



LANDOWNERS' ADVOCACY AND LEGAL SUPPORT UNIT
PUBLIC SOLICITOR'S OFFICE

Protected Areas – Frequently Asked Questions

How many 'customary' or 'traditional' Protected Areas are there in Solomon Islands?

No one seems to know how many there are, but there are probably between 30-50 ones where NGOs are doing some work alongside communities, particularly in Western Province and Choiseul, and there are probably many others that communities have been managing areas like this for years.

What role does the Government play in the management of these areas?

As many customary protected areas have been put in place by communities, and sometimes with the help of NGOs, the Government has not had any major or specific role in the management of these areas. They may begin to have more of a role with formal protected areas.

Will the declaration of my land as a Protected Area affect my customary ownership of my land?

No. If your land is declared to be a Protected Area under the Protected Areas Act, it will not affect the ownership of the land:

- Your land will still be customary land;
- The customary owners of the land will be the same people (the Government, companies, NGOs and other communities will **not** become the owners of your land).

With the establishment of a formal protected area and a management committee, there may occasionally be visits from any committee members who are not local, and / or from inspectors and rangers who enforce the Act. Rangers will be people from your community or a related NGO.

Will the declaration of my land as a "Protected Area" under the Protected Areas Act affect existing customary protected areas or tambu sites?

If your land is declared to be a Protected Area, additional rules will apply to how the land is used. The rules will be set out in the management plan for the Protected Area, and there are some in the Protected Areas Act itself.

Any existing rules that apply to your land under customary law will also continue to apply even after your land has been declared to be a Protected Area. So if the community has created a tambu site, the tambu site will continue to exist after the area becomes a Protected Area.

However, the rules in the management plan and the Protected Areas Act take priority over customary rights. Therefore, if the management plan for your land or the Act says that an activity is prohibited, that activity is prohibited by the law even if it was permissible under customary law.

I am a customary landowner. Can my tribes' land become a "Protected Area" under the Protected Areas Act without the permission of the customary landowners?

No. The Protected Area law states that an area cannot become a legal Protected Area unless the landowners or people with rights in the area consent.

It is generally understood that in Solomon Islands consent requires consent of the majority of the landowners in the tribe, including chiefs and village elders. Similarly, the consent of (at least one) leader of neighbouring tribes is also needed about the boundaries and map of the proposed area, and if there is a land or boundary dispute on the area it cannot become a "Protected Area" until the dispute is settled.

Process commenced by landowners

If some members of a customary landowner group want to apply to the Director for their land/sea to become a Protected Area they must first carry out consultations amongst the landowning tribe. They can only proceed with the application if the landowning tribe reaches a "consensus or resolution" on the subject of whether the area should become a Protected Area.

Process commenced by Director

Even if your customary landowner group does not apply for an area to become a Protected Area, the Minister can declare your land to be a Protected Area if the Director recommends to him that the area be declared. Before this happens the Minister must "verify the rights and interests in the area" and "conduct meetings and consultations with the owners of the area" and other people who may be affected by the proposal, and be satisfied that consent has been obtained from landowners.

Can my land be declared as a Protected Area under the Protected Areas Act if I am involved with a dispute with a neighbouring customary landowner about land ownership?

No. Under the Protected Areas Act, if the boundary of a proposed Protected Area is the subject of a dispute, the Minister must not declare the area to be a Protected Area until the dispute is resolved.

If an area of land or sea that I own is declared to be a Protected Area under the Protected Areas Act, will it affect how I can use that area of land or sea?

The declaration of your area of land or sea is likely to affect how you use that area of land or sea. Whether the declaration will affect how you use your land / sea depends on:

- how the community want to use the area of land / sea and the rules put in place by the management committee in the management plan;
- the rules in the Protected Areas Act that prohibit activities such as large-scale logging and mining, and dragging nets on the sea floor.

The management committee, which will probably have been nominated by the community with community members, will develop the management plan in consultation with the community. So it

will likely involve significant input from the community. However, it is not prepared by the customary landowners.

The harvesting and use of resources, such as fish, wood or nuts, for community use and for sale, can be permitted if it is small-scale and allowed in the management plan and/or if the Management Committee gives consent. However large-scale commercial logging cannot happen, nor can harvesting fish during certain spawning or aggregation seasons.

There are penalties for failing to comply with the rules in the management plan or in the Act.

If my land becomes a Protected Area under the Protected Areas Act, can the Solomon Islands Government grant a logging or mining licence for my land?

Yes, but if a person tried to act on the licence (i.e. carry out logging or mining under the licence) they are likely to commit an offence.

The declaration of an area as a Protected Areas does not take away the Solomon Island Government's power to grant logging or mining licences. However, "industrial or commercial" logging and mining is prohibited in a Protected Area, so if it is commenced the company would be committing an offence and would be liable to pay a fine.

Certain processes must also be followed before these licences are granted. If the appropriate procedures are not followed, it may be possible for people to take them to Court on this matter too.

If my land is declared to be a Protected Area under the Protected Areas Act, will the Government help me to manage and protect the area?

The Government could potentially help you through providing funding and by enforcing the rules that apply in the Protected Area:

1. Funding - The Act says that the Government must set up a Protected Areas Trust Fund, which will be used for establishing and managing Protected Areas.
2. Information and expertise - Government employees can be appointed to the Management Committee, which may help with gaining information and expertise for establishing and managing the Protected Area.
3. Enforcement - the Solomon Islands Government has the power to enforce the rules that apply in the Protected Area, and can appoint inspectors to help (and rangers, though they are likely local people). The Police also have the power to enforce offences under the Act (like large-scale logging and mining), though not rules in the management plan.

If my land becomes a Protected Area under the Protected Areas Act, do people from other Provinces and countries have to comply with the rules that apply to my land?

Yes. All people must comply with the rules that apply in a Protected Area created under the Protected Areas Act, regardless of where they come from.