



**MAKING  
LAND  
WORK**

**Volume two**  
Case studies on  
customary land  
and development  
in the Pacific

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# Volume two

## Contents

Preface	v
Introduction	vii

### Reconciling customary ownership and development

<b>1</b>	<b>Incorporated land groups in Papua New Guinea</b>	<b>3</b>
	<i>Tony Power</i>	
<b>2</b>	<b>Village land trusts in Vanuatu: 'one common basket'</b>	<b>21</b>
	<i>Jim Fingleton, Anna Naupa, Chris Ballard</i>	
<b>3</b>	<b>Recording land rights and boundaries in Auluta Basin, Solomon Islands</b>	<b>47</b>
	<i>John Cook, Genesis Eddie Kofana</i>	
<b>4</b>	<b>Land registration among the Tolai people: waiting 50 years for titles</b>	<b>65</b>
	<i>Jim Fingleton, Oswald ToLopa</i>	
<b>5</b>	<b>Informal land systems within urban settlements in Honiara and Port Moresby</b>	<b>85</b>
	<i>Satish Chand, Charles Yala</i>	
<b>6</b>	<b>The role of the Central Land Council in Aboriginal land dealings</b>	<b>107</b>
	<i>Mick Dodson, David Allen, Tim Goodwin</i>	
<b>7</b>	<b>Maori landownership and land management in New Zealand</b>	<b>129</b>
	<i>Tanira Kingi</i>	
<b>8</b>	<b>Absentee landowners in the Cook Islands: consequences of change to tradition</b>	<b>153</b>
	<i>Ron Crocombe, Makiuti Tongia, Tepoave Araitia</i>	

### Dispute resolution

<b>9</b>	<b>Mediating land conflict in East Timor</b>	<b>175</b>
	<i>Daniel Fitzpatrick</i>	
<b>10</b>	<b>Resolving land disputes in Samoa</b>	<b>199</b>
	<i>Jennifer Corrin</i>	
<b>11</b>	<b>Settling customary land disputes in Papua New Guinea</b>	<b>223</b>
	<i>Norm Oliver, Jim Fingleton</i>	

## Land for public purposes

- 12 Acquiring land for public purposes in Papua New Guinea and Vanuatu** 241  
*Michael Manning, Philip Hughes*
- 13 Accessing land for public purposes in Samoa** 265  
*Chris Grant*

## Policy reform and administration

- 14 The paths to land policy reform in Papua New Guinea and Vanuatu** 285  
*Michael Manning*
- 15 Strengthening land administration in Solomon Islands** 307  
*Douglas Larden, Marjorie Sullivan*
- 16 Training and educating land professionals: the value of institutional partnerships** 327  
*Chris Lunnay*

- Annex: Contributors to the case studies 347

## Preface

*Making land work*, produced as part of AusAID's Pacific Land Program, has two volumes. Volume one, *Reconciling customary land and development in the Pacific*, is an overview of the main issues that Pacific island countries, Papua New Guinea and East Timor—referred to broadly as the Pacific region—are likely to face if they choose to reform their land policies and institutions to promote social and economic development. This volume, Volume two, *Case studies on customary land and development in the Pacific*, is a collection of 16 studies that look at problems and innovative practices in land tenure and administration across the Pacific region.

AusAID recognises that land policy reform is something that must be driven by Pacific governments and communities, not by donors. For this reason, *Making land work* does not seek to advocate any particular policy options or models. Nor does it necessarily reflect AusAID or Australian government policy. Rather, it has been published as an information resource for countries undertaking land policy reform. It draws lessons from international experience, canvasses broad principles and approaches, and seeks to stimulate ideas on policy options.

*Making land work* reflects the input of some 80 experts and practitioners in land and development from the Pacific region, including Australia and New Zealand. A steering group of senior representatives from government, regional organisations and civil society in the region provided broad guidance and advice for both volumes.

The annex to this volume details the process and participants in preparing the case studies. These studies were drafted by land experts and practitioners following a topic selection and appraisal process. All but two are based on in-country research and consultations by authors. Early drafts were reviewed by panels of officials, experts and practitioners from the Pacific region and Australia, then revised by authors and finalised for publication by AusAID's editorial team. This volume contains the edited versions of these second drafts produced for AusAID by the authors.<sup>1</sup>

Land policy reform in the Pacific is a complex and sensitive issue. There is a wide variety of views and perspectives held by experts and practitioners—sometimes conflicting, yet sometimes equally valid. It is neither possible nor desirable to attempt to reconcile all of the differing perspectives or conflicting views. While there may be disagreement by some over the content of *Making land work*, AusAID hopes this will encourage ongoing dialogue and debate on this important issue across the region.

If *Making land work* contains inaccuracies or errors of fact or omission—despite the best efforts of those involved—AusAID accepts full responsibility.

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<sup>1</sup> One case study, 'The Native Land Trust Board of Fiji and development within communal tenure', is not included in this volume as a result of delays in agreeing to its final text. It will be published on AusAID's website and in any reprint.

# Introduction

## **MAKING LAND WORK**

Pacific governments and communities are increasingly realising there is a need to strengthen and improve their systems for managing and using land. Since 2004 Papua New Guinea and Vanuatu have been developing major programs to reform land policy. Papua New Guinea has already begun implementing its own program—a long-term and sweeping initiative that aims to underpin the nation’s economic development agenda.

Other political and community leaders in the region are also talking of the need to make their most basic asset, land, work better for national development. They recognise that secure land tenure and effective land administration are fundamental prerequisites for improved living standards, better public services, increased investment, protection of vulnerable groups (such as customary owners and women) and reduced social tensions.

The issue for Pacific islanders is how to make greater use of land without giving up the customary laws and practices that form the fabric of their culture and societies—practices that for countless generations have regulated the use and management of land and ensured food security. In the past, especially during the colonial period, land policy reform in most Pacific countries meant permanently taking land away from customary ownership and imposing western forms of tenure.

The two volumes that comprise *Making land work* are about increasing the contribution land can make to communities and the economy without removing it from customary ownership. The aim of the 16 case studies in this volume is to improve understanding across the Pacific of how other countries in the region, including Australia and New Zealand, have dealt with land administration and customary tenure issues while promoting economic and social development.

The case studies are not designed as policy prescriptions to be transplanted from one country to another. They seek to provide ideas and inspiration to Pacific governments, officials, landholders and the private sector on how options might be developed for their own countries.

## THEMES OF THE CASE STUDIES

The case studies in this volume were researched and written in 2007. The studies draw on the experience of countries in the Pacific region including New Zealand and Australia and are grouped by theme.

The first theme, 'Reconciling customary ownership and development', covers a broad range of issues, which are canvassed in eight case studies. They reveal the constraints and opportunities presented when development plans require access to land in customary ownership. They demonstrate the importance of retaining customary systems while linking them to the legal, economic and business development systems that are emerging as Pacific societies and economies are increasingly integrated with the wider international community.

The second theme, 'Dispute resolution', features in three studies that review experiences in East Timor, Samoa and Papua New Guinea. Disputes involving land are common in the region and are very often at the heart of serious conflict. These case studies describe some of the innovative ways in which disputes can be managed and conflict averted. They also demonstrate the limitations of the dispute resolution processes described.

There are two studies that address the third theme, 'Land for public purposes'. They analyse issues around securing land for public use in Papua New Guinea and Vanuatu, and in Samoa. As societies and economies develop, there is increasing need for land for public infrastructure and services such as roads, ports, schools, hospitals, sanitation, water supply and power generation. These studies outline the successes and problems that three countries have experienced.

The fourth theme, 'Policy reform and administration' is covered by three very different studies of aspects of land policy reform and administration. Land administration that is well planned and resourced is essential if the goals of land policy reform are to be achieved. These studies reveal the importance of ongoing political commitment to reforming land administration, to providing sufficient resources for administering land systems, and to building and maintaining the right skills base.

## RECONCILING CUSTOMARY LAND AND DEVELOPMENT

**Case Study 1**, ‘Incorporated land groups in Papua New Guinea’, outlines Papua New Guinea’s experience with customary landowning groups forming bodies that have formal legal status. The study analyses the strengths and weaknesses of using this method to enable groups to make their land available for development and share the benefits.

**Case Study 2**, ‘Village land trusts in Vanuatu: “one common basket”’, recounts Vanuatu’s experience with using land trusts as legally recognised bodies to make decisions on behalf of customary landowners. The study briefly outlines the histories of two trusts and analyses their successes and problems.

**Case Study 3**, ‘Recording land rights and boundaries in Auluta Basin, Solomon Islands’, describes a consultative process to identify the owners of an area of land in Solomon Islands suitable for growing oil palm. The study analyses the way in which the landowning groups, who are keen to reap the potential benefits of the oil palm development, increasingly accepted the need for recording the details of land ownership and boundaries, and the successes and challenges of the process.

**Case Study 4**, ‘Land registration among the Tolai people: waiting 50 years for titles’, provides an account of efforts to register land in East New Britain Province in Papua New Guinea based on Tolai territorial and social units and on input from traditional leaders. It analyses the reasons why the processes used were accepted and their potential for releasing land for productive development.

**Case Study 5**, ‘Informal land systems within urban settlements in Honiara and Port Moresby’, describes the challenges of urban growth. It analyses how informal arrangements that have developed between settlers and landowners might be regularised for the benefit of both.

**Case Study 6**, ‘The role of the Central Land Council in Aboriginal land dealings’, outlines how the Central Land Council in the Northern Territory of Australia is used by traditional landowners to conduct land dealings. It analyses the reasons for the success of this intermediary body and discusses its relevance for a Pacific context.

**Case Study 7**, ‘Maori landownership and land management in New Zealand’, analyses the impact of Maori land registration in individualised parcels and recent efforts to revert to collective ownership through incorporations and trusts.

**Case Study 8**, ‘Absentee landowners in the Cook Islands: consequences of change to tradition’, outlines how inadvertent change to customary practice has resulted in the significant problems of fragmented landownership and absentee landowners. It analyses how such problems might be avoided in other contexts.



## DISPUTE RESOLUTION

**Case Study 9**, 'Mediating land conflict in East Timor', describes a mediation model for land conflict. Examples of how it has worked are provided and its possible applicability in other contexts is analysed.

**Case Study 10**, 'Resolving land disputes in Samoa', outlines how Samoa has built on the customary system for resolving land disputes by formally recognising the role of village councils and establishing the Land and Titles Court. It analyses the benefits and problems of the current system.

**Case Study 11**, 'Settling customary land disputes in Papua New Guinea', describes and analyses the efforts in 1973 to create a legislative basis for land dispute resolution that was significantly influenced by Melanesian custom and its subsequent failure to operate effectively due largely to inadequate resources.

## LAND FOR PUBLIC PURPOSES

**Case Study 12**, 'Acquiring land for public purposes in Papua New Guinea and Vanuatu', describes experiences of accessing land for public use. The analysis focuses on the problems that have arisen and the most potentially useful ways of dealing with them.

**Case Study 13**, 'Accessing land for public purposes in Samoa', outlines the procedures used in Samoa to acquire land for public use. It emphasises the importance of adequately consulting landowners and of disseminating information.

## LAND POLICY REFORM AND ADMINISTRATION

**Case Study 14,** 'The paths to land policy reform in Papua New Guinea and Vanuatu', describes recent processes to launch land policy reform in these two countries. It emphasises the importance of a well-planned and structured process of policy development based on extensive community consultation and participation.

**Case Study 15,** 'Strengthening land administration in Solomon Islands', describes an Australian-funded project and analyses its strengths and weaknesses. It emphasises the importance of such a project having local 'ownership' and a flexible design and flexible activities.

**Case Study 16,** 'Training and educating land professionals: the value of institutional partnerships', draws on experience with an Australian-funded project in Laos that built capacity to train land administration professionals. The experience is analysed and conclusions are drawn for meeting training needs in the Pacific region.