

Is Awarding of ILG certificate to Landowners, a FALSE alarm to Development?

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The National Research Institute (NRI) is trying to educate landowners of the Konebada Petroleum Park with respect to acquisition of their customary land and the benefits for the development to be established on their land. On the other end, it is trying to address the requirements of land acquisitions (boundary), if illegal or not, by the Department of Lands and Physical Planning.

The three queries form the basis of this Survey Brief - to address the acquisition (boundary) requirements and the laws that provides for such acquisition, if legal or otherwise.

Background:

From a Land Surveyor's perspective, to create, extend or decrease the size of the town boundary or any such boundary as in the case of Konebada Petroleum Park in Port Moresby/Central Province and the Marine Park in Madang - has to be gazetted in the Government Gazette and upon approval then its intended requirements can be effected - *the laws may change and the Gazettal of Notices as a prerequisites to facilitate acquisition may have also changed - this will be discussed with reference to the acquisition of Konebada Petroleum Park customary land.*

Laws on 'Acquisition of land', specially 97% of Customary Land in Papua New Guinea, have changed so fast and is of beneficial to the "haves" (those with money or power, 'I meant here to be, politician') while leaving the "have-nots" (owners of the 97% customary land) without ample tools to develop their land and also creating a middle man to partake on their (landowners) behalf.

Survey Brief:

The brief outlines the following;

1. Acquisition of Customary Land (with emphasis to Konebada Petroleum Park.)
2. Laws/Process facilitating the Acquisition

All land and sea are customarily owned and the 3% of government owned (State) land were created during the colonial era – which are derived from the customary land.

The form of acquisition differs from British controlled 'Papua' and German controlled 'New Guinea.'

This brief outline the acquisition of land in Port Moresby.

Acquisition of customary land - Konebada Petroleum Park

The acquisition of Konebada Petroleum Park, from the outset was confined to Vai Valley which Portion 578 was demarcated for these purposes. The new boundary acquired, as learned from the mainstream media (newspapers) of Friday, 12/05/2017 as highlighted therein by NRI researchers, raised (previous) questions to the statement by the Minister for Lands, Mr. Benny Allen.

The new boundary of Konebada Petroleum Park was acquired through 'Compulsory Acquisition' under the Public Private Partnership Act 2014 (PPP Act 2014) as there was no process of deliberation through other forms to acquisition, either;

- A. SABL - This is now controversial and cannot be utilized here.
- B. Incorporated Land Group Act (its process of acquisition (& any objections) through public advertisements were not followed)
- C. Public Private Partnership Act 2014 (through Compulsory Acquisition by the "Appropriate Minister" is appropriate here) – *refer figure 1 below.*

The new extended boundary of Konebada Petroleum Park from Kanudi towards the North West coastline of Port Moresby to Portion 152 (LNG Plant site) was Compulsory Acquired through the PPP Act 2014 - whether the landowners were involved or not, is not the issue under this act, however, there has to be some form of compensation for such compulsory acquisition as was done under the Land Titles Commission.

The Government can't use this Act (Public Private Partnership Act 2014) without revisiting the adopted British Land Law.

To conclude the above, the controversial 'Special Agriculture Business Lease' (SABL) is the same as 'Incorporated Land Group' (ILG) which is under "lease lease-back arrangement(s)" – the only difference is that, the **size** of the land to be acquired varies, SABL is carried out on "large scale projects" under the pretext of agriculture development. Agriculture is the only development project that can utilize the SABL process of acquiring large land mass.

ILG utilizes the small clan area or where development or communities are already established – the method of LEASE LEASE-BACK applies to both process of acquisition – *and to acquire land using both processes* – the "PUBLIC PRIVATE PARTNERSHIP ACT 2014" comes in to effect and raises the question;

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**comments and queries via: <https://www.surveyingpng2016.wordpress.com>

Figure 1: Part of the PPP Act 2014

Public Private Partnership

(2) For the purposes of Section 53(1) (*Protection from Unjust Deprivation of Property*) of the *Constitution* and the *Land Act 1996* and any other relevant law, the purpose and reason for which this Act permits possession to be compulsorily taken for any property and permits any interest in or rights over property to be compulsorily acquired including -

- (a) the construction, operation, maintenance or provision of infrastructure and ancillary or supporting facilities by way of a public private partnership arrangement; and **Compulsory Acquisition**
- (b) the acquisition of land or other property and rights and interests in land, including the granting of easement rights for activities in connection with a public private partnership arrangement,

are declared and described to be a public purpose, whether pursued by the State, the PPP center, a partner, or any other person exercising rights under this Act for the purposes of a public private partnership, and to be a reason that is reasonably justified in a democratic society that has a proper regard for the rights and dignity of mankind.

(3) For the purposes of Section 53(2) of the *Constitution*, this Act and each of the activities described in Subsection (3) is expressed to be made in the national interest.

(4) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

- (1) In this Act, unless the contrary intention appears - **LEGALISED MIDDLE MAN**
- (a) a Relevant Public Body means the Minister who, in the responsible Minister's opinion, is responsible for the Relevant Public Body; and
 - (b) Section 4(3) means the Minister or Ministers who, in the responsible Minister's opinion, is or are responsible for the entity or class of entities which is proposed to be excluded or included within the definition of Relevant Public Body having regard to the functions and ministerial