

TRIPARTITE ARRANGEMENT

between

The Government of the Republic of Vanuatu
represented by
the Prime Minister's Office

and




**The Government of Australia represented by the Australian Agency for
International Development (AusAID)**

and

New Zealand Agency for International Development (NZAID)

in relation to

MAMA GRAON- VANUATU LAND PROGRAM

Initial for NZAID	
Initial for AusAID	
Initial for GoV	

TRIPARTITE ARRANGEMENT (this Arrangement)




MAMA GRAON- VANUATU LAND PROGRAM 2009 - 2015

BACKGROUND

- 1 Following on from the National Land Summit (September 2006), the Government of the Republic of Vanuatu (GoV) requested Australian and New Zealand assistance to support land reforms in Vanuatu. In 2008, the Australian Agency for International Development (AusAID) and the New Zealand Agency for International Development (NZAID) fielded two separate scoping and design missions to Vanuatu to develop frameworks for the provision of their support in the land sector.
- 2 The three governments have entered into a Tripartite Arrangement to establish the framework for the Vanuatu Land Program. Based on discussions with the GoV, AusAID and NZAID wish to harmonise their development assistance to the land sector in Vanuatu by engaging one Management Services Contractor (MSC) to implement the two designs produced to support the GoV's request for support.
- 3 GoV (represented by the Ministry of Lands and Natural Resources (MLNR) and the Ministry of Justice and Social Welfare (MOJSW)), NZAID and AusAID (collectively known as 'the Partners') have reached the following common understandings set out in this Arrangement in relation to the provision of funding support for the implementation of Mama Graon- the Vanuatu Land Program 2009 – 2015 (the Program).
- 4 NZAID and AusAID will provide joint funding through a contract with an MSC to assist in the implementation of the Program. (Details of the Program are more fully described in attached **Schedule One**). A breakdown of funding provided is set out in paragraph 14.

CONTEXT

- 5 This Arrangement acknowledges that each Partner is subject to its own operating environment, including legislative, ministerial and parliamentary obligations.
- 6 The proposed assistance is in full accord with the Vanuatu Constitution and in keeping with the Vanuatu Government's Comprehensive Reform Program and Prioritised Action Agenda (PAA). Government coordination of long term reform will be guided by a Land Sector Framework which AusAID and NZAID are guided by. Oversight of the framework will occur through a multi-stakeholder Vanuatu Land Governance Committee.
- 7 This Arrangement also recognises existing relationships between GoV and :
 - a. The Government of Australia in the form of the Australian – Vanuatu Country Strategy, 2005-2010 signed in March 2005 and a Memorandum of Understanding signed on 15 December 2005; and

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


- b. NZAID in the form of the NZAID Vanuatu Development Program Strategy, 2006 - 2010, signed in July 2006.

PART A – PURPOSE AND PRINCIPLES

- 8 The **goal** of the VLP is that “all Vanuatu people prosper from the equitable and sustainable development of their land, while ensuring stability and securing the heritage of future generations”.
- 9 The **purpose** is to improve decision making, transparency, and land management procedures and practices, and in doing so minimise the potential for conflict. This will primarily be achieved by undertaking capacity development of:
- Vanuatu Land Governance Committee;
 - Malvatumauri National Council of Chiefs;
 - Customary Land Unit; and
 - Land Information Management.
- 10 Under this Arrangement, the relationship between the Partners will be guided by the following **principles**:
- a focus on sustainable and equitable development;
 - a partnership approach based on fairness, transparency, openness, accountability and mutual trust in all dealings;
 - the effective and efficient use of funding and resources;
 - activities that are focused on effective development outcomes and accountabilities;
 - quality, relevance, professionalism and excellence in delivery of the land program in Vanuatu; and
 - Commitment to coordinated monitoring and evaluation.
- 11 NZAID and AusAID will also be guided by the principles of the Paris Declaration of Aid Effectiveness (2005); the ‘Pacific Aid Effectiveness Principles’ (2007); and the Cairns Compact (2009) namely:
- Country ownership of development policy;
 - Alignment with national development strategies;
 - Harmonization;
 - Managing for results; and
 - Mutual accountability for development results.

PART B – TERM AND FUNDING FRAMEWORK

- 12 This Arrangement is deemed to be effective from date of signature until 30 June 2015, unless terminated earlier. NZAID funding is to cover a three year period until 30 September 2012 only. However, the Partners may extend this Arrangement beyond 30 June 2015 and/or NZAID may provide further funding after 30 September 2012, by way of a formal Letter of Variation in accordance with paragraph 30 below.
- 13 The combined total Program cost is up to, but not exceeding AUD 20,300,000 (approx. VT1.6 billion).
- 14 Total funding by way of official development assistance in respect of this Arrangement is as follows:




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- a. From NZAID - is up to NZ\$ 6.1million (approximately AUD\$ 4.8 million); and
- b. From AusAID- is Aus \$15.5million.

- 15 NZAID and AusAID will enter into a Donor Funding Arrangement under which NZAID will pay its contributions to AusAID. AusAID will manage the joint contributions through a MSC. After a period for the MSC to mobilise in Vanuatu, there will be an Annual Rolling Plan process. The Partners will consider a proposed annual work plan and budget from the MSC. Elements of the annual plan and resources approved by the Partners are to be implemented by the MSC. Indicative annual budgets will be developed once the Managing Contractor is in place.

PART C – ROLES AND RESPONSIBILITIES

- 16 The MSC will have overall responsibility for the planning, procurement, administration and implementation of this Arrangement. The Vanuatu Land Governance Committee will provide oversight of the implementation, including monitoring.
- 17 The **GoV**, through the MLNR and MOJSW, will make all reasonable efforts to facilitate the successful implementation of the Program and will:
 - a. Provide representation at a pre-tender briefing for the Vanuatu Land Program;
 - b. Appoint a representative to participate as a member of the tender selection panel for a managing contractor;
 - c. Appoint at minimum one representative from the Vanuatu Government and one representative from civil society to participate in a joint, national awareness tour informing the Vanuatu public of the land program;
 - d. Provide direction to the Vanuatu Land Program through the Vanuatu Land Governance Committee, including ensuring that appointed members are available to participate in six-monthly Program Management Committee meetings, as well as in program reviews, and to provide feedback on monitoring reports;
 - e. Advise the Vanuatu Land Program and contributing donors of the Vanuatu Government's land policy direction as outlined by the Vanuatu Land Sector Framework;
 - f. Provide head office space within the Ministry of Lands including the costs of utilities (water and electricity) for the duration of the program. This office may also serve as an initial space for the Land Sector Framework Coordination Unit;
 - g. Collaborate with the Malvatumauri Office to ensure space is provided for a National Kastom Land Office, including the costs of utilities (water and electricity);
 - h. Ensure that counterparts are identified during the tender or mobilisation processes and available to work with the following long-term program positions:
 - Team Leader and Participatory Governance Adviser
 - International Indigenous Land Specialist
 - Land Registry Adviser
 - Land Lease Adviser
 - GIS Adviser
 - IT Adviser
 - i. Ensure that counterparts are identified, informed and made available to work with short-term program advisers as necessary;
 - j. Ensure that provincial authorities likely to work with the program are informed and advised of expected roles; and
 - k. Ensure that relevant customs and duty clearances are promptly provided for program procurements. Program procurements will be duty and VAT exempt and

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relevant codes will be provided to program personnel promptly to assist with facilitation of this.

18 NZAID and AusAID will make all reasonable efforts to facilitate the successful implementation of the Program and will:

- a. Provide timely responses to requests by the GoV to ensure effective progress of the Program and its objectives;
- b. Improve overall harmonisation by minimising bilateral conditions and bilateral administrative and reporting requirements where ever possible and to the extent permitted by their individual legal and statutory requirements, and/or pre-existing legal agreements;
- c. Lessen the administrative burden of aid on MLNR and MOJSW by undertaking joint appraisal, analysis, auditing, reporting and evaluation whenever possible;
- d. Provide and share comprehensive information on the nature and cost of all current and planned assistance to the land sector;
- e. Undertake the sourcing and contracting of an MSCto conduct the implementation of VLP in close consultation with GoV; and,
- f. Undertake joint planning for a national awareness tour prior to the implementation of the land program, in collaboration with GoV and relevant civil society stakeholders (e.g. Malvatumauri and Vanuatu Cultural Centre).

PART D – CONSULTATIONS, REVIEWS AND REPORTING

Consultation




- 19** All Partners may consult with each other on any matter of common interest arising out of the implementation of the Programme.
- 20** Each Partner shall promptly inform the others of any event that, in the opinion of that Partner, is likely to materially interfere with, or seriously hinder or impair, the implementation of the Programme, or to adversely and materially interfere with the performance of GoV and/or NZAID and AusAID (including its contractors) of its obligations in respect of the Programme.

Review

- 21** An evaluation of the Program is planned for the 18th, 30th and 36th months of the Programme. This will be coordinated through an evaluation and review group (ERG) to be established by AusAID. GoV and NZAID will participate in these evaluations. The results of this evaluation will be distributed to all Partners.
- 22** Each Partner shall inform the others of any additional review missions that are required to be undertaken bilaterally two (2) months before any such mission, related to the Programme. Prior to the review mission, the Partner undertaking the mission will provide the other Partners with written rationale for the additional review mission. At the conclusion of the mission, the Partner undertaking the review will provide a report to the other Partners setting out the main findings or results of such a mission.

Reporting

- 23** The reports to be provided to the Vanuatu Land Governance sub-committee will be prepared by the MSC. The reporting format will be agreed between NZAID, AusAID and GoV. The full reporting schedule will be developed through the tender and contract negotiation processes between AusAID and the MSC.

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Proposed Monitoring and Evaluation Plan:




Event
Informal meetings led by MLNR with MOJSW, AusAID and NZAID
Performance assessment framework to be developed by the Partners
6 month reporting
Stakeholder Forum
Final Evaluation Report

- 24 The six monthly reporting should be brief and strategic in nature. Reporting should as a minimum include:
- An executive summary;
 - Progress on key activities for the period;
 - Monitoring and evaluation activities;
 - Assessment of risks including identifying challenges which may disrupt or limit activities; and
- 25 The Standing Agenda items for meetings may include the following:
- Capacity needs and management of Contractor;
 - Progress on key initiatives; and
 - Harmonisation between GoV, AusAID and NZAID systems.
- 26 The Partners will develop a Performance Assessment Framework (PAF) within three months of signing a contract with the MSC, which will:
- provide a concise set of qualitative and quantitative indicators that can be monitored effectively;
 - establish a framework for mutual accountability;
 - support the MLNR and MOJSW's capacity building and ownership of VLP; and
 - establish baseline data for longer term monitoring and evaluation of VLP.

PART E- GENERAL UNDERSTANDINGS

Relationship between the Partners

- 27 Each Partner is a separate legal entity. Nothing contained or implied in this Arrangement will be construed as creating, and no Partner will state, imply or do anything to suggest that this Arrangement creates, a relationship of employer/employee, or principal/agent or a legal partnership between the Partners, or any of their employees, agents or sub-contractors.
- 28 This Arrangement is not governed by international law. Nothing contained or implied in this Arrangement will be construed as creating, and no Partner shall state, imply or do anything to suggest that this Arrangement creates, an international treaty between sovereign states and/or the Partners. Further, this Arrangement does not create a partnership at law.
- 29 No Partner will in any circumstances during or after the course of this Arrangement make any commitments on behalf of any other Partner or Government relating to

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the expenditure of official development assistance or any other official funds, other than the extent to which Partners have consented to their respective Contribution and the Programme.

Variation

- 30** The terms of this Arrangement, including the Programme, may be modified, limited, extended or terminated by the common agreement of the Partners. All variations to this Arrangement must be in writing and signed by all Partners.
- 31** Without prejudice to the independent right of decision and action, each Partner shall give written notice to, and where reasonably practicable, consult with the other Partners whenever it proposes to:
- in the case of GoV suspend, terminate, cancel or accelerate, in whole or in part, the Programme; or
 - agree to any substantial amendment on the part of GoV to this Arrangement, or take any action which might result in the termination of this Arrangement, as the case may be.

Commitment to Good Governance




- 32** AusAID and NZAID have an obligation to Australian and New-Zealand taxpayers and Parliaments to ensure that aid money is used effectively and efficiently, and is not subject to misuse. Corruption has a substantial and negative impact on economic growth and development and weakens institutions.
- 33** Consistent with each Partner's commitment to good governance, accountability and transparency, each Partner reserves the right to investigate, either directly or through its agents, any alleged corrupt, fraudulent, bribery, collusive or coercive practices in relation to the other Partners and the implementation of VLP or any aspect of this Arrangement
- 34** Each Partner will ensure that their employees, agents, consultants and sub-contractors working in relation to any aspect of VLP or this Arrangement will not make or offer or seek or accept from or by any third Partner, for themselves or for any other Partner, any gift, money, reward, remuneration, compensation or benefit of any kind whatsoever, which could be interpreted as an unethical, illegal or corrupt practice.

Anti-Terrorism

- 35** All Partners must use their best endeavours to ensure that funds provided under this Arrangement do not provide direct or indirect support or resources to organisations and/or individuals associated with terrorism. If, during the course of this Arrangement, if any Partner discovers any link whatsoever with any organisation or individual associated with terrorism it must inform all other Partners immediately.

Termination

- 36** Each Partner reserves the right to withdraw/terminate its support to this Arrangement. If any Partner intends to withdraw from/terminate its support to this Arrangement, they will call a meeting to inform the other Partners on its decision and to consult on the consequences for the Programme.
- 37** Each Partner's responsibilities for Program initiatives or activities commenced before notice of termination is received will continue until completion of such initiatives or activities, and this Arrangement shall continue in full force and effect in

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respect of the period of completion, unless otherwise negotiated or necessitated by the circumstance of the termination.

- 38 This Arrangement will cease to be in effect 30 days after written notice has been given to all other Partners of the decision to terminate the Arrangement.

Publicity

- 39 The Partners agree to acknowledge the contribution and assistance of each other in any appropriate publicity material, media reporting and annual reports related to activities funded under this Arrangement.

Claims

- 40 GoV will bear all risks associated with operations carried out in pursuance of this Arrangement and its associated Programme, and will hold harmless and indemnify NZAID and AusAID and its servants in respect of this Arrangement of any claim including legal costs arising from such claim that is brought by third parties against NZAID and/or AusAID or its servants, except where it is mutually decided by the Partners that such claims arise from gross negligence, gross professional negligence or wilful misconduct on the part of the servants or representatives of NZAID and/or AusAID.

Confidentiality




- 41 All Partners will respect the confidentiality of information provided by any other Partner which is marked 'confidential' 'restricted' or 'commercial in confidence'. No Partner will disclose such information to any third Partner without first obtaining the others' written consent. All Partners acknowledge that the others may be required by law or Government convention to disclose information and cannot guarantee the confidentiality of information provided.

Extraordinary Events

- 42 No Partner will be liable for any failure to perform or any delay in performing their responsibilities under this Arrangement where the cause of such failure or delay is beyond that Partner's reasonable control (force majeure). The Partner claiming suspension of its responsibilities for this reason must immediately give written notice to the other Partners.

Notices

- 43 All formal and legal notices under this Arrangement will be sent by mail, fax or be hand delivered, to the following addresses, or to such other address or person as that Partner may specify by notice in writing to the others. Any such notice shall be deemed to have been duly given either on the date of dispatch, if delivered by hand or sent by facsimile, or fourteen (14) days after the date of posting, if sent by registered airmail.




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- 44 Any notices required under this Arrangement and any agreement or other document contemplated hereunder shall be given in writing to:

<u>For Government of Vanuatu:</u>	<u>For NZAID:</u>	<u>For AusAID:</u>
Director General Prime Minister's Office PMB 9053 Port Vila Vanuatu Attention: Director of Department of Strategic Policy and Planning (DSPP)	Executive Director New Zealand Agency for International Development 195 Lambton Quay Private Bag 18-901 Wellington New Zealand Attention: Vanuatu Development ProgramManager	Director General Australian Agency for International Development GPO Box 887 Canberra ACT 2601 Australia Attention: Country Program Manager Vanuatu

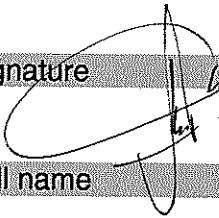
Attachments:

1. Schedule 1 (Program Description)

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This is accepted by signing as follows:

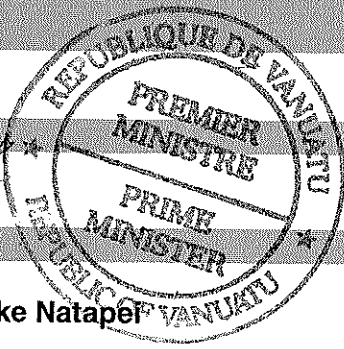
for and on behalf of the Prime Minister's Office

Signature 


Full name **Hon. Edward Nipake Nataper**

Position **Prime Minister, Republic of Vanuatu**

Date **04/12/2009**




for and on behalf of AusAID:

Signature 

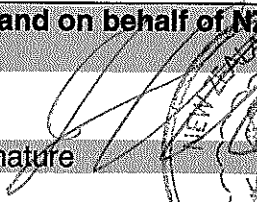
Full name **Nick Cumpston**

Position **AusAID Counsellor, Port Vila**

Date **4th DECEMBER 2009.**



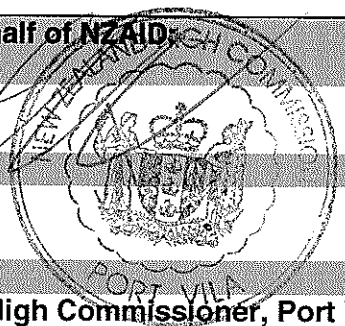
for and on behalf of NZAID:

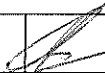


Signature 

Full name **Jeff Langley**

Position **New Zealand High Commissioner, Port Vila**

Date **4/12/2009**



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SCHEDULE ONE **PROGRAM DESCRIPTION**

AusAID Program Design

In response to the Vanuatu National Land Summit held in 2006, AusAID has agreed to provide assistance to the country's land sector. This is in line with Australia's broader initiative to support land reform in the Pacific under its Pacific Land Program. Proposed assistance is in full accord with the Constitution which enshrines the primacy of customary ownership. It also is in keeping with the Vanuatu Government's Comprehensive Reform Program and Policy and Action Agenda. Government coordination of long term reform will be guided by a Land Sector Framework. Australian, as well as other donor country assistance, is guided by this framework. Oversight of the framework will occur through a multi-stakeholder Vanuatu Land Governance Committee.

Prior to this design AusAID completed a significant review of the current situation and past assistance. In addition a series of short term initiatives have been undertaken. This design outlines the foundation for a longer term partnership and was approved for implementation in January 2008.

The design summarises the current status of the land sector in Vanuatu and gives particular attention to the complexities of customary tenure and the associated uncertainties associated with customary authority. Analysis shows however that current policy and legislation do not effectively embody the principles and spirit of the Constitution in formal law, and thus insecurity of customary tenure continues to this day.




Currently land development is driven by the needs of Government (for public land) and demand by international investors for residential or tourist development. There has been little traction as yet by ni-Vanuatu to 'kick-start' home grown development. Customary practices have interfaced poorly with the cash and market economy, and the current development trends are placing considerable pressure on customary land surrounding the major urban areas. In some cases there is clear evidence that traditional systems are being undermined by conflicting claims or exploited by unscrupulous individuals. Generally it is the less powerful, less vocal and more vulnerable segments of the community that suffer most. Women and youth are often neither consulted nor recognised in formal lease agreements. This has inevitably led to significant social tensions and, should the situation escalate or even continue as it is, there is the strong possibility of future conflict. It is clear in the long term that the impacts of current practice will harm both local communities and the country's development.

The limited Government services available are often ineffectively and inefficiently delivered. For example, compliance with lease negotiation requirements is poorly enforced and lease registration faces a huge backlog. Attention to these issues is seen as priority for any assistance. In addition, allegations of corruption are common and transparent procedures are needed to minimise risk and sanction those who flagrantly abuse the system.

Lessons from previous public sector reform show the benefit of working with individuals that champion change - be they in Government, the community, civil society, or private sector groups. There is also clear evidence that broad-based awareness and advocacy is needed to inform the debate and galvanise political will.

Based on the analysis, key elements of the assistance will include:

1. Support to customary decision-making;
2. Respect for and clarification of *kastom*;

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3. Multi-stakeholder participation and ownership;
4. Effective links with dispute mediation and conflict resolution;
5. Clear and transparent enforcement of current formal laws related to lease agreements;
6. Improvement in basic Government services and enforcement related to land use;
7. Careful harmonisation of support to match absorptive capacity; and
8. Studies that establish a foundation for future policy and legislative reform.

The design proposes a Program of assistance with the following Goal:

"All Vanuatu people benefit from the equitable and sustainable development of their land, while securing the heritage of future generations."

This will be delivered through three objectives:

Objective 1: Informed Collective Decisions by Customary Landholders

This objective ensures that communities have the right and support to make informed collective decisions on the use of their customary land based on *kastom*, delivering benefits not just to themselves, but to future generations.

Key processes and partnerships for implementation include:




1. **Improve the customary governance of land by the Malvatumauri.** A National Kastom Land Office will be established to strengthen the Malvatumauri capacity to oversee, improve and support customary decision-making at the national, island and area level. The Program will support the Malvatumauri to manage these activities;
2. **Improve stakeholder and public understanding and awareness of customary land practices** (including gender and relational land interests). This will include three elements: i) a Customary Land Study and Research Grant Fund; ii) a Public Awareness and Information Program; and iii) gender mainstreaming within the Malvatumauri and other customary groups. The Program will support the Vanuatu Cultural Centre to manage these activities; and
3. **Improve decision-making by customary landholders.** The Program will assess and then implement a network of local Kastom Focal Points (KFP) to facilitate the delivery of information, referral and networking services that support decision-making on customary land at the local level. The agreed model will be initiated by the Program after broad consultation. Over the life of the Program, responsibility will be transferred to an agreed national body.

Objective 2: Participatory Land Governance

This objective recognises that land governance is not the sole responsibility of Government. The ongoing sustainable management of land depends on the fair dealings and diligence of all stakeholders, including the community.

Key processes and partnerships for implementation include:

4. **Support the effective and participatory sector wide governance of land.** The Program will support the Government to manage and monitor the national Land Sector Framework. The Program will support the establishment, strengthening and operation of the multi-stakeholder Vanuatu Land Governance Committee (VLGC);

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5. **Establish and/or improve participatory, sustainable mechanisms that facilitate regional and local governance of land.** Under the guidance of the VLGC, the Program will work with local Government, customary leaders, civil society and other stakeholders at the sub-national level; and
6. **Improve the participatory mechanisms that facilitate formal dealings in land.** In particular the Program will establish or improve the participatory yet sustainable processes needed to negotiate the open, accountable and transparent processes for leases on customary land (be they for public or private sector development). The Program will support the Department of Lands to identify and establish key processes, governance structures and oversight mechanisms.

Objective 3: Effective and Enabling Services

This objective delivers key services that underpin the two other objectives and will be delivered through a range of groups including Government, civil society and the private sector.




Key processes and partnerships for implementation include:

1. **Establish a functioning Land Registry and Information Service.** This will eradicate the land lease registration backlog and establish a land lease and land parcel information service. The Program will support the Department of Lands to manage this activity;
2. **Establish an effective land lease and development planning, assessment, permitting and enforcement service.** The Program will support the Department of Lands (and other regulatory agencies) to establish an integrated development planning service which supports zoning and ensures compliance; and
3. **Deliver a national land awareness, knowledge and gender mainstreaming campaign.** The Program will support the Department of Lands to manage this activity; and
4. **Demonstrate effective organisational models and service delivery arrangements.** After Year 3, the Program will support the Department of Lands to assess improved, appropriate and sustainable organisational roles and responsibilities for implementation.

The Program will be the primary mechanism that addresses 12 of the 20 National Land Summit Resolutions and will significantly contribute to a further seven. Australia's assistance will be structured through a program approach. This allows for flexible interventions, with delivery mechanisms that evolve over time. This first five year phase of assistance will establish the foundations for longer term partnerships. It is expected that future phases of the Program could:

1. Sustain achievements and broaden engagement in customary land, participatory governance and enabling services;
2. Begin a process of legislative reform;
3. Undertake more fundamental institutional reform within the Department of Lands; and,
4. Improve service delivery in other areas of the Department of Lands (e.g. revenue generation).

The Program will be implemented by a Implementation Service Provider with the Program Office based within the Department of Lands. Oversight of the Program will rest with a

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Program Coordinating Committee consisting of a working group of the new Vanuatu Land Governance Committee along with appropriate AusAID representation. In addition it is expected that the Pacific Land Program will establish an Effectiveness Review Group that will provide advice and guidance to this Program as well as those in other Pacific countries. The Program team will include a range of international and national advisers, supplemented by a Consultant Pool that preferentially targets national or Pacific regional professional support. The Program will be implemented over five years, commencing later in 2009. The estimated cost of the Program is A\$13.9m (approx. VT1.1 billion).




The design includes a draft Monitoring and Evaluation Framework, the intention being that it undergoes further development in partnership with the key Program stakeholders during Program inception. The Program will commence with a six month inception period during which all staff appointments are to be completed, project offices established and extensive stakeholder discussions commenced. Additional inception activities will include:

- a) a final review of the logframe to ensure that wording aligns with the final Land Sector Framework expected to be approved before implementation begins;
- b) finalisation of the Program M&E Framework and harmonisation of M&E approaches with those of the Land Sector Framework;
- c) a Peace and Conflict Analysis;
- d) finalisation of a Gender Strategy for the Program; and
- e) completion of Work Plan for the first full financial year of the Program.

Throughout implementation the Program will review and assess the capacity of partners and the sustainability of initiatives undertaken.

The Program will also develop a Risk Management Plan that outlines action to mitigate key implementation and contextual risks. These include:

- a) Capacity of Government agencies and shared roles;
- b) Land related conflict;
- c) Sustainability and incentives for capacity building;
- d) Harmonisation of inputs and support across the land sector;
- e) Acceptance of donor involvement in customary land; and
- f) Motivation for change and political will.

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NZAID Component

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.

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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.

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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

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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 (to be market tested). Of this amount NZ\$ 1,890,490 is proposed to support CLT activities made up of adviser fees (international and national) and funding of resource activities such as procurement items, public awareness and training. For the LIM activities NZ\$ 2,240,060 is estimated for support to LIM activities in the DoL. This is composed of adviser fees (international and national) and funding of resource activities such as procurement items, public awareness and training. The above amounts are allocated for 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 Malvatumauri 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 Program 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.


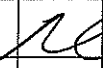
This project continues and builds on the support provided previously in the development of the Customary Land Tribunal and has the opportunity to refine the tribunal process and continue support for public awareness campaigns and tribunal training.

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

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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.

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