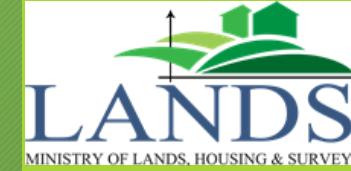


Return / granting of alienated land in Solomon Islands

Presentation to SICCI by Alan McNeil
Commissioner of Lands (Acting)

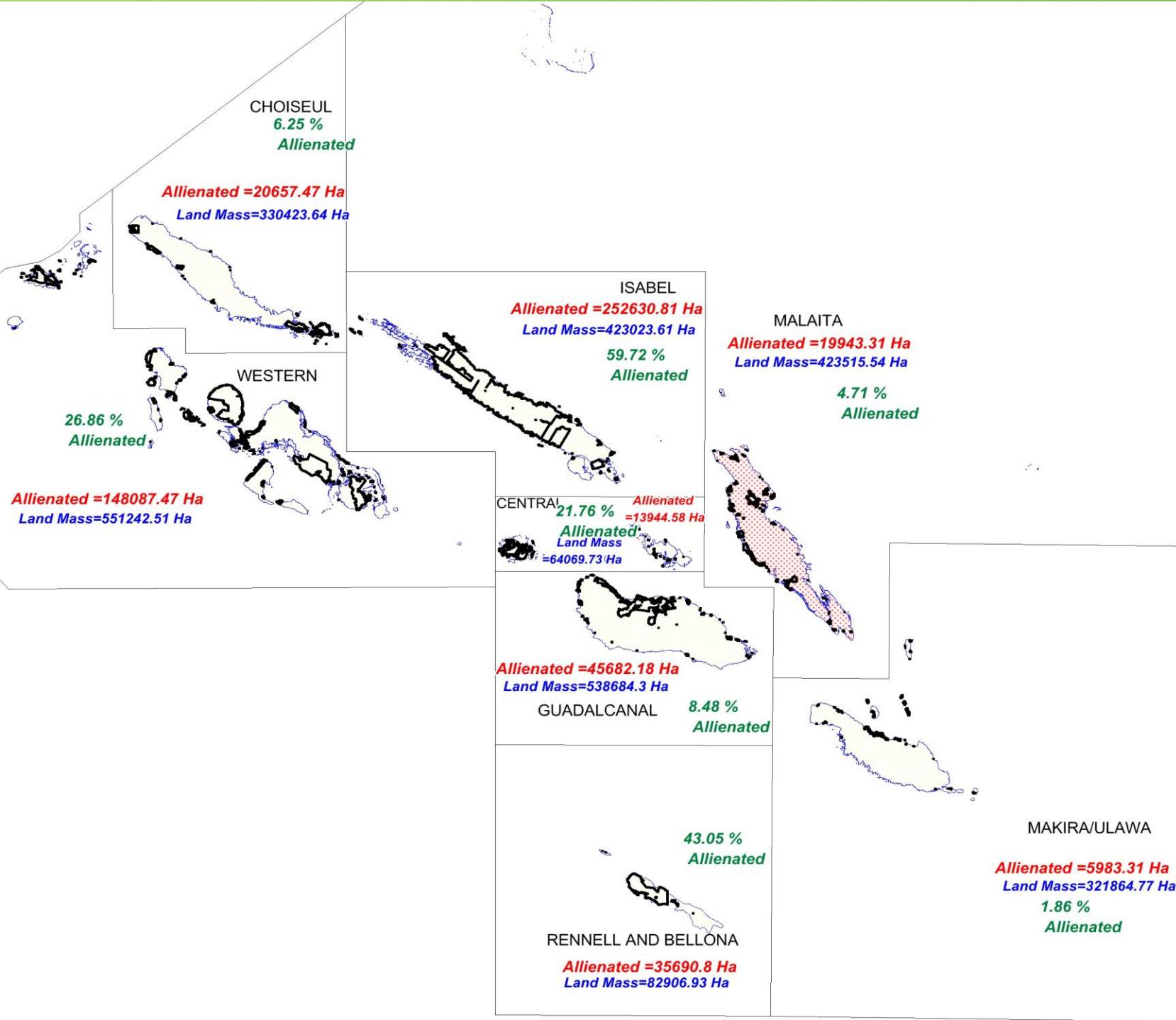


What's the rationale?



- Land has been bought across Solomon Islands since Protectorate days, to the extent that around 20% of the land area of the country is now registered.
- All registered land has a Perpetual Estate (PE) but not all PEs are owned by the Commissioner of Lands. Some PEs are owned by Solomon Islanders or Solomon Islands owned entities. Some call themselves (or others call them) “trustees”, even though they simply appear as owners on the PE registers.
- So although 20% of the land area of the country is registered, which means it has been “alienated” from the customary landowners, some PE owners of alienated land are indigenous people to the area.
- Some PEs that are owned by the Commissioner of Lands are no longer used by the Solomon Islands Government, and are not subject to Fixed Term Estates (FTEs). The original customary landowners are increasingly coming forward and requesting these areas to be handed back to them.

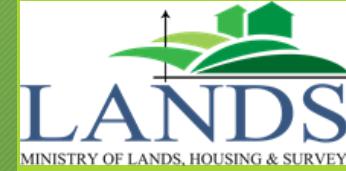
PROVINCIAL
TOTAL LAND MASS
TOTAL ALIENATED
PERCENTAGE ALIENATED TO LAND MASS



LEGEND

RED-ALIENATED
 BLUE-LAND MASS
 GREEN-PERCENTAGE ALIENATED TO LAND MASS

Government policy



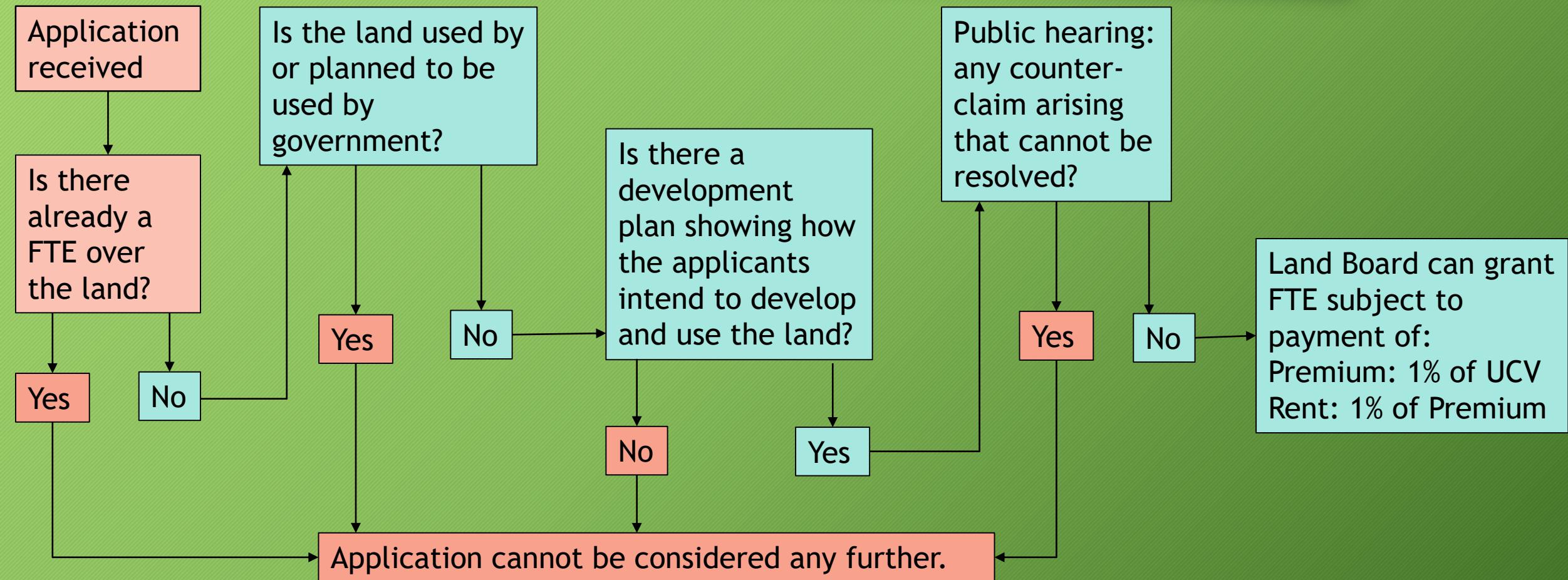
- Successive Governments have sought to satisfy the demands for land to be handed back to original customary landowners, by setting this in their policy frameworks.
- The DCGA Government includes the policies:

5.2.1.7 (b) Develop a Restitution Policy and establish a Commission to deal with and address alienated land issues; also

5.2.1.7 (d) Encourage landowners and land resource owners to participate in economic development activities and to become partners in development opportunities

- The Land Board cannot establish a Commission but it can develop a policy on how to deal with applications for the return of alienated land. Such a policy has been in draft form for many years, and has just been finally approved by the Board at its last meeting.
- You are the first ones outside of the Land Board to be shown the details of this policy...

The policy



What about other applications?



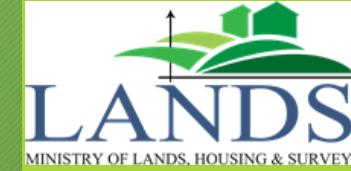
Applications by Provincial Governments:

- Can be considered for Provincial HQ and substations.
- FTE can be granted, not PE
- Same application process, public hearing, etc.

Applications by Churches:

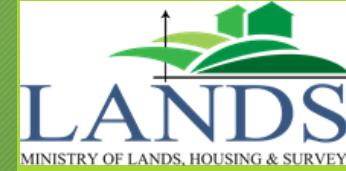
- Likewise can be considered for Church properties: including schools, clinics, rural training centres.
- Same application process, public hearing, etc.

Now to your questions....



1. What are the services provided by the Landowners' Advocacy and Legal Support Unit (LALSU) within the PSO?
 - “No idea”.
 - The LALSU deals with customary land enquiries / disputes, not registered land.
2. What is/are the main role(s) of the Cadastral Information Unit in relation to Alienated Lands in Solomon Islands?
 - The Cadastral Information Unit can provide maps of alienated land: property boundaries, parcel numbers, lot numbers, aerial photos.
3. What is the legal process for the Gov’t to acquire alienated land in Solomon Islands?
 - The Government can forfeit, resume or acquire alienated land. If it is still customary, the options are more limited, it can only acquire land (either compulsorily or through negotiation).

Questions, continued....



4. What are the potential issues relating to the registration of alienated lands in Solomon Islands? And what are the best options to address such issues?

Where to start....

- There are disputes over who owns what customary land. No matter how thorough the public consultation process is (e.g. public hearing of land acquisition), there will always be unhappy people. The only way this can be at least minimized is to consult as widely as possible, ensure transparency and consistency in those consultations, and acquire the land from the rightful owners at the end of that process. If there are intractable disputes, then just don't proceed with the acquisition and look elsewhere.
- If government acquires a lease and the landowners retain the Perpetual Estates, it is traditional for up to 5 "trustees" to be named as the owners. They can abuse this power though, and behave as if they are owners in their own right and don't need to consult the wider tribe. This can be avoided in the future by having land registered in the name of a landowners association with its own rules about having meetings, making decisions, etc. The title will never have to be changed, unlike when trustees pass away.
- Next generations may dispute the fact their fathers and mothers agreed to sell the land, and dispute it in court. There's nothing preventing such applications being made, but the Limitation Act should prevent such cases being heard if 12 or more years have passed since the acquisition.

Questions continued....



5. Has the issue of establishing an enquiry into the lost and abandoned customary land in order to determine how their occupants occupied them in the first place been taken up in any land policy by the Government or not?

- Not as far as I'm aware but hopefully the Land Board policy goes some way towards addressing this.

6. Are there much alienated areas that private investors are already involved in?

- Yes, plenty. Honiara, Guadalcanal Plains, Tina Hyrdo, Provincial centres, etc, etc.

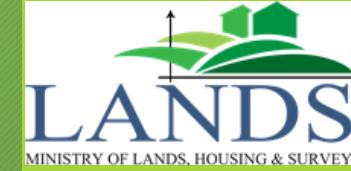
What are the improvements made so far in terms of registering charges on properties? It still takes too long.

- Not my area, Registrar of Titles office comes under the Ministry of Justice and Legal Affairs. RoT issues include staff changes, limited budget, but they are addressing the staffing issue now.

7. What it takes for private entities/individuals to apply for Government lands that have been controlled and maintained by them for more than 10 to 20 years.

- Means you have been squatting on the land. You can apply to the Land Board but there's no guarantee the Board will grant you the land title.

Questions continued....

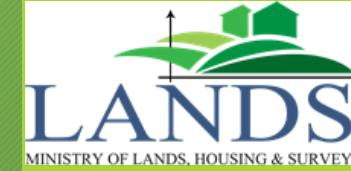


9. Please elaborate on section 4(2) of the Land and Titles Act referring to delegation of the control and management of land. What happens when a private person applies for Government land that has been controlled and managed by someone else?

- This provision allows the Commissioner of Lands to delegate to another officer. For example:
 - * I have delegated to the Assistant Commissioner (Data) the authority to sign consents for transfers and bank charges, and
 - * I have delegated to the Assistant Commissioner (Urban) the authority to renew and make changes to Temporary Occupation Licenses.

When a private person applied for Government land that has been controlled and managed by someone else, this has nothing to do with section 4(2). It depends on whether that land is owned by government with no FTEs, leases, etc, over it, in which case someone can apply for it, but if someone else is already illegally on the land and controlling and managing it, we would obviously have a problem if the Land Board gave it to someone else. If there is already a FTE, lease, etc, over the land then we can't give another FTE, etc.

Questions continued....



10. How do we deal with the Temporary Occupation of Land and people taking advantage of it?

- Very difficult. Temporary Occupation Licenses can be granted so that occupiers have some form of legitimacy for occupying the area. This is a standard practice in squatter settlements.
- Nothing is every “temporary” though. A TOL allows a person to construct a single temporary house, but what we often find is people building several permanent houses on the basis of a single TOL.
- People often treat a TOL as if it is a FTE. That it will go on indefinitely rather than expire after 1 to 3 years.
- To really crack down on temporary occupation of land, we would be bulldozing hundreds of houses and it would cause social upheaval. So the more appropriate way forward is to formalize those settlements by having them surveyed and then offer the residents FTEs so they become legalized and rate payers.

Tagio tumas



Alan McNeil

Commissioner of Lands (Acting) & Chief Technical Adviser
Ministry of Lands, Housing & Survey P.O. Box G38 Honiara

AMcneil@mlhs.gov.sb

Ph.7768145