

Joint Submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade, Inquiry into Australia's response to the priorities of Pacific Island countries and the Pacific Region

Jubilee Australia Research Centre (Australia)

Bismarck Ramu Group (PNG)

Center for Environmental Law and Community Rights (CELCOR-PNG)

Fijian Council of Social Services (FCOSS-Fiji)

Ma'i Massina Green Belt (Solomon Islands)

Project Sepik (PNG)

Social Education Empowerment Programme (SEEP-Fiji)



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Who Are We?

The Jubilee Australia Research Centre is an Australian non-government organisation based in Sydney. Jubilee conducts research-based advocacy, in partnership with other organisations and communities across Australia and the Asia-Pacific, to defend the rights of people and the planet over profit, and hold corporations and governments accountable.

Bismarck Ramu Group is a development organisation based in Madang, Papua New Guinea, that is guided by the concept of a Melanesian Philosophy and way of life. The organisation exists to build a movement of like-minded and like-spirited Melanesian people by heart, who seek to protect and promote Melanesian philosophy, values, and principles. In pursuing this, our people will contribute towards securing their heritage and adding to the global course of maintaining human dignity and protection of our ecosystem.

The Centre for Environmental Law and Community Rights (CELCOR) is a not for profit, Papua New Guinean public interest environmental law firm. The fundamental purpose of CELCOR is to provide legal advice, legal education and assistance to landowners, Community Base Organisations and NGOs involved in community based natural resources management, environmental policy research and development and advocate for human rights and environmental justice.

Fijian Council of Social Services (FCOSS) is a civil society organization that strengthens people and communities in Fiji through advocacy and training. It promotes and develops networking and collaboration within the community sector. It is a registered non-government organization under the Charitable Act of Fiji, 1957. FCOSS is also mandated by the Natural Disaster Management Act of 1998 to coordinate civil society organization during humanitarian operation.

Mai Ma'asina Green Belt is a non-profit organization that advocates for intact forest management, wildlife protection, and cultural preservation in the Southern region of Malaita Province, Solomon Islands. We aim to create a network of communities and collaborate with local government and international organizations to address conservation and climate change issues.

Project Sepik is a not-for-profit organisation based in Papua New Guinea that has been working in the Sepik region since 2016. Project Sepik advocates for the vision of a local environment with a sustained balance of life via the promotion of environmentally sustainable practices and holding to account those that are exploiting the environment.

Social Education Empowerment Programme (SEEP) is a social justice centered organising network focused on Indigenous communities (Itoukei) in Fiji. They were formed in 2000, in a post-coup era that necessitated widespread civic participation to reclaim the leverage for community led development. In 2014, a democratic parliament was established, yet Fijians continue to face challenges in leveraging their own development agendas due to government priorities to utilize land for revenue generation through private investment.

Overview

We welcome the opportunity to make a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade in its inquiry into Australia's response to the priorities of Pacific Island countries and the Pacific Region.

We are seven non-government organisations based in Papua New Guinea, Fiji, the Solomon Islands and Australia. We work individually and often collectively with each other on advocacy projects and initiatives relating to the promotion of the environment, community rights, social justice and sustainable development.

Most of our organisations have been operating for many decades, some of us are newer organisations less than ten years old; nevertheless, the knowledge and expertise that we collectively possess about the issue we work on is considerable. The reflections to this important committee that we offer below reflect our longstanding knowledge and shared perspectives on Australia can be a better partner to Pacific peoples, especially in the countries of Papua New Guinea, Fiji and the Solomon Islands.

Organisation of this Submission

We have organised our submission into four parts to address each of the terms of reference for the inquiry.

- **Part 1** looks at key priorities and concerns and seeks to summarise the themes and the philosophical approach to our submission.
- **Part 2** looks at the role of trade, investment, security, and capacity building.
- **Part 3** looks at climate change and natural disaster responses.
- **Part 4** looks at the impact of Australia's aid and development policies in the region.

Summary of Recommendations

Recommendation 1a: The Australian government should adopt a duty of vigilance legislation, drawing on models such as the French Duty of Vigilance law.

Recommendation 1b: The Australian government should amend the operations of the Australian National Contact point, including giving it greater powers of investigation, the power to sanction companies that are in breach of the OECD Guidelines and to hold companies to a higher standard of reporting about complaints.

Recommendation 2a: The Australian government should pass and implement the amendments to ILPA currently contained in the Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Bill 2024.

Recommendation 2b: The Australian government should further amend the definition of "illegally logged" in the Bill to cover corruption-related offences related to illegal logging operations, such as laws related to bribery, money-laundering, tax evasion or fraud.

Recommendation 3a: Australia as a development partner with PNG should offer and provide support to the government of PNG to crack down on illegal logging. This should include specific support for measures to monitor and enforce existing forestry laws. It should include specific funding and support for the Financial Analysis and Support Unit in the Bank of PNG, and the Internal Commission Against Corruption (ICAC), two agencies with the political will and clout to take action on illegal logging and associated corruption and money laundering.

Recommendation 3b: Australia should ensure that any advice or technical support that it gives to mining legislation in PNG or in other jurisdictions is not inconsistent with the embedded culture of customary land ownership, does not give undue powers to the state to undermine customary practices, allows landowners to be able to access a fair share of royalties and development levies and does not encourage policies for tax avoidance.

Recommendation 4a: Australia should halt – or at least have a moratorium on – all new fossil fuel projects and should phase out fossil fuel subsidies.

Recommendation 4b: Australia should enhance its emissions reduction target to 75% reduction in emissions by 2030, based on 2005 levels and zero emissions in 2035.

Recommendation 4c: Australia should increase its diplomatic commitments to climate action, including at the UNFCCC Conference of Parties (COPs) and other global fora.

Recommendation 4d: Australia should join its Pacific neighbours and endorse the Fossil Fuel Non-Proliferation Treaty Initiative – including meeting requirements for national government endorsers.

Recommendation 4e: Australia should adopt a credible implementation of the Clean Energy Transition Partnership, as articulated in a CSO endorsed policy proposal.

Recommendation 4f: Australia should adopt a Voting Guidance directed to multilateral development bank executive directors who represent it as part of their constituency. This should explicitly advise for MDBs directors to vote in favour of clean energy and against fossil fuels. Noting that this does not prevent countries from pursuing fossil fuels – but states that aid money should not be used to exacerbate the climate crisis which is a leading driver of poverty, gender inequality and worsening natural disasters.

Recommendation 5a: Australia should contribute its fair share of the USD\$100 billion goal by 2025 – which is estimated to be \$4 billion annually – and commit an initial \$100 million to the global Loss and Damage Fund.

Recommendation 5b: Australia should ensure all international climate funding is additional to the aid budget, reported separately, with greater efforts to prioritise climate funding for Pacific Island countries, as well as least developed countries, who are most vulnerable to the climate crisis.

Recommendation 5c: Take measures to ensure that the quality and inclusivity of climate financing is assured, such as through supporting locally-led initiatives and ensuring that climate finance does not worsen debt distress.

Recommendation 6a: Australia should make clear its stance in support of the value and ongoing importance of customary land tenure in PNG and in Melanesia generally.

Recommendation 6b: Australia should not put itself in a position to uncritically support the development of Special Economic Zones, especially where they may undermine the operation of customary land tenure or increase weapons trafficking or other forms of illegal activity.

Recommendation 7a: The government undertake a substantive review and evaluation of the AIFFP model in terms of whether its projects are helping broad-based and inclusive development, poverty alleviation and the capacity to meet the needs of Pacific nations on climate change.

Recommendation 7b: The AIFFP release more details about the economic case, and environmental and social impacts for its projects, so as to be consistent with the best practice models of the ADB and the World Bank.

Recommendation 7c: The government ensure that any direct taxpayer support to the AIFFP be additional to the aid budget.

1. Key Priorities and Concerns

Terms of reference for Part 1: Identify the key priorities for Pacific Island countries and the Pacific region.

(a) Evaluate the key concerns and aspirations of Pacific nations regarding their economic, environmental, and social development.

(b) Examine the role and capability of Pacific regional architecture and agencies, including in the delivery of the 2050 Strategy for the Blue Pacific, and the contributions of external partners to regional development and stability.

Summary: There are several **key concerns and themes** regarding economic, environmental, and social development in the Pacific. These include the interrelated nature of economic, social and environmental issues; the importance of Australia's relationship with the Pacific and in recognising what has been a somewhat dark and difficult past; and the importance of embedding a new type of relationship moving forward.

We speak as civil society organisations who are actively involved in the protection of the environment, of the community and human rights, and of the economic and social development of the peoples who we represent and work within Papua New Guinea, Fiji and Solomon Islands. The thoughts and recommendations in sections 2, 3 and 4 of our submission are informed by several key concerns that we have observed as a direct result of our collective work.

First, we would like to note the **interrelated nature of economic, environmental, and social issues** currently facing the people of the Pacific. Take, for example, the issue of customary land, which we will return to later in the submission. For the majority of Melanesian people, whose lives are based in village life and the village economy, customary land is the basis of their livelihoods, health, economic security, and cultural existence. Attempts to undermine customary land tenure in the Pacific also endanger the environmental stewardship of Pacific people. The protection of customary land is still under threat in countries such as Papua New Guinea and Fiji, often because of a desire by our nations' leadership for large development project that are premised on a particular approach to development and economic progress.

Another example of the interrelated nature of economic, environmental, and social issues is the connection between resource exploitation, militarisation and crime. Large resource projects such as the Ramu Nickel mine in PNG's Madang province, undermine the safety and security of the population in the region and worsen social issues via the encouragement of transnational criminal behaviour. Since the initiation of this mine Chinese interests now control the port of Madang. This port has become a haven for the influx of weapons, undermining the safety of people in the region. It has also been associated with people-smuggling and the trafficking of illegal narcotics. The desire to set up more Special Economic Zones in PNG and other parts of the Pacific may, and probably will, see these problems develop elsewhere.

A final example of the interrelated nature of problems is the links between the climate crisis, aid policies and sovereign debt. Along with the covid pandemic, the climate crisis has been one of the major drivers in the increase in sovereign debt of many Pacific nations. Increases in cyclones and

tropical storms and the salinisation of land and water resources are consequences of climate change that impact the economies of the Pacific. Pacific nations are wrestling with how to manage and cope with growing debt burdens in the coming years, yet nations like Australia are resisting global calls to ensure climate finance of mitigation, adaptation and loss and damage is grant-based. The current preference set by the Australian government is to keep a mix of loans in this financing, which will exasperate debt.

Second, we would like to note that **Australia does not approach the Pacific from a blank slate**. On the one hand there are strong and enduring relationships in the Pacific that have been built up over the best part of a century. Some of this of this story is positive. When considering Australia's historical role in the region, and the way that the Pacific has supported Australia in the past, we need look no further than Pacific lands being a battleground during World War II, and the support provided to the Allies (particularly Australian forces) by Pacific communities. During this conflict Australian and American forces relied on the support of Papua New Guinean and Solomon Islander communities and fought on their lands. The recent hike on the Kokoda Track taken together by the prime ministers of Australia and Papua New Guinea testifies to the ongoing resonance that this history has for both Australians and Melanesians. Australia maintains strong political, social, economic, and academic ties to the region. Australia is the Pacific's largest bilateral aid donor (despite the growing presence of China), there is ongoing immigration for employment opportunities, and there is a history of deep collaboration in universities and sports.

On the other hand, the history of this relationship has a dark side, and regrettably one that Australians are often reluctant to talk about. The history of 'blackbirding' in the sixty years between the 1840s and 1900s saw Pasifica peoples taken by force or deception to work in Australia, mainly on Queensland sugar plantations, is perhaps the darkest chapter in this history. Nevertheless, there are recent examples which are still in living memory. The Bougainville crisis of 1989-1997 is the largest conflict in the region since World War II, is estimated to have caused the deaths, either directly or indirectly, of as many as 10,000-20,000 people. The crisis was caused, at least partly, by the reckless actions of the Anglo-Australian company Rio Tinto (owner of Bougainville Copper Limited) and as research has shown, was facilitated, and encouraged by the actions of elected and appointed officials from the Australian government.¹ Indeed, other Australian mining companies like BHP have a legacy of causing severe environmental destruction – particularly in PNG.

Reckoning with this history means acknowledging that in recent and even contemporary times, there persists a dark side that in many ways continue to echo history. For example, Australian-based and international mining companies seek to mine the mountains, rivers, estuaries, and seabeds of the Pacific. These extractors often fraudulently or deceptively gain landowner consent and push ahead with mines that do not have adequate environmental safeguards or appropriate tailings management. Australian companies have been at the forefront of developing climate-destroying fossil fuel extraction in PNG; one Australian company even tried recently and perversely to set up the region's first coal mine and coal-fired power station. Thus, the impunity of Australian-owned or Australian-based corporations operating in the region connects to this longer, darker history of Australia's engagement in the region. It is an interesting historical resonance many of the areas where Australian-based companies are seeking to renew resource extraction, such as in the Morobe

¹ Kristian Lasslett, *State Crime on the Margins of Empire*, Pluto Press, 2014.

and East Sepik provinces of PNG, are also places where some of the fiercest World War II battles involving Australian and PNG forces took place.²

Another manifestation of the persistence of this dark side is an approach to economic development whereby Australia has often sought to use aid and other forms of soft power to push its own values onto the region in problematic ways. Earlier we mentioned the importance of customary land to the social, economic, and environmental harmony of the region. In the late 1990s and early 2000s for Australian aid officials and intellectuals in Canberra were at the forefront of a push for land reform that would do away with customary land in PNG. The pushback in PNG was strong, and a government crackdown of student protests even saw the tragic deaths of three students.³ The Australian aid program to the Pacific is large and contains many programs of inherent value. Though we note elements of a top-down, infrastructure-heavy approach to development that fails to centre the village economy, traditional forms of governance, protection of customary land, and the urgent need for resources to combat the climate crisis. At times this approach goes hand-in-hand with the development of extractive industries and large infrastructure projects.

Our third key concern is that Australia should take further steps on a journey towards another path, that **commits to embedding another type of relationship between Australia and Pacific peoples**. What would this path look like? For one thing, it would mean recognising Pacific excellence and leadership—not least in terms of the climate crisis, the dangers of which Pacific peoples and leaders have been prophetic in warning about. When it comes to environmental stewardship there are areas in the Pacific with world-leading in biodiversity. For example, PNG has the third largest intact rainforest in the world – surpassed only by the Amazon and the rainforest in the Democratic Republic of the Congo. In the ocean, the Coral Triangle is recognised as the ‘global centre of marine biological diversity’,¹³ encompassing almost four million square miles of ocean and coastal waters in Southeast Asia and the Pacific, surrounding Indonesia, Malaysia, PNG, the Philippines, Timor Leste, and Solomon Islands.¹³

Indigenous leadership would also include a move towards independence for those of our Pacific brethren who are not enjoying full political rights and autonomy. Australia support of West Papuan and Kanaky independence, and for the continued moves towards independence in Bougainville, would go a long way towards reassuring us that Australia understands that indigenous sovereignty is something that it is not just rhetorically committed to.

² The strategically important campaign for the Markham and Ramu Valleys (1943 – 1944) and the region of the Huon Gulf Peninsula campaign (1943 – 1944), which led to was an important offensive that led to the Japanese being pushed north. Control of the city of Lae has been described as ‘one of the most contested areas of battle’ during WWII in the Pacific. <https://anzacportal.dva.gov.au/resources/markham-and-ramu-valleys-1943-1944> <https://anzacportal.dva.gov.au/resources/huon-peninsula-1943-1944>. In 1944 – 1945, Australian forces were involved in the Aitape-Wewak campaign in the East Sepik province. One of the final campaigns in the Pacific during World War II, it has been described on the Australian War Memorial website as 'one of several of those fought in 1945 that has been subsequently branded an "unnecessary campaign"'. <https://www.awm.gov.au/collection/E84658> <https://www.tracesofwar.com/sights/136983/Sepik-River.htm>

³ ‘PNG student protests end in shootings, riots’, *CNN.com*, June 26, 2001. <https://edition.cnn.com/2001/WORLD/asiapcf/auspac/06/25/png.students/>

Australia is a modern, developed, and industrialised economy, many times the size of our countries combined, and with significant scientific and technical knowledge which Pacific nations can benefit from. Nevertheless, it is this very unbounded nature of western-led industrialisation and scientific exploitation that has led to the twin climate and biodiversity crises. Pacific peoples have traditions and know-how when it comes to management and stewardship of our lands and waters. Australia could, and should, benefit from this. Acknowledgement of this must be the basis for a rebalancing towards a more egalitarian relationship, one in which the flow of learning moves in both directions, in which indigenous know-how is celebrated, and where traditional governance and kinship between people and the land is recognised and valued.

The approach taken by the recently signed Vuvale Partnership between Australia and Fiji could, if implemented properly, be a model for a better relationship. The partnership is based on principles of trust, respect and understanding, shared responsibility, and a more careful listening and speaking.⁴ However this new approach must be more than just words. In our view, this includes taking the language seriously and encouraging Pacific governments to take into account the views of civil society, who are a strong and vital force for democracy and accountability.

2. Australia's engagement in the Pacific

Terms of reference for Part 2: Assess Australia's engagement in the Pacific and alignment of initiatives and policies with the identified priorities of Pacific Island nations.

(a) Evaluate Australia's current efforts in supporting the Pacific in areas such as trade, investment, infrastructure development, security and capacity building that enhance Australia's position as a partner of choice for the Pacific family.

(b) Identify opportunities for enhanced regional economic integration and mobility.

2.1 Mining Impacts and Australia's Corporate Accountability Regime

Summary: Australia's regulatory regime governing the behaviour of Australian companies overseas is not strong enough and requires reform, especially given the ongoing activity of Australia's mining companies in the region.

The terms of reference for this section includes language which asks about the contribution of external partners to regional development and security. We can apply this test to Australia as an external partner in Pacific development, specifically its role in helping to preserve the sustainable management of PNG's natural resources.

⁴ *Fiji-Australia Vuvale Partnership*, Australian Department of Foreign Affairs and Trade website, Accessed on 28 June 2024, <https://www.dfat.gov.au/geo/fiji/fiji-australia-vuvale-partnership>

Australia is home to the registered head offices of many extractive company groups that are seeking to extract resources in the Pacific region. While these companies are not agents of the Australian government, we contend that any negligence or carelessness by companies registered in Australia can be perceived as being Australian, harming our profile in the region. Responsibilities of states and businesses to respect human rights is articulated in documents such as the 2011 United Nations Guiding Principles on Business and Human Rights, and the OECD Guidelines for Multinational Enterprises. Some examples of Australian extractive companies operating in the Pacific include:

- Dome Gold Resources and Amex Resources Ltd who have been involved in black sand mining or who are seeking to mine black sand in Fiji;
- Newcrest Mining Ltd, based in Melbourne, and Harmony Gold (Australia) Pty Ltd, based in Brisbane, have been proposing to controversially use Deep Sea Tailings Placement near Lae in PNG, and are subject to a complaint to Australia's National Contact Point for Responsible Business Conduct (AusNCP) with a Final Statement anticipated to be released in July or August 2024;
- Newcrest Mining Ltd is a majority partner in the Namosi Joint Venture that is seeking to develop the Waisoi mine in Fiji's main island of Viti Levu;
- PanAust, a Brisbane-based (ultimately Chinese-owned) that is seeking to develop the Frieda River copper and gold mine in the rainforested Sepik region of PNG, was subject of a former complaint to AusNCP;
- Rio Tinto, former operator of the Panguna mine in the Autonomous Region of Bougainville, is currently subject of a complaint to the AusNCP, with an independent investigation into damage caused to both the environment and human rights by the mine currently underway;
- A multitude of other Australian companies have been scrambling for Bougainville's mineral wealth, as identified in Jubilee's report *Scramble for Resources*;⁵
- Fitch reports that 50% of Santos' revenues come from PNG, such as via the PNG LNG project.⁶ Santos is part of the proposed Papua LNG project which over 50 organizations in PNG and internationally have sought due to major concerns for climate justice, human rights and biodiversity.⁷

When it comes to the global biodiversity crisis, corporations in sectors such as mining, logging, fisheries and agribusiness continue to take actions that destroy terrestrial and ocean environments, contributing to faster and more frequent extinctions of flora and fauna. Moreover, they often fall well short of responsible business and human rights conduct, with specific reference to the tactics and techniques used to secure or manufacture consent of local communities.

The Australian government needs to take strong steps to hold its companies accountable when they do not act in accordance with human rights and environmental protection laws. The only non-judicial mechanism available to communities who are impacted by the operations of Australia companies domestically or overseas is the Australian National Contact Point (AusNCP), whose job it is to oversee compliance with the OECD Guidelines on Multinational Enterprises. Although the operations of the

⁵ Jubilee Australia Research Centre, *Scramble for Resources: The international race for Bougainville's mineral wealth* (2022).

<https://www.jubileeaustralia.org/resources/publications/scramble-for-resources>

⁶ 'Fitch Affirms Santos' Ratings at 'BBB'; Outlook Stable', Fitch Ratings, 13 June 2024,

<https://www.fitchratings.com/research/corporate-finance/fitch-affirms-santos-ratings-at-bbb-outlook-stable-13-06-2024>

⁷ *Papua LNG – Call to commit not to support the project*, Reclaim Finance, December 2023.

<https://reclaimfinance.org/site/en/2023/12/13/papua-lng-call-to-commit-not-to-support-the-project/>
https://www.banktrack.org/project/papua_lng

AusNCP have been improved in recent years they require further strengthening to change industry behaviour, and to be a mechanism by which impacted communities can have faith in approaching.

These reforms would include:

- Stronger incentives for companies to participate in the negotiations phase (what used to be called the 'Good Offices' phase);
- Greater investigative powers in the 'examination' phase of complaints;
- Giving the AusNCP the power to impose sanctions where enterprises fail to act in good faith or are found to be in breach of the OECD Guidelines, including notifying relevant government agencies;
- Requiring final statements to say whether there has been a break of the OECD Guidelines;
- Better and more thorough displays of complaints data on the AusNCP website;
- Requiring ASX-listed companies who are the target of complaints to make timely reports to the ASX;
- Clearer guidelines on the sort of evidence that can be considered by the AusNCP as part of its deliberations;
- The addition of a merit-based review system for decisions;
- The ability to provide financial support to claimants who are cash-poor.

Another important solution is the adoption of new *duty of vigilance* legislation which would compel large businesses in Australia – regardless of where they operate – to undertake due diligence to prevent and address harm to people and the environment in their operations and supply chains. This law would hold companies accountable, providing for direct access to remediation where people have suffered human rights or environmental harms that are clearly linked to the company, unless the company can demonstrate that sufficient due diligence was undertaken. The duty would be consistent with the *UN Guiding Principles on Business and Human Rights* and would extend to all treaties regarding human rights ratified by Australia, with the addition of the *UN Declaration on the Rights of Indigenous Persons* given its salience in the Australian context, as well as certain environmental obligations. Many jurisdictions across Europe, including France and Germany, have implemented Mandatory Human Rights Due Diligence (MHRDD) and the European Union now has similar legislation governing its jurisdiction.

Recommendation 1a: The Australian government should adopt a duty of vigilance legislation, drawing on models such as the French Duty of Vigilance law.

Recommendation 1b: The Australian government should amend the operations of the Australian National Contact point, including giving it greater powers of investigation, the power to sanction companies that are in breach of the OECD Guidelines and to hold companies to a higher standard of reporting about complaints.

2.1 Australia's illegal logging prohibition legislation

Summary: Australia's regime to prevent imports of illegally logged wood is an important measure to assist Pacific governments in cracking down on illegal logging, but needs strengthening in order to be effective.

Illegal logging is a significant problem in Papua New Guinea and Solomon Islands. In PNG here have been multiple official reports and court decisions documenting the granting of logging concessions

without requisite Free, Prior and Informed Consent (FPIC) of customary landowners, despite the fact that 97% of PNG's land is customarily owned.⁸ There is also extensive evidence of licences and permits being issued, extended or applied in ways that directly contravene the law, and of logging companies exporting more than their allowed cut, or logging in prohibited areas.⁹ Studies have pointed to evidence of transfer mispricing and tax avoidance by logging companies, and a national inquiry in 2013 also found evidence of bribery and corruption.¹⁰ PNG's Central Bank has labelled the logging sector a "significant money laundering threat".¹¹ Global Witness has previously estimated that 70-80% of logging in Solomon Islands may be illegal, and Solomon Islands Ministry of Finance has suggested that if logging continues at its current rate, natural forest will be exhausted by 2036.¹²

Both countries export the majority of their timber as round logs to China. In turn, China is the largest supplier of wood products to Australia.¹³ In this context, Australia's *Illegal Logging Prohibition Act 2012* plays an important role in assisting PNG and Solomon Islands to curb illegal logging by closing off a potential market for illegally logged timber. However, ILPA's effectiveness as a tool to curb illegal logging rests on its enforcement. While there is limited information on the use and effectiveness of ILPA, information available suggests enforcement has been a challenge to date. For example, DNA testing results reported by the Government in December 2020 found that 40% of species labels on imported timber sold at retail outlets were inaccurate.¹⁴ There appear to have been limited enforcement actions so far based on public announcements.¹⁵

⁸ For a detailed discussion of these sources, see Act Now! and Jubilee Australia Research Centre, *Illegality and Human Rights Abuses in PNG's Logging Industry*, 2021, available at:

<https://actnowpng.org/publications/factsheets>

⁹ See *Apoi v Pouru* [2015] PGNC 56 at [20], available at: <http://www.pacilii.org/cgi-bin/sinodisp/pg/cases/PGNC/2015/56.html>; 2003-4 Review Team for the Inter-agency Forestry Committee (2004) *Towards Sustainable Timber Production – A review of existing logging projects; Main Report – Observations and recommendations*, p. 84-85; Global Witness (2018) *A Major Liability: Illegal logging in Papua New Guinea Threatens China's Timber Sector and Global Reputation*. London, Washington and Brussels: Global Witness, available at: <https://www.globalwitness.org/en/campaigns/forests/major-liability-illegal-logging-papua-new-guinea-threatens-chinas-timber-sector-and-global-reputation/> at p. 7-8 and 13-14; Numapo Report, p. 242; Sam Lawson (2014) 'Illegal Logging in Papua New Guinea', *Energy, Environment and Resources EER PP 2014/04*, London: Chatham House, at p. 21.

¹⁰ Frederic Mousseau and Peiley Lau (2016) *The Great Timber Heist: the Logging Industry in Papua New Guinea*, Oakland: The Oakland Institute; ActNow! (2021) 'IRC adds more financial crimes to logging companies' charge sheet', Act Now Blog, available at: <https://actnowpng.org/blog/blog-entry-irc-adds-more-financial-crimes-logging-companies%E2%80%99-charge-sheet> (accessed 30 March 2023); Mirou Report; Numapo Report; Act Now! and War on Want, (2018) *The SABL Land Grab: Papua New Guinea's Ongoing Human Rights Scandal*, Port Moresby and London: Act Now! and War on Want, available at: <https://actnowpng.org/blog/new-report-highlights-sabl-human-rights-abuses>

¹¹ Bank of PNG (2017) *Money Laundering and Financing of Terrorism National Risk Assessment*. Port Moresby: Government of PNG, at pp. 17, 91;

¹² Global Witness, *Paradise Lost: how China can help the Solomon Islands protect its forests*, 2018. <https://apo.org.au/node/225986>

¹³ EIA and CIEL (2023) *A Calculated Risk: Australia's Exposure to Illegal Logging*, available at: https://www.ciel.org/wp-content/uploads/2023/07/CIEL_EIA_US_Australian_Timber-trade_report_July-2023.pdf

¹⁴ Assistant Minister Jonathon Duniam, 'DNA timber tests to find those who go against the grain', Media Release, 8 December 2020. <https://duniam.com.au/dna-timber-tests-to-find-those-who-go-against-the-grain/>

¹⁵ Department of Agriculture and Water Resources, E-update 27: December 2018, 'Importer issued with the first illegal logging infringement notice' <https://webarchive.nla.gov.au/awa/20220816042037/https://www.agriculture.gov.au/agriculture-land/forestry/policies/illegal-logging/get-updates>; Ian Ackerman, 'Importers Fined for Illegally Harvested Timber', *Daily Cargo News*, 6 March 2023 <https://www.thedcn.com.au/region/australia/importers-fined-for-illegally-harvested-timber/>

The Government has introduced a Bill into Parliament to address many of these enforcement issues (the *Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Bill 2024*). The measures in this Bill are an important and necessary step to ensure that ILPA is a powerful tool to prevent Australia becoming a market for illegal timber such as that from PNG or Solomon Islands. Jubilee and other civil society organisations have also advocated for the Bill to be further amended to ensure the definition of 'illegally logged' covers corruption-related offences related to illegal logging operations, such as laws related to bribery, money-laundering, tax evasion or fraud.¹⁶

Recommendation 2a: The Australian government should pass and implement the amendments to ILPA currently contained in the *Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Bill 2024*.

Recommendation 2b: The Australian government should further amend the definition of "illegally logged" in the Bill to cover corruption-related offences related to illegal logging operations, such as laws related to bribery, money-laundering, tax evasion or fraud.

2.3 Australia's Soft-Power Influence on Local Laws and Regulations

Summary: Australia should do more to use its influence to not undermine environmental protection, and to encourage Pacific nations to take strong steps to improve natural resource management.

As mentioned above, illegal logging is a significant problem in PNG—which shares, along with West Papua, the third largest existing rainforest in the world. The Marape government has declared its intention to ban the export of round logs from PNG. The ban on log exports is intended to see more of PNG's timber processed domestically, which would create additional jobs and revenue. In practice this ban would likely significantly reduce rainforest logging in PNG, as the vast majority of rainforest logging is for the export of unprocessed round logs.

The ban on round log exports has a long history, first proposed in the 1990s, and has been plagued by poor political will.¹⁷ In 2020, the then Forest Minister announced that PNG would ban all round log exports by 2025.¹⁸ A modified version of this target has been included in PNG's Medium Term Development Plan IV (MTDP) 2023-27 with targets each year for reduced round log exports and increased exports of processed wood.¹⁹

¹⁶ See Jubilee Australia, Uniting Church Synod of Victoria and Tasmania, Environmental Investigation Agency – US and Center for International Environmental Law (2024) Submission: Inquiry into the *Illegal Logging Prohibition Amendment (Strengthening Measures to Prevent Illegal Timber Trade) Bill 2024*.

¹⁷ Kingtau Mambon (2021) "PNG round log export ban: plagued by poor political will", Act Now! Blog, available at: <https://actnowpng.org/blog/blog-entry-png-round-log-export-ban-plagued-poor-political-will>

¹⁸ The National newspaper of PNG, 'Ministers reveal deadline for logging extended', June 10, 2020. <https://www.thenational.com.pg/minister-reveals-deadline-for-log-exports-extended/>

¹⁹ Government of Papua New Guinea (2023) *Medium Term Development Plan IV*, at p available at: <https://mtdp.gov.pg/>

In the first year of the plan, PNG has already exceeded its targets under the MTDP IV, exporting 2.2 million cubic metres of round logs, 32% higher than the MTDP IV target.²⁰ Figures like this suggest that the current attempt at a round log export ban may be deferred again, as so many previous iterations have been. As research by Jubilee Australia and PNG organisation Act Now! has shown, it is highly likely that a significant proportion of those exported round logs were illegally logged.²¹

When it comes to mining in PNG and elsewhere, Australia can exert an overdue influence on the legislative framework on which mining takes place. PNG recently reformed the PNG Mining Act and the Fijian mining act is also under revision. We have concerns that Australia has in the past used its influence to impose a mining regime on Pacific nations that are not appropriate to the region. For example, the inclusion of a provision that any minerals greater than six feet under the ground in PNG are the property of the state is inconsistent with how Melanesian customary law would understand mineral rights. In PNG the issue of development levies and royalties is also important—these payments not only help communities with their economic development, they also can assist with biodiversity conservation and climate adaptation. However, PNG law as it currently stands places a restriction on the ability to increase these levies, and also enables them to be treated as tax which allows the company to operate in the country without paying the required taxes. Although PNG law is obviously a sovereign issue for the PNG government, Australia does provide advice on these matters; we only ask that when it does so, it keeps such matters in mind.

Recommendation 3a: Australia as a development partner with PNG should offer and provide support to the government of PNG to crack down on illegal logging. This should include specific support for measures to monitor and enforce existing forestry laws. It should include specific funding and support for the Financial Analysis and Support Unit in the Bank of PNG, and the Internal Commission Against Corruption (ICAC), two agencies with the political will and clout to take action on illegal logging and associated corruption and money laundering.

Recommendation 3b: Australia should ensure that any advice or technical support that it gives to mining legislation in PNG or in other jurisdictions is not inconsistent with the embedded culture of customary land ownership, does not give undue powers to the state to undermine customary practices, allows landowners to be able to access a fair share of royalties and development levies and does not encourage policies for tax avoidance.

²⁰ Act Now! (2024) "Govt goes off track in MTDP IV log export targets", Act Now! Blog, available at:

<https://actnowpng.org/blog/blog-entry-govt-goes-track-mtdp-iv-log-export-targets>

²¹ See Act Now! and Jubilee Australia (2021) *Background paper; Illegal logging and human rights abuses in PNG's logging industry*, available at: <https://www.jubileeaustralia.org/impact-areas/land-and-forest/illegal-logging>

3. Climate Change Mitigation and Adaptation

Terms of reference for Part 3: Assess Climate Change Mitigation and Adaptation responses in the Pacific.

- (a) Evaluate Australia's climate support and initiatives aimed at mitigating climate change and assisting Pacific nations in adapting to its impacts.
- (b) Evaluate Australia's role in supporting Pacific nations during natural disasters and national emergencies, including pandemics.
- (c) Identify opportunities for enhanced regional economic integration and mobility.

3.1 Australian Domestic Policies on Carbon Emissions and Fossil Fuel Extraction

Summary: the fossil fuel policies of the Australian government, when it comes to domestic and fossil fuel emissions, have encouraged the proliferation of fossil fuels, and undermined the world's ability to reduce global warming. This has systematically and directly contravened Pacific efforts to push for a stronger stance on climate change at the international level.

The devastating economic, social, cultural, physical, gender-based and existential impacts of the climate crisis across the Pacific are extensively documented. The Pacific has demonstrated profound prescience in its long-standing climate leadership. For over two decades Pacific community and civil leaders have educated the Australian public and professional sectors about the climate crisis and the environmental, social and economic measures needed to address its underlying causes. At global level this spans its role in promoting the 1.5C target now enshrined in the Paris Agreement, to initiating the Fossil Fuel Non-Proliferation Treaty Initiative which is endorsed by a growing number of national and sub-national governments internationally.²²

Despite these repeated calls, Australia has continued to actively promote the proliferation of fossil fuels with disregard for the existential threat that the climate crisis represents to the people of the Pacific, in addition to Australia's own climate-affected communities.

The Albanese government has adopted a different rhetoric on climate ambition from previous governments and has taken deliberate action to advance the development of renewable energy. This has been whilst simultaneously supporting a dangerous policy on fossil fuels that has enabled rampant proliferation, which has ultimately undermined action towards a clean energy future. For example, the government's 43% emissions reduction target may actually allow for the expansion of fossil fuels, given that its implementation is reliant on the safeguard mechanism as the primary legislative tool to achieve this target. This legislation gives a greenlight to fossil fuel companies to exceed emissions reduction targets through a flawed system of carbon offsets, by allowing so-called 'offsets' or 'carbon capture and storage' despite the widely documented failure of such schemes.²³

²² Fossil Fuel Treaty, Why do we need a Fossil Fuel Non-Proliferation treaty?, (accessed on June 28, 2024).
<https://fossilfueltreaty.org/>

²³ Macintosh, A., & Butler, D., *The unsafe Safeguard Mechanism: how carbon credits could blow up Australia's main climate policy*, *The Conversation*, November 2023.
<https://theconversation.com/the-unsafe-safeguard-mechanism-how-carbon-credits-could-blow-up-australias-main-climate-policy-213874>

Moreover, research has demonstrated that even a 43% target by 2030 is well below the minimum if we are to meet our climate commitments (a 75% target is required).²⁴

Additionally, the mechanism does not extend to Scope 3 emissions from trade. Similarly, policies on climate-related financial disclosures for businesses distract from more foundational policies – such as Australia failing to halt company fossil fuel expansion or exploration. Australia's subsidies to fossil fuel producers and major users from all governments totalled \$14.5 billion in 2023–24, an increase of 31% on the \$11.1 billion recorded in 2022–23.²⁵

When it comes to fossil fuel exports and Scope 3 emissions, it is a similar story. Roughly four fifths of Australia's extracted fossil fuels are exported, making us the world's third largest fossil fuel exporter.²⁶ On the one hand, Australia's recent commitment to the Clean Energy Transition Partnership (CETP) – which requires an end to government use of export finance and aid money to fossil fuels – is necessary and welcome. It should end this use of export credits and other public finance to support fossil fuel expansion in Australia, PNG and elsewhere in the region. This is of greater importance than it has been in recent history, given the increasing reluctance of private finance to enable these projects.²⁷ However, it is not yet clear if the federal government's CETP implementation plan due by December 2024 will allow for financing backdoors through government agencies like the Northern Australian Infrastructure Facility (NAIF), or whether it will adopt a clear policy to stop hundreds of millions of dollars in aid financing going to fossil fuel projects via multilateral development banks.²⁸

Moreover, while a growing number of countries in the Asia region have adopted coal moratoriums or similar, Australia is the world's second largest coal exporter and reported to have up to 69 coal projects in the development pipeline.²⁹ The recently released Future Gas Strategy rhetorically commits Australia to more gas expansion, which had led many analysts to point out the incoherence of this plan with meeting Australia's Paris Agreement commitments.³⁰ The government has often

²⁴ Dean, A., Rayner, J., Zou, A., Arndt, D, Rice M, SEIZE THE DECADE: How we empower Australian communities and cut climate pollution 75% by 2030, Climate Council, 2024.

<https://www.climatecouncil.org.au/resources/seize-the-decade/>

²⁵ Campbell, R., Morison, L., Ryan, M., Saunders, M., Ngoc Le, M., Adhikari, A., Scicluna, K., Simpson, E., Anderson, L., *Fossil Fuel Subsidies in Australia 2024*, The Australia Institute, May 13, 2024.

<https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2024/>

²⁶ Energy trade, Australian government, Department of Climate Change, Energy the Environment and Water, (accessed June 28, 2024).

<https://www.energy.gov.au/energy-data/australian-energy-statistics/energy-trade>

<https://www.climatecouncil.org.au/resources/how-polluting-is-australia-vs-uae/>

²⁷ Wiset, K., *Hidden Cash for fossils: How multilateral banks are diverting Australian tax dollars to fossil fuels*, Jubilee Australia Research Centre and Action Aid Australia, May 2023.

<https://www.jubileeaustralia.org/resources/publications/hidden-cash>

²⁸ Wiset, K., *Hidden cash for fossils - How multilateral banks are diverting Australian tax dollars to fossil fuels*, Jubilee Australia Research Centre and ActionAid Australia, May 2023.

<https://www.jubileeaustralia.org/resources/publications/hidden-cash>

²⁹ Climate Council, A Briefing Paper - RESOURCES REPORTS COP28: WHAT TO EXPECT, November 2023.

<https://www.climatecouncil.org.au/resources/how-polluting-is-australia-vs-uae/>

Campbell, R., Ogge, M., Verstegan, P., *New fossil fuel projects in Australia 2023 Potential emissions from new major coal and gas projects*, The Australia Institute, March 2023.

<https://australiainstitute.org.au/wp-content/uploads/2023/03/P1359-New-fossil-fuel-projects-on-major-projects-list-and-emissions-WEB.pdf>

³⁰ Long, S., *Future Gas Strategy Takes Australians Through The Looking Glass*, The Australia Institute, May 2023.

<https://australiainstitute.org.au/post/future-gas-strategy-takes-australians-through-the-looking-glass/> add guardian analysis

legitimised this support for increasing expansion of Australia's fossil gas exports to Japan, Asia's largest fossil fuel financier and growing gas reseller, under the pretext of 'energy security'.³¹ Such statements appear to be deliberately misleading, as the evidence has demonstrated that Japan can have a clean energy future without relying on gas expansion.³²

These policies will not only proliferate disastrous levels of emissions well beyond 1.5C by 2030 – they also directly intervene in markets, biasing them against cheaper, more effective renewable energy technologies. Moreover, these policies are ultimately self-defeating in two important ways. First, they undermine any aspirations that Australia might have to being respectful of Pacific needs, including its leadership on climate change. In the leadup to COP31 in 2026, which Australia is hoping to co-host with the Pacific, these policies must be altered. Australia's reticence to address these problems risks less buy-in from Pacific Island Nations and Pacific Island civil society groups, and an overall less successful COP – an outcome ultimately at odds with the Albanese government's desire to improve our country's reputation in multilateral climate negotiations.

Australia's domestic policies, as well as its Scope 3 emissions, will only increase the extent of global warming, extreme weather events and ensuing social consequences in the Pacific. Such events will greatly undermine food security in the region and increase the movement of climate refugees. Both of these problems pose very serious crises for future Australian governments, and can only be avoided if drastic action on emissions is taken now.

Recommendation 4a: Australia should halt – or at least have a moratorium on – all new fossil fuel projects and should phase out fossil fuel subsidies.

Recommendation 4b: Australia should enhance its emissions reduction target to 75% reduction in emissions by 2030, based on 2005 levels and zero emissions in 2035.

Recommendation 4c: Australia should increase its diplomatic commitments to climate action, including at the UNFCCC Conference of Parties (COPs) and other global fora.

Recommendation 4d: Australia should join its Pacific neighbours and endorse the Fossil Fuel Non-Proliferation Treaty Initiative – including meeting requirements for national government endorsers.

Recommendation 4e: Australia should adopt a credible implementation of the Clean Energy Transition Partnership, as articulated in a CSO endorsed policy proposal.

Recommendation 4f: Australia should adopt a Voting Guidance directed to multilateral development bank executive directors who represent it as part of their constituency. This should explicitly advise for MDBs directors to vote in favour of clean energy and against fossil fuels. Noting that this does not prevent countries from pursuing fossil fuels – but states that aid money should not be used to exacerbate the climate crisis which is a leading driver of poverty, gender inequality and worsening natural disasters.

³¹ The Hon Madeleine King MP Speech, Australia as a long-term and reliable energy supplier, Minister for Resources and Minister for Northern Australia, January 2024.

<https://www.minister.industry.gov.au/ministers/king/speeches/australia-long-term-and-reliable-energy-supplier>

³² OilChange International, *Japan's Toxic Energy Strategy for Asia*, April 2023, <https://priceofoil.org/content/uploads/2023/04/gx-briefing-April-6-final-draft.pdf>; Denis-Ryan, A., & Runciman, J., *Japan does not need Australian LNG to keep the lights on in Tokyo*, Institute for Energy Economics and Financial Analysis, May 2024, <https://ieefa.org/resources/japan-does-not-need-australian-lng-keep-lights-tokyo>

3.2 Supporting Pacific countries and communities to expand responses to climate change

Summary: Australia is not doing enough to meet its fair share of grant-based climate financing to help Pacific nations meet their adaptation and loss and damage needs when it comes to dealing with the impacts of the climate crisis.

Quoting from the Action Aid Australia submission to this inquiry, we would like to endorse the following points:

'Pacific Island countries and communities urgently need additional funding to scale up efforts to adapt to climate change, to rebuild and recover from climate-induced disasters and to transition their economies. Yet, there is a considerable gap between the financing needs of Pacific Island countries and the 2 percent of global climate finance that is directed to the Pacific region in 2022. Further, 46 percent of this finance was delivered as loans or other non-grant mechanisms. It is deeply unfair that Pacific countries are being forced to take out loans and pay interest in order to respond to a crisis that they did not cause.'

Australia's climate finance commitment increased from \$2 to \$3 billion over the five-year period of 2020-2025. However, this continues to fall well short of its fair share of the global USD 100 billion per year climate finance target for 2020-2025, which is estimated at \$4 billion annually. In 2022-23, Australia's total climate finance including the climate portion of non-ODA grants and loans and private finance mobilised, was just \$619 million, around 15 percent of our fair share. Further, while Australia supported the establishment of the new global Loss and Damage Fund at COP27 in 2022, the Government is yet to make a contribution towards the fund.

Our organisations welcome Australia's strong prioritisation of climate funding for Pacific Island countries, which represented at least 40 percent of Australia's climate funding in 2022-23. However, the shortfall in Australia's climate funding means that it is not meeting the needs of our nearest neighbours who are amongst the most vulnerable to climate change. Further, the majority of Australia's climate finance comes from within an already stretched aid budget, which means that Pacific countries and communities do not have access to the additional funding needed to respond to escalating climate impacts alongside wider development goals.

Additionally, a positive feature of Australia's climate finance is its consistent support for adaptation finance, which is critical for partners across the Pacific region. In 2022-23, Australia allocated 62% of its climate finance towards adaptation. However, governments agreed to double adaptation finance by 2025, which would mean a target of USD 40 billion, of which Australia's fair share would be \$1.7 billion (USD 1.3 billion), well above the \$323.59 million provided in 2022-23.

Further, a closer assessment of Australia's climate finance to the Pacific region in 2022 raises questions about the transparency of reporting and the quality of Australia's climate funding. Of the 1048 investments, totalling \$572.8 million, provided to the Pacific region in 2022, only 51 had a principal focus on climate change. Principal climate investments totalled \$33.44 million, just 5.8 percent of total climate funding to the region. 1037 investments were targeted as either having a principal or significant focus on climate adaptation, representing 95% of total climate funding to the region. However, only 46 of these investments had a principal focus on climate adaptation, which amounted to just 1.7 percent of total adaptation finance.

Further, while 395 investments had either a significant or principal focus on gender equality, representing around 34 percent of climate change investments, only 70 were classified as being principally focused on gender equality – just 4.9 percent of total climate funding to the region.

Concerningly, no investments were classified as having a principal focus on both climate change and gender equality.

Australia can support Pacific governments to scale up climate change responses by immediately increasing its climate finance contributions to \$4 billion annually, in line with our fair share of the USD 100 billion climate finance goal. In addition, Australia should provide an initial \$100 million in funding to the global Loss and Damage Fund. All climate funding should be delivered in the form of grants and be new and additional to Australia's aid obligations.³³

The quality and inclusivity of Australia's climate financing is also important. To that end, we draw upon the submission to this inquiry by ActionAid Australia, in addition to the *Twin Clouds on the Horizon* report published by Jubilee Australia and Caritas Oceania, to make the following points.

Australia should:

- Increase the proportion of funding that has a principal focus on climate change
- Prioritise locally led, transformative adaptation initiatives
- Ensure climate funding doesn't worsen debt distress for Pacific Island countries
- Foster integrated climate change and gender equality programming and realise a 'double dividend'
- Improve transparency in climate finance reporting.

Recommendation 5a: Australia should contribute its fair share of the USD\$100 billion goal by 2025 – which is estimated to be \$4 billion annually – and commit an initial \$100 million to the global Loss and Damage Fund.

Recommendation 5b: Australia should ensure all international climate funding is additional to the aid budget, reported separately, with greater efforts to prioritise climate funding for Pacific Island countries, as well as least developed countries, who are most vulnerable to the climate crisis.

Recommendation 5c: Take measures to ensure that the quality and inclusivity of climate financing is assured, such as through supporting locally-led initiatives and ensuring that climate finance does not worsen debt distress.

³³ Action Aid Submission to this Inquiry, June 2024.

<https://actionaid.org.au/resource-types/submissions/>

4. Development programs

Terms of Reference for Part 4: Strengthen People-to-People Links and Partnerships including through well designed development programs.

(a) Explore opportunities to enhance people-to-people links, cultural exchanges, and educational partnerships between Australia and the Pacific to maximise local and community development outcomes.

(b) Assess the effectiveness of Australia's aid programs and partnerships in promoting genuine community development, good governance, and capacity building for partners in the region.

(c) Consider ways in which the Australian community can be more engaged with and have a better understanding of Australia's international relations and in particular the official aid and development program in the region.

4.1 Protection of Customary Land and Special Economic Zones

Summary: Australia has a history of trying to undermine customary land tenure in the Pacific, which it must address if it is going to be a trusted development partner in the region.

Around the world, customary land tenure operates on unwritten laws, customs, and practices, which organise the use of land by the people. Although customary tenure systems vary in different countries, in general, customary tenure means that kinship groups recognise and enforce a system of land custodianship and usage rights, that are passed down from generation to generation. What it means in practice is that in Melanesia, virtually everyone has some access to land through their kinship in some sort of clan.

Customary land tenure is at the heart of the village economy, which is itself the central reality and inheritance for most Melanesian peoples. The vast majority of rural Papua New Guineans (and this is also true in Solomon Islands and Fiji as well) have for a long time engaged in 'hybrid livelihoods'. This concept means that people engage in the subsistence sector, i.e. agricultural production for family consumption, housing and community buildings and for cultural exchange; production of fresh food and cash crops for sale in domestic or export markets; and formal and informal sector activity such as roadside selling, working in local businesses such as shops and market stalls, or other local jobs working. When it comes to producing crops for export, there is good evidence for the superiority of the village cooperative system over the plantation system (itself a legacy of the colonial era) for local producers of export commodities in PNG.³⁴

Those pushing for changes to the system have long argued for the 'unlocking of customary land' for private enterprise. The argument is that private individuals can gain security of tenure over an asset whose value they can then increase via innovation and entrepreneurship. An even more common justification for land reform is that the customary land system in PNG hinders agricultural

³⁴ Tim Anderson, *Land and Livelihoods in Papua New Guinea* (North Melbourne, Australian Scholarly Publishing, 2015): 56-58.

productivity. The argument that customary land tenure is also a drag on the rural sector has had strong proponents internationally over the years. Drawing from research work from other countries, including that initially done by the World Bank, outside experts have argued that introducing more formal systems of tenure could help improve rural livelihoods by reducing land conflicts (removing the need for permanent land residency, allowing reallocation of land to more productive users, and encouraging more rural to urban migration, thus providing a labour force for urban industries.)³⁵

This claim continues to be made despite research on the agricultural sector in PNG proving its remarkable resilience and its consistent importance to the lives of Papua New Guineans. More important still, this effective system of agriculture has its basis in and is deeply connected with the system of customary land tenure. The customary land system works for two reasons: first, the system ensures that every person has land on which to rely for sustenance and subsistence and as a social safety net; second, the customary land system supports and allows the continuation of the deep reservoir of agricultural skills. Moreover, there is actually no evidence from PNG that dismantling this system would improve agricultural production. There is plenty of evidence to suggest that the opposite would happen. Rejecting the arguments that land reform would be a boon to PNG's agriculture, agricultural experts Michael Bourke and Bryant Allen emphasise the importance of customary land tenure to the country's agricultural output:

'Another strength of PNG agriculture is the customary land tenure system. Individuals and companies who wish to access large areas of land for agricultural development can be frustrated by customary tenure, but the system is sufficiently flexible to accommodate increasing population and internal migration. It has been argued that economic development will not occur unless all land is privatised and registered to individuals, but individual titles to land on settlement schemes has often resulted in poor economic outcomes.'³⁶

Unfortunately, in the 1990s and 2000s, Australian academics and think tanks influenced AusAID and the Australian government to become part of the push for dismantling the customary land regime in PNG. The vast majority of Melanesians value and cherish their customary land tenure, and therefore any attempts to undermine or replace it is bound to result in a strong and forthright rejection. This role played by Australian actors has caused a good deal of ongoing mistrust. There is, however, an opportunity for Australia to rebuild trust in PNG and across Melanesia through publicly and vocally supporting the ongoing preservation of customary land in the region. This would have the added benefit of making Australia the development partner of choice in a region where donor competition is becoming an increasingly significant phenomenon.

Special Economic Zones

A special economic zone (SEZ) is a designated geographical area within a country that is subject to unique economic regulations – with the aim of promoting investment, job creation, and economic growth. By establishing the SEZs in PNG, the PNG government believes it will foster international investment to the country through attracting international

³⁵ Frederic Mousseau, *The Highest Bidder Takes it All: The World Bank's Scheme to Privatize the Commons*, (Oakland, CA, Oakland Institute, 2019): 1-18.

³⁶ R. Michael Bourke and Bryant Allan, 'Introduction' in Bourke, R.M and Harwood, T.A. (eds), *Food and Agriculture in Papua New Guinea* (Canberra: ANU Press, 2009), 6.

businesses in boosting PNG's economy, not only from relying on extractive business but also investigate downstream manufacturing activities that will encourage small-medium scale business into fully utilization PNG and its natural resources.³⁷ At the end of 2019, PNG's Parliament passed the Special Economic Zones Act, which set up the new policy and regulatory framework for the set up and operation of the SEZ across PNG. Under this act the government has identified sixteen potential SEZs in PNG: including: Pacific Marine industrial Zone (Madang), Vanimo Free Trade Zone (West Sepik, Sepik Plains SEZ (East Sepik and West Sepik), Western Province SEZ, Baiyer Agriculture Zone (Western Highlands), Middle Ramu Industrial Zone (Madang), Central Rice Zone, Labu SEZ (Morobe, Lae- Nadzab SEZ (Morobe) Ihu SEZ (Gulf), Kokopo Tourism Zone (East New Britain), Manus Special Economic Region, Nadzab Airport City SEZ (Morobe), Tokua Airport City SEZ (East New Britain), Bana SEZ (Bougainville) and Gazelle Agro SEZ (East New Britain).

There are many concerns about the social impacts that setting up these SEZs might have in societies and economies like Melanesia. The two concerns that we would like to mention here are: first, the threat that setting up SEZs could have to the institution of customary land ownership in these zones. Second, what setting up these zones in PNG could lead to in governance-free areas whereby smuggling, including of weapons and armaments, could enter the country, and how this could threaten the security situation in both PNG and our region.

Recommendation 6a: Australia should make clear its stance in support of the value and ongoing importance of customary land tenure in PNG and in Melanesia generally.

Recommendation 6b: Australia should not put itself in a position to uncritically support the development of Special Economic Zones, especially where they may undermine the operation of customary land tenure or increase weapons trafficking or other forms of illegal activity.

4.2 Infrastructure Development and the AIFFP

Summary: The loan-based program structure of the Australian Infrastructure Financing Facility for the Pacific (AIFFP) makes it, in our view, a vehicle with the potential to distort support for a sustainable, people-centred development in the Pacific.

³⁷ By establishing the SEZs in PNG, the PNG government believes it will create a vehicle that will bring international investment into the country by attracting international businesses in boosting PNG's economy not only from relying on extractive business but also investigate downstream manufacturing activities that will encourage small-medium scale business into fully utilization PNG and its natural resources.

In January 2023, Jubilee Australia released a report on the Australian Infrastructure Financing Facility for the Pacific (AIFFP): *Aiding the Pacific? Investigating the Projects of the AIFFP*.³⁸ The report followed extensive research into the existing projects of the AIFFP and was the first research conducted by a civil society organisation into the \$4 billion facility. The report examined the 13 projects the AIFFP was on the public record as having undertaken, concluding that the selection of some AIFFP projects is being driven by geopolitical considerations, including seeking to establish Australian influence in the Pacific as a counter to Chinese influence. This imperative, and the structure of the AIFFP as a loan-based program, means that in our view, it is a vehicle which has the potential for serious distortions in supporting sustainable, people-centred development in the Pacific.

The AIFFP Model and Debt

At present it is hard to assess whether the AIFFP will increase debt distress to those nations who are receiving concessional loans. The mixture of grant to loan funds of the AIFFP means that it can give grants to nations who are at the risk of debt distress. This sounds like a good thing, in that countries who are at greatest risk of debt distress will not be burdened by loans that they cannot repay with serious social consequences.

However, the reality is that half of Pacific nations fall into this category, and therefore will not be able to receive loans from the AIFFP. Essentially, the AIFFP is under pressure to disburse funds, in order to ensure returns on investment. In practise this means that the majority of AIFFP must be directed either to private sector borrowers who can show that the projects are bankable, or to public sector and government borrowers who will borrow AIFFP funds to try and grow the economy. In our view this imperative means that many of the projects suffer the risk of significant distortions when it comes to delivering development benefits.

The AIFFP and Resource Extraction

The above design flaws risk pushing the AIFFP towards financing development projects in certain countries that are bankable. We believe this is leading to risks, whereby many of the large projects AIFFP ends up financing will be extractive in nature and not of benefit to the people of the recipient countries. At the time of the report, a large proportion (AUD\$621 million, around 6%) of the funds from the AIFFP were connected to the upgrade of PNG Ports. The investment by Australia will involve an upgrade to seven of these ports, including works to be undertaken on Kimbe on the north coast of New Britain, Lorengau (Manus Island), Kavieng (New Ireland), Vanimo (West Sepik) and Wewak (East Sepik). PNG's largest port, Lae Tidal Basin, will be positioned as 'a regional hub to the Pacific by improving Lae Port's capacity to service dedicated container ships from Southeast Asia'. While PNG's ports are important for trade, they are also potentially useful to facilitate the unsustainable export of rainforest logs and the export of mineral products. For example, the port of Vanimo in Sandaun Province is surrounded by logging concessions and major exports from the port include timber and palm oil (a commodity closely linked to rainforest logging).⁴⁴ Since 2010, more than 7 million cubic metres of logs have been exported from Sandaun Province, and the province has seen a dramatic increase in annual loss of tree cover.³⁹ Extensive logging is happening in East Sepik and in New Ireland, and the proposed Frieda River and Wafi Golpu mines pose serious threats to the Sepik river

³⁸ Jubilee Australia Research Centre, *Aiding the Pacific? Investigating the Projects of the AIFFP* (2022) available at <https://www.jubileeaustralia.org/storage/app/uploads/public/638/3f9/abb/6383f9abb0aa9830132342.pdf>

³⁹ PNGi Forests, 'Log exports, West Sepik', available at: <https://pngiforests.org/province/west-sepik> (accessed 5 July 2022); Global Forest Watch/University of Maryland data, Tree cover loss 2001-17, available at: <https://png-data.sprep.org/dataset/png-forest-cover-log-exports-and-concessions-statistics> (accessed 25 April 2022).

and the Huon Gulf, if current tailings disposal methods are pursued.⁴⁰ There is a serious risk in AIFFP's funds being used to encourage round log exports and thus contribute to the continued destruction of PNG's forests.

In Namosi province of Viti Levu, Fiji, there is another example – the case of a proposed hydrodam to which the AIFFP is undertaking preliminary feasibility studies. Jubilee Australia and Social Education Empowerment Programme (SEEP) have, for several years now, sought to document community concerns regarding exploration conducted by the Namosi Joint Venture in its desire to develop the proposed Waisoi mine. The communities within the Namosi region have also strongly resisted mining in their region for 40 years, and have not given their Free, Prior and Informed Consent to the Waisoi copper, gold and molybdenum mine to proceed. Community members in the area have concerns that the three proposed hydrodams for the region are intended to provide electricity to the proposed Waisoi mine. The AIFFP, for the record, disputes that the proposed dam would directly give electricity for the mine, although it does acknowledge the possibility that it might indirectly do so (as the mine would draw energy from the grid, which would benefit from increased power from this proposed dam.)⁴¹ As with the PNG Ports case, the lack of transparent public information is endemic of the problem. But there is a larger concern here; that the need for AIFFP to finance larger Pacific countries with bankable projects means that it will end up facilitating resource extraction.

The AIFFP and Disclosure

Another concern about the AIFFP is that it is falling well short when it comes to public disclosure of project documents and its stated commitment to transparency, especially when it comes to the business case for projects and for social and environmental impacts. The *Aiding the Pacific* report recommended that the AIFFP should take steps to improve its disclosure and transparency: including, adopting the same approach to disclosure as the multilateral development banks such as the ADB and the World Bank when it comes to social and environmental assessments; a business case released for projects with a loan to a private entity or state-owned enterprise. Since the release of the report we have seen increases in AIFFP's transparency, including details of AIFFP projects. However, most of the recommendations that we recommended on disclosure have not yet been implemented.

The AIFFP and Climate Finance

The AIFFP, while able to support climate mitigation projects, is not well designed to support meaningful climate adaptation for vulnerable communities – arguably the Pacific's most pressing financial need at present, and for the foreseeable future. We note that the AIFFP has recently announced an increase on projects that will have a climate focus, including \$350 million set aside for the Pacific Climate Financing Infrastructure Partnership.⁴² While this, and the announcement of new climate projects, is a welcome recent development. Though it remains the case that climate finance via loans is only appropriate for some mitigation projects (which are bankable) and not for

⁴⁰ Mitchell, E. & Peni, E., *The Sukundimi Walks Before Me*, Jubilee Australis Research Centre and Project Sepik; Submission by Jubilee Australis Research Centre, Centre for Environmental Law and Community Rights (CELCOR), and the Evangelical Lutheran Church of PNG to the Australian National Contact Point (AusNCP). about the Wafi-Goplu Mine submission, March 2021.

⁴¹ An email from the AIFFP dated 23 April 2024 to Jubilee Australia asserts that the hydrodam 'is not linked to the proposed Waisoi mine'.

⁴² 'Climate Partnership', Australian Infrastructure Financing Facility for the Pacific website, Accessed on 28 June 2024: <https://www.aifffp.gov.au/climate-partnership-0>

adaptation or loss and damage (which typically are not). We remain concerned that the AIFFP should be presented as an important potential solution to the challenge of climate finance.

Recommendation 7a: The government undertake a substantive review and evaluation of the AIFFP model in terms of whether its projects are helping broad-based and inclusive development, poverty alleviation and the capacity to meet the needs of Pacific nations on climate change.

Recommendation 7b: The AIFFP release more details about the economic case, and environmental and social impacts for its projects, so as to be consistent with the best practice models of the ADB and the World Bank.

Recommendation 7c: The government ensure that any direct taxpayer support to the AIFFP be additional to the aid budget.