

**NZAID**

**VANUATU**

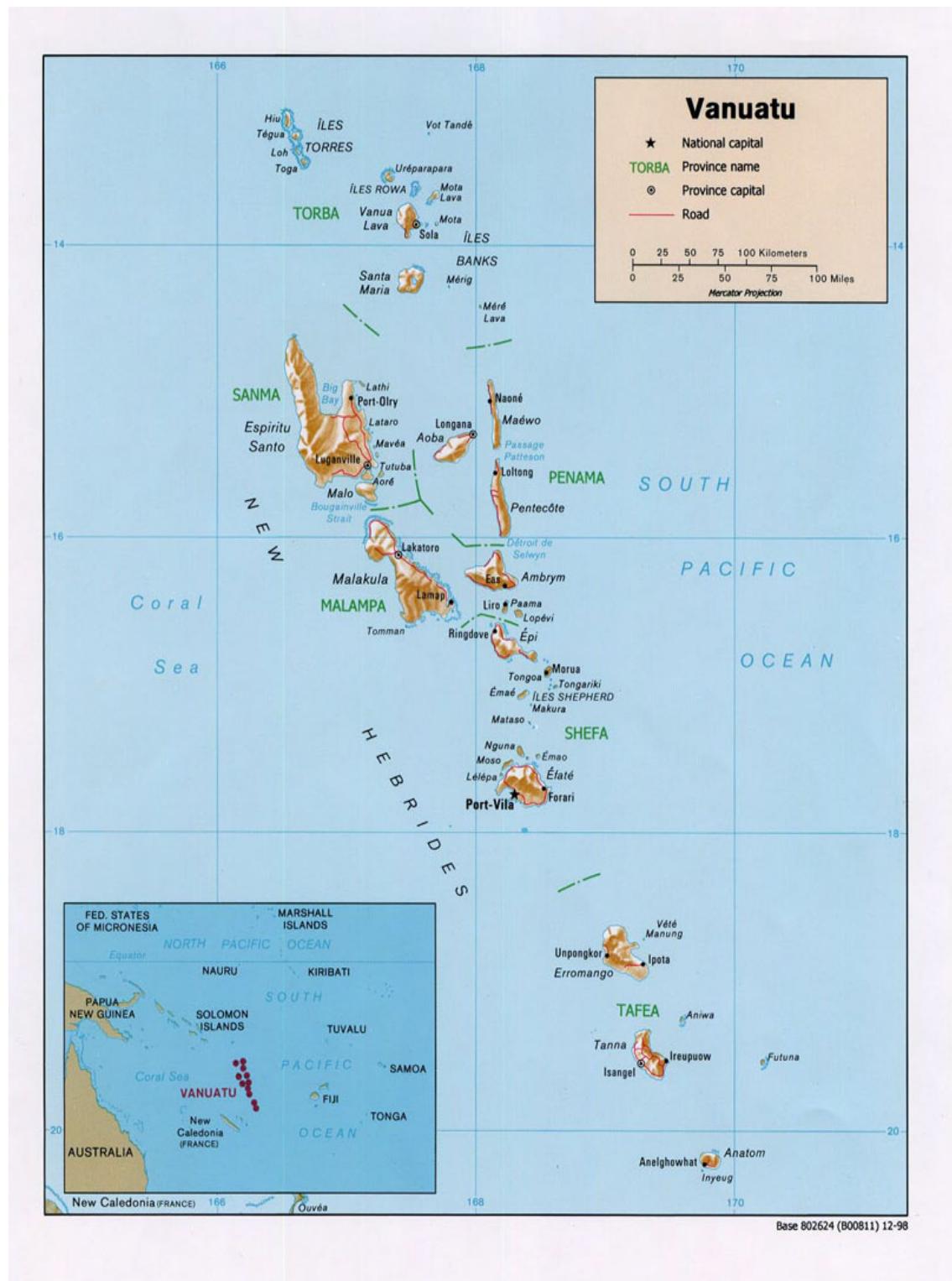
**Strengthening the Customary Land Tribunal and  
the Department of Lands' Land Information  
Management**

**ACTIVITY DESIGN DOCUMENT**

**February 2009**

**This version revised for harmonisation purposes from October 2008  
ADD**

## MAP OF VANUATU



## CONTENTS

Abbreviations.....	iii
Executive Summary .....	iv
<b>1. ACTIVITY CONTEXT .....</b>	<b>1</b>
1.1. Development Context.....	1
1.2. Institutional, Policy and Program Context .....	2
1.2.1. The 2007 National Land Summit .....	2
1.2.2. The Steering Committee.....	3
1.2.3. Policy Development and Legislation.....	3
1.2.4. Government of Vanuatu Land Sector Program.....	3
1.3. Program Context.....	4
1.4. Description of Problematic Situation .....	5
1.5. Stakeholder Analysis.....	7
1.6. Strategy Analysis .....	9
1.6.1. Institutional and Technical Analysis.....	9
1.6.2. Poverty Analysis .....	10
1.6.3. Gender Analysis .....	11
1.6.4. Other Cross-Cutting Issues .....	13
1.7. Lessons Learnt.....	14
1.8. Selection of Strategies .....	15
<b>2. ACTIVITY DESCRIPTION .....</b>	<b>16</b>
2.1. Goal .....	16
2.2. Activity Objectives .....	16
2.3. Program Components and Outputs.....	17
2.4. Component 1: Customary Land Tribunal .....	17
2.4.1. Sub-Component 1.2 - Mediation support services.....	18
2.4.2. Sub-Component 1.3 - Public awareness and training.....	19
2.4.3. Sub-Component 1.4 - Capacity Development of Customary Land Unit.....	20
2.5. Component 2: Land Information Management.....	21
2.5.1. Sub-Component 2.1 – It Strategy .....	21

2.5.2. Sub-Component 2.2 – Land Survey Records .....	21
2.5.3. Sub-Component 2.3 – Mapping and Imagery .....	22
2.5.4. Sub-Component 2.4 – Valuation Services .....	23
2.5.5. Cleansing of Data .....	23
2.5.6. Mapping of Community Boundaries.....	23
2.6. Indicative Timing and Work-Plan.....	24
2.7. Resources and Costs.....	24
2.8. Implementing Responsibilities.....	25
<b>3. MANAGEMENT AND MONITORING STRATEGIES.....</b>	<b>26</b>
3.1. Management Arrangements.....	26
3.2. Monitoring and Reporting .....	27
3.3. Risk Management .....	27
<b>4. FEASIBILITY AND SUSTAINABILITY .....</b>	<b>28</b>
4.1. Project Feasibility .....	28
4.2. Sustainability .....	29

## ANNEXES

- Annex 1: Logical Framework Matrix
- Annex 2: Indicative work-plan
- Annex 3: Cost Summary, TA Inputs and Resources
- Annex 4: Risk Management Matrix
- Annex 5: Adviser Terms of Reference
- Annex 6: Design Report on Public Awareness and Communication
- Annex 7: Design Report on the Customary Land Tribunal
- Annex 8: Design Report on Strengthening Land Information Management
- Annex 9: TOR for Design Mission
- Annex 10: Interviews and Consultations
- Annex 11: References

## ABBREVIATIONS

ADF	Australian Defence Forces
AusAID	Australian Agency for International Development
CARMA	Community Area Resources Management Activity
CLT	Customary Land Tribunal
CLTA	Customary Land Tribunal Act 2001
CLTU	Customary Land Tribunal Unit
CLU	Customary Land Unit
COM	Council of Ministers
CRP	Comprehensive Reform Program
DCDB	Digital Cadastral Data Base
DG	Director General
DIGO	Defence Imagery and Geospatial Organisation
DoL	Department of Lands
DOLSR	Department of Lands, Surveys and Records
FLIS	Fiji Land Information System
GIS	Geographic Information System
GoV	Government of Vanuatu
ICT	Information Communications Technology
IT	Information Technology
ITC	Information Technology Centre (in DOLSR)
LIMS	Land Information Management System
LIS	Land Information System
LT	Land Tribunal
LTTA	Long Term Technical Adviser
LUPO	Land Use Planning Office
MIS	Management Information System
MoF	Ministry of Finance
MoJSW	Ministry of Justice and Social Welfare
MoL	Ministry of Lands
MOU	Memorandum of Understanding
MSC	Managing Services Contractor
NCW	National Council of Women (Vanuatu National Council of Women)
NZAID	New Zealand Agency for International Development
OVG	Office of the Valuer General
STTA	Short Term Technical Adviser
TA	Technical Assistance
ToR	Terms of Reference
UPI	Unique Parcel Identifier
USP	University of South Pacific
VANRIS	Vanuatu Resource Information System
VNCW	Vanuatu National Council of Women

## **Executive Summary**

### **Activity Origin and Design Process**

In May 2007 NZAID responded to a request from the Government of Vanuatu (GoV) and the Department of Lands (DoL) for short-term technical assistance to develop two Government Investment Programs (GIP) proposals. The two proposals submitted for funding consideration were: (1) Customary Land Tribunal (CLT) Management project and (2) Lands records Management Systems and Information Technology Centre (ITC). The GIP proposals met the GoV requirements but needed refinement to meet NZAID funding requirements.

The broad strategies of support for the CLT and the ITC were reviewed. There was strong evidence that the general concept of the CLT and its approach is well accepted. However it was clear that there are concerns that the tribunal process removes the focus from custom and that there are some areas of the process that need to be reviewed. The strategy of supporting the CLT was clearly justified.

The previous review had proposed that strengthening of the CLU be supported initially through NZAID funding the vacant positions within CLU. The current status of government funding and the limited support for the filling of positions indicate that this is not a sustainable approach and that the possibility of the government funding the positions following the withdrawal of NZAID funding was very unlikely. The proposed strategy is to work on building capacity amongst the existing staff and to provide support during the peak periods of project activities through the contracting of people with specific expertise, such as mediation, public awareness and training.

Following an initial review it was decided the proposal to support the strengthening of the Information Technology Centre as proposed could not be justified. The concept of an ITC is questionable and in fact would not be recommended in the form initially proposed. The critical issue with the establishment of an ITC is that responsibility for data would be taken away from the agency responsible for its creation and maintenance, resulting in loss of ownership by the key agencies. It was agreed by NZAID and the GoV that it would be more beneficial to change the focus to supporting the development of Land Information Management (LIM) within DoL. This is a more strategic and sustainable short to medium term approach.

For the land information management and the support of IT within the DoL, the strategy is to focus on improving existing systems and integration of systems to provide better analysis and reporting mechanisms. It also focuses on building capacity and ultimately, a level of sustainability using the existing staff within the various sections of DoL that have or would be able to support some IT initiatives. Given the limited resources, capacity building will be gradual and managed so as to ensure staff are able to accommodate the various levels of training and software implementation.

### **Challenges and Key Policy Issues**

The proposed support to be provided by NZAID for the Customary Land Tribunal and Land Information Management in the DoL fits within the draft Vanuatu Land Sector Framework through “Ensuring access and tenure security for all groups” and “Improving the delivery of land services”. Past activities have placed NZAID in a good position to support the two projects. The Land Sector Framework has evolved partly as a response to donor interest resulting from the 2006 Land Summit as well as the limited ability of the government, private sector and civil society to support a high level of increased development and support activities. The increased level of interest in supporting land sector activities in Vanuatu poses a key challenge to NZAID project and any other land related initiatives.

Concurrent to the NZAID design mission an AusAID design team were also in country developing a land sector program design following on from a Concept Design – Land for Progress and Equity that had been prepared in July 2008. This provided the opportunity to “harmonise” proposed development activity. The AusAID design is based around 3 objectives;

- (i) Improved customary governance of land;
- (ii) Improved participation mechanisms that facilitate local governance of land; and
- (iii) Improved participatory mechanisms that facilitate external dealings in customary land

The NZAID design complements the proposed AusAID program and activities have been prepared in a way that ensures minimal overlap, duplication or a drain on access to the minimal resources.

### **Activity Description**

**Program Goal:** The program goal is “Poverty reduced through sustainable development of customary lands and supporting land information systems”. This goal reflects one of the areas of the NZAID Vanuatu Development Strategy outcomes which is the “reduction in actual and potential conflict associated with disputes over land ownership and user rights”. The program goal also reflects the support for private sector development and employment contained in the Government of Vanuatu “Priorities and Action Agenda 2006-2015” which has a policy objective of facilitating long-term secure access to land.

**Project Objectives:** The first activity objective “A strengthened Customary Lands Tribunal consistent with the GoV's national plans” will ensure that effective mechanisms are in place in Vanuatu to resolve land disputes through appropriate means and that there is a continuing emphasis on dispute resolution through the customary processes. A strengthened and improved tribunal process will ensure that there is emphasis on mediation as an important legislative first step to dispute resolution and should this process fail then the tribunal process will be streamlined to ensure that decisions are made as quickly as possible and that there is certainty in the decision making process.

The second objective “A Land Information Management system that meets current and future needs and supports economic development” will ensure that the GoV through the DoL is in a position to provide land information that can be used by government and the

private sector as means of improving development activities. The land information systems will support operations within the DoL and ensure that suitable data is available for decision making and record keeping, including the recording of information on land disputes and dispute resolution.

**Outputs:** The support for the strengthening of the Customary Land Tribunal and Land Information Management within DoL will work towards achieving the goals and objectives through 2 components.

Component 1; Customary Land Tribunal, is aimed at supporting the development and strengthening of the Customary Land Tribunal through strengthening of public awareness and the training of tribunal members. It is also proposed that there be increased emphasis on mediation as a means of preserving the customary approach to dispute resolution and ultimately reducing the number of land disputes that have to be referred to a CLT. The capacity of the CLU will be strengthened to ensure it is able to provide adequate support to the CLTs and the support activities.

The outputs under this component are:

Sub-Component 1.1 - Mediation support services

Sub-Component 1.2 - Public awareness and training

Sub-Component 1.3 - Capacity Development of Customary Land Unit

Component 2: Land Information Management aims to support the development and strengthening of land information management activities in the DoL, through supporting and enhancing current land information management systems and developing new systems that will complement and enhance land administration activities in DoL.

The outputs under this component are:

Sub-Component 2.1 - IT strategy

Sub-Component 2.2 - Land survey records

Sub-Component 2.3 - Mapping and imagery

Sub-Component 2.4 - Valuation services

## Risks

There are a number of risks that will need to be managed and strategies have been developed within the design to avoid or mitigate against the various risks. The most significant risk is the government approach to filling and funding positions within the DoL and the Ministry of Justice and Social Welfare (MoJSW). A decision has been made to build capacity utilising the existing resources both in the CLU and also the LIM areas of DoL. Where necessary contract positions will be funded through the project to assist with the delivery of project funded initiatives during the start up and peak project inputs.

A strategy for supporting the Customary Land Tribunal activities has been developed that will make use of existing resources in the provinces in preference to relying on staffing positions from within the CLU. There are existing structures within government at provincial level and also key personnel such as Area Council secretaries who are well positioned to support CLT activities. It is also proposed that use be made of the

provincial “Local Kastom Land Officers” that is being proposed under the AusAID land sector program.

A risk facing the CLT activities is the lack of awareness and limited capacity to undertake tribunal activities. To overcome these risks an extensive public awareness program and training programs have been developed. This will ensure that capacity is built within Area Councils to provide ongoing support for the CLT and that people are well informed of the actions to be undertaken in relation to land disputes. Indications are that women are not well represented on tribunals either as members or participants in hearings and an affirmative action program is proposed to address this deficiency.

A further risk facing tribunal activities is the perception that tribunals are taking the decision-making away from customary practices. It is proposed that there be a compulsory mediation process implemented prior to a case being submitted to a tribunal. Also, that the number of rights of appeal be reduced to ensure that tribunal hearings are not too far removed from the customary areas, which can be the case under the current legislation.

The risk in DoL with the ongoing development of land information management systems is that this requires staff capacity to adapt and implement the different software solutions and technical procedures. Staff in the key areas of DoL have a solid grounding in land information systems and the focus will be on providing extensive training and support in the software solutions. This will ensure that capacity is developed and that there will be sustainability of systems necessary to support the ongoing development of land administration activities in DoL.

### **Costs and TA Inputs**

The estimated total cost for supporting the CLT and LIM activities in the DoL is **NZ\$ 4,130, 550** (see the cost summary in Annex 3). Of this amount NZ\$ 1,890,490 is proposed to support CLT activities. This is composed of NZ\$ 1,333,140 for adviser fees (international and national) and NZ\$ 557,350 for funding of resource activities such as procurement items, public awareness and training. For the LIM activities NZ\$ 2,240,060 is proposed to support LIM activities in the DoL. This is composed of NZ\$ 2,021,160 for adviser fees (international and national) and NZ\$ 218,900 for funding of resource activities such as procurement items, public awareness and training. The above amounts are allocated over a period of 3 years.

The technical assistance support proposed is for 70 person months of international input and 122 person months of national input.

### **Partner Inputs**

The GoV will provide inputs to both project components through making staff resources available for project activities and for training. The GoV contribution of staff resource time has not been costed however the inputs to the LIM activities such as the creation of the DCDB and other databases will be significant and is estimated at 3 person years of input. GoV will be responsible for the provision of office facilities for the advisers and associated project activities. The project will also require access to resources in other areas of government, including the Vanuatu National Council of Women, the Malvatumaiai Council of Chiefs, the Area Council secretaries and the Vanuatu Cultural

Centre. Although funding will be provided for many of the activities undertaken, these organisations will be required to provide project support, especially in the provinces.

### **Justification for NZAID Support**

The NZAID, Vanuatu Development Programme Strategy 2006 – 2010 specifically identifies under “Objective Two: Governance” that NZAID will focus on contributing to an outcome of “Reduction in actual and potential conflict associated with disputes over land ownership and user rights”.

New Zealand has over many years supported the development and implementation of dispute resolution processes with the development of community based tribunals through:

- Supporting the drafting of the *Customary Land Tribunals Act 2001*;
- Assisting awareness training workshops with rural communities (May 2002);
- Supporting awareness training workshops with Malvatumauri on the Act;
- Funding a joint GoV and NZAID governance scoping study “A Conference on the Management and use of Customary Land Challenges and Issues” in 2002;
- An identification of chiefs exercise in 2003;
- A review of the *Customary Land Tribunals Act 2001* in 2005;
- Funding of the tri nations study tour in Nov 2006; and
- Funding the review of and amendment to the Customary Land Tribunal Act planned for early 2009.

This project continues and builds on the support provided previously in the development of the Customary Land Tribunal and has the opportunity to refine the tribunal process and continue support for public awareness campaigns and tribunal training.

The support for Land Information Management enables ongoing capacity building within another sector of DoL. This sector will have a major impact on the future development of land administration activities in DoL. The Land Information Management systems will become the “building blocks” for all future computer based initiatives in DoL. It is important that these systems are developed at an early stage of the land reform process which will take place in the DoL over coming years.

## 1. ACTIVITY CONTEXT

### 1.1. Development Context

Vanuatu is located in the South Pacific on the New Hebrides Islands. The total land area of Vanuatu is 12,200 square kilometres and the country comprises more than 80 mostly mountainous, volcanic islands with narrow coastal plains but only about 65 of the islands are inhabited. Some 80% of the total population of about 220,000 live in the rural areas, mainly along the coast and engage in subsistence agriculture. Divided administratively into six Provinces, the country is highly homogeneous, with 98 percent of its population indigenous ni-Vanuatu. The population is growing very rapidly at 2.7% per annum, with the urban areas growing at an even faster rate of 4.2% per annum. Adult literacy ranges from 66 percent to 74 percent.

Vanuatu is one of the most culturally diverse nations in the Pacific, with approximately 113 languages and associated cultures spread throughout the archipelago. The diversity of linguistic and cultural heritage, combined with the island geography, lends itself to unique and different practices, even between neighbouring villages. Beliefs and cultures differ. People from island to island inherit different ways of doing things that is common to all, but they still see and interpret things differently. This diversity presents challenges for implementation of activities such as communication and public awareness programmes.

Land to the people of Vanuatu is not something that is owned and that can be dispensed of whenever it is no longer needed. It is something that is part of a ni-Vanuatu's whole being, it is an inalienable part of them and in most cultures it is referred to as the '*mother*' or the '*father*'. Land in Vanuatu is sacred and for this reason people find it difficult to part with it, as it is their whole being and custom. It is where one expects food, shelter, generous support and family.

Custom in Vanuatu is the whole way of life of a people that has developed over thousands of years and is the mixture of social structures, values, and practices perceived as traditional in Vanuatu. It dictates what each island and cultural area has to do and it provides a way of interpreting life in different situations and contexts. It is a way of doing things that reflects the people's past, present and the distant future.

Custom in relation to land has traditionally been flexible and capable of adaptation and has served the needs of subsistence societies for many centuries. "Land to the Ni-Vanuatu is everything they have, it embodies their link to their past, their present and their future. It contains everything they do in life, that is, their daily interactions and their beliefs. ... it is for this reason that ni-Vanuatu see land as sacred and a part of themselves, ... Not only is it sacred, but it totally contradicts the imported notion of 'ownership' of land. Land is for the people and it is in custody for future generations"<sup>1</sup>.

The majority of ni-Vanuatu are disadvantaged when it comes to negotiating agreements in relation to the external use of their land, as custom and tradition are not well

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<sup>1</sup> Simo, J., (2005) *Report of the National Review of the Customary Land Tribunal Program in Vanuatu*; Vanuatu Cultural Centre

positioned to adapt to the external land development pressures. It is therefore of the utmost importance that the ni-Vanuatu receives support in ensuring that their land and the associated custom are provided with due protection and that they are appropriately supported and represented when responding to external development pressures.

Disputes are often driven by development. Development may take the form of population pressures, people wanting to use customary land for income generating projects, or people wanting to sell the use of land to investors. All of these things alter demand for land and also change what land means and how land can be used. In the process land conflicts are created. In many cases local customary mechanisms are able to effectively deal with such disputes. However the dispute resolution system that has been dealing with custom land issues for centuries is encountering difficulties in coping with some of the disputes that are evolving principally in relation to activities associated with the development of custom land by external developers.

## **1.2. Institutional, Policy and Program Context**

### **1.2.1. The 2006 National Land Summit**

In July 2005, the Vanuatu National Self-Reliance Summit recommended the holding of a National Land Summit to discuss land issues in relation to national self-reliance. Vanuatu's first National Land Summit was held from 25-29 September 2006 in Port Vila, with the theme of "Sustainable Land Management and Fair Dealings to Ensure Progress with Equity and Stability". Organised by the Ministry of Lands and the Vanuatu Cultural Centre, a series of six Provincial land summits were held in the months leading up to the National Summit to broadly consult about the definition of customary ownership, fair dealings and the role of Government. The goal of the National Land Summit was to agree on resolutions on which to form the basis of a new land policy for the next five to ten years.

The Vanuatu National Land Summit was a highly successful exercise in participatory decision-making, on the most important and sensitive of all subjects - land. The Land Summit provided direction and commitment from various stakeholders to addressing key issues such as customary land ownership, lease agreements, physical planning and decentralisation.

The Summit concluded with twenty resolutions, categorised under the headings of; land ownership; fair dealings; certificate to negotiate; power of the Minister over disputed land; strata title; Agents/Middle men or women; lease rental and premium; sustainable development; conditions of lease; public access; enforcement; zoning; and awareness.

The twenty resolutions of the National Land Summit have been included in a document "Interim Transitional Strategy and Future Plans to Implement the Resolutions of the National Land Summit 2006" that has been prepared following the summit and endorsed by the Council of Ministers. As well as the twenty resolutions, the document:

- imposed a temporary moratorium on subdivisions, surrendering of existing agricultural leases and the power of the Minister when land is in dispute;
- introduced temporary administrative measures; and
- set out a long-term development plan.

### **1.2.2. The Steering Committee**

To maintain the momentum generated by the National Land Summit and to assist in progressing discussion and actions in relation to land issues, the government has formed a Steering Committee. The role of the Steering Committee is to provide oversight and to monitor and manage the process of advancing activities against the resolutions, for ultimate presentation to the Government. The committee has a broad membership including government representatives, the Malvatumauri (National Council of Chiefs), the Vanuatu Cultural Centre, women's groups, youth groups and private sector representation.

### **1.2.3. Policy Development and Legislation**

The Constitution adopted at independence had been hastily prepared, but its provisions on land in Chapter 12 reflect the central issue in the struggle for independence. Articles 73 to 81 ensure that land belongs to the “indigenous custom owners”, that custom is protected and that alienated land is returned to custom owners.

Policy development on land has been weak over the years since independence. There has been no clear statement of a new land policy since independence, while the basic policy commitments made at that time have been undermined in important respects. Perhaps the main underlying reasons for this loss of direction were –

- the ambiguity surrounding the legal powers and responsibilities of the custom owners of land; and
- uncertainty over the Government's role in relation to land dealings.

In a country where, by the Constitution, the full land ownership of the custom owners was entrenched, and dealings in land are carried out directly between custom owners and outsiders, failure to address this ambiguity and uncertainty made custom owners very vulnerable to exploitation. Fortunately the Land Summit resolutions go a long way in clarifying these basic matters. However there is a need for action by the Government of Vanuatu (GoV) to ensure that land issues are given a high priority and are addressed.

In the absence of policy clarification of the above basic matters, it follows that the land legislation is deficient in important respects. Many new land laws have been passed by the Parliament since independence, but much of the current legislation was designed to handle the conversion of pre-independence titles to the new post-independence regime, yet it remains the basic legal framework for the country's land system to the present day. The *Customary Land Tribunal Act 2001* (CLTA) was an important first step forward in clarifying customary land disputes but is still not operational across the whole country.

### **1.2.4. Government of Vanuatu Land Sector Program**

The GoV has drafted a Land Sector Framework to assist with guiding the long-term development of the land sector in the country. The Land Sector Framework has evolved partly as a response to donor interest resulting from the 2006 Land Summit as well as the limited ability of the government, private sector and civil society to support any high level of increased development and support activities.

### 1.3. Program Context

The NZAID, Vanuatu Development Programme Strategy 2006 – 2010, specifically identifies under “Objective Two: Governance” that NZAID will focus on contributing to an outcome of “Reduction in actual and potential conflict associated with disputes over land ownership and user rights”.

New Zealand has, over many years, supported the development and implementation of dispute resolution processes with the development of community based tribunals through:

- Supporting the drafting of the *Customary Land Tribunals Act 2001*;
- Assisting awareness training workshops with rural communities (May 2002);
- Supporting awareness training workshops with Malvatumauri on the Act;
- Funding a joint GoV and NZAID governance scoping study “A Conference on the Management and use of Customary Land Challenges and Issues” in 2002;
- An identification of chiefs exercise in 2003;
- A review of the *Customary Land Tribunals Act 2001* in 2005;
- Funding of the tri nations study tour in Nov 2006; and
- Funding the review of and amendment to the Customary Land Tribunal Act planned for early 2009.

In the Joint scoping study of GoV/NZAID Nov 2002 support for the land tribunal system was identified as a valuable way of contributing to the development of a robust system for resolving land disputes that helps ensure community representation and helps clear the current backlog of cases. The study identified an overall need to support the use of locally-owned custom-based governance structures that can mesh with formal legislative processes in a constructive way.

The issues identified in that study included, increased likelihood of disputes over commercial developments, the need for a uniform planning system, the problems of using land as security for credit, rural v urban procedures for land developers and associated problems within the leasehold system around security, renewal and compensation. This long involvement has confirmed the value of NZAID’s continuing assistance in implementing Customary Land Tribunals legislation, governance, and encouraging dialogue and policy development on land issues through the land seminar and other financial support. This collaborative work with GoV has built up a sound experience and knowledge base regarding customary land in Vanuatu.

In May 2007 NZAID responded to a request from the GoV and the Department of Lands (DoL) for short-term technical assistance to develop two Government Investment Programs (GIP) proposals. The two proposals submitted for funding consideration were: (1) Customary Land Tribunal Management project and (2) Lands records

Management Systems and Information Technology Centre (ITC)<sup>2</sup>. The GIP proposals met the GoV requirements but needed refinement to meet NZAID funding requirements.

The proposed support to be provided by NZAID for the Customary Land Tribunal and information technology in the DoL fits within the draft Vanuatu Land Sector Framework through “Ensuring access and tenure security for all groups” and “Improving the delivery of land services”. Past activities have placed NZAID in a good position to support the two components of the project now under consideration.

Concurrent to the NZAID design mission an AusAID design team was also in-country developing a land sector program design following on from a Concept Design – Land for Progress and Equity that had been prepared in July 2008. This provided the opportunity to “harmonise” proposed development activity. The AusAID design is based around 3 objectives;

- (iv) Improved customary governance of land;
- (v) Improved participation mechanisms that facilitate local governance of land; and
- (vi) Improved participatory mechanisms that facilitate external dealings in customary land.

The NZAID design complements the proposed AusAID program and activities have been prepared in a way that ensures minimal overlap or duplication.

Other NZAID and AusAID initiatives that also support the customary land tribunal and information technology activities include the NZAID support for de-centralisation and the AusAID support for the Malvatumauri.

#### **1.4. Description of Problematic Situation**

Although some significant progress has been made in Vanuatu land administration since independence, there are major difficulties and challenges. The ownership and rights of custom owners are based on oral tradition and they vary significantly from custom area to custom area. They are not organised to enable satisfactory interaction with potential and eventual lessees and developers. The *Customary Land Tribunal Act 2001* was an important first step forward in clarifying customary land disputes, however it is still not operational across the whole country and the overall understanding of the legislation and its purpose is weak.

Most custom owners and occupiers are not knowledgeable about the *Customary Land Tribunals Act 2001* or other relevant land law and regulations relating to land. Through the ambiguity of custom ownership and a lack of clear understanding of their rights, there can be a propensity for individuals to commit group owned land to leases and development without full reference and recompense to all the custom interests. The form of leasing is crude and does not provide a system capable of distributing to custom owners an equitable share of the land value or its increase in value through

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<sup>2</sup> During the assignment it became clear that support for an Information Technology Centre was a long term goal, but also an approach that may not be realistic. NZAID approval was provided to change this activity to “Strengthen the Vanuatu Department of Lands of Records Management Systems and Land Information Systems”.

development. Consequently there are a growing number of disputes over land and associated rights that are increasing dissatisfaction and fuelling latent discontent and potential conflict.

There is an urgent need to provide the capability for custom owners to both preserve the custom of their land dealings and to benefit from the development they consider appropriate. An essential first step is to resolve disputes over land, clarify custom ownership rights and provide ready access to land information.

Land administration activities, responsibilities and disputes are placing an increasing demand on government for access to reliable and comprehensive land information. Government departments hold a wide range of geographic and land-related information but there is presently no strategic planning and coordination of data collection and management activities that are needed to ensure that the best use can be made of all the valuable data that exists within government.

Key policy issues identified in the recent examination of land administration in Vanuatu include; (i) the resolution of customary land disputes; (ii) raising public awareness of customary land legislation and land use rights; and (iii) enabling access to a wide range of customary land information across the whole of Vanuatu. The early resolution of these key priority issues will go a long way towards developing a long term and sustainable customary land tenure framework.

Currently DoL is finding it difficult to adequately resource established functions and to date it has been unable to cope with the backlog of custom land disputes and to maintain or extend the operation of the CLT into the Provinces. The situation is critical as development pressures continue to place increased pressure on custom land.

DoL is also facing major budget constraints with reports that it has debts of around VT 21 million (NZ\$328,000) owed on building rental and services. The department generates significant revenue for the GoV (see comments under Section 1.6.1) but it would appear that insufficient funds are available to manage its operations. Insufficient funding of operations clearly highlights an area of risk that needs to be managed. The AusAID funded activities will focus on services with DoL and coordination with their activities will be critical in mitigating the risks associated with financial issues.

The Ministry of Finance (MoF) are presently developing an IT Strategy as part of their vision for e-Government. The vision includes the construction and development of eight Microwave transmission sites and three VSAT sites to provide coverage to six provinces. Fibre optic cable network is envisaged within Port Vila, Luganville and other provincial centres. A central Data Centre is intended to be provided within MoF to centralise computer activity and provide “Gateways” between ministries to the Internet.<sup>3</sup>

The DoL's Information Technology Centre Policy paper and Business Plan for the ITC, GIS and remote sensing provide guidelines for development of IT strategies within DoL. Existing visions, goals and objectives need to be reviewed to provide a holistic strategic direction or a “roadmap” to guide the development, service and supply and knowledge of and access to land and geospatial assets owned and maintained within the

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<sup>3</sup> Executive Summary – Vanuatu e-Government Project 2007

Department of Lands. It is important that DoL's land information management requirements drive their IT strategy and that this links in with the overall government IT strategy.

### **1.5. Stakeholder Analysis**

The Customary Land Tribunal activities are presently administered by the Customary Land Unit (CLU) within the Department of Lands, with the Senior Customary Lands Officer reporting to the Principal Planning and Valuation Officer. The CLU was originally named the Customary Land Tribunal Unit (CLTU) when it was created following the passing of the *Customary Land Tribunal Act 2001*. Following a NZAID review of the Act in 2005 it was proposed that the unit should focus on customary disputes as well as supporting the Act and the name was changed to the Customary Land Unit.

There is presently a proposal to move the CLU under the Ministry of Justice and Social Welfare (MoJSW) which is the ministry in which the Malvatumauri is also located. This would appear to be a good proposal and it is understood that both the DoL and MoJSW are in agreement with the transfer and that the move is now dependent upon some administrative arrangements being clarified. Of concern is that the MoJSW is a newly created Ministry with a diverse collection of departments and entities. The support and ownership of the CLU by the DG of MoJSW is critical to the success of the implementation of the CLT activities.

Although details were not obtained from the MoJSW, following discussions with the Public Service Commissioner there is nothing to suggest that the staff and human resources issues within the MoJSW are any different to those being faced by the DoL. This therefore emphasises the importance of a strong focus on capacity building in both the CLU and LIM areas if any satisfactory level of sustainability is to be achieved. There is also a need for a program to be developed that focuses on the existing resources within agencies as there is little to indicate that the provision of external short-term funding of positions will result in those positions ultimately being funded by the GoV after donor support is removed.

The current situation in the GoV in relation to filling vacant organisational positions and funding of positions means that a pragmatic approach must be taken in relation to organisational arrangements and this could not be more relevant than for the CLU. It must be accepted that although the organisation structure for the unit has been approved there is little likelihood in the immediate to medium-term of the unfilled positions being filled. For this reason it is important that future activities of the CLU be planned around existing resources and also that use is made of existing or proposed staffing structures within other areas of government.

Indications are that of the 68 designated positions within the DoL functional areas, some 23 vacancies exist, that is 33% of designated positions are vacant. These have not been filled due to lack of GoV appropriation of finance for human resourcing. The Director General considers that the required level of appropriation could be achieved if good cases were presented.

The Human Resources Section of DoL have identified the need to improve performance and accountability issues throughout the department with a wide range of initiatives

including developing a stronger culture within DoL, developing and issuing performance-based personnel descriptions and training at all levels. While they have skilled trainers, conducting training courses is hampered through lack of finance.

There are a number of external stakeholders who have a strong vested interest in the successful implementation of project activities and who are in a position to play a key role in the project. However, each of these stakeholders has specific strengths and weakness that will impact on their abilities to support various project activities. These stakeholders include:

- **Malvatumauri:** The Malvatumauri are an integral component of ensuring the overall success of the Customary Land Tribunal Act and it is therefore important that they receive appropriate support necessary to undertake their support role. In reviewing the activities of the Malvatumauri it was realised that at present they have limited capacity. AusAID is providing funding to support the capacity building and development of the Malvatumauri and to strengthen and extend contributions from custom and community leadership to change and development. Given this support and the limited absorptive capacity it was considered that there would be no advantage to be gained in NZAID also adding support to the Malvatumauri. It will however be necessary to ensure that the support that is provided to the Malvatumauri enhances the activities required under the *Customary Land Tribunal Act 2001*.
- **Vanuatu National Council of Women:** Vanuatu National Council of Women (VNCW) is the national umbrella for women councils all over Vanuatu. The main focus is governance issues, particularly Women's Rights. Their structure outside of the main provincial centres is not strong and limited capacity will restrict the ability of the VNCW to support project activities.
- **Department of Women's Affairs** Promotes issues relating to women and ensures appropriate policies are implemented. Prioritises training for people in the provinces, gender sensitisation training for Members of Parliament and the development of a policy to address violence against women.
- **Vanuatu Cultural Centre:** Has prepared a review of the Customary Land Tribunal Program and shown a strong commitment to the effective administration of custom and custom land. Its survey of the initial public awareness programme has provided a useful assessment of the early CLT promotional activity. They have a strong interest in reviewing the effectiveness of the operation of the CLT and are a subsidiary stakeholder in the project for strengthening the CLT.
- **Vanuatu Association of NGOs (VANGO):** Exists to enable the extended family of NGOs to effectively promote and advance the interests and well-being of Vanuatu people. More specifically, VANGO is a network of NGOs, existing to facilitate communication and provide a common voice in Vanuatu aimed at improving the well-being of the communities NGOs serve. VANGO therefore has strong links into the NGO network in Vanuatu and may be able to provide support in some areas of activity.

- **Wan SmolBag Theatre:** Have the expertise and resources to produce community theatre as part of public awareness and community education. This organisation is highly regarded for the quality of work that it produces.

In relation to the operation of CLT the stakeholders, the customary land owners, had strong views on the current operations of the tribunals. It was difficult to determine from the available data as to whether there is equal access for all to the tribunal. However there are a several factors that would indicate that access is not available to all stakeholders. There were a number of cases reported where the administration costs were high and well above that detailed in the legislation. In at least one case one of the parties was unable to continue their claim as a result of the increasing costs. It was also reported that some claims lapsed as a result of claimants being unable to find funds to cover the basic administration fees. A number of stakeholders also report on the time that is taken for tribunals to be established and to hear a dispute. In some cases disputes have been appealed against several years ago to a higher tribunal such as an island tribunal and the tribunal has yet to convene.

There was almost unanimous agreement amongst all people interviewed that a mediation process would be beneficial to stakeholders and those who have disputes. It was believed that a mediation process would help preserve customary processes, would be cheaper, faster and enable more input from concerned parties.

## 1.6. Strategy Analysis

### 1.6.1. Institutional and Technical Analysis

The Government of Vanuatu's strategic priorities have been to build on previous reform efforts which centred on a Comprehensive Reform Program (CRP) initiated in 1997 with the assistance of a US\$20 million Program Loan from the ADB. The CRP was aimed to enhance and sustain private sector led economic growth with its benefits distributed equitably within Vanuatu.

Despite the substantial reforms and restructuring that have occurred since 1997 Vanuatu has not been able to realise its full development potential. *"There have been many reasons for this relatively poor performance. Chief amongst these has been that generally poor standards of governance remain at all levels of the public service, despite the improvements that have been made since the CRP. Weak institutions and poor standards of governance have been widely recognised within Vanuatu as critical factors in constraining development"*<sup>4</sup>.

The key agency responsible for the administration of land activities in Vanuatu is the Department of Lands, Survey and Records (DOLSR) under the Ministry of Lands. The Ministry in the Corporate Plan 2006-2008 details its Vision, Mission and Values and summarises the strategic issues and the role and responsibility of each of the 5 strategic areas of responsibility under its control.

The Vision Statement is:

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<sup>4</sup> Priorities and Action Agenda 2006-2015, 'An Educated, Healthy and Wealthy Vanuatu', Ministry of Finance and Economic Management, Government of Vanuatu, June 2006, p 3

*Our vision is to establish an appropriate framework to promote the sustainable development of the nation's natural resources for the social, environmental and economic well-being of the people of Vanuatu.*<sup>5</sup>

The strategic issues identified in the Corporate Plan that relate specifically to the land administration functions are:

- Solving land disputes and promoting effective dealings in the land sector to facilitate economic and social development;
- Improvement in current rating and taxing systems to encourage compliance, equity and transparency.

The Department of Lands, Survey and Records has overall national responsibility and control in both urban and rural areas for planning, management and implementation of land tenure and land use policies and legislation under the various land laws and regulations of Vanuatu on behalf of the Government.

The MoL has significantly increased revenue generation over the past 4 years with overall revenue increasing by more than 400%. Total revenue for the MoL for the financial year 2007 was VT 882,752,627 (NZ\$ 13.8 m).

Over a number of years there have been limited funds within the annual budget for the filling of any vacant positions. Discussions with treasury officials indicate that there is little likelihood that funds will be available in the foreseeable future for filling of vacant positions. However the significant increase in revenue generation over the past few years would indicate that there may be an opportunity to present a case to government for the filling of a number of key positions, especially given that treasury estimates that approximately 40% of potential annual revenue to the value of VT 160m (NZ\$ 2.5m) goes uncollected. The backlog of title and dealings registrations within the registry section is estimated to be worth some VT 500m (NZ\$ 7.5m). This should also provide motivation to provide efficiencies in operations and fill vacancies.

The reduced staff numbers in the department means that it is not possible for all services to be delivered effectively and therefore different approaches need to be adopted to enable effective services to be delivered. This applies to both the Customary Land Tribunal and Land Information Management which are areas of support being looked at under this design activity. Combined with optimising capacity is the need for improving performance and accountability amongst staff within the public sector in general and DoL in particular. These institutional building aspects form a significant component of the proposed AusAID initiatives and hence complement the proposed NZAID initiatives.

### **1.6.2. Poverty Analysis**

In an ADB discussion paper<sup>6</sup> it was reported that since most communities still have land and food, absolute poverty, in the sense of starvation and destitution does not exist in

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<sup>5</sup> Ministry of Lands, Geology and Mines 2007 Portfolio Budget Submission (note that it is not referred to as the Ministry of Lands and Natural Resources)

<sup>6</sup> ADB; (2002); *Vanuatu – Discussion Paper; Consultative Workshops for Poverty Reduction Strategies in Selected PDMCs; 21 October 2002; page 12*

Vanuatu. However the main cause of poverty “defined as a state of ‘having nothing’ (*no gat samting*), ‘being hopeless’, and ‘struggling for survival’ ” is as a result of lack of land and to provide for food. Clearly land is seen as a key ingredient in the maintenance of well being and as an integral component of the retention of custom.

In a press release on 6 June 2006 the NZ Foreign Minister, the Hon. Winston Peters said that “Vanuatu faces some serious challenges. Migration to the cities has brought associated problems of crime, squatter settlements and unemployment, while poverty levels are also on the increase.”<sup>7</sup>

Vanuatu is the fourth poorest Pacific developing member country with ADB’s *Hardship and Poverty in the Pacific*<sup>17</sup> reporting that 40% of the whole population and 51% of the rural population lived below the \$1 per day poverty line in 1998, although these data do not adequately reflect the importance of the subsistence economy and relatively high level of food security. There are wide income disparities between urban, and rural and outer island areas. This is largely a result of low agricultural productivity and poor infrastructure facilities and basic services in rural and outer island areas. Most development efforts have been concentrated in the two principal urban centers of Port Vila and Luganville.

Pressures on land and the marine environment of Vanuatu have become visible in recent years as communities increasingly move from subsistence to reliance on cash incomes. Land resources are now being depleted by large-scale projects, such as logging, urban development and uncontrolled land subdivision. There are issues in relation to whether people of low socio-economic status or the often disadvantaged groups such as women and the elderly have equal access to interventions that are available.

Indications are that in the dispute resolution process through the CLT participation is limited and there is the opportunity for socially disadvantaged people to be excluded or sidelined during the tribunal process. The introduction of a well managed mediation process provides the opportunity for every person to have access to the dispute resolution process and to be heard.

### **1.6.3. Gender Analysis**

The Constitution of Vanuatu in Article 5(1) clearly incorporates non-discrimination on the grounds of sex and provides for affirmative actions under the provisions on fundamental rights and responsibilities in 5(1)(k). Its commitment to including and advancing women has been part of the development plans since independence.

Current social, economic and political indicators highlight the disadvantaged position of women in all areas. Women are disadvantaged socially, economically, and politically, especially rural women. This is despite being responsible for harvesting and marketing most crops. In 1995 the Vanuatu Government ratified the Convention on the Elimination of all forms of Discrimination Against Women and included a National Plan of Action for Women in its Development Plan. Vanuatu's CRP includes a range of important and ambitious policy objectives aimed at improving social equity and

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<sup>7</sup> NZ Foreign Minister Winston Peters; 6 June 2006; [www.beehive.govt.nz/node/26033](http://www.beehive.govt.nz/node/26033)

sustainability. Because of existing inequalities, special emphasis has been given under the CRP to assessing, from the design stage, the distribution of positive and negative gender impacts of reform.

There have been several reports prepared on the position of women in relation to land in Vanuatu and the position women play in relation to land. Although the Constitution incorporates non-discrimination, it is argued that Article 74 of the Constitution, which states that “the rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu”, means that many land cases may have typically ignored Article 5 in preference to custom, which means that women’s rights may have not been considered.<sup>8</sup>

The Customary Land Tribunal Act does not specify women’s land rights under custom law or the rights of women to have equal opportunity in participating as adjudicators in the Tribunal. Although women are not specifically excluded in the process, the lack of an affirmative statement in the legislation means that women and their role in the tribunal process are more than likely overlooked and in fact it is rare for male chief’s to appoint women as adjudicators. This creates the potential for discriminatory practices to be reinforced in the tribunal process.

The CLU statistics show that on Efate there are two women who have been appointed to undertake secretarial responsibilities and on Malakula Island two women have been appointed to the list of tribunal members. Other than these figures the CLU does not have any reliable statistics on women’s participation in tribunal activities. However it would be reasonable to state that women’s involvement is significantly less than the actual role that they play in the overall management and use of land.

There clearly needs to be an affirmative action program implemented that will ensure an increase in the number of women involved in CLT activities. This will assist in ensuring that women have an increased involvement in the general well being of their families and community generally. It is believed that an increased emphasis on mediation will assist greatly in ensuring that women have a more active role in dispute resolution processes and specifically in those disputes that directly impact on them and their family’s well being.

In a previous NZAID funded review of the Customary Land Tribunal Act<sup>9</sup> the implications of women’s involvement in the adjudication process was reviewed. It was noted that there was a very low level of involvement by women in the tribunal process. Some of this was attributed to custom, where women are excluded from participating in the land ownership decision-making process. However even in villages where this was the case, there appeared to be no impediment to women participating in the tribunals as secretaries, other than the women themselves. In villages where the chiefs had said that they were encouraging women to put themselves forward as tribunal secretaries, there had been very low uptake.

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<sup>8</sup> Naupa, A., and Simo, J.; (2007) *Matrilineal Land Tenure in Vanuatu “Hu I Kakae long basket?” Case Studies of Raga and South Efate*; p 20

<sup>9</sup> Mavromatis, G., Prof Paterson, D., Kanawi, J., Simo, J., and Vuti, A; (February 2005); *Implementation of the Customary Land Tribunal Act No 7, 2001*; NZAID

There are a number of gender affirmative action activities that can be supported and encouraged with the aim of increasing women's awareness of and involvement in the Customary Land Tribunal activities, including:

- National Land Steering Committee to promote the benefits of including women in decision-making as part of the public awareness and education programs;
- The project support to the involvement of the Vanuatu National Council of Women in project awareness and gender training programs;
- Malvatumauri to implement its National Land Summit recommendation for research into gender roles relating to land;
- Malvatumauri to lead a campaign for all chiefs to actively support women's participation in land matters and to promote women's traditional leadership roles;
- Customary Land Tribunals awareness and implementation activities to promote women's participation and link into women's traditional leadership roles.

With respect to women in the work force, within DoL the organisation chart and list of personnel indicate over 40% of established positions are filled by women and women occupy two senior managerial positions. Inspection of the Human Resource Management annual report for 2007 contains no reference to incidences of discriminatory practices within the organisation.

#### **1.6.4. Other Cross-Cutting Issues**

The proposed strategies also contribute to prevention or mitigating NZAID cross-cutting issues of conflict prevention and environmental protection. With respect to conflict prevention, issues and disputes pertaining to customary land usage and rights and insecurity of land tenure are recognised as major contributors to social and political unrest and instability. It also recognised that there is a significant marginalization of women in areas of social and economic development, governance and human rights at community and national levels. The marginalization appears to have been accompanied by an increase in social problems that directly impact on women as well as their reduced involvement in land issues.

Initiatives proposed under this programme to strengthen the CLT and LIM will assist in strengthening the understanding of customary land rights and improve land tenure security. A key input to the strengthening of the CLT activities is increased public awareness with a focus on gender issues and ensuring women are engaged in issues relating to land and the CLT. These initiatives should lead to fewer disputes over land, assist in delivering benefits to customary land owners and land investors and hence making an important and significant contribution to conflict prevention.

With respect to environmental protection, initiatives proposed within the LIM assist in monitoring and managing environmental issues. The establishment of a Geodetic Database and evaluation and recommendations of the "fitness for purpose" of the present geodetic control network will assist in evaluating the effects of tectonic continental plate movements and global warming on Vanuatu in particular and on the whole Pacific region in general. Topographical mapping and satellite imagery as provided by the Australian Defence Forces (ADF) provides a benchmark from which

existing land uses can be monitored. Proper custodianship and management of these data will assist in monitoring and managing land use and the effects of change on the environment. This combined with the establishment of a spatial Digital Cadastral Database (DCDB) and integration of aspatial (textural or attribute) lease/titles and land use and planning data from the AusAID project will assist in better monitoring of planning and enforcement issues, such as foreshore protection, access to land and proper and effective land use and management.

## 1.7. Lessons Learnt

There have been a number of donor funded projects within the Ministry of Lands and these projects provide some valuable lessons when considering the implementation of new projects. There have also been a number of land administration projects in other countries where there are lessons that are applicable to the Vanuatu situation and the project activities.

**Human Resources:** Human resource capacity within government and specifically within the DoL and MoJSW will be key to the development of sustainable activities. Structures in DoL have been developed based on an ideal staffing requirement. With over 30% of positions remaining unfilled and a limited opportunity in the foreseeable future for these positions to be filled, the temporary filling of positions using donor funding in anticipation of the government eventually being in a position to fill the positions is a dangerous assumption. It is important that program support is built around existing staffing. This is very applicable for the CLU.

**Training:** The past support provided by NZAID for the development of the Customary Land Tribunal also provides a number of key lessons. Some of the misunderstanding in relation to the purpose and operation of the CLT emanates from insufficient support being provided for public awareness activities and training. Although some initial training was provided, it has been noted that the quality of training was questionable and that there was no follow up or reinforcement training. The introduction of new concepts, especially those that are foreign to customary procedures require focused training and may require a number of iterations. There may be significant benefit derived from involving other stakeholders in assisting with the delivery of public awareness such as NGOs, churches, Malvatumauri and educational institutions in preference to the CLU attempting to undertake the whole program using its own resources.

**Gender Training:** The initial training provided for the CLT did not have a specific gender focus. As a result women are very poorly represented as members of tribunals (4 out of 175 names nominated) and have limited understanding in relation to their rights at the tribunal and also in relation to land issues generally. A gender affirmative action program on a land administration project in Lao PDR resulted in an increase of 250% of women being the sole name recorded on a land title.<sup>10</sup> The initiative involves

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<sup>10</sup> In 1995 on 58% of land documents only a man's name appeared and 15% a women's name. Following the introduction of an ongoing affirmative action program which commenced in 1997 the figures in 2008 shown 22% of land documents in only a man's name and 38% a women's name (Lao Land Titling Project).

public awareness programs aimed specifically at women and women's only information meetings.

**Information Technology in the DoL:** The staff of the DoL have been able to demonstrate a good overall understanding of information technology and in fact have a number of LIM systems successfully operational with the department. However there is a clear indication that a more holistic and integrated approach needs to be taken with existing and proposed supporting systems. Further, as the use of information technology increases, sustainability becomes a problem with an increased number of different computer applications and where there has been limited training provided. For example within the Surveying and Mapping Section ArcGIS software has been provided by a donor for use in mapping applications. It remains largely unused due to training being conducted at a level that could not be understood by the participants. Ongoing use of the software was also made difficult due to the lack of data. The lesson that can be learnt from this exercise is to ensure that there is sufficient training at the required level and that data is available for use at the time of training. There is also a need for reinforcement training some time after the initial training is provided.

### **1.8. Selection of Strategies**

Because of the strong relationships and the focus of the earlier NZAID aid to DoL the GoV has requested assistance on the CLT and LIM strengthening projects. Both these projects relate to critical land administration requirements that need urgent action and they are identified as key components within the GoV Land Sector Framework.

There has been a previous review undertaken to analyse areas of support in the land sector to be provided by NZAID. The broad strategies of support for the CLT and the ITC were initially reviewed. There was strong evidence that the general concept of the CLT and its approach is well accepted. However it was clear that there are concerns that the tribunal process removes the focus away from custom and there are some areas of the process that need to be reviewed. The strategy of supporting the CLT was clearly justified.

The previous review had proposed that strengthening of the CLU be supported initially through NZAID funding the vacant positions within CLU. The current status of government funding and the limited support for the filling of positions indicate this is not a sustainable approach and that the possibility of the government funding the positions following the withdrawal of NZAID funds was very unlikely. The adopted strategy is to work on building capacity within the existing staff and providing support during the peak periods of project activities through the contracting of people with specific areas of expertise, such as mediation, public awareness and training.

However the proposal to support the strengthening of the Information Technology Centre could not be justified. The concept of an ITC is questionable and in fact would not be recommended in the form that was initially proposed. The critical issue with the establishment of an ITC is that responsibility for data would be taken away from the agency responsible for its creation and maintenance, resulting in loss of ownership by the key agencies. It was agreed by NZAID and the GoV that it would be more beneficial to change the focus to supporting and strengthening the development of Land Information Management (LIM) systems.

For the land information management and the support for IT within the DoL the strategy is to focus on improving existing systems and integration of systems to provide for better analysis and reporting mechanisms. It also focuses on building capacity and ultimately a level of sustainability using the existing staff within the various sections of DoL that has or would be able to support some IT initiatives. Given the limited resources, capacity building will be gradual and managed so as to ensure staff are able to accommodate the various levels of training and software implementation.

## **2. ACTIVITY DESCRIPTION**

### **2.1. Goal**

The program goal is “Poverty reduced through sustainable development of customary lands and supporting land information systems”. This goal reflects one of the areas of the NZAID Vanuatu Development Strategy outcomes which is the “reduction in actual and potential conflict associated with disputes over land ownership and user rights”. The program goal also reflects the support for private sector development and employment contained in the Government of Vanuatu “Priorities and Action Agenda 2006-2015”<sup>11</sup> which has a policy objective of facilitating long-term secure access to land.

Land disputes can result in land not being used productively in relation to agricultural activities or being removed from the opportunity to use the land for economic development. The impacts can be significant if there is a reliance on the land by families to survive or to sustain a living. Therefore addressing land disputes can be critical in ensuring the economic survival of families.

### **2.2. Activity Objectives**

The first activity objective “A strengthened Customary Lands Tribunal consistent with the GoV's national plans” will ensure that effective mechanisms are in place in Vanuatu to resolve land disputes through appropriate means and that there is a continuing emphasis on dispute resolution through the customary processes. A strengthened and improved tribunal process will ensure that there is emphasis on mediation as an important legislative first step to dispute resolution and should this process fail then the tribunal process will be streamlined to ensure that decisions are made as quickly as possible and that there is certainty in the decision-making process. This will ensure that land is available for use or economic development as quickly as possible.

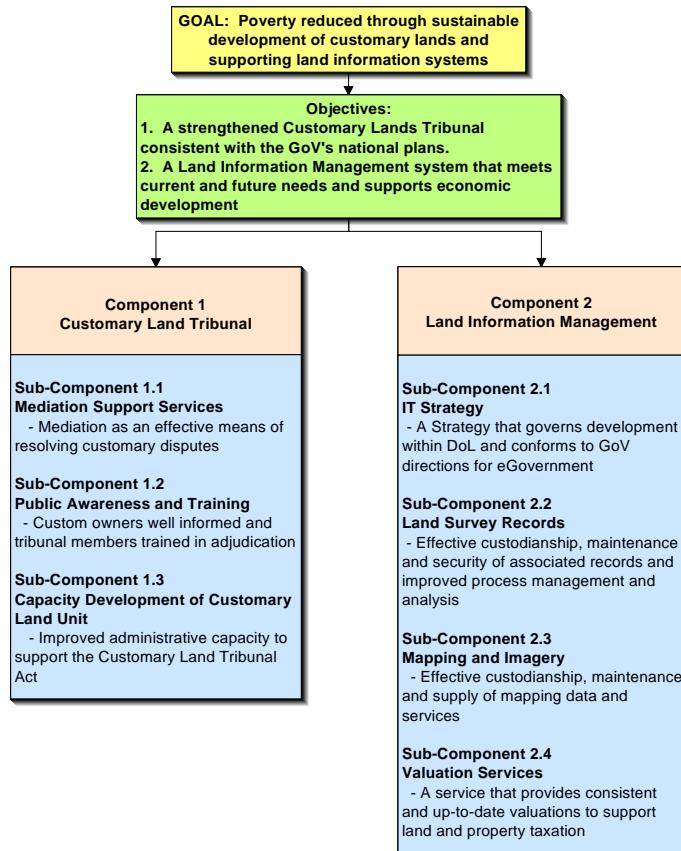
The second objective “A Land Information Management system that meets current and future needs and supports economic development” will ensure that the GoV through the DoL is in a position to provide land information that can be used by government and the private sector as means of improving development activities. The land information systems will support operations within the DoL and ensure that suitable data is available for decision-making and record keeping, including the recording of information on land disputes and dispute resolution.

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<sup>11</sup> Department of Economic and Sector Planning, Ministry of Finance and Economic Planning; (June 2006); *Priorities and Action Agenda 2006-2015 “An Educated, Healthy and Wealthy Vanuatu”*, Government of Vanuatu

## 2.3. Program Components and Outputs

The support for the strengthening of the Customary Land Tribunal and Land Information Management within DoL will work towards achieving the goals and objectives through 2 components (see Logical Frame Matrix in Annex 1). The project structure is shown in the following diagram.



## 2.4. Component 1: Customary Land Tribunal

Outputs for this component are:

Sub-Component 1.1 - Mediation support services

Sub-Component 1.2 - Public awareness and training

Sub-Component 1.3 - Capacity Development of Customary Land Unit

This component aims to support the development and strengthening of the Customary Land Tribunal through strengthening of public awareness and the training of tribunal members. It is also proposed that there be increased emphasis on mediation as a means of preserving the customary approach to dispute resolution and ultimately reducing the number of land disputes that have to be referred to a CLT. The capacity of the CLU will be strengthened to ensure it is able to provide adequate support to the CLTs and the support activities.

#### **2.4.1. Sub-Component 1.1 - Mediation support services**

The objective of this sub-component is to support an increased focus on mediation as a means of resolving land disputes. Section 6 of the CLTA does allude to recording decisions made prior to going to a tribunal, but does not specifically emphasise mediation or make mediation a requirement prior to being able to lodge a dispute before a tribunal.

There is very strong support for compulsory mediation to be introduced before any dispute can be put before a tribunal. A mediation process is seen as a means whereby land disputes can potentially be resolved through normal customary processes without having to resort to the CLT. Although it is recognised that custom does play a part in dispute resolution there is a general feeling that many disputes are taken out of the customary process too quickly and referred to a tribunal. The implementation of a compulsory mediation process will ensure that customary solutions are reinforced by legislation and that the CLT is an action of last resort. The implementation of mediation will require a concerted effort within the project to ensure that mediation is successful and is seen as a process that is preserving custom.

Given the support for this activity it is proposed that mediation activities be commenced early on in the project even though it is anticipated that this approach will not be strongly supported by legislation until some time well into the project. Support will be provided to ensure that a strong mediation process is developed. This will require initial research into current mediation activities in Vanuatu so as to ensure that there is no overlap and also to ascertain whether there is an opportunity to build on or utilise mediation programs that are being developed or in operation. It will be necessary to develop mediation training programs and it is then proposed that a group of people undertake a "training of trainer" program. Although the numbers of trainers required for the project will not be large it is proposed to provide training for up to 25 people so as to commence the creation of a pool of registered mediation trainers. These trainers would be selected from organisations such as the VNCW, NGOs, civil society and private sector.

Following the training of mediation trainers, the trainers will then provide mediation training to mediators in all provinces. It is proposed that the mediators be selected from regional organisational structures such as the church, teachers and other members of civil society with mediators to be selected based on Area Councils. It is recommended that Chiefs, although they play a key role in custom decision making, preferably not be involved in the role of a mediator. It is important that they are involved in the actual mediation decision making activities in preference to being a mediator. Not involving them as mediators is a recognition that should a dispute be referred to a tribunal the Chiefs may well be sitting in judgement on the tribunal.

Up to 25 training programs involving at least 200 participants from 62 Area Councils will be carried out during the project generally in the provincial capital. At least 3 representatives are expected from each Area Council, one of which will be a woman. The provincial workshops will be coordinated by the CLU with assistance from a Technical Assistant and change agents such as Wan SmolBag and other members of Civil Society. In a society where the literacy rate remains quite low, it is very important

that other methods of awareness raising are used. Wan SmolBag is well known for its advocacy work using drama. Priority areas and the numbers from each area will be determined based on the identified needs for mediators with the initial focus being in areas where there are high numbers of land disputes.

#### **2.4.2. Sub-Component 1.2 - Public awareness and training**

The objective of this sub-component is to ensure that the public are better informed in relation to the activities of the CLT and in relation to land issues generally and also to ensure that members of the tribunals are better educated and informed on their roles on the tribunal, the recording of decisions and the operations of the CLTA.

There are very strong indications that previous public awareness training and training programs have not been as effective as they could have been, with too much focus on volume in preference to quality. While there have been attempts by the Ministry of Lands to create national awareness of the Customary Lands Tribunal since the *Customary Land Tribunal Act 2001* was enacted, many users have expressed discontent in relation to the lack of understanding of the concept and its application in trying to solve land dispute cases. It is therefore proposed that there be significant support for public awareness activities and training. Without it the problems currently being encountered with the implementation of the CLTs will continue.

The CLU does not have sufficient resources to support the volume of training required and it is proposed that suitably trained and qualified staff be contracted to the CLU to support public awareness and training activities. It is also proposed that support for these activities be sourced from suitable NGOs and civil society and also the VNCW in supporting specific gender awareness initiatives.

A range of activities are proposed to support public awareness campaigns and training. These include the production of booklets, training DVDs, use of the communication network, workshops, and the use of the print media and radio. A number of these media will be used to support the actual campaigns and training that will be undertaken in the field.

The public awareness campaigns will be wide spread and focus initially in those areas where there is the most demand for mediation and tribunals, generally where there are the most land disputes. Over time the campaigns will spread throughout the whole country. It is proposed that as wide a cross section of people be exposed to the public awareness as possible.

The training on the CLTA and the operations of tribunals will focus on those people who have been nominated as tribunal members either in the capacity of tribunal members or secretaries. It is also proposed to provide training to other key personnel such as Area Council Secretaries, Provincial Councillors, Cultural Centre Field Workers and Education Zone Curriculum Advisors so as to ensure that there is a wide understanding amongst key people on the operations of the Act.

Figures indicate that there is little involvement of women in land disputes activities and in participating in tribunal activities. It is proposed that there be an affirmative action program that will ensure that women are made aware of their rights in relation to land matters and also their participation in mediation and on tribunals and active involvement

in tribunal matters and hearings. All training programs will also ensure that there is appropriate awareness training in relation to gender equity and women's rights.

One of the criticisms of the previous public awareness activities and training was that it was seen as a "once off" exercise. There were no follow-up campaigns, resulting in a gradual loss of knowledge and information on the tribunals. This is especially the case where tribunals have not been previously required or may only be used intermittently. Allowance has therefore been made for follow up and reinforcement programs.

#### **2.4.3. Sub-Component 1.3 - Capacity Development of Customary Land Unit**

The objective of this sub-component is to support the development of the capacity of the CLU to support the administration of the tribunal, public awareness, training and mediation activities under the current and proposed future Act. The capacity of the CLU is presently very weak with only one full time officer and two contract staff. With indications that this situation is unlikely to change in the near future the support and capacity building for the CLU has been based around this scenario and it is not proposed to fill positions using donor funds in anticipation that the government will eventually fund them. Emphasis is on building the capacity of the existing staff and during the periods of peak activity to utilise specialist contract personnel to support public awareness, training and mediation training activities.

The building of capacity within the CLU and ensuring that its activities are focused on supporting the Act are critical if the administration of the Act is to be successful. Of recent times the CLU has become involved in land dispute issues, which is clearly not a role of the CLU and there is a need for the unit to refocus its efforts. Support will be provided to enable the CLU to develop appropriate management skills, implement sound administrative procedures, develop and implement M&E activities and receive appropriate training in the presentation, delivery and supporting of training.

A key strategy in ensuring that the CLU is able to maintain effective and efficient support for the CLTA with limited resources is to support the unit in developing a network of support facilities in the provinces. There are a number of options that can be explored. The first option is to make use of the Area Council secretaries. The government has broken each of the provinces into smaller administrative areas called Area Councils (similar to local government areas) and there are 62 of these areas. Each Area Council has a secretary who is employed under the Ministry of Internal Affairs and provides general services to their Area Council. One possibility to be explored is to provide training to these secretaries with the aim of them being in a position to provide general advice on the CLTs and to issue and collect documents for returning to the CLU.

A further option that can be explored is to link into the AusAID funded land sector program for Vanuatu which through its support is proposing to establish provincial "Focal Point Officials" who with appropriate training will be in a position to provide general support and advice on a broad range of land matters. It would therefore be possible to provide these officials with training on the CLTA and for them to undertake an administrative role on behalf of the CLU.

## **2.5. Component 2: Land Information Management**

Outputs for this component are:

- Sub-Component 2.1 - IT strategy
- Sub-Component 2.2 - Land survey records
- Sub-Component 2.3 - Mapping and imagery
- Sub-Component 2.4 - Valuation services

This component aims to support the development and strengthening of land information activities in the DoL through supporting and enhancing current land information management systems and developing new systems that will complement and enhance land administration activities in DoL.

To support the ongoing development of the Land Information System in DoL it is proposed that consideration be given to a twinning arrangement between DoL and an appropriate organisation. This would assist with ensuring that DoL has access to a resource for ongoing support of a technical nature after the completion of TA support.

### **2.5.1. Sub-Component 2.1 – It Strategy**

The objective of this sub-component is to develop an IT strategy within DoL that conforms to GoV directions for e-Government. The component aims at developing a strategy to be used as a “roadmap” to guide the development of services and supply within DoL in general and the custodianship of and access to land and geospatial assets owned and maintained within DoL in particular.

It will provide guidelines for the purchase of hardware and software that is “fit –for-purpose” and provide standards for metadata and data exchange formats. It will address such issues as internal access to and distribution of data and user security and back-up policies. It will also provide standards and guidelines for delivery or distribution by external customers via Internet web-based applications and security provisions needed to protect the integrity of core assets.

The IT strategy will be developed so that it is in sympathy with the Land Sector Framework and supports the ongoing development of the land sector activities in Vanuatu.

### **2.5.2. Sub-Component 2.2 – Land Survey Records**

This sub-component aims to provide more effective management, custodianship and security of core land survey records. It addresses issues within the following areas of activity where the SWOT analysis identified that deficiencies exist in present operations.

**Survey Management and Practices** – The management of survey plans from receipt/lodgement through to title registration will be addressed holistically and improvements made to provide for better management, document tracking and analysis and reporting of this important activity. Existing governing acts and regulations controlling the survey process will be reviewed along with existing survey practices. Through extensive consultation and discussion, changes will be recommended to provide for improved survey practices, regulation and optimal governance to achieve

outcomes and objectives in line with what the survey system is endeavouring to achieve in Vanuatu.

**Cadastral Record Maps** – will be converted into digital format, a Digital Cadastral DataBase (DCDB) to provide a spatial framework for integration with and analysis of data held in textual databases. The development of such a database is essential to supporting a computerised lease/registrar and supporting valuation and land use and planning activity as well as those of the CLT. This database will also become one of the key data sets and establish the framework for future development of GIS applications in Vanuatu, especially in relation to physical planning activities and in supporting the management of services such as water, electricity and communications.

**Survey Plans** – security of these records needs to be improved. No provision is made for protection from fire, vandalism or natural disaster. Repercussions from the total loss of survey plans and title records from the 1931 Napier earthquake are still occurring in New Zealand to this day. Component activity will address the issue of security by scanning of records and back-up of these digital data as part of normal computer system security measures. Scanning will also provide for improved access to survey plan internally within DoL and to the wider user community. This will provide for vastly improved process efficiencies within DoL and greatly improve customer service and reduce the time involved in servicing customers. Through remote access to data, users will be provided with the huge benefit of having access to and searching data from their office. This will also provide a modest revenue stream to DoL through customers paying for access to data and data downloaded.

**Geodetic Database** – this activity will provide for the encoding of survey control points into a geodetic database. A review of the existing geodetic and vertical datum network will also be undertaken to ascertain its fit-for-purpose state in terms of DoL's requirement for survey control and the GoV's commitment to monitoring continental plate movement and sea level rise through global warming.

The possibility for further education and training by means of short term training awards or attachments within this area has also been identified, along with the possibility of formal tertiary qualification by means of scholarships.

### **2.5.3. Sub-Component 2.3 – Mapping and Imagery**

This sub-component is directed at providing efficient custodianship, maintenance and supply of mapping data and services. It addresses issues relating to the use and maintenance of mapping and imagery data supplied by the Australian Defence Forces (ADF). These issues relate to protection of data by Copyright, provision of data under licence agreements and setting a “fair price” for the provision of data and services.

Of prime importance under this component, is building the understanding and capability of DoL staff to be able to manage, maintain and supply mapping and imagery data for internal use within DoL and to its wide external user base. The component focuses on providing specific training in the use of application software and ongoing “on-the-job” training and mentoring throughout the first year of the project, by which time there should be sufficient transfer of knowledge for DoL ongoing sustainability in software operation. However, further follow-up activity will be provided through subsequent

years and extension of knowledge and understanding through attendance at courses and conferences.

This component recognises the need for greater awareness on behalf of DoL cartographic staff of issues pertaining to the custody of geospatial data and the manipulation of data for supply to customers. As such, a short study tour to LINZ and three private geospatial product and service supply firms in Wellington is provided to discuss issues and view operations. The possibility for further education and training by means of short-term training awards or attachments within this area has also been identified, along with the possibility of formal tertiary qualification by means of scholarships.

#### **2.5.4. Sub-Component 2.4 – Valuation Services**

This sub-component seeks to provide for an effective service and consistent up-to-date valuations to support land and property taxation.

Activity provides for a review of the present valuation roll and instigates changes for access to or integration of “sales records” as recorded in the Land Register and for systematic adjustment in terms of increases in land value. This requires close consultation and coordination with Land Registrar design requirements of the AusAID sponsored project.

The sub-component also recognises the need to provide for consistency in valuation assessment and as such standards and procedures will be discussed and implemented so as to provide for more uniform valuations.

The sub-component recognises the need for greater awareness on behalf of DoL valuers of issues pertaining to valuation practices and as such provides for a short study tour to LINZ and two private valuation firms in Wellington to discuss issues and view operations. The possibility for further education and training by means of short term training awards or attachments within this area has also been identified, along with the possibility of formal tertiary qualification by means of scholarships.

#### **2.5.5. Cleansing of Data**

Little cleansing of existing data is required under the component activity above. Most information systems are “stand-alone.” The exception being the DCDB and Valuation Roll. With respect to the DCDB, once the Lease>Title database has been completed it will need checking against the DCDB to ensure all records have a spatial parcel definition, or that spatially defined parcels have a corresponding Lease>Title record. If not, respective databases will need to be examined and corrected. With respect to the Valuation Roll, it is dependent on updating from changes to the Lease>Title records. Therefore no cleansing is required as such, but mechanisms in place to update Valuation Roll records from daily updating of the Lease/Titles database.

#### **2.5.6. Mapping of Community Boundaries**

Consideration was given to mapping of community boundaries. However this raised a number of issues with respect to what level of mapping was required, that is community, customary or tribal boundaries and the issues, complexity and value of each. At this point in time, the mapping of Community boundaries has been shelved until the need

and value becomes clearer. If considered desirable, identification of boundaries could be undertaken as part of other community awareness activities, boundaries shown on existing topographical maps and spatially depicted by the Mapping section at little additional cost.

## **2.6. Indicative Timing and Work-Plan**

The GoV has indicated that support for the CLT and the Land Information Management systems in the DoL are high priority activities and support the Vanuatu Land Sector Framework. The work plan has been developed to ensure that a number of key support activities commence as soon as possible but at the same time it recognises the limited capacity within the CLU and also the DoL to support development initiatives. A work plan is included as Annex 2.

Within the work plan there is also recognition that there are other donors providing support in the land sector space such as AusAID and the UNDP and their programs will place added pressure on the limited resources. Coordination activities with the AusAID design has ensured that the NZAID program of support and that to be provided by AusAID are complementary and have minimal impact on access to resource requirements.

The initial focus on support for the CLTA will be to commence activities that will support a redrafting of the legislation. There will also be initial preparation activities for public awareness and training. Support for mediation activities will commence about 6 months after project commencement so that the feedback received from the legislative review process can be fed into the design of the mediation activities. Support for the capacity building and strengthening of the CLU will commence immediately to ensure it is well placed to support project activities as they commence.

The DoL has a good foundation from which to commence support for the Land Information Management systems however there is no clear direction or strategy within the department for the development of its LIM. Initial activities will focus on assisting the DoL in developing a LIM strategy which will support future IT initiatives and also the Land Sector Framework. Early support will also focus on providing training in the various GIS software applications in the department. This will ensure that staff are in a position to make maximum use of the resources that are available.

The AusAID program support has identified the creation of a Digital Cadastral Data Base (DCDB) as being a priority activity for supporting the registry activities and this activity has therefore been assigned a high priority and activities for the creation of the DCDB will need to start on commencement of the project. Any delays in the commencement of the NZAID project beyond the commencement of the AusAID project could have ramifications in relation to this activity.

## **2.7. Resources and Costs**

Resources for supporting the project recognise the limited capacity and resources within the CLU and DoL. Much of the TA proposed is aimed at building capacity through the provision of training and assisting with the development of policies and procedures. Some national TA is proposed to support the CLU with the preparation and delivery of

public awareness, training and mediation programs. Some national TA has also been proposed to assist with data capture activities associated with the creation of the DCDB.

It is not proposed to support the funding of any full-time positions within the organisations as there are clear indications that it will be difficult to obtain ongoing government funding for these positions once the project funding ceases.

The estimated total cost for supporting the CLT and LIM activities in the DoL is **NZ\$ 4,130,550** (see the cost summary in Annex 3). Of this amount NZ\$ 1,890,490 is proposed to support CLT activities. This is composed of NZ\$ 1,333,140 for adviser fees (international and national) and NZ\$ 557,350 for funding of resource activities such as procurement items, public awareness and training. For the LIM activities NZ\$ 2,240,060 is proposed to support LIM activities in the DoL. This is composed of NZ\$ 2,021,160 for adviser fees (international and national) and NZ\$ 218,900 for funding of resource activities such as procurement items, public awareness and training. The above amounts are allocated over a period of 3 years.

The technical assistance support proposed is for 70 person months of international input and 122 person months of national input.

The project will not cover any of the costs associated with the actual day-to-day operations of CLTs such as sitting fees and administration costs. These costs are presently built into the legislation and there is an expectation that they be met by those who are parties to the tribunal.

The GoV will provide inputs to both project components through making staff resources available for project activities and for training. The GoV contribution of staff resource time has not been costed however the inputs to the LIM activities such as the creation of the DCDB and other databases will be significant and is estimated at 3 person years of input. GoV will be responsible for the provision of office facilities for the advisers and associated project activities. The project will also require access to resources in other areas of government, including the Vanuatu Council of Women, the Malvatumauri Council of Chiefs, the Area Council secretaries and the Vanuatu Cultural Centre. Although funding will be provided for many of the activities that will be undertaken, these organisations will be required to provide project support especially in the provinces.

## **2.8. Implementing Responsibilities**

NZAID will be responsible for providing funding and technical assistance resources necessary to ensure that the project is successfully implemented. Given the nature of the support that is required it will be important that consultants occupying some of the key positions have experience in Vanuatu and in some cases it will be necessary that the consultant is able to speak Bislama.

The implementing agency within the GoV for both the CLTA and CLU and the LIM activities is the DoL. However there is a proposal to move the CLU to the Ministry of Justice and indications are that this move could be imminent. The GoV will have responsibility for ensuring that there are sufficient staff in both the CLU and in the LIM areas of the DoL to support the activities proposed under the project and that funding is available to support the staff. The GoV will also have responsibility for ensuring that

consultants have appropriate office facilities, including desks, chairs and access to phone and internet facilities and also ensure that staff with appropriate skills are available to work with the international consultants and that the staff are prepared to receive training and support capacity building programs that will be implemented through the project.

There will also be a reliance on a number of external organisations supporting the project, such as the Department of Women, provincial officials and civil society including VNCW, Wan Smolbag and other selected NGOs.

### **3. MANAGEMENT AND MONITORING STRATEGIES**

#### **3.1. Management Arrangements**

Given the high level of donor activity already underway or proposed to the Ministry of Lands, donor harmonisation is essential to ensure coordination of activities. The successful implementation of donor projects requires access to the limited capacity and resources available within the Ministry of Lands, highlighting the importance of coordination. To support the harmonisation of potential donors the GoV has prepared a draft Land Sector Framework.

The GoV has proposed that a Vanuatu Land Governance Committee be established with the responsibility of implementing the Land Sector Framework. The Vanuatu Land Governance Committee will establish a working group, the Vanuatu Land Program Coordinating Committee which will provide the policy, strategic direction, donor coordination and implementation oversight of the broader land program and will also undertake an oversight of the implementation and evaluation of donor projects such as this project being proposed by NZAID and the proposed AusAID land support program. It is strongly recommended that in preference to NZAID establishing its own management structure within government that NZAID seek to have a seat on the Vanuatu Land Program Coordinating Committee. This approach has been endorsed by the GoV.

To encourage project ownership it is proposed that the Managing Service Contractor (MSC) report to both the DG of Lands and DG of MoJSW for the respective project components. The MSC will be responsible for providing regular reports to the respective DGs and also for meeting with the DGs to discuss the reports and any project implementation issues. The MSC will also provide a copy of all reports to NZAID. The arrangements for the Vanuatu Land Program Coordinating Committee have yet to be clarified but it would be expected that reports would also be submitted to this committee.

The number of technical resources proposed for the CLT and LIM project activities is relatively small and it is not proposed to have a large number in country at any one time. However, during the first year of the project, when the largest number of TA will be mobilised, the GIS Specialist will be in-country for the whole period and it is proposed that this person take on a TA coordination role and the responsibility for reporting and attending meetings.

The MSC will need to assign a person who will be responsible for overall project management, coordination of TA inputs and in ensuring that project objectives and outputs are met throughout the whole duration of the project.

### **3.2. Monitoring and Reporting**

Monitoring and Evaluation activities are critical in ensuring that project outcomes are being achieved and in ensuring that any project risks that may arise are addressed in a timely manner. A monitoring and evaluation framework will need to be developed by the Managing Services Contractor to ensure that the project is achieving its objectives and to ensure that the project risks are being identified and appropriately managed. The M&E framework that is developed will need to be developed in consultation with both DoL and MoJSW and signed off by NZAID.

Most of the international TA inputs are proposed to be short-term however there will be one position of GIS Specialist that has an extended input. It is proposed that the person occupying this position take on the role of reporting to DoL, MoJSW and the NZAID post during the assignment and also be responsible for providing a combined monthly report to counterpart agencies and NZAID on progress and raising any risks that have arisen that could impact on project implementation in both the areas of the CLT and LIM.

As well as M&E activities for project management the MSC will also have responsibility for ensuring that appropriate M&E systems are established within counterpart agencies so that GoV activities can be appropriately managed and reporting and review systems developed for strategic planning and annual reporting.

The Managing Contractor will be required to prepare within one month of commencement of the contract and in consultation with DoL and MoJSW, a project inception report that will update the work plan and set out the work program for the following 12 months. The project inception report will be provided to the GoV as well as NZAID. Two months prior to the commencement of each NZ Government fiscal year the Managing Contractor will be required to provide an annual plan for the following 12 month period.

It is proposed that prior to the completion of the three year project that there be a review of the implementation of the two project components and the sub-components. Following the review NZAID will make a decision on whether to continue ongoing support for a further period of up to two years.

### **3.3. Risk Management**

NZAID has continued to have an active involvement with the ongoing development and support of activities associated with the Customary Land Tribunal Act. During the course of this association NZAID has funded a number of project reports that have assessed progress and identified issues resulting from the implementation of land dispute resolution through the use of tribunals. The ongoing reviews and reports have enabled a realistic assessment of risk management for this component of the project as well as mediation and public awareness to be undertaken. The risks associated with the support of land information management are very much associated with the absorptive capacity of the DoL and the integration of computer-based systems into DoL operations.

Both proposed activities are integral to the Land Policy Framework document and DoL activities and have been planned and developed as priority departmental requirements. Both project components adequately satisfy the range of critical success factors identified in the NZAID strategy and the AusAID concept design document.

A Risk Management Matrix is attached at Annex 4. This summarises all the risks and their potential damage to the program; the likelihood, impact and overall rating of each risk; the strategies which have been incorporated into the design to address each risk; and responsibilities for implementing the strategies.

Risks to the achievement and sustainability of the program goal and outcome arise from the Government of Vanuatu failing to support the project initiatives. Major risks to the support for the CLTA activities include:

- Amended draft legislation will not reflect the wishes of the people and government;
- Failure to support traditional/customary views on land ownership in dispute resolution;
- Focus on a courts solution in preference to an emphasis on mediation;
- Public awareness programs poorly prepared and presented;
- Insufficient resources available for public awareness and training;
- Government does not support CLU with staff and funding.

The major risks to the support for LIM within DoL include:

- IT Strategy is developed but not complied with;
- Breaches of computer security systems;
- Improved survey plan management system not implemented;
- DCDB not created or maintained;
- Complexities of application software becoming an obstacle to performance;
- Loss of trained staff due to transfer, promotion or resignation.

## **4. FEASIBILITY AND SUSTAINABILITY**

### **4.1. Project Feasibility**

Both components of the proposed project are feasible. Previous support provided by NZAID in developing the CLTA and its implementation provide sufficient confidence to indicate that there is strong support for the project initiative. The project is also building on existing activities associated with the CLT and CLU which have been shown to be operating, although the overall effectiveness is questionable.

In relation to the support for the LIM activities, support is based around building on what is already a reasonable foundation of technical skills. Unlike the situation in many other developing countries, the DoL already has some IT capacity and a demonstrated ability to work with IT systems and GIS applications. Other than supporting the development

of a DCDB (which already exists in hard copy form) there are no other initiatives proposed that require the DoL to undertake tasks that are not already being implemented or developed in some form already.

#### **4.2. Sustainability**

Both the CLT and LIM proposals have resulted from a process of land administration review and development in Vanuatu that has occurred over the last decade. They represent a strong commitment by GoV to implement projects designed by them to resolve priority land administration issues. Both these projects are integral to the Government of Vanuatu's recently developed Land Sector Framework.

The development of the Land Sector Framework highlights the support that land sector activities have within government. Critical to the progress and implementation of initiatives outlined in the framework is support from a champion – a person who is prepared to proactively support new initiatives and to support the changes needed in the management of land sector activities in Vanuatu. The current Director-General of Lands is such a champion and is a “mover and shaker” in the land sector space. Should the Director General move on it is not clear whether there is another champion with the same will and determination to take over the role.

There is the will and capacity within the current resources in both the CLU and LIM areas to build activities which have appropriate capacity and are sustainable in the long term. People have the basic skills and are in a position, with appropriate and strategic support, to develop and ensure there are sustainable systems in place at the end of the project.

The adopted strategy in supporting the CLTA is to work on building capacity within the existing staff and providing support during the peak periods of project activities through the contracting of people with specific areas of expertise, such as mediation, public awareness and training. It is also proposed that use be made of existing networks in Vanuatu such as the Area Council secretaries to provide support and to be a source of information on the CLTA. From a sustainability perspective this approach was considered preferable to that of providing funding to fill vacant positions and then find that at the end of the project there are no government funds to retain the positions.

For the land information management and the support for IT within the DoL, the strategy for building sustainability is to focus on improving existing systems and integration of systems to provide for better analysis and reporting mechanisms. The strategy also focuses on building capacity and ultimately a level of sustainability using the existing staff within the various sections of DoL that have or would be able to support some IT initiatives. Given the limited resources, capacity building will be gradual and managed so as to ensure staff are able to accommodate the various levels of training and software implementation.

The key issue facing sustainability is the resourcing and funding by the GoV. The current status of government funding and the limited support for the filling of positions indicate that staffing of government positions remains problematic.

## Annex 1

# Logical Framework Matrix

## Logical Framework Matrix

	<b>Activity Description</b>	<b>Indicators</b>	<b>Sources of Verification</b>	<b>Risks</b>
<b>Goal</b>	Poverty reduced through sustainable development of customary lands and supporting land information systems	Poverty statistics	National Statistics Office	
<b>Objectives</b>	A strengthened Customary Lands Tribunal consistent with the GoV's national plans.	Customary Land Tribunal cases held	Customary Land Unit monitoring statistics	Government does not support custom and resource the CLU
	A Land Information Management system that meets current and future needs and supports economic development.	Land information supports DoL activities and is used by government and private sector	Details on use of land information data use in government and sales of data to private sector	Appropriate resources not provided by the government to support the development of LIM
<b>OUTPUTS</b>				
<b>COMPONENT 1 - CUSTOMARY LAND TRIBUNAL</b>				
	A functioning Customary Land Tribunal supported by efficient administrative procedures			
<b>Sub-Component 1.1 - Mediation Support Services</b>				
	Mediators trained and mediation is an effective means of resolving land disputes	Number of mediators, by gender, trained and the number of mediators, by gender, for each area council	CLU monitoring statistics	<ul style="list-style-type: none"> <li>(i) Focus on a courts solution in preference to an emphasis on mediation</li> <li>(ii) Mediators are not selected or are poorly trained</li> <li>(iii) Government does not provide sufficient resources</li> </ul>
		Number of villages assisted with mediation per year	CLU monitoring statistics	
		% of land disputes solved through mediation	CLU monitoring statistics	
		Number of land disputes that are referred to a CLT	CLU monitoring statistics	

	Activity Description	Indicators	Sources of Verification	Risks
				(iv) Insufficient focus on women as mediators
<b>Sub-Component 1.2 - Public awareness and training</b>				
	Custom owners well informed and tribunal members trained in adjudication procedures	Number of tribunal training programs conducted per year and number of participants by gender	CLU monitoring statistics	(i) Malvatumari does not support the training of the chiefs, secretaries and senior people in the communities.
		Number of public awareness programs conducted per year and number of participants by gender	CLU monitoring statistics	(ii) Public awareness programs poorly prepared and presented.
		Number of radio programs presented	CLU monitoring statistics	(iii) Training is poorly prepared and presented and is ineffective
		Number and types of printed material produced and distributed	CLU monitoring statistics Field survey data	(iv) Insufficient resources available for public awareness and training
		Number of awareness and training programs held specifically for women	CLU monitoring statistics	(v) Specific education and training programs are not held for women
<b>Sub-Component 1.3 – Capacity Development of Customary Land Unit</b>				
	Improved administrative capacity to support the Customary Land Tribunal Act	New administrative procedures and guidelines prepared	Quality assessment undertaken of procedures and guidelines	(i) CLU is not properly managed (ii) Government does not support CLU with staff and funding.
		Appropriate administrative recording procedures in	Quality assessment undertaken of the recording	

	<b>Activity Description</b>	<b>Indicators</b>	<b>Sources of Verification</b>	<b>Risks</b>
		place Annual plans and budgets prepared and CLU activities undertaken in accordance with the plan and budget CLU staff receive appropriate administrative training Monitoring and evaluation procedures developed to support ongoing improvement of CLT activities	systems Assessment of activities undertaken by the CLU Management procedures are in place and implemented Recorded action undertaken to address identified deficiencies and issues	(iii) Appropriate M&E and administration procedures not developed and implemented
<b>COMPONENT 2 - LAND INFORMATION MANAGEMENT</b>				
An efficient Land Information Management system that supports CLT activities and land information				
<b>Sub-Component 2.1 - IT Strategy</b>				
	An IT Strategic plan developed that governs development of fully integrated land database computer systems within DoL and conforms to GoV directions for e-Government	IT Strategic plan produced which identifies the requirements for computerisation, database management and internal and external access to data over the next five years  Hardware and software purchases fit-for-purpose  A fully operational and integrated networked computer system servicing	Comprehensive IT Strategy produced, approved by MoL steering committee and being implemented  DoL management reports	(i) An IT Strategy that drives DoL development, rather than DoL requirements driving the IT Strategy; (ii) IT Strategy not complied with; (iii) Internal breaches of security; (iv) External breaches of security

	<b>Activity Description</b>	<b>Indicators</b>	<b>Sources of Verification</b>	<b>Risks</b>
		the needs of DoL and its customers		
<b>Sub-Component 2.2 - Land Survey Records</b>				
	Effective custodianship, maintenance and security of associated records and improved process management and analysis	<p><b>Survey Plans</b></p> <p>Database maintained and accessible to all users in accord with procedures</p> <p>Improved tracking of documents through all processes</p> <p>Full analysis and reporting requirements catered for.</p>	<p>Improved DoL statistics</p> <p>Improved DoL monthly, quarterly and annual management reports</p> <p>Quality assurance checks that procedures are being followed.</p>	(i) Improved survey plan management system not implemented (ii) Improved survey practices not implemented (iii) Loss of Survey Plan records. (iv) DCDB not created or maintained (v) Geodetic Database not created or maintained
		<p><b>Improved Survey Practices</b></p> <p>Review of existing procedures and practices undertaken, recommended changes discussed with stakeholders and agreed changes implemented</p> <p>Good survey practice guidelines being followed</p> <p>Improved validation procedures being followed.</p>	<p>Comprehensive review report produced</p> <p>Audit of survey practices and procedures in accord with Survey Acts and Regulation</p> <p>Timely and efficient processing of survey plans</p> <p>DoL management reports.</p>	
		<b>Scanning of Survey Plans</b>	Quality assurance checks	

	<b>Activity Description</b>	<b>Indicators</b>	<b>Sources of Verification</b>	<b>Risks</b>
		<p>All existing survey plans scanned to an acceptable quality and timeframes and in accord with procedures</p> <p>Procedures to scan new survey plans on receipt implemented.</p>	<p>that procedures are being followed</p> <p>Targets set and monthly reports on performance in terms of those targets</p> <p>Count of number of survey plan images</p> <p>New survey plans being scanned on day of receipt</p> <p>DoL statistics and monthly reports.</p>	
		<p><b>Create and maintain a Digital Cadastral DataBase (DCDB)</b></p> <p>All existing cadastral records maps converted to digital format to acceptable quality and timeframes and in accord with procedures</p>	<p>Quality assurance checks that procedures are being followed</p> <p>Targets set and monthly reports on performance in terms of those targets</p> <p>Count of record maps converted</p> <p>DoL statistics and monthly reports.</p>	
		<p><b>Establish facilities for a creation and maintenance of a Geodetic Database</b></p>	<p>Quality assurance checks that procedures are being followed</p>	

	Activity Description	Indicators	Sources of Verification	Risks
		All existing geodetic records converted to digital format  database up-to-date and procedures followed	Count of geodetic database records  Database maintained on a daily basis  DoL monthly reports.	
<b>Sub-Component 2.3 - Mapping and Imagery</b>				
	Effective custodianship, maintenance and supply of mapping data and services	All staff trained and able to access and maintain data and produce outputs  Demonstrated improvement in capacity over years 1 to 2  Data supplied on time, to standard and to specification	All staff using ArcGIS for mapping products  Staff performance reviews  Quality assurance check of products  Positive feed back from clients.	(i) Complexities of application software becomes an obstacle to performance; (ii) Loss of trained staff due to transfer, promotion or resignation; (iii) Proliferation of application software within DoL. (iv) Lack of will to introduce and implement changes (v) VANRIS not upgraded

	Activity Description	Indicators	Sources of Verification	Risks
		<p>recommendations made to upgrade and continue with its use or to transfer data to another application.</p> <p>Review recommendations implemented.</p>		
<b>Sub-Component 2.4 - Valuation Services</b>				
	A service that provides consistent and up-to-date valuation to support land and property taxes	<p>Review of existing procedures and practices undertaken, recommended changes discussed with stakeholders and approved changes implemented</p> <p>Good valuation practice guidelines being followed</p> <p>Timely and effective changes to lease/title databases reflected in Valuation Roll</p> <p>All valuation anomalies identified and re-valuations undertaken</p>	<p>Comprehensive review valuation procedures undertaken</p> <p>Changes to valuation practices and procedures implemented by the Principal Valuer</p> <p>Audit of valuation practices</p> <p>Fewer non-payment of tax returns</p> <p>Increased land and property tax revenue</p> <p>DoL quarterly and annual reports.</p>	<ul style="list-style-type: none"> <li>(i) Improved valuation role system not implemented;</li> <li>(ii) Improved valuation practices not implemented</li> <li>(iii) Complexities of valuation services becoming an obstacle to performance</li> <li>(iv) Loss of trained staff due to transfer, promotion or resignation;</li> </ul>

## Annex 2

## Indicative Work Plan

Annex 2: STRENGTHENING THE CUSTOMARY LAND TRIBUNAL AND THE DEPARTMENT OF LANDS' LAND INFORMATION MANAGEMENT

Scan Survey Plan  
Improve Survey Management System  
Review and Improve survey practices  
Establish Facilities for Geodetic Database  
Evaluate existing Geodetic control network

**Component 2.3: Mapping and Imagery**  
**Effective custodianship, maintenance and supply of mapping data and services**  
ArcGIS Training and production of products and services  
Production of Standards and Data Dictionary  
Policy on licences and pricing of products  
Review of VANRIS

**Component 2.4: Valuation Services**  
**A service that provides consistent and up-to-date valuation to support land and property taxes**  
Develop and implement improved Standards and Procedures  
Improve Valuation Roll

## Annex 3

# Cost Summary, TA Inputs and Resources

**Vanuatu - Project Design to Strengthen the Customary Land Tribunal and the Department of Lands' Land Information Management**

**COST SUMMARY**

	<b>PY 1</b>	<b>PY 2</b>	<b>PY 3</b>	<b>Totals</b>
<b><u>Fees</u></b>				
Component 1: Customary Land Tribunal				
Sub-Component 1.1: Mediation Support Services	\$ 237,675	\$ 157,605	\$ 12,000	
Sub-Component 1.2: Public Awareness and Training	\$ 499,100	\$ 143,320	\$ 27,000	
Sub-Component 1.3: Support for Customary Land Unit	\$ 169,980	\$ 36,000	\$ 50,460	
<b>Total for Component 1</b>	<b>\$ 906,755</b>	<b>\$ 336,925</b>	<b>\$ 89,460</b>	<b>\$ 1,333,140</b>
Component 2: Land Information Management				
Sub-Component 2.1: IT Strategy	\$ 25,980	\$ 135,480	\$ -	
Component 2.2: Land Survey Records	\$ 401,830	\$ 339,658	\$ 86,333	
Component 2.3: Mapping and Imagery	\$ 477,945	\$ 119,486	\$ 39,829	
Component 2.4: Valuation Services	\$ 191,258	\$ 162,690	\$ 40,673	
<b>Total for Component 2</b>	<b>\$ 1,097,013</b>	<b>\$ 757,314</b>	<b>\$ 166,834</b>	<b>\$ 2,021,160</b>
<b>Total Annual Fees</b>	<b>\$ 2,003,768</b>	<b>\$ 1,094,239</b>	<b>\$ 256,294</b>	<b>\$ 3,354,300</b>
<b><u>Resource Costs</u></b>				
Component 1: Customary Land Tribunal				
Sub-Component 1.1: Mediation Support Services	\$ 23,000	\$ 40,000	\$ 25,000	
Sub-Component 1.2: Public Awareness and Training	\$ 118,000	\$ 165,000	\$ 112,000	
Sub-Component 1.3: Support for Customary Land Unit	\$ 47,350	\$ 16,000	\$ 11,000	
<b>Total for Component 1</b>	<b>\$ 188,350</b>	<b>\$ 221,000</b>	<b>\$ 148,000</b>	<b>\$ 557,350</b>
Component 2: Land Information Management				
<b>Total for Component 2</b>	<b>\$ 74,300</b>	<b>\$ 32,300</b>	<b>\$ 112,300</b>	<b>\$ 218,900</b>
<b>Total Resource Costs</b>	<b>\$ 262,650</b>	<b>\$ 253,300</b>	<b>\$ 260,300</b>	<b>\$ 776,250</b>
<b>Total Annual Costs</b>	<b>\$ 2,266,418</b>	<b>\$ 1,347,539</b>	<b>\$ 516,594</b>	<b>\$ 4,130,550</b>

VANUATU - STRENGTHENING THE CUSTOMARY LAND TRIBUNAL AND THE DEPARTMENT OF LANDS' LAND INFORMATION MANAGEMENT

TECHNICAL ASSISTANCE INPUTS

	Project Month																																		Total Months	Total Days								
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36								
<b>Component 1: Customary Land Tribunal</b>																																												
<b>Sub-Component 1.1: Mediation Support Services</b>								1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	8	240
Mediation Specialist (International)								1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	17	510	
<b>National Mediation Trainer</b>																																												
<b>Sub-Component 1.2: Public Awareness and Training</b>																																												
Training Specialist (International)					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	180	
National Training Specialist					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	30	900	
Communication Specialist (International)					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	6	180	
National Communication Specialist					1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15	450		
<b>Sub-Component 1.3: Support for Customary Land Unit</b>																																												
Institutional Specialist	1	1	1																																					3	90			
Project Review Specialist																																									1	30		
CLU - Technical Support (n-Vanuatu)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	24	720		
<b>Component 2: Land Information Management</b>																																												
<b>Sub-Component 2.1: IT Strategy</b>																																												
IT Strategic Planner (Int)																																										0.5	15	
IT Analyst/Designer (Int) - One-Stop-Shop																																										1	30	
IT Programmer - One-Stop-Shop																																										2	60	
<b>Component 2.2: Land Survey Records</b>																																												
IT Analyst/Designer (Int) - SRMS	0.5																																									0.5	15	
IT Programmer - SRMS		1																																								1	30	
Cadastral Data Capture Specialist	1	1																																								8	240	
Land Cadastral Survey Specialist			1																																							5	150	
IT Analyst/Designer (Int) - GeoDB																																										0.5	15	
IT Programmer - GeoDB																																										1	30	
Geodetic Survey Specialist																																										1	30	
Contract worker - data capture	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	18	540		
Contract worker - data capture	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	18	540		

Total International Inputs = 70

Total National Inputs = 128

122

STRENGTHENING THE CUSTOMARY LAND TRIBUNAL AND THE DEPARTMENT OF LANDS' LAND INFORMATION MANAGEMENT							
COSTINGS FOR RESOURCES, TRAINING MATERIALS ETC							
Item Description	Unit Cost	Number	Total	Comments	PY 1	PY 2	PY 3
	\$NZ		NZ\$		NZ\$	NZ\$	NZ\$
<b>Component 1</b>							
<b>Sub-Component 1.1</b>							
Travel costs for public consultation	\$ 2,000	6	\$ 12,000	Visit to each province	\$ 12,000	\$ -	\$ -
Travel costs to discuss draft legislation	\$ 2,000	6	\$ 12,000		\$ 12,000	\$ -	\$ -
			\$ -		\$ 24,000	\$ -	\$ -
<b>Sub-Component 1.2</b>							
Mediation "training of trainers" course	\$ 8,000	1	\$ 8,000	2 weeks training for 25 people	\$ 8,000	\$ -	\$ -
Mediation training	\$ 5,000	15	\$ 75,000	25 courses for up to 200 people	\$ 10,000	\$ 40,000	\$ 25,000
Preparation materials	\$ 5,000	1	\$ 5,000		\$ 5,000	\$ -	\$ -
					\$ 23,000	\$ 40,000	\$ 25,000
<b>Sub-Component 1.3</b>							
Booklet production	\$ 10,000	1	\$ 10,000		\$ 10,000	\$ -	\$ -
DVD production	\$ 10,000	1	\$ 10,000		\$ 10,000	\$ -	\$ -
Public awareness - Print, radio	\$ 15,000	3	\$ 45,000	Per annum	\$ 15,000	\$ 15,000	\$ 15,000
Internet based awareness-web site	\$ 6,000	1	\$ 6,000		\$ 6,000	\$ -	\$ -
Public awarenesss-telephone - Digicel and Telecom	\$ 6,000	3	\$ 18,000	Per annum	\$ 6,000	\$ 6,000	\$ 6,000
Wan Smolbag	\$ 10,000	2	\$ 20,000	Preparation of theatre	\$ 10,000	\$ -	\$ 10,000
Public awareness workshops	\$ 3,000	40	\$ 120,000	Held after Public Aware workshops	\$ 30,000	\$ 60,000	\$ 30,000
Women's workshops	\$ 500	40	\$ 20,000		\$ 5,000	\$ 10,000	\$ 5,000
Training of tribuanl members	\$ 4,000	20	\$ 80,000		\$ 16,000	\$ 40,000	\$ 24,000
Training of Area Council secretaries etc	\$ 4,000	15	\$ 60,000		\$ 8,000	\$ 32,000	\$ 20,000
Consumables	\$ 2,000	3	\$ 6,000	per annum	\$ 2,000	\$ 2,000	\$ 2,000
					\$ 118,000	\$ 165,000	\$ 112,000
<b>Sub-Component 1.4</b>							
Laptop computer	\$ 3,000	2	\$ 6,000		\$ 6,000	\$ -	\$ -
5 x PC's for CLU	\$ 2,500	5	\$ 12,500		\$ 12,500	\$ -	\$ -
Printers	\$ 400	2	\$ 800		\$ 800	\$ -	\$ -
Scanner A4	\$ 400	1	\$ 400		\$ 400	\$ -	\$ -
TV	\$ 500	2	\$ 1,000		\$ 1,000	\$ -	\$ -
DVD player	\$ 500	2	\$ 1,000		\$ 1,000	\$ -	\$ -
Filing cabinets	\$ 500	4	\$ 2,000		\$ 2,000	\$ -	\$ -
Digital camera	\$ 600	2	\$ 1,200		\$ 1,200	\$ -	\$ -
O/H Projector	\$ 3,000	1	\$ 3,000		\$ 3,000	\$ -	\$ -
Desks and chairs	\$ 1,000	4	\$ 4,000		\$ 4,000	\$ -	\$ -
Whiteboards	\$ 150	3	\$ 450		\$ 450	\$ -	\$ -
Provincial travel	\$ 1,000	18	\$ 18,000	6 trips per annum	\$ 6,000	\$ 6,000	\$ 6,000
Consumables	\$ 1,000	3	\$ 3,000	per annum	\$ 1,000	\$ 1,000	\$ 1,000
Overseas conference/meeting	\$ 4,000	3	\$ 12,000	per annum	\$ 4,000	\$ 4,000	\$ 4,000
Visit to Fiji to study customary activities	\$ 4,000	1	\$ 4,000		\$ 4,000	\$ -	\$ -
Visit to NZ to study Maori custom issues	\$ 5,000	1	\$ 5,000		\$ -	\$ 5,000	\$ -
					<b>Sub-Component Total</b>	\$ 47,350	\$ 16,000
					<b>Component 1 Totals</b>	\$ 212,350	\$ 221,000
							\$ 148,000
<b>Component 2</b>							
<b>Hardware/Software</b>							
6 x PC's @ \$2,500	\$ 2,500	6	\$ 15,000		\$ 15,000	\$ -	\$ -
3 X Tables and Chairs	\$ 2,500	3	\$ 7,500		\$ 7,500	\$ -	\$ -
1 x A3 Scanner (survey plans)	\$ 1,000	1	\$ 1,000		\$ 1,000	\$ -	\$ -
1 x A4 Scanner (Geo Docs)	\$ 400	1	\$ 400		\$ 400	\$ -	\$ -
ArcGIS x 2	\$ 1,800	2	\$ 3,600		\$ 3,600	\$ -	\$ -
Maintenance	\$ 1,200	3	\$ 3,600	Per annum	\$ 1,200	\$ 1,200	\$ 1,200
MapInfo x 2	\$ 5,500	2	\$ 11,000		\$ 11,000	\$ -	\$ -
Maintenance	\$ 1,100	3	\$ 3,300	Per annum	\$ 1,100	\$ 1,100	\$ 1,100
ProVec	\$ 3,000	1	\$ 3,000		\$ 3,000	\$ -	\$ -
Zan	\$ 500	1	\$ 500		\$ 500	\$ -	\$ -
Web-base Dev tools	\$ 5,000	1	\$ 5,000		\$ 5,000	\$ -	\$ -
Consumerables @ \$5,000 per year	\$ 5,000	3	\$ 15,000		\$ 5,000	\$ 5,000	\$ 5,000
Upgrade Server	\$ 100,000	1	\$ 100,000				\$ 100,000
					<b>Sub Component Total</b>	\$ 54,300	\$ 7,300
							\$ 107,300
<b>MISC</b>							
Study Trip - Survey, Mapping and Valuation to	\$ 5,000	3	\$ 15,000		\$ 15,000	\$ -	\$ -
Regional Conferences	\$ 5,000	3	\$ 15,000		\$ 5,000	\$ 5,000	\$ 5,000
ArcGIS - refresher training	\$ 10,000	1	\$ 10,000		\$ -	\$ 10,000	\$ -
MapInfo - refresher training	\$ 10,000	1	\$ 10,000		\$ -	\$ 10,000	\$ -
					<b>Sub Component Total</b>	\$ 20,000	\$ 25,000
					<b>Component 2 totals</b>	\$ 74,300	\$ 32,300
							\$ 112,300
<b>TOTAL</b>			\$ 800,250		\$ 286,650	\$ 253,300	\$ 260,300

## Annex 4

# Risk Management Matrix

## Risk Management Matrix for Land Information Management

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
<b>GOAL</b>							
1	Reform of Customary Land Tribunal Act is not endorsed	The use of the CLT loses credibility	Mo	Hi	4	The CLT Act will be amended to reflect the views of government and stakeholders and to ensure that it is relevant to the needs of customary groups as a means of resolving disputes	GoV
<b>OBJECTIVES:</b>							
2	Government does not support custom and resource the CLU	Credibility of the government to support ni-Vanuatu will be brought into question	Mi	Hi	4	Undertake activities that support the development of the CLT and ensures that it is a suitable mechanism for dispute resolution	GoV On going
3	Appropriate resources not provided by the government to support the development of LIM	Land administration reforms do not take place with a resultant impact on government revenue	Mi	Lo	3	Undertake activities that build capacity and sustainability within the LIM environment of the DoL	GoV DoL On going
4	Government does not provide sufficient financial support to ensure the effective operations of the CLT and LIM activities	Activities become unsustainable and with no dispute resolution mechanism land disputes will increase resulting in the potential for increased instability.	Mo	Hi	4	The GoV provide appropriate funds and resources	GoV MoJSW DoL
<b>COMPONENT 1: CUSTOMARY LAND TRIBUNAL</b>							
A functioning Customary Land Tribunal support by efficient administrative procedures							
<b>Sub-Component 1.1: Legislative Review - Effective dispute resolution mechanism for custom land owners</b>							
5	Amended draft legislation will not reflect the wishes of the people and government.	Will result in the CLT becoming inoperable and the tribunal process will not be used for dispute resolution	Lo	Hi	3	The multi-stakeholder oversight committee will monitor progress and need to ensure that there is open public consultation	GoV CLU During first 12 months

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
6	Draft legislation not prepared within an acceptable timeframe.	Dispute resolution procedures can continue under present Act however it may be difficult to implement an effective mediation process.	Mo	Mo	4	The multi-stakeholder oversight committee will monitor progress and report to Minister of Lands	GoV CLU  During first 12 months
7	Government does not provide leadership and approve the legislative amendment	Dispute resolution procedures can continue under present Act however it may be difficult to implement an effective mediation process.	Mo	Mo	4	The multi-stakeholder oversight committee will monitor progress and report to Minister of Lands	GoV CLU  During first 12 months
8	Unresolved disputes can escalate and pose a potential threat to the stability of the country	The CLTs are not seen as an appropriate mechanism for resolving disputes	Mo	Hi	5	Review the CLT and implement mediation procedures to ensure that customary processes are protected and that there is an acceptable mechanism for dispute resolution.	GoV CLU  Ongoing
9	Legislation does not take an affirmative position in relation to gender	Women will continue to be under-represented on the CLT and will continued to be disadvantaged in relation to access to land	Mo	Lo	4	Identify and propose specific gender impact initiatives that will ensure that women's rights are given appropriate consideration during legislative drafting	GoV CLU VNCW Donors  During first 12 months
10	Failure to support traditional/customary views on land ownership in dispute resolution	People in dispute over land will loose confidence in the tribunal process and the CLTs will no longer be a process adopted for dispute resolution.	Lo	Hi	4	Introduce legislation to enforce the use of mediation as a first resort	GoV CLU Donors  Ongoing
11	Malvatumauri do not support the legislation or the CLT concept	Dispute resolution mechanisms will not be implemented and CLTs will not operate.	Mo	Hi	4	Close liaison with active involvement of the Malvatumari during discussions on the current legislation and in the preparation of the legislative	GoV Malvatumauri

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
						amendment. Malvatumari to be an active participant in the development of the mediation processes.	
<b>Sub-Component 1.2: Mediation Support Services - Mediation as an effective means of resolving land disputes</b>							
12	Focus on a courts solution in preference to an emphasis on mediation	Traditional/customary approach to solutions for land disputes will be lost resulting in a gradual degradation of custom	Lo	Hi	3	The multi-stakeholder oversight committee will monitor progress and need to ensure that there is open public consultation	GoV CLU During first 12 months
13	Mediators are not selected or are poorly trained	Mediation process collapses resulting in increased emphasis on the tribunal and possible less emphasis on custom	Mo	Hi	4	Implement procedures to ensure mediators are selected and trained to the required level of competency. Implement systems to evaluate and monitor the mediation process and mediator's performance	GoV CLU During first 12 months
14	Government does not provide sufficient resources	The mediation and tribunal processes fail to function effectively once donor support is removed	Hi	Mo	4	Ensure resources have been provided for the project to ensure that support activities during the build-up and until after the peak of activities is achieved and can then be undertaken by full time resources in CLU	GoV DoL CLU On going
15	Insufficient focus on women as mediators	Mediation program will lack credibility and potentially will not involve those who are better mediators.	Hi	Mo	4	Specific initiatives have been included so as to ensure that women receive appropriate education and training along with an affirmative action in relation to numbers of women involved	GoV CLU NGOs VNCW On going
<b>Sub-Component 1.3: Public Awareness and Training - Custom owners well informed and tribunal members trained in adjudication</b>							
16	MoJSW does not provide sufficient staff and funding	CLTs and dispute resolution system is ineffective	Mo	Hi	4	MoJSW to ensure adequate support is provided to the CLU.	GoV MoJSW

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
	to enable the CLU to operate effectively						
17	Malvatumauri does not support the training of the chiefs, secretaries and senior people in the communities.	Undermines the position of the CLT in dispute resolution and may ultimately weaken the dispute resolution process	Mo	Mo	4	There will be a need to work closely with the activities being funded by AusAID to support the Malvatumauri. Strengthening of the Malvatumauri will assist in building support.	Malvatumauri GoV MoJSW Ongoing
18	Proposed AusAID Provincial Focal Points (Local <i>Kastom</i> Land Officers), Area Secretaries unable to provide adequate support to CLT activities in the provinces	Information is not readily available to CLTs and CLTs in the provinces do not have easy access to information and support	Mo	Hi	4	A strong focus on training and public awareness activities. Involvement of Local <i>Kastom</i> Land Officers and Area Secretaries in all relevant training programs.	GoV MoJSW Malvatumauri Ongoing
19	Public awareness programs poorly prepared and presented.	The mediation and tribunal processes do not operate effectively and misunderstanding results in confusion.	Lo	Mo	4	Provide adequate support to the CLU to ensure that there is capacity to support public awareness programs	GoV CLU Ongoing
20	Public awareness program is poorly patronised or distributed, that is unequal access by groups of "lesser" socioeconomic status	Public awareness ineffective and CLTs operate inefficiently and ineffectively. Access to the CLT is inhibited	Lo	Mo	3	Devise and implement public awareness and communication management strategies to ensure all levels of society are reached	GoV CLU On going
21	Training is poorly prepared and presented and is ineffective	The tribunal process does not operate effectively and there is inadequate	Lo	Mo	4	Ensure sufficient funding and resources are provided so that trainers receive appropriate training and support	GoV CLU First 2 years
22	Insufficient resources	Public awareness ineffective	Lo	Hi	4	Ensure sufficient funding and resources	GoV

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
	available for public awareness and training	and CLTs operate inefficiently and ineffectively				are made available so that effective public awareness and training is undertaken to support the CLT throughout the whole country.	CLU First 3 years
23	Specific education and training programs are not held for women	Women's participation in the CLT continues to remain low and women's rights to access to the CLT is inhibited	Lo	Mo	3	Specific awareness and training programs will be undertaken to ensure women are better aware of their rights in relation to land and participation in the CLT	GoV CLU VNCW On going
<b>Sub-Component 1.4: Capacity Development of Customary Land Unit - Improved administrative capacity to support the Customary Land Tribunal Act</b>							
24	CLU is not properly managed	Ineffective support is provided to the activities of the CLT	Mo	Mo	3	Train staff of the CLU in management, administration and M&E techniques to ensure they are able to support the CLTs	GoV CLU On going
25	Government does not support CLU with staff and funding.	The CLT Act is poorly managed and support for tribunals and mediation is not available	Hi	Mo	4	Contract staff are funded to support the CLU in implementation during the first few years of the project.	GoV CLU On going

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
26	Loss of trained staff due to transfer, promotion or resignation	Limited ability to provide products and services	Hi	Hi	4	Provide for a career structure and performance reward for staff so that they are recognised according to ability, performance and qualifications; Plan training numbers to accommodate for regular annual loss and changes in personnel; Work closely with HR Manager and AusAID design team to ensure staff retention factors are built into DoL organisation change.	Director General HR Manager Ongoing
27	Appropriate M&E and administration procedures not developed and implemented	Effectiveness of the CLT Act cannot be assessed and deficiencies in activities are not able to be adequately addressed	Mo	Lo	3	Appropriate M&E procedures developed and staff of the CLU trained in M&E activities	GoV CLU On going
<b>COMPONENT 2: Land Information Management</b>							
<b>Sub-Component 2.1: IT Strategy - A strategy that governs development within DoL and conforms to GoV directions for e-Government</b>							
28	GoV's IT Strategy not implemented	Ad-hoc rather than integrated development that does not meet GoV needs. Dissemination of information to outlying areas not possible	Mo	Lo	2	Review GoV IT Strategy progress. Assist in formulation strategies and policies wherever possible.	ITTA Strategic Planner IT Manager Senior DoL staff Ongoing
29	An IT Strategy that drives DoL development, rather than the reverse	Ad-hoc rather than integrated development that does not meet DoL needs.	Mo	Hi	3	Review appropriateness of GoV strategies for DoL applications. Make representation on changes	ITTA Strategic Planner

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
						necessary to meet DoL requirements. Specific direction to be given in TOR and in project briefing.	IT Manager Senior DoL staff Ongoing
30	IT Strategy not complied with	Software development and hardware purchases are not appropriate for intended applications.	Hi	Mo	3	Software development and hardware purchases to be approved by IT Manager as conforming to IT Strategy requirements. Possible use of same STTA consultant on all IT Analyst and programming activity.	DoL staff Ongoing
31	Internal and external breaches of security	Accuracy and integrity of DoL records compromised; Inappropriate access to data.	Hi	Hi	4	All staff to be made aware of need for strict compliance of security requirements; Breaches will result in termination of employment; or prosecution; All aspects of security identified in the IT Strategy strictly enforced; On-going monitoring by database supervisors and IT staff.	IT Manager HR Manager Senior DoL staff Ongoing
<b>Sub-Component 2.2: Land Survey Records - Effective custodianship, maintenance and security of associated records and improved process management and analysis</b>							
32	Improved survey plan management system not implemented	Continuation of present computerised and manual systems	Lo	Lo	1	Ownership of change and “buy-in” by senior management and staff; Monitor through subsequent inspection and Management reports.	Surveyor General Ongoing
33	Improved survey practices not implemented	Minimal potential damage to the development of integrated databases. Risk of continuation of present sub-standard survey and survey	Mo	Lo	2	Ownership of change and “buy-in” by Surveyor General; Monitor through subsequent inspection and Management reports.	Surveyor General Ongoing

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
		validation practices only.					
34	Loss of Survey Plan records.	Minimal potential damage to the development of integrated databases, but potentially of major damage to survey operations and lease/title definitions.	Mo	Hi	5	Develop and document procedures; Ownership of process and “buy-in” by senior management and staff; Set monthly targets and monitor performance and quality; Monitor through subsequent inspection and Management reports.	DoL staff STTA DCDB Ongoing
35	DCDB not created or maintained	Spatial cadastral fabric not available for display and analysis with other textural or geospatial databases (Lease/title, valuation, zoning, planning, mapping etc)	Mo	Hi	5	Develop and document procedures; Ownership of process and “buy-in” by senior management and staff; Set monthly targets and monitor performance and quality; Monitor through subsequent inspection and Management reports; Create by contracted staff or “out-source” to private sources to minimise the risk of non-performance by limited DoL staff resources.	DoL staff STTA DCDB Ongoing
36	Geodetic Database not created or maintained	Minimal potential damage to the development of integrated databases, but potential medium impact to survey operations.	Mo	Lo	2	Procedures to be developed and document; Ownership of change and “buy-in” by senior management and staff; Set monthly targets and monitor performance and quality; Monitor through subsequent inspection and Management reports.	DoL staff STTA Geodetic Ongoing
<b>Sub-Component 2.3: Mapping and Imagery - Effective custodianship, maintenance and supply of mapping data and services</b>							
37	Complexities of application	Limited ability to provide	Hi	Hi	4	Training and mentoring of application	Director

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
	software becoming an obstacle to performance	products and services.				software to be undertaken over the course of one year; Provide for a short study tour to LINZ and three mapping organisations in Wellington; Identify and promote staff for specialist mapping or land information NZAID sponsored Short Term Training Awards or attachments; Monitor through subsequent inspection and Management reports	Surveyor General HR Manager STTA Mapping Ongoing
38	Loss of trained staff due to transfer, promotion or resignation	Limited ability to provide products and services	Hi	Hi	4	Provide for a career structure and performance reward for staff so that they are recognised according to ability, performance and qualifications; Plan training numbers to accommodate for regular annual loss and changes in personnel; Work closely with HR Manager and AusAID design team to ensure staff retention factors are built into DoL organisation change.	Director Surveyor General HR Manager Ongoing
39	Lack of will to introduce and implement changes	Services not provided to DoL and public. Difficult to develop IT systems for the longer term benefit of the country	Lo	Hi	4	Provide for a career structure and performance reward for staff so that they are recognised according to ability, performance and qualifications;	Director Surveyor General HR Manager Ongoing
40	VANRIS not upgraded	No damage to programme. However, geospatial and	Hi	Lo	2	Evaluation of suitability of VANRIS to be assessed;	Director

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
		attribute data that may be suitable for land use and sustainability analysis may be lost.				Upgrade of data in VANRIS or conversion of data to another platform to be supervised	Surveyor General STTA Mapping Ongoing
<b>Sub-Component 2.4: Valuation Services - A service that provides consistent and up-to-date valuation to support land and property taxes</b>							
41	Improved valuation roll system not implemented.	Continuation of present computerised valuation roll. Updates from lease/title transfer or sales not provided or reflected in the valuation roll.	Lo	Hi	4	Develop and document procedures; Ownership of change and “buy-in” by senior management and staff; Monitor through subsequent inspection and Management reports.	DoL staff Ongoing
42	Improved valuation practices not implemented	Minimal potential damage to the development of integrated databases. Risk of continuation of present valuation practices only.	Mo	Lo	2	Ownership of change and “buy-in” by Principal Valuer; Monitor through subsequent inspection and Management reports.	Principal Valuer Ongoing
43	Complexities of valuation services becoming an obstacle to performance	Limited ability to provide quality or timely valuations.	Hi	Hi	4	Training and mentoring of valuation staff to be undertaken; Provide for a short study tour to LINZ and two valuation organisations in Wellington; Identify and promote staff for specialist valuation or land information NZAID sponsored Short Term Training Awards or attachments; Monitor through subsequent inspection and Management reports.	HR Manager Principal Valuer STTA Valuation Ongoing
44	Loss of trained staff due to	Limited ability to meet current	Hi	Hi	4	Provide for a career structure and	Director

	Risk	Potential Damage to Program	L	I	R	Risk Avoidance and Management	Response/Timing
	transfer, promotion or resignation	or future demands of valuation section.				performance reward for staff so that they are recognised according to ability, performance and qualifications; Work closely with HR Manager and AusAID design team to ensure staff retention factors are built into DoL organisation change.	HR Manager  Principal Valuer Ongoing

## Annex 5

# Adviser Terms of Reference

## TERMS OF REFERENCE FOR CONSULTANT INPUTS

### CUSTOMARY LAND TRIBUNAL

#### **Background:**

Vanuatu and New Zealand have agreed to work together in strengthening the Customary Land Tribunal and the Customary Land Unit in the Ministry of Lands in Vanuatu. The objective is to provide technical assistance to strengthen the operations of the Customary Land Tribunal aimed at supporting the land dispute resolution mechanisms and assisting in the reduction and resolution of land disputes. Three sub-components are identified as follows:

**Sub-Component 1.1 – Mediation Support Services** - Mediators trained and mediation is an effective means of resolving land disputes

**Sub-Component 1.2 – Public Awareness and Training** - Custom owners well informed and tribunal members trained in adjudication procedures;

**Sub-Component 1.3 – Capacity Development of Customary Land Unit** - Improved administrative capacity to support the Customary Land Tribunal Act

The programme will be implemented through the provision of New Zealand or International technical assistance over the next three years. Short Term Technical Advisors (STTA) will be deployed at intervals to meet objective timeframes.

#### **Training:**

A DoL counterpart will be assigned to each STTA. STTAs will work closely with his/her counterpart so that a thorough understanding of requirements understood. Capacity building should be to such a level of understanding that the counterpart is able to converse in this area with confidence and amend requirements or procedures as necessary in terms of future requirement.

#### **General Experience and Personal Attributes:**

The STTA is expected to have:

- A participatory and consultative approach to development;
- Ability to work with others preferably in a coaching role and in developing teams;
- Previous experience in training preferably in the context of information technology and ability to train counterparts;
- Good organisational, team work and interpersonal skills and be able to review and analyse outcomes;
- Ability to develop clear, concise, written procedures and respond to changing demands;
- Knowledge and experience of similar projects in developing countries, particularly in other Pacific Countries;
- Sensitivity to other cultures and ability to work effectively with Pacific Island culture and environment;
- Sensitivity to different ethnic value systems and communication differences;

- An understanding and commitment to gender equality;
- Understanding of the NZAID Guiding Principles and Policy Framework;
- Knowledge of Bislama would be an advantage.

### **Working Arrangements:**

The STTA's will be located in Vanuatu at Port Vila. The DoL (or may be the MoJ) will provide the office space and furniture needed to implement the assigned tasks. The appointee's are expected to provide their own laptop.

### **STTA – Mediation Specialist**

**Scope of Work** – Provide input to component 1, particularly;

- i. Determine whether there are existing mediation processes in operation in Vanuatu and if so undertake an assessment of them and determine their suitability for the CLT activities.
- ii. Develop an approach to mediation that will support dispute resolution;
- iii. Develop a training program for “training of trainers” mediation;
- iv. Select people to be provided with mediator trainer training;
- v. Develop training course for mediators;
- vi. Provide training for mediator trainers;
- vii. Support the commencement of mediation training;
- viii. Give consideration to gender issues as part of mediation activities;
- ix. Develop a system for registering mediators.

### **Specific Skills and Experience**

- A relevant tertiary qualification in social sciences or a related field;
- Must have experience in mediation training;
- A knowledge of Bislama would be beneficial.

### **Tenure**

The appointee will be required to work in Vanuatu or approximately eight months during years one and two and some provincial travel may be required.

### **LTIA – National Mediation Specialist (ni-Vanuatu)**

**Scope of Work** – Provide input to component 1, particularly;

- i. Provide support to the International Mediation Specialist;
- ii. Assist with the development of mediation training material;
- iii. Undertake a selection process for mediator trainers;
- iv. Provide ongoing support to mediation training;

- v. Ongoing monitoring of mediation training and the effectiveness of the mediation process for dispute resolution;
- vi. Make amendments to the training program as required;
- vii. Work with the Supervisor of CLU in addressing identified deficiencies in the mediation process.

### **Specific Skills and Experience**

- An appropriate qualification in an area such as teaching, communication, training is essential;
- Must have extensive experience in presentation and training and mediation skills would certainly be an advantage;
- Bislama is essential.

### **Tenure**

The appointee will be required to work in Vanuatu for approximately seventeen (17) months over the three years of the project. Some provincial travel may be required.

### **STTA – Training Specialist (International)**

#### **Scope of Work** – Provide input to component 1, particularly;

- i. Assess the training requirement for the CLU;
- ii. Assess the training requirement for the CLTA;
- iii. Develop all training courses;
- iv. Provide training to the CLU staff to better equip them to deliver training programs;
- v. Develop a program for the delivery of training to tribunal members;
- vi. In a follow up assignment, review the training program, training material and assess its effectiveness. Modify as required.

### **Specific Skills and Experience**

- A tertiary qualification in an appropriate discipline (e.g., HRD, Organisational Development, Education, Training & Development, Public Administration);
- 10 years experience in developing and delivering training programs in developing countries;
- A knowledge of Bislama would be beneficial.

### **Tenure**

The appointee will be required to work in Vanuatu or approximately six months over years one and two. Some provincial travel may be required.

### **LTTA – National Training Specialist (ni-Vanuatu)**

#### **Scope of Work** – Provide input to component 1, particularly;

- i. Support the International Training Specialist;
- ii. Assist with the development of training courses;
- iii. Assist with the review of training requirements;
- iv. Provide ongoing support to the training program in each of the provinces;
- v. Deliver training to tribunal members throughout all provinces;
- vi. Deliver training on the CLT to non-tribunal members such as Area Council secretaries, government officials, NGOs etc
- vii. Undertake an initial assessment of the training program following the approval of the new Act.

### **Specific Skills and Experience**

- Qualifications in an appropriate discipline (e.g., HRD, Organisational Development, Education, Training & Development, Public Administration);
- Must have experience in developing and delivering training programs;
- Bislama is essential.

### **Tenure**

The appointee will be required to work in Vanuatu for approximately thirty (30) months over the three years of the project. Travel will be required to selected provinces to undertake research activities.

### **STTA – Communication Specialist**

#### **Scope of Work** – Provide input to component 1, particularly;

- i. Develop a strategy for the public awareness campaign to support the CLT activities;
- ii. Look at the most appropriate ways of delivering information to the public;
- iii. Review the opportunities to use organisations such as Wan Smolbag, NGOs, Vanuatu National Council of Women to assist with public awareness activities;
- iv. Develop appropriate communication materials such as for radio, print media, telecommunications and DVD;
- v. Develop public awareness material that specifically informs women of their rights in relation to the CLT and land disputes generally;
- vi. Provide training to the national counterpart and to the staff of the CLU;
- vii. Develop any training programs in communication that may be required;
- viii. As there is no communication unit in the DoL it will be necessary to provide training to the staff of CLU in communication techniques;
- ix. Review the opportunity to utilise external resources to assist with communication initiatives.

## **Specific Skills and Experience**

- A professional qualification in the area of communication;
- Demonstrated experience of working with media;
- Knowledge of Bislama is essential.

## **Tenure**

The appointee will be required to work in Vanuatu for approximately six months in year one of the project. Travel to selected provinces may be required.

## **LTIA – National Communication Specialist (ni-Vanuatu)**

### **Scope of Work** – Provide input to component 1, particularly;

- i. Support the International Communication Specialist;
- ii. Actively develop communication material in each of the mediums;
- iii. Coordinate the outsourcing of the preparation of communication material;
- iv. Provide training to the staff of CLU on communication and presentation;
- v. Ensure that the NZAID project activities are suitably publicised;
- vi. Assess the impact of the new Act and amend communication literature to reflect any changes.

## **Specific Skills and Experience**

- A qualification in an appropriate discipline;
- Must have extensive experience in the preparation of communication material and in the preparation of presentations;
- Bislama is essential.

## **Tenure**

The appointee will be required to work in Vanuatu for approximately fifteen (15) months during the course of years one and two of the project. Travel to the provinces will be required.

## **STTA – Institutional Specialist (International)**

### **Scope of Work** – Provide input to component 1, particularly;

- i. Review the existing institutional arrangements for the CLU;
- ii. Review capacity building, training and education issues and requirements for the CLU and develop a training plan for staff;
- iii. Review the issues of staffing and funding of positions and if necessary develop a case for employment of staff to support CLU activities;
- iv. Meet with government and external personnel to gain an appreciation of the operations of the CLU and the external support mechanisms that could be used to support CLU activities;

- v. Assess the administrative requirements of the CLU and assist with developing appropriate administrative procedures;
- vi. Assist the CLU in developing a strategic plan, annual plan, financial plan and appropriate reporting systems;
- vii. Support the development of appropriate M&E systems to monitor and evaluate tribunal activities.

### **Specific Skills and Experience**

- A qualification in an appropriate discipline (e.g., HRD, Organisational Development, Education, Public Administration);
- 10 years experience in developing and delivering training programs in developing countries;
- A knowledge of Bislama would be beneficial.

### **Tenure**

The appointee will be required to work in Vanuatu for approximately three months at the commencement of year one of the project. Some travel to the provinces may be required.

### **LTIA – CLU – Technical Support (ni-Vanuatu)**

#### **Scope of Work** – Provide input to component 1, particularly;

- i. Provide management support to the head of the CLU including public awareness, training and legislative review;
- ii. Participate in meetings, workshops and training activities and support such activities as required;
- iii. Develop appropriate M&E tools to ensure CLU activities can be suitable reported, managed and refined as required;
- iv. Develop financial and management tools necessary to support the CLU;
- v. Support the development of a strategic plan and annual plans;
- vi. Assist with the development and implementation of all CLT activities.

### **Specific Skills and Experience**

- Previous experience in customary rights activities;
- Relevant university qualification such as anthropology, law,
- Bislama is essential

### **Tenure**

The appointee will be required to work in Vanuatu with a tenure of up to 2 years. It is intended that the GoV will provide ongoing funding for this position beyond the 2 years of donor funding.

# LAND INFORMATION MANAGEMENT

## **Background:**

Vanuatu and New Zealand have agreed to work together in strengthening land information management systems in the Ministry of Lands in Vanuatu. The objective is to provide technical assistance to improve land information systems within the Department of Lands (DoL) aimed at meeting current and future land information management needs for better governance, service and supply and support to socio-economic development. Four sub-components are identified as follows:

**Sub-Component 2.1 - IT Strategy** - A Strategy that governs IT development within DoL and conforms to GoV directions for eGovernment;

**Sub-Component 2.2 - Land Survey Records** - Effective custodianship, maintenance and security of associated records and improved process management and analysis;

**Sub-Component 2.3 - Mapping and Imagery** - Effective custodianship, maintenance and supply of mapping data and services;

**Sub-Component 2.4 - Valuation Services** - An effective service that provides consistent and up-to-date valuations to support land and property taxation.

The programme will be implemented through the provision of New Zealand or International technical assistance over the next three years. Short Term Technical Advisors (STTA) will be deployed at intervals to meet objective timeframes.

## **Training:**

A DoL counterpart will be assigned to each STTA. STTA's will work closely with his/her counterpart so that requirements are thoroughly understood. Capacity building should be to such a level of understanding that the counterpart is able to converse in this area with confidence and amend requirements or procedures as necessary in terms of future requirement.

## **General Experience and Personal Attributes:**

The STTA is expected to have:

- A participatory and consultative approach to development;
- Ability to work with others, preferably in a coaching role and in developing teams;
- Previous experience in training, preferably in the context of information technology and ability to train counterparts;
- Good organisational, team work and interpersonal skills and be able to review and analyse outcomes;
- Ability to develop clear, concise, written procedures and respond to changing demands;
- Knowledge and experience of similar projects in developing countries, particularly in other Pacific Countries;
- Sensitivity to other cultures and ability to work effectively with Pacific Island culture and environment;

- Sensitivity to different ethnic value systems and communication differences;
- An understanding and commitment to gender equality;
- Understanding of the NZAID Guiding Principles and Policy Framework;
- Knowledge of Bislama would be an advantage.

### **Working Arrangements:**

The STTA's will be located in Vanuatu at Port Vila. The DoL will provide the office space and furniture needed to implement the assigned tasks. The appointee's are expected to provide their own laptop for computer development.

### **STTA – Cadastral Data Capture Specialist**

#### **Scope of Work** – Provide input to component 2, particularly;

- i. Develop and document procedures for the creation of a DCDB within the MapInfo environment;
- ii. Schedule DCDB capture in terms of AusAID's priorities for capture for validation of lease/titles records;
- iii. Develop and document procedures for the maintenance of the DCDB to appropriately record lodged, approved and registered survey plans;
- iv. Develop and document procedures for scanning of existing survey plans and scanning of survey plans and supporting documents on lodgement;
- v. Train staff in DCDB and scanning procedures.

#### **Specific Skills and Experience**

- A tertiary qualification in survey draughting or related land information fields;
- Experienced in the use of MapInfo application software;
- 10 years experience in development of land information systems.

#### **Tenure**

The appointee will be required to work in Vanuatu for approximately seven monthly components spread over years 1 to 3.

### **STTA – Land Cadastral Survey Specialist**

#### **Scope of Work** – Provide input to component 2, particularly;

- i. Review existing survey legislation and regulations and existing survey and plan examination practices;
- ii. Consult with the Surveyor General and private surveyors on practice and procedural requirements;
- iii. Document recommended changes in practice and procedures for consideration by the Surveyor General;

- iv. Assist with the implementation of change.

#### **Specific Skills and Experience**

- A tertiary qualification in Land Surveying;
- 10 years practical cadastral surveying experience, preferably within both private practice and government organisations.

#### **Tenure**

The appointee will be required to work in Vanuatu for approximately five monthly components spread over years 1 to 3.

### **STTA – Geodetic Survey Specialist**

#### **Scope of Work** – Provide input to component 2, particularly;

- i. Review the existing geodetic control network;
- ii. Document improvements necessary to make fit-for-purpose;
- iii. Development, schedule and cost a programme for upgrade for further consideration by NZAID.

#### **Specific Skills and Experience**

- A tertiary qualification in Geodesy or Land Surveying;
- 10 years practical experience in provision and analysis of survey control.

#### **Tenure**

The appointee will be required to work in Vanuatu for approximately one month at the commencement of year 2.

### **STTA – Valuation Specialist**

#### **Scope of Work** – Provide input to Component 4, particularly;

- i. Review of the present Valuation Roll and design requirements for an effective system to provide updates and maintenance and systematic adjustment;
- ii. Develop procedures for the use and maintenance of the Valuation Roll;
- iii. Develop standards and procedures for uniform valuation assessments;
- iv. Provide training in the use of the improved systems and procedures;
- v. Develop and maintain skills and resources (capacity) within the DoL Valuation unit to perform valuation tasks.

#### **Specific Skills and Experience**

- A tertiary qualification in Land Valuation or related land information fields;
- 10 years practical land valuation experience, preferably within both private practice and government organisations.

## **Tenure**

The appointee will be required to work in Vanuatu for approximately seven monthly components spread over years 1 to 2.

## **STTA – IT Strategic Planner**

**Scope of Work** – Provide input to Component 1, specifically:

- i. Consult widely with GoV and DoL officials to ascertain visions and directions;
- ii. Consult with the AusAID design team on their vision of requirements;
- iii. Consult with customers on their requirements and expectations;
- iv. Review appropriateness of GoV IT Strategy for DoL LIM initiatives and make recommendations for change where required;
- v. Develop an IT Strategy and assist in the development of guidelines and standards that meets the short and long-term goals and objectives of land information management within DoL whilst complying with the GoV e-Government initiatives.

## **Specific Skills and Experience**

- A tertiary qualification in Information Technology, or land information related field;
- 10 years experience in information technology and strategic planning.

## **Tenure**

The appointee will be required to work in Vanuatu for two weeks at the commencement of year one.

## **STTA - IT Analyst/Designer**

**Scope of Work** – Provide input to Component 2 and 4, particularly;

- i. Review existing and future requirements for a Survey Records Management System and develop a design specification;
- ii. Review existing and future requirements for a Valuation Roll and develop a design specification;
- iii. Review and develop a design specification for the development of a Geodetic database;
- iv. Identify requirements for support of on-line and remote (web-based) access to textural and geospatial information contained within DoL databases and develop design specifications.

The STTA will be required to consult and coordinate with the AusAID design team on their activities and the impact this may have on the data model and design.

## **Specific Skills and Experience**

- A tertiary qualification in Information Technology, or land information related fields;
- 10 years practical IT Analyst experience, preferably the development of information systems for surveying, valuation or similar land geospatial related information system applications.

#### **Tenure**

The appointee will be required to work in Vanuatu for approximately four monthly assignments during years 1 to 2.

#### **STTA - IT Programmer**

**Scope of Work** – In conjunction with the STTA IT Analyst/Designer, provide input to Components 2 and 4, particularly;

- i. Develop a database for encoding and maintenance of a Survey Records Management System;
- ii. Develop a database for encoding and maintenance of a Valuation Roll and to support general re-valuations;
- iii. Develop a database for encoding and maintenance of a Geodetic survey records;
- iv. Assist with user testing to acceptance of databases developed;
- v. Document operational procedures;
- vi. Provide training in applications.

The STTA will be required to work in conjunction with the AusAID design and programming team on development of on-line and remote (web-based) access to textual and geospatial information contained within DoL databases.

#### **Specific Skills and Experience**

- A tertiary qualification in computer programming;
- 10 years practical experience, preferably the development of information systems for surveying, valuation or similar land or geospatial related information system applications.

#### **Tenure**

The appointee will be required to work in Vanuatu for approximately four monthly assignments during years 1 to 2.

#### **LTAA - GIS Specialist**

**Scope of Work** – Provide input to Component 3, particularly;

- i. Provide on-the-job training in ArcGIS;
- ii. Assist in the production of products and services;

- iii. Assist in the production of Data Dictionaries and metadata for databases;
- iv. Assist in the formulation of policies for copyright, licensing and costing of products and services;
- v. Promote the use of geospatial data and GIS applications for socio-economic development amongst the wider user community through user groups and forums;
- vi. Review VANRIS and associated geospatial data and make recommendations for upgrade or transfer to other platforms as appropriate.

### **Specific Skills and Experience**

- A tertiary qualification in GIS or geospatial related fields;
- Experienced in the use of ESRI's ArcGIS application software;
- 10 years experience in GIS and use of geospatial data for production of products and services.

### **Tenure**

The appointee will be required to work in Vanuatu for approximately one year during year 1, thence undertake four monthly assignments spread over years 2 to 3.

## Annex 6

# Design Report on Public Awareness and Communication

## Contents

<b>1.BACKGROUND.....</b>	<b>1</b>
<b>2.CURRENT PUBLIC AWARENESS AND COMMUNICATION ACTIVITIES IN LAND.....</b>	<b>2</b>
<b>3.SUPPORT FOR THE CUSTOMARY LAND TRIBUNAL.....</b>	<b>3</b>
<b>4.WOMEN AND LAND ISSUES.....</b>	<b>5</b>
<b>5.THE ROLE OF NGOS AND CIVIL SOCIETY.....</b>	<b>7</b>
<b>6.ROLE OF CHIEFS.....</b>	<b>8</b>
<b>7.DOCUMENTATION OF CASES.....</b>	<b>8</b>
<b>8.INSTITUTIONALISATION OF CLT .....</b>	<b>9</b>
<b>9.MEDIATION.....</b>	<b>9</b>

## PUBLIC AWARENESS AND COMMUNICATION

### 1. BACKGROUND

While there have been attempts by the Ministry of Lands to create awareness nationally of the Customary Lands Tribunal since the Customary Land Tribunal Act 2001 was enacted, many users have expressed discontent over understanding of the concept and its application in trying to solve land dispute cases. Many people consulted expressed the following as weakness in the CLTA and awareness process:

- The awareness process did not cover the whole country but only a selected number of islands in respective provinces.
- The explanations were too general mainly as a result of the brief time that was given for each consultation. As the literacy rate within the country is very low, it is very important that proper time is allocated for awareness purposes and presentations.
- Language used was deemed to be too technical and thus very difficult to understand.
- There were reports of consultations not being properly attended as there were other more important ceremonies taking place close by which the majority of community members chose to attend.
- Booklets were produced and distributed but these were not shared by those who were given the publications. The low level of literacy meant that not many people and communities were able to gain any valuable information from the booklets.
- Information was kept mainly at the DoL offices in Vila and Santo and not easily accessible to many communities.
- Confusion over the CLTA has lead to manipulation and abuse.
- Awareness material was not in Bislama language which made it difficult to understand.
- Proper planning must be done to allow time for the concept to be absorbed, questions asked and responded to. A minimum of 5 days should be allocated for awareness activities in each Area Council.
- Government must involve other stakeholders in carrying out awareness, particularly NGOs, churches, Malvatumauri Council of Chiefs, and education institutions.
- The public wants to know the overall Vanuatu Government policy on land.
- Consistent support from the government of Vanuatu through the Ministry of Lands and other government ministries.

There is evidence that the current system associated with the Customary Lands Tribunal and its associated hierarchy appeals system is perceived to be alienating

disputing parties from traditional values and practices. The current system allows for chosen individuals from other localities to adjudicate between disputing parties – traditionally, the matter would be sorted internally by those with the mandate to do so (mainly chiefs).

Some feedback suggests that allowing individuals from other localities to adjudicate over land dispute cases allows some neutrality and minimises bias. To allow traditional values and practices to provide the basis for decisions on land dispute cases, it is necessary that traditional values, practices and individual rights to land ownership are documented for every area – this will ensure that decisions made by the Customary Land Tribunals are based on a common platform. Such documents should be made available to every community, education institutions and particularly at the Area Council office. The storage of a copy of documents could also be arranged with the land office so as to ensure that copies are always available. Documentation of individual rights to land ownership would include the following;

- How land ownership is passed from one generation to another;
- Individual rights to land;
- Community rights to land;
- Adopted son or daughter;
- A couple without kids;
- Purchased property;
- Right of a woman to land;
- Right of a man to land;
- Right of a daughter to land;
- Right of a nephew or niece;
- Obligations of parents, and uncles;
- Land given to individual as good will;
- Forgoing land ownership due to bad debt;
- Forgoing ownership as a result of someone else caring for your loved one.

## **2. CURRENT PUBLIC AWARENESS AND COMMUNICATION ACTIVITIES IN LAND**

Awareness and communications on the CLTA seem to be most prevalent in the provinces of Shefa, Sanma, Malampa, and Penama. These particular provinces have experienced numerous land cases which have ended up in Customary Land Tribunals. It is clear that the CLU needs an awareness and communications strategy which will increase people's understanding and confidence in the Customary Land Tribunal process.

AusAID is currently working with the Malvatumauri National Council of Chiefs (through the Queensland University of Technology) to assess the role of chiefs and investigate strategies for strengthening the capacity of the Malvatumauri Council of Chiefs Secretariat and the ability of individual chiefs to promote and maintain stability through

the practice of appropriate good governance processes. Currently, there are a number of AusAID-funded forums such as the “GRAON TOKTOK PABLICK FORUMS” which allows the public to have their say on various land issues. Awareness and information on such forums is passed on mainly through the radio, newspapers and electronic mail. Critiques argue that these forums have been too academic and focussed primarily in Port Vila and have failed to cover other areas of the country.

The National Land Summit which was organised by the Malvatumauri National Council of Chiefs, Ministry of Lands, Cultural Centre and NGOs in 2006, was an opportunity for the public to express themselves over land issues. Participants at the summit expressed concern over what they perceive as increasing incidence of traditionally-owned land being alienated, and are dubious about any government legislation perceived to be undermining the authority of chiefs in maintaining stability in communities.

### **3. SUPPORT FOR THE CUSTOMARY LAND TRIBUNAL**

The main objective for support of the Customary Land Tribunal is so that land dispute cases are resolved amicably based on traditional values and practices as provided under the Customary Land Tribunal Act. To assist in this it is important that clear messages are communicated with the people to inform them of the CLTA and how disputes can be resolved through the tribunal process

Public awareness campaigns need to be professionally and strategically developed so as to ensure they reach the maximum possible audience through simple and clearly understood messages. There are a number of mediums that can be used but in the Vanuatu situation not one medium is capable of easily reaching all of the population. Radio provides an opportunity for wide coverage and is already being used by the Ministry of Lands with a regular radio segment on land issues; however the radio does not currently cover the whole nation, nor is it used strategically. Television is a good medium for gaining attention and presenting clear messages; however in Vanuatu it has limited coverage. The printed and verbal media provide the best opportunity for ensuring widespread coverage.

The vastness and geographic spread of the islands of Vanuatu, the different customs and communication difficulties will require some innovative and cooperative approaches to improving public awareness. The opportunity exists to utilise some of the existing institutional frameworks through the Malvatumauri, Vanuatu Cultural Centre and also the Vanuatu Association of Non Government Organisations (VANGO) for the dissemination of public awareness messages. Support would be required to these networks. The Wan Smolbag through their youth network would enable messages to be conveyed through theatre play acting.

To ensure that there is effective public awareness to support the CLT, the following activities are recommended:

1. **Establishment of CLU Advisory Group:** The Customary Lands Unit Advisory Group to be established as soon as possible. CLU Advisory Group will include

representatives from the following: Ministry of Lands, Malvatumauri National Councils of Chiefs, Provincial Affairs, Vanuatu National Council of Women, Vanuatu Kaljare Senta, Vanuatu Police Force, VANGO, and Ministry of Education.

2. **Use of print media, radio, etc. to sustain awareness on the CLTA:** Throughout the program, the CLTU will coordinate awareness programs through the print media, internet and radio. Members of Civil Society and other development agencies may assist in producing and implementing awareness programs on the CLTA. Programs may also include awareness on various mediation techniques.
3. **Production of booklet for use by communities:** The CLTA booklet to be revised and simplified further. More copies to be made available to all Area Councils. A pictorial version of the CLTA should also be produced and distributed to all Area Councils - organizations such as Wan SmolBag have expertise in this area and may be called on to assist.
4. **Production of DVDs for use in awareness raising in communities:** The production of DVDs in Bislama (national dialect) explaining the CLTA, and acting out various scenarios and messages is an excellent way of reaching communities. More and more communities have access and operate DVD players.
5. **Internet based awareness and Information dissemination:** The CLU needs to establish its own website, organized in such a way that information is easily accessible. A mailing list of essential institutions and individuals will form part of this process.
6. **Digicel and Telecom:** For ease of communications nationwide, the CLU may engage both Digicel and Telecom in the awareness and information sharing process. Digicel has a 90% coverage of Vanuatu. Telecom Vanuatu on the other hand, owns all the land lines.
7. **Line Ministries:** CLU to provide information and awareness to government employees working in government departments and projects in provinces throughout the country. Awareness material and information packages can be passed on through these department representatives. Awareness materials can also be stored in these facilities.
8. **National workshops on Mediation Techniques:** Three mediation workshops to be organized by the CLU in Port Vila for over 60 participants, representing Civil Society, Private Sector and Government. The workshops which will be hosted in Port Vila at the beginning of the program, mid-term and at the end of the program will take (at least) 20 participants in each workshop. The workshops will focus on mediation techniques and will be facilitated by a Technical Assistant, and

coordinated by the CLU. Individuals trained in mediation techniques will assist in mediation training in provinces and may even be requested to provide mediation services in land dispute cases. At least one third of participants in these national workshops must be women.

9. **Provincial Mediation Training and CLTA Awareness:** Twelve training programs involving 186 participants from 62 Area Councils will be carried out during the duration of the program generally at the provincial capital. At least 3 representatives are expected from each Area Council, one of which will be a woman. The provincial workshops will be coordinated by the CLU with assistance from a Technical Assistant and change agents such as Wan SmolBag and other members of Civil Society. In a society where the literacy rate remains quite low, it is very important that other methods of awareness raising are used. Wan SmolBag is well known for its advocacy work using drama.

Area Council Secretaries, Provincial Councillors, Cultural Centre Field Workers and Education Zone Curriculum Advisors may also be invited to participate in this training and awareness workshops on the CLTA.

10. **Strengthen the Capacity of the Area Council Secretary as a conduit to information dissemination on the CLTA:** It is very important that respective provincial establishments are familiar with the CLTA – the CLU must build workable relationships with Provincial Headquarters, Area Council Secretaries and Provincial Councillors. It is important that space is allocated in every Area Secretary Office for storage of CLTA awareness material – communities can access these materials whenever necessary.
11. **National Workshop on the findings of the program:** A national workshop to be organized after the first two years of the project to discuss and review achievements and challenges and to assess future directions. All Area Councils must be represented. At least one third of participants at this workshop to be women.

#### **4. WOMEN AND LAND ISSUES**

The *Constitution of the Republic of Vanuatu* grants women de jure equality and makes sex discrimination specifically illegal. Whilst there are Constitutional provisions guaranteeing women equal status with men, the legal system often fails to enforce these provisions. It is important that the project is pro-active in ensuring that women are part of the Customary Land Tribunal process. This means that women must make up at least one third of mediators to be trained at the national level. At least one third of participants attending awareness workshop on the CLTA must be woman. As trained mediators, women must be encouraged by the CLU to facilitate dialogue during land dispute processes.

The following are some of the issues raised by Women at a recent land workshop in Port Vila:

- Need for Legislations on matrimonial properties.
- Women's customary land rights not understood.
- Women's land rights concept not clear to women.
- Encourage more women participating/share decision making at community level to national level.
- Gender awareness training is required.
- Structures to be in place within the community for information to flow.
- Need studies, documentation and information sharing.

In terms of educating women on land ownership issues, participants at the workshop proposed the following:

- University of South Pacific (USP) could help in providing a course on land and land related issues.
- Encourage old people to pass on their knowledge to the younger generations.
- Educate girls about customs & tradition about land rights.
- Gender training and training to empower women to participate in all processes at all levels.
- Train women as trainers.
- Gender and development training and awareness through VNCW.
- Encourage participatory learning in schools that would allow young people to actively be part of the learning process so that they can be better equipped to be part of the community processes including land.
- Gender awareness training to female and male leaders and members of the Tribunal.
- Conflict prevention training to leaders in the provinces but also to land owners to respect females/males (Vanuatu Women's Centre could do this).

It should be noted that the initial training provided for the CLTs did not have a specific gender focus. As a result women are very poorly represented as members of tribunals (4 out of 175 names nominated) and have limited understanding in relation to their rights at the tribunal and also in relation to land issues generally.

It has been reported that the majority of women know nothing about how they could participate in customary land tribunal discussions (Simo 2005: 34). Therefore, while the Act may have scope to include women in Tribunals, the information provided to ni-Vanuatu by the CLU does not emphasise this option to communities. While several of Vanuatu's land laws have scope for gender equality, it is their interpretation by administrators that undermines the decision-making opportunities for women.

Issues of gender need to be approached sensitively, particularly in relation to women's participation in customary decision-making structures. To assist in gaining a better

understanding of the activities of the CLT and also to enable a gender impact assessment of tribunal activities to be undertaken it is proposed that an anthropological study be included as an activity within the project. This study would need to be undertaken prior to the commencement of the review of the Customary Land Tribunal Act.

## 5. THE ROLE OF NGOS AND CIVIL SOCIETY

Civil Society members in Vanuatu play a significant role in planning and service delivery in rural communities throughout Vanuatu. Quite a number of established members of Civil Society have national networks with links from central right down to grassroots level. As the umbrella body of NGOs in Vanuatu, the Vanuatu Association of NGOs (VANGO) signed an MOU with the Government of Vanuatu in 2004, agreeing on the principles of engagement between the two entities. Working relationships between government, NGOs, and other members of Civil Society has been great. The following are members of VANGO who may be engaged in some aspects of this program:

NGO	AREAS OF ACTIVITY
Live and Learn Environmental Education	Works in all provinces throughout Vanuatu on Environmental Education
Oxfam International- Vanuatu Office	Focused on but not limited to, youth development in the areas of: Economic justice and livelihoods, HIV & Aids, gender justice, active citizenship and advocacy, and human security (Disaster management and conflict mitigation)
Save The Children Australia	Save the Children fights for Children's rights and delivers immediate and lasting improvements to children's lives worldwide. It aims to ensure that all children, regardless of gender, race, country of origin or religious belief have the means of survival, receive protection and have access to nutrition, primary health care and basic education. SCFA works in all provinces of Vanuatu.
Foundation of the Peoples of the South Pacific Vanuatu	FSP Vanuatu is has existed since the 1980s and focuses on development issues throughout the country.
Vanuatu Rural Development Training Centre's Association	VRDTCA has rural training centre network throughout the islands of Vanuatu. Main focus is on Non Formal Education – Curriculum Development, Capacity Building and Governance.
Nalmaluien Kape Ramar Mene	Water and Sanitation, women's home health, small business enterprise development, facilitating Seasonal Workers to New Zealand. Based primarily in Tanna, Tafea province.

Vanuatu Women' Centre	VWC as volunteers around the country in local communities set up committees against violence against women. Currently there are 37 committees involving a total of 222 members. Expertise of VWC is in Gender Equality, Gender Violence, Human Rights, Legal Advocacy and Research.
World Vision	Works in the majority of provinces. Main focus on adult literacy, water and sanitation, and capacity building
Voluntary Service Overseas	Working in the areas of participation and governance and HIV/AIDs
Wan SmolBag	One of longest established NGOs in Vanuatu. Focuses primarily on good governance advocacy using drama. Also has expertise in other forms of awareness methods including using pictures and cartoons, etc. Known locally, nationally, regionally and internationally.
Youth Challenge Vanuatu	Youth livelihoods and life skills and community development. Youth Challenge involves both international as well as local youths working together throughout the country
Vanuatu National Council of Women	Vanuatu National Council of Women is the national umbrella for women councils all over Vanuatu. Main focus is governance issues, particularly Women's Rights.

## 6. ROLE OF CHIEFS

While this program may not target training of Chiefs in Mediation and other techniques, it is very important that Chiefs do possess the necessary capacity to deal with land dispute cases in communities. Chiefs should not only know the contents of the CLTA but also be involve in mediation activities and training. In the absence of neutral mediators, particularly in remote communities where access is difficult, it is very important for chiefs to possess mediation skills to settle land disputes as urgently and expeditiously as possible.

It is in the best interest of the Malvatumauri National Council of Chiefs to work closely with the CLU to ensure that Chiefs throughout the six provinces are aware of the program implementation. AusAID, through the Queensland University of Technology (QUT) is providing technical and financial assistance to the Malvatumauri to help it build its capacity nation-wide, particularly in the governance sector.

## 7. DOCUMENTATION OF CASES

All cases facilitated through the Customary Lands Tribunal must be documented. Arguments from both sides and decisions taken must be documented to show how certain decisions are reached. These cases must be kept at the Area Council Secretary office and CLU for future references. Cases could also be stored in land offices for safe

keeping. Training on minute taking must be provided to those responsible and especially to the secretaries of Customary Land Tribunals.

## **8. INSTITUTIONALISATION OF CLT**

It is essential that awareness and information on the Customary Land Tribunal Act is accessible by the majority of people throughout the provinces. As administrator of the CLTA, it is the role of CLU to have available the relevant material for distribution to communities. Other institutions that will store awareness and information material on the CLTA will include the following:

- Line Departments.
- Provincial Headquarters.
- Area Secretary Office and Provincial Sub-centers.
- Police outposts.
- Provincial Health facilities.
- Community Chiefs.
- Education institutions throughout the provinces (both public and private).
- Community Centers (Churches, youth centers, etc).
- Non Government Organization offices throughout the country.
- Private individuals.

The success of this program will depend very much on the involvement of stakeholders from inception to implementation. The reason for emphasising participation is that it consists of a “bottom-up” approach to development efforts rather than “top-down”. In the participatory approach, the people who will be affected by a program are brought in from the beginning so that they feel that they own the program and thus less resistant when the program is being implemented. Key to the success of this program therefore will be the ability to develop and maintain a supportive working relationship with central agencies, line ministries, Malvatumauri National Council of Chiefs, local regional councils, Church leaders, women leaders, civil society and local service providers. Coordination with other partners such as AusAID, European Commission and other development agencies is also advisable.

Stakeholders should collaboratively think about and discuss what the problems are and what are the good points of the project plan for the situation in a community. This process will serve not just for local people to inform outsiders but also for people to analyse their own situation. Stakeholders collaboratively decide based on what is expressed in the group and collaboratively agree on a strategy and on a time frame for implementation. As stakeholders have diverse experiences and educational backgrounds, it is essential that a lot of effort is expended to ensure that there is common understanding among the stakeholders.

## **9. MEDIATION**

Although Section 6 of the Customary Land Tribunal Act refers specifically to the opportunity of arriving at a decision prior to being considered by a tribunal and this decision being recorded, this section does not enforce a process of mediation prior to a land dispute going to a tribunal. It is proposed that mediation become a compulsory

activity prior to any case being referred to a tribunal. Without mediation having taken place it is proposed that a case cannot be approved for submitting to a tribunal.

The implementation of mediation will require a concerted effort within the project to ensure that mediation is successful and is seen as a process that is preserving custom. During field visits there was very strong support for mediation as it was believed that too many disputes were referred directly to the tribunal without there being any attempt to resolve the dispute before hand. There were also strong feelings that the tribunal process was removing the dispute resolution process from the customary systems.

The project will support the development of mediation activities through the development of a “training of trainers” program for mediation and then the training of selected people from each of the Area Councils as mediators. A specific focus will be on the training of people such as teachers, church elders, respected community people etc in mediation skills. Although it may be necessary in some areas to train Chiefs as mediators it is considered preferable that Chiefs not be mediators as it is possible that they will be involved in the tribunal process if mediation fails.

It is also recommended that a register of mediation trainers and mediators be established. It is believed that there are other activities in Vanuatu where mediators are either proposed or are now being used. It would therefore be beneficial for all those involved in mediation activities if a register was created. Further work will be required in relation to the establishment of a register and a decision made on what agency will be responsible for managing the register.

## Annex 7

# Design Report on Review of Customary Land Tribunal

## Contents

<b>1. BACKGROUND.....</b>	<b>1</b>
<b>2. ADMINISTRATION OF CUSTOMARY LAND TRIBUNAL ACT .....</b>	<b>2</b>
2.1. Customary Land Unit (CLU) .....	2
2.2. Progress with Implementation and Administration of the Act .....	4
2.3. Organisation.....	5
2.4. Training .....	6
2.5. Role of the Malvatumauri and Chiefs .....	7
2.6. Gender .....	8
<b>3. REVIEW OF THE CUSTOMARY LAND TRIBUNAL ACT.....</b>	<b>9</b>
3.1. Introduction .....	9
3.2. Outline of Issues with CLTA .....	10
3.3. How well has the Legislation been received?.....	10
3.4. Deficiencies in the Legislation and Recommendations for Possible Solutions reference to those consulted and their views.....	10
3.4.1. Long Process.....	10
3.4.2. Bias/Impartiality Issue.....	12
3.4.3. CLT Procedures need to be clear.....	12
3.4.4. High Costs .....	12
3.4.5. Provision to Speed up Appeal Hearings .....	13
3.4.6. Section 6 – CLTA .....	13
3.4.7. CLT is not Custom.....	13
3.4.8. Section 39 – Supreme Court Supervisory Role .....	14
3.4.9. Forms in CLTA Not Flexible.....	14
3.4.10. CLT Not Able to Enforce Its Judgments .....	14
<b>4. FUTURE ACTIONS .....</b>	<b>14</b>

## CUSTOMARY LAND TRIBUNAL ACT

### 1. BACKGROUND<sup>12</sup>

With respect to land dispute settlement, the Constitution of Vanuatu provides that the government “shall arrange for the appropriate customary institutions or procedures to resolve disputes concerning ownership of custom land”. To this end, the Government passed the Customary Land Tribunal Act, 2001 establishing tribunals that build on existing custom (kastom) structures to manage disputes over ownership and land boundary issues. An aim of the Act was to implement the provisions of Article 78 (2) of the Constitution of Vanuatu by providing an alternative customary institution to the Island Courts, for resolving disputes as to custom ownership of land in Vanuatu.

A Customary Land Tribunal Office (now the Customary Land Unit) was subsequently set up within the Department of Lands, and two Department officers temporarily assigned to undertake the implementation of the Act.

NZAID (NZODA at that time) provided funding in May 2001 for the consultative process that contributed to the drafting of the Act. Following enactment of the legislation, further NZAID assistance was provided in May 2002 to:

- the Department of Lands to conduct awareness and training workshops with rural communities on the provisions of the Act, and
- Malvatumauri, to undertake awareness work with chiefs and determine true customary chiefs who would be eligible, along with community elders, to sit on Customary Land Tribunals.

The work of supporting the Customary Land Unit (CLU) and Malvatumauri has been ongoing since May 2002, although the overall success and impact of each in relation to the Customary Land Tribunal (CLT) activities is problematic.

In an ideal world where there was no migration, no disputes as to the rightful chiefs, no temptations from large cash incentives for development, where chiefs still lived in the village, and where the chief's authority was not challenged, the traditional customary processes would continue to be effective in resolving land disputes. Unfortunately this is not the situation across the whole of Vanuatu and new procedures to resolve land disputes have had to be adopted to complement the traditional customary processes. The Customary Land Tribunal is a compromise in that it uses customary law in a non-customary process. Findings were that it still offers the best alternative in situations where the customary procedures cannot be applied effectively.

If custom has not resolved the dispute people can apply to go to the village land tribunal, which may be joint if more than one village is involved. The meeting of the

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<sup>12</sup> Much of the information in this section has been taken from the NZAID report; Mavromatis, G., Prof Paterson, D., Kanawi, J., Simo, J., and Vuti, A; (February 2005); *Implementation of the Customary Land Tribunal Act No 7, 2001*

tribunal is widely advertised and there can be multiple parties to the dispute. The principal chief and two other chiefs or elders of each village involved form the village land tribunal. Parties can object to the tribunal members if, for example, there are clear conflicts – although neutrality is not sought; indeed invariably tribunal members will have connections with the parties to the dispute. Presentation of each side's case proceeds without rules of evidence, and there is considerable freedom as to questioning and who can speak. No lawyers are permitted to participate.

The procedure can be stopped at any time if an amicable settlement is reached, however if this does not occur by the end of the hearing then the tribunal members must use custom law to make a decision. The decision can be appealed to a higher tribunal. Appeals from tribunals are reviewed by a higher land tribunal, be it a single/joint sub-area/custom area land tribunal. Jurisdiction over a final appeal lies within the island land tribunal. Some islands, such as Ambae, have, with general agreement, developed their own areas or "wards" for administering the Act.

The tribunal process is participatory, and people get to tell their stories to tribunal members. Implicit in the idea that tribunals are to use custom to make their decisions is that custom will be affirmed. The remit of the tribunals to use custom is left loose, so as to allow for variation in different regions, and for custom to evolve. Legitimacy for the tribunal's decisions is thought to spring from the power and legitimacy of the tribunal members themselves, which they have gained through their community standing.

The CLTA was primarily designed to overcome the issues that were associated with the use of the Island Courts to resolve land ownership. These included the high cost of litigation, lengthy waiting periods for hearings and appeals, and the Court's lack of knowledge of local custom. Therefore by eliminating these issues with the new legislation it was expected that the following positive outcomes would eventuate:

- economic development would be facilitated;
- kastom would be upheld, supported and reinforced in Vanuatu;
- the process to resolve customary land disputes could be sustained by the resources that were both available and accessible in Vanuatu.

## **2. ADMINISTRATION OF CUSTOMARY LAND TRIBUNAL ACT**

### **2.1 Customary Land Unit (CLU)**

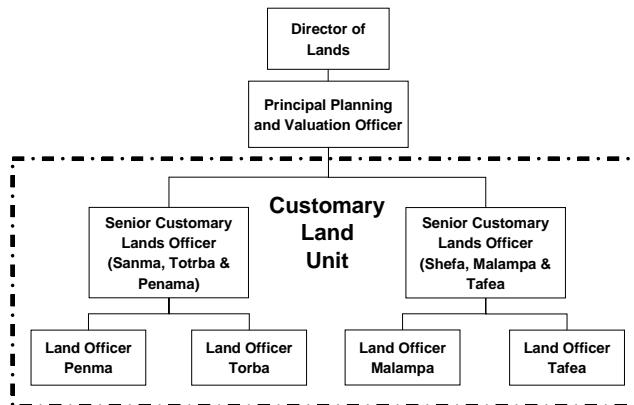
The administrative office established to support the Customary Land Tribunal Act of 2001 the Customary Land Tribunal Office (CLTO) consisted of a National Co-ordinator, a Resource Management Officer, and a secretary, all of whom were located in Port Vila. The organisational structure for the DOLSR approved in December 2004 did not include approval in the structure to support customary land activities.

Following a review in 2005 it was proposed that a Customary Land Unit (CLU) be established in the Department of Lands in an attempt to address a number of deficiencies and organizational issues associated with the CLTO. In the report a number of recommendations were proposed to more clearly define the role and responsibilities of the CLU. The purpose of the CLU was redefined to facilitate the

effective resolution of disputes involving customary land and it was recommended that the CLU “provide advice, support and training for kastom landowners and land users on all matters that affect their relationship with the land, especially leasing and ownership”.

This change in focus of the responsibilities of the CLU was a reaction to a number of land issues that were impacting on Vanuatu at the time and still continue to impact, in areas such as land leasing and land use. The CLU has never been in a position to fill these responsibilities for several reasons. Firstly the task of providing advice and support on issues related to land leasing, land use and land ownership was well outside the scope of activities required to support the Customary Land Tribunal Act and the staff of the CLU were not equipped to provide such advice. Secondly staffing and funding issues were always going to make the undertaking of this task difficult given the other activities that needed to be undertaken to provide adequate administrative support to the land tribunals. These additional responsibilities have resulted in the CLU having difficulty in undertaking its administrative responsibilities under the Act and the Senior Customary Lands Officer of the CLU has only recently put a proposal to the Director of the DoL that the unit focus solely on fulfilling its requirements under the Act and cease immediately providing any advice and support in relation to land disputes, land leases etc.

A structure for the CLU was approved in March 2006 and is shown in the organisation chart. Of the 6 positions in the approved organizational structure only one position, that of Senior Customary Lands Officer (Shefa, Malampa and Tafea) based in Port Vila, is filled by a full time officer. Two other positions in the organizational structure are presently filled by contract staff. It is intended that one of the contract staff will fill the position of Land Officer in Malampa and the other is presently filling an administration and support role. In Sanma Province one of the officials in the Land Office in Luganville undertakes a part time role in supporting the CLT activities devoting approximately 30% of his time to tribunal activities



The purpose of the CLU is to provide administration support for the CLT Act and has wide ranging responsibilities. The objectives of the CLU are:

- To survey and register customary land boundaries;
- To register customary land;
- To resolve land disputes and to determine ownership of land throughout Vanuatu;
- To facilitate villagers and chiefs to set up land tribunal courts;
- To establish land tribunal administration and policies.

To achieve these objectives it aims to collaborate with the Malvatumauri to carry out training and establish Land Tribunals throughout the country; undertake public awareness campaigns and provide appropriate administrative support to tribunal activities. The CLU has adopted a set of performance measures however it has continually struggled to carry out its responsibilities, at least partly due to the limited staff resources available and limited funding. It would appear that the reorganisation following the 2005 review has had little impact on addressing any of the issues facing the operations of the CLU.

## **2.2 Progress with Implementation and Administration of the Act**

The introduction of the CLTA has provided a valuable formal mechanism for resolving land disputes. However, a number of factors have obstructed the operation of CLT to date. These have largely been the lack of capacity of the CLU to fully implement tribunals and the inability of DoL to dedicate sufficient trained resources to service the land tribunals throughout each province to resolve the backlog of land disputes. The training and awareness initiative previously undertaken served as an introduction to tribunal activities but the role and means of access to the CLT still needs further promotion throughout the country. There is a low level of custom owner awareness of the role of the land tribunals and related land issues including the short and long term implications of leasing and development. The initial allocation of DoL officers for part of their time to CLT activities has not been maintained, indicating the difficulties the DoL has of maintaining dedicated resources for CLT activities.

However given the lack of resources to administer CLT activities and the administrative diversion it would appear that the overall concept of the Act and the purpose for its establishment has been generally well received. This is supported through the statistics in the following table that highlights the significant increase in tribunal activities between February 2005 and August 2008.

**Customary Land Tribunal Statistics**

Location	From 2001 to February 2005			From 2001 to August 2008			
	Number submitting tribunal names	Number of hearings held	Number of villages involved in hearings	Number submitting tribunal names	Number of hearings held	Number of villages involved in hearings	Council of Chiefs-Decisions Recorded <sup>1</sup>
Malekula	43	0	0	50	32	40	6
Ambae	21	2	1	21	10	15	2
Santo	42	25	5	40	110	120	10
Efate	15	5	4	15	30	35	4
Tongoa	1	0	0	2	0	0	0
Epi	13	0	0	13	1	0	1
Erromango	2	0	0	5	9	12	4
Torres	4	0	0	4	0	0	0
Banks	15	0	0	15	0	0	0
Tanna	6	0	0	6	4	4	6
Ambrym				3	1	1	0
Paama				1	0	0	0

TOTAL	162	32	10	175	167	227	33
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Note 1: Council decisions refer to kastom settlement as per section 6 and have been recorded in the CLU database.

During this period there has been an increase of 135 tribunal hearings covering more than 200 villages. This table also shows the number of decisions that have been recorded by the Council of Chiefs under Section 6 of the Act and have been settled outside of the tribunal process. This is a key statistic when considering the current issues under the legislation and the strong recommendations for there to be an increased focus on mediation activities under Section 6.

### 2.3 Organisation

Under current organisational arrangements the CLU sits within the DoL and the Senior Customary Lands Officer reports to the Principal Planning and Valuation Officer. There is presently a proposal to move the CLU under the Ministry of Justice which is the ministry under which the Malvatumari is located. This would appear to be a good proposal and it is understood that both the DoL and Ministry of Justice (MoJ) agree with the transfer and that the move is now dependent upon some administrative arrangements being clarified.

The current situation in the GoV in relation to the filling and funding of vacant positions means that it is important that a pragmatic approach is taken in relation to organisational arrangements and this could not be more relevant for the CLU. It must be accepted that although the organisation structure for the unit has been approved there is little likelihood in the immediate to medium term of the unfilled positions being filled. For this reason future activities of the CLU must be planned around existing resources and use made of existing or proposed staffing structures within other areas of government and external to government.

For the foreseeable future it is recommended that the organisational focus be on building administrative capacity at the central level in Port Vila. There is presently one fulltime person and two contract staff based in Port Vila. Providing the contract staff can be retained and the positions converted into fulltime positions this will provide a minimal level of resources for the development of the administrative support required under the Act. Although the number is not ideal it will be possible to undertake all activities with the use of external regional resources. There is one officer in Luganville who is providing part time support for CLT activities, however with the CLU moving to another Ministry the relationship and the ability for the CLU to utilise the services of this position is unclear.

There are a number of options that can be explored that will enable the CLU to expand its overall support for the Act wider and into the key provinces and over time to all provinces. The first option is to make use of the Area Council secretaries. The government has broken each of the provinces into smaller administrative areas called Area Councils (similar to local government areas) and there are 62 of these areas. Each Area Council has a secretary who is employed under the Ministry of Internal Affairs and provides general services to their Area Council. One possibility to be explored is to provide training to these secretaries with the aim of them being in a

position to provide general advice on the CLTs and to issue and collect documents for returning to the CLU.

A further option that can be explored is to link into the AusAID funded land sector program for Vanuatu which through its support is proposing to establish provincial “Focal Point Officials” who with appropriate training will be in a position to provide general support and advice on a broad range of land matters. It would therefore be possible to provide these officials with training on the CLTA and for them to undertake an administrative role on behalf of the CLU. With the establishment of a provincial support network it will enable the staff of the central CLU to focus on providing (i) public awareness and training; (ii) records maintenance – records of decisions reached in land tribunal hearings and through alternative processes; (iii) performance monitoring; (iv) support services; and (v) policy advice to government. Being able to focus on these activities will ensure that the implementation of the CLT activities are strengthened and that people are better informed on the purpose and operation of the tribunals.

## **2.4 Training**

Training has been the major activity undertaken by the staff of the CLU with many hundreds of chiefs and elders having attended courses. Training was seen as the precursor to having the chief of the village submit a list of names of possible adjudicators and secretaries for approval.

The 2005 review noted that the standard of training was questionable with some people having little or no knowledge of the tribunals and their purpose and the training provided to the village adjudicators and secretaries was largely inadequate and method of presentation generally inappropriate. There was a focus on presentations to large numbers of people that ran for two days and were generally in the form of lectures.

It was found that villages that had a high knowledge of the tribunal were characterised by, being on Efate or Santo, having relatively easy access to CLU staff, having very regular contact and support from the CLU staff, having held a number of hearings and continued exposure to the Act through the points listed above although not having attended any training courses.

Training also appears to have been seen as a one-off training event rather than a series of activities that would eventually result in proficient land tribunals. The lack of effectiveness of the lecture style of the training was further compounded by the lack of follow-up, particularly outside Santo and Efate.

The lack of training is seen as one of the major impediments to the broad acceptance and understanding of the land tribunals. It is also seen as one of the major reasons for a misunderstanding by many people as to when the tribunal should be used and the rules that govern the operation of tribunals.

If the overall successful acceptance of the tribunal process is to be maintained and the tribunals are to continue to operate effectively and to serve the purpose of addressing land disputes there is an overriding argument for a significant increase in the support for public awareness programs for the general public and for an increase in the training provided to tribunal members. The pressure on tribunal members and especially the secretaries to ensure that the tribunal is operated in accordance with the Act and that

procedures are adequately recorded is enormous and is exacerbated when the responsibilities are placed in the hands of people who may have a low level of education and literacy skills.

The key messages in relation to training that were recorded in the 2005 review remain relevant and are worthy of repeating here:

- That training is recognised as one component in an implementation program that will require a series of different inputs to be effective. Unless the whole of the program can be adopted, isolated training courses that are broadcast across the country should be minimised.
- That the implementation program be designed to address attitude and commitment, as well as skills and knowledge.
- That the implementation program, and specifically the training inputs, should be based on an understanding of the issues, attitudes and knowledge prevailing in the target audience which will have been formally assessed.
- There is a need to set clear and relevant learning objectives. For the effective implementation of the Act, adjudicators and secretaries would need to be both competent and confident to hold tribunal hearings.
- That the training program clearly set out the target locations and the target level of outcomes sought, and the expected timeframe for delivery. The areas with the greatest need would be given greatest priority.
- That the staff of the CLU are provided with formal training in adult education, in designing and running training programs, and in designing appropriate learning aids and handout material.

## **2.5 Role of the Malvatumauri and Chiefs**

In 2006, the *National Council of Chiefs Act* was passed, taking the place of an earlier law which only made minimal provision for elections, meetings and voting. The new Act provides for an administrative structure for the National Council of Chiefs, and for its role in registering Island and Urban Councils of Chiefs. The Malvatumauri (National Council of Chiefs) plays a key role in the administration of the chiefly systems. Malvatumauri and the Island Councils of Chiefs are critical where chiefly disputes preclude the application of the tribunals. It is an important part of the land tribunal process that the Malvatumauri continue the processes of facilitating the identification of rightful chiefs so that kastom can be applied to customary land disputes. The Government must continue to work with the Malvatumauri and ensure that they receive appropriate support.

AusAID through its Governance for Growth program is providing support to the Malvatumauri. The focus of this partnership is the provision of support for the Malvatumauri to achieve its objectives in relation to the promotion and preservation of kastom governance, and for building capacity related to interaction with introduced systems and management of change at national and community levels. The activity is intended to assist community leaders involved in or connected with kastom governance systems and structures to be able to engage with and manage contemporary

development and change processes more confidently. The priorities of the program include the development of training plans for secretariat officials at national and island level Councils of Chiefs and the provision of support to meet initial and high priority training needs; and the provision of office equipment for the Malvatumauri Council of Chiefs office in Port Vila which would enable them to communicate more effectively with partners and other Councils of Chiefs.

The Malvatumauri are an integral component of ensuring the overall success of the Customary Land Tribunal Act and it is therefore important that they receive appropriate support necessary to undertake their support role. In reviewing the activities of the Malvatumauri it was realised that at present they have limited capacity. However the AusAID funded program is going some way towards addressing this issue. Given this support and the limited absorptive capacity it was considered that there would be no advantage gained in NZAID also adding support to the Malvatumauri. It will however be necessary to ensure that the support that is provided to the Malvatumauri is sufficient to support the activities required under the Customary land Tribunal Act.

## **2.6 Gender**

There have been several reports prepared on the position of women in relation to land in Vanuatu and the position women play in relation to land. Although the Constitution incorporates non-discrimination, it is argued that Article 74 of the Constitution, which states that “the rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu”, means that many land cases may have typically ignored Article 5 in preference to custom, which means that women’s rights may have not been considered.<sup>13</sup>

The Customary Land Tribunal Act does not specify women’s land rights under custom law or the rights of women to have equal opportunity in participating as adjudicators in the Tribunal. Although women are not specifically excluded in the process, the lack of an affirmative statement in the legislation means that women and their role in the tribunal process are more than likely overlooked and in fact it is rare for male chief’s to appoint women as adjudicators. This creates the potential for discriminatory practices to be reinforced in the tribunal process.

In a previous NZAID funded review of the Customary Land Tribunal Act<sup>14</sup> the implications of women’s involvement in the adjudication process was reviewed. It was noted that there was a very low level of involvement by women in the tribunal process. Some of this was attributed to kastom, where women are excluded from participating in the land ownership decision-making process. However even in villages where this was the case, there appeared to be no impediment to women participating in the tribunals as secretaries, other than the women themselves. In villages where the chiefs had said that they were encouraging women to put themselves forward as tribunal secretaries, there had been very low uptake.

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<sup>13</sup> Naupa, A., and Simo, J.; (2007) *Matrilineal Land Tenure in Vanuatu “Hu I Kakae long basket?” Case Studies of Raga and South Efate*; p 20

<sup>14</sup> Mavromatis, G., Prof Paterson, D., Kanawi, J., Simo, J., and Vuti, A; (February 2005); *Implementation of the Customary Land Tribunal Act No 7, 2001*; NZAID

The CLU statistics show that on Efate there are two women who have been appointed to undertake secretarial responsibilities and on Malakula Island two women have been appointed to the list of tribunal members. Other than these figures the CLU does not have any reliable statistics on women's participation in tribunal activities. However it would be reasonable to state that women's involvement is significantly less than the actual role that they play in the overall management and use of land.

There is the need for an affirmative action approach to be taken in relation to women and their involvement in the land tribunal. As stated above women are not excluded from being a member of a tribunal but at the same time there is no emphasis on them being an active participant in proceedings. It is not clear what part if any women play in being witnesses and parties to discussions in relation to land disputes.

It is recommended that the following gender affirmative action activities be supported and encouraged with the aim of increasing women's awareness of and involvement in the Customary Land Tribunal activities:

- National Land Steering Committee to promote the benefits of including women in decision-making as part of the public awareness and education programs;
- The project support the involvement of the Vanuatu National Council of Women in project awareness and gender training programs;
- Malvatumauri to implement its National Land Summit recommendation for research into gender roles relating to land;
- Malvatumauri to lead a campaign for all chiefs to actively support women's participation in land matters and to promote women's traditional leadership roles;
- Customary Land Tribunals awareness and implementation activities to promote women's participation and link into women's traditional leadership roles.

As well as these initiatives it is important that gender awareness is included in all literature, public awareness and training provided through the project.

### **3. REVIEW OF THE CUSTOMARY LAND TRIBUNAL ACT**

During the development of the project design an initial assessment of the *Customary Land Tribunal Act 2001* was undertaken initially by way of a desk review and then through discussions with government officials and stakeholders who have been involved in tribunal activities. The following is an assessment of the Act gained from these processes and is intended only to provide an insight to the issues that may need to be addressed as part of a comprehensive assessment and the Act and the draft of amendments or maybe even the drafting of new legislation.

#### **3.1 Introduction**

- (a) The Customary Land Tribunal Act No.7 of 2001 (CLTA) was passed in December 2001.
- (b) The aim for the CLTA was to establish another forum or "appropriate customary institution" under Article 78(2) of the Constitution to resolve land disputes.

(c) These are some reasons for the CLTA enactment:

- (i) There was a backlog of Land Cases in the Island Court, so there was need to establish another forum, the Customary Land Tribunals (CLT) to hear and determine disputes over land ownership.
- (ii) The CLT are Courts that are focused on resolving land disputes.
- (iii) The CLT provides a system to identify custom owners.
- (iv) The CLT process involves custom upon which custom land tenure in Vanuatu is based.
- (v) The underlying aim is to free up land (biggest asset for Vanuatu) for economic development.

### **3.2 Outline of Issues with CLTA**

There is a clear need to review the Customary Land Tribunals Act (the “Act”). The need arises from the following issues which were raised on the study tour of Efate, and Santo. The main issues were:

- a) The Customary Land Tribunal (CLT) process for resolving land disputes is too long;
- b) The CLT adjudicators are prone to being biased; (neutrality issue)
- c) There is a need for clarity in the CLT procedures for hearings;
- d) There are high costs for parties who bring claims to the CLT;
- e) How to speed up appeals - the Act does not specify what is to happen if appeal is not heard within 21 days.
- f) Section 6 – adoption of decisions made in accordance with custom methods outside of CLT process – this section could be used better in terms of mediation to resolve disputes before they reach the CLT. It is not clear what steps to be taken in recording decisions.
- g) The CLT is not custom – this issue is from the Chiefs and its national body, the Malvatumauri.

### **3.3 How well has the Legislation been received?**

- (a) There has been mixed reception of the Act. Generally the more the Act was used, by operation of the CLTs, the less it was accepted as problems were realised.

### **3.4 Deficiencies in the Legislation and Recommendations for Possible Solutions reference to those consulted and their views.**

#### **3.4.1 Long Process**

- (a) The Act provides, under Parts 2, 3, 4 and 5 for four levels of hearing. A party has 3 rights of appeal from the village, to the Island Land Tribunal, and a right of rehearing at the Island LT level.

(b) Many of these people spoken too raised their concerns that the CLT process is too long.

- Mr Jerome Solomon – he lives at Tevroma near Luganville, Santo and had been a Claimant in the East Santo village tribunal. He stated that the process is long and that when the process is long, then money becomes an issue. It becomes more expensive the further you go. He also raised his concern that the appeal which they made to the next level Land Tribunal (Area) has not been heard for a long time.
- Mr Gordon Willie, Officer in charge, of the Santo Lands Department confirmed that the CLT process is too long as people appeal rulings all the way to the Island LT and use the Supreme Court to challenge CLT rulings. He informed us that some parties abuse the system by appealing so that no developments can take place on land – and influencing judges not to hear appeals.
- Mr Willie Tapasei, Secretary of a village Tribunal in North West of Efate, on Efate stated the Undaone Land Claim took two years for the village LT to complete and now it has been appealed to the North West Efate Area Tribunal. He further stated that North West Efate received 4 appeals for Takara, Creek Ai, Undaone and Leoasa Lands, and made rulings for Creek Ai and Leoasa, which have now been appealed to the Efate Island LT. He said in North West Efate custom, there is no appeal.
- Once consultant, through his work, is aware that on Erromango Island, there have been only 2 CLT hearings that were completed in relation to Punisia Land and Ponive Land. The Ponive Land hearing began in 2005, got appealed to the Island LT, challenged in the Supreme Court, sent back to the Island LT for rehearing then challenged again in the Supreme Court. The Supreme Court in August 2008 upheld the Island LT's ruling which became final, as a party cannot appeal the Supreme Court's ruling under Section 39. It has therefore taken 3 years for the Ponive claim to be completed.

(c) The majority of people we had discussions with said there should be only one right of appeal either from Chiefs mediation to the Area LT or from the village to the Area LT or to the Island Tribunal.

### **Recommendations**

- Repeal and re-write Parts 2, 3, 4 and 5 of the CLTA to provide for just one right of appeal from Chief's level to the Land Tribunal.
- There be just one Land Tribunal known as the "Land Tribunal", and an appeal lies to it.

### **3.4.2 Bias/Impartiality Issue**

- (a) Because people live together in villages, are related or know each other, Chiefs chosen as adjudicators of CLT from those villages were the subject of concerns raised that these adjudicators are biased.
- (b) Aicta Vuti, Coordinator of the CLU confirmed there are conflict of interest issues and suggests that Chiefs be empowered to remove Chiefs who are not neutral.

Selwyn Garu of Malvatumauri; said that the Chiefs are concerned that the same Chiefs sit at different levels of CLT in the same claim/dispute.

Gordon Willie of the Santo Lands Department stated parties influence adjudicators.

Willie Tapasei of North West Efate village Tribunal said there were some concerns raised about bias. Mr. Willie stated when there are bias issues, then parties challenge CLT rulings in the Supreme Court, which then prolong the CLT process.

#### **Recommendations**

- Review and amend Section 37 to prevent adjudicators being biased perhaps state that adjudicators must not have a conflict of interest. If they do they have to disqualify themselves from hearing the claim.

### **3.4.3 CLT Procedures need to be clear**

- (a) Both Aicta Vuti and Gordon Willie stressed there is a big need to train Chiefs to ensure they are aware of the procedures. Mr. Willie said due to lack of understanding of the CLTA, Chiefs interpretation of the CLTA affects CLT rulings.
  - Produce in simple language (Bislama, English and French) rules of procedure for CLTs.
  - Provide extensive training on CLTA procedures and how to read and interpret the CLTA.

### **3.4.4 High Costs**

- (a) Mr. Willie stated that in the Belmol Land dispute costs for each party was VT 40,000 and Mr. Tapasei said it was VT 36,000 at North West Efate for Udaone Land Claim. Some parties could not continue with their claims. High costs and unwillingness to pay these costs has contributed to the long delays in hearing CLT appeals that remain pending.
- (b) Section 32 (b) of the CLTA provides allowances for judges ranging from VT 1,500 to VT 4,000 per day. However, Section 32 (b) allows for transport and communication costs – this is where costs are raised to such high levels, and there is belief that Chiefs abuse this and over charge parties.

### **3.4.5 Provision to Speed up Appeal Hearings**

It is not clear in the CLTA that appeals must be heard within 21 days of being received. Sections 13, 14, 18, 19, 23 only refer to Council of Chiefs convening meeting to establish LT to determine disputes, but there is no clear stipulation that the appeals must be heard within the same 21 days, or any other time period.

- On Santo and Efate almost all appeals from the village or area CLT to the next level have not been heard.
- Amend Sections dealing with appeals to specify procedure to be followed if appeal not heard within 21 days.

### **3.4.6 Section 6 – CLTA**

- (a) Section 6 could be beneficial if it was made clearer. It provides for acceptance of rulings made in custom or a lawful way, in relation to disputes over custom land.
- (b) The Section fails to provide a procedure for how to record decisions accepted under that Section.
- (c) The Section does not state how and who should be involved in resolving disputes about custom land, the Chiefs are not mentioned.
- (d) This Section supports the systems outside of CLT, which is still widely used in Vanuatu. If that system could be enhanced, that could solve a lot of the concerns with CLT.
- (e) However, Parliament must address the Court of Appeal ruling in the case *Valele Family –v- Touru [2002] VUCA3*, which effectively declared that Chiefs rulings in relation to determining custom ownership of land are not valid; that only Courts established under the Constitution are mandated to rule as to custom ownership of Land.
- (f) A recommendation might be to legalise role of Chiefs outside of CLT in the CLTA, or provide the Chiefs mandate under the National Council of Chiefs Act to determine custom ownership dispute as to land.

### **3.4.7 CLT is not Custom**

- (a) There was a clear message from the Chiefs that CLT is not custom, CLT are not working and the Chiefs do not want it (Malvatumauri message). However at a workshop of chiefs from Port Vila and Efate it was indicated that they would prefer to see customary matters addressed through mediation where possible, but see a role for the CLT and that assistance was required to improve the functioning of the CLT.
- (b) Mr. Garu said on Pentecost Island, the Chiefs rejected CLT because their system for resolving land disputes is better,
- (c) A recommendation can be to compare the CLTA and the Chiefs Act to see how Chiefs roles can be better utilised. The Chiefs issues seems to be that they want

to be in charge of CLT process because it uses custom and the Chiefs see themselves as the guardians of custom.

#### **3.4.8 Section 39 – Supreme Court Supervisory Role**

- (a) This Section provides for aggrieved parties to apply to the Supreme Court on procedural issues, such as CLT not taking into account a party's objection to a judge on the basis of bias. However, this right is open to parties at all levels of the CLT from village to island, so it delays the process further (see Erromango Ponive case referred to above).
- (b) There could be just one right to challenge LT ruling in Supreme Court, from the one LT.
- (c) Amend this section to provide for a specific time period, within which a party must apply to Supreme Court. There is no time limit in the CLTA as it is now.

#### **3.4.9 Forms in CLTA Not Flexible**

- (a) Same people (Willie Tapasei included) said the prescribed form to record judgements is not flexible and limits written CLT rulings.
- (b) Recommend that rules about written judgement be provided setting out a format to be used but leave it up to the judges to write the judgement.

#### **3.4.10 CLT Not Able to Enforce Its Judgments**

- (a) Malo Island ruled that certain people vacate land; they refused so the successful party had to get the Police involved to remove those people.
- (b) In both Efate and Santo people expressed lack of method or mechanism to enforce CLT judgements.
- (c) The Police could be given powers or the Court Sheriff could assist to enforce CLT rulings or the CLTA provide for CLT Sheriffs.

### **4. FUTURE ACTIONS**

There is general agreement with the concept of the CLTs and that they have a place to play in relation to the resolving of land disputes. However there is a clear message that some actions are required if the process of land dispute resolution is to preserve, as much as possible, customary procedures and operate more effectively. These are in summary:

- (a) A strong mediation process needs to be developed that encourages solutions to land disputes before they are referred to the CLT.
- (b) The levels of appeal that are available need to be reduced.
- (c) Certain sections of the Act need to be tightened and time limits for certain actions to be introduced.

To refocus the legislation it will require some amendments to the current legislation. The general feeling is that due to the changes proposed it may be preferable to draft a

new piece of legislation; however this decision will need to be made after an initial review of the legislation is undertaken and following discussions with government.

## Annex 8

# Design Report on Strengthening of Land Information Management

# Contents

<b>1. INTRODUCTION .....</b>	<b>1</b>
<b>2. CURRENT RECORDS MANAGEMENT AND IT SYSTEMS .....</b>	<b>2</b>
2.1. Survey and Mapping Operational Area .....	3
2.1.1. Land Surveying and Records .....	3
2.1.2. Geodetic Surveys and Records .....	6
2.1.3. Topographical Mapping and Imagery .....	7
2.1.4. Mapping of Community Boundaries.....	8
2.1.5. Information Technology .....	8
2.1.6. Other Associated IT Activity.....	9
2.2. Planning Enforcement Operational Section.....	10
2.2.1. Land Use Planning Unit .....	10
2.2.2. Enforcement Unit (Land Dispute Management).....	11
2.2.3. Valuation Section.....	11
2.3. Registry and Lease Operational Section.....	11
<b>3. GOV VISION FOR RECORDS MANAGEMENT AND IT .....</b>	<b>13</b>
<b>4. HARMONISATION WITH AUSAID DEVELOPMENT PROGRAM .</b>	<b>14</b>
4.1. Lease / Registration Operations.....	14
4.2. Planning and Enforcement Operations .....	14
4.3. Valuation Section .....	15
4.4. Survey and Mapping Operations.....	15
<b>5. NZAID LAND INFORMATION MANAGEMENT PROGRAM DESCRIPTION.....</b>	<b>16</b>
5.1. Sub-Component 2.1 – IT Strategy.....	17
5.2. Sub-Component 2.2 - Land Survey Records.....	18
5.3. Sub-Component 2.3 - Mapping and Imagery .....	20
5.4. Sub-Component 2.4 Valuation Services .....	21
5.5. Cleansing or Records.....	22
<b>6. SUSTAINABILITY AND RISK.....</b>	<b>22</b>
6.1. Sustainability .....	22
6.2. Risks .....	23
6.3. Risk Analysis.....	23
6.3.1. Strategic Risks.....	25

6.3.2. Operational Risks .....	26
6.4. Risk Management Strategies .....	27
6.4.1. Program Coordination .....	27
6.4.2. Appointment of a Long Term Technical Advisor (LTTA) .....	27
6.4.3. Additional Capacity Building .....	27
<b>7. ATTACHMENTS.....</b>	<b>28</b>
7.1. Table of Cadastral Record Map Numbers.....	28
7.2. Survey Records Management Screen .....	29
7.3. Example of Survey Plan.....	30
7.4. Survey Plan Examination Checklist.....	31
7.5. Valuation Roll Screen.....	32
7.6. Lease Database Index Screen .....	33
7.7. Place Names Screen .....	34

## 1. INTRODUCTION

The concept of an Information Technology Centre (ITC) emulates from the policy paper approved by the Minister of Lands and Director General of Lands on 25 October 2005<sup>15</sup>. This provides for the Department of Lands (DoL) to establish and maintain a central information system to service all need of Government and private sector in Land Information System/Geographic Information System (LIS/GIS) development and analysis.

Because of the strong relationships and the focus of earlier NZAID to DoL, the Government of Vanuatu (GoV) requested assistance on Customary Land Tribunal (CLT) and ITC strengthening projects. The need for strengthening within these areas was reviewed by Mr W Robertson in July 2007<sup>16</sup> and incorporated into the Terms of Reference (TOR) for this Vanuatu Activity Design assessment.

From brief consultation with DoL staff and inspection of operations, it quickly became apparent that capacity for the support of such a centre was not currently available and would not become available in the foreseeable future. It also became evident from discussions with DoL staff and associated user groups that other aspects of information management within DoL as required for good governance, service and supply were in more urgent need of attention. In other words, information management within DoL needed addressing as a matter of high priority before the concept of the development of an ITC could be contemplated and thinly stretched resources committed in this area.

These initial observations were shared with the Director of Lands at a briefing<sup>17</sup> who confirmed the ITC policy paper was intended as a long term strategy or concept paper and that assisting DoL with management of land related information and the development of Land Management Information systems and capacity building within DoL was of higher importance.

This departure or variance of scope/TOR was agreed by NZAID<sup>18</sup> who considered “from an Information Technology perspective, to achieve an acceptable level of sustainability it will be preferable to build capacity within the relevant units of the DoL that will make use of IT systems in preference to focusing on the ITC. There is a need to look at coordinating the IT activities within DoL by developing a clear IT Strategy. This strategy would then enable support to be provided to separate entities within the department.”

The GoV also sought assistance in institutional strengthening and capacity building within DoL from AusAID. Concurrent to our design inspection, the AusAID design team was

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<sup>15</sup> Ministry of Lands Information Technology Centre Policy – October 2005

<sup>16</sup> Proposal to Strengthen the Customary Lands tribunal (CLT) and Information Technology Centre (ITC) – W A Robertson July 2007

<sup>17</sup> Meeting with Mr R Nari and NZAID Project Team 24 September 2008

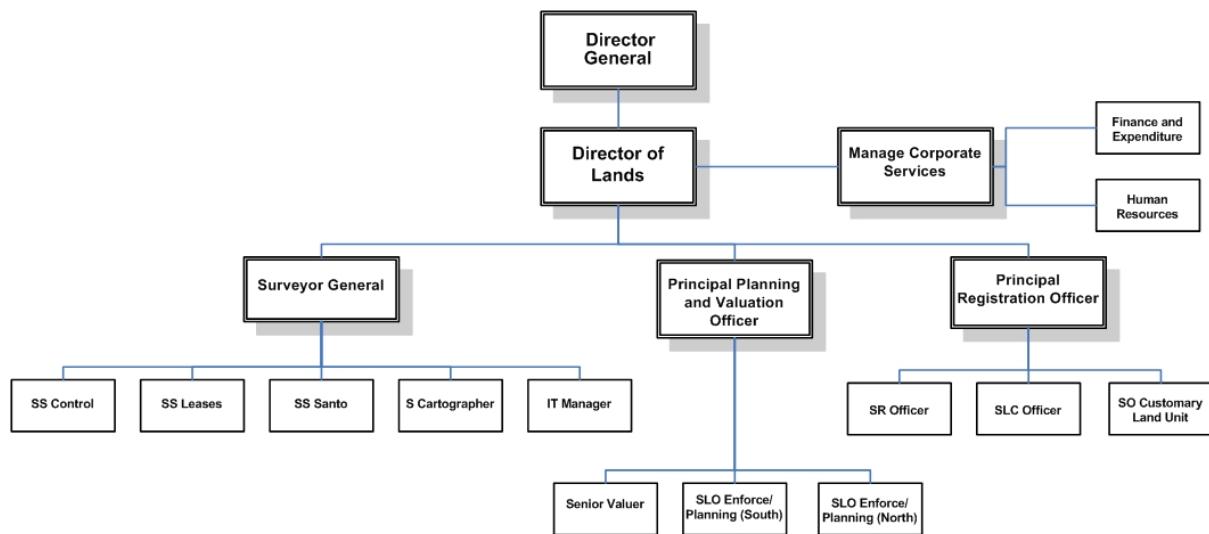
<sup>18</sup> Communications – Messrs Lunnay, Team Leader NZ Project Team and Chan NZAID

also in country developing a design following their prior Concept Document – Land for Progress and Equity. This provided the opportunity to “harmonise” development activity. A number of harmonization meetings were held whereby it was agreed in principle what activity could/should be undertaken by each team to ensure donor assistance and development was approached strategically, complementary and coordinated so that there was no duplication of effort or activity.

## 2. CURRENT RECORDS MANAGEMENT AND IT SYSTEMS

The Department of Lands, Survey and Records has overall national responsibility and control in both urban and rural areas for planning, management and implementation of land tenure, land use policies and legislation under the various land laws and regulations of Vanuatu on behalf of the GoV.

The organisational chart for the Department of Lands, Survey and Records as approved by the Public Service Commission in December 2004 is shown below.



**Figure 1: Organisational Structure of DOLSR**

The structure identifies four distinct operational or functional areas, being;

- Corporate Services;
- Surveying and Mapping;
- Planning and Enforcement; and

- Registry and Lease Control.

Indications are that of the 68 designated positions within the above functional areas, some 23 vacancies exist, that is 33% of designated positions are vacant<sup>19</sup>. These have not been filled due to lack of GoV appropriation of finance for human resourcing. The Director General considers that the required level of appropriation could be achieved if good cases were presented.

Human resources have identified the need to improve performance and accountability issues through the department with a wide range of initiatives including developing a stronger culture within DoL, developing and issuing performance based person descriptions and training at all levels. While they have skilled trainers, conducting training courses is hampered through lack of finance.

## **2.1 Survey and Mapping Operational Area**

The objectives of the Surveying and Mapping Section are:

- To maintain and survey control points and conduct crustal monitoring surveys to identify volcanoes around Vanuatu;
- To undertake office calculations and field surveys to complete Government lease agreements;
- To examine and approve surveys undertaken by private surveyors of leasehold land;
- To update cadastral base maps;
- To undertake mapping activities and complete field checks for new maps for the whole country;
- To survey customary boundaries.

These activities are undertaken with a staff of 18. Currently there are 3 positions vacant.

### **2.1.1 Land Surveying and Records**

Currently there is little need for field survey as most Government property in Efate and Malakula has been defined. Survey of Government property continues in Santo. Main activity undertaken within the central office in Port Vila is therefore examination of cadastral surveys undertaken by private sector surveyors. Currently some seven private survey companies are actively engaged in surveying in Port Vila and wider a-field within Efate. On average some 300 plans are submitted for approval per quarter (329 for the first quarter 2008) with 285 being approved as to survey. Private sector use LISCAD, AutoCAD or CivilCAD application software for survey planning, layout and

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<sup>19</sup> Human Resource Management Annual Report - 2007

calculations and the generation of supporting survey plans (although one company uses QuickCAD for plan generation)<sup>20</sup>. The possibility therefore exists for supply of survey data in digital format to DoL for survey examination/validation and for maintenance of the DCDB to eliminate or reduce the need to re-enter survey data for these activities.

LISCAD is used within the survey section for survey mathematical validation and for plan generation. Mathematical validation appears to consist of a parcel close only. The use of programmable HP calculators could perform the same task if deemed necessary. Only one parcel is shown on survey plans (therefore in effect a “title” plan) and no overall survey plan is submitted. One therefore questions how overall definition is checked and surveyors or examiners are able to ensure no gaps or overlaps exist with adjoining parcels.

In addition to survey plans, calculation sheets are supplied for examination. Observations and reductions are supposed to be recorded in printed field books or pages. However, this practice no longer appears to be in practice due to the non-availability of printed field books or pages and the move to the use of total stations or GPS for measurement. No survey report appears to be generated or submitted to support survey definition.

## **Survey Plans**

Survey plans are on transparent medium at A3 format.<sup>21</sup> Paper was used prior to the introduction of transparent medium. Practice appears to be to have one parcel per survey plan, thus being a diagram to support lease definition and title registration.

Some 19,000 survey plans exist. Older records are kept in a strongroom at the old survey building (condemned due to earthquake damage). More modern records are housed in drawers within the present accommodation. Scanning of these records for archival/disaster management and for operational efficiencies is deemed highly desirable.

Trials have taken place in scanning of survey plans within Port Vila for archival and disaster protection purposes. These were scanned internally using the mapping Contex A0 drum scanner. It is understood that a resolution of 200 dpi and .TIFF format was used. Little consideration has been given to wider use and supply of survey plan imagery data or scanning of survey plans on receipt.

## **Survey Plan Register**

The allocation of survey plans and parcel numbers is controlled by a card and Survey Registration Book. These, in conjunction with a Survey Registration Database,<sup>22</sup> are also used to support the management of survey plans through processing steps (document tracking system). The database replicates the registration book and both

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<sup>20</sup> Discussions – Mr M Meltenoven, Private Surveyor 25 September 2008

<sup>21</sup> See Attachment 7.3 – Copy of Survey Plan

<sup>22</sup> See Attachment 7.2 – Copy of Survey Registration Database screen

systems are maintained in parallel. Entry into the database appears to be undertaken by one person, rather than at source. In addition to these systems, an additional book is used for more detailed document tracking (date plan sent for requisition, received for requisition etc). Use of these systems needs to be rationalised and reviewed to ensure one database contains all the information required for internal document tracking, query and analysis and report generation and that the database is updated at source.

With respect to numbering, survey plans are numbered consecutively. Parcel numbering, as used for lease/title numbers are based on a code for the island in which located, the record map number on they are located and the next consecutive parcel number within the cadastral record map – each component separated by a forward slash. For example 12/0523/014. Therefore, in effect a form of geo-referenced Unique Parcel Identification (UPI) is used whereby the location of the parcel is referenced to cadastral record maps. Use of this form of UPI is recommended to continue in the interim and until such time as all lease and title records are computerised. However, continuation of this system needs to be reviewed long-term when cadastral record maps are discontinued, being replaced by the DCDB and reference to map based systems is no longer applicable.

## **Cadastral Record Maps**

Cadastral Record Maps are available showing all registered land parcels and all Government land parcels within Vanuatu. Basically, urban areas are covered by some 274 - 1:500 scale maps, peri urban areas by some 1342 - 1:5,000 scale maps and rural areas by some 131 - 1:20,000 scale maps<sup>23</sup>. These are on A1 to A0 format on transparent media and hung in vertical filling systems. Record maps are deteriorating through usage. Media is getting hard to procure and hence no redrawing/maintenance is taking place.

Cadastral maps are updated on a daily basis by nominally three draughting staff on registration of the land parcel. Given that delays in the registration process of two to four years is not uncommon, cadastral record maps are often grossly out-of-date with respect to subdivisional development. Consideration needs to be given to updating on a timelier basis including on approval as to survey.

The conversion of cadastral record maps to form a Digital Cadastral Database (DCDB) to provide spatial support to the lease/title registration system and zoning and planning activity is considered essential. This not only provides the framework on which these activities takes place, but also enables anomalies, discrepancies and inconsistencies in other databases and development activity to be analyses and graphically displayed/portrayed.

Trials have been undertaken in Port Vila and Luganville by scanning the hard copy cadastral record maps, geo-referencing of the resulting raster image and “screen digitising” within the MapInfo environment. Trials indicate that spatial conversion of some two maps can be achieved in a day. It is suggested that one per day could be

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<sup>23</sup> See Attachment 7.1. Data supplied by Mr P Gambetta, Senior Cartographer

achieved with associated parcel identifier. This conversion methodology and platform is supported, although review and further development of structures within the MapInfo schema is required to support other associated cadastral related themes of data and attributes and to ensure a high degree of logical consistency is built into the conversion process.

## **2.1.2 Geodetic Surveys and Records**

Geodetic activity is undertaken by one Senior Surveyor and two assistances. Geodetic control consists of control positions established from DOS observations prior to 1970. During the mid 1980's these were updated by Doppler observations. Latterly, further upgrading has occurred to provide control for mapping activity undertaken by Australian Defence Forces (ADF). A higher density of urban and peri urban control has been established around Efate and either side of Luganville to support urban development. Survey practices require surveyors to tie into control where within 3km of control marks. Lack of suitable density of control adds considerable to the cost of subdivisional work. The Geodetic Surveyor and private surveyors agree the density needs to be increased due to increase demand for development. Increased control is usually undertaken by private surveyors under contract (when funds are available) due to lack of govt surveyors and vehicles.

With respect to global positioning, GPS base stations have been established in Port Vila and Santo. These provide for survey definition by differential GPS observation techniques. GPS is used by private surveyors where topography and vegetation cover permits. Post-processing is undertaken by DoL.

With respect to height datum, tide gauges have been established in Port Vila and on Santo. The Geodetic Surveyor considers a network of benchmarks needs to be established to better monitor crustal movements. He also considers the entire network of control needs to be reviewed and re-observed using GPS technology to support geodetic analysis and to support cadastral surveying. A computerised geodetic database needs to be established.

The Geodetic Surveyor has also promoted the concept of a new projection and coordinate system for Vanuatu, the Vanuatu Map Grid (VMG)<sup>24</sup>. Presently individual coordinate systems are used for individual islands for cadastral surveying purposes based on a transverse Mercator projection in terms of the Hayfords 1924 spheroid. Universal Transverse Mercator (UTM) is used for mapping. However the landmass of Vanuatu crosses two UTM zones (zones 58 and 59). The proposal is to use the present zone boundary as the central meridian of the VMG. Comment has been made that is just imposing another coordinate system that in these days of computerisation and ease of mathematical transformation is perhaps not necessary.

Geodetic records are kept in files and folders. These contain records of observations and coordinates and diagrams of the location of control marks etc. Files and folders are

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<sup>24</sup> Discussion with Mr M Williams 25 September 2008

difficult to access and are deteriorating through the passage of time and use. It is proposed these be converted to a computerised Geodetic Database.

### **2.1.3 Topographical Mapping and Imagery**

Cartographic activity is undertaken by six cartographers/draughting officers. This includes those associated with the updating of cadastral record maps. The topographical mapping unit (three personnel) has been involved in a project, in association with the Australian Department of Defence (ADF) through joint cooperation with the Australian Defence Imagery and Geospatial Organisation (DIGO), to provide spatial imagery and topographical map information in hard copy and digital formats. Under the Memorandum of Understanding (MOU), ADF have undertaken to provide:

1. published medium scale (1:50,000) topographical maps over all of the land mass of Vanuatu;
2. large scale (1:5,000) colour topographical maps over provincial centres based on radar orthophotographic imagery;
3. digital vector and imagery data used to produce hardcopy products.

Items 1 and 2 have been completed with the supply of 61 published medium scale topographical maps and 42 large scale colour photomaps. Mapping is based on the WGS 84 Datum, Transverse Mercator mapping projection and Universal Transverse Mercator (UTM) coordinate system (Zones 58 and 59). These have a stated accuracy of +/- 2.5 meters horizontal and +/- 3 meters vertical.

With respect to Item 3, digital imagery has been received. Orthophoto imagery has a pixel resolution of 0.2m. Radar imagery has a resolution of 1.25m. The supply of digital vector topographical data is awaited.

The MOU provided for the supply of associated hardware, ArcGIS software and training in the use thereof. Two appropriately specked PCs and a colour plotter were supplied mid 2006 together with two ArcGIS software licences (version 9.1 – already dated). A one-week “Introduction to ArcGIS” training course was provided onsite by representatives from ESRI Australia. Seven personnel from DoL Vanuatu and one from Solomon Islands attended this training course. However, ArcGIS has not been used since for a couple of reasons. Due to diversity of backgrounds and level of computer literacy within the participants, little if any of the concepts were grasped at the time of training. Timing of training did not coincide with the availability of data and hence what little knowledge was gained has been lost awaiting the supply of data.

As part of this project, a database of Place Names has been created.<sup>25</sup> This component was undertaken by DoL staff by discussing existing known place names with local community representatives, GPS'ing existing and new place name geographical positions and entering into a MS Access database. Nomenclature data were supplied to ADF for inclusion in mapping outputs. It is intended that the place name database be maintained and perhaps published as a Gazetteer of Place Names. Consideration needs to be given to extension of the database to an Index of Places Names and Streets.

With respect topographical data, no consideration has been given to maintenance or provision and supply of data. Consideration needs to be given to the development of supporting data dictionary/metadata documentation, standard interchange formats and licensing agreements and pricing policies associated with the supply of data. Consideration also needs to be given to wider access to these data including internet access.

#### **2.1.4 Mapping of Community Boundaries**

The Survey and Mapping Section has been undertaking pilot projects on Nguni Island (North of Efate) and Efate Island to investigate and map community boundaries. Mapping of such boundaries is required to meet statutory requirements under Section 35 of the Customary Tribunal Act. It is considered desirable/essential for internal users and external agencies to provide a focal point for local enquiry and perhaps mediation on any land related issues.

The activity involved meetings with the chiefs to explain the process, walking the boundaries with the chiefs, collecting coordinates for the boundaries using a hand-held Global Positioning System (GPS) receivers and then using computer software to produce maps for verification/validation with the chiefs. Indications are that the methodology is sound. Some overlapping areas of interest were identified; however these were generally in remote rural regions of little immediate concern. These may also have occurred due to the inaccessibility of these areas for foot access and little appreciation of "map topography" on behalf of the chiefs concerned.

The number of community boundaries varies from island to island. There appears to be approx 10 communities on Efate with a total of 62 over the whole country.

#### **2.1.5 Information Technology**

Information technology activity is presently undertaken by three personnel. The positions of IT Manager, db Designer and db Officer are vacant. This is not through the lack of suitable candidates within Vanuatu, but due to lack of finance.

Matthew Temar - Computer Programmer has been assigned the task of developing an IT Strategy for DoL. However, progress in formulation of strategies is hampered by his

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<sup>25</sup> See Attachment 7.7 – Copy of Place Names Index screen

involvement in other activity, such as overseeing the scanning of lease records. The Ministry of Finance (MoF) are presently developing an IT Strategy as part of their vision for e-Government. IT Strategies within the DoL should comply with those visions and strategies.

Due to the shortage of staff, little proactive activity is taking place and capacity for assistance to donor AID projects is limited.

DoL have their own servers, which are linked into the MoF servers. Advice from the IT Manager (Acting) is that while servers are able to cope with present activity, increased activity will require an upgrade to server capacity.<sup>26</sup> An internal Local Area Network (LAN) links PCs in all operational areas. What computers that are available appear to be of reasonable specification. However, many personnel use their own personal computers or laptop due to the non-availability of equipment within DoL.

## **2.1.6 Other Associated IT Activity**

### **Vanuatu Resource Information System (VANRIS)**

VANRIS was chosen as the primary technology GIS analysis tool as part of a previous AusAID-funded project in Forestry (VLUPP – Vanuatu Land Use and Planning Project) during the early nineties. The project established the Vanuatu Land Use Planning Office (VLUPO), to carry out the tasks at national level, and to train staff and co-ordinate planning activities in the Provinces. At Provincial level, the project assisted in developing Provincial Development Plans and natural resources management capabilities within the office of the Provincial Planner. At the community level, the project assisted villagers in the process of developing land use plans utilising a Community Area Resource Management Activity (CARMA) "Bridging the Gap". At its height, some (37) organisations were provided with a copy of VANRIS software<sup>27</sup>

VANRIS is based on Tikiwiki, an Open Source Software (OSS) software package. As such it does not have a technical support base that could be readily accessed by users and system developers. When introduced it was still effectively in an "experimental" development stage. Several versions of VANRIS were developed during the life of the project. The development process was basically being driven by user requests to make the system user-friendlier.

A majority of the users contended that VANRIS was too advanced and sophisticated for planning staff without extensive exposure to the application of GIS. However, the then DoL team leader, William Ganileo considers it to be a user-friendly tool for personnel not experienced in GIS.<sup>28</sup>

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<sup>26</sup> Communications with Ms Josiana Jackson – 30 September 2008

<sup>27</sup> Mr D Larden – Extracts from VLUPP Review on VANRIS - 2008

<sup>28</sup> Discussion with Mr W Ganileo – 26 September 2008.

VANRIS's widespread use basically ceased in 2000 with completion of the VLUPP project. Since the support from AusAID ceased, the lack of funding to support ongoing maintenance and upgrading of VANRIS and to conduct related training to expand its application among existing and potential users significantly reduced the effectiveness of VANRIS. There has been minimal input to the database and textural and geospatial information has not been updated for quite some time. The system is still operational and land use maps can still be produced through personnel within the Surveying and Mapping Operational section who are familiar with its use.

Most user agencies have switched to the MapInfo GIS software package introduced throughout the South West Pacific Island nations under a scheme sponsored and supported by the South Pacific Commission (SOPAC) (albeit that these licences are not considered to be "legal.") This development coincided with the demise of the VANRIS users group in 2000 that was then replaced by a GIS user group. Latterly, DoL has acquired, through joint cooperation with DIGO, digital vector mapping and imagery information with nationwide coverage. DIGO chose to utilise the ESRI ArcGIS product suite as the preferred analysis tools for this dataset.

The use of VANRIS as a tool for GIS analysis needs to be reviewed by a GIS technician versed in other applications to determine its future use. If considered to be "past its use-by-date," then consideration needs to be given to the currency of information contained within its databases and where current, converted onto an alternative platform (MapInfo or ArcGIS). If VANRIS is still considered to be a suitable tool for GIS analysis, then spatial representations need to be updated in terms of latest mapping.

## **2.2 Planning Enforcement Operational Section**

### **2.2.1 Land Use Planning Unit**

Objectives of the Planning Unit are to:

- Develop a national land use plan to cater for a broad scale assessment of how best land can be managed and used to its optimum;
- Provide regional strategic plans that will reflect local government policies relating to development of land and its conservation;
- Develop policy formulation in identifying land and natural resources limitations and opportunities;
- Provide expert advice, information to landowners and village communities in order to make wise decisions as to the good use of their land in terms of sustainable development.

The unit also has the role of facilitating all land related applications and making recommendations to the Land Management and Planning Committee.

Planning activity appears to be undertaken with a resource of four personnel located in Port Vila and Santo. There appear to be three staff vacancies.

## **2.2.2 Enforcement Unit (Land Dispute Management)**

The role of the Enforcement Unit is to deal with compliance matters and address cases where there are breaches of lease conditions. The Enforcement Unit presently has a staff of one official. This person is expected to oversee compliance on a large number of land matters in the MoL including compliance with zoning and planning requirements, preserving access to land and foreshore access.

Enforcement, or the lack of it, is a major issue in relation to the control of development activities in Vanuatu. It is clear that one staff member is insufficient to undertake a compliance and enforcement role in relation to land matters and as a result many enforcement issues remain unaddressed or are never identified.

## **2.2.3 Valuation Section**

The Valuation section provides, upon request, the valuation of property for the purpose of land rent, compensation for properties, sale of properties and for statutory purposes. It also provides assessment of rates for taxing purposes especially for the two municipalities.

A Valuation Roll database<sup>29</sup> has been developed to record lease/title details and valuations. However, there does not appear to be any systematic approach to valuations or update of valuation information and no uniformity of roll information. While the valuation roll is maintained in terms of new valuations undertaken by DoL Valuers, the database is presently not capable of being maintained from sales records. Consequently, these data cannot be used for assessment of a general re-valuation. Improved processes, technical skills and computer systems are considered necessary to achieve an effective property tax system.

It has a resource establishment level of three (Principal Valuer plus two) and presently all positions are occupied. It is considered this level needs to be increased by two to three personnel due to increased work levels. Performance of duties is also hampered by lack of vehicles.

At least one private valuation firm, Vanuatu Property Valuations, have created their own database updated manually from sales records. It also contains a version of a DCDB, aerial photograph and terrestrial imagery. This has been developed due the lack of a GoV system to enable the company to perform private valuation effectively and consistently.<sup>30</sup>

## **2.3 Registry and Lease Operational Section**

The objectives of the Registry and Lease Control Section are to:

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<sup>29</sup> See Attachment 7.5 – Copy of Valuation Roll screen

<sup>30</sup> Discussion – Mr R Barnes, Valuation Property Valuations – 29 September 2008

- Undertake efficient land registration and recording backed by secure storage and maintenance of legal land records;
- Plan and allocate land to be utilised for sustainable development and to enforce effective use of land tenure in accordance with land use policies, conditions of lease and legislation;
- Facilitate the preparation and execution of land leases and other land related documents;
- Provide valuation advice and maintain up to date valuation roles.

These activities are undertaken with a total of six registration staff, and two supporting secretary/typists. It was suggested that at least eight to nine registration staff are required to manage the current registration work-loads.

There are many issues that need addressing in the Land Registry Office, most of which are common to land registration agencies that use manual systems, are under staffed and under funded. There is a significant back-log of registration work. It has been reported that simple registrations, such as the registration of a mortgage or transfer of ownership, can take three months to a year. It has been estimated that the backlog of titles registration will take between two and four years to clear. Outstanding title and dealings registration is estimated to be worth 500m VT (\$NZ 7.5m). Delays in supply lease/title related documents are also significant. Private individuals, banking and government sector user groups have reported that simple enquiries and supply of copy of documents takes three to five days. Instances have been quoted of unofficial “urgency fee’s” being offered to process enquiries and registrations quicker.

As well as the administrative and procedural issues, considerable revenues are being lost due to poor accuracy, integrity and integration of records. Poor reconciliation of records between the lease and valuation records (supplied to MoF for billings) for instance is estimated to have a shortfall of 40% of estimated revenue of 160m VT (\$NZ 2.5m). A process is presently underway (VLAMS – Vanuatu Lease Audit Management System) to reconcile lease/ valuation and MoF records to improve revenue generation.

The unacceptably long delays are clearly having an impact on the land registration activities, general land development in Vanuatu. The backlogs and inefficient management clearly highlights the need to review the processes involved in the registration of documents and to provide a working computerised land registration system.

The **Records Office** is established under Section 2 of the Land Leases Act and is responsible for all land leases and other land dealings throughout Vanuatu. Responsibilities include:

- Registration of all land leases and other land related documents;
- Collection of registration fees;
- In collaboration with Surveying and Mapping Section ensure all survey plans are correct before registration;
- To establish a one stop shop.

**Lease Records** - The preservation of office records from fire or natural disaster is being addressed by the scanning of lease documents. For the past eighteen months, a project has been underway to scan and index current lease records. The index is intended to be used to create an automated register or database of leases<sup>31</sup>.

Some 10,300 current lease files have been scanned and indexed. Scanning consists of scanning all documents contained within the lease folder. Three Cannon DR 5010C scanners, associated PCs and supporting software were supplied by OAS (Office Automation Software Ltd, NZ – now Axon). On average some 15 documents are scanned as multipage .TIFF images at a resolution of 300dpi. As documents are scanned, pertinent data are being entered into a MS Access database (SAPERION). This data includes title #, application #, area, location, lessor, lessee, type, term, rent etc. These records are repeated for each type of document contained within the lease folder (transfer, mortgage etc). A team of three contract employees are undertaking this task. Approx 10 records can be completed by each team member per day. It is estimated that 1-2 years of activity remains.

Minor oversights have been identified in process design. One assumes that maintenance of database records can take place. However, no consideration appears to have been given to maintenance of imagery in terms of new image documents supporting new dealings. It is not known if it intended to make lease documents available within the public domain (they should be for transparency). If so, then consideration needs to be given to protection of confidential information such as mortgage details. Consideration needs to be given categorisation and separation of supporting document images.

Further development work is required on developing queries for statistical analysis of data. However, this has not been undertaken as some 1m VT (\$15,000 NZ) remain outstanding to OAS for supply and development. DoL expects that an AID donor agency will pick up this tab.

Focus is now being given to the scanning and indexing the backlog of lease applications. It is intended that old lease documents also be scanned and indexed for archival purposes.

### **3. GOV VISION FOR RECORDS MANAGEMENT AND IT**

The MoF are presently developing an IT Strategy as part of their vision for e-Government. The vision includes the construction and development of eight Microwave transmission sites and three VSAT sites to provide coverage to six provinces. Fibre optic cable network is envisaged within Port Vila, Luganville and other provincial centres. A central Data Centre is intended to be provided within MoF to centralise computer activity and provide “Gateways” between ministries to the Internet.<sup>32</sup>

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<sup>31</sup> See Attachment 7.6 – Copy of SAPERION screen

<sup>32</sup> Executive Summary – Vanuatu e-Government Project 2007

The DoL's Information Technology Centre Policy paper and Business Plan for the ITC, GIS and remote Sensing provide guidelines for development strategies within DoL. The GoV Land Sector Framework has been developed to guide the long-term development of the land sector within Vanuatu.

Existing visions, goals and objectives need to be reviewed to provide a holistic strategic direction or a "roadmap" to guide the development, service and supply and knowledge of and access to land and geospatial assets owned and maintained within the DoL. Visions and strategies within the DoL need to comply with the above guidelines and the visions and strategies contained within GoV e-Government initiatives.

The DoL have no immediate plans for decentralisation beyond their present sub-office operational activity in Santo. However, with the development of information systems across all DoL operations and with realisation of the networking visions as part of the GoV e-Government plans, land information with may be disseminated more widely. In the foreseeable future, it will be possible for persons or organisations interested in land related issues within their own Province, Island or Community, to view data located in DoL central office in Port Vila remotely via public Kiosks or terminals through the GoV network or privately via web-based enquiry.

## **4. HARMONISATION WITH AUSAID DEVELOPMENT PROGRAM**

Concurrent to our design inspection, the AusAID design team was also in country developing a design mission following their prior Concept Design – Land for Progress and Equity. This provided the opportunity to "harmonise" proposed development activity. Activity required to provide efficient and effective land information management systems within DoL were identified and discussions held as to where development activity best take place.

### **4.1 Lease / Registration Operations**

Both teams considered creating a functioning land registry to be of major priority and importance. Following discussion, the teams agreed that this and associated activity best fell into the AusAID development sector. Associated activity includes the development of an effective Lease Management database to control processes from lodgement through to title registration and the provision of imagery of lease documents for internal access and to increase transparency of the application and approval process.

### **4.2 Planning and Enforcement Operations**

The AusAID team expressed a desire to continue with development of planning and zoning activity that has taken place as part of the AusAID short-term initiatives. The issue of leases and titles have to comply with zoning and planning requirements. It is

therefore desirable that development with this area is coordinated for effective assessment, permitting and enforcement aspects of lease application and title registration.

#### **4.3 Valuation Section**

With respect to valuation activity, the AusAID team made it clear that they were not interested in development of this activity<sup>33</sup>. This is despite the essential need for synergies between the lease/titles database and the valuation roll database to provide up-to-date lease and sales data for re-valuations and land tax revenue generation. Being an important function of DoL, this activity has been accepted within NZAID development activity.

#### **4.3 Survey and Mapping Operations**

It was agreed that most survey and mapping activity be contained within NZAID development activity. The exception being the creation and maintenance of a Digital Cadastral DataBase (DCDB) – the spatial or graphical framework of surveyed land parcels for which lease are issued and titles registered. The AusAID design team<sup>34</sup> considered it essential to the creation of a lease database and the registration of title. The NZAID design team argued that leases can be processed and titles and dealings registered without the DCDB. Further, a DCDB is created and maintained from land survey records and hence development, maintenance and “ownership” needs to be retained within this operational area.

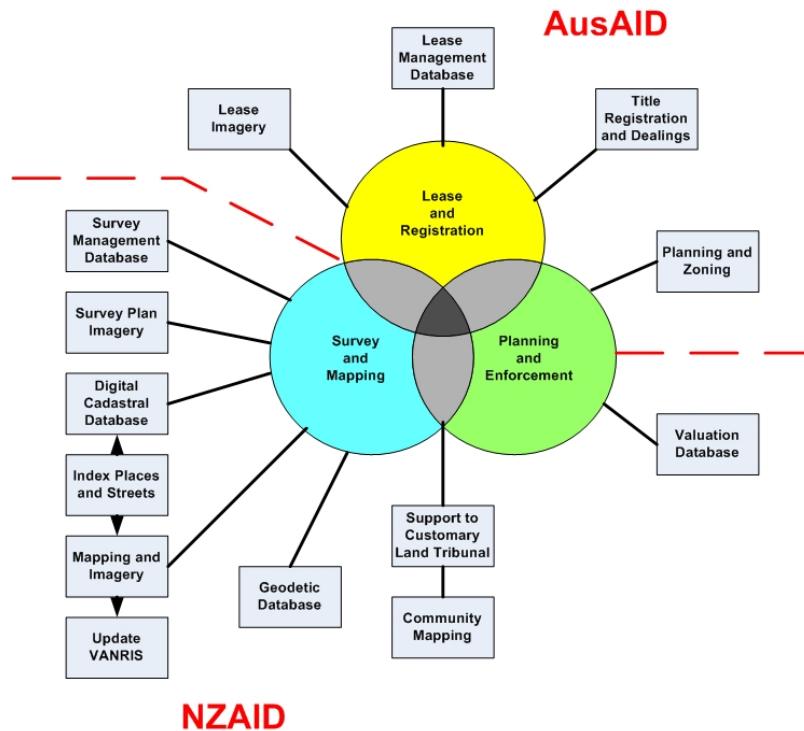
The NZAID team gave an assurance that development activity would be undertaken to AUSAID timeframes and milestones based on regional or Island areas. However, beyond our control is coordination of the start date of respective donor activity. Any delay to NZAID assistance beyond the commencement of AusAID assistance within their Land Registrar activity has been identified as an extremely high risk by the AusAID design team.

A graphic of the agreed areas of operational activity development is shown below.

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<sup>33</sup> Discussion with Mr K Lyons - 25 September 2008

<sup>34</sup> Discussion with Mr K Lyons - 25 September 2008



## 5. NZAID LAND INFORMATION MANAGEMENT PROGRAM DESCRIPTION

The proposed NZAID Project Design approach was discussed the Director General of Lands. It has the support of the DG who considered donor assistance needed to concentrate on technical systems and support of those systems, rather than on technology itself. A brief of the NZAID Project Design concept was also presented at a workshop of senior personnel within DoL and the wider user community. Those who attended the workshop unanimously supported the concept. To quote from the acting IT Manager “it paints (outlines) on paper what the Department has wanted to achieve for so long but couldn’t do so due to its limited resources.”

While the proposed NZAID Project Design represents the visions of the design team, it was made clear by us and to us that the proposed Land Information Management strategies and reforms must reflect the needs of the Vanuatu Department of Lands. It must be further developed, owned and supported by staff at all levels to be successful.

The LIM project design builds on modest concepts and activity. It promotes simple concepts using the “KISS” approach rather than a high technology approach. Most of the concepts and activity has already been trialled within DoL. As the DG stated “we have dabbled in many areas.” They have survey management and valuations roll systems in place at present. They have undertaken a pilot of DCDB capture. They have trialled the scanning of survey plans. The only real area of weakness in

technological knowledge is in the use GIS application software within the mapping section.

The project design is intended not only to build and expand on the existing systems and knowledge base, but also take a more holistic approach to ensure all aspects of information are included and available for thorough analysis and reporting and to ensure proper “custodianship” and maintenance of land related datasets under the control of DoL. This is aimed to provide for improved governance and servicing and supply to internal and external users of land related information.

As stated by Mr Robertson in his CLT/ITC review “The NZ development assistance experience in setting up the FLIS (Fiji Land Information System) 17 years ago provides assurance of the feasibility of establishing appropriate computer systems in a Pacific Island country in a form that adjusts to local capability and user needs. The FLIS has been a successful and sustainable introduction of appropriate technology. Vanuatu starts its IT development path significantly more advanced than was the case for Fiji in 1990.”

Component activity has evolved from inspection of existing land information systems and discussions with key personnel within the DoL. It has also evolved from the SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis undertaken and documented in Section 6.3. This identified a large number of weaknesses within present information systems, processes and procedures across all operations areas. The project design builds on existing strengths and through the guidance and mentoring provided by technical assistance support, helps overcome existing weaknesses whilst endeavouring to realise opportunities and eliminate threats.

Component activity is summarised in the main Activity Design Document and in the Logical Framework Network attached as Annex 1. A description of Sub-Component activity follows.

## **5.1 Sub-Component 2.1 – IT Strategy**

**A strategy that governs IT development within DoL and conforms to GoV directions for e-Government**

### **Component Activities**

Develop an IT Strategy that can be used as a “roadmap” to guide the development, service and supply and knowledge of and access to land and geospatial assets owned and maintained within the Department of Lands.

The purpose of the IT Strategy is to:

- define the approach needed to ensure DoL’s land and geospatial information infrastructure meets the ongoing business needs of GoV;
- provide the framework for the leadership and direction needed for managing land and geospatial information;
- optimise the collective benefit from GoV and donor public investment in IT infrastructure;

- ensure quality fundamental land and geospatial data is available to all.

The IT Strategy will therefore address such issues as:

- Standards and guidelines required for the development of core data and associated infrastructure - hardware, software and programming language “fit-for-purpose.” This will include standards for metadata, internal data formats and data interchange formats;
- Management, maintenance and security of core data;
- Coordination of service and supply to internal users;
- Delivery/distribution to external customers via web-based applications.

### **Contribution to Government of Vanuatu’s Goals**

The IT Strategy must align with strategies developed or in the process of being developed within DoL and to support e-Government initiatives within the GoV. It needs to recognise the GoV’s increasing use and reliance on land and geospatial information for a wide range of activities – from socio-economic planning and development, resource management to utilities and emergency services.

### **Technical Support**

Technical support will consist of the appointment of a Short Term Technical Advisor (STTA) - **IT Strategic Planner**. The IT Strategic Planner will work closely with a DoL counterpart in the development of the IT Strategy so that understanding of requirements understood. Capacity building should be to such a level of understanding that the counterpart is able to converse in this area with confidence and amend the strategy as necessary in terms of future requirement.

### **5.2 Sub-Component 2.2 - Land Survey Records**

**Effective custodianship, maintenance and security of associated records for improved process management and analysis.**

#### **Component Activities**

Component activity includes the following:

- Design and develop an effective Survey Records Management System for document tracking of survey plans throughout all processes, and analysis and reporting of activity;
- Create and maintain a Digital Cadastral DataBase (DCDB) to provide a spatial framework to support lease/registration, valuation and planning activities and wider socio-economic GIS analysis;

- Coordinate with the AusAID land registration design team on required delivery timeframes and ensure all milestones are met;
- Scan survey plans for disaster protection and archival purposes and provision of imagery to customers;
- Review present survey activity in terms of existing Acts and Regulations and recognised “good practices” and make recommendations for regulation, process and procedural improvements so as to provide for optimal governance, that is “as little as possible, as much as necessary” to ensure the outcomes and objectives of what the survey system is endeavouring to achieve is achieved;
- Design and develop a geodetic database to support the encoding of existing primary and secondary control marks. In addition to textual data, the database shall include or provide linkages to imagery of mark locations scanned (or digital photos of locations) from office records;
- Review the present geodetic control network and its ability to provide support to cadastral land survey, crustal deformation, global warming and wider exclusive economic zone administration activity requirements. The review shall make recommendations on upgrading and adjustment requirements and costings for consideration for additional NZAID support outside of the present project scope;
- Design and develop on-line and web-based applications to provide access to, display and downloading of textual (lease/title and valuation), geospatial (cadastral, geodetic, topographical and imagery) and imagery (survey plans, lease and associated supporting) as contained within the various DoL databases. Application to contain provisions to preserve the security and integrity of records, to provide read only access to selected data, but also to provide for billing for registered remote users to access and download detailed information within the public domain such as access to and copy of lease/title information and survey plans.

## **Technical Support**

A number of STTAs will be assigned to provide technical assistance. These include:

- STTA - Cadastral Data Capture Specialist
- STTA - Land Cadastral Surveyor Specialist
- STTA - Geodetic Survey Specialist

Analysis of database design requirements and development of computer application programs will be undertaken by STTA - IT Analysts and Computer Programmers.

DoL counterparts will be assigned to all STTAs. All advisors will work closely with assigned DoL counterparts and provide on-the-job training so that an understanding of activity requirements thoroughly understood. Capacity building of counterparts shall be to such a level of understanding that the counterpart has a full understanding of all activity and is able to accept responsibility for continuation of activity on departure of the advisor.

Two survey personnel from DoL will be sponsored on a short study tour of LINZ, two survey firms in Wellington to view operations and field survey and office survey practices in operation.

### **5.3 Sub-Component 2.3 - Mapping and Imagery**

#### **Effective custodianship, maintenance and supply of mapping data and services.**

This includes:

- Ensuring topographic and imagery information is managed as an authoritative national resource;
- It is maintained as an up-to-date record of natural and cultural features;
- It is readily available to those who need it.

#### **Component Activities**

Component activity includes the following:

- Develop and maintain skills and resources to manage and maintain the geospatial data as supplied by ADF and held in ArcGIS;
- Develop an understanding of the use of geospatial GIS applications for socio-economic analysis;
- Assist in the provision of products and services, that is make digital topographical and imagery information available to primary customers in formats suitable for diverse use and cartographic representations in paper format;
- Contribute to the development of copyright, licensing pricing policies and monitoring issues;
- Promote the concept of management of topographic and imagery information as an authoritative national resource;
- Contribute to the developing standards and a data dictionary as metadata to support geospatial information;
- Active participation and promotion of the use geospatial and GIS applications for socio-economic development amongst the wider user community through user groups and forums;
- Review VANRIS and associated geospatial data and upgrade or transfer to other platforms as appropriate.

#### **Technical Support**

Technical support will consist of the appointment of a Long Term Technical Advisor (LTTA) – **GIS Technician**. The LTTA will work closely within the Cartographic unit and provide on-the-job training and coaching/mentoring in the use of ArcGIS software for managing, updating and supply of data in digital and paper formats.

He/she will provide on-the-job training in use of GIS as a tool for socio-economic analysis.

Two cartographic or GIS personnel from DoL will be sponsored on a short study tour of LINZ, Terralink, SKM and Critchlow Limited (all in Wellington) to view operations and see a wide range of geospatial management, service and supply and analysis activity in place.

#### **5.4 Sub-Component 2.4 Valuation Services**

**An effective service that provides consistent and up-to-date valuations to support land and property taxation**

#### **Component Activities**

Component activity includes the following:

- Undertake a review of the present Valuation Roll;
- Coordinate with the AusAID design team on Land Registration/Valuation maintenance procedures;
- Design and develop an improved and effective Valuation Roll database that is able to be updated and maintained from Lease/Title registration activity, that provides for systematic adjustment of valuations and all required analysis and reporting requirements of the Valuation Section;
- Provide training in the use of the improved system;
- Assist with the development of procedures for systematic and uniform assessing and adjustment of general re-valuations;
- Assist in the development of standards to provide for uniform valuation assessments;
- Develop and maintaining skills and resources (capacity) within the DoL Valuation unit to perform valuation tasks.

#### **Technical Support**

Technical support will consist of the appointment of a STTA – **Valuation Specialist**. A DoL counterpart will be assigned to the STTA's. The STTA will work closely with the assigned counterpart and provide on-the-job training so that an understanding of activity requirements thoroughly understood. Capacity building of the counterpart shall be to such a level of understanding that the counterpart has a full understanding of all activity and is able to accept responsibility for continuation of activity on departure of the advisor.

Two valuation personnel from DoL will be sponsored on a short study tour of LINZ, two valuation firms in Wellington to view field and office valuation practices in operation.

### **4.3. Cleansing or Records**

Mention has been made in previous submissions of the need to cleanse information records and the complexity of this task. With respect to the components within the proposed NZAID area of activity, little cleansing is necessary. The proposed scanning for survey plans, mapping and geodetic database activity are largely stand-alone activities with no cleansing required (assuming the ADF vector mapping contains a high degree of logical consistency). The review of survey practices is operational only and contains no records to cleanse.

The area of activity where most cleansing is required is within the Lease/Titles database that is identified as part of the AusAID development area. Survey Records Management System feeds into this. It may be possible that current records are able to assist in cleansing of Lease/Titles data. Similarly, the DCDB will assist in cleansing of Lease/Titles data. The DCDB will only contain one attribute of interest to the Lease/Titles database, that being the Lease/Title number. This will form a Unique Parcel Identifier (UPI) to link the two sets of data. In theory there should be a one-to-one relationship between DCDB parcel records and Lease/Title records. Matching of the two sets of records will be necessary and differences investigated manually and resolved to “cleanse” both sets of data.

With respect to the Valuation Roll, data contained within this dataset is largely populated from Lease/Titles data (owner, occupier, address and sales data etc.). Hence an accurate and well-maintained Land Register will provide “clean” updated data for valuation uses.

## **6. SUSTAINABILITY AND RISK**

Personnel within DoL have most of the knowledge and intent to develop such LIM systems. However, they lack the financial and human resource capacity and specialists skills and knowledge to make it work at the level required. The project design allows for progressive development. This allows for knowledge and skills to be built over a period of time and hence increasing capacity as experience progresses, rather than the alternative of doing it all at once.

### **6.1 Sustainability**

Of the activity identified in Component 2, only the creation of a DCDB is heavily dependent on resources during the initial capture phase. Rather than stretching existing resources, it is intended to create the DCDB by contract staff or ‘out-sourcing’ to the private sector. Beyond the estimated eighteen months of capture (initial capture of one year and six months of capture of secondary capture), maintenance activity will be at a lesser level and hence sustainable by DoL resources. All other activity builds on activity already under way or trialled within operational areas. Significant additional resources are therefore not required beyond existing establishment levels.

Sustainability is depends on capacity within DoL to resource activity to the level required for continued sustainability. Of critical importance to continue sustainability is the commitment by GoV and senior management within DoL is to ensure key vacancies are filled and equipment purchases made to maintain capacity at the required optimum levels.

Also of critical importance is the need for change at the institutional level. The HR Manager has identified the need to improve culture, work ethics and performance and accountability within DoL. The AusAID Land Design Mission has also identified the need for institutional reform and hence will focus on these aspects within its components, thus avoiding duplication of effort and resources in this important area of development.

## 6.2 Risks

Key strategies to manage all risks and to increase the sustainability of outcomes are integrated into the LIM program design. Lessons learned from other projects, both nationally and internationally have been taken into account. A Risk Management Matrix is attached at Annex 2. This summarises all risks and their potential damage to the program, the likelihood, impact and overall rating of each risk; the strategies which have been incorporated into the design to address each risk; and the responsibility for implementing these strategies. Over-arching responsibility for risk management is shared by DoL management personnel, the LIM contract Project Manager and the NZAID project coordinator.

## 6.3 Risk Analysis

Risks have been analysed through a SWOT Analysis. The analysis for the LIM components follows.

### SWOT Analysis for Land Information Management

Strengths	Weaknesses
<ul style="list-style-type: none"><li>• A functioning survey plan management system in place;</li><li>• Survey Acts, Regulations and survey validation processes in place;</li><li>• Scanning of survey plan records trialled;</li><li>• Creation of a DCDB trialled over Lulanville and Port Vila;</li><li>• Suitable hardware and software to support DCDB creation;</li><li>• ADF topographic maps and digital data;</li><li>• Suitable hardware and software to support ongoing mapping activity;</li><li>• A functioning Valuation Roll database in place;</li></ul>	<ul style="list-style-type: none"><li>• Survey Plan Management system does not cater for all process activity;</li><li>• System not maintained at source;</li><li>• Limited analysis and reporting capabilities;</li><li>• Violation of existing survey acts and regulations noted;</li><li>• Survey validation processes appear to contain deficiencies;</li><li>• No systematic program to provide for security of survey plan records;</li><li>• No process in place to scan survey plans on receipt;</li><li>• No process documentation for DCDB</li></ul>

<ul style="list-style-type: none"> <li>• Staff reasonably well training in existing functions;</li> <li>• Staffs possess a reasonable level of computer literacy;</li> <li>• Land resource and use analysis able to be undertaken via VANRIS</li> </ul>	<ul style="list-style-type: none"> <li>• development;</li> <li>• Trialled DCDB development not supporting future spatial and ongoing maintenance requirements;</li> <li>• Deteriorating geodetic records information;</li> <li>• No remote access to survey control records;</li> <li>• Unknown state of the Geodetic control network to meet future needs and commitments;</li> <li>• Limited/no knowledge of ArcGIS mapping application software;</li> <li>• No policies for the provision on mapping products under licence;</li> <li>• No standards documented to support for custodianship or provision of geospatial data;</li> <li>• No mechanisms to update valuation records from sales data;</li> <li>• Limited means to review valuations or investigate anomalies in valuations;</li> <li>• No means to provide for systematic land or property re-valuations;</li> <li>• Limited analysis and reporting capabilities; from Valuation Roll;</li> <li>• No integration between existing DoL databases or database records;</li> <li>• No Visions, Goals or Objectives for directions for access to DoL records (One-Stop-Shop or internet access);</li> <li>• MapInfo software licences not approved releases;</li> <li>• ArcGIS software version not current version;</li> <li>• Staff vacancies have existed for a period of time;</li> <li>• Existing staffing levels insufficient to effectively administer current DoL activity;</li> <li>• Existing personal computer hardware insufficient for effective administration of DoL activities;</li> <li>• Existing network servers insufficient to service future DoL activities;</li> <li>• General sub-standard level of work culture and work ethics;</li> <li>• Limited internal training being undertaken;</li> <li>• VANRIS data dated and application able</li> </ul>
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	to be used by a limited few.
<b>Opportunities</b> <ul style="list-style-type: none"> <li>Increased efficiencies in the internal administration and management of land records through computerisation;</li> <li>Increased accuracy and integrity of land records through computerisation;</li> <li>Improved transparency of land dealings and making records available through computerisation;</li> <li>Vastly improved customer servicing through computerisation;</li> <li>Vastly improved public access to land related records via terminals at public counters;</li> <li>Vastly improved access to land records via web-based applications;</li> <li>Increased DoL revenue through remote access to survey, mapping and lease/title records;</li> <li>Increased Government and Local Authority revenue through improved valuation processes and valuation records;</li> <li>Increased capacity for analysis of land related matters within the private and public sector through computerisation and improved access to data;</li> <li>Increased analysis of land resources and use through a re-vamped VANRIS</li> </ul>	<b>Threats</b> <ul style="list-style-type: none"> <li>GoV does not support NZAid initiatives;</li> <li>GoV does not support NZAid initiatives with respect to appropriations of funds to support required staff establishment levels;</li> <li>GoV does not support NZAid initiatives with respect to provision of appropriate levels of computer hardware;</li> <li>Breaches of security or corruption of records through illegal access to database records;</li> <li>Unresolved land ownership and land registration, disputes can escalate and pose a potential threat to the stability of the country.</li> </ul>

### 6.3.1 Strategic Risks

The design teams approach to the development of components and activity strategies is based on extensive experience and lessons learned from regional and international experiences. The project design builds on modest concepts and activity, most of which has already been trialled within DoL. It promotes simple concepts using the “KISS” approach rather than a high technology approach. It allows for progressive development and building on the existing knowledge base. As such it has a lesser risk factor is built into the program and increases the likelihood of success.

The project is vulnerable from a resource and equipment (provision of computers) capacity perspective. A modest level of finance has been identified for additional or specialist equipment or software to ensure that direct NZAID sponsored activity is not wanting for equipment. However, the programme relies on management within DoL to resource personnel and equipment to optimum operational levels. The Director General has stated that necessary level of financial appropriation by MoF should be achieved provided good cases are put forward justifying the proposed levels of expenditure. The project has his full support and hence he is able to put his weight behind proposals.

International advisors may also assist this process by assisting management with proposals.

### **6.3.2 Operational Risks**

Technical assistance will be provided from a team of experienced international advisors. The terms of reference (TOR) for each input will highlight the importance of working with a national counterpart and of building staff capacity. All advisors will work closely with assigned DoL counterparts and provide on-the-job training so that an understanding of activity requirements thoroughly understood. Capacity building of counterparts shall be to such a level of understanding that the counterpart has a full understanding of all activity and is able to accept responsibility for continuation of activity on departure of the advisor.

Considerable emphasis will be placed on efforts to mentor staff to take on increasing responsibilities and assist in strengthening the administration, management, and planning and analytical skills of key personnel within DoL. This combined with institutional strengthening and capacity building on behalf of the AusAID project team will reduce the likelihood of operational risks.

The highest identified operational risks are:

- Breaches of security;
- Loss of Survey Plans through fire or natural disasters;
- The DCDB not being completed in terms of AusAID development requirements; and
- Loss of staff in key areas through transfer, promotion or resignation.

With respect to breaches of security, steps invoked as part of the IT Strategy (user accounts and passwords, assigned access privileges, system security software and firewalls etc) together with close enforcement and monitoring of use should mitigate against these risks.

With respect to loss of Survey Plans, the scanning of historical plans and scanning of new plans on receipt will mitigate against this risk.

With respect to the non completion of DCDB in term of completion in terms of AusAID development requirements, it is proposed to utilise contract workers or “out-source” capture to private enterprise (private survey firms) to mitigate against this risk and so as not to use limited existing resources.

With respect to loss of staff in key areas through transfer, promotion or resignation, the NZAID Contractor will need to work closely with HR Manager and AusAID design team to ensure staff retention factors are built into DoL organisation change, that is to provide for a career structure and performance reward for staff so that they are recognised according to ability, performance and qualifications.

## **6.4 Risk Management Strategies**

### **6.4.1 Program Coordination**

It is suggested that an in-country Project Officer be assigned from within NZAID, Vanuatu. The role of the Project Officer is to act as a focal point for the NZAID program, to assist in the coordination of activity with AusAID development team and to review performance based on monitoring progress reports from international technical advisors, national counterparts and DoL management reports. Close coordination required is required with the AusAID development program so that common milestones are achieved.

The Managing Contractor will need to assign a person who will be responsible for over project management, coordination of STTA inputs and in ensuring that project objectives and outputs are met.

The program includes a joint NZAID and AusAID joint review of the whole DoL aid program in year three (2011).

### **6.4.2 Appointment of a Long Term Technical Advisor (LTAA)**

Due to the complexities of GIS application software and varied nature of work within the mapping area, it is considered highly desirable that assistance and capacity building be developed over a longer period of time. It is therefore suggested that a TA be appointed for a twelve-month period. In addition to providing longer-term advice and mentoring within this component, the LTAA will be able to assist with the development of standards, licensing and pricing policies. He/she will also be better positioned to review the operations of VANRIS and assist in its upgrading or porting of data to another platform. He/she will also provide a degree of continuity of TA input within DoL and provide a briefing role to newly arrived STTAs.

### **6.4.3 Additional Capacity Building**

Activity within Component 2 recognises the need for greater awareness on behalf of DoL within three key areas of issues pertaining to better governance of the survey system, the custody and manipulation of geospatial data for supply to customers and the need for greater awareness on behalf of DoL valuers of issues pertaining valuation practices. As such, short study tours to LINZ and two or three private service supply firms in Wellington is provided to discuss issues and view operations.

The possibility for further education and training by means of short term training awards or attachments within these areas has also been identified, along with sponsored to attend work associated courses or conferences within the Pacific Region in each of the first three years.

The possibility of formal tertiary qualification by means of NZAID sponsored scholarships is supported.

## 7. ATTACHMENTS

### 7.1 Table of Cadastral Record Map Numbers

Name of Island	1:20,000 Scale	1:5,000 Scale	1:500 Scale	Total By Island
<b>Torres Group</b>	4	25		<b>29</b>
<b>Banks Group</b>	14	102		<b>116</b>
<b>Santo/Malo</b>	34	420	131	<b>585</b>
<b>Ambae</b>	5	48		<b>53</b>
<b>Maewo</b>	5	38		<b>43</b>
<b>Pentecost</b>	6	56		<b>62</b>
<b>Malakula</b>	18	208		<b>226</b>
<b>Ambrym</b>	7	68		<b>75</b>
<b>Paama/Lopevi</b>	3	7		<b>10</b>
<b>Epi</b>	5	51		<b>56</b>
<b>Shepherds Group</b>	4	20		<b>24</b>
<b>Efate</b>	10	113	143	<b>266</b>
<b>Erromango</b>	9	97		<b>106</b>
<b>Tanna/Aniwa</b>	5	66		<b>71</b>
<b>Aneityum/Futuna</b>	2	23		<b>25</b>
<b>Total by Scale</b>	<b>131</b>	<b>1342</b>	<b>274</b>	<b>1747</b>

## 7.2 Survey Records Management Screen

Survey Reference	Date Received	Registration Application Number	New Lease	Subdivision	Combination	Boundary Alteration
100	05/09/1983	381/98	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Survey Completed	Survey Check Completed	Draughting Check Completed	Plan Approved	Certify Plans To DLR	Cadastral Plan Updated
Date 04/09/1983	Check <input checked="" type="checkbox"/>	Date 11/09/1983	Date 01/02/1984	Date 12/05/1998	Date 08/06/1998
Initials DLS	Date 04/09/1983	Initials GB	Initials CP	Initials JMK	Initials JMK

Old Title	Lot Number	New Title	Area
3871	0	03/0M74/0001	ha a ca 0 10 00

Comment			
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<input type="button" value="Print"/>	<input type="button" value="Close"/>
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### 7.3 Example of Survey Plan

## 7.4 Survey Plan Examination Checklist

CHECKLIST FOR SINGLE SURVEYS		SUBMISSION: REGISTERED SURVEYOR DATE SURVEY PLAN TITLE NUMBER:		
CHECKLIST		YES	NO	N/A
Administration FEE receipt attached.?				
1. URBAN				
a. Is the Negotiator Certificate attached.?				
b. Is related consent from lands department, alienators, trustees etc attached?				
c. Access provided and comply with Survey Regulations?				
d. Is Zoning and area appropriate?				
e. Survey Report Completed.?				
f. Survey Plan completed and checked with name of property included.				
g. Computation sheet completed and checked (natural boundaries information)				
2. RURAL				
a. Is the Negotiators certificate attached?				
b. Is the consent from the Minister of Lands or Custom Owners or trustees attached?				
c. Do the areas comply with the survey regulations act.?				
d. Do the Roads or access comply with survey regulations act ?				
e. Are the natural boundaries shown.?				
3. GPS COORDINATES USED?				
a. completed GPS checklist				
RECOMMENDATIONS AND JUSTIFICATIONS				
a. COMPUTATION APPROVAL DATE:				
B. FIELD CHECK APPROVAL DATE:				
C. DRAFTING APPROVAL DATE:				
SURVEYOR GENERAL DECISION DATE:				

## 7.5 Valuation Roll Screen

VALUATION ROLL 2004	
11/0D61/0021	66'
Title	11/0D61/021
Old Title A	11/0D61/006
Old Title B	
Title Error	<input checked="" type="checkbox"/>
Location	TEQUIMA ROAD
OwnersName	MICHEL & ANITA DERON
Owners Address	P.O.BOX 549 PORT VILA
Date Approved	11/10/2007
Date Registered	
Lease Term	75
Old Lease Type	COMMERCIAL
New Lease Type	Port Vila Medium Commercial
Total Area	11488
Land Value 2004	11,488,000
Land Rent 2004	103,392
Lease Extn	
New Lease	
Transfer	
Sales Value	
Sales Date	
Comments	Change of use from Residential to Commercial.
Receipt Numbers	

## 7.6 Lease Database Index Screen

SAPIRION Version 5.6 - [dtangalobani]

File Edit Archive Options Window Help

Query (Doland\_q)

Department of Lands Vanuatu Land Records Archive

LeaseType:  LeaseTerm:  years

Rent VT.p.a:  Lease start date:  09/23/2008

Caution:  Entry Number:

Document Type:  Document Status:

Doc Number Single:  From:  To:

OK Cancel Quick Search

47955	TitleNo /	OldTitleNo	Lessor	Lessee	Address	Area	Type	Lease	Term	Rent	DocT	DocStat	Applca	Scan	
	12/0633/2	LOT 38 P.	ERAKOR H.	BEVERLEY	ERAKOR / EFA	No 0 HA 13	RESID	75 YE	6 575	Folder	Filed	923/97	06/15		
	12/0633/2	LOT 38 P.	ERAKOR H.	BEVERLEY	ERAKOR / EFA	No 0 HA 13	RESID	75 YE	6 575	Lease	Filed	275/99	06/01		
	12/0633/2	PART OF	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	6 575	Lease	Filed	843/98	06/01		
	12/0633/2	PART OF	4	EILEEN BU	ANZ BANK	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Disch.	Filed	1019/2	06/15	
	12/0633/2	PART OF	5	EILEEN BU	ANZ BANK	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Deed	Filed	1021/2	06/15	
	12/0633/2	PART OF		ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE		Folder	Filed	628/98	06/15	
	12/0633/2	PART OF	1	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Lease	Filed	628/98	06/15	
	12/0633/2	PART OF	2	BEVERLEY	EILEEN BULE	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Transf.	Filed	843/98	06/15	
	12/0633/2	PART OF	3	EILEEN BU	ANZ BANK	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Deed	Filed	843/98	06/15	
	12/0633/2	12/0634/0	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE		Folder	Filed	629/98	06/15		
	12/0633/2	12/0634/0	1	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Lease	Filed	629/98	06/15	
	12/0633/2	12/0634/0	2	BEVERLEY	HOSEA TAS	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	111 37	Transf.	Filed	225/99	06/15	
	12/0633/2	12/0634/0	3	HOSEA TA.	ANZ BANK	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	11 137	Deed	Filed	225/99	06/15	
	12/0633/2	12/0634/0	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	6 575	Lease	Filed	225/99	06/01		
	12/0633/2	12/0634/0	ERAKOR H.	BEVERLEY	BELLEVUE / EF	No 0 HA 13	RESID	75 YE	6 575	Lease	Filed	803/98	06/01		

Edit Print Delete Index Save... View Security



## 7.7 Place Names Screen

Geographical Names Database - [View Geographical Names]

**Geographical Name**

Geographical Name	Port Vila	
Coordinates (UTM Projection)	Easting 215 423	Northing 80 37 214
Feature Type	Town	
Description of Feature		
Village population category		
Origin		
Meaning		
Previous Name		
Pronunciation of Name		
Status	Official	
Province	Shefa	
Local Government Area	Efate South West	
Name Collected Date		
Official Geographical Name Date		
Map Reference	Efate South West	

**First** **Next** **Last** **Close**

## Annex 9

# Terms of Reference for Design Mission

## **Terms of Reference**

### **Design Team to Design Two Projects to Strengthen the Customary Lands Tribunal (CLT) and the Department of Lands' Information Technology Centre (ITC)**

#### **1. Recent Developments in the Land Sector in Vanuatu**

1.1. In September 2006, the Government of Vanuatu (GoV) held its first National Lands Summit (Summit). Twenty resolutions were adopted at the Summit to direct land reform and underpin the development of a National Policy on Land.

#### **2. NZAID and AusAID Engagement in the Land Sector in Vanuatu**

2.1. NZAID has supported the establishment of the Customary Land Tribunal (CLT) in Vanuatu since 2000. NZAID is currently in the process of designing Phase II of the programme to expand and strengthen the CLT after this was agreed at the Summit. The Vanuatu Department of Lands (DoL) has also requested NZAID support to develop an effective and sustainable land registration and records management system for Vanuatu. As background preparation for these two initiatives, NZAID funded a tri-nation tour for a GoV delegation through Fiji, New Caledonia and New Zealand in November 2006 to look at the lessons learnt regarding systems and processes for land records management and the resolution of land disputes.

2.2. In February/March 2007 AusAID undertook a review of Vanuatu's land legislation, policy and land administration. The review report identified numerous reforms necessary to implement the Summit resolutions and possible assistance necessary to implement those outcomes, some for immediate and short-term action and others for the longer term. The review report provides the broad framework within which all inputs to the land sector should be aligned.

2.3. AusAID has now appointed a five-member team to: (a) assist the GoV prepare a land sector policy framework; and (b) develop a five-year land programme design document, which will consist of four components:

- (1) Policy and Legislation;
- (2) Institutional Development;
- (3) Land Management; and
- (4) Land Administration.

This work is scheduled to commence in late June 2008 and will culminate in the finalisation of a Project Design Document (PDD) in mid-November 2008. Relevant documentation on AusAID's support to the lands sector will be available to the Contractor.

#### **3. Harmonisation and Coordination with AusAID**

3.1. NZAID and AusAID are committed to the principles of the Paris Declaration on Aid Effectiveness. Both are keen to extend to the land sector the principles of partner ownership, donor/partner programme alignment, donor harmonisation, managing for results and mutual accountability. This will be achieved through greater coordination

and collaboration between the AusAID team and the NZAID project design team (Design Team) and coinciding the timing of the field work.

#### **4. Proposals Approved through GIP<sup>35</sup>**

4.1 In May 2007 NZAID responded to a request from DoL for short-term technical assistance to develop two GIP proposals that had to be submitted for approval by the end of May in order to ensure that they could begin in 2008. The GIP proposals meet the GoV requirements in providing an overview of the nature of the projects, but they need refinement to meet NZAID funding requirements. NZAID has officially received two proposals from the GoV for funding consideration:

- (1) Customary Lands Tribunal Management Project and
- (2) Lands Records Management Systems and Information Technology Centre.

#### **5. Activity Design of a Project to Strengthen the Customary Lands Tribunal Management Project**

##### **Background**

###### **5.1 Customary Lands Tribunal**

The Customary Lands Tribunal Act, 2001 (the Act) mandated the establishment of the CLT to ease the backlog of land disputes in the court system. A Customary Lands Tribunal Office (CLTO) was set up in May 2002 within the DoL to undertake the implementation of the Act. NZAID provided support to the CLT from its inception (e.g. funding the consultative process that contributed to the drafting of the Act, awareness raising with the National Council of Chiefs - Malvatumauri) and in October 2002 undertook a joint scoping mission with the GoV to develop a strategy for NZAID assistance. In September 2004, a joint review was undertaken to establish the status of implementation of the Act and to provide clear advice on further NZAID assistance. The Review made eight major recommendations covering the operation of the CLT, land ownership issues and land policies. Paramount among the recommendations was the adoption of a National Policy on Land and continued NZAID support "to enhance the dispute resolution processes concerning customary land".

###### **5.2 Goal**

A strengthened Customary Lands Tribunal consistent with the GoV's national plans and priorities.

###### **5.3 Scope**

To assess the current status of the CLT including: the quality of its services; capacity to respond to service demands and identify capacity gaps. This assessment will provide a basis for designing a project, which clearly outlines ways to strengthen the CLT in such areas as service quality, capacity and extension of its services beyond the pilot areas.

The assignment should comprise:

- Analyses of key documents (see attached list).
- Consultations with key stakeholders including, but not limited to:

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<sup>35</sup> Government Investment Programme - system under which all aid programmes and projects are approved by the Government of Vanuatu. This ensures alignment with Government plans and priorities.

- (1) Relevant staff in the DoL, such as the CLT Unit
- (2) Relevant staff & policy analysts of the Ministry of Finance and Economic Development (formerly the Department of Economic and Sector Planning)
- (3) The Department of Strategic Policy Planning and Aid Coordination in the Office of the Prime Minister
- (4) Staff of other departments whose core functions include handling land related issues
- (5) The Land's Steering Committee
- (6) Malvatumauri
- (7) Judiciary
- (8) Cultural Centre
- (9) Women's groups and the Department of Women's Affairs
- (10) Selected local area council of chiefs and Customary land Tribunals that have adjudicated in disputes
- (11) Communities and a sample of CLT litigants
- (12) AusAID.

Consultation in the Provinces will be an essential part of this process.

- A CLT strengthening programme that focuses on the following areas:
  - a) Establishment and/or strengthening of tribunals in the Provinces
  - b) Review the training for judges/secretaries/adjudicators and propose strategies for extending delivery effectively and efficiently
  - c) Review and refinement of training manuals
  - d) Review and refinement of the standardised guidelines/advice for judges, secretaries, and adjudicators
  - e) Assess land information needs for judges, secretaries, and adjudicators and recommend appropriate response strategies
  - f) Review the DoL and CLT Unit administration processes and the capacity of the existing structure and make recommendations that will enable the CLT to function in accordance with the Act
  - g) Draw on the findings of AusAID's review of land legislation, the Act and related laws that dealt with land issues
  - h) Complements ITC component of the project and is able to respond to the information needs of its stakeholders
  - i) Develop an effective public awareness programme on the Act, functions of the CLT, including the production of appropriately targeted public education materials. This should be closely linked to AusAID's support to public awareness under their current support to short-term initiatives.
- A proposed NZAID programme of support, which builds on previous support to the CLT, complements and adds value to activities in other sectors of NZAID's bilateral programme.
- A proposed NZAID programme of support, which is designed with full consideration of AusAID's programme of support to the land sector and ensures harmonisation.

#### 5.4 Objectives

##### A programme for strengthening the Vanuatu CLT

Questions:

5. 4.1) What is the current status of the CLT (including in the provinces)?

- 5.4.2) What is the Government's vision and priority to strengthen the CLT in the provinces?
- 5.4.3) What reforms are required to achieve 5.4.2 above? The Design Team should recommend activities - prioritised and sequenced (in order of short to medium term) together with indicative costs. This must include an assessment of the administrative processes, structure and capacity of DoL and CLT Unit and recommend a more effective and efficient means to enable the CLT to optimise its functions.
- 5.4.4) What are the land information needs of the CLT Unit, adjudicators and other users such as the Malvatumauri? How can the DoL best meet and manage these information needs, efficiently?
- 5.4.5) What are the implications of proposed reforms on the DoL budget and human resources?
- 5.4.6) How sustainable are the reforms over the medium-term? What commitment could GoV make towards the recurrent budget for CLT?
- 5.4.7) What are the core Human Resources (HR) required to implement the proposed reforms successfully? Are there any gaps in GoV capacity and capability that will need to be addressed? If so, how can these gaps be filled in the short and medium term?
- 5.4.8) What external technical assistance is needed to ensure the achievement of outcomes? If necessary, develop an HR capacity building transition plan for technical assistance requirements until the capacity gaps are filled.

A possible programme of support for NZAID to contribute to

Questions:

- 5.4.9) What activities to strengthen the CLT will the GoV be supporting and why?
- 5.4.10) What activities to strengthen the CLT can NZAID support in the next four years, whilst ensuring that they build on GoV contributions to the project, previous NZAID support, and complement and add value to activities in other sectors of NZAID's bilateral programme?
- 5.4.11) How will GoV cover NZAID funding to the CLT after the project is concluded?
- 5.4.12) What are some options for management and funding of the project, including any risks that may arise? (Please see the background paper on Funding Modalities)
- 5.4.13) How best can NZAID inputs be coordinated with the GoV priorities, plans and resources?
- 5.4.14) How best can NZAID's programme of support be coordinated and harmonised with AusAID's inputs?

**6. Activity Design to Strengthen the Vanuatu Department of Lands Records Management Systems and Information Technology Centre**

**6.1 Goal**

A Land Information Technology Centre (ITC) that meets current and future land information management needs of the CLT and the DoL.

**6.2 Scope**

The design of a project that will strengthen DoL's ability to manage land-related information through:

- up-grading of the DoL's ITC

- Information Communications Technology (ICT) training
- the development of a Land Management Information System (MIS) capable of processing and managing records, and exchanging data with other key systems in use by the DoL and the GoV.

The assignment should comprise:

- 6.3 An assessment of the current land records management and Information Technology (IT) systems of the GoV, including the work that has already started regarding digitalisation and computerisation of the land registration process.
- 6.4 An assessment of the medium- to long-term requirements of an effective land records MIS in Vanuatu taking into consideration the planned reform of the sector. This will include:
  - issues relating to processing of land administration documents, including lease registration, to assist land users
  - data cleansing
  - matching of all information to be included in the MIS
  - the accommodation of the line and image mapping recently provided by the Australian Department of Defence as a core mapping base
  - servicing of the CLT Unit
  - land use planning support
  - other priority land information requirements of GoV
  - linkage and/or consolidation of a number of GoV land related databases and processes to provide commonality of government geographic information, avoid duplication, and ensure core physical and property information about land is readily available for wide GoV and public use and access.
- 6.5 Analyses of key documents (see Annex I).

#### 6.6 Objectives

To design a programme for strengthening the DoL ITC  
(see Annex 2: DoL's outline of the proposed project)

Questions:

- 6.6.1) What is the current status of land records management in the DoL (including in the Provinces) and the ITC?
- 6.6.2) What is the GoV's vision and priority to strengthen land records management, the ITC, and in the provinces?
- 6.6.3) What reforms are required to achieve 6.6.2 above? The Contractor will recommend activities - prioritised and sequenced (in order of short to medium term) together with indicative costs. This must include an assessment of the administrative processes, structure and capacity of DoL and recommend a more effective and efficient means to enable the ITC to optimise its functions.
- 6.6.4) What are the land information needs of the CLT Unit, adjudicators and other users such as the Malvatumauri? How can the DoL best meet and manage these information needs, efficiently? How will this project collaborate with the project to strengthen the CLT?
- 6.6.5) What are the implications of proposed reforms on the DoL budget and human resources?
- 6.6.6) How sustainable are the reforms over the medium-term? What commitment could the GoV make towards the medium and long-term recurrent budget for the ITC?

6.6.7) What capacity (human resources and skills) does DoL have to implement any proposed reforms? If DoL capacity is lacking propose viable alternative options that do not undermine DoL's role and responsibilities.

6.6.8) What external technical assistance is needed to ensure the achievement of outcomes? Where appropriate identify and recommend international and/or local technical assistants to assist with specific tasks, especially if DoL does not have such capacity or expertise.

6.7 A programme of support for NZAID to contribute to

Questions:

6.7.1) What activities to strengthen land records management and the ITC is the GoV supporting in the next four years?

6.7.2) What programme of activities to strengthen land records management and the ITC can NZAID support in the next four years, whilst ensuring that previous support is built on, and which complements and adds value to NZAID's CLT strengthening project, AusAID funded reforms in the sector, and activities in other sectors of NZAID's bilateral programme?

6.7.3) How best can NZAID inputs be coordinated with the GoV's priorities, plans and resources?

6.7.4) How best can NZAID's programme of support be coordinated and harmonised with AusAID's inputs?

6.8 Design of an ITC strengthening programme that focuses on:

- Designing an expanded and interlinked central information system that will provide access to the breadth of information required for land use planning and administration, e.g. detailed digital geographical map of an area, environmental information, who holds the customary ownership, interests and lease rights, and detailed property information, CLT decisions on customary ownership, status of the land, planning and zoning maps, the location and size of land areas and features
- providing good and accessible information for planning and development decisions and procedures for land users, planners and administrators to benefit from
- streamlining and removing delays in land record and other land related processing
- compatibility of spatial information and sharing of information across the whole of GoV, cleansing DoL data of erroneous information and matching all related information to enhance the quality and efficiency of all involved GoV Departments and Ministries.

6.9 A proposed NZAID programme of support, which is designed with full consideration of AusAID's programme of support to the land sector and ensures harmonisation.

**7. Timing, Duration and Milestones**

The design mission will take up to five weeks commencing in September 2008.

#	Milestone	Timeframe	Dates
1	Background reading	Up to 2 days	16 Sep 2008

2	Start of assignment briefing from NZAID (Wellington & Post) done by teleconference	3 hours	18 Sep 2008
3	Workplan for the assignment developed and agreed with NZAID and the DG Lands	Up to 1.5 days	18 /19 Sep 2008
4	Consultations in Port Vila and two Provinces, analysis, preliminary activity design proposal, workshop to stakeholders on preliminary findings and proposed project design	Up to 15 days	19 Sep to 2 Oct 2008
5	Draft Activity Design Document (ADD) submitted to NZAID, Director General Lands and other stakeholders for feedback		13 Oct 2008
6	Final feedback from stakeholders		23 Oct 2008
7	ADD finalised (incorporating feedback from stakeholders) and submitted to NZAID and DG Lands	Up to 3 days	30 Oct 2008
8	Peer review of AusAID Project Design Document by Team Leader	Up to 3 days	Oct/Nov 2008

## 8. Outputs

8.1 An ADD to strengthen the CLT and ITC which is consistent with the GoV's vision and priorities and meets NZAID's development priorities, values, principles and design standards. The ADD will be guided by NZAID's "**Activity Design Guideline**", and other relevant programme tools.

8.2 The ADD must include an overarching situational analysis of the CLT and ITC and relevant land and development issues to contextualise and rationalise the CLT and ITC strengthening programme. The ADD must include a clear proposal for NZAID funding based on an indicative work plan, a detailed five-year budget, a logical framework and draft terms of reference for any technical assistance proposed.

8.3 The CLT section of the ADD will address the questions raised in paragraph 5.4 above.

8.4 The ITC section of the ADD will address the questions in paragraph 6.6 above as well as:

- An assessment of the current systems of land records management and the requirements for automating the manual processes and for data cleansing and matching prior to data input.
- An assessment of the hardware and software procurement required to establish a standard operating environment in the DoL, taking into account existing ICT infrastructure. Detailed specifications of major hardware, and software needs and a timeline for acquisition and operation.
- A system design document that will guide the ultimate development of a land record MIS for the DoL. The system design document should include a data model, and interoperability framework for linking the MIS with other relevant systems already in use in the DoL and GoV, and a statement of system requirements.
- A management plan for the operation of ITC including standards and guidelines and an operation plan for year one.
- A training plan covering the training of ITC officers and associated staff.

- A review of project costs and requirements.
- An assessment of the strengths, weaknesses, threats and opportunities over the life of the project.
- An assessment of the capacity of DoL for maintaining the ITC at the completion of the project.

## **9. Methodology and Approach**

9.1 The Design Team will ensure wide and participatory involvement by key stakeholders for an integrated ADD for both the CLT and ITC strengthening projects. The Design Team will work closely with the Director General of Lands and designated staff, the CLT Officer, ITC staff and relevant policy analysts in the Vanuatu Department of Strategic Policy Planning and Aid Coordination (DSPPAC) in the Prime Minister's Office. The consultations might include formal and informal individual and/or group meetings which will be convened and conducted in a manner that is inclusive and observes traditional values and local custom.

9.2 The Design Team will conduct much of its work in and around Port Vila, but will be expected to travel to selected areas of the country to consult and observe proceedings of the CLT in a province. Whilst the Design Team will undertake its field work separately from the AusAID team it is expected that the Team Leaders of both teams will convene regular joint team meetings for planning, briefing and discussing ideas. The Design Team will take into account the findings of the background documents listed in Annex I and II. It will also take into consideration the GoV's strategic plans, such as the Priorities Action Agenda (PAA) and NZAID and AusAID strategies and the Final Report of the 2006 National Land Summit. This includes NZAID strategies on cross-cutting issues such as human rights, gender, environment and HIV impacts.

9.3 At the end of the in-country consultations the Design Team will convene a workshop for the purpose of de-briefing key stakeholders. This will be an opportunity to offer preliminary thoughts on the content of the proposal and respond to any questions. It is expected that the exact nature of the workshop will have been discussed and agreed in advance with the AusAID design team Team Leader including the option of his participation.

## **10. Composition of the Design Team and Reporting**

10.1 The Design team will consist of up to four members – a lawyer (or someone with a legal background) and preferably local; an international project design specialist with a background in social development (preferably land issues); a local communication expert; and an international ITC expert. At least some (and preferably all) of the team members will be knowledgeable of the CLT, Vanuatu custom and land issues.

10.2 The Design Team will report to the Director General of Lands and NZAID.

## **11. Skills Required**

### **11.1 Team Leader & Development Programme Designer (International)**

- High level of negotiation, facilitation and interpersonal skills;
- Demonstrated programme designing experience and well grounded understanding of good development practice, principles and approaches;

- Demonstrated analytical and writing skills;
- A tertiary qualification in a social science or in a subject of relevance, such as land and law;
- Experience in consultation process with government and community groups;
- An understanding and experience of NZAID programme design, implementation and management processes and requirements;
- Preferably experience in Vanuatu or Melanesian context;
- Preferably a good understanding of Bislama;
- Preferably experience in working in different cultures and understanding of *custom* in Vanuatu;
- Lead in drafting of the project design document; and
- Lead in finalisation of project design document.

**11.2 Information Communication Technology (ICT) Specialist (International)**

- A degree in ICT, surveying or land related field
- Background in database design, construction and maintenance
- Have a good understanding of the requirements for an effective land information management system suitable for small developing countries;
- Have good negotiation, facilitation and interpersonal skills;
- Experience in consultation process with government and community groups;
- An understanding of NZAID development approach and priorities;
- Preferably working experience in Vanuatu or Melanesian;
- Preferably a good understanding of Bislama;
- Preferably experience in working in different cultures and understanding of *custom* in Vanuatu; and
- Strong analytical and writing skills in order to contribute to drafting and finalisation of the project design document.

**11.3 Land Specialist (Ni Vanuatu)**

- Must have extensive knowledge of custom land issues gained through either research or involvement in land negotiations or mediation;
- Ideally, a qualified lawyer specialising in Land Law either in Vanuatu or Melanesia Pacific;
- Knowledge of Vanuatu law;
- An in depth understanding of Vanuatu culture and custom protocols and practice;
- High level of negotiation, facilitation and interpersonal skills;
- Knowledge of the Vanuatu context - socio, economic, political;
- Understanding of Government of Vanuatu development vision and priorities;
- Understanding of the operation of the Vanuatu public service, such as planning, resource allocation processes;
- Ability to follow up on any outstanding matters when International Consultants are off shore;
- Demonstrated analytical and writing skills;
- Contribute to drafting and finalisation of the project design document; and
- Must be fluent in English and Bislama.

**11.4 Communication Specialist (Ni Vanuatu)**

- Relevant qualification in a communication media such as press or radio;

- Experience in development of communication strategies suitable to Vanuatu context – rural, limited-English speaking and low literacy audiences;
- Experience in working with multiple-media public awareness campaigns;
- Understanding of GoV development vision and priorities;
- Provide advise on local cultural protocol and interpretation where required
- Gather information, such as reports, data, etc and knowing where to find information.
- Ability to follow up on any outstanding matters when international consultants are off shore;
- Must be fluent in English and Bislama and preferably French;
- Contribute to drafting of the project design document; and
- Contribute to finalisation of project design document.

## **12. Lands Subject Matter Expert**

12.1 The knowledge, experience and expertise of the Design Team will be supplemented by an additional Lands Subject Matter Expert (SME), contracted separately by NZAID. The SME will provide subject matter expertise to the Design Team on land issues in Vanuatu including, but not limited to, the following areas:

- land law
- land administration
- land disputes and resolution
- customary law and practice in relation to land tenure, use, etc.

12.2 The SME and the Team Leader will decide how the SME will provide their input into the projects' design. This will at a minimum include review of relevant documents and critique/peer review of the draft ADD. The feedback of the SME on the draft ADD will be incorporated into the final ADD. SME input may also take the form of their involvement in critical meetings or consultations.

12.3 The terms of reference for the SME are attached as Annex III. The SME will report to the Team Leader.

## **Annex I:** **Relevant Documents**

- 1 Land Summit Resolutions (September 2006)
- 2 Customary Land Tribunal Act (2001);
- 3 Administrative Procedures Guidelines for the CLT (2003);
- 4 Lands Tribunal Training Guide: Information for Adjudicators and Secretaries (2003);
- 5 Lands Tribunal Hearing Procedures (2003);
- 6 NZAID-funded Review of the Implementation of the CLTA and Feasibility Study for NZAID Assistance (2004);
- 7 NZAID-funded Report of the National Review of the CLT Program in Vanuatu (2005);
- 8 Report on the re-evaluation of the ITC work plan for 2007
- 9 ToR for Tri-Nation Land Study Tour (2006);
- 10 Government of Vanuatu Land Tour briefing paper (2006);
- 11 Report of Tri-Nation Land Study Tour (2006);
- 12 AusAID-funded Review of Vanuatu National Land Legislation, Policy and Land Administration Report (2007);
- 13 AusAID ToR for the short-term initiatives identified in the report above;
- 14 2 X GIP Proposals;
- 15 Bill Robertson report regarding Strengthening of the CLT and ITC
- 16 Bill Robertson proposal;
- 17 NZAID: Funding Modalities Paper (see Anna Pasikale, NZAID); and
- 18 Sample reports from CLT Unit (see Aicta Vuti, CLT Officer, GoV)

## Annex 10

# Meetings and Interviews

## MEETINGS AND INTERVIEWS

Date	Organisation	Personnel	Designation
18 September	National Council of Women (joint meeting with AusAID mission)	Approximately 12 representatives from NCW and other women's groups	
	Design Team briefing with NZAID	Leonard Chan Cameron Cowan James Tao David Swete Kelly Anna Naupa Chris Lunnay Allan Wilson Hamlison Bulu Henry Vira	NZAID NZAID NZAID AusAID Mission Design Specialist AusAID Design Team Design Team Design Team Design Team
19 September	Department of Lands, Survey and Records	Jean Marc Pierre Paul Gambetta Alicta Vuti Josiana Jackson Matthew Temar	Director of Lands Senior Cartographer Senior CL Officer IT Manager (Acting) Programmer
	Department of Lands - Mapping	Harold Moli Naelo Tosso	Project Coordinator – ADF Mapping Cartographer
	Office of Valuer General	Menzies Samuel	Valuer General
	Customary Land Unit	Alicta Vuti Gordon Amajmpat Leah Tarry	Senior CL Officer CLU Officer CLU Officer

<b>Date</b>	<b>Organisation</b>	<b>Personnel</b>	<b>Designation</b>
22 September	Private Sector (joint meeting with AusAID Mission)	Litiana Chilla Douglas Paterson John Tonne Adrian Sinclair Lynn Faber Peter Biasin, Garry Blake Paul Vogelsberger Ken Lyons David Swete Kelly William Ganileo	Mele Trustees Ltd Island Properties MCI BDO BDO ANZ Bank Ridgeway Blake Professionals Real Estate AusAID Mission AusAID Mission AusAID Mission
	Department of Lands	David Moses Martin Sokomanu Rodson Aru	Principal Valuer Surveyor General Examining Surveyor
	Customary Land Unit	Alicta Vuti	CLU Coordinator
23 September	Department of Lands	Matthew Temar	Lease Project Coordinator
	NGOs	Henry Vira David Tovovor, Jocelyn Loughman, Andonia Piau-Lynch  Douglas Ngwele Michael Taurakoto  Noa Saksak Leah Nimoho Alicta Vuti Charleon Falau,	Secretary General VANGO PF Net Project Manager Program Officer, World Vision National Coordinator, Disability Promotion and Advocacy Association FSPV Governance Officer Governance Program Manager, Wan Smolbag Theatre National Coordinator TE VKS GEF Small Grant, VANGO CLU Coordinator Chairman, VANGO
	Ministry of Finance	Brendan Toner	Revenue Advisor

<b>Date</b>	<b>Organisation</b>	<b>Personnel</b>	<b>Designation</b>
	Donor Coordination Meeting	Various representatives of donors and NZAID and AusAID mission members	
24 September	Land Reform Workshop (meeting convened by AusAID mission)	Various representatives	
	Department of Lands, Survey and Records	William Ganileo	Special Projects
	Meeting with DG and TA Team	Russell Nari	Director General and Chair of Steering Committee
	Malvatumauri	Chief Gratien Alguet Selwyn Garu	President Secretary
25 September	Department of Lands	Josiana Jackson Julie Garoleo Mahit Kalour Peter Pata Dominique W Moses Williams	IT manager HR Manager Finance Officer Valuer Valuer Geodetic Surveyor
	Geology and Mines	Chris Loan	Director
	Geomap Ltd	Martial Meltenoven	Private Surveyor
	Field Visit to Santo	Gordon Willie Gwen Wells Saniel Sul Ben Sive Jerome Solomon	Lands Officer Lands Officer Land Tribunal user Land Tribunal user & Land Tribunal Panel member Land Tribunal user
	AusAID	Anna Naupa	Senior Program Officer
	Department of Lands	Alicta Vuti Gordon Amajmpat Leah Tarry	Senior CL Officer CLU Officer CLU Officer
	AusAID	AusAID Design Team presentation of – Aide Memoire	

<b>Date</b>	<b>Organisation</b>	<b>Personnel</b>	<b>Designation</b>
27 September	Justice for the Poor	Justin Haccius	Research Officer
29 September	Vanuatu Property Valuation	Richard Barnes	Reg. Valuer/Partner
	North West Efate Area Land Tribunal	Willie Tapasei	Secretary
	Public Service Commission	Mark Bele	Secretary
	Ministry of Internal Affairs	George Pakoa	Acting Director General
	Department of Local Authorities	Gerry Sampson	Physical Planning Unit
30 September	National Statistics Office	Benuel Lenge	Statistician
	Vanuatu Cultural Centre	Joel Simo	Research Officer
	Design Team conference call with NZAID	Leonard Chan, NZAID Tony Banks, NZAID James Tao, NZAID Chris Lunnay Allan Wilson Hamlison Bulu Edward Nalyal Henry Vari	
1 October	Department of Lands, Survey and Records	Russell Nari	Director General
	Workshop on presentation of draft design and discussion	27 participants including representatives from NZAID, AusAID, Malvatumauri, Ministry of Internal Affairs, DoL, CLU, NGOs	
	NZ High Commission	Jeff Langley Nicky Simmonds James Toa	High Commissioner NZAID Manager (Acting) Development program Coordinator, Vanuatu

# Annex 11

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