



MINISTRY OF OVERSEAS DEVELOPMENT
Eland House Stag Place London SW1

Telephone 01 - 828 4366 ext

Your reference *Replied*

Our reference

Date 12/8/77

Dear Ron,

I am slowly ploughing through my Pacific "chores" and attach a copy of a very depressing note on the New Hebrides. The only adequate 'pro' for land and other changes are the Assembly & the 6 monthly meetings in Britain/France between ministers and officials, ^{now} joined for the first time by NH politicians. The Assembly, as you know, is not functioning and the Vanuatu Party refused to attend the ministerial meeting in Paris, though other parties came. Although the 2 Administrations in the NH have produced a radical and agreed land policy document (para 3 of my note), every effort to have it discussed by metropolitan

result of the Queen's half days were available. Visit had been postponed at New Hebridean politicians, etc.

measures proposed or adopted by General Mouradian and courtesy visits to the Survey (Tripier), were with French

department to discuss with a joint brief on land London and Paris. The went to Pacific Dependent CF 211/5 of 16 June 1977; version of the joint brief in 1977. In the event, the ministerial meeting.

to prevent effective of much needed legislation, move towards an agreed necessary preliminary to of new land policies; time

an advance draft of which in fact, for assistance statutory functions Department to examine this cover of letter F.631/2 some length with Mr Howard which would cause me to which may be summarised as

- (i) The British Land Trust Board was set up by Queen's Regulation in 1973 after considerable discussion and when it became apparent that the French would not support a Joint Land Trust Board; its primary purpose, at least initially, was to deal with the Australian Government lands, which were duly vested in it. It is the duty of the Board "to further the use of such land as is vested in it from time to time for the benefit of the people of the New Hebrides". To enable it to exercise this trust more effectively the Board was given somewhat Draconian powers, particularly over rent revisions (ss. 9 to 14).
- (ii) The Board is not required either legally or, so far as I am aware, by any formal direction to consult with the French over its management of the lands vested in it; nor can it be expected to act "in accordance

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(or ministers)

Govt officials in London/Paris has failed
the subject is ignored. And until
discussion has taken place and decisions
have been reached, the 2 Administrations
cannot speak with one voice or cannot
speak at all. The result is frustration
on all sides. It also means that
the "machinery" cannot be prepared - legislation,
training, ~~staffing~~ staffing, finance.

My report does not contain anything
of interest to you. It is designed solely to
push our own department here into
some sort of activity. Nevertheless, I
am sending you a copy with the usual
reminder that this is a 'restricted'
document (because it points to French
and British Govt failings) and should be
treated accordingly.

John, Kerry

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LAND TENURE - NEW HEBRIDES

Introduction

I visited the New Hebrides from 9 to 16 June. As a result of the Queen's Birthday celebrations and the weekend only three and a half days were available. These were, however, adequate, since Mr Kydd's proposed visit had been postponed at the last moment and there was no opportunity of meeting New Hebridean politicians, most of whom were engaged in political meetings at the time.

2. I was invited to discuss land tenure policies and measures proposed or adopted in Papua New Guinea and the Solomon Islands with Inspector-General Mouradian and Mr Wallace; otherwise, all my contacts, which included courtesy visits to the Survey Department and the Land Registry (now in the charge of M. Tripier), were with French or British officials.

Land Policy - joint brief

3. I had been asked by Pacific Dependent Territories Department to discuss with British and French officials the possibility of preparing a joint brief on land policy for the July meetings of officials and Ministers in London and Paris. The result of my discussions was embodied in the joint brief sent to Pacific Dependent Territories Department under cover of Mr Woodward's letter CF 211/5 of 16 June 1977; the document is, as the covering letter states, a revised version of the joint brief prepared for the meeting of the High Commissioners in March 1977. In the event, the subject was not discussed at either the official or the ministerial meeting. Although the action of New Hebridean politicians continues to prevent effective discussion of land matters by the Assembly and the passage of much needed legislation, it is disappointing that this opportunity was not taken to move towards an agreed viewpoint between the administering powers. This is a necessary preliminary to discussions with political parties and eventual formation of new land policies; time is now short.

Land development projects

4. This is the title accorded to the project application, an advance draft of which reached London some months ago; the project application is, in fact, for assistance to the British Land Trust Board to enable it to fulfil its statutory functions effectively. I was asked by Pacific Dependent Territories Department to examine this application, which has since been forwarded to London under cover of letter F.631/2 of 7 July from Mr Howard. I discussed the application at some length with Mr Howard and Mr Turner; nothing resulted from these discussions which would cause me to change my opinions, which I have already made known and which may be summarised as follows:

- (i) The British Land Trust Board was set up by Queen's Regulation in 1973 after considerable discussion and when it became apparent that the French would not support a Joint Land Trust Board; its primary purpose, at least initially, was to deal with the Australian Government lands, which were duly vested in it. It is the duty of the Board "to further the use of such land as is vested in it from time to time for the benefit of the people of the New Hebrides". To enable it to exercise this trust more effectively the Board was given somewhat Draconian powers, particularly over rent revisions (ss. 9 to 14).
- (ii) The Board is not required either legally or, so far as I am aware, by any formal direction to consult with the French over its management of the lands vested in it; nor can it be expected to act "in accordance

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with a joint land policy", particularly since no such joint land policy exists. The French have not hitherto shown any interest in the activities of the Board nor have they consulted with the British Administration over management of French Government lands in the New Hebrides.

- (iii) The Board, under the chairmanship of the British Resident Commissioner, has decided that the extinguishment of certain leases is required "for the benefit of the people of the New Hebrides". Whether financial assistance should or should not be given for this purpose should be decided on that criterion. It was never envisaged at the time the Board was set up that its dealings would require justification in terms of economic development in the manner then, as now, applicable to land transfer programmes, although development opportunities are likely to figure largely in the Board's decisions. In fact, compensation must be paid for surrender of leases regardless of any question of economic development - see (vii) below. However, in the present applications an economic analysis of development prospects has been provided for all the larger properties - in considerably greater detail than I have seen in respect of land transfer programmes elsewhere.
- (iv) The properties in question have been recently and carefully valued and figures have been established for capital value, compensation for extinguishment of lease, and revised rentals. The valuation was carried out by New Zealand valuers on technical co-operation terms. There appears to be an impression in the New Hebrides (see last paragraph of Mr Howard's letter) that these valuations were unacceptable in London. For the purpose for which the valuation was commissioned the basis of valuation, carefully explained in the first six pages of the valuers' report is unquestionable. I asked for the report to be examined in detail by our Corps of Specialists Senior Valuation Officer, who supports both the basis and the conclusions reached on it in all respects.
- (v) The compensation figures in the valuation report are based strictly on Queen's Regulation s.13, i.e. they cover the value of improvements only; there is no element in them for compensation for loss of rights. In two cases (Creek Ai and Assuan) the compensation figure is virtually nil. It is most unlikely that lessees would voluntarily accept the very low compensation figures thus obtained for the loss of their leasehold right and the project applications provide, in the case of the four smaller properties, for slightly larger sums to facilitate acceptance; the total additional sum involved is only \$2550. For the three larger properties the sum requested for compensation accords with the valuation report figures in two cases; in the third (Siviri) an additional sum of \$7000 is requested and this increase perhaps requires justification.
- (vi) It has been suggested that the Board has funds of its own or could have access to financial aid already made available for local councils. I asked for a careful examination of the latter proposition and was assured that it is incorrect and that the conditions applicable to the use of aid to local councils prevent the use of these funds for extinguishment of Trust Board leases. The first proposition is also incorrect. Although the need for funds has been raised since the

Board's formation, no financial assistance has yet been provided. The Board promptly took steps to have all properties valued for revision of rents (under s.9(2)); the valuation report was not, however, received until mid 1976; rent revision notices have now been issued, but for the most part are not yet due for payment; in any case, although many of the increases are steep, the revised rents amount to a comparatively minor sum (\$5304 p.a.)

- (vii) In regard to the rent increases mentioned in (vi) it should be noted that lessees have a legal right under ss.12 and 13 to surrender their leases in which case the Board has a legal obligation to compensate for the value of improvements. Funds will be required should that eventuality arise.
- (viii) Failure to provide financial assistance to enable the Board to exercise its statutory duty will jeopardize its usefulness and indeed its continuing existence. Its inability to produce practical results has already caused it to be criticised publicly and, as Mr Howard states in his letter, is one of the principal reasons why it will almost certainly not survive. Its demise at this stage would cause problems regarding the status of the land handed over by the Australian Government. I understand that there is a written obligation to that Government concerning the protection of lessees. I also understand that no meetings of the Board have taken place for some time, since there is little point in further discussion until decisions already taken can be implemented.

Lands Department

5. At the time of my visit the Vanuaaku Party had just recorded its recognition of "the need to formulate solutions to land problems which would be mutually acceptable to native owners and those persons who by history occupy present 'registered' lands". It proposed the formation of a Ministry of Natural Resources, which would contain (in addition to Departments of Mines and Fisheries and of Agriculture, Livestock and Forestry) an integrated Department of Lands, Survey and Registration, subdivided into two Divisions, one for Lands (including the Land Registry, which operates as a separate entity) and one for Survey. The further proposals for establishment of a Land Commission in each island and Land Committees at village level do not appear to have been thought out very carefully. Proposals for an integrated Department were put forward by the two Administrations some six years ago; (at that time it was suggested that the integrated Department should be headed by M. Pré). One of Mr Fleming's terms of reference was to make recommendations for the establishment of a Lands Division within this Department. His recommendations have not so far proved acceptable to the French. The absence of Condominium specialist services to deal with land matters, perhaps particularly valuation matters, will prove a serious block to implementation of any land policy eventually agreed. The question of who should head such an integrated Department, if formed, is relatively unimportant; what is important is that there should be specialised staff available to deal with lands, as opposed to survey and registration, matters. The question of training local lands staff is an urgent one. This is another aspect of land policy which requires early agreement between the administering powers.

J C D Lawrance
Land Tenure Adviser

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