

## **NBPOL Procedure for Handling Landowner Grievances**

### **Brief Overview**

One of the major factors limiting rural development in Papua New Guinea is the shortage of Alienated (i.e. State Lease) Land. In PNG, State Leases make up about 3% of the total land area, while 97% remains as customary land. This makes development investment particularly challenging, as the availability of secured State Land is very limited. According to Section 132 of the Land Act 1996, *“a customary landowner has no power to sell, lease or otherwise dispose of customary land or customary rights otherwise than to citizens in accordance with custom”*.

In PNG, land is a very sensitive subject and in particular when it concerns Customary Land. Foreign companies, or people, cannot develop customary land without first obtaining registered lease/sub-lease titles from the Department of Lands & Physical Planning; a process which is led by customary landowners through their own Incorporated Land Groups (ILGs). Customary land rights are enshrined in the PNG Constitution and the underlying Law Act. The Land Act always protects customary land rights and as such it would be unlawful for a large development project to take place on customary land without formalizing the land administration process through the relevant ILGs and Government authorities.

Another important factor to note is that customary land is not owned by any individual person, rather it is owned by a clan, tribal group, village or community. Customary land rights are regulated or enforced through strong tribal customs and this is often very different from one Province or region to another. In some parts of PNG descendants of a particular tribal group or clan inherit land through patrilineal descent (male lineage) while others follow a matrilineal descent (female lineage). This is very much still alive in most parts of the country and this is because people’s livelihoods still depend and evolve on putting the land to its highest and best use today, either by building a factory, putting up a commercial shop, a coconut plantation or oil palm estate, a garden or building a house.

A great deal of effort and time is put into ensuring that all procedures or processes under the Land Act are adhered to and properly followed in the spirit of the Act prior to any development-taking place on customary land (i.e. register customary land under the Land Registration Act).

If any person or developer intends to commercially improve land in any way, either by planting cash crops or erecting or putting up a permanent dwelling or commercial buildings, then it is quite natural to obtain a secured title over the land. As there is no Customary Land Registration Act yet, one is limited to the Land Tenure Conversion Act (that is administered by the Land Titles Commission) and the Lease Leaseback Section of the Land Act (that is administered by the Department of Lands and Physical Planning).

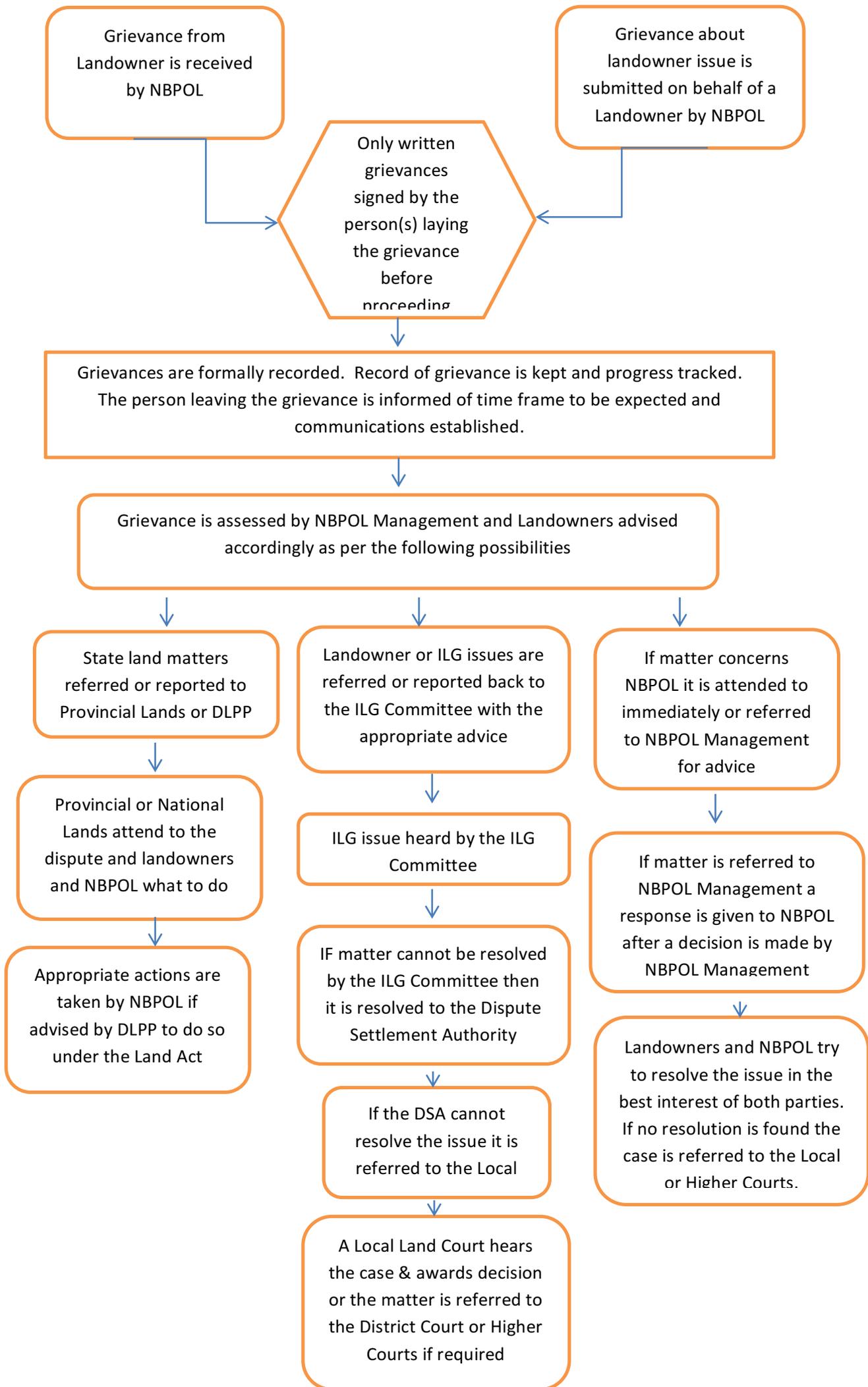
### **Guiding Principles**

- 1) The approach for landowners to enter into a joint venture with NBPOL must originate from the Land owner group/s themselves. This may be a verbal invitation but must be backed up by a formal letter stating such interest and signed by the Leaders of the Landowning Clans.
- 2) Development Projects must benefit a Community (i.e. Clans & sub-clans) and not one family or an individual.
- 3) Each potential project is individually assessed with regard to not only its economic viability but its sustainability and effect on future village life.

### **Procedure for Handling Landowner Grievances**

- 1) Landowners are encouraged to formally register any grievances with NBPOL. This allows for record keeping and progress tracking purposes.
- 2) Each grievance is assessed uniquely and appropriate measures are taken to establish if it is a grievance which should properly be handled by the Government, by their Incorporated Land Group or by New Britain Palm Oil Limited (NBPOL).
- 3) Grievances that are Statutory are referred (with support) to the Provincial Lands Office for appropriate advice to be given to the landowners concerned.
- 4) Grievances that are internal landowner-related are referred to the Incorporated Land Group (ILG) to resolve the issue according to the ILG's constitution and custom. For re-registered or newly registered ILG's the appointed Dispute Settlement Authority should handle the dispute. Note that no members of the ILG Management Committee should be included on the Dispute Settlement Authority (DSA). The DSA should be an independent and a neutral body to deliberate on the ILG's disputes.
- 5) Some issues can end up in the local District Land Court if the Dispute Settlement Authority of an ILG is unable to resolve the matter. Those that end up in the local District Land Court often take months and years to be settled as there is never a happy loser.
- 6) Grievances that are NBPOL directed are channelled through the management team for advice if it concerns management, otherwise, appropriate measures are taken and the dispute is resolved mutually in the best interest of both parties.

***Landowners are encouraged to resolve their disputes outside the local District Land Court in order to maintain the peace and harmony amongst all clans or people living on the same parcel of land. Most disputes are usually based on land boundaries, land ownership and benefit distribution. At NBPOL, we aim to reach a mutual outcome for the benefit of both parties. We also aim to maintain a healthy and transparent relationship that is legal and binding on both parties.***



Grievance from Landowner is received by NBPOL

Grievance about landowner issue is submitted on behalf of a Landowner by NBPOL

Only written grievances signed by the person(s) laying the grievance before proceeding

Grievances are formally recorded. Record of grievance is kept and progress tracked. The person leaving the grievance is informed of time frame to be expected and communications established.

Grievance is assessed by NBPOL Management and Landowners advised accordingly as per the following possibilities

State land matters referred or reported to Provincial Lands or DLPP

Landowner or ILG issues are referred or reported back to the ILG Committee with the appropriate advice

If matter concerns NBPOL it is attended to immediately or referred to NBPOL Management for advice

Provincial or National Lands attend to the dispute and landowners and NBPOL what to do

ILG issue heard by the ILG Committee

If matter is referred to NBPOL Management a response is given to NBPOL after a decision is made by NBPOL Management

Appropriate actions are taken by NBPOL if advised by DLPP to do so under the Land Act

IF matter cannot be resolved by the ILG Committee then it is resolved to the Dispute Settlement Authority

Landowners and NBPOL try to resolve the issue in the best interest of both parties. If no resolution is found the case is referred to the Local or Higher Courts.

If the DSA cannot resolve the issue it is referred to the Local

A Local Land Court hears the case & awards decision or the matter is referred to the District Court or Higher Courts if required