

Solomon Islands' Urban Land Tenure: Growing Complexity

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This In Brief discusses contemporary land complexities in Solomon Islands with reference to land dealings around the capital city of Honiara. It provides a brief history of land in Honiara before discussing urban land use, planning, and development.

Background

In Solomon Islands, all land was once held under customary land tenure. During the colonial period, laws were enacted to create new forms of land tenure: private land and state land. At this time, customary land deemed vacant was granted as freehold to individuals and entities, usually foreign. A new land law was enacted in 1959 (Land and Titles Ordinance). From 1961, the Land Trust Board (abolished in 1964) and the Commissioner of Lands were authorised to grant perpetual and fixed-term estates using public land.

Just prior to independence in 1978, amended legislation converted freehold and longer leases held by foreigners into fixed-term estate leases of 75 years, while the state held the perpetual estate title. Along with state-held perpetual estate titles in Honiara, this system created a pool of land that could be leased to private individuals and entities. After independence, the new constitution restricted land ownership and holdings by foreigners, and protected the interests of customary landowners, ensuring customary land transactions comply with rules of custom.

Who Owns the Land?

Most land in Solomon Islands is still held under customary tenure, where every member of a landholding entity, such as a tribe, clan, or family, is vested with the rights to use and access it. Non-owners usually have limited rights (usufruct rights), such as right of use, easement, or right of way. However, most land within the Honiara town boundary is government land held mainly as public land. Public land can be leased for either residential or commercial purposes (Williams 2011).

The Commissioner of Lands has the power to administer public land and allocate interests to others. Once land is registered, the estate title owner has indefeasibility, except for overriding public interests or when the High Court issues an order to set aside the registration because of fraud or mistake (Land and Titles Act). Estate titles are subject to the payment of premiums and rentals, and also to any development conditions prescribed originally by the Commissioner of Lands, now the Land Board. In theory, failure to comply with these conditions results in the forfeiture of the estate(s).

Over time, there have been issues of outstanding land rental payments and non-compliance with development conditions. Getting people to pay their dues and removing people from forfeited estates remains a challenge — evictions rarely happen in Honiara. There has also been abuse of discretionary powers by the Commissioner of Lands in the granting and transferring of registered estates. Individuals or entities with money have gained control of land in and around Honiara. Urban land has become expensive to acquire, contributing to the expanding of informal settlements onto customary land.

Today, under the Land and Titles (Amendment) Act 2014, the Commissioner of Lands' discretionary power can only be exercised subject to directions of the Land Board. Established in Dec 2014, the board produced an annual report 2015 detailing how it allocated land. While this demonstrated transparency and accountability, access to some of the land allocated by the board is a challenge. This is because someone else has already occupied the land, boundary marks have been altered, or officers in the Ministry of lands have made excuses to not transfer the land.

How is Land Managed and Utilised in Honiara?

The Honiara Town and Country Planning Board is responsible for establishing a planning scheme for all planning areas within Honiara. The board considers this planning scheme with other prescribed considerations before granting permission for any

development within Honiara (Foukona and Paterson 2013). Enforcement of planning requirements has always been a problem. Settlements, housing, land reclamation, and other activities do not comply with town planning requirements. This can increase urban vulnerability to disasters and health risks due to overcrowding in settlements and poor housing structures.

Solomon Islanders who have title in either a registered perpetual or fixed-term estate can transfer the proprietary interest during their lifetime or by will. Such persons can also lease their estates to a Solomon Islander for any specified period, or to a foreigner with written consent from the Commissioner of Lands (now the Land Board). Legislation allows for the granting of easements over perpetual and fixed-term estates and registered leases. The Land Board can grant leases of public land under periodic terms and licences to occupy public land for a period not exceeding three years.

Customary Land Use Agreements

Since the change in land law in 1959, there is no legal provision allowing customary land owners to lease their land to locals or foreigners. Even so, customary law does allow customary land owners, particularly near Honiara, to permit the occupation of their land subject to implied or expressed conditions. These dealings are common due to the increasing number of people settling outside of the Honiara's municipal town boundary. The land dealings usually involve the customary practice of feasting or *chupu* (traditional gift exchange). Such customary practice provides the basis for people to assert their claims to customary land (Monson, 2015).

Trends such as urbanisation have put tremendous pressure on traditional institutions responsible for the management of customary land, but there has been little state intervention to facilitate adaptation to the cash economy or to support customary land development. Consequently, appropriate processes of access and acquisition of customary land outside the Honiara town boundary are unclear, of dubious enforceability, and largely unrecorded. The situation is made more complex because of the lack of land records and registration, contested land boundaries, questionable valuation methods, unscrupulous land administration practices, and unaccountable landowner representatives.

Repercussions and Ways Forward

Honiara's land tenure system has had a major impact on urban planning and development. The state is unable to meet public demand in the urban areas it controls, and demand

for urban land for residential, recreational, commercial and livelihood purposes is rapidly increasing. Despite the Land Board's effort to allocate land in a transparent manner, access to urban land remains a challenge. The default options available to people are: encroachment onto customary land, informal settlements, and constructing houses without building permits. Policy attention to different types of land tenure, and particularly customary land tenure, has not been well balanced.

There is no single solution to these issues. The starting point is to find ways to forge partnerships, negotiation platforms, and more inclusive processes between the state, other stakeholders, and customary landowners to address pressing planning and development issues with Honiara's urban land tenure system. Customary land use agreements and processes should be supported through state intervention or legislative reform. There should be tighter controls on the use of customary land through leaseholds and planning laws to ensure there is equitable access to land. If this doesn't happen, the problems with land arrangements in Honiara are highly likely to translate into law-and-order problems in the near future.

Author Notes

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