava'u relating to her land being eroded away by storms and surge waves. She has complained to the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications ("the Ministry"). She wants the Ministry to determine the cause of erosion and identify appropriate remedies.
2. She complaint to the Ombudsman on 20 September 2018. We referred the matter to the Chief Executive Officer ("the CEO") of the Ministry on 12 October 2018.
3. We have visited the site 5 times, taking photographs, and gather information from residents.
4. The Ministry responded on 10 January 2019 that the erosion was caused by the activities of stray pigs, and the solution would be to fence the pigs and the property. The Ministry also stated there is no funding for "*this individual complaint*."
5. We are not satisfied with the stance taken by the Ministry. The Ministry did not provide any evidence to support their conclusions, and the effect of Clause 109 of Constitution.
6. For the purpose of this investigation the Ombudsman Office engaged an expert environmentalist to help determine the causes of the 'Utulei land erosion and to provide a more in-depth environmental study of the area and the likely impacts of the man-made development in and around the vicinity and finally to suggest practical remedy.
7. I am recommending *pursuant to section 18(3) of Ombudsman Act 2001*:
 - (1) That, MEIDECC consider revisiting the case and to consider the Recommended Actions listed in page 11 of the report dated 24 June 2019 by the specialist Dr Netatua Prescott Taufatofua, namely - **(Appendix)**
 - i) To enlarge the existing causeways' culverts;
 - ii) In the long term, for the Government to develop projects to replace the causeways with bridges;
 - iii) To trial mangroves replanting at the Southern curve from the tip (*a bit sheltered*) and in front of the property using rubbish as a fill;

- iv) This to be considered are the species of mangroves, height of the seedling before transplant, depth and how to anchor the seedlings and to be progressively introduced (*towards to the ocean*) starting from where the high tide reaches the coastline of the properties;
- v) An extensive awareness programmes in the nearby islands and marina's, whale watching on the speed limit and why;
- vi) For the responsible agency to regulate the speed limit in the entrance channel and to monitor;
- vii) Replanting of species could be grown is steep and salt water spray to encourage land cover (*it would help to mitigate run-off into the sea*), which has other impacts, but wouldn't directly minimize coastal erosion;
- viii) Stop any sorts of san/aggregates mining on the beach;
- ix) Fixed the sign for the boat speed limit including its visibility from distance.

BACKGROUND

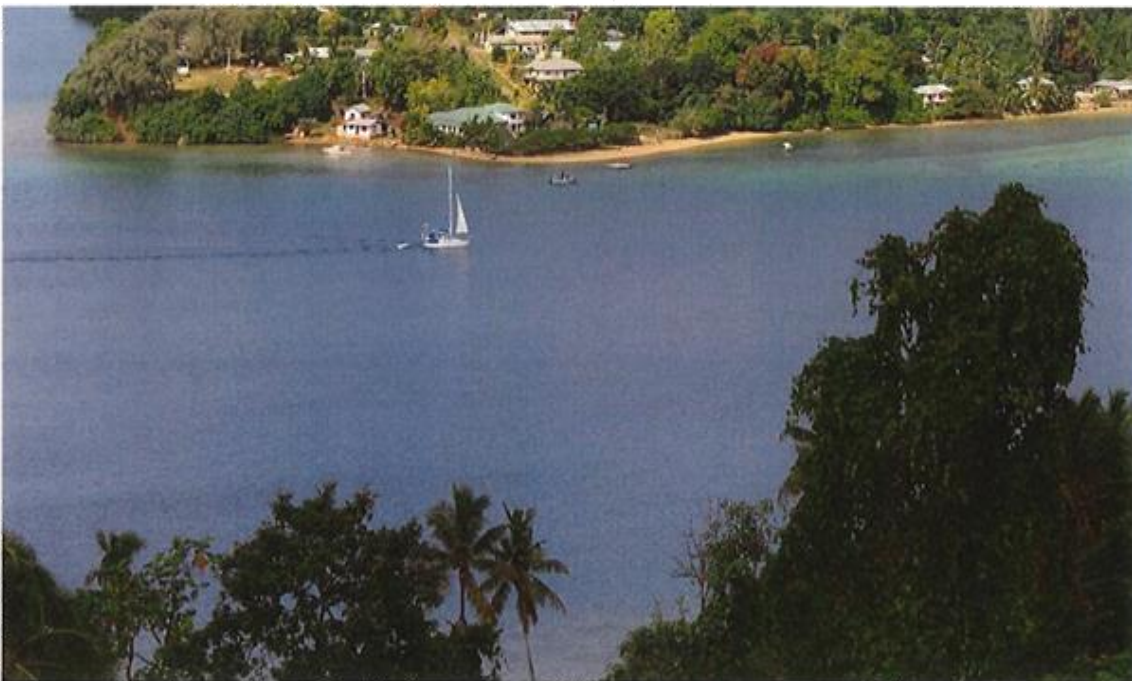
8. The complaint was received on 26th September, 2018.
9. I assigned the investigation to my Investigation Team who undertook the investigation into the matter.
10. The team requested, received information from the Ministry, and the complainant to ensure that relevant information was provided by Ministry.

THE ROLE OF THE OMBUDSMAN

11. Under section 11 of the *Ombudsman Act 2001*, the Ombudsman has the authority to make any such investigation either on a complaint made to the Ombudsman by any person or on his own motion relating to a matter of administration by any department or by any officer of any such department. (Section 18 (1) and (2) of the *Ombudsman Act 2001*).
12. My investigation is not an appeal process. I would not generally substitute my judgment for that of the decision maker. Rather, I consider the substance of the act or decision and the procedure followed by the Ministry, and then form an opinion as to whether the act or the decisions and the procedures followed by the Ministry was properly arrived at and were decisions the Ministry could reasonably make.

THE COMPLAINANT

13. The complainant relates to the land of her front yard being eroded to sea and now threatens to flood her house. She had piled up rocks as a protective barrier but it could not withstand the strong winds and high waves.



A seemingly peaceful 'Utulei with boats sailing at minimum speed and keeping to the navigational course. A view from top of Mt. Talau

SITE VISIT TO 'UTULEI

14. A site visit to 'Utulei on 9th June 2018 witnessed the impact of the waves. Other visits on the 21st of June, and October 2018, and in May and July 2019 and saw the damage that had been caused by the waves. Erosion was evident which is severely affecting one house at the very edge of the water belonged to Mrs. 'Olivia Foliaki.

MEIDECC'S RESPONSE

15. In his response dated 10th January 2019, the Chief Executive Officer Mr. Paula Ma'u said that MEIDECC staff in Vava'u had conducted a survey of the seafront areas and found "*the pigs are not enclosed rather causing the erosion of the place*". Further, he advised that the complainant should put up a fence to her front yard to keep the soil together.
16. The Hon. Minister for MEIDECC Poasi Tei, and Minister for Health (at the time) Hon. Saia Piukala had visited the 'Utulei shoreline, and concluded that "*there are no funding for this individual complaints.*"¹
17. A report from MEIDECC's Conservation Assistant in Vava'u after a site inspection of the same warned that the complainant's house is built too close to the shoreline. The report recommends the complainant to relocated her house further inland.²

OMBUDSMAN INVESTIGATION

18. The Ombudsman was concerned with the response from MEIDECC seeing that they had not provided evidence before providing firm statement to this Office on it. Therefore, the decision in February 2019 to further investigate and to engage environment expert studies to determine the cause and how best to address the issues complaint about, in light of its environmental impact and in relation to climate change, and resilience going forward.³
19. The law provides that all beachfront lands belongs to the Crown, (*Clause 109 of the Constitution*). The beachfront includes land within 15.24 metres from the high-water mark. A broader issue (*which will not be addressed in this report*) is how this area and the boundaries of an adjoining allotment may be affected, as erosion moves inwards.
20. The town allotment has been occupied by Mr. Seti Latu, whose daughter is the complainant, for many years. The land is yet to be registered even though approval was granted for Mr. Latu in 1971 by Hon. Tuita the Minister of Lands (*at the time*).

¹ Response from CEO MEIDECC dated 10 Jan 2019

² MEIDECC Report on Site Visit & Observation of the 'Utulei coastline dated 13 Feb 2019

³ Minutes of OMB weekly Meeting, dated 8 February 2019

THE CONSTITUTION OF TONGA

21. Clause 109 – Beach Frontage

All beach frontage of this Kingdom belongs to the Crown from fifty feet above high-water mark and it shall be lawful for Government to lease any portion of the beach frontage for erecting a store jetty or wharf and the Minister of Lands with the consent of Cabinet shall have power to grant such lease.

LAND ACT

22. Section 113 – Foreshore the property of the Crown

The foreshore is the property of the Crown and the Minister (of Lands) may with the consent of Cabinet grant permits to erect stores or wharves or jetties thereon or to reside on any portion thereof or he may with the like consent grant a lease for any of the purposes aforesaid.

“*Foreshore*” means the land adjacent to the sea alternately covered and left dry by the ordinary flow and ebb of the tides and all land adjoining thereunto lying within 15.24 meters of the high water mark of the ordinary tides.

ENGAGING OF ENVIRONMENTAL EXPERT/STUDY

23. In April 2019, Dr Netatua Prescott Taufatofua agree to conduct a study of the ‘Utulei shoreline in particular to the complaints received from Mrs. Lindberg and Mrs. Foliaki. A beach profile was conducted on the 10th May 2019 to observe tide direction, and current movement during high and low tide. Satellite images of the coastline taken in 1968, 2004 and 2016 was used to study the coastline behavior over the years. Discussions with complainants, Town Officers, and a number of villagers was integral to this exercise.
24. On the 24 June 2019, Dr Netatua Prescott Taufatofua submitted her study report. We adopt the study. *(the report is herewith attached).*

OPINION

- 1) MEIDECC has the powers pursuant to section 4(a),(b),(d),(e),(g) of the Environment Management Act 2010 to co-ordinate the role of Government in relation to the assessment, observation and facilitate of implementation measures of all environmental management, including climate change and to increase the resilience of the Kingdom and its environment to climate change.

- 2) That MEIDECC had not conducted an in-depth study or expert assessment of the environmental impact of the 'Utulei erosion therefore has failed to action its role.
- 3) The beach frontage lands belong to Government, and not limited only to 'Utulei therefore the issues complained about is of national environmental interest.
- 4) That MEIDECC has the powers under its Environment and Climate Change mandates to seek appropriate funding, not only to protect beach front land erosion, but also to increase the resilient to environmental, and climate change impacts.

RECOMMENDATIONS

I am recommending pursuant to section 18(3) of Ombudsman Act 2001:

- (1) That, MEIDECC consider revisiting the case and to consider the Recommended Actions listed in page 11 of the report dated 24 June 2019 by the specialist Dr Netatua Prescott Taufatofua, namely – **(Appendix)**
 - i) To enlarge the existing causeways' culverts;
 - ii) In the long term, for the Government to develop projects to replace the causeways with bridges;
 - iii) To trial mangroves replanting at the Southern curve from the tip (*a bit sheltered*) and in front of the property using rubbish as a fill;
 - iv) This to be considered are the species of mangroves, height of the seedling before transplant, depth and how to anchor the seedlings and to be progressively introduced (*towards to the ocean*) starting from where the high tide reaches the coastline of the properties;
 - v) An extensive awareness programmes in the nearby islands and marina's, whale watching on the speed limit and why;
 - vi) For the responsible agency to regulate the speed limit in the entrance channel and to monitor;
 - vii) Replanting of species could be grown is steep and salt water spray to encourage land cover (*it would help to mitigate run-off into the sea*), which has other impacts, but wouldn't directly minimize coastal erosion;

- viii) Stop any sorts of san/aggregates mining on the beach;
- ix) Fixed the sign for the boat speed limit including its visibility from distance.

RESPONSE FROM THE MEIDECC

25. On the 24th April 2020, I delivered my Provisional Report to the Ministry setting out my findings, opinions and recommendations. On the 2nd June 2020⁴, I received a letter from the Ministry accepting the recommendations of this Report. As required under section 18(5) of the Ombudsman Act 2001, a copy of this letter is attached to this report as Annex 1.



'Aisea H. Taumoepeau, SC
Ombudsman

10th June 2020

⁴ Letter from MEIDECC CEO Paula Ma'u dated 2nd June 2020

ANNEX 1

MINISTRY OF METEOROLOGY, ENERGY,
INFORMATION, DISASTER
MANAGEMENT, ENVIRONMENT,
CLIMATE CHANGE AND
COMMUNICATIONS (MEIDECC)
NUKU'ALOFA, TONGA

Ref: LPA 3/4/7

2 June 2020

'Aisea Taumoepeau
Ombudsman
Nuku'alofa
Tonga

Dear Ombudsman

**Re: Provisional Report under Ombudsman's Act – Complaint from
'Olivia Foliaki of 'Utulei, Vava'u**

I make reference to your letter of 24 April 2020, on Provisional Report under the Ombudsman's Act Complaint from 'Olivia Foliaki against the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications.

We are mindful that this complaint has taken a while to address and we apologize. We also thank you for the effort made to engage an environmental expert to assist determined the causes of the 'Utulei land erosion and likely impacts of its surrounding environment, all to arrive at some solution.

I make my representation based on the recommendation of the provisional report, as follows:

1. We fully acknowledged the content of the expert's report itself and proposed remedial actions to be taken which we will take into consideration for future work. The reason why I say this is that, the Ministry, particularly the Department of Environment, has no project being planned at this area, and our recurrent estimate does not provide any allocation for such activity. Even with any project proposal designed for this area, Donors would normally have their own detailed technical survey and study for their own funded projects.

For information, the Hon. Minister of the Ministry together with the Member of Parliament of the constituency together with myself have visited the area and were made aware of the problem associated with this household. Views expressed was that, the area is vulnerable to sea level rise problem, inundation and storm surge, and an alternative

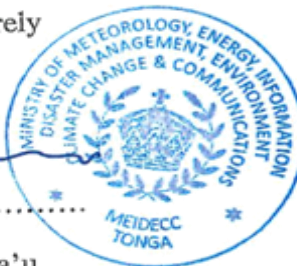
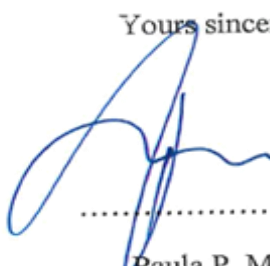
solution is to relocate to higher ground. Even with a temporary sea wall to protect the household, it will not solve the climate change impacts just mentioned.

As correctly mentioned in your report, the Ministry is the leading agency to addressing the climate change impacts and environmental issues throughout Tonga, and our work to execute this role efficiently and effectively largely depend on availability of funding, which we normally derived from approved projects money. Whilst we were successful in many of our project proposals to certain areas, some were not so successful, meaning we cannot at this stage fully address all similar issues for all districts and villages.

At the meantime, we are including the issue at 'Utulei in our project planning, and hopefully to arrive at a definitive project proposal and securing some funding for implementation in the future, which can be addressed together with recommendations made by the expert.

I will, of course, be happy to make further clarification, if required.

Yours sincerely



Paula P. Ma'u

CEO for MEIDECC

'Utulei, Vava'u Coastal Erosion

Assessment Report

June 2019

**Report Submitted to the Ombudsman Office
Nuku'alofa**

**Carried out by Dr Netatua Pelesikoti Taufatofua
Climate Change and Disaster Risks Specialist**

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Acknowledgements

This study was supported by the Office of the Ministry of Lands, Survey and Natural Resources Vavaú, Mr Áleki Pongi and his staff. The GIS office in Nukuálofa of the same ministry is also gratefully acknowledged, especially GIS expert, Ms Halalilika 'Etika for the images.

The Ombudsman Office, Nukuálofa provided logistical support.

Background

The Ombudsman Office in Nukuálofa discussed an issue of possible support to address complaints received at the office, with Netatua Pelesikoti Taufatofua referred to in this report, the consultant. These complaints are provided in Annex 1.

There was prior communication from the Ombudsman office to the Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Information and Climate Change and Communication (MEIDECC), who is responsible for environmental issues, for their views and assessment. That MEIDECC report is attached as Annex 2.

Nature of the Complaints

Summarised from Annex 1 below, there were two main reasons from two separate complaints received by the Ombudsman Office:

1. Speed limit and staying within the marked navigation route are not observed by mariners and small boats, thus causing strong current and waves (wake) to flow into owner's property, damaged a boat, and causing severe coastal erosion to the seafront.
2. The second, assumed that sea-level rise is the cause for coastal erosion from her property.

MEIDECC Findings

There were two main issues with the first assessment that is worth noting (Refer Annex 2):

1. The assessment focused on the landward issues (such as pigs, soil erosion, solid waste material using as land fill, absence of fencing etc).
2. The first study referred to increasing water salinity due to rubbish dumping in the study area.

The above findings focused on the landward issues and does not give a clear understanding of what is happening to the seaward side of the coast line. Number 2 (above) was made with no baseline or records of measurement to verify. It is very uncommon for increasing salinity to be associated with the kind of waste found in the study area. Based on these, the consultant agreed to carry out a second assessment for the Ombudsmen Office.

Current Assessment Methodology

Several methodological approaches were adopted by the consultant:

1. Literature Review – the consultant reviewed relevant studies that could inform this assessment.

2. A day field study was carried out on the 10th of May 2019, where a beach profiling was undertaken and observations undertaken during high and low tide including simple observations of tide direction at the time.
3. A time series of coastline behaviour was carried out using satellite images in 1968, 2004, and 2016
4. Discussions with complainants, town officers and a couple of villagers.

Study Area – Geological/Environmental and Man-Made Characteristics

‘Utulei village is located at the northern tip (peninsular) of Pangaimotu island, facing Neiafu (Fig 1). Opposite ‘Utulei is the Talau area which is made up of high rocks that descends down to the depth of the channel. The east coast of ‘Utulei, opposite the Neiafu harbour is similar – high rocks and drops into the deep, whereas the west and extending south (behind the peninsular) is sloping towards the sea with low sandy beaches.

The northern tip of ‘Utulei is protruded like a small peninsula pointing north and its west-south-west coastline is lower in elevation as it drops and sloping towards the coast. The beach is fairly narrow, although there is a large mudflat during low tide. The high tide reaches the edges of the properties that submitted the complaints (Fig 2).

The Pangaimotu causeway was built in 1970s (this is estimate only) which, joined Pangaimotu to the mainland Vava‘u. The causeway acts as a limiting factor for the South East Trade winds including currents that used to flow through the Port-of-Refuge Harbour. Similarly, the ‘Utungake causeway was built around the same time, limiting the southerly and northerly flow of current and sediments.

On the landward site of the study area especially at the peninsular and the property next to in on the south, there is no land cover. At the tip of the peninsular, it is high and there is a clear runoff into the sea.

Evidences of runoff from the road to the ocean were obvious as well. There were roaming pigs also observed.

Figure 27 Vava'u Island

DISCLAIMER
The Kingdom of Tonga, Ministry of Land & Natural Resources, does not accept liability which may result directly or indirectly from the use of the map, or any derived products by its staff and affiliated bodies. Therefore, suitability and accuracy purposes to this product shall not be made available in form or substance for sale or for use. However, if any person or group or organization found guilty of such offence, they are not responsible for the damage of the country will be held responsible at the discretion of the Ministry of Land & Natural Resources.

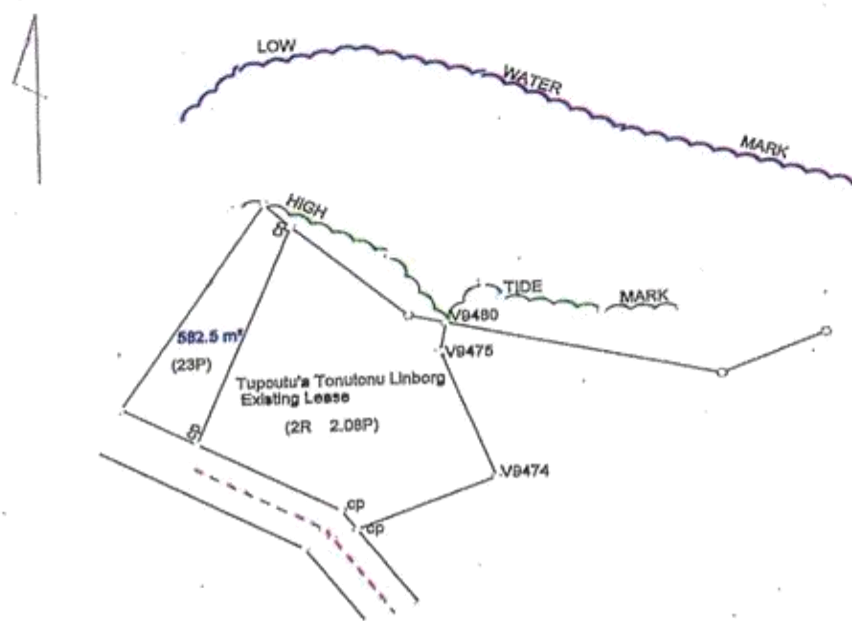
PART MAP OF VAVA'U
Pangimotu Island

Legend
 - Ferry Route Digital Elevation Model
 - Coastline
 - Road
 - Low -5.92872
 - High : 207.933

Keys
 Entrance into and out of the Port of Refuge Harbour
 Útulei
 The Útunge Causeway
 Pangimotu Causeway

Produced by: S. Lohaka
 Checked by: M. Elms
 Date: 20/04/2019
 GIS Unit / LORIS Division
 Ministry of Land & Natural Resources

High water mark reaches the properties survey peg and the low water mark.



Sea Level Rise

It is known that as ocean water warms it expands causing the sea level to rise. The melting of glaciers and ice sheets also contributes to sea-level rise. Instruments mounted on satellites and tide gauges are used to measure sea level, however this is not yet available in Vavaú.

However, satellite data indicate the sea level has risen near Tonga by about 6 mm per year since 1993. This is larger than the global average of 2.8–3.6 mm per year. This higher rate of rise may be partly related to natural fluctuations that take place year to year or decade to decade caused by phenomena such as the El Niño-Southern Oscillation. This information for overall for the Tonga and specific for Vavaú or areas around Útulei.

Thus, it could only be extrapolated that sea level rise could also be a contributing factor to the erosion problems in Útulei but more studies need to be carried out.

Findings

Based on the methodologies used the following finding are presented:

There are combined causes of the coastal/beach erosion at the two sites investigated. The sources of sediment are from the reefs South to the East of Pangaimotu Island. From the available data, in 1968, Útulei was covered by sand from the projecting tip down West and South East of Pangaimotu. No one has any records of when the Pangaimotu causeway was build. Anecdotal evidence pointed to being built by the late 1970s. By 2004, the sediments almost disappeared and by 2016, disappeared completely (Fig 3 and Fig 3.1)

Members of the communities consulted especially those that have complained to the Office of the Ombudsman claimed that coastal erosion is caused by the current generated by speeding boats within the channel and those that runs close to Útulei beach. There needs to be a longer time frame for collecting relevant data such as on the speed, traffic, time of the tide to better determine this claim.

1. Causeways - Pangaimotu and Útungake are the main causes of diversion and loss of sediments from the Útulei study sites.
2. Útulei is enlarged to show the movement of the beach sediments in 1968 (blue line), 2004 (yellow line) and 2016 (red line). It is estimated that from 1968 to 2016 approximately 110.9 km square of sediments has been lost from Útulei. This lost could be due to lost of sediments to the deep channel, deposited somewhere else along the cost and sand mining.

Figure 3: 'Utulei Beach (sediments) movements at different time series

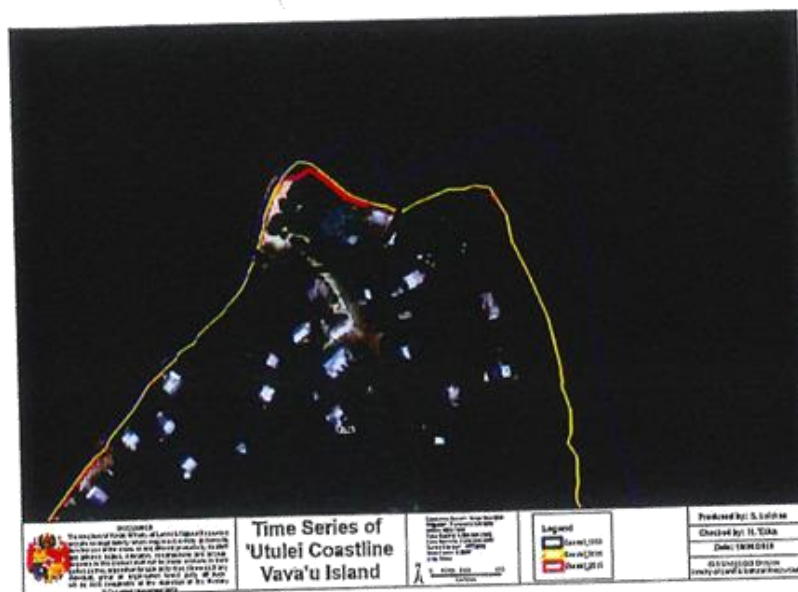
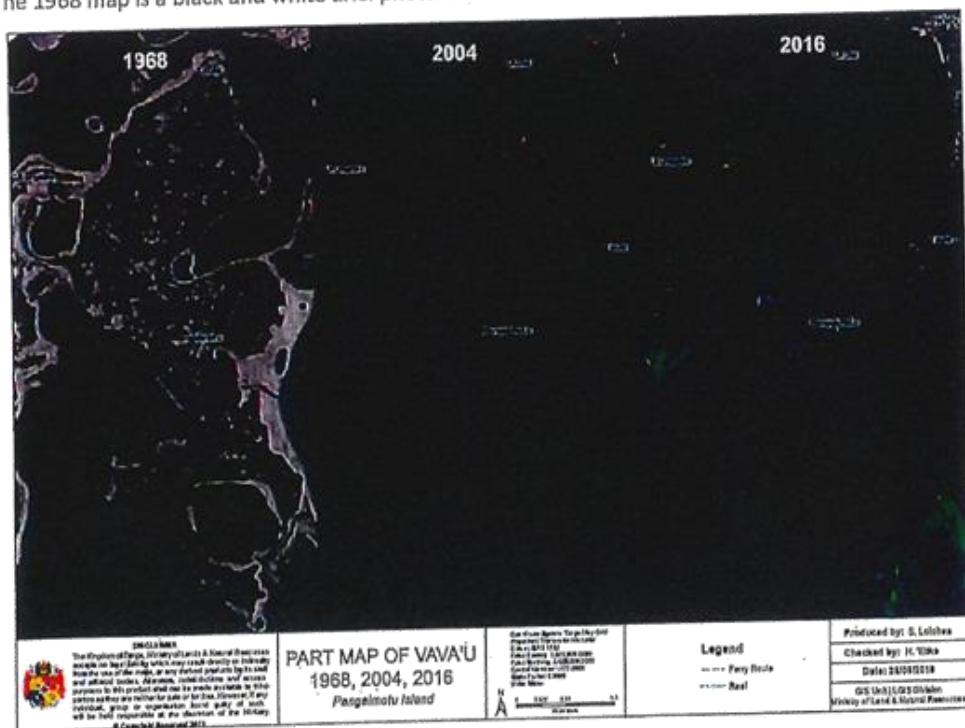


Figure 3.1 The scale of the Pangaimotu Island (Showing Utulei).

The 1968 map is a black and white ariel photo. The other two are satellite images



3. The causeways limit the ocean circulation (currents). The currents played a role in flushing the harbour south towards Útulei and distribute sediments south. Two things could have happened – there is limited circulation to flush sediments that could be lost into the deep channel. The channel as well as the harbour, through time could become shallower. There is limited current to transport the sediments from the Eastern and Southern Reefs to distribute around Útulei. Similarly, the Útungake causeway limits circulation when the wind is from the south.
4. The current causeways' culverts are not sufficient to reverse this process.
5. Land (coastal sub-division) is right up to the beach/sand. These areas are vulnerable and should not have been sub-divided. The sand/aggregates are not fixed features. They are movable based on strength of currents, ebb of tides and sea level. There are risks, land owners are aware of and made a free choice to occupy these vulnerable areas (Picture 1).
6. Marina's and small boat may not be aware of the speed limit as it is not enforced and the sign was found in the bush facing the sky (Picture 2)
7. Marine traffic was less prior to and around the 1968 (late 1960s – 1970s period). The Whale watching period really pick up in Vavaú late 1980s to early 1990s. Therefore, the impacts of the marina and whale watching boats raising and causing strong currents (wake) to effect erosion did not happen then. A new complain raised during the site visit was aimed at the new high-speed ferries (MV Maui and MV Tongiaki) as causing damaging wake whenever they speed by. Again, as from Fig 4.1, marine traffic could have contribution as it appears in 2004 and 2016. But more studies need to be carried out to verify this.

Photo: 1 (left) *Very Crude beach protection attempt* (second property to the south coast of the 'Utulei Peninsula (right) things that could be done, using Gabion baskets (the baskets should be sloping towards the sea)

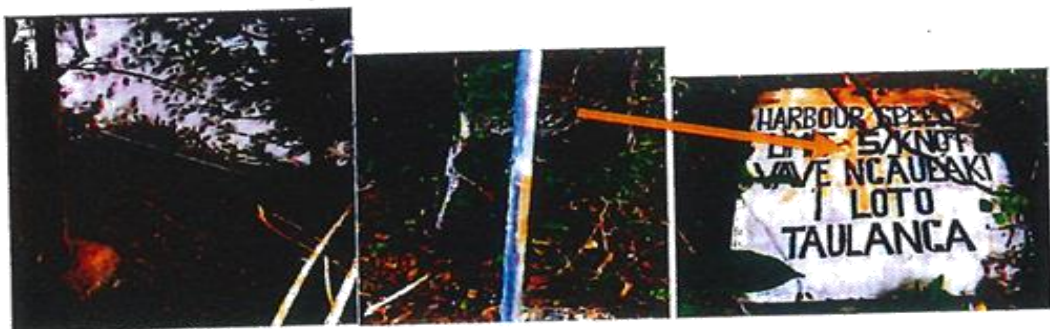


Right – Land peg on the sand



Left– High tide reaches land sub-division peg

Photo: 2 Boat Speed Limit Sign on the ground



Posts to hold the sign for the speed limit - on the ground among bushes and cannot be seen from the sea.
(N. Pelesikoti - Taken on 10th May 2019).

Recommended Actions

1. To enlarge the existing causeways' culverts
2. In the long term, for the Government to develop projects to replace the causeways with bridges
3. To trial mangroves replanting at the Southern curve from the tip (a bit sheltered) and in front of the property using rubbish as a fill.
4. This to be considered are the species of mangroves, height of the seedlings before transplant, depth and how to anchor the seedlings and to be progressively introduced (towards to the ocean) starting from where the high tide reaches the coastline of the properties.
5. An extensive awareness programmes in the nearby islands and marina's, whale watching on the speed limit and why.
6. For the responsible agency to regulate the speed limit in the entrance channel and to monitor
7. Replanting of species could be grown is steep and salt water spray to encourage land cover (it would help to mitigate run-off into the sea), which has other impacts, but wouldn't directly minimise coastal erosion.
8. Stop any sorts of sand/aggregates mining on the beach.
9. Fixed the sign for the boat speed limit including its visibility from distance.

Annexes

Annex 1: Case shared with the Consultant

Complainant 1 – Tupou Tonutonu Lindberg
Case Officer – Pilimisolo Tamo'ua

Case Number - OMB18/30

1. The nature of the complaints to the Ombudsman

This is a complaint lodged by Mrs Tupoutu'a Tonutonu Lindberg of 'Utulei, Vava'u on 2nd March 2018 regarding mariners' speeding and also smaller boats leaving the marked navigational routes at the channel and sail at high speeds in and out closer to her shore therefore have caused unnecessary high waves to flow into her property, damaged her boat, and causing severe coastal erosion to the seafront.

2. Information from Ministry

The Ministry responded on 24th April 2018 and admitted the problem as outstanding and that it has an obligation to enforce the speed limit but have been unable to, due to limited resources and manpower in Vava'u. Even though the Ministry had put up signboards in 2014 at the Halaevahu Wharf and the 'Utulei channel notifying the public of the 5 knots speed limit, the Ministry lacked the man power and resources for effective enforcement. The Ministry undertook to resolve the matter progressively, and undertake to revise the relevant legislations to include a provision to expressly regulate the 5 knots speed limit at the entrance and the harbour, and provision to enable notice of infringement and prosecution as enforcements.

The Ministry had put out radio notice every morning since May 2018 for all mariners through the Vava'u Cruises Net frequency to observe the 5 knots speed limit within the harbour and as far out as Lotuma Island toward 'Utungake, provided warning letters to boat owners and had discussed the issue with boat owners in Vava'u on 9th June 2018.

3. How long have they occupied the area?

3rd generations going back to grandfather probably even further. Mrs Lindberg is landowner by lease.

Complainant 2 – 'Olivia Foliaki
Case Officer – Mosese Uili

Case Number - OMB18/19-1

1. The nature of the complaints to the Ombudsman? When was it made and by whom?

- Mrs. Foliaki's complaint relates to the effects of sea-level rise which are eating away her property. She had used big boulders to minimize the harmful effects of coastal erosion but those rocks were badly damaged by a recent storm and she has no way of reducing the impacts of waves on her property. She claimed in her complaint letter (received by the office on the 11th of July 2018) that she had talked with the Ministry of Environment before regarding her situation but nothing has been done. It was identified that complainant had previously complained to Port Authority instead of MEIDECC regarding her issue and was advised to raise her issue with MEIDECC first. She lodged her complaint on the 20th September 2018.

Annex 2 – MEIDECC Study



MINISTRY OF METEOROLOGY, ENERGY,
INFORMATION, DISASTER MANAGEMENT,
ENVIRONMENT, CLIMATE CHANGE AND
COMMUNICATIONS (MEIDECC)
NUKU'ALOFA, TONGA

Ref: CPS/23/4/9/18

January 10th 2019

'Aisea H. Taumoepeau, SC
Ombudsman
Office of the Ombudsman
NUKU'ALOFA

Dear Sir,

Re: Response to Enquiry on complaint lodged by Mrs. Foliaki – Case No. OMB 18/19-1

Thank you for your letter dated 12th October 2018 (referenced 'AHT.307/2017 OMB/A.10) regarding the complaint lodged by Mrs. Foliaki. In response to your query with clarification you had requested, please refer to the following:

1. We the Ministry of MEIDECC clearly understand the background to this matter with the following responses and additions to the fact;
 - i. The Ministry acknowledges the complaint from Mrs. Foliaki received by the MEIDECC office in Vava'u.
 - ii. It was our relayed communication with the complainant that the office was, at the time, busy with a meeting organized and arranged by the office so we would delay the survey of the piece of land in question to the following week.
 - iii. As promised, officers from our office in Vava'u visited the site, took some photos and conducted a direct survey of the place. It was found that;
 - a. The pigs are not enclosed rather causing the erosion of the place;
 - b. The piece of land is not fenced to help with keeping the soil together; and
 - c. They are land filling the area closest to the sea with waste of various kinds. Note that such land fill increases water salinity.
 - iv. Our officer advised the complainant as follows;
 - a. That they fence away their pigs; and
 - b. They fence their land.
2. Ministry would like to add the following relevant information.
 - i. The Minister for MEIDECC, Mr. Poasi Tei, CEO for MEIDECC, Mr. Paula Ma'u and Minister of Health, Dr. Saia Plukala were at Vava'u attending the aforementioned meeting and were also invited to view the site.
 - ii. There are no funding for this individual complaints.
3. There are no confidential issue in this matter.

Should you prefer further discussion, please liaise with the Climate Change Office, 26-514.

Sincerely,


Paula P. Ma'u,
Chief Executive Officer for MEIDECC.

P.O. Box 1380, Nuku'alofa, TONGA; Tel (676) 28 178; Fax (676) 24 861; Email: ombudsman@meidecc.gov.to; URL: www.ombudsman.gov.to

Brief Report # 1

Results and Observation from a Site Visit to Olivia Foliaki

PURPOSE

This direct observation carried out Friday 08 October 2018 after Mrs. Foliaki reported that her home is severely eroded causes by speedboats that pass through Utulei to Neiafu Harbor.

Site: Mrs. Foliaki's Residence at Utulei, Vava'u.

Fact:

To observe how severely damage by soil erosion at Mrs.Foliaki Residence.

Observation Team: Mele Finau, Rika Uchino, Olivia Moli and Vesi'ai Puta (Driver)

Results

- Mrs. Foliaki residence built along the coastal area and I may say that sea level rise is an impact.
- Buried of solid wastes and hazardous wastes to prevent sea level rise but it cause pollution to marine life.
- Free access of domestic animals to Mrs. Foliaki's Residence may prevent growing grasses to hold the soil from eroded.
- The residence is not secure with fence that can help prevent erosion and soil degraded.
- Illegal Dumping of domestic wastes (paper, plastics, debris, bottles, glasses, etc) nearby coastal area will drift away to the ocean.
- Mrs. Foliaki's home is standing right on the coastal site that it would have been better if the house built far from the Beach.

Recommendations

1. Advise Mrs. Foliaki (she stays another home) about the result of the observation.
2. Advise Mrs. Foliaki that at the moment, the Ministry does not have any special funding that can help them out but these are things they can also help to avoid soil erosion ;
 - Remove rubbish from coastal areas that polluted marine life
 - Fence her home because domestic animal is free access and cause erosion.
 - After fencing then the grasses automatically grew and avoid erosion. Growing more trees will help minimize any chances of soil erosion.

- The house is close to the sea that can be at high risk when its storm surge and high tide.
- 3. Further discussion to make with Marine Ports regarding the limited speed for every boats that cross over this sea area as can be another cause for losing land and cause sea level rises during voyages have brought big waves to Mrs. Foliaki coastal area.

Photo attached taken as first hand evidence from 05/10/2018

Photo 1: Buried of hazardous wastes on coastal areas to prevent sea level rise.

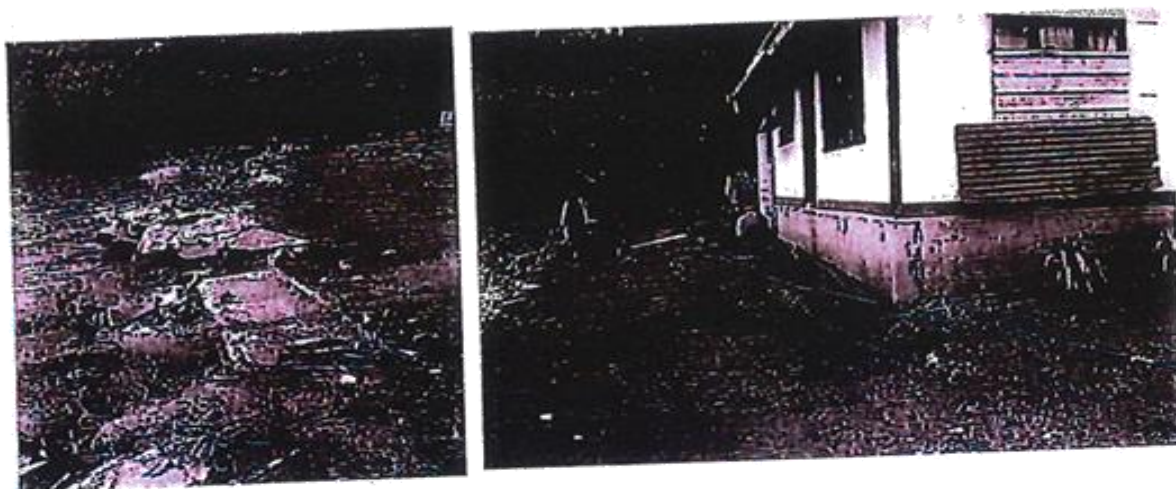
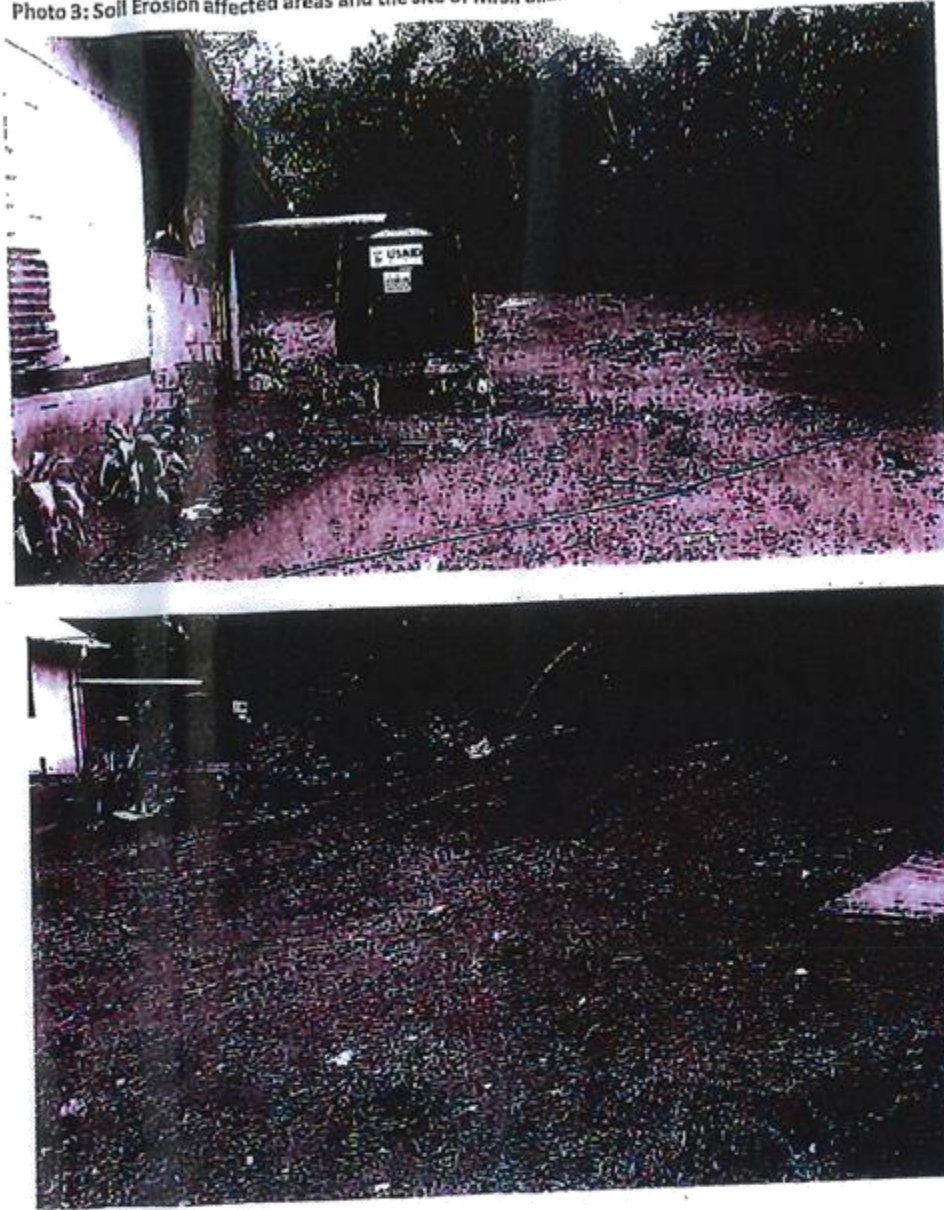


Photo 2: Deposit and Illegal Dumping of hazardous wastes on coastal site



Photo 3: Soil Erosion affected areas and the site of Mrs.Foliaki Home.



THE END

APPENDIX 6

List of Outreach Programs 2019/2020						
No.	Date	MDAs, PEs, Schools, & Communities (Recipients)	OP Genres	Recipients - Attendees, Viewers, Readers	Comments	Tally (MDAs, PEs, Schools, Community or Recipients)
Month – July 2019 (5)						
1	11/07/19	Combined OP with Chairpersons, Directors & Management Teams of PEs	Formal OP meeting led by the Ombudsman	65	Give them OMB Environmental Bags, Pens, Brochures and Umbrella, mug, bag, pen and brochures for the Reverend Minister	Physical Outreach
2	16/07/19	Royal MAFFF Show of Ha'apai	Information Booth & Clinic	Students, youth, young children, farmers, weavers, fishers, businesses and general members of the public	A very effective form of OP in having to meet people of different ages who receive a brief explanation about GG and received brochures and some of our promotional items	Community Outreach (via MAFFF)
3	19/07/19	Royal MAFFF Show of Vava'u	Information Booth & Clinic	Students, youth, young children, farmers, weavers, fishers, businesses and general members of the public	Do	Community Outreach (via MAFFF)
4	23/07/19	Royal MAFFF of Niuatoputapu	Information Booth	Do	Do	Community Outreach (via MAFFF)
5	Do	Niuatoputapu High School	Outreach	10 Teachers & 67 Students	Held before the Royal Agricultural Show	School
6	25/07/19	Royal MAFFF of Niufo'ou	Information Booth	Do	Do	Community Outreach (via MAFFF)
7	26/07/20	Niufo'ou	Clinic	General public		Community
Month – August 2019 (7)						

8	02/08/19	Royal MAFFF of 'Eua	Do	Do	Do	Community Outreach (via MAFFF)
9	08/08/19	Published on the Kakalu 'o Tonga Newspaper	Newspaper article	Readers of KOT newspaper	Based on the KOT circulation in Tonga, New Zealand and abroad	Newspaper/Media
10	08/08/19	Hihifo District, Tongatapu	Clinic	About 10 Asian Businesses along Hihifo Road from Nuku'alofa	Well received when distributed OMB Brochures in Mandarin	Clinic
11	27/08/19	Ministry of Health (1)	Face-to-Face OP @10.00am	Remaining 4 of 10 series of OPs to Departments and Divisions of MOH	Non-medical & Health employees	Physical Outreach
12	27/08/19	Ministry of Health (2)	Face-to-Face OP @2.00pm	17 staff of the Corporate & Public Health Divisions	Only 17 staff members were able to attend while the rest were on- and off-duty	Physical Outreach
13	29/08/19	Ministry of Health (3)	Face-to-Face OP @10.00am	Do	Continuation of 10 OPs to MOH from last quarter	Physical Outreach
14	29/08/19	Ministry of Health (4)	Face-to-Face OP @2.00pm	Do	Do	Physical Outreach
Month – September 2019 (0)						
<i>(There was no OP carried out during the month. The CMO was on official trip on the 1st week, annual leave on 2nd and 4th week. Additionally, the REACH mission to Vava'u earlier scheduled for 16 – 20th September was cancelled at the last minute for the Office by the Organizer. The Office did not take part in the REACH mission at Ha'apai on the 3rd week.)</i>						
Month – October 2019 (16)						
15	11/10/19	Tonga Broadcasting Commission	Radio Tonga	Radio audience – listeners in Tonga and abroad	A very effective and efficient type of OP due to reach and coverage of radio. It was envisaged that the general public heard the program across the Kingdom and also in the diasporas through live-streaming.	Radio/Media

16	11/10/19	Do	TV Tonga	TV audience – viewers in Tonga and abroad	Do	TV/Media
17	25/10/19	LDS Middle School of Koulo	Face-to-face OP	Principal, teachers and students – 73 attendees	Grateful as the following 15 OPs at Ha’apai were carried out during their exam period	
18	27/10/19	FWC Pangai, Ha’apai @the open-air evening service in commemoration of the 44 th Anniversary of the Mystery Cross	Face-to-face Speech of the CEO on the theme – “The Cross and the Constitution”	Governor of Ha’apai, Reverend Chair of the FWC of Ha’apai, many church ministers, members of the public and youth groups of Lifuka and the outer islands – about 500 attendees	The Office was grateful for this great opportunity from the FWC of Ha’apai for the CEO to speak about the given theme – and to outreach to the gathering.	Physical Outreach (via a church gathering)
19	28/10/19	Tailulu College, Ha’apai	Face-to-face	51 attendees inc. the principal, staff and students		Physical Outreach/School
20	Do	Governor of Ha’apai	Do	Governor and Secretary – 2		Physical Outreach/MDA
21	29/10/19	Taufa’ahau/Pilolevu College	Do	118 teachers and students	Grateful for deferring examination until the end of the OP	Physical Outreach/School
22	Do	Police & Prisons Departments	Face-to-face & visit to inmates’ cells	12 Police and Prisons Officers and inmates	Held combined OP at the new prison premises	Physical Outreach/MDA
23	Do	Police Magistrate	Meeting with CEO and OP team	1		Visit/MDA
24	Do	Police Station & Cell	Visit of the CEO and meeting with Head of Police	1	CEO viewed the condition of the Police cell	Visit/MDA
25	Do	‘Ofamo’oni Christian School of the Tokaikolo Church	Do	56 teachers and students	Principal gifted a freshly harvested “pata kolosi” for the	Physical Outreach/School

					OP team and was acknowledged and declared on OMB FB page	
26	30/10/19	Ha'apai High School	Clinic	43	Number of brochures given to the principal and teachers at the Office. Students and teachers were busy with exam so we could not hold OP.	Clinic
27	Do	Foa District	Face-to-face	20	Including District Officer, Town Officers, as well as representatives from villages in the district	Physical Outreach/Community
28	31/10/20	St. Joseph College	Face-to-face	117	Including the principal, teachers and students	Physical Outreach/School
29	Do	GPS Koulo	Face-to-face	38	Including all 3 teachers and all class 1 – 6 pupils	Physical Outreach/School
30	Do	Church of Tonga, Pangai	Face-to-face	16	Including the Minister-in-charge, stewards, men, women and a child	Physical Outreach/School
31	Do	Niu'ui Hospital	Clinic	15	Brochures were handed to doctor, nurses and members of the public at the Triage area	Clinic
Month – November (6)						
32	11/11/19	Hilliard Memorial School of the SDA	Face-to-face		Brochures, pens, and bags were presented to winners of the quiz	Physical Outreach/School
33	12/11/19	Radio Talkback/Felafoaki Program	87.5 FM	Nation-wide and global audience via live streaming	Traditional and internet media	Radio/Media

34	15/11/19	Kau To'a Rugby League Float	OMB Float and hosting of captain, Jason Taumalolo	Public	Further publicized over various media coverage	Float/Community
35	20/11/19	Tonga Law Week 2019	Information booth & Clinic	Police Commissioner, Attorney General and her staff, senior students, members of MDAs & PEs and the public		Community/MDA
36	21/11/19	OMB News Release	News Release on result of Ombudsman OMI on WAL	Distributed to both local and overseas media, published on OMB website and FB	Further publicized by various news coverage by local and overseas media	News Release/Media
37	25/11/19	Newspaper article	Kakalu 'o Tonga newspaper	Readers in New Zealand and Tonga and via internet		Newspaper/Media
Month – December (2)						
38	04/12/19	Patients at the Psychiatric Ward, Vaiola Hospital	Outreach & Christmas Visit	Prison officers, Doctors, patients	First visit to the patients to spread Christmas Tidings & present them with gifts	Goodwill visit
39	17/12/19	Nuku'alofa CBD @Talamahu Market	Signage depicting Integrity – one of the pillars of good governance	Public viewing	<i>(Damaged during TC Harold in April, 2020)</i>	Signage
Month – January 2020						
40	06/01/20	Kakalu 'o Tonga	Newspaper particle	Readers in New Zealand and Tonga and via internet		Newspaper/Media
41	13/01/20	Kakalu 'o Tonga	Do	Do		Newspaper/Media
Month – February 2020						
42	03/02/20	Kakalu 'o Tonga	Newspaper article	Readers in New Zealand and Tonga and via internet		Newspaper/Media
43	04/02/20	Tupou Tertiary Institute (TTI)	Face-to-face OP	Head Tutor, teachers, staff and current and new students	OP was held during the orientation week program	Physical Outreach/School

44	06/02/20	Radio Tonga (AM & FM)	Live Radio Talkback/Felafoaki	General Public across Tonga and globally	Live-streaming reaching world-wide	Radio Talkback/Media
45	10/02/20	Kakalu 'o Tonga	Newspaper article	Readers in NZ and Tonga and via internet		Newspaper/Media
46	17/02/20	Kakalu 'o Tonga	Do	Do		Newspaper/Media
47	21/02/20	Tonga Institute of Higher Education (TIHE)	Face-to-face OP	Principal, teachers, students	OP was held after the officiating ceremony of the prefects for 2020 led by the FWC Minister of Halafo'ou	
48	25/02/20	REACH Mission to villages in the Hahake District	Information booth & Clinic	Villagers of Talafo'ou and Nukuleka	Grateful for the inclusion of OMB Office in this year's round of REACH Mission	Community
49	26/02/20	Do	Do	Villagers of Navutoka & Manuka	Do	Community
50	27/02/20	REACH Mission to villages in the Hihifo District	Do	Villagers of Ha'atafu & Kanokupolu	Do	Community
51	28/02/20	Monfort Technical Institute	Face-to-face OP	Teachers and students	Continuation of OPs to Tertiary Institutes	School
Month – March 2020						
52	02/03/20	Kakalu 'o Tonga	Newspaper article	Readers in NZ and Tonga and internet		Newspaper
53	09/03/20	Kakalu 'o Tonga	Newspaper article	Do		Newspaper
54	13/03/20	Local & Overseas media	News release on NZ/Pacific Ombudsman Forum in NZ	Ombudsman, CEO & Deputy Secretary of Corporate Services (DSCS)		Forum
55	17/03/20	Governor's Office of Vava'u	Meeting	Lord Governor, 2 Senior Officers, CEO of OMB Office, A/DOI, DSCS, CMO	No formal/physical OP was held during the OMB OP visit to Vava'u due to new normal of social distancing associated with the threat of Covid-19 pandemic	MDA
56	Do	Police Department of Vava'u	Meeting	Officer-in-charge, CEO OMB, A/DOI, DSCS, CMO	Meeting and visit to the cell Brochures were given to OIC for distribution	MDA

57	Do	MAFF Office of Vava'u	Meeting	Officer-in-charge	Meeting and visit to the office Brochures were given to OIC for distribution	MDA
58	Do	Ha'alefo Prison	Site visit	Guard	CEO and OP team visited and view condition of the prisons	MDA
59	18/03/20	Vava'u High School	Visit	Head Tutor	Brochures & Bumper stickers were given for distribution	School
60	Do	Mailefihi & Siu'ilikutapu College	Visit	Rev. Principal	Brochures & stickers were given for distribution	School
61	Do	Kelana College	Visit	Deputy Principal	Do	School
62	Do	Maama'anga Christian School (Tokaikolo)	Visit	Principal	Do	School
63	23/03/20	Kakalu 'o Tonga	Newspaper article	Readers in NZ and Tonga and internet		Newspaper/Media
64	25/03/20	Tonga Broadcasting Commission (TBC)	Radio Program	A/DOI & CMO and viewers in Tonga and abroad	First program for the year to immediately inform the public about the services being provided during the Covid-19 lock-down period	Radio/Media
65	Do	Do	TV Program	Do	Do	TV/Media
66	26/03/20	TBC	Public Notices over Radio Tonga	Public – in the Kingdom and abroad	Do	Radio/Media
67	Do	Do	Public Notice over TV Tonga	Do	Do	TV/Media
68	Do	87.5FM	Public Notices	Do	Do	Radio/Media
69	Do	88.1FM	Do	Do	Do	Radio/Media
Month – April 2020						
70	27/04/20	TBC	Radio Program	Do	Do	Radio/Media
71	Do	Do	TV Program	Do	Do	TV/Media
Month – May 2020						
72	18/05/20	Kakalu 'o Tonga	Newspaper article	Readers in NZ and Tonga and internet		Newspaper/Media
73	Do	OMB Facebook	Social media	Tonga and globally	First recording of social media postings reminding the public about GG	Facebook/Social Media

					and functions of the OMB Office	
74	Do	Newsletter recipients	March Quarterly newsletter for	About 400 recipients in Tonga and overseas including members of the Clergy of the NZ Methodist Church	First time to include Tongan members of the clergy of the NZ Methodist Church	Church/Community
75	21/05/20	TBC	Radio Program	General public locally and overseas via livestreaming	Monthly program for May	Radio/Media
76	Do	TBC	TV Program	Do	Do	TV/Media
77	Do	OMB Facebook	Social media	Global audience		FB/Social Media
78	Do	Do	Do	Do		FB/Social Media
79	22/05/20	87.5FM	Radio program	Local and overseas audience	Replay of the monthly program	Radio/Media
80	25/05/20	Fua'amotu International Airport	Signage	General public	Replacement of the damaged signage after TC Harold in April	Signage
81	26/05/20	88.1FM	Radio program	General public and overseas via livestreaming	Replay of the monthly program	Radio/Media
Month – June 2020						
82	04/06/20	TBC	Radio program	General public and Tongan diasporas	Program for June	Radio/Media
83	Do	TBC	TV program	Do	Do	Radio/Media
84	08/06/20	88.1FM	Replay of radio program for the month	General public and Tongan diasporas via livestreaming		Radio/Media
85	12/06/20	87.5FM	Replay of radio program for the month	Do		Radio/Media
86	20//06/20	Pacific Media Network (PMN) of NZ	Replay of June Radio & TV program	Tongans living in NZ and world-wide through live streaming	Producer, Mr. Tevita Maka, of PMN, NZ, asked if they could relay the program posted on the OMB Facebook & Website in their Tongan program	Radio/Media
87	25/06/20	Pacific Media Program of NZ	Do	Do	Replayed program over PMN early morning Tongan program	Radio/Media