



## Land Tenure Conflicts on Oil Palm Land Settlement Scheme Blocks in Papua New Guinea\*

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Land ownership and tenure is a contentious issue for large scale plantation agriculture and development in Papua New Guinea. Land conflicts take many forms in the oil palm industry, from the large compensation claims demanded by customary landowners for land alienated for land settlement schemes (LSS) and estate plantations to land ownership disputes between and within households. Land disputes are critical production issues because they can take oil palm stands out of production thereby reducing smallholder productivity and growers' capacity for loan repayments. They can also undermine smallholder incentives to invest in their long-term futures (e.g., replanting, fertiliser inputs, permanent housing and other investments in their blocks). In this second instalment on land tenure in the *OPRA*ive Word Number 19, we outline some of the key factors contributing to conflicts on leasehold blocks on the LSS in West New Britain and Oro provinces.

The main concerns regarding land tenure for LSS growers relate to:

- Transmission of leasehold titles (e.g., disputes over inheritance).
- Rising population pressure leading to conflicts between co-resident households over block management and ownership.
- Disputes between long-term caretakers and leaseholders over ownership of blocks.

### 1. Transmission of Land Titles

Most LSS growers follow informal mechanisms of transferring tenure rights in leasehold blocks. These are typically modelled on traditional systems of land tenure from settlers' home communities (see *OPRA*ive Word Number 18). For example, settlers from matrilineal societies such as parts of ENB, recognise that the sisters' sons of the leaseholder have a claim to the leasehold block based on principles of matrilineal tenure. To validate the inheritance rights of the leaseholder's own children, compensation is sometimes paid to the leaseholder's nephews, that is, to his sisters' children. Generally, for settlers from patrilineal societies (the majority of settlers), all the sons are thought to have some rights in the block after the death of the leaseholder, with overall responsibility for managing the block usually recognised as passing to the eldest son. Problems can emerge when the eldest brother attempts to assert absolute control over the block (especially in relation to income), thereby alienating his younger brothers. These inheritance disputes sometimes result in blocks being locked out of production or under-harvested for extended periods.

Furthermore, when leasehold blocks change hands, the leasehold titles are rarely updated, and the lease remains under the name of

the original leaseholder. There are numerous cases where lease titles that have not been updated are used to challenge informal tenure arrangements that have been in place for many years. For example, when an original leaseholder who sold his block many years ago passes away, sometimes his sons will challenge the tenure rights of the current residents citing the evidence of the existing lease which is still in their father's name. Thus the current residents become classified as 'caretakers' without security of tenure despite having purchased the block at some time in the past.

Whilst most leaseholders recognise that their blocks are under agricultural leases, with individual leasehold title, there is still a general acceptance amongst leaseholders that the planting of a crop confers ownership of it on the person planting the crop (see *OPRA*ive Word Number 18). This is a principle of most systems of customary tenure in PNG. This principle means that in cases where the lease title is disputed, replanting is postponed indefinitely because, replanting would strengthen the ownership claim of the person replanting at the expense of the other party to the dispute.

### 2. Rising Population Pressure on Leasehold Blocks

Most LSS blocks are 6.0-6.5 ha, an area deemed sufficient to support a nuclear family when the LSS schemes were first established. Today, however, the single household has been supplemented by co-resident households as sons and sometimes daughters marry and raise their own children on the block. It is not uncommon for three or more families spanning three generations to be sharing the resources of a single, 6 ha block. Population pressures are greatest at Hoskins (the oldest LSS scheme), followed by Bialla and then Popondetta.



Children on a LSS block in Hoskins, West New Britain

Table 1. Numbers of persons per block from the early 1990s projected through to 2011 for LSS blocks at Bialla, Hoskins and Popondetta.

LSS	YEAR	POPULATION PER LSS BLOCK
BIALLA	1994	8.52
	2002	11.1
	2011	14.88
HOSKINS	1990	8.6
	2001	13.3
	2011	19.91
POPONDETTA	1990	n.d.
	2001	8.2
	2011	10.2

(Curry *et. al.*, 2007)

High population density on LSS blocks is placing significant social and economic stresses on block residents. These pressures are reflected in conflicts over block ownership (especially following the death of the leaseholder), disputed management decisions amongst family members concerning the allocation of oil palm work and income, attempts to avoid loan repayments and efforts to delay replanting. At Hoskins there are many instances of the sons of elderly or deceased leaseholders stalling replanting because one or more sons are reluctant to forego oil palm income during replanting. Their reluctance to replant and ability to delay replanting is aided by the fact that leadership and responsibility for the block have not been clearly vested in one son. Thus, population pressures can exacerbate tenure disputes amongst male siblings in deceased estates or in cases where the father is too old to exercise effective authority over the block.

### 3. Disputes Between Long-term Caretakers and Leaseholders

Disputes often arise when a caretaker has for many years had primary responsibility for managing the block while the lessee has resided elsewhere. A caretaker's sense of ownership of an LSS block is heightened if he has undertaken replanting, loan repayments and the planting of fruit trees, coconuts and betel nut palms on the block. The caretaker often views such investments (including labour) as validating his ownership claim on the block and will strongly resist any attempts by the original leaseholder or his sons to reclaim or sell the block. This view accords with traditional principles of land tenure discussed in *OPRATIVE Word* Number 18 whereby the tenure rights of villagers cultivating land are strengthened the longer they use the land. Monetary compensation is often demanded by caretakers if they cannot remain on the block.

When ownership disputes arise between caretakers and leaseholders, or between caretakers and customary landowners, productivity can drop sharply as harvesting rates fall and major investments like replanting and fertiliser inputs are deferred. Also, the insecurity generated by these disputes often means that the current occupants of the block are less inclined to repay loans because there is a relatively high probability of eviction and therefore not benefiting from such investments. Such disputes can result in reduced smallholder productivity for extended periods.

### 4. Arrears in Land Rentals

The State land rental fees on many LSS blocks have been in arrears for more than a decade, though determining the amount of arrears is difficult because of poor record keeping in land administration. The Organic Law on Provincial and Local Level Government decentralised land functions to the provinces, but land rents on State leasehold land remain a source of revenue for the National Government and are paid directly into national consolidated revenue.

Arrears in land rentals are a breach of lease conditions which could result in the forfeiture of the lease. Also, it can sometimes be difficult for growers to qualify for commercial loans when their land rentals are in arrears. For instance, the progress of the replanting program under the Oro Expansion project was initially delayed by the Lands Department's refusal to grant approval for replanting of blocks that were in arrears.

Key problems that have emerged concerning land rentals on LSS blocks include:

- Large differences in the land rental charges between LSS blocks. Rentals are based on an assessment of the value of the land by a valuer from the Lands Department. Blocks that have been valued recently have significantly higher land rental fees than those that have not been re-valued for more than a decade (valuations of LSS blocks are supposed to be made every 10 years).
- Many leaseholders lack confidence or trust in the record-keeping capacity of the Lands Department (both provincial and National) which they use to justify non-payment of annual land rentals.
- Many growers claim to have paid land rentals without receiving official receipts. They claim that these payments were never recorded by the Lands Department, and therefore are considered by the Lands Department to be outstanding.

The two most pressing land issues that are likely to present major challenges to the industry over the next decade relate to the growing population pressures on the leasehold blocks and the rising number of tenure disputes associated with the ageing and death of the original leaseholders. OPIC has begun to address the latter issue through the promotion of Wills among leaseholders to facilitate the orderly transfer of leases between generations. In the next issue we turn to examine the land tenure disputes arising on smallholder oil palm planted on customary land.

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