



OFFICE of the AUDITOR GENERAL
Republic of Fiji

REPORT OF THE AUDITOR-GENERAL OF THE REPUBLIC OF FIJI

Follow-up Audit on *Management of
the Land Reform Program*



PARLIAMENT OF FIJI
PARLIAMENTARY PAPER NO. 134 OF 2018



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File: 102

27 November 2018

The Honorable Dr. Jiko Luveni
Speaker of the Parliament of the Republic of Fiji
Parliament Complex
Gladstone Road
SUVA

Dear Dr. Luveni

FOLLOW-UP AUDIT ON MANAGEMENT OF THE LAND REFORM PROGRAM

In accordance with section 152(13) of the Constitution of the Republic of Fiji, I am pleased to transmit to you my report on Follow-up Audit on Management of the Land Reform Program.

A copy of the report has been submitted to the Minister for Economy who as required under section 152(14) of the Constitution shall lay the report before Parliament within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ajay Nand'.

Ajay Nand
AUDITOR-GENERAL



Encl.

The Office of the Auditor-General – Republic of Fiji

The Office of the Auditor-General is established as an Independent Office by the Constitution of Republic of Fiji. Its roles and responsibilities include carrying out performance audits to determine whether an entity is achieving its objectives effectively, economically and efficiently and in compliance with relevant legislation. These audits are carried out by the Auditor-General on behalf of Parliament.

The Auditor-General must submit a report on performance audits carried out to Parliament. In addition, a single report may include two or more audits. This report satisfies these requirements.

The Office of the Auditor-General notes the impact of its reports to Parliament on the ordinary citizens and strives for accuracy and high quality reporting including recommendations which are not only value-adding to the entity subject to audit but its customers, the general public as well.

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Acronyms

CAO	Customer Advocacy Officer
DL	Director Lands
DLU	Director Land Use
EO	Executive Officer
FIRC	Fiji Investment Registration Certificate
FPO	Fiji Procurement Office
FRCA	Fiji Revenue and Customs Authority
GIS	Geographic Information System
IF	Investment Fiji
ITC	Information Technology and Computing Services
iTLFC	i`Taukei Lands and Fisheries Commission
ISSAI	International Standards of Supreme Audit Institutions
LOU	Land Owning Unit
LUD	Land Use Division (Division)
MLGUDHE	Ministry of Local Government, Urban Development, Housing and Environment
MLMR	Ministry of Lands and Mineral Resources
MOA	Memorandum of Agreement
MoE	Ministry of Economy
MOU	Memorandum of Understanding
OAG	Office of the Auditor General
PAC	Public Accounts Committee
PAM	Performance Audit Manual
PLU	Principal Land Use Officer
PSC	Public Service Commission
PSLMR	Permanent Secretary for Lands and Mineral Resources
SG	Solicitor General
SOP	Standard Operating Procedures
SPA	Sales and Purchase Agreement
STO	Senior Technical Officer
TOR	Terms of Reference
VKB	Vola ni Kawa Bula

Follow-up of Audit Recommendations

The *Audit Act 1969* requires the Auditor-General to issue an audit memorandum to the responsible authority for each entity that is subject to an audit. The audit memorandum includes observations made during the audit and suggestions or recommendations for improvement which are reported to management and those charged with governance of an entity.

Every year the Auditor-General must report to Parliament on audits conducted and on other significant matters the Auditor-General wishes to bring to the attention of Parliament.

Although the Auditor-General reports to Parliament with recommendations to improve the performance or enhance accountability of public sector entities, the Auditor-General is not responsible nor does it have the powers to enforce the implementation of these recommendations.

As a matter of good governance, all public sector entities should have systems and processes to consider and implement recommendations of the Auditor-General.

Parliamentary committees also have a key role in reviewing findings and recommendations reported to Parliament.

Audit objective and scope

In this follow-up audit, we examined whether the Land Use Division (LUD/Division) has effectively implemented the recommendations which were made in *Management of the Land Reform Program* (Audit Report on Performance Audit Volume II of December 2014, Parliamentary Paper No. 6 of 2015). We also assessed whether the actions taken have addressed the underlying issues that led to our recommendations in that report.

Our scope included a detailed review and analysis of work undertaken by the LUD in addressing our original audit recommendations under the following areas:

(i) **Policies governing the administration of land reform**

The first chapter of this report seeks to establish whether the LUD has addressed the issues raised in the 2014 General Report with regards to the existence and effectiveness of policies and procedures governing the management of land bank activities.

(ii) **Systems and processes for land designation and allocation**

The second chapter of this report seeks to determine whether the LUD has taken the necessary actions towards issues raised in the 2014 General Report with regards to the existence and effectiveness of arrangements in place for designation and allocation of iTaukei and designated state land. The 2014 audit report focused on the examination of systems and processes that the LUD uses to establish plan and manage activities related to the management of the land bank for the achievement of its objective.

(iii) **Recording and monitoring of land bank activities to ensure Governments' objectives are appropriately met with due regard for economy.**

The last chapter seeks to establish whether the LUD has addressed the issues raised in the 2014 General Report with regards to the effectiveness and efficiency of the recording and monitoring arrangements in place within the LUD.

Our follow up audit focussed on the above areas as reported in the 2014 Auditor General's report and covered the period 2015 to 2017. Appendix 1 contains more information about our audit objectives and methods.

We conducted our follow up audit in accordance with the International Standards of Supreme Audit (ISSAI) 300:42 *Follow up previous audit findings and recommendations*, ISSAI 3000:136 *Auditor shall follow up, as appropriate, on previous audit findings and recommendations and the SAI shall report to the legislature* and section 9 of the Office of the Auditor General (OAG) Performance Audit Manual (PAM).

Reference to Comments

Comments provided by LUD during our audit have been incorporated in this report.

In accordance with s. 7 (7(1) (a)) of the Audit Act 1969, ISSAI 300:29 *Maintaining effective and proper communication with the audited entity* and 3000:129 *Giving the audited entity the opportunity to comment on the audit findings, conclusions and recommendations before issuing audit report*, we

also provided a copy of this report to LUD for comments on 15 November 2018. A copy p is at **Appendix 2**. We did not receive any response from the Ministry as at the date of finalisation of this report.

Key Facts

Land in Fiji is managed through three complementary systems - i-Taukei Land, freehold land and Crown Land.

Source: Department of Town and Country Planning
(<http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>)

The establishment of the Land Use Division was for four main purposes involving: (a) valuation of the land; (b) issuance and renewal of lease; (c) collection of rental; (d) and any other matter that may arise from time to time for land designated under this Act by the Prime Minister.

Source: Land Use Act 2010, Section 8.

Effective Management of the Land Reform Program

Only the Prime Minister may designate land.

Source: Land Use Act, 2010, Part II: 6(2) Act by the Prime Minister.

Composition of land ownership under the three systems comprise of 83%, 10% and 7% for i-Taukei, Crown and Freehold Land respectively. Whilst most freehold and crown lands are being utilized, most unutilized land comprises i-Taukei Land communally owned by members of Land Owning Units (LOU).

Source: Department of Town and Country Planning
(<http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>)

Designation of i-Taukei reserve is allowed if 60 percent of the qualifying members of the relevant LOU agree.

Source: Land Use Regulation 2010, Part II: 4 (1)

1.0 INTRODUCTION

1.1 Overview

- 1.1.1 In 2014 when the audit of the “Management of the Land Reforms” was conducted, the strategic development plan called “The Draft Peoples Charter for Change, Peace and Progress” and the State of the Nation and Economy Report identified two critical issues in Fiji as follows:
- vast amounts of land in Fiji currently lie idle or are greatly underutilized; and
 - a major national challenge is not only to increase the supply of land, under acceptable leasing arrangements, for agricultural, commercial or social purposes but also to transform the capital inherent in land into capital that can be used either to develop that land or as collateral in the financial market or for other economic and social purposes.
- 1.1.2 Whilst most freehold and crown land are currently being utilized, a large portion of unutilized land comprises i-Taukei land communally owned by members of Land Owning Units (LOU). As such, the Land Use Act 2010 and Land Use Regulations 2010 were promulgated to provide:
- for the establishment of the LUD to administer the land reform program; and
 - for the institutional arrangements that will enable utilization of all idle land as well as providing maximum return to the i-Taukei land owners and optimal returns to the State.
- 1.1.3 Following our 2014 performance audit on the topic “Management of the Land Reform Program”, we made 20 recommendations with respect to issues identified during our audit. This follow up audit is conducted to establish the status of implementation of the 20 recommendations as well as other issues highlighted in the 2014 report. The report was deliberated by the Public Accounts Committee (PAC) on 17 January, 2018.
- 1.1.4 Since our audit the LUD has made changes in its internal structure together with its responsibility in 2016. It now consists of seven units which are governed by the Land Use Act 2010 and Land Use Regulations 2010.

1.2 Report 3: Audit Report on Performance Audit Volume II of December 2014

- 1.2.1 In the *Management of the Land Reform Program* (Audit Report on Performance Audit Volume II of December 2014), we examined the activities of the LUD in administering the Land Bank Investment scheme for the years 2011 to June 2014. The report emphasised on the policies, systems and processes and other related measures undertaken by the Division for the achievement of objectives outlined in the Land Use Act 2010 and the Land Use Regulations 2010.

- 1.2.2 In the report, we focused on the effectiveness of the actions of the LUD and key stakeholders in implementing Government's land reform program via the land bank investment scheme by examining:
- I. The adequateness of policies and procedures governing land reform;
 - II. The systems and processes for land designation and allocation under the land bank; and
 - III. The recording and monitoring of land bank activities to ensure Governments' objectives are appropriately met with due regard for economy.
- 1.2.3 The audit made a total of 20 recommendations, of which 4 related to policies governing the administration of land reform, 11 relating to systems and processes for land designation and allocation and 5 covering the recording and monitoring of Land Bank Activities.

1.2.4 We concluded in the 2014 audit report

- 1.2.4.1 The overall effectiveness of managing land bank activities is hampered by the lack of documented policies and procedures that clearly provide guidance and instructions on how various activities are to be carried out. In addition, failure to carry out proper feasibility studies, the physical attributes and location of designated land, lack of access and delays from stakeholder agencies contributes to the accumulation of designations thus delaying the efficient allocation of vacant land. Furthermore, poor record keeping and continuous staff movements have also affected the efficient management of land bank activities.

1.2.5 We found in the 2014 audit report

- 1.2.5.1 The 2014 audit looked into records held at the Land Use Division for the years 2011 to June 2014. During the audit, we found that the Division had continued to use the draft Standard Operating Procedures (SOP). In addition, the auditors found that there was a lack of policy to govern the administration and implementation of performance bonds and mortgages over designated leased land. Also, there was a lack of policy and guidelines on the administration of state freehold land under the Buy Back Scheme.
- 1.2.5.2 We also found that there were weaknesses noted in the systems and processes for land designation and allocation at the Land Use Division. We noted that there were deficiencies in awareness and consultation activities.
- 1.2.5.3 On the other hand, while we also noted that the Land Use Division followed due processes in obtaining consents from LOU's prior to the designation of land by the Prime Minister. However, the Division did not carry out capability studies. Thus the use of the land is not properly identified.
- 1.2.5.4 Advertising provides an effective platform of communicating to the public the availability of vacant land. However, we found that the LUD did not properly advertise all designated land and did not fully utilize other effective platforms for advertising available land.
- 1.2.5.5 We further noted that some leases were issued prior to obtaining survey approvals. Moreover, we found that processes outlining the various activities that have to be

undertaken by the LUD for the construction of access roads were not documented in the agency's SOP and payments were made even in the absence of obtaining engineering designs. This resulted in the additional acquisition payments made due to error in road construction.

- 1.2.5.6 We also found that land valuations were conducted prior to carrying out proper land surveys and the LUD failed to carry out proper assessment prior to issuing some leases.
- 1.2.5.7 There were also notable deficiencies with the recording and monitoring of the land bank activities. We found that the LUD did not develop a database for recording and monitoring of land bank activities as well as to capture and manage complaints received by the Division.
- 1.2.5.8 Also, we noted that the Division did not maintain proper records of the land bank activities and there was no documented guidelines for the monitoring of leases and the LUD failed to appropriately monitor conditions of Lease/MoA.

1.2.6 We recommended in the 2014 audit report

- 1.2.6.1 We made 20 recommendations in *Management of the Land Reform Program (Report 3 of Audit Report on Performance Audit Volume II of December 2014)*. In their revised comments which were presented to the PAC during the report deliberation on 17 January 2018, LUD fully agreed to 12 recommendations, disagreed with seven and it was not clear as to whether the Division agreed or disagreed with the one recommendation.
- 1.2.6.2 Figure A lists the recommendations and gives our 2018 assessment of the progress made towards their implementation.

2.0 SUMMARY OF FOLLOW-UP AUDIT FINDINGS

2.1 Progress made by the Land Use Division

2.1.1 In September 2018, we set out to establish whether the LUD had effectively implemented the recommendations we made in Audit Report on Performance Audit Volume II of December 2014. We found that the Land Use Division has made some progress in that they have fully implemented some recommendations while others have not been implemented at all, reasons for which has been provided by the Division. Table 1 shows our recommendations and whether they have been implemented and Figure 1 is a graphical representation of our assessment of LUD's implementation status.

Table 1: Implementation status of recommendations made in Report 3 of Audit Report on Performance Audit Volume II of December 2014

	RECOMMENDATION MADE IN ORIGINAL AUDIT (SUMMARY)	LAND USE DIVISION AGREED/DISAGREED	LAND USE DIVISION IMPLEMENTATION TIMEFRAME	OAG ASSESSMENT OF STATUS
1. Policies governing the administration of land reform				
1.1	Pursue the endorsement of its SOP to validate its authority.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Endorsed in 2015	Recommendation fully implemented. However, the Ministry has planned to amend the SOPs and to be finalized within the next 6 months.
1.2	Formulation of a policy and specific guidelines on Performance Bonds.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Six months from 31 October 2018.	Recommendation partly implemented. Performance bond processing procedures is planned by the ministry to be finalized within the next 6 months from 31 October 2018.
1.3	Develop a policy on consent to mortgage land.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response Agreed to developing procedures. 	Six months from 31 October 2018.	Recommendation not implemented. However, guidelines on how to execute mortgages will be captured in the amendments to the SOP and will be finalized within the next 6 months.

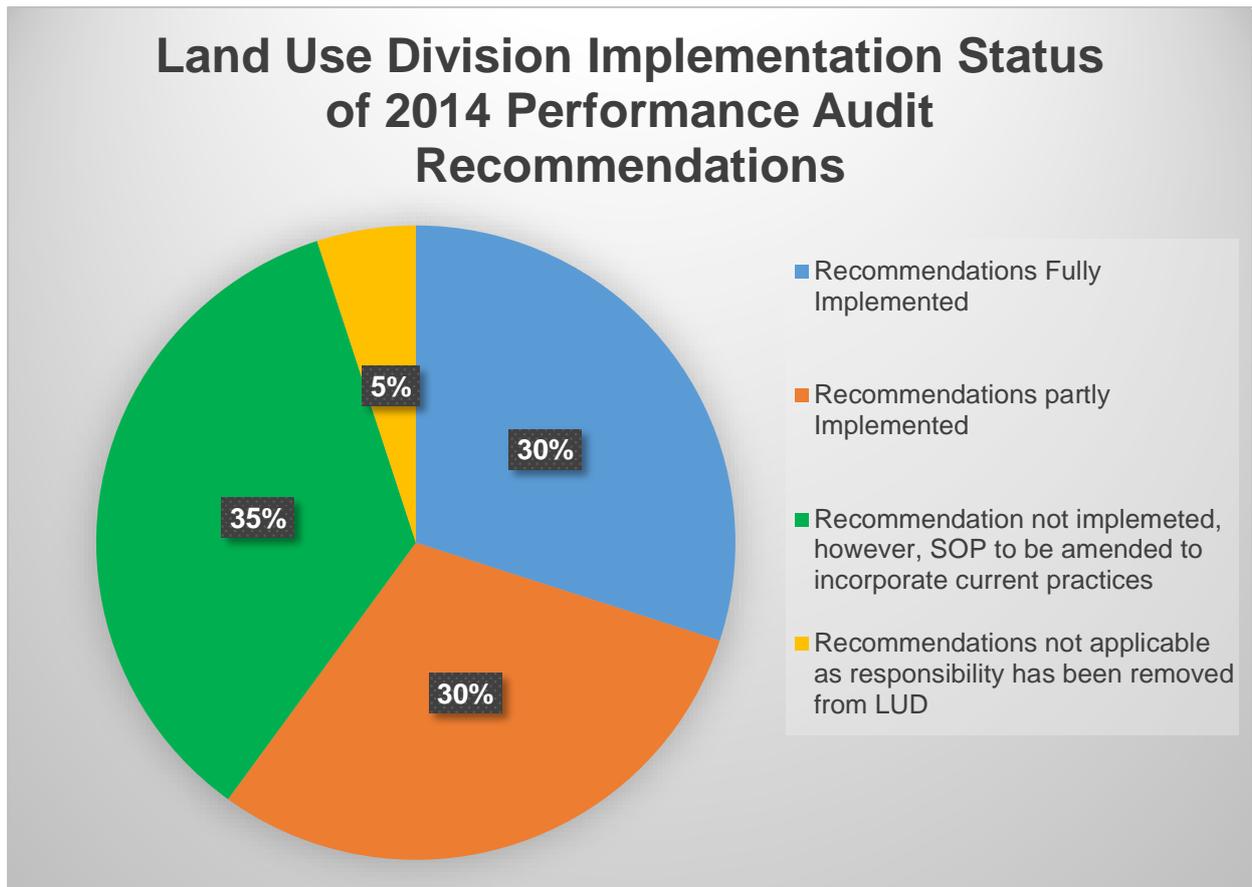
	RECOMMENDATION MADE IN ORIGINAL AUDIT (SUMMARY)	LAND USE DIVISION AGREED/DISAGREED	LAND USE DIVISION IMPLEMENTATION TIMEFRAME	OAG ASSESSMENT OF STATUS
1.4	Develop appropriate policies/procedures for administering state freehold land.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Disagreed 	Six months from 31 October 2018	Recommendation not implemented. However, processes and procedures that was undertaken then which resulted in the designation of the existing buy-back lands will be incorporated into the amendments to the SOP. The ministry plans to finalize this within the next 6 months.
2. Systems and processes for land designation and allocation				
2.1	Disseminate all significant information to LOU's during the awareness creation forums.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Ongoing Six months from 31 October 2018	Recommendation fully implemented. However, the LUD plans to develop and implement evaluation systems to review the effectiveness of information disseminated through its awareness and consultation sessions.
2.2	Have a more proactive approach in planning and creating awareness activities.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Ongoing Six months from 31 October 2018	Recommendation fully implemented. However, LUD plans to develop and implement evaluation systems to review the effectiveness of information disseminated through its awareness and consultation sessions.
2.3	Conduct a capability study prior to designating land.	<ul style="list-style-type: none"> ▪ Initial Response – Disagreed ▪ Revised Response - Disagreed 	SOP will be amended to incorporate current practice tice requires the conduct of the "Viability test" instead of the "capability study"	Recommendation not implemented. However, LUD plans to amend SOP to incorporate the new practice of prioritizing viability tests rather than capability/feasibility

	RECOMMENDATION MADE IN ORIGINAL AUDIT (SUMMARY)	LAND USE DIVISION AGREED/DISAGREED	LAND USE DIVISION IMPLEMENTATION TIMEFRAME	OAG ASSESSMENT OF STATUS
				studies, and to be finalized within the next 6 months from 31 October 2018.
2.4	Clearly define procedures in the LUD's SOP for advertising vacant land.	<ul style="list-style-type: none"> ▪ Initial Response – Disagreed ▪ Revised Response - Agreed 	Ongoing` Due in six months from 31 October 2018	Recommendation not implemented. However, LUD plans to make amendments to the existing SOP, capturing the appropriate time to advertise vacant land and will be finalized within the next six months.
2.5	Utilise other effective platforms for the advertising vacant lands and work towards formalising an MOU with Investment Fiji to advertise all available land.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response – Disagreed 	Ongoing Due in six months from 31 October 2018	Recommendation partly implemented as current practice involve the production of dossier of available designated land which is distributed to stakeholders. Marketing strategies to be reconsidered.
2.6	Ensure a proper survey is carried out and approved plans are obtained prior to the issuance of any lease.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response – Agreed 	2015`	Recommendation fully implemented.
2.7	Document acquisition procedures in its SOP.	<ul style="list-style-type: none"> ▪ Initial Response – Disagreed ▪ Revised Response - Agreed 	Agreed to implement in the next six months from 31 October 2018.	Recommendation not implemented. However, LUD is amending the SOP to capture the process of constructing access roads in the event that properties are inaccessible and there is a need to construct roads. This will be finalized within the next six months.

	RECOMMENDATION MADE IN ORIGINAL AUDIT (SUMMARY)	LAND USE DIVISION AGREED/DISAGREED	LAND USE DIVISION IMPLEMENTATION TIMEFRAME	OAG ASSESSMENT OF STATUS
2.8	Ensure proper planning and good engineering principles are conducted prior to payments of land acquisition and construction of access road.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Disagreed 	The current government arrangements has removed the road construction functions to FRA.	Recommendation not applicable, as FRA will be responsible for the public roads developments while private developments such as housing subdivision will be the responsibility of the developer.
2.9	Conduct valuations prior to conducts of land surveys for estimating value of land and to conduct proper valuation after completing actual survey.	<ul style="list-style-type: none"> ▪ Initial Response – Disagreed ▪ Revised Response - Disagreed 	DLU has committed to amending the SOP within six months from 31 October 2018.	Recommendation not implemented. However, amendments to the SOP will capture the provision of tentative valuations, and the conduct of proper valuations after land is surveyed. This will be finalized within the next six months.
2.10	Ensure applicants provide all necessary information, assessed by a lease allocation committee, before recommending granting of lease.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Ongoing	Recommendation partly implemented and the amendments to the SOP will capture the respective screening processes which will be finalized within the next six months.
2.11	Develop a MoU with Investment Fiji that clearly defines each agency's responsibility in carrying out background checks on foreign investors and provide trainings to relevant personnel for effective background checks.	<ul style="list-style-type: none"> ▪ Initial Response – No comment ▪ Revised Response - Disagreed 	Ongoing	Recommendation not implemented. However, LUD is reviewing the SOP to include engagement with other key stakeholders on background checks for foreign investors, due within six months from 31 October 2018.
3. Recording and monitoring of land bank activities				
3.1	Advertise terms of reference for developing land bank database.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Within seven months if developed within or 31 July 2019 if outsourced.	Recommendation partly implemented and still negotiating with ITC regarding the

	RECOMMENDATION MADE IN ORIGINAL AUDIT (SUMMARY)	LAND USE DIVISION AGREED/DISAGREED	LAND USE DIVISION IMPLEMENTATION TIMEFRAME	OAG ASSESSMENT OF STATUS
				development of the Land Bank Database.
3.2	Maintain proper records of all complaints received.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response – Agreed 	Ongoing	Recommendation fully implemented.
3.3	Implement good record keeping practices and which abides by the National Records Management Policy.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Ongoing	Recommendation partly implemented, as some issues relating to poor record keeping still persists.
3.4	Incorporate monitoring procedures in the Division's SOP.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Draft amendments to SOPs to be finalised within six months from 31 October 2018.	Recommendation partly implemented as the LUD has developed a monitoring template but the monitoring procedures have not been captured in the existing SOP. Therefore, there will be amendments made to the existing SOP, capturing the monitoring guidelines of the Division which will be finalized within the next six months.
3.5	Ensure that: a tallyman is present at the Nawailevu mining site on a daily basis; spread sheet records of all minerals extracted for mining leases are maintained and updated; relevant stakeholders are consulted prior to finalising lease agreements; and all access road construction works monitored by qualified personnel.	<ul style="list-style-type: none"> ▪ Initial Response – Agreed ▪ Revised Response - Agreed 	Ongoing	Recommendation fully implemented.

Figure 1: Graphical representation of OAG assessment of LUD’s implementation status



3.0 AUDIT CONCLUSION

- 3.1 The LUD has made concerted efforts to address the underlying issues we identified in our 2014 audit. With regards to the section on policies governing the administration of land reform, the LUD has partially implemented recommendations made in the report. Major improvements has been made by the Division in finalizing and endorsing the Standard Operating Procedures (SOPs). However, a lot more needs to be done on other issues under this section of the report. One of the critical tasks include policy development relating to performance bonds, governing mortgages over designated leased land and on the administration of state freehold land under the buy-back scheme.
- 3.2 The Division is yet to fully implement recommendations made in the report with regards to systems and processes for land designation and allocation.
- 3.3 With regards to recording and monitoring of land bank activities, the LUD has fully implemented three out of five recommendations made in the report.
- 3.4 The implementations of the recommendations agreed to by the Land Use Division would be enhanced if definite timelines are mapped and monitored. Therefore, LUD has agreed to implement recommendations within the next six months from date of meeting on 31 October 2018.

4.0 AUDIT CONTEXT

4.1 Policies governing the Administration of the Land Reform Program

This chapter covers progress made by LUD in addressing the issues raised in the 2014 Report with regards to the existence and effectiveness of policies and procedures governing the management of land bank activities.

4.1.1 Standard Operating Procedures (SOPs)

In the 2014 report, we recommended that the Land Use Division pursue the endorsement of its SOPs to validate its authority.

4.1.1.1 In our original audit, we found that the work of the Land Use Division is guided by the Ministry of Lands and Mineral Resources (MLMR) Land Use Division SOPs which was still in its draft version. The draft SOPs manual defines the processes to be followed by the various sections within the LUD in executing its functions as required under the Land Use Act 2010 and the Land Use Regulations. The draft SOPs define procedures for the following activities undertaken:

- (i) Awareness program;
- (ii) Designation of land, that is, for both i-Taukei and State land;
- (iii) Registering of deed of trust for landowners;
- (iv) Land feasibility/capability studies;
- (v) Surveying of designated land, that is, for both i-Taukei and free hold land;
- (vi) Allocation of land, that is, for personal/individual applications for advertised vacant designated land, for business applications, and for interested overseas investors/applicants;
- (vii) Valuation work;
- (viii) Preparation of lease documents, and
- (ix) Advertising of vacant designated land.

4.1.1.2 Furthermore, in 2014, we noted that the draft SOPs for the LUD differs slightly from the MLMR SOP for Administration of State Land as the Land Use Act 2010 and Regulations framework require additional procedures that cover for the Landowners consensual agreements, the Land Use Capability Reports, designations by the Honorable Prime Minister, the survey of i-Taukei and State lands, the Market Value Valuation on i-Taukei and State Land, surveying of i-Taukei lands and impositions of relevant leasing conditions as prescribed in the Act and legislations. The LUD is also required to compile the SOPs for the administration of State Freehold purchased for land owning units through the Government Buy Back Scheme.

4.1.1.3 Since the draft SOPs is not endorsed, it may lack authority and be disregarded or not complied with by administrators, thus giving rise to non-compliance or inconsistencies in work practices, and which may also bring about a lack of accountability for actions undertaken.

4.1.1.4 In response to our 2014 original audit, the LUD agreed with this recommendation and commented that the Division has always operated within the jurisdictions of the Land Use Act and Regulations and more or less aligned itself to the SOP for Lands Department. However, in 2018, the Division's comments to the PAC during the report deliberation noted that the Divisions SOPs is now formalized within the Ministry's final SOP edition launched in December 2015.

4.1.1.5 Progress made

4.1.1.5.1 As recommended and as indicated in their revised comments to the PAC in 2018, the Ministry of Lands and Mineral Resources has endorsed its SOPs. While we sighted the endorsed SOP, it was noted that the relative dates for reviewing or revising the SOPs were not captured accordingly.

4.1.1.5.2 Further discussions with the Director Land Use (DLU)¹ revealed that amendments to the SOPs has commenced, following the 2016 restructure. A copy of the organization structure under the revised 2016 restructure was also sighted.

4.1.1.5.3 Moreover, it was also noted² that the amendments to the SOPs will be aligned to the National Development Plan (NDP). One of the goals of the Ministry is on the Enhancement of Land Use Administration. Under this goal, there are three key strategies:

- (i) Capacity building for the development of the Land Use Division;
- (ii) Improve development and access of i-Taukei Land; and
- (iii) Efficient and effective improvement of Land Use Administration.

4.1.1.5.4 The above strategies (captured in pages 87 to 89 of the NDP) also contain the targeted outcomes of the LUD.

4.1.1.5.5 While we acknowledge the work done to get the SOPs endorsed, two years have lapsed without the amendments being finalized. We further noted that no specific timelines was prescribed for the completion, incorporation and endorsement of the amendments to the SOPs.

4.1.1.5.6 We were informed³ that the delay in finalizing amendments is due to prolonged time it takes to consolidate amendments as they are prepared by the Team Leaders of the seven units of the LUD. In addition, these consolidated amendments will need to be endorsed by the Minister and Permanent Secretary for Lands and Mineral Resources which contribute to delays in the finalization process.

4.1.1.5.7 Further delays in finalizing amendments to the SOPs to incorporate changes that have eventuated after the 2016 restructure leads to unauthenticated practices being performed by officers in the Land Use Division.

¹Discussions held on 24 September 2018

² Discussions held on 24 September 2018

³ Discussions held on 24 September 2018

4.1.1.6 Next steps`

4.1.1.6.1 While the Ministry of Lands and Mineral Resources has formalized the endorsement of its SOPs which encompasses the work of the LUD, to completely address this recommendation, the LUD needs to:

- (i) Specify timelines for input from the Team Leaders of the seven units reflecting changes that have eventuated following the 2016 restructure; and
- (ii) Pursue finalizing amendments to the SOP to incorporate changes post 2016 restructure without delay.

4.1.1.6.2 The Permanent Secretary for Lands and Mineral Resources (PSLMR) and DLU have agreed that amendments to the SOP will be finalized within the next 6 months from date of the meeting held on 31 October 2018.⁴

⁴ Exit meeting on 29 October 2019

4.1.2 Performance Bond Policy

In 2014, we recommended that the Land Use Division formulate a policy and specific guidelines on Performance Bonds which should clearly define the types of leases for which performance bond should be imposed, the formula to be used when calculating the bond, and the basis on which performance bond may be reimbursed to ensure consistency of application of performance bonds that uphold fairness for all investors, economic security for Government, and landowning rights for LOUs.

In addition, upon deliberating the report before the Public Accounts Committee in 2018, the Committee recommended that pursuant to the recommendation set out by the Auditor-General at the time of the audit was to formulate a policy and specific guidelines on Performance Bonds. It is therefore recommended by the Committee that it was critical for the Ministry to finalize and execute this policy on Performance Bond to avoid the use of Performance Bond on the payment of royalties. In addition, the Public Accounts Committee recommended for the Auditor-General to conduct a follow up audit on the officer responsible for authorizing payment of royalty from the Performance Bond that was paid to Tengy Cement Company Fiji Limited and the conditions set out in the Memorandum of Agreement whereby Companies failed to agree to the terms.

4.1.2.1 A Performance Bond is a form of guarantee to be submitted by a contractor who obtains a contract from the Government, and is held by the Government to protect its interest and to ensure that the contractor performs all obligations under a contract. A policy should exist to clearly define the relevant arrangements and method to be used in charging and reimbursing such a bond. The determination of performance bonds for procurements of goods and services by Government from a contractor is guided by the Procurement Regulations and the Ministry of Finance Determination of Performance Bond Policy 2013.

4.1.2.2 In the 2014 audit, we noted that there was no policy prescribing the imposition, receipt and subsequent release of performance bonds on leases issued under the land bank scheme. There was also no documented guidelines describing situations requiring performance bond, the basis on which performance bond was determined, and criteria for its subsequent reimbursement to the lessee (i.e. whether based on the performance of the lessee). Our audit had also established from records scrutinized that the LUD charged a performance bond for a number of leases issued for i-Taukei land designated under the land bank. Details of some leases identified in the 2014 report that were issued conditional to payment of a performance bond are provided below:

Table 2: Leases issued conditional on payment of performance Bond

Lessee	Type of Lease	Term of Lease	Amount \$
iViti Renewable Energy Power Plants Company Ltd.	Commercial/Industrial Energy Processing Plant	99 years	100,000
GS Energy (Fiji) Ltd.	Special Lease	99 years	100,000
National Spring Freshwater (Fiji) Ltd.	Industrial–Special Use	99 years	100,000

Lessee	Type of Lease	Term of Lease	Amount \$
Tengy Cement Company (Fiji) Ltd.	Extraction—Soil, rock and soapstone	6 months	10,000
480 Holdings Ltd.	Water Extraction and Bottling	3 years	Lease agreement indicates a performance bond but no cost specified. No bond has been paid by the company

Source: Performance Audit Report, 2014 on Management of Land Reform Program, table 4.1, p.13.

- 4.1.2.3 For performance bonds imposed on leases issued under a term of ninety years, the Memorandum of Lease provides that the bond will be reimbursed to the lessee within the next five years from the effective date of the lease if the Director of Lands (DL) is satisfied with the company's performance. The consent of the Director of Lands is required prior to uplifting of the bond.
- 4.1.2.4 Although a performance bond is required to be held by the bondholder for the duration of the bond period, the 2014 report noted that the performance bond paid by Tengy Cement Company Fiji Limited was utilized to meet royalty payments for soil extracted as requested by the company during the bond period. Despite the performance of the company, in failing to comply with various conditions outlined in the MOA and its actions resulting in additional compensation paid by government, the LUD entertained its request for the use of the performance bond for royalty payments.
- 4.1.2.5 Thus, in the absence of a policy, basis of charging performance bonds and subsequent reimbursements will be inconsistent and subjective.
- 4.1.2.6 In response, the LUD had agreed with this recommendation and commented that currently, the Division has no policy of imposing, determination and release of Performance Bond. However, it has adopted the principle of security as mentioned under item (9) of the Reference Schedule of a Registered Lease [Annexure A of the Land Use Regulations]. Further to this, Fiji Procurement Officer's (FPO) guideline on Security Deposits had also been adopted. Nonetheless, the LUD agreed with audit findings in that they need a policy in place to regulate this.
- 4.1.2.7 However, in 2018, the Division's comments to the PAC during the report deliberation noted that the that the policy is in its developing stage aligned to the existing clauses of the Mining Act and the provision of Security under item 9, annexure A of the reference schedule and special conditions of the Land Use Regulations. More consultation with relevant stakeholder is needed to put this policy paper together.

4.1.2.8 Progress made

- 4.1.2.8.1 This follow-up audit gathered that no policy on performance bonds has been drafted so far. We further noted that no specific timelines was prescribed for the completion and endorsement of the performance bond policy.
- 4.1.2.8.2 We noted that the delay in developing a performance bond policy is due to the need for more consultation with relevant stakeholders in order to finalize the paper.⁵ Furthermore, the LUD was a new division and officers were not aware of how it should be applied.⁶

4.1.2.9 Next steps

- 4.1.2.9.1 For the LUD to completely address this recommendation, given the existence of the number of leases issued conditional on payment of performance bond, the LUD should:
- I. Specify a timeline for development of the performance bond policy; and
 - II. Finalize and execute this policy on Performance Bond to avoid the use of Performance Bond on the payment of royalties.
- 4.1.2.9.2 As aforementioned, in the absence of a policy, basis of charging performance bonds and its subsequent reimbursements will be inconsistent and subjective. However, the DLU advised that a draft terms of reference has commenced.⁷ However a copy of the draft document was not provided for audit scrutiny.
- 4.1.2.9.3 The PSLMR and DLU have agreed that the performance bond policy will be finalized within the next 6 months from date of the meeting held on 29 October 2018.⁸

⁵ LUD revised comments to the PAC on 15 January 2018 and verbatim notes of meeting of the Standing Committee on Public Accounts on 17 January 2018, paragraph 3, p.3.

⁶ Verbatim notes of meeting of the Standing Committee on Public Accounts on 17 January 2018, paragraph 7, p.3.

⁷ Discussions held on 24 September 2018

⁸ Exit meeting on 29 October 2019`

4.1.3 Mortgage over designated leased land

In 2014, we recommended that the Land Use Division should develop a policy on consent to mortgage land prescribed under the Land Use Act 2010 and Land Use Regulations 2010. The policy should incorporate specific requirements that guarantee funds obtained from the mortgaging of land are used primarily for the purpose of the project to which the lease was issued.

In addition, upon deliberating the report before the Public Accounts Committee in 2018, the Committee recommended that the Ministry should finalize a policy (Cabinet Paper yet to be finalized) that will incorporate the processes of transferring freehold buy back land to land owners. The Committee proposed that by finalizing a policy that incorporates the processes of transferring freehold buy back land to owners, it will assist in the development of a Policy on consent to mortgage land prescribed under the Land Use Act 2010 and Land Use Regulation 2010. The Committee also suggested that the policy should also incorporate specific requirements that guarantee funds obtained from the mortgaging of land are used primarily for the purpose of the project to which the lease was issued.

- 4.1.3.1 According to Section 12 (1) of Part of 5 of the Land Use Act, ‘All leases issued under this Act are protected leases. Therefore, it shall not be lawful for the lessee thereof to alienate or deal with the land comprised in the lease of any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the DLU, shall any such lease be dealt with by any court of law or under the process of any court of law, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease’.
- 4.1.3.2 Our 2014 audit found out that there was no policy in place to clearly define the pre-requisites pertaining to granting of ‘consents to mortgage’ land designated into the land bank. However, we noted two incidences where lessees of i-Taukei land issued under a protective lease had applied for consents to a mortgage under the Crown Lands (Leases and Licenses) Regulations 1980 over the said i-Taukei lands. The two applications for consents to mortgage for which consent was given by the Director of Lands and are listed in Table 3 below.

Table 3: Mortgages over i - Taukei land leased

Mortgaged Land	Land Area	Mortgagor	Mortgagee	Residential Address of Mortgagee	Sum Obtained for Mortgage
Matenamano	71.0910ha	Iviti Renewable Disenergy Power Plants Company Limited	GS Energy Limited	18/8 Dennis Road, Springwood Queensland Australia 4127	AU\$466,950.21 plus interest and charges
Yaukuvelevu Island & Qasibale Island	54.6048 ha	Kokomo Resorts Limited	Senibong Properties PTE Limited	138 Cecil Street, #18-00 Cecil Court, Singapore, 069538	FJ\$9,292,352.00

Source: Performance Audit Report, 2014 on Management of Land Reform Program, table 4.2, p.14.

- 4.1.3.3 We highlighted in the 2014 audit report that the lessees as Mortgagors have mortgaged the leased land to the Mortgagee as security for payment of secured money. We further noted that Iviti Renewable Disenergy Power Plants Company Limited did not honour its obligation under the Memorandum for Lease resulting in its lease being cancelled. Claims made by the mortgagee for the substantial amounts of funding it had provided the lessee (mortgagor) resulted in the cancellation of the lease. However, the land was not re-advertised but was reissued to GS Energy Limited, having been the approved mortgagee for the land.
- 4.1.3.4 Thus, the lack of a policy pertaining to granting of ‘consents to mortgage’ land designated into the land bank presents a susceptibility to manipulation, as investors (lessees) may use this instrument as a means of obtaining funds to be utilized for purposes other than as initially intended for the lease.
- 4.1.3.5 In response to our 2014 audit, the LUD had agreed with audit findings in that they need a Policy in place for consent in line with usage of funds which should be done in mutual agreement with financial institutions. The Division further commented that provision is given under the Land Use Regulations Annexure B General Conditions.
- 4.1.3.6 However, in 2018, the Division’s submission to the PAC during the report deliberation noted that the that the policy is in its developing stage and being aligned to the existing clauses of the Mining Act and the provision of Security under item 9, annexure A of the reference schedule and special conditions of the Land Use Regulations. More consultation with relevant stakeholder is needed to put this policy paper together.

4.1.3.7 Progress made

- 4.1.3.7.1 The LUD has taken no action so far in terms of developing a policy to clearly define the prerequisite pertaining to granting consents to mortgage land designated into the land bank.
- 4.1.3.7.2 The non-action of the Land Use Division in developing a policy to govern mortgages over designated leased land is due to points highlighted by DLU, that the development of a policy would contradict the provisions of the Property Law Act. However, section 9 of the Land Use Act states that if there are any inconsistencies between the various Acts, the Land Use Act prevails and supersedes the rest. Further, it was reiterated that with the establishment of any policy, the property will not be subject to the open market operations and property transactions because restrictions have been placed, and as such many do not opt to transact with the Land Bank because it will be handicapping the property market and the economy will be affected as well. We were also reminded that if a policy was to be developed, it would restrict the stimulation of economic growth in Fiji.⁹
- 4.1.3.7.3 The lack of a policy pertaining to granting of ‘consents to mortgage’ land designated into the land bank presents a susceptibility to manipulation, as investors (lessees) may use this instrument as a means of obtaining funds to be utilized for purposes other than as initially intended for the lease.

⁹ Discussions during entry meeting on 14 September 2018

4.1.3.8 Next steps

- 4.1.3.8.1 While the LUD has presented very strong arguments against the development of any policy for governing any mortgages over designated leased land, to completely address this recommendation, the Division should re-look into the recommendations provided in the 2014 report and the Public Accounts Committee.
- 4.1.3.8.2 The LUD should note that the audit recommendation is that a policy should be developed as a control measure to avoid the instances which were highlighted in our 2014 report.
- 4.1.3.8.3 The DLU responded that instead of a policy which would create a ceiling on the loans and disturb open market operations, there should rather be a guideline on how to execute mortgages. We agreed to this suggestion and DLU has confirmed that the guidelines will be captured in the amended SOP as there is an absence of mortgage provisions in the current SOP. This will be finalized within the next six months from date of meeting 29 October 2018.¹⁰

¹⁰ Exit meeting on 29 October 2019 (Documented).

4.1.4 Administration of State Freehold land under the buy-back scheme

In 2014, we recommended that the Land Use Division, develop appropriate policies/procedures to clearly outline necessary arrangements for administering state freehold land. This should include: the relevant processes required prior to the issuance of a new lease that should take into consideration the provisions of the initial Sales and Purchase Agreement between respective LOU's and Government; the appropriate term of lease to be imposed to the lessee considering the amount of repayments that has been done by the LOU and the remaining years for repayments. This would then determine the appropriate term of the lease issued by LUD; method of determining lease payments to be made under the lease and the ownership and tenure of the Buy Back lands after full payments have been made on the purchase price of the land.

In addition, upon deliberating the report before the Public Accounts Committee in 2018, the Committee recommended that the Ministry should finalize a policy (Cabinet Paper yet to be finalized) that will incorporate the processes of transferring freehold buy back land to land owners.

- 4.1.4.1 According to Section 3(a) of Sale and Purchase Agreements between the Minister of Lands and Mineral Resources and Trustees of Land Owning Units purchasing land under the Government Buy Back Scheme, if the Trustees default in the due payment of the moneys herein before covenanted to be paid then the Minister shall rescind this agreement and require the trustees to hand over the vacant possession of the land to the Director of Lands and all moneys paid hereunder shall be forfeited.
- 4.1.4.2 Section 2.1 of Cabinet Memorandum regarding the Current Status on the Freehold lands purchased by Government for original i-Taukei Landowners under the buy-back scheme of May 2014 states that the Government Buy Back Scheme established in 1993 under Cabinet Decision No. 166 was an initiative of the then Government to assist original i-Taukei landowners who had little or no cultivable agricultural land in buying back ancestral land alienated as freehold lands for their socio economic well-being. Section 2.2 of Cabinet Memorandum regarding the Current Status on the Freehold lands purchased by Government for original i-Taukei Landowners under the buy-back scheme of May 2014 states that under the Scheme, Government on behalf of i-Taukei landowners purchased 26 private freehold lands with total land area of 8,520.74 acres at a fair and market price determined by government registered valuers. The total sums paid by Government amounting to \$4,670,635.15 were treated as interest free loans with terms and conditions stated in the respective sales and purchase agreement (SPA) requiring that i-Taukei land owners would pay back the money loaned from Government within 30 years interest free before the titles are transferred to them.
- 4.1.4.3 In our 2014 audit, we found that most landowners that acquired land under the Government Buy Back Scheme had difficulties in repaying their loans to Government. Attempts at assisting the LOUs were unsuccessful mainly due to a lack of capital as well as restrictions in accessing financial assistance from banks and other lending institutions to enable them in developing their lands as titles for the lands were still held by the Director of Lands. Of the twenty six (26) LOUs assisted by Government, only one (1) LOU has completely paid off its loan of \$219,250.20 whilst four (4) LOUs have been up-to-date with their repayments.

- 4.1.4.4 The 2014 audit further revealed that as at 31 December 2011, twenty five (25) LOU's still owed Government a balance of \$3,423,551.34 in loans for the purchase of freehold lands on their behalf. Of this loan balance, \$881,915.07 constituted arrears owed by twenty one (21) LOUs. Furthermore, the report noted that of the remaining twenty one (21) LOUs, fourteen (14) are continuing their repayments while three (3) LOUs have not done any repayments since 2011. Four (4) LOUs have not made any repayments at all towards their loans due to the non-utilization of the subject land on commercial basis and their unsuccessful fundraising drive to collect funds for repayment. It was also noted that in February 2011, the Ministry of Lands prepared a Cabinet Memorandum for the purpose of seeking Cabinet's approval for the LUD to:
- I. Lease lands purchased under the Government Buy Back Scheme under the Land Use Act 2010; and
 - II. For the rentals to be directed to the repayment of the respective Land Owning Units (LOUs) outstanding loans to government.
- 4.1.4.5 An endorsement on an unsigned file copy of IGCP Cabinet Paper (2011) of February 2011 provided the LUD the directive to proceed for designation of freehold lands purchased under the Buy Back scheme.
- 4.1.4.6 The 2014 audit report further highlighted that fourteen (14) freehold lands purchased under the Buy Back scheme were designated into the land bank between 15 April 2011 and 20 November 2012. In addition, of the 14 freehold land, eleven (11) had been leased out by the LUD, with terms of the new leases ranging from thirty to ninety-nine years.
- 4.1.4.7 Also, during the audit conduct in 2014, a comparison of conditions of leases entered into initially with the land owning units and the new leases entered into above noted that:
- lease rentals for four new leases issued for land located at Vakabalea, Matakunea, Matasawalevu, and Tova, were less than repayments required from LOUs. With the exception of lease issued for land at Matakunea, loan balances for the other three leases issued will not be recovered under terms of the new lease.
 - tenure of three new leases issued are longer than the initial 30 year period granted to LOUs for the recovery of their loans.
- 4.1.4.8 Our 2014 audit acknowledged the achievement by the Land Use Division. The report further noted the absence of policy or guidelines articulating strategies for the management of buy-back land such as:
- I. administrative arrangements prior to issuance of new lease that ensures transparency and fairness to the LOUs; and
 - II. terms of new leases such as duration of lease, and quantum of lease rental to ensure consistency of application.
- 4.1.4.9 As a result, we were not able to establish the accuracy of terms of new leases entered into with available criteria.
- 4.1.4.10 Thus, absence of strategies and clearly defined policies can hinder the efficient and effective administration of buy-back land.

4.1.4.11 In response to our 2014 audit, the LUD had stated that no policy is in place and directive was given from Minister of Lands & Mineral Resources to issue lease. Research on management of state freehold land under Buy Back Scheme is underway and Division to pursue cabinet's approval on guidelines and policy on management of state freehold under buy back scheme.

4.1.4.12 However, in 2018 the Division submitted to the PAC during the report deliberation that the Sale and Purchase agreement executed between the LOU and State is a legally binding contract sufficient to govern the obligations of the lessee and the Director of Lands (the custodian of any state lease)/ Cabinet paper in its draft stage to be refined further to incorporate the process of transferring freehold buyback land to LOU as per SG's office vetting and directives.

4.1.4.13 Progress made

4.1.4.13.1 The LUD has taken no action so far because as highlighted by DLU, formulating a policy would contradict the Sales and Purchases agreement under the Property Law Act. Further, DLU pointed out that management at that time came up with this decision to buy-back land probably because of defaulting payment status of the landowners. Moreover, there have not been any new land buy-backs ever since its cessation in 2011. Therefore the number of land has remained the same ever since it was transferred to LUD. The only reason for the transfer was to facilitate the recovery process of the money that has been used by Government, focusing on just the collection of money. So when the new DLU came in, the status quo was followed. Therefore, developing a policy would also not be relevant now because all buy back land is already in the land bank.

4.1.4.14 Next Steps

4.1.4.14.1 While the LUD has presented very strong arguments against the development of any policy for the administration of state freehold land under the buy-back scheme, to completely address this recommendation, the Division should re-look into the recommendations provided in the 2014 report and those of PAC. The LUD should:

- Re-consider the development of a policy as a control measure and a proactive approach as additional responsibility has been given to the Division to recover funds from the LOU's; and
- Finalize and execute this policy to clearly outline necessary arrangements for administering state freehold land.

4.1.4.14.2 DLU advised that, they are no longer designating freehold buy-back land, so developing a policy would not be relevant. However, DLU confirmed that they will highlight the processes and procedures that was undertaken then which resulted in the designation of the existing buy-back lands, similar to the mortgage guideline, for standardization purposes.¹¹

4.1.4.14.3 It has been agreed that the documented processes and procedures will be finalized within the next six months.¹²

¹¹Exit meeting on 29 October 2018

¹² Exit meeting on 29 October 2018

4.2 Systems and Processes for Land Designation and Allocation

This chapter seeks to determine whether the Land Use Division has taken the necessary actions towards issues raised in the 2014 Report with regards to the existence and effectiveness of arrangements in place for designation and allocation of i-Taukei and designated state land. The 2014 audit report focused on the examination of systems and processes that the Land Use Division uses to establish plan and manage activities related to the management of the land bank for the achievement of its objective.

4.2.1 Consultation and Awareness

In 2014, we recommended that the Land Use Division should disseminate all significant information to LOU's during the awareness creation forums to ensure that landowners are properly informed of all the benefits and implications of designating their land into the land bank and enable them to make informed decisions. The report further recommended that the Land Use Division should have a more proactive approach in planning out awareness activities and consider utilizing other effective platforms for creating awareness on land bank activities such as attending Provincial Council meetings, Expo programs, road shows, etc.

In addition, upon deliberating the report before the Public Accounts Committee in 2018, the Committee recommended that the Land Use Division should ensure continuous awareness and dissemination of information right to the grass root level to enable landowners to be properly informed and implications of designating their land into the land bank and enable them to make better informed decision.

4.2.1.1 According to Section 1 of the LUD draft SOPs, the conduct of awareness programs by the Public Relations team sets the platform for the designation and the ultimate utilization of vacant land. The dissemination of all required information during the awareness programs and consultations conducted by the Public Relations team ensures that LOUs are privy to all relevant information to make informed decisions.

4.2.1.2 The Draft SOPs provide procedures for awareness creation at three levels:

- I. Awareness on Expo programs;
- II. Awareness for Provincial Council/Tikina meetings; and
- III. Awareness on invitations by landowning units.

4.2.1.3 Our 2014 audit established that the LUD usually undertook awareness activities mostly at the invitation of LOUs. The Division rarely utilized other effective platforms such as Provincial Council meetings or Expo programs to create awareness. As a result of the lack of awareness and communication strategies, the report noted that this may have led to misunderstandings by the LOU's as reflected in responses from LOU members interviewed.

4.2.1.4 Thus, the non-provision of complete and accurate information may lead to ineffective consultations.

4.2.1.5 In response to our 2014 original audit, the LUD had agreed with the audit findings and to pursue the endorsement of the SOPs and review staff establishment and that relevant trainings for communication and negotiation skills is being encouraged. However, in 2018, the Division submitted to the PAC during the report deliberation noted that that they are now working in collaboration with i-Taukei Affairs and Rural Development with the integration of all relevant roadshow programs, Provincial Council and Tikina meetings incorporated into its Annual Work Program. Reports and recommendations are collated and actioned accordingly. Awareness and consultations also increased and incorporated into the Divisions Annual Corporate Plan as a performance measure.

4.2.1.6 Progress made

4.2.1.6.1 The LUD, through the Public Relations team has significantly improved its record keeping mechanisms. They have now maintained a spreadsheet record for all awareness and consultation programs, roadshows, expos and provincial/tikina council meetings. Such records were not available during our 2014 audit and is seen as a very positive development.

4.2.1.6.2 The 2014 report also highlighted cases regarding misunderstandings with the LOUs. Hence, the status of each case highlighted in the report was reviewed during our follow-up audit. The responses provided by Principal Land Use Officer (PLU) are reflected in Table 4 below.

Table 4: Activities carried out after designation of land into the Land Bank with comments from follow-up audit

LOU	Location	Designation Date	Details	Comments from Follow-up
Mataqali Batileka	Koro Island, Lomaiviti	20/11/12	Land designated to land bank but LOU is cultivating land.	Not provided to audit
Mataqali Luvuka	Naviti, Yasawa	28/06/11	Following processes of advertising land by the LUD, one of the members of the LOU questioned the rights that LUD has in advertising the land when it has been agreed upon that the land be leased to him.	<ul style="list-style-type: none"> The land is advertised for transparency and to ensure we engage suitable investors who will also sustain the rentals. Not all the consenting LOUs would agree with the proposed lessor/LOU who wanted the land leased to him, hence due diligence was followed with all capable investors as options raised before the trustees and land owning community.
Mataqali Nakorosago	Nakorotubu, Ra	30/05/11	Land designated and surveyed but	<ul style="list-style-type: none"> Changing stance of land owners after the land was designated.

LOU	Location	Designation Date	Details	Comments from Follow-up
			trees are logged by landowners.	<ul style="list-style-type: none"> LUD had during the five year period brought few investors, which was rejected by the land owners. LOUs have since requested for cessation after five years have lapsed.
Mataqali Nakausoqo	Toga, Rewa	06/04/12	Landowners raised through the Nai Lalakai publication of 27/08/14 their need and attempts for the return of their designated land due to delays in the leasing of land and failure to receive any lease payments.	This has been resolved. As per our process now, leases are issued after survey is approved by DTCP after their scheme conditions are met and all relevant checks with local authorities are cleared. We now have two active leases in Nakausoqo (CIMAX & ANSARI).

Source: Performance Audit Report, 2014 on Management of Land Reform Program, table 5.1, p.22.

4.2.1.6.1 Disseminating all significant information to LOU's

- 4.2.1.6.1.1 The follow-up audit found that the LUD has now maintained a spreadsheet record for all awareness and consultation programs.
- 4.2.1.6.1.2 Scrutiny of the spreadsheet revealed that awareness/consultations carried out in 2016 and 2017 records were not recorded, whereas those carried out in 2017 and 2018 were properly captured.
- 4.2.1.6.1.3 The incomplete records pertaining to the years 2015 and 2016 was mainly due to the fact that the officer just came into the position in 2017 and no records existed for prior awareness/consultation. However, it is pleasing to see the Public Relations Unit's initiative in trying to capture all awareness and consultation activities from 2017 till date of this follow-up audit report.
- 4.2.1.6.1.4 In addition to the above, the preparation of comprehensive reports of awareness and consultations carried out, which were required to be prepared at the end of every awareness and consultation visit, shows the positive work that the Public Relations team of the LUD is undertaking.
- 4.2.1.6.1.5 The impact of each awareness and consultation is evident as highlighted by the Director Land Use in her submission to the PAC. It was confirmed by our audit that recommendations from the reports are collated and actioned accordingly.

4.2.1.6.1.6 During the follow-up audit, we selected some activities from the spreadsheet to determine whether reports were prepared accordingly. Scrutiny of the awareness and consultation reports, revealed the following types of information were disseminated during the awareness and consultation sessions:

- I. The main purpose of the visitation was to confirm their interest in depositing their land into the land bank;
- II. Brief on the objectives of the Division, including the background of the Land Bank establishment, Land Use Act, process of depositing Land into the Land Bank;
- III. Advantages of depositing Land into the Land Bank Division including zero survey cost to the LOU's, seeking investors through social media, newspapers and television and 100% full payment of lease monies will be deposited into the LOUs account, plans for regular communication with LOU's regarding the development of their Land, Land will be valued for its market price or value and no fee is required, and LOU will be informed on the phases of development on their land;
- IV. Requirements that is need from LOU to deposit their Land into the Land Bank which included the 60% consent requirement from members of the LOU, requirement for consenting members to be registered under the Vola ni Kawa Bula (VKB), Age of consent from 18 years old and above, five members of the LOU will have to be selected as trustees, and land deposited should be unencumbered;
- V. Lease types including:
 - Residential – 99 years;
 - Agriculture – 20 to 30 years;
 - Commercial – 30 years;
 - Industrial or
 - Term of lease will be based on the analysis made by the Division.
- VI. Utilization of the Land:
 - LOU has the right to lease the parcel that has been demarcated.
 - LOU also has the right to look for investors to develop the ;and
 - LOU has the right to the Land with the investor (financier).
- VII. If there is no development of land in the last five year of designation, the LOU may have the right to request the Prime Minister to withdraw the land from the designation or continue with another five years or more;
- VIII. When the land is returned after five years to the mataqali, it will already have an approved survey plan and the following can be done to assist the mataqali members financially:
 - Apply for consent to loan to the bank and mortgage the land;
 - Operate a mataqali business to assist the LOU in paying for school/tertiary fees for their children and re-payment for their loan.

4.2.1.6.2 Proactive approach in planning out awareness activities

4.2.1.6.2.1 Our follow-up audit noted that there was a separate spreadsheet record for roadshows, expos and provincial/tikina council meetings. However, audit noted that no activity records were captured for the years 2015 and 2016. It was confirmed that

there were no roadshows attended in 2018, whereas the Division was invited to 13 roadshows in 2017. Out of the 13 roadshows, the team attended 7 roadshows, did not attend six and one was cancelled by ITaukei Land and Fishing Commission (iTLCF).

- 4.2.1.6.2.2 Moreover, random selection made from the spreadsheet record found that all expos, roadshows and provincial council/tikina meetings were properly reported which was verified during our audit. The reports included topics similar to that covered in the awareness and consultation sessions. Also, scrutiny of the reports found that issues raised by the various LOU's were also similar in nature to those raised during the awareness and consultation sessions.

4.2.1.7 Next steps

- 4.2.1.7.1 We acknowledge that the LUD has made considerable efforts in maintaining proper records for the awareness/consultation, expos, roadshows and provincial council/tikina meetings. However, we noted that the consultation and awareness programs have not properly captured feedback from the LOUs in terms of offering a time for evaluation which would have enabled the Public Relations team in to assess whether the awareness and consultation sessions have properly addressed all underlying issues.
- 4.2.1.7.2 To achieve this, the LUD needs to develop and implement evaluation systems to review the effectiveness of information disseminated through its awareness and consultation sessions. This can be in the form of evaluation forms, real time evaluation etc. which should be conducted at the end of every session.

4.2.2 Conducting land capability studies

In 2014, we recommended to the Land Use Division that prior to designation of any land, it should conduct a capability study to identify the best use of the land, and for valuation assessments of the land. The capability report should also include a cost and benefit analysis of developing the land to ensure maximum returns to the LOUs, the lessee and the Government.

In addition, upon deliberating the report before the Public Accounts Committee in 2018, the Committee recommended that the Ministry should ensure that land capability studies are carried out as the findings in this study provides crucial information to the Ministry of the type of development most suitable for the subject land and should abide by it to avoid contradictory advertisements of the initial plans.

- 4.2.2.1 According to Section 4 of the LUD Draft SOPs, the land capability study reports sets the platform for the types of development or land markets appropriate for any land to be designated. The physical inspections of landforms and developments, natural or man-made, with references to compiled land use maps and soil types may determine the viability for the highest and best use of such lands. The Land Use & Land Development Section of the LUD is responsible for conducting land feasibility studies.
- 4.2.2.2 Moreover, capability studies are conducted to determine the highest and best use of the land and determine its viability to sustain future developments, or to provide valuable information to developers to assist in making concrete decisions on choosing appropriate project developments. Therefore, ideally, capability studies should be conducted prior to designation of land.
- 4.2.2.3 Our 2014 audit established from review of records held by the LUD, that land feasibility studies were not conducted for most of the land designated into the land bank. Although a total of 88 land parcels consisting of 71 i-Taukei land, three state land, and 14 state freehold (under buy-back scheme) had been designated into the land bank as at June 2014, only 13 capability study reports were provided by the Division for audit scrutiny at the time of the audit. Further assessment of the thirteen capability study reports sighted revealed that ten of the capability studies were undertaken after land had been designated into the land bank.
- 4.2.2.4 As a result, in not conducting capability studies, there is susceptibility that usage of the land is not properly identified, lack appeal to investors, and ultimately not utilised. The 2014 audit report specified a few examples of designated lands which were not utilized due to factors such as the lack of access and other physical attributes and are listed in Table 5 below.

Table 5: Designated lands which are still unutilized

Mataqali	Location	Designation date	Reasons for failure to utilise
Tokatoka Yavutu	Nailaga, Ba	30/05/11	Rugged Terrain
Mataqali Yalimarawa	Nalotawa, Ba	15/09/11	Rugged Terrain
Mataqali Nakiakia	Wainibuka, Tailevu	17/11/11	No Access
Mataqali Nakorovatu	Wailutua, Naitasiri	23/01/12	No Access

Mataqali	Location	Designation date	Reasons for failure to utilise
Mataqali Naocokavika	Nabukaluka, Naitasiri	04/06/12	Rugged Terrain
Mataqali Qalitakala	Nakasaleka, Kadavu	15/07/12	Rugged Terrain
Tokatoka Lalo	Ba	08/03/12	Rugged Terrain
Mataqali Nakorosago	Rakiraki, Ra	06/02/13	Rugged Terrain

Source: Performance Audit Report, 2014 on Management of Land Reform Program, table 5.3, p.26.

- 4.2.2.5 We gathered from interview with the STO Land Use Division that, prior to 2013 the requirement to undertake feasibility studies for land before being designated into the land bank was not imposed. From 2013, upon the directive of the then Permanent Secretary for Lands, feasibility studies became a requirement.
- 4.2.2.6 The conduct of capability studies after land has been designated is thus futile since the purpose of the study is to identify factors that may impede on the successful utilization of the vacant land. The absence of carrying out proper feasibility studies prior to the designation of land may result in lack of interest by investors and non-utilization of land.
- 4.2.2.7 In response to our 2014 report, LUD in its initial comments, disagreed and noted that it defeats the objective of the Land Use Act. The Division suggested to continue with the current practice but rather the challenge is on the Division to identify strategies on best usage of land and that more research is also necessitated. However, in 2018, the Division submitted to the PAC during the report deliberation that the Division re-structure launched in 2015 by the Honourable Minister and implemented in 2016, land capability studies were now executed by the Valuation Unit to reflect a more comprehensive analysis of the socio-economic factors prior to any designation to ensure land viability and optimal return for the LOUs.

4.2.2.8 Progress made

- 4.2.2.8.1 The LUD has done away with the conduct and preparation of the capability reports. This is due to the process re-engineering as a result of the 2016 restructure. According to DLU, the requirement for land feasibility/capability studies will be and has been done away with. The idea is that conducting the land capability studies is a duplication of the work of the Valuer, as they also cover the optimal/best use of the Land which is a main feature of the capability studies. However, this has not been formally incorporated into the SOPs.
- 4.2.2.8.2 We noted that the LUD has now proposed to prioritize the viability studies other than the capability tests. However, authorization has not been documented to authenticate this new process.
- 4.2.2.8.3 Failure to properly document authorization regarding the updating of appropriate amendments pertaining to the non-conduct of capability studies in the designation process will be deemed a continuous non-compliance by the LUD.

4.2.2.9 Next steps

4.2.2.9.1 While the LUD has presented very strong arguments against the conduct of capability/feasibility studies, this has not been captured in the SOPs. Therefore, to completely address this recommendation, the Division should:

- Properly document authorization regarding the prioritization of viability tests rather than the capability studies; and
- Pursue without delay the updating of the SOPs to reflect the current practices.

4.2.2.9.2 It has been agreed to finalize the amendments to the SOP, capturing the prioritization of viability tests rather than capability/feasibility studies, within the next 6 months from date of the meeting held on 29 October 2018.¹³

¹³ Exit meeting on 29 October 2018

4.2.3 Advertising of Designated Land

In 2014, we recommended that the Land Use Division clearly define procedures in relation to the advertisement of vacant land in the LUD's SOP to ensure officers are clearly aware of when to advertise available land. With regards to utilization of effective platforms for advertising of vacant land, the 2014 audit report recommended that the Land Use Division should utilize other effective platforms for the advertising of vacant lands. Furthermore, the LUD should communicate and work towards formalizing an MOU with Investment Fiji to advertise all available land to be utilised under the Land Use Act 2010.

- 4.2.3.1 According to Section 7 (1) of the Land Use Regulation 2010, the Director must ensure that the availability of all designated land is advertised widely in appropriate newspaper or internet advertisements. As such, Section 9 of the LUD Draft SOP stipulated that keeping the general public and especially investors informed of available land instigates the momentum for investments and subsequent economic growth.
- 4.2.3.2 Our 2014 report highlighted that not all designated land had been advertised. We noted that for the years 2011 to June 2014, only twelve land parcels were advertised out of the 88 iTaukei and state freehold land designated. Furthermore, advertising of these land was only done in 2013 in daily newspapers whilst no records of internet advertisements were maintained.
- 4.2.3.3 The 2014 audit report highlighted that our enquiry into the reasons for not appropriately advertising all designated land established that:
- I. Some land designated into the land bank had interested investors whereby the LUD was only engaged to facilitate the need of the LOUs and investor and formalize the arrangements in place; and
 - II. The Director of Lands had issued verbal instructions to only advertise land with survey plans approved. However, we found inconsistencies in advertising of land. Some land parcels were advertised prior to survey whilst others were not advertised despite the fact that survey plans had been approved.
- 4.2.3.4 Apart from noting that lands were being advertised prior to capability studies being carried out, the 2014 audit report also noted an instance where the stated purpose of the land as advertised in a daily newspaper was not consistent with the recommended use of the land after the conduct of the capability study the designated land owned by Mataqali Navorara in Tailevu initially identified for agricultural use when advertised on 20 July 2013 was found unsuitable for agricultural use after capability study was conducted on 6 September 2013.
- 4.2.3.5 In addition to the inconsistencies identified, the 2014 audit report also noted that the draft SOPs of the LUD did not clearly define the time period after designation the land should be advertised.
- 4.2.3.6 With regards to utilization of effective platforms for advertising of vacant land, our 2014 report found that there was insufficient evidence that reflected efforts by the LUD in informing the general public and investors of the availability of vacant land. We had noted at the time that the LUD only placed twelve advertisements in the daily newspapers.

- 4.2.3.7 Furthermore, it was also noted that although no records of internet advertisements were sighted, it was noted that advertisements were also placed on the Investment Fiji website. However it was confirmed to audit that there were no formal arrangements in place between the LUD and Investment Fiji to allow for the marketing of available land.
- 4.2.3.8 In response to our 2014 report, the LUD in its initial comments, agreed to our findings and the Division would pursue the endorsement of the SOPs. However, in 2018, the Division informed the PAC during the report deliberation that all designated land ripe for development can only be advertised once survey plan is approved. Only under special circumstances, in the absence of approved survey plan and the urgent need to address effective and efficient land administration processes, approval notices are issued to formalize leases to promote investor confidence and fast track commencement of development whilst simultaneously await survey plan approval.
- 4.2.3.9 With regards to utilization of effective platforms for advertising of vacant land, in its initial comments, the LUD agreed to audit findings and the Division would pursue the endorsement of the SOPs. However, in 2018, the Division informed the PAC during the report deliberation that they have explored and secured the following outlets for effective and efficient advertising through:
- I. Fiji Mission offices and Trade Commission offices through the supply of the LUD dossiers on a quarterly basis;
 - II. Supply to Investment Fiji;
 - III. LUD's participation in MITT trade shows and Fiji Day celebration abroad for the wider advertisement of available vacant land;
 - IV. Advertising through TV commercials;
 - V. Hotel room advertisement (explored);
 - VI. Advertisement through Fiji Airways In-flight magazines (explored);
 - VII. Cruise ships advertisements (explored).

4.2.3.10 Progress made

4.2.3.10.1 The LUD has successfully utilized other effective forms of advertisement. However, since appropriate evidence was not provided and the non-inclusion of the time period to advertise land after designation in the SOPs, we have not been able to determine whether the recommendations made in the 2014 report have been fully implemented.

4.2.3.10.2 The LUD still needs to improve in its record keeping with regards to advertisement of land.

4.2.3.10.1 Advertising all designated lands

4.2.3.10.1.1 The LUD has not properly captured at what point in time after the designation of the land, should it be advertised. According to DLU's comments, designated land can only be approved once survey plan has been approved.

4.2.3.10.1.2 However, the layout of the SOP itself suggest that advertisement of designated land ideally is conducted straight after land designation but before survey plan is approved.

4.2.3.10.1.3 Therefore, failure to document and align requirements of the Land Use Regulations, SOP and verbal instructions of Director Lands may result in inconsistencies in work practices.

4.2.3.10.2 Utilization of effective platforms for advertising of vacant land

4.2.3.10.2.1 The audit team was only able to ascertain the comments from DLU regarding the printing of quarterly dossiers as well as the Divisions in the MITT trade shows. However, audit could not conclude on whether the advertisement through TV commercials, hotel rooms, Fiji Airway In-flight magazines and cruise ships as there were no evidence provided to audit to support the notion.

4.2.3.10.2.2 Furthermore, even though, a copy of the spreadsheet record was provided to audit during the follow-up, it was evident that it was not maintained properly. However, there were no explanations provided to audit to explain the reasons for improper maintenance and upkeep of the spreadsheet record.

4.2.3.10.2.3 In addition, the auditors found that there have been no actions done so far to formalize an MOU with Investment Fiji for advertising purposes. According to DLU, there is no need for an MOU with Investments Fiji as the LUD normally distributes the quarterly dossiers to Investment Fiji for all available lands for leasing.

4.2.3.10.2.4 Failure to utilize effective platforms for the marketing of available land impedes on the effective leasing and utilization/development of vacant land.

4.2.3.11 Next steps

4.2.3.11.1 While the Land Use Division has improved in some aspects with relation to advertising process, to completely address this recommendation, the LUD should:

- Re-look into the recommendations provided by the 2014 report especially in terms of clearly defining procedures in relation to the advertisement of vacant land in the SOPs to ensure officers are fully aware of when to advertise available land; and
- Ensure that all advertisements vacant land is properly captured in a database or spreadsheet record for future audit or other reviews.

4.2.3.11.2 The DLU has confirmed that the requirement of the Act is to have the land advertised. DLU also reiterated that they can only advertise land that has been surveyed and all available land is captured in the quarterly dossiers which is apart from those advertised in the daily

newspapers. The dossiers are circulated to Investment Fiji, foreign missions, trade shows etc.¹⁴

4.2.3.11.3 While the comments from DLU were noted, we advised that the recommendation highlighted in the original audit report was that the SOP did not incorporate as to when to actually advertise the land. Even though the DLU confirmed that land can only be approved when the survey plan is approved. Audit again confirmed that this was not captured in the existing SOP.¹⁵

4.2.3.11.4 DLU advised that the audit recommendations have been incorporated into the amended SOP as the Division is currently still going through changes. It has been agreed that the amendments to the SOP, capturing the appropriate time to advertise vacant land will be finalized within the next six months from date of meeting 29 October 2018.¹⁶

¹⁴ Exit meeting on 29 October 2018

¹⁵ Exit meeting on 29 October 2018

¹⁶ Exit meeting on 29 October 2018

4.2.4 Issuances of lease prior to conducting surveys

In 2014, we recommended that the Land Use Division should ensure that a proper survey is carried out and approved plans are obtained prior to the issuance of any lease. In instances where MOA is issued pending survey approval, consistent surveillance needs to be carried out to ensure conditions of the agreement are complied with.

- 4.2.4.1 According to Section 7 (2 (a)) of the Land Use Regulation 2010, the Director must ensure that prior to granting any lease or entering into any agreement to lease with respect to designated land that (at the direction and on behalf of the Director) a professional land survey is undertaken with respect to any such designated land which is unsurveyed.
- 4.2.4.2 Our 2014 report highlighted that some leases were issued prior to the conduct of survey and approval of survey plans. Whilst a Memorandum of Agreement (MoA) was issued to one company, Memorandum of Lease (MoL) was issued to other companies giving permission for the use of land as required under the terms and condition of the respective lease.
- 4.2.4.3 Our audit further established that such leases were issued due to urgency expressed by the investor to carry out its intended developments. Thus survey works and obtaining survey plan approvals were considered cumbersome processes that delayed the entire process for obtaining the Memorandum for Lease.
- 4.2.4.4 In response to our 2014 audit, the LUD in its initial comments agreed with the audit findings in that some leases were issued subject to surveys being carried out and further that there be an adherence to the Land Use Regulations as it only allows for MoL. However, in 2018, the Division informed the PAC during the report deliberation that this is only done under special circumstances due to the lengthy timeline it will take to carry out survey and obtain survey plan approval.

4.2.4.5 Progress made

- 4.2.4.5.1 The 2014 report highlighted a few cases regarding Memorandum of Agreements (MoA) and Memorandum of Lease (MoL) issued by the LUD prior to the conduct of survey and approval of survey plans. The responses shown in Table 6 were obtained from the Senior Geospatial Officer (SGO) on 27 September, 2018.

Table 6: Memorandum of Agreements issued out by the LUD with comments from follow-up

Land Name	Land Area	Lease Issued to	Registration date of MoL/MoA	Purpose for Lease	Comments from Follow-up
Lovonidali (part of)	26.1412ha	Aurum Exploration (Fiji) Limited	09/03/11	Access to Bauxite Mining and Campsite	Survey Plans approved on 24/02/2011 – Audit sighted.

Land Name	Land Area	Lease Issued to	Registration date of MoL/MoA	Purpose for Lease	Comments from Follow-up
Nawailevu (part of)	150.782ha	Aurum Exploration (Fiji) Limited	09/03/11	MOA issued for Mining Excavation site	Survey Plans approved on 11/02/2011 but not provided to audit.
Nawailevu (part of)	7.8868ha	Aurum Exploration (Fiji) Limited	09/03/11	Quarry and stockpile site	Survey Plans approved on 11/02/2011 – Audit sighted.
Natodre (part of)	16.5ha	Tengy Cement Company (Fiji) Limited	21/07/11	Commencing from 27/07/11 for the sole right of occupation, excavation and removal of soil, rocks and soapstone	SGO could not get any information with the regards to the survey of the Natodre land.

Source: Performance Audit Report, 2014 on Management of Land Reform Program, table 5.5, p.29.

- 4.2.4.5.2 According to the comments obtained above, the Division still needs to improve on their record keeping as two out of the four survey plans highlighted in the 2014 report were not provided for our verification.
- 4.2.4.5.3 However, during this follow-up audit, we tested 60% of the unofficial record of leases issued from 2015 till date. We found that proper survey is carried out and approved plans are obtained prior to the issuance of any lease. Therefore, the Land Use Division has appropriately addressed the findings and recommendations in the 2014 report.

4.2.4.6 Next steps

- 4.2.4.6.1 We acknowledge the efforts made by the LUD in implementing the recommendations made in our 2014 report.

4.2.5 Construction of Access Roads

In 2014, we recommended that the Land Use Division document acquisition procedures in its SOP that outline the various processes that need to be followed prior and during the engagement of any third party for actual access road construction.

With regards to payments for acquisition made prior to obtaining engineering designs, we recommended that the Land Use Division should ensure that proper planning is conducted and good engineering principles are employed prior to incurring payments for acquisitions of land, as well as actual construction of any access road.

With regards to additional acquisition due to error in construction of Natodre Access Roads, we also recommended that the Land Use Division should ensure that proper planning is conducted and good engineering principles are employed prior to incurring payments for acquisitions of land, as well as actual construction of any access road.

4.2.5.1 Our 2014 report highlighted that processes outlining the various activities that have to be undertaken by the LUD for the construction of access roads are not documented in the SOPs. As a result, processes have not been carried out in a coherent manner. Therefore, in the absence of documented procedures, tasks may not be carried out consistently increasing the risk of errors that may have financial implications for government.

4.2.5.2 With regards to payments for acquisition made prior to obtaining engineering designs, our audit also pointed out that since 2011, the LUD has been making payments for land acquisitions to provide for the construction of access roads. Payments for acquisitions are made in the following manner:

- I. 75 percent of the selling price is paid within one month of the date of the SPA; and
- II. 25 percent is paid within the two years based on the survey or in the event the survey is not completed within two years, the payment is made at the end of the two years.

4.2.5.3 Review of acquisition procedures undertaken by the LUD revealed that engineering designs were not obtained prior to payment for acquisition of land to be utilised for the construction of access roads.

4.2.5.4 Our audit also noted that as at June 2014, the LUD had made total payments of \$2,447,150 for acquisition of lands. However no engineering designs were obtained to determine the most appropriate location, alignment, shape and other significant details of the road that support basis of acquisition payments. Moreover, the report confirmed from interviews carried out with relevant officers that the LUD does not have qualified personnel to conduct engineering designs for road construction. The report further noted that despite the lack of technical skills within the LUD, the Division did not outsource or engage the services of suitable companies/individuals for the provision of road engineering designs prior to making payments for land acquisitions.

4.2.5.5 Therefore, the acquisition of land without obtaining the necessary engineering designs increased the risk of errors in actual road construction, variations in area of land acquired resulting in uneconomical use of funds.

- 4.2.5.6 With regards to additional acquisition due to error in construction of Natodre Access Road, our audit found that in one instance, significant phases for the construction of access roads were overlooked, that is, the lessee was allowed to construct access road without an approved survey plan or an engineering design for the proposed road.
- 4.2.5.7 The report further noted that a Memorandum of Agreement (MoA) dated 21 July 2011 authorized Tengy Cement Company (Fiji) Limited to extract soil, rock and soapstone from a 16.5 acre land in Natodre known as Lot 36 (part of) NLC 963 in the province of Rewa, despite the land not being surveyed. Since there was no access to the extraction site, the LUD gave consent to the Company to construct the access road. However approval to construct access road was granted without acquiring an approved survey plan or an engineering design for the proposed road.
- 4.2.5.8 Thus, our 2014 audit concluded that the absence of engineering design and approved survey plans resulted in actual road constructions exceeding the required road alignment of 20 metres (refer Figure 2 and 3) by an additional 20 metres, and consequently trespassing and damaging freehold land belonging to the Roman Catholic Church (RCC). The RCC demanded compensation for trespass and damages vide correspondence dated 16 September 2011. Thus Government paid an additional sum of \$315,000 to acquire land on Lot 2 DP7048 that suffered damages.

Figure 2: Initial construction area based on 20m alignment



Figure 3: Illegally constructed area based on 40 meter road alignment



Source: Performance Audit Report, 2014 on Management of Land Reform Program, Photo 5.1 & 5.2, p.33.

- 4.2.5.9 The initial and revised responses submitted to PAC in 2018 from the LUD regarding the issues highlighted above pertaining to the construction of access roads are shown in Table 7 below.

Table 7: LUD Initial versus Revised Responses

Issue	Initial Responses in 2014	Revised Responses in 2018
Absence of defined processes for access road construction.	LUD carries out Land Acquisition for access roads and only facilitates engineering designs and construction projects. Pursue the endorsement of the SOP.	The Division was advised in the budget consultation with MoE in 2015 that road construction should be the sole responsibility of FRA.

Issue	Initial Responses in 2014	Revised Responses in 2018
Payments for acquisitions made prior to obtaining engineering designs.	LUD carries out Land Acquisition for access roads and only facilitates engineering designs and construction projects. Pursue the endorsement of the SOP.	The Division was advised in the budget consultation with MoE in 2015 that road construction should be the sole responsibility of FRA.
Additional acquisition due to error in construction of Natodre Access Road.	LUD carries out Land Acquisition for access roads and only facilitates engineering designs and construction projects. Pursue the endorsement of the SOP.	The acquisition was done in error. Proposals were put forth for the subdivision of the additional portion acquired to assist the government in recovering the cost incurred scheme plan for the construction of the subject site already submitted to DTCP.

4.2.5.10 Progress made

4.2.5.10.1 The Land Use Division has not appropriately addressed the findings and recommendations in the 2014 report.

4.2.5.10.1 Absence of defined processes for access road construction

4.2.5.10.1.1 Discussions with DLU¹⁷ revealed that construction of access roads is not applicable to the Division anymore as they have been advised by Ministry of Economy (MoE) during the budget consultation of 2015 that road construction should be the sole responsibility of FRA.

4.2.5.10.2 Payments for acquisitions made prior to obtaining engineering designs

4.2.5.10.2.1 Discussions with DLU¹⁸ revealed that the Division was in the process of engaging an engineer but this has been discouraged due to advice from MoE that all road construction should be the sole responsibility of FRA, as aforementioned.

4.2.5.10.3 Additional acquisition due to error in construction of Natodre Access Road

4.2.5.10.3.1 Discussions with DLU¹⁹ revealed that construction of access roads is not applicable to the Division anymore as they have been advised by MoE during the budget consultation of 2015 that road construction should be the sole responsibility of FRA.

4.2.5.10.3.2 However, we were not provided with any written confirmation from MOE on the matter.

¹⁷ Discussions held on 14 September 2018 (Entry meeting) and 24 September 2018.

¹⁸ Discussions held 24 September 2018.

¹⁹ Discussions held on 14 September 2018 (Entry meeting) and 24 September 2018.

4.2.5.11 Next steps

- 4.2.5.11.1 In the absence of written confirmation of the LUD not being responsible for construction of access roads, it should re-look into the recommendations made in the 2014 report.
- 4.2.5.11.2 DLU reiterated on the comments that was provided during the audit on 24 September 2018. DLU highlighted that in 2015, the Division was advised that they were no longer responsible and obligated to do anymore road construction. The only two developments that the Division is responsible for now is Yako and Legalega and after these two development projects, all land that will be identified for subdivision will be under the responsibility of the new Ministry of Housing.²⁰
- 4.2.5.11.3 DLU pointed out that as stipulated in the NDP, the Division is only going to be responsible now for giving out leases. DLU also highlighted that for roads that run between the subject properties, which would be the sole responsibility of the lessee as it would be part of their obligation outlined in the lease condition.²¹
- 4.2.5.11.4 We pointed out that the original report had recommended that all acquisition of land to be incorporated into the SOP so as to avoid cases like the Natodre Access Roads. Hence, it has been agreed that the amendments to the SOP, capturing the process of constructing access roads in the event that properties are inaccessible and there is a need to construct roads. The SOPs will be finalized within the next six months from date of meeting 29 October 2018.²²

²⁰ Exit meeting on 29 October 2018

²¹ Exit meeting on 29 October 2018

²² Exit meeting on 29 October 2018

4.2.6 Valuation conducted prior to land survey

In 2014, we recommended that the Land Use Division should conduct valuations prior to conducts of land surveys that can be used as an estimate of the value of land. However the LUD should conduct a proper valuation of the land after an actual survey has been conducted. Moreover, in conducting the Valuation, factors outlined in the land feasibility reports should also be considered.

- 4.2.6.1 The Valuation section within the Land Use Division is responsible for carrying out valuations of all land designated into the land bank. While Section 8 (1) of the Land Use Regulations 2010, stipulates that the Director must ensure that following the designation of the land and at least once every 5 years thereafter an assessment of the fair market rent of all designated land is undertaken in accordance with the best principles and practices of valuation and any guidelines or directions made by the Minister, Section 8 (2) states that the Director must ensure that the most recent assessment report is available for inspection by the Minister.
- 4.2.6.2 Our 2014 audit highlighted that not all designated land was valued by the LUD. Interview with the Valuations Officer had indicated that valuations are only conducted for land that has received interest for leasing whereby the fair market value of the land is determined using the comparable sales method of valuation.
- 4.2.6.3 Our 2014 report also highlighted that there were instances where valuations were conducted prior to the actual survey of vacant land and in the absence of capability study reports whereby such studies were not conducted. Interview c with a Valuations Officer, during the 2014 audit conduct, noted that valuation was usually undertaken when an investor has showed vast interest in leasing the land.
- 4.2.6.4 In addition, the 2014 audit established that recent assessment reports of all valuations conducted were not readily available as required under the Land Use Regulations. Interview with Valuations Officer noted that valuation reports are maintained by respective officers conducting the valuations and a copy is filed. Review of some files revealed that this was not done.
- 4.2.6.5 Therefore, conducting valuations prior to actual land survey and the failure to consider factors outlined in the capability study reports may create the risk of incorrect valuations of designated land.
- 4.2.6.6 In response to our 2014 audit, the LUD had stated that preliminary site inspections and sales analysis are carried out once survey works begin and value can only be determined once the subject is regularized or surveyed. However, in 2018, the Division advised the PAC during the report deliberation that the Land Use Regulation Section 7(2) highlights that an assessment of the fair market rent is carried out. Tentative valuation is also carried out to assist investors in making budgetary decisions. However, final valuation of subject property is executed before lease offer is issued.

4.2.6.7 Progress made

- 4.2.6.7.1 The Land Use Division has not appropriately addressed the findings and recommendations in the 2014 report. This conclusion was made through testing of 60% of the unofficial record of leases issued from 2015 till date of drafting this report. A spreadsheet record was provided to audit and from this list, we were able to confirm that 12 leases were issued from 2015 till date. From the 12 leases issued, seven were selected for audit re-test. It was

noted from our tests that all seven leases issued had no valuation reports in the respective lease files. The Valuation section was also not able to provide valuation reports for the seven issued leases.

- 4.2.6.7.2 We were informed by Acting Valuer²³ that since six of the leases issued are development leases, they will have tentative valuations which is usually valid for five years, usually outlined in an agreement and at the end of the five year development lease, proper valuation will be conducted to determine the valuation for the period of the lease set out in the Memorandum of Lease (MoL).
- 4.2.6.7.3 Discussions with DLU²⁴ revealed that the valuation process cannot be stopped. DLU explained that whenever there is a land designation and expression of interest is received, information is requested on the price. Hence tentative values are put forward to the interested parties, but it is not a fixed value. DLU further confirmed that the Division has a master plan which the valuers have pegged tentative rates on the various pieces of land because they do analysis of market rates. So whatever is prevailing at that current time, if there are sales in surrounding areas of the designated properties, the valuers allocate rates as to how much those properties can be valued for at that point in time. The tentative values are just guidelines as to how much those properties can fetch in the open market, to mostly investors who come in expressing interest to lease the designated land. DLU further stated that the tentative values are not confirmed, however, confirmed rates are determined when valuation is conducted at AS IS WHERE IS basis.

4.2.6.8 Next steps

- 4.2.6.8.1 While the Land Use Division has presented very strong arguments for the conduct of valuations prior to survey of land, to completely address this recommendation, the LUD should re-look into the recommendations made in the 2014 report. The Division should properly capture current arrangements regarding valuations in the current SOPs and include the various exceptions when conducting valuations. This will encourage consistent application of the need for valuations.
- 4.2.6.8.2 DLU reiterated on the comments that was provided during the audit on 24 September 2018. DLU noted that valuation reports are only mandatory when lease offers are given. DLU further pointed out that the Division usually carries out tentative valuations which provides the Investors an idea of what would be the prevailing market prices of those properties and is not a confirmed cost. DLU added that proper valuations is carried out after the survey is conducted as the confirmed area will be known, and the confirmed valuation is highlighted when the lease is issued. DLU confirmed that this is the current process for conducting valuations. However, DLU agreed that the current practice is not captured in the existing SOP. Hence, it has been agreed that the amendments to the SOP will be made, capturing the provision of tentative valuations, and conducting proper valuations after land survey is conducted. This will be finalized within the next six months from date of meeting 29 October 2018.²⁵

²³ Discussions conducted on 28 September and 01 October 2018

²⁴ Discussions conducted on 24 September 2018

²⁵ Exit meeting on 29 October 2019

4.2.7 Submission of relevant documents and conducting proper checks

In 2014, we recommended that the Land Use Division should ensure that applicants provide all necessary information which should be carefully assessed by a lease allocation committee, prior to recommending for the grant of a lease. In addition, it was also recommended that the Land Use Division should strengthen coordination between Investment Fiji by having a MoU that clearly defines each agency's responsibility in conducting background checks on foreign investors. Furthermore, trainings should be provided to relevant personnel of the LUD on effective ways to carry out background checks.

4.2.7.1 The Land Use Division has in place two standard forms for application of lease which requires the submission of various documents by the applicant as indicated in Table 8 below.

Table 8: Requirements for Lease Application

Form	Information to be provided
Business Application	<ol style="list-style-type: none"> 1. Certified Certificate of Company Registration for Business Applicant 2. Pay slip by employer, FNPF latest statement and bank statement. Other acceptable capital confirmations include financier supporting letter 3. 5 years cropping program. If applying for agricultural land (which can be obtained from any agricultural department nearest to your area of application) 4. Title of the Property/properties owned by the company.
Personal/Individual Application	<ol style="list-style-type: none"> 1. Certified Marriage Certificate 2. Applicants Certified Birth Certificate 3. Certified Children's Birth Certificate 4. Pay slip by employer, FNPF latest statement and bank statement. Other acceptable capital confirmations; include support letters from family members with capital availability details 5. 5 years cropping program. If applying for agricultural land (which can be obtained from any agricultural department nearest to your area of application) 6. Utility bill under your name for confirmation of postal address 7. Title of the property owned by applicant

Source: Performance Audit Report, 2014 on Management of Land Reform Program, Table 5.8, p.36.

4.2.7.2 Our 2014 audit established that proper screening was not conducted for most leases issued under the land bank whereby leases were issued in the absence of relevant documents and incomplete application. Crucial information to ascertain the applicant's financial position and ability to successfully carry out the type of development were not submitted.

4.2.7.3 Discussions with DLU, during the 2014 audit noted that heavy reliance is placed on the Fiji Investment Registration Certificate (FIRC) issued by Investment Fiji. LUD issues the lease based on the understanding that Investment Fiji has carried out proper checks prior to the issuance of FIRC. However, discussion with relevant personnel at Investment Fiji noted that Investment Fiji only conducts primary checks on the investor which does not include financial checks. The issuance of the FIRC implies that the investor has only complied with the requirements of Investment Fiji and is not a basis for reliance by other agencies.

4.2.7.4 As a result of not properly screening applicants, the 2014 audit established that the lease issued to Iviti Disenergy Processing Plant (Fiji) Limited was cancelled due to the inability of the company to make lease payments.

4.2.7.5 In response to our 2014 audit, the LUD in its initial comments, affirmed the audit findings and noted that the SOPs to be reviewed to capture due diligence checks of foreign investors. However, in 2018, the Division submitted to the PAC during the report deliberation that due diligence is now carried out for prominent developments and other LUD leases to ensure lease conditions are complied with and the furnishing of all leasing requirements budgetary decisions. However, final valuation of subject property is executed before lease offer is issued.

4.2.7.6 Progress made

4.2.7.6.1 According to DLU²⁶, after the process re-engineering of 2016, the requirement now is that no lease will be issued unless and until the land is surveyed. DLU also added that before the issuance of any lease, proper survey plans should be obtained but under special circumstances, then this requirement can be waived, due to the cumbersome process it takes for a survey plan to get approved.

4.2.7.6.2 DLU added that due to the leasing gaps that were encountered, the Unit have now strictly complied with the leasing requirements. Failure of which will lead to non-issuance of lease offers. They have to fulfil the leasing requirements before any leases are actually issued.²⁷

4.2.7.6.3 Submission of all relevant documents

4.2.7.6.3.1 The following responses were received from PLU regarding the screening processes for all applications received:

- a) Where the LOUs bring in an investor, the lease is processed for that investor after financial background checks including other holding searches etc.
- b) Where the Division advertises to secure an investor, and if there's more than 6 applicants, they are interviewed and the resulting recommendations and interview sheets are forwarded to the land allocation committee, for confirmation of successful applicants.
- c) Where there is only 1-2 applications, the lease can be processed if they are interviewed and meet all suitable criteria, thus, lease offer can be issued.

4.2.7.6.3.2 We requested a list of all leases issued post 2014. According to PLU²⁸, they currently have 42 registered active leases. PLU stipulated that altogether 54 leases were issued since inception with 12 leases being inactive, either having been re-entered or was on short term agreement and expired. However, according to the listings we received on 27 September 2018, there were only 48 leases issued with 6 confirmed inactive leases and 12 confirmed leases issued post 2014 period.

²⁶ Discussions held on 24 September 2018

²⁷ Discussions held with DLU on 24 September 2018

²⁸ Informed via email on 02 October 2018.

- 4.2.7.6.3.3 Out of the 12 leases issued post 2014 period, seven leases were selected for audit re-test. From the testing, we noted that not all required documents from the Lessee were kept in the file as per standard checklist.
- 4.2.7.6.3.4 Upon enquiring as to the reasons we could not find all the required documents in the respective files as per checklist, DLU²⁹ revealed that the Division implemented process re-engineering in 2016 when she took up the Director position. According to DLU, the submission of relevant documents is now captured in the checklist pamphlets which has streamlined their processes.
- 4.2.7.6.3.5 Given the implemented changes in 2016, a further sample of 2016 leases were checked and found to be compliant
- 4.2.7.6.3.6 Furthermore, during the audit, we pointed out that our original report had highlighted that the lease issued to Iviti Disenergy Processing Plant (Fiji) Limited was cancelled due to the inability of the company to make lease payments. The report stipulated that this resulted from the non-conduct of proper screenings on the application. DLU agreed that Iviti lease was cancelled but stipulated that the Lease was later transferred to GS Energy and the land is still vacant. DLU further responded³⁰ that ever since her appointment in 2016, there have not been any cancelled leases so far. All lease offers have been serviced, accept for one that is still pending.³¹

4.2.7.6.4 Strengthening coordination with Investment Fiji

- 4.2.7.6.4.1 DLU confirmed that from 2017, they now liaise with the Financial Intelligence Unit with RBF for due diligence checks on foreign investors. However, several requests for correspondence with RBF was not facilitated as the Lands Officer in charge was on official tour during the time of audit.
- 4.2.7.6.4.2 DLU further confirmed that all requirements for lease application goes into the offer letter. But if the lessee's do not furnish all of them, then the lease is not issued. Figure below summarizes the types of financial checks are carried out for foreign and local investors.

Figure 4: Conducting financial checks



Source: Discussions with DLU on 24 September 2018.

²⁹ Informed via email on 28 September 2018.

³⁰ Discussions held on 24 September 2018 (documented).

³¹ Discussions held with DLU on 24 September 2018 (documented).

On the due diligence checks for local investors, documents submitted included the applicant's financial statements. DLU confirmed that when all the required documents are received the application is then processed. Once the lease offer is generated and submitted to the applicant and they are given thirty days to pay the premiums. Inability to pay, will result in the non-issuance of the lease. Recent leases processed have been verified to be compliant.

4.2.7.6.4.3 In addition, DLU confirmed that there is no need to develop an MOU with Investment Fiji as it is already a requirement in the Lease requirements for applicants to obtain Investment Certificates from Investment Fiji. Also, DLU disagreed with conclusions stipulated in the original audit report of 2014 in that heavy reliance is placed on the Fiji Investment Registration Certificate (FIRC) issued by Investment Fiji. DLU responded that the Investment Certificate from Investment Fiji is just one requirement, which means that the Division does not heavily rely on Investment Fiji as there are other requirements that the Lessee has to submit for the successful vetting of their application.

4.2.7.6.5 Trainings on effective ways to conduct background checks.

4.2.7.6.5.1 According to PLU, assessing applications and other relevant checks are learned through in-house capacity building and processes outlined on SOP.

4.2.7.6.5.2 Informal discussions with officials at the Division confirmed the above statement from PLU, in that staff rotations are conducted so that staffs are aware of processes in the various units of the Land Use Division. This formed part of the officer's capacity building.

4.2.7.7 Next steps

4.2.7.7.1 We acknowledge the improvements made by the LUD in trying to streamline their processes in order to implement sound screening practices. However, we reiterate that the LUD still needs to improve its record keeping and screening processes so as to ensure that all lessee applications have the required documents as stipulated in the checklist.

4.2.7.7.2 DLU and PSLMR confirmed that the Fiji Intelligence Unit (FIU) of the Reserve Bank of Fiji is the appropriate agency to conduct background checks and not Investment Fiji. However, it has been agreed that the amendments to the SOP will be made, capturing the respective screening processes. This will be finalized within the next six months from date of meeting 29 October 2018.³²

³² Exit meeting on 29 October 2019

4.3 Recording and Monitoring of Land Bank Activities

This chapter seeks to establish whether the Land Use Division has addressed the issues raised in the 2014 Report with regards to the effectiveness and efficiency of the recording and monitoring arrangements in place within the Land Use Division.

4.3.1 Land Bank Database

In 2014, we recommended that the Land Use Division should avoid further delays and advertise the terms of reference for development of the Land Bank Database.

4.3.1.1 According to Section 7 of the Land Use Act 2010, there shall be a register known as the Land Use Bank keeping a record of all land utilized under the Act.

4.3.1.2 Our 2014 audit established that the Land Use Division does not have a database to allow for systematic recording and reporting of land designated and utilised under the Land Use Act 2010. However, manual records are maintained and updated on spread sheet which records the following:

- I. iTaukei Land designated;
- II. State freehold (Buy back)/State Land designated;
- III. Leases given out; and
- IV. Interests shown by LOU's

4.3.1.3 The 2014 report also noted that the Valuation Section also maintains separate spread sheet records of all valuations conducted and lease monies received and due from leases issued under the land bank. It further highlighted that although a sum of \$100,000 was provided in the Department's budget for 2013 and 2014 for the development of a land bank database, this has not eventuated. However, the report noted that the LUD had prepared a Terms of Reference (ToR) which indicated that the project should have been carried out from June 2013 and the assignment should have been completed by October 2013. The Term of Reference for the expression of interest in designing the database still had not been advertised at the time of audit.

4.3.1.4 Therefore, constant delays in advertising of the ToR adversely influence the timely completion of the land bank database to allow for systematic, accurate and efficient recording of land bank transactions.

4.3.1.5 In response to our 2014 audit, the LUD in its initial comments, stated that Information Technology and Computing Services (ITC)-was unable to develop the LUD database in 2014 and to pursue the establishment of LUD database by outsourcing. However, in 2018, the Division submitted to the PAC during the report deliberation noted that a budget was allocated in 2015 for the development of Land Bank Database which was outsourced to a private company to develop the database. However, this was rejected by ITC and the Division was advised to liaise with ITC for the development of its database.

4.3.1.6 Progress made

4.3.1.6.1 The Land Use Division is still liaising with ITC for the development of its database and the situation has not changed since 2015.

- 4.3.1.6.2 Our review of the Land Bank database file noted that the last correspondence with ITC was through a memo dated 16 June 2015 regarding the request to facilitate tender process for Land Use Division database development. The memo outlined that the ITC team appreciated the meeting that was held on 19 May 2015 and as confirmed in the minutes of the meeting, that the Division wished to develop six (6) modules as part of the Land Use Information System Database namely:
- I. Land Lease System – to capture land use leases, monitoring reassessment and reports;
 - II. HR Database – to capture officers records, attendance and leave;
 - III. Vehicle database – To record running sheets, vehicles records and UPS monitoring;
 - IV. Customer Service Database – to record complains received from lessees;
 - V. Monitoring of file movement – to track the movement of files; and
 - VI. Office Inventory Ledger – to record all items purchased and written-off by the division.

4.3.1.7 Next steps

- 4.3.1.7.1 While we acknowledge the efforts shown by the LUD in trying to make arrangements with ITC regarding the development of the database, the last correspondence with ITC was done in 2015 and three years have lapsed since.
- 4.3.1.7.2 As such in order to completely address this recommendation, the LUD should avoid further delays and reach an agreement with ITC regarding the development of the Land Bank Database.

4.3.2 Recording Complaints

In 2014, we recommended that the Land Use Division should maintain proper records of all complaints received. These can be recorded through a register or spread sheet clearly indicating the date of complaint, details or nature of complaint, officer receiving the complaint, action required, action taken and date in which the complaint was addressed.

- 4.3.2.1 According to Section 7 of the Land Use Act 2010, there shall be a register known as the Land Use Bank keeping a record of all land utilized under the Act.
- 4.3.2.2 Our 2014 audit highlighted that the Land Use Division does not maintain any record of complaints received. Due to continuous staff movements, new staffs are not aware as to whether complaints were received; hence the effectiveness of the LUD's in attending to the complaints could not be ascertained.
- 4.3.2.3 Non maintenance of proper records of complaints may result in the LUD being unable to address any significant issues raised in a timely manner and impede on the effectiveness of service delivery.
- 4.3.2.4 In response to our 2014 o audit, the Land Use Division in its initial comments, stated that complaints received are noted in relevant files which are then addressed by the LUD Grievances Committee. LUD complaints are also received by the Land Department Customer Advocacy Officer (CAO) at Headquarters. Establishment of a Complaints database will be incorporated into the LUD database. However, in 2018, the Division informed the PAC during the report deliberation that the Division maintains three manual registers opened and placed with the six units with the Team Leaders tasked to monitor and update records of all complaints received. Record is forwarded to CAO to capture in the Ministry's complaints database.

4.3.2.5 Progress made

- 4.3.2.5.1 The Land Use Division has appropriately addressed the findings and recommendations in the 2014 audit report in that the Division has maintained a separate database and spread sheet record to capture all complaints received. The investigation of these complaints are done by EO monitoring during inspections. According to DLU, the Division tries to address all complaints as soon as possible.

4.3.2.6 Next steps

- 4.3.2.6.1 We acknowledge the efforts made by the Land Use Division in implementing the recommendations made in 2014.

4.3.3 Maintaining Proper Documentation

In 2014, we recommended that the Land Use Division should implement good record keeping practices and ensure it abides by the National Records Management Policy. The LUD may consider maintaining land capability study reports, valuation reports, monitoring reports, and any other relevant reports in a shared drive folder for ease of access to users from other sections.

- 4.3.3.1 The Public Service Commission (PSC) Circular No. 10/2011 issued advice to all Permanent Secretaries and Heads of Departments for the implementation of the National Records Management policy in all Government Ministries, Departments and agencies. According to Section 1.2 of PSC Circular No. 10/2011, the underlying objective of the policy is to state government's commitment to achieving best practices in its recordkeeping that will support good governance, assign responsibilities for good recordkeeping and establish essential baseline requirements throughout the public service and statutory bodies.
- 4.3.3.2 Our 2014 audit noted that proper record keeping practices were not effectively implemented. The 2014 report also noted that reason for the non-effective implementation by the Division was the continuous staff movements and non-adherence of good record keeping practices.
- 4.3.3.3 We highlighted that poor record keeping increased the risk of losing significant information, disrupt the consistent flow of work processes and did not reflect transparency and accountability.
- 4.3.3.4 In response to our 2014 audit, the LUD in its initial comments with the audit findings and stated that this would be pursued in LUD SOPs. However, in 2018, the Division advised to the PAC during the report deliberation that all complaints are appropriately recorded in the registers kept in the various units. Complaints received over the main counter and DLU's reception area was collated by the Monitoring Officer on a weekly basis. Complaints highlighted in the weekly reports are extracted and captured in the complaints spreadsheet which is forwarded to the Customer Advocate Officer on a monthly bases for recording and presentation to Senior Managers board meeting. As for refining process, standard complaints schedule has been formatted which is now sent to the Team Leader to fill and submit on a weekly basis.

4.3.3.5 Progress made

- 4.3.3.5.1 The Land Use Division has appropriately addressed the findings and recommendations in the 2014 audit report in some aspects but not in others. There were specific issues highlighted in our 2014 report which included record keeping. Table 9 detailed the issues reported and results of our follow-up audits.

Table 9: Examples of poor record keeping, incorporating follow-up audit observations

Sections	Evidence of Poor Record Keeping	Follow-up audit observations						
Public Relations	<ul style="list-style-type: none"> Awareness reports were not properly maintained. Whilst interview with officer noted that awareness and consultations were conducted with a number of LOU's no reports were sighted as evidence. This includes: 	<ul style="list-style-type: none"> Awareness reports are properly maintained for all awareness and consultations conducted. The Public Relations team maintains a spreadsheet record of all the awareness conducted. Audit also noted that the records does 						
	<table border="1"> <thead> <tr> <th>Year</th> <th>Number of Consultation/Awareness conducted</th> <th>Number of reports sighted</th> </tr> </thead> <tbody> <tr> <td>2011</td> <td>35</td> <td>0</td> </tr> </tbody> </table>		Year	Number of Consultation/Awareness conducted	Number of reports sighted	2011	35	0
	Year		Number of Consultation/Awareness conducted	Number of reports sighted				
2011	35	0						

Sections	Evidence of Poor Record Keeping			Follow-up audit observations																		
	2012	25	10																			
	2013	25	19	<ul style="list-style-type: none"> capture the dates the awareness activities were conducted. For all lease files reviewed the consent forms signed by 60% of LOU members and its verification by iTLFC were filed.. 																		
	<ul style="list-style-type: none"> No spread sheet record of all the awareness conducted, dates they were conducted and necessary action to be taken to systematically record and update officers on the needed action, eases reporting and assess performance of the section. Consent forms signed by 60% of LOU members not filed with verification from iTLFC 																					
Land Use	<ul style="list-style-type: none"> Feasibility study reports not properly filed away for ease of access/retrieval by prospective users. 			<ul style="list-style-type: none"> Out of the seven lease files tested, only three files maintained the feasibility reports. However, DLU informed³³ us that capability/feasibility studies are not conducted and reported any longer. 																		
GIS	<ul style="list-style-type: none"> Advertisements conducted not properly maintained, especially internet advertisements. Interview with officers noted that advertisements were also done on Investment Fiji website. No records sighted as evidence Signed copies of Memorandum for lease not filed Errors on Spread sheet records as indicated below. <table border="1"> <thead> <tr> <th>LOU/Land Name</th> <th>Error noted</th> <th>Details</th> </tr> </thead> <tbody> <tr> <td>Mataqali Naicobo</td> <td>Land recorded twice</td> <td>As per designation listing</td> </tr> <tr> <td>Mataqali Korinikula</td> <td>Land recorded twice</td> <td>As per designation listing</td> </tr> <tr> <td>Nawailevu (part of)</td> <td>Date of Lease issuance recorded wrongly</td> <td>Lease issued to Vodafone Fiji Limited</td> </tr> <tr> <td>Nalutu</td> <td>Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet</td> <td>Lease issued to Aurum Exploration Fiji Limited</td> </tr> <tr> <td>Matenamanu (part of)</td> <td>Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet</td> <td>Lease issued to IViti</td> </tr> </tbody> </table>			LOU/Land Name	Error noted	Details	Mataqali Naicobo	Land recorded twice	As per designation listing	Mataqali Korinikula	Land recorded twice	As per designation listing	Nawailevu (part of)	Date of Lease issuance recorded wrongly	Lease issued to Vodafone Fiji Limited	Nalutu	Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet	Lease issued to Aurum Exploration Fiji Limited	Matenamanu (part of)	Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet	Lease issued to IViti	<ul style="list-style-type: none"> The follow- audit noted that the issue evident in the 2014 performance audit report still persisted. Signed copies of MoL were properly filed for the seven issued lease files sighted.
LOU/Land Name	Error noted	Details																				
Mataqali Naicobo	Land recorded twice	As per designation listing																				
Mataqali Korinikula	Land recorded twice	As per designation listing																				
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Matenamanu (part of)	Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet	Lease issued to IViti																				
Valuation	Valuation reports not filed for some of the leases issued. Interview with officers noted that valuations are done by respective officers and a copy filed. Copies of valuation reports not maintained by the section but by individual officer doing the valuation. Valuation report done by officers who had moved from the LUD could not be obtained.			<ul style="list-style-type: none"> The follow-up audit noted that the issue evident in the 2014 performance audit report still persisted. 																		

³³ Discussions held on 24 September 2018

Sections	Evidence of Poor Record Keeping	Follow-up audit observations
Survey	All costs incurred for each land survey work are not recorded. The LUD imposes the survey costs on the lessee, however proper records of these are not maintained to ensure the accurate fees are imposed on the lessee.	<ul style="list-style-type: none"> The Survey Section creates their own files for all designated land surveyed with all details attached in them and copies are submitted to the Head Files located in the registry room. For the shared folder, the folders are updated by the Geospatial Officer of all survey plan updated which can be viewed by all staffs. All costs involved in any survey are kept at the accounts office and copies of the survey fees are attached to the head files. Verifying lease files noted that some of the survey fees were not found in the files.

4.3.3.5.1 From the above table, it is evident that while some issues regarding poor record keeping highlighted in the 2014 audit report have been resolved, other areas still needs improvements, as issues raised in the 2014 audit report still persists.

4.3.3.6 Next steps

4.3.3.6.1 We acknowledge the efforts made by the Land Use Division in resolving some issues relating to poor record keeping that was highlighted in the 2014 audit report. However, the follow up audit has again noted that other areas still need improvement, as issues raised in the 2014 audit report still persists. As such in order to completely address this recommendation, the Land Use Division should re-look into the recommendations provided in the audit report.

4.3.4 Documented Guidelines for monitoring leases

In 2014, we recommended that the Land Use Division should develop monitoring procedures which should be incorporated into the Divisions SOP. The procedures should clearly outline areas/activities to be monitored, responsibilities for monitoring and suitable timelines for carrying out the monitoring work.

- 4.3.4.1 Our 2014 audit found that monitoring procedures of the LUD are not documented. Whilst the draft SOPs used by the Division outlines procedures for various activities, procedures for monitoring are not defined to outline areas that needs to be monitored, responsibility for monitoring and timelines for monitoring work.
- 4.3.4.2 Therefore, non-documentation of monitoring procedures may result in inconsistencies in work practices. Also, lack of proper handing over during staff reshuffles/ turnovers have adverse impacts on the effectiveness of monitoring work.
- 4.3.4.3 In response to our 2014 audit, the LUD in its initial comments agreed with audit findings and stated that this would be addressed in LUD SOPs. However, in 2018, the Division informed the PAC during the report deliberation that lease monitoring is formalized and now part of the Divisions ACP output and Annual Work Program (AWP) from 2016 to date. Documented guidelines on the monitoring period is specified in the AWP together with its planned expenditure.

4.3.4.4 Progress made

- 4.3.4.4.1 The Land Use Division has developed a monitoring template report for site inspections which has been sighted during our audit. We also noted that the monitoring templates are comprehensive. However, monitoring guidelines has still not been incorporated into the Divisions SOPs.

4.3.4.5 Next steps

- 4.3.4.5.1 We acknowledge the efforts made by the Land Use Division in the development of a monitoring template report for site inspections. However, monitoring guidelines has still not been incorporated into the Divisions SOPs. As such in order to completely address this recommendation, the Land Use Division should update the SOPs to reflect all relevant changes without any further delay.
- 4.3.4.5.2 DLU and PSLMR have agreed that the amendments to the SOP will be made, capturing the monitoring guidelines of the Division. This will be finalized within the next six months from date of meeting 29 October 2018.³⁴

³⁴ Exit meeting on 29 October 2019

4.3.5 Monitoring conditions of lease/MOA

In 2014, we recommended that the Land Use Division should ensure that: a tallyman is present at the Nawailevu mining site on a daily basis to independently record the quantity of soil and rock extracted; spread sheet records of all minerals extracted with respect to mining leases issued are maintained and updated to reflect all soil and rock extracted and exported to ensure accurate information is available when needed; relevant stakeholders are consulted prior to finalizing lease agreements, especially those that involve large developments to ensure provisions of the agreements are consistent; and All access road construction works are monitored by qualified personnel to avoid any deviation from required standards.

4.3.5.1 According to Section 17 of the Land Use Regulations 2010, the Director must administer all lease and collect all premiums, rents, outgoings, expenses, and other consideration or monies payable under any lease; enforce the terms of the lease; and with respect to iTaukei land, promptly pay the rent due and payable under all statutory head leases to the relevant trustees without deduction.

4.3.5.2 Our 2014 audit noted that monitoring compliance to lease conditions is conducted by two different sections of the LUD, namely Land Use and Valuation Sections. The Valuation Section is responsible for monitoring of lease payments whilst the Land Use Section is responsible for monitoring progress of developments carried out on the subject land. Whilst the tasks are verbally understood as responsibilities of each section, we established that monitoring conditions of leases/MOA has not been effectively conducted. The 2014 report noted instances whereby these were noted which included:

- I. Extraction of bauxite exceeding allowable quota;
- II. Non-payment of fair share to Land Owning Units; and
- III. Failure to monitor construction of Natodre access road

4.3.5.3 Thus, inability to consistently monitor compliance to the conditions of the Memorandum for Lease or MOA may create risks of deviation from approved conditions.

4.3.5.4 In response to our 2014 audit, the LUD in its initial comments, agreed with audit findings and stated that this would be addressed in LUD SOPs. However, in 2018, the Division advised the PAC during the report deliberation that the restructure implemented in 2016 saw the creation of a Database/Monitoring Officer responsible to monitor all leases through the lease conditions stipulated in the lease agreement which is executed according to the AWP timelines and capturing of relevant data in the LUD database which is currently formalized through a spreadsheet.

4.3.5.5 Progress made

4.3.5.5.1 The Land Use Division has appropriately addressed the findings and recommendations in the 2014 report in that the Division is monitoring lease conditions. This monitoring activity is conducted using an inspection report which is comprehensive. It includes pictures which gives more reiterates the issues that are raised.

4.3.5.6 Next steps

4.3.5.6.1 We acknowledge the efforts made by the Land Use Division in considering the audit recommendations made in 2014.

Appendix 1: Audit objectives and methods

The objective of this follow-up audit was to ascertain the progress made in relation to the corrective actions taken by the Land Use Division on the policies and procedures for land designation and allocation, recording and monitoring of land bank activities and recording and monitoring of land bank activities.

We looked into the progress made in relation to the corrective actions undertaken by the Ministry to the audit recommendations stated in the 2014 report under the following lines of enquiries/ audit objectives:

Line of Enquiry 1: The adequateness of policies and procedures governing land reform

This Audit Question seeks to establish whether the Ministry of Lands and Mineral Resources (Land Use Division under the Lands Department) has addressed the issues raised in the 2014 General Report with regards to the establishment of the existence and effectiveness of policies and procedures governing the management of land bank activities.

Line of Enquiry 2: The systems and processes for and designation and allocation under the land bank

This Audit Question seeks to determine whether corrective actions have been taken towards the recommendations made for issues to better administer arrangements in place for designation and allocation of iTaukei and designated state land. It looks into the systems and processes that the Land Use Division uses to establish plan and manage activities related to the management of the land bank for the achievement of its objectives.

Line of Enquiry 3: The recording and monitoring of land bank activities to ensure Government's objectives are appropriately met with due regard to economy

This Audit Question seeks to determine whether corrective actions have been taken towards the recommendations made for issues raised with respect to the effectiveness and efficiency of recording and monitoring arrangements in place within the Land Use Division.

Entity subject to this audit

Land Use Division of the Department of Lands of the Ministry of Lands and Mineral Resources

Audit approach

Our audit was conducted using the following evidence gathering techniques:

1) **Documentary Review**

During our audit, we reviewed various documents to gather information on the current designations and allocations processes. The key documents reviewed are listed in Table 10 below.

Table 10: List of documents reviewed

Documents	Source
Business Plan (2015, 2016, 2016/2017 & 2017/2018)	Principal Land Use Officer
Annual Work Plan – Land Use Division (2015, 2016, 2016/2017 & 2017/2018)	Principal Land Use Officer
Individual Work Plan for EO Monitoring and Assistant Accounts Officer (AAO)	Principal Land Use Officer
Endorsed SOP	Director Land Use
Lease files	Registry at Land Use Division
Spreadsheet record on awareness and consultation programs	Public Relations team
Spreadsheet record on roadshows	Public Relations team
Awareness and consultation Reports	Public Relations team
Roadshow reports	Public Relations team
Land Bank Log Book	Director Land Use
Spreadsheet records of marketing activities	Marketing team
Advertising cuttings	Marketing team
Approved survey plans	Senior Geospatial Officer (SGO)
Land Bank Database File	Principal Land Use Officer
Complaints Database and Spreadsheet record	EO Monitoring
Monitoring reports	EO Monitoring
Inspection reports	EO Monitoring

2) Interviews

Interviews were carried out with the following officers listed in Table 11 below.

Table 11: Details of interviews conducted

Agency/Department	Section	Officers interviewed
Land Use Division	N/A	Director, Land Use Division
Land Use Division	N/A	Principal Land Use Officer
Land Use Division	Public Relations	Public Relations Officer
Land Use Division	Geographic Information Systems (GIS)	Senior Geospatial Officer (SGO)
Land Use Division	Administration	Executive officer Monitoring (EO Monitoring) Assistant Accounts Officer (AAO)
Land Use Division	Marketing	Marketing Officers

3) Database Review

Review and analysis of spreadsheet records of land designations and leases issued were conducted. The complaints database was also reviewed and analysed.

4) Other

Correspondences through emails were also made to clarify certain issue.

Appendix 2: Letter to Ministry of Lands



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File: 486/1

15 November 2018

Mr. Malakai Finau
Permanent Secretary
Ministry of Lands and Mineral Resources
P O Box 222
Government Buildings
SUVA

Dear Mr. Finau

FOLLOW-UP AUDIT ON MANAGEMENT OF LAND REFORM PROGRAM

Attached is the draft report Follow-up Audit on Management Land Reform Program which I intend to submit to the Honorable Minister for Economy for tabling in Parliament. You will note that comments received has already been incorporated in the report where appropriate.

The draft report is submitted for your information and comments (if any) which we expect to receive by 22 November 2018. Comments provided would be included in an appendix to the report. Therefore, we will be grateful if any further comments are limited to 500 words.

We trust that you will keep the contents of the draft report confidential.

Yours sincerely

Ajay Nand
AUDITOR-GENERAL

Encl.