



The Timber Rights Acquisition Process for Resource Owners

Who owns the trees?

The trees in the natural forest on customary land are owned by customary land owners.



What is logging?

Logging is when somebody cuts down a tree, or takes timber away from any land, for the purpose of selling it.

To log in the Solomon Islands you need:



A Development Consent from the Ministry of Environment under the Environment Act 1998.



A Felling Licence from the Ministry of Forestry and a signed Standard Logging Agreement (Form 4) under the Forest Resources and Timber Utilistation Act 1969.

What Are Timber Rights?

Timber rights are the rights to log trees, and to do other activities (e.g. road and wharf construction) on customary land related to logging.

What Is The Timber Rights Acquisition Process?

To log trees on customary land, a person called 'the applicant' must go through the timber rights acquisition process under the Forest Resources and Timber Utilistation Act 1969.

The Timber Rights Acquisition Process involves the landowners, the Provincial Government, Ministry of Forestry and the logging company. It identifies the rightful landowners and transfers timber rights to a logging company.

What is a logging company?

A Logging Company is the company that must hold Timber Rights to log trees on customary land. The Logging Company can be a local or foreign-owned company.



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



SPREP
Secretariat of the Pacific Regional
Environment Programme

Supported by:



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based on a decision of the German Bundestag

Timber rights acquisition process

Form 1 Application

The Applicant (Licensee) has to apply to the Commissioner of Forests for consent to negotiate with the Provincial Government and the customary landowners. This is the Form 1 Application.

Public Notice of Timber Rights Meeting

The Provincial Government must set a date for a Timber Rights Meeting within one month of receiving the Form 1 Application from the Applicant (Licensee).

The Provincial Government must give public notice of the Timber Rights Meeting at least one month before the Timber Rights Meeting.

The Timber Rights Meeting is the only formal opportunity for the customary landowners to be consulted, so it is very important that public notice is given properly. Notice should be given effectively, so that all affected landowners are aware of the Timber Rights Meeting.

Timber Rights Meeting

The Provincial Government must hold a Timber Rights Meeting after 60 days and no later than 90 days after receiving the Form 1 Application.

The meeting should include the following people:

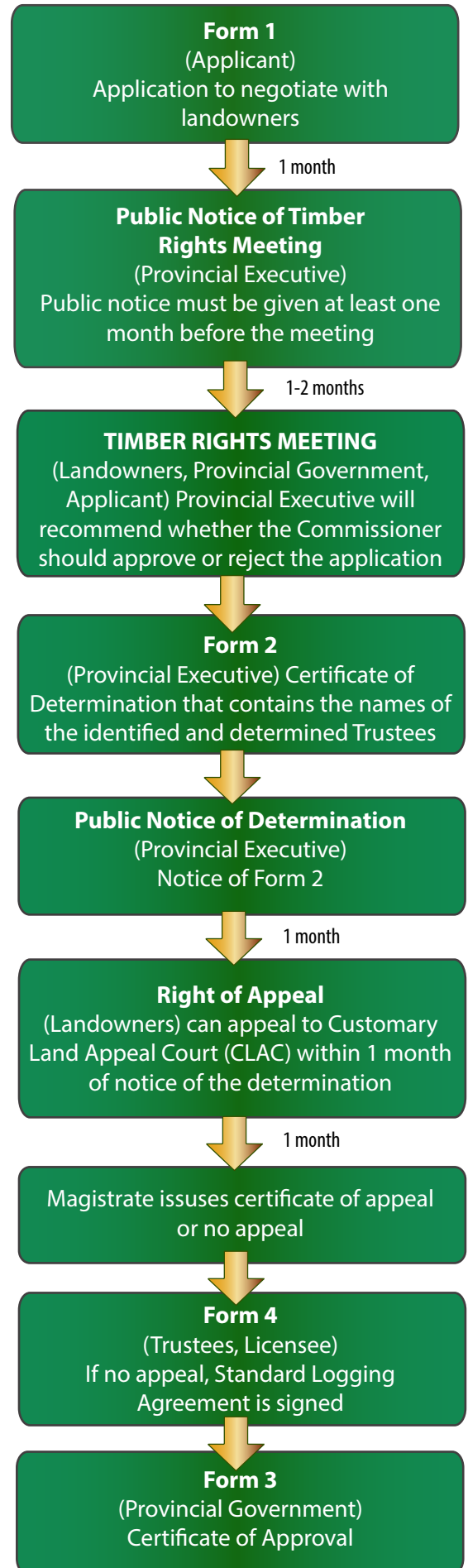
- Provincial Government member
- the Applicant (i.e. the Licensee)
- the customary landowners
- any other community members who wish to object
- a provincial government forestry officer

At the meeting, the following issues must be discussed:

- Whether the landowners wish to negotiate with the Applicant (Licensee) in the first place
- Whether the people who say they can allow logging on the land are legally allowed to represent the landowners
- The types of timber rights the Applicant (Licensee) will be given
- What share of the profits the landowners will receive
- The role of the Provincial Government in the logging operation

Minutes must be kept by the Provincial Executive

The minutes of the Timber Rights Meeting must be written down and given to the Commissioner of Forest Resources. As landowners, you should ask for a copy of the minutes and Form 2 from the Province.



Form 2 Certificate of Determination

After the meeting, the Provincial Executive must make a determination and issue a Form 2 Certificate about what was agreed at the Timber Rights Meeting.

The Form 2 Certificate will contain the names of the people who are legally allowed to represent the landowners. It must also attach a good quality map with the area to be logged clearly marked.

What if no agreement is reached at the Timber Rights Meeting?

If no decision has been reached at the Timber Rights Meeting, then the Provincial Government must recommend to the Commissioner of Forest Resources that the application be rejected, and the application must be rejected.

Therefore, it is very important to write down the minutes of the Timber Rights Meeting.

Public Notice

The Provincial Executive must give public notice of its determination with the outcomes of the Timber Rights Meeting. The notice should inform people that there is a right to appeal to the Customary Land Appeals Court and, if possible, include a map of the land to be logged.

It is very important that public notice is given effectively, because you may wish to appeal the determination of the Provincial Executive.

Right of Appeal

If you are not happy with the determination of the Provincial Executive, you can appeal to the Court **within one month** of the date of the public notice of the determination.

Form 4 Standard Logging Agreement

If there is no appeal, or the Licensee wins any appeal, the Licensee must make a Form 4 Standard Logging Agreement with the landowners and pay a stamp duty. The Form 4 Agreement must specify how the profits are to be shared, and how the Provincial Executive is to be involved in the logging operation. The Form 4 Standard Logging Agreement must be signed by the landowners identified in Form 2.

Form 3 Certificate Approval

If the Commissioner approves the Form 4 Standard Logging Agreement, he will recommend that the Provincial Executive issue a Form 3 Certificate Approval. The Provincial Executive can only issue a Form 3 Certificate Approval if it has checked that the Form 4 Standard Logging Agreement has been signed by everyone named in the Form 2 Certificate.



Felling Licence

Once the Applicant has gone through the proper process described above, they can apply for a Felling Licence from the Commissioner of Forest Resources.

Development Consent

The Applicant also needs to obtain a development consent from the Ministry of Environment before they can do any logging in the Solomon Islands.

Technology Marketing Agreement

Often, the Licensee will make a Technology Marketing Agreement with a Logging Company. This means the Logging Company works for the Licensee. The Logging Company logs the trees and sells the timber for the Licensee.

Questions for landowners

- Are the people who say they represent the landowners really allowed to speak on your behalf?
- Were you given proper notice of the Timber Rights Meeting before it happened?
- Did the proper representatives of the landowners attend the Timber Rights Meeting?
- Was a determination made at the Timber Rights Meeting on all the issues?
- Were you given proper notice of the Provincial Government's determination?
- Is the Form 4 agreement signed by the landowners named in Form 2?
- Has the logging company obtained a development consent from the Ministry of Environment?

If the answer to any of these questions is "NO " you should seek legal advice.

For further information or advice, please contact:

**Ministry of Environment, Climate Change
Disaster Management and Meteorology**
PO Box 12
Honiara
Phone: +677 23032/23031

Or the **Land owners Advocacy and Legal Support Unit**
PO Box 553
1st Floor, Place Makers Building
Honiara,
Phone: +677 28404/22348

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