

## Introduction: What is land titling?

Access to land – who has it and how it is distributed and enforced – is an important and controversial issue in many countries. Land titling, or land registration, is the process of formally recording rights in land, or land ownership. It is based on a western concept of land ownership, and is particularly difficult to reconcile with customary land.

Over the past couple of decades AusAID has been involved in over 23 'land titling, administration, surveying and mapping' projects. This background paper looks at AusAID's reasons for involvement in land titling and its views on customary land, followed by an overview of past and current land projects and the involvement of corporate interests like the World Bank and BHP.

## Why is AusAID involved?

AusAID involvement in land titling projects is based on a belief, founded in neoliberal economics, that land is not being utilised to its full economic potential unless it can be securely traded or used to get credit. Lack of formal title to land is viewed as a "fundamental constraint to development" (AusAID 2001:4). AusAID claims that land titling is directly linked to poverty reduction, expressing the development rationale logic as:

*"Land titling provides security to the landholder, reduces land disputes, and contributes to economic development by allowing the landholder to obtain better credit" (AusAID 2000:7)*

A range of flow-on benefits are claimed – for example: increased government revenue through taxes; gender equity through allowing women access to credit; ownership security, which in turn provides an incentive to improve the land and to develop more sustainable land use practices (AusAID 2000:26). AusAID does, however, admit that this link is not automatic; other conditions, such as supporting financial institutions, are also required for all the benefits to flow on (AusAID 2000:7-14).

Linked to AusAID's land titling projects are land administration, surveying and mapping projects. These are not directly linked to poverty reduction - they are justified instead as "essential infrastructure" and tend to precede land titling projects.

## What about customary land?

Customary land is land held in accordance with customary law. That is, rights to the land are not formally recorded, but rather are established by long usage. The rights to customary land and inheritance systems are often complex and difficult to understand within a western legal framework. It can be difficult for foreign investors, like mining companies, to negotiate access to customary land.

Generally, AusAID has not yet been involved in the registration of customary land, due to the complexity of recording land rights within existing legal and administrative systems and the opposition by customary owners. The western concept of land ownership – land as an economic commodity - is alien to customary land. AusAID is, however, of the view that customary land

should be titled, believing that the opposition to it is based on a lack of understanding of the benefits.

In a discussion of customary land in the South Pacific, which makes up over 90% of the land mass with 80% of the population, AusAID claims that "it is this rural group that has the greater development need... Over time it is likely that the administration of land rights and the economic development of customary land will develop in importance." (AusAID, 2000:37). Registration of customary land is further justified by claims that there are already significant land disputes, indicating that the current system is not working (AusAID 2001:39). In South East Asian countries, where customary land makes up a much smaller percentage of the land and tends to be held by minority groups, AusAID predicts that "customary land is likely to come increasingly to the fore as land titling progresses and this land or its boundaries become involved" (AusAID 2000:64).

AusAID's 'preparatory work' for future registration and 'development' (ie. commercial exploitation) of customary land includes surveys of geographic and natural resource information (AusAID 2000:37). For example, AusAID funded the creation of a Natural Resource Information System in Papua New Guinea from 1991-95. We may well ask whether this has more to do with securing access to those natural resources for foreign investors, than improving the lives of the traditional owners of that land - though for AusAID these seem to be the same thing.

In its assessment of land titling, AusAID fails to consider the benefits of customary land and the risks of losing that land, if it is used as collateral for a loan which landowners are unable to pay back.

## **AusAID involvement in land projects**

There have been over 50 AusAID 'land' projects, of which about 23 are classed as "land titling, land administration, surveying and mapping" (the others are natural resource management, geological surveying, and planning and development). The total value of these 23 projects is over A\$130 million. Land titling is a part of land administration, which includes the legal and institutional framework and processes for the determination and allocation of land and land use. (see Appendix 1 for list of projects)

AusAID claims that its "involvement has been in projects that dealt with the granting of title where ownership is largely clear and uncontested" (AusAID 2000:3). However, this is questionable, as projects in Thailand and Indonesia have been controversial and the target of criticism from NGO's (Brits, Grant, Burns 2002; Heryani & Grant 2004).

The major land titling projects tend to be 20 year programs in 5 year phases, with an early focus on titling areas where ownership is reasonably straightforward and a later focus on broader institutional, legal and policy changes to support large scale land titling and administration long term. This is known as the 'South East Asian Model', and is largely based on the apparent success of the Thailand Land Titling Project (AusAID 2000:16). AusAID's contribution is mainly 'Technical Assistance' and education / training, which aims "to develop some 'model' land offices, where benefits have been achieved and are demonstrable... providing a base for replication to other land offices." (AusAID 2001:28). AusAID may only be involved in the early phases of the project (10-12 years), which are simpler and less contentious, leaving the rest up to the World Bank (AusAID 2000:24). Alternately, the required institutional/legal/policy change may be undertaken as a separate project, potentially as part of broader public sector reform, in order to avoid spillover of any problems to the land titling project (AusAID 2000:20).

## **Land Titling Projects so far: A brief overview**

The major AusAID funded land titling projects have been in Thailand, Laos, Philippines and Indonesia. The Lao, Philippine and Indonesian projects are currently in progress, as is a land administration project in Solomon Islands. Other smaller AusAID land projects have been in Vietnam, Vanuatu, Fiji, Kiribati, Sri Lanka, China, Namibia and Papua New Guinea.

The Thailand Land Titling Project (1984-99) was given the World Bank Award for Excellence in 1997. The other large scale land titling projects in South East Asia are broadly based on the Thai model. However, they have not had the same success (AusAID 2001).

The only completed AusAID land titling project to have included customary land was the Native Land Trust Board Project in Fiji (AusAID 2000:37). A pilot of registration of customary land was planned for the second phase of the Indonesian Land Titling Project (2000:64), which commenced in late 2004 - however, AusAID was involved in the first phase only. The Solomon Island Land Administration Project, currently in its second phase, includes plans to research options for the future registration of customary land.

In Papua New Guinea, the Australian Contribution to the Land Mobilisation Program (ACLMP, 1994-2002) was planned as complementary to the World Bank Land Mobilisation Project. However, due to widespread public concerns and student protests about World Bank proposals for registration of customary land, the program was suspended for two years from 1995 and the two components were split. ACLMP became stand-alone, scaled back and focused on strengthening the National Mapping Bureau. The World Bank was forced to back down on customary land for the time being. (AusAID 2000:44; AusAID 2003:12-13)

(See Table for overview of AusAID land projects).

## **Corporate Collaborations**

Internationally, most land titling projects are supported by the World Bank. All of AusAID's large scale land titling and administration projects (Thailand, Laos, Indonesia, Philippines) are co-financed with the World Bank. They are World Bank managed and designed to meet World Bank requirements (AusAID 2000:22).

In the last ten years, there has been an increased interest in land titling by other multilateral funding agencies such as the Asian Development Bank (ADB) and the Inter American Development Bank. No land titling projects had been co-financed by the ADB and AusAID, as of 2000, but future co-operation on land titling with the ADB is flagged (AusAID 2000:25). The Kiribati land administration project was co-funded by the ADB and AusAID, and the ADB has also been involved in land administration projects in Vietnam and Bangladesh, without AusAID involvement.

The real interests behind land titling are revealed if we look at the private contractors for the projects. BHP Engineering was the contractor for the Thailand Land Titling Project. BHP staff from this project have now set up a company called Land Equity International (Burns 2001), which is the major contractor for AusAID's land projects in Indonesia, Laos and the Philippines, as well as other projects in Vietnam, Samoa, East Timor, India, Afghanistan, Macedonia, Serbia, Peru, Ghana and Cambodia. It is worth asking why a mining company is interested in land registration systems - anything to do with securing easier access to land and resources?

Other businesses with interests in AusAID land projects include Coffey MPW and URS Australia, which is the contractor for the Solomon Islands Land Administration Project.

It is these powerful corporate interests, and not the customary owners, who are pushing for land titling.

## Land Titling: Proceed With Caution

The issue of who has the right to access land, and how those rights are distributed and enforced, is a fundamental question about social, cultural and economic equality and power. The involvement of AusAID, the World Bank and other corporate interests in land titling needs to be viewed critically, particularly as the focus shifts towards customary land.

## References

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## APPENDIX 1: Australian involvement in land titling – AusAID Land Projects (to Follow)



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**APPENDIX 1: AusAID land projects**

	Project Name	Years	Value (\$Am) AusAID / Total	Other bodies	Contractor	Project focus & other details
Thailand	Land Titling Project (TLTP)	1984-99 (plus one more phase without AusAID )	32 / 575.5 (1990-99 only; excludes pilot)	World Bank	BHP Engineering	Large scale land titling and administration project; in 1997 it was awarded the World Bank Award for Excellence; used as model for other projects in South East Asia
Laos	Land Titling Project (LLTP)  Property Rights & Land Titling	1995-96 Pilot 1997-02 Phase 1 2003-08 Phase 2	2.1 / 2.1 7.5 / 30.8	World Bank	Land Equity	Large scale land titling and administration project; AusAID providing technical assistance
Philippines	Natural Resources Management Development (NRMDP)	1988-93	26 / 101.2		SAGRIC	Exploratory project as base for major operational follow on project; land admin only one component
	Land Administration & Management Project (LAMP)	2000-04 Phase 1 2005-? Phase 2	7.1 / 17.2	World Bank	Land Equity	Large scale land titling and administration project, including policy, legal and institutional reform
Indonesia	Geological Mapping Project (IGMP)	1991	0.06 / 0.1			
	Land Administration Project (ILAP) Land Management & Policy Development Project (LMPDP)	1993-00 Phase 1  2004-? Phase 2	26 / 125.8	World Bank	Land Equity	Large scale land titling and administration project; criticism from local and international NGOs Phase 2 was to follow on, but delayed until second half of 2004, and no longer with AusAID involvement; was to include a pilot of registration of customary land
Vietnam	Land Management Study	1993	0.7 / 0.7	UNDP		Land titling and administration project
	Hanoi Planning & Development	1994-97	3.3 / 3.3			Land planning
	Land Management Project	1997-99	0.4 / 0.4	World Bank		Land titling and administration project
Solomon Islands	Forestry Resource Inventory	1994-98	4.5 / 4.5			Natural Resource Management
	Village Integrated Rural Development	1998	0.1 / 0.1			
	Ministry of Lands Technical Assistance	1998	0.3 / 0.3			Alienated land administration
	Forestry Management Plan	1999	0.3 / 0.3			Natural resource management
	Land Administration Project (SILAP)	2000-04 Phase 1 2004-07 Phase 2	4.1 / 4.5 6.2		URS Australia	Administration of alienated land; focus on operational efficiency & institutional strengthening; plus investigate and analyse issues and options for registration of customary land

Vanuatu	Forest Inventory Survey	1989-95	2.3 / 2.3			Natural resource management
	Land Use Planning Project (VLUPO)	1996-00	5 / 5			Establishment of natural resource planning maps & processes, with administration of alienated land as one aspect (not customary land)
Kiribati	Institutional Strengthening of Lands & Survey Division	1997-00	1.3 / 1.6	Asian Development Bank		Administration of alienated land was one aspect (not customary land)
Fiji	Native Land Trust Board	1998-00	0.3 / 0.3			The only completed project to have dealt with customary land
	Airborne Geophysical Survey	1998-01	4.3 / 4.3			Geological/minerals surveying
Pacific	PACIFICLAND	1996-02	2 / 2			Natural resource management
	Melanesian Forest Conservation Program	1998-00	0.1 / 0.2			Natural resource management
China	Hainan Province Land Resource Fundamental Information System	1995-98	5.4 / 11.5			National mapping project
Sri Lanka	Land Registration & Cadastral Project	1998	0.6 / 0.6			Changing from a deed to a title system, institutional strengthening, mapping & titling; was to be major project, phase 1 only done due to “institutional problems” & frequent land disputes
Namibia	Land Information System Strategic	1995-97	0.8 / 1.9			Alienated land administration & establishing land information systems
Papua New Guinea	Forestry Inventory & Mapping	1990-95	1.2 / 1.2		Coffey MPW	Natural resource management
	Natural Resource Information System (PNGRIS)	1991-95	2.8 / 2.8 (phase 2 & 3)			Establishing land information system
	Kandrian Gloucester regional development	1993-97	14.9 / 15.8			Natural resource management
	Mapping Agriculture Systems Project	1993-97	1.1 / 1.1			Natural resource management
	Western & Gulf Coastal Zone Management	1995-96	1.1 / 1.1 (total expected value \$12-16)			Natural resource management Design phase completed – was to go to tender in 2000.
	Australian Contribution to the Land Mobilisation Program (ACLMP)	1994-02	13.2 / 17.3 (not including WB loan)	World Bank		Was to be complementary to World Bank Land Mobilisation Project, but they were split due to public PNG protest about WB plans to include registration of customary land. ACLMP was suspended for 2 years, then became stand-alone, scaled back, focused on strengthening the National Mapping Bureau. The goal: “to contribute to economic growth through more productive use of land resources”.