
PROVINCIAL GOVERNMENT ACT 1981

CHOISEUL PROVINCE RESOURCE MANAGEMENT
ORDINANCE 1997

AN ORDINANCE TO PROVIDE FOR THE CHOISEUL
PROVINCIAL EXECUTIVE TO MANAGE THE NATURAL
RESOURCES OF THE PROVINCE IN A MANNER CONSIS-
TENT WITH NATIONAL POLICY AND LEGISLATION, AND
TO PROVIDE FOR THE INDIGENOUS PEOPLE OF
CHOISEUL PROVINCE TO CONTRIBUTE TO THE ENACT-
MENT OF LEGISLATION TO PROVIDE FOR EFFECTIVE
MANAGEMENT OF NATURAL RESOURCES ON CUSTOM-
ARY LAND.

ARRANGEMENT OF SECTIONS

PART I PRELIMINARY

1. Short Title and Commencement.
 2. Object of the Ordinance
 3. Effect of Ordinance.
-

4. Interpretation.
5. Plans and policies for Resources on Customary land.

PART II PROHIBITION ON TAKING AND PROTECTION OF SPECIFIED RESOURCES

6. Prohibition species or categories of resources.
7. Limitation on taking species or categories of resources.
8. Offences.
9. Amendment to Schedules.
10. Exemptions
11. Defence for Solomon Islands citizens.

PART III CUSTOMARY LAND RESOURCE MANAGEMENT ORDERS

12. Resource Orders.
13. Request for Resource Order.
14. Variation or Revocation of Resource Order.
15. Offences.

PART IV PROHIBITION OF ACTIVITIES HAVING ADVERSE ENVIRONMENTAL EFFECT

16. Prohibition on taking live coral.
17. Offence to use anchor.
18. Logging.
19. Harvesting methods for marine resources.
20. Offences.
21. Liability of Company Officers.

SCHEDULE 1 Prohibited Species.

SCHEDULE 2 Protected Species.

SCHEDULE 3 Form A Request for Customary
Land Resource Management Order.

SCHEDULE 4 Form B Customary Land Resource
Management Order

PART I PRELIMINARY

1. Short title Commencement - This Ordinance is called the Choiseul Province Resource Management Ordinance 1997 and shall come into force upon approval of the Minister in accordance with Section 32 of the Provincial government Act 1981 and publication in the Solomon Island Gazette.

2. Objects of the Ordinance - Under the direction of the Choiseul Province Executive and with the assistance of Authorised Officers the Choiseul Province Resource Management Ordinance 1997 seeks to -

- (a) Protect animal and plant species which are rare;
- (b) Prevent animal and plant species from becoming threatened, endangered, extirpated, or extinct within their natural range within Choiseul Province;
- (c) Maintain the natural biodiversity characteristic of the land and water environments of Choiseul Province;
- (d) Ensure the sustainable use of the renewable resources of Choiseul Province for the long term well-being of its inhabitants;
- (e) Assist in Resource Management Planning on Customary Land by the implementation of Resource Management Orders.

3. Effect of Ordinance on other laws -

(1) In the interests of clarity it is hereby declared that this Ordinance shall in no way to derogate from any Acts but seeks to act in a complementary manner especially where other laws seek to protect species or resources.

(2) Compliance with the requirements of this Ordinance shall not absolve a person from compliance with any Act of Parliament.

4. Interpretation -

In this Ordinance, unless the context otherwise requires:

“Appropriate Committee” means an established committee having customary respect and knowledge of traditional and customary usage of customary land, and includes a Community Leaders Committee, a Chiefs Committee, a Council of Chiefs, and a Village Committee.

“Area Council” means an Area Council established under the Choiseul Province Area Council Ordinance 1992;

“Authorised Officer” means any Police Officer, any Fisheries Officer, Environment Officer, Forestry Officer, any Area Constable, Village Organisers, Chief or any other person

appointed in writing by the Executive to be an
Authorised Officer for the purposes of this Ordinance.

“Coastal waters” means all that area of sea which comprises part
of Choiseul Province by virtue of Section 3 of the
Provincial Government Act 1981.

“Customary land” means any land (not being registered land,
other than land registered as customary land) used or
occupied by a person or community in accordance with
current customary usage and shall for the purposes of
Part III of this Ordinance include areas of reef waters or
lagoon waters where according to current customary
usage a person’s or community’s use or occupation of
land extends to and includes use and occupation of such
reef or lagoon waters.

“Customary land holding group” means a tribe, clan, line,
community or group of such persons owning or
customarily recognised as entitled to own or exercise
primary rights over customary land.

“Endangered” means in relation to any plant or animal species,
imminent danger of extinction from any cause whatso
ever, including the cause that population levels have
been critically reduced and or habitat has been critically
reduced or damaged.

“Executive” means the Choiseul Province Executive.

“Export” means the selling, supplying or transporting of marine
resources, forest resources or wildlife resources
originating from within Choiseul Province, outside of
Choiseul Province whether to another part of Solomon
Islands or overseas.

“Extinct” means in relation to a plant or animal species, not
definitely located within a period of 10 years up to the
date of any enquiry.

“Extirpated” means in relation to any plant or animal species,
eliminated from a part or parts of its previously known
range. This may refer to loss of a species from specific
islands within the Choiseul Province.

“Fish” means any cold blooded animal living wholly in water
breathing through gills with fins for swimming.

“Forest resources” means any tree, flora or fauna, alive or dead,

which is of a species indigenous to Solomon Islands and is or was growing in the Choiseul Province.

“Marine resources” means any fish and any other animal plant or thing living in or found in salt water including but not limited to the following species or categories of species; beche-de-mer, clam, crab, crayfish, crocodile, green snail, pearl oyster shell, prawn, seaweed, trochus and turtle.

“Qualified requesters” means all of the persons, or the persons representing all of the persons who according to the customary law and traditions of the area to be affected by a Resource Order are the persons entitled to make rules which are binding on the people indigenous to the area, and people coming to the area with respect to the natural resources of the area, which would be affected by the Resource Order.

“Rare” means any plant or animal species with small populations either because of local occurrence within restricted geographic areas or habitats or they are thinly scattered over a more extensive range within Choiseul Province.

“Resource Order” means a Customary Land Resource Order made by the Executive pursuant to Section 12 of this Ordinance.

“Sustainable use” means using, developing or protecting renewable natural and physical resources so that their ability to yield long term benefits is not endangered.

“Take” means in relation to forest resources to cut, kill, sell, purchase or export; and in relation to marine resources to fish, catch, kill capture, sell, purchase or export; and in relation to wildlife resources to kill, hunt, capture, sell, purchase or export.

“Threatened” in relation to any plant or animal species means having a declining population due to over-exploitation or destruction of their habitat; such species being likely to become endangered in the near future if the factors responsible for the decline continue to operate.

“Wildlife resources” means all indigenous birds, insects including butterflies, reptiles, amphibians, and mammals whether dead or alive.

“Vulnerable” means threatened.

5. Plans and Policies for Resources on customary land -

- (1) Every customary land owning group may make its own policy statements and plans regarding the use of resources within its land or area.
- (2) Policy statements and plans prepared by customary land owning groups shall be referred to the appropriate Area Council for endorsement pursuant to Schedule II of the Choiseul Province Area Council Ordinance 1992 or any Ordinance passed in amendment or substitution therefor.

PART II
PROHIBITION ON TAKING AND PROTECTION OF
SPECIFIED RESOURCES

6. Prohibited species or categories of resources -

- (1) No person may take any of the prohibited species, or categories of marine resources listed in Schedule I Part A.
- (2) No person may take any of the prohibited species or categories of wildlife resources listed in Schedule I Part B.
- (3) No person may take any of the prohibited species or categories of forest resources listed in Schedule I Part C.

7. Limitation of taking species -

- (1) No person may take any of the species or categories of resources listed in Schedule 2 Part A of a size other than that prescribed in Schedule 2 Part A for such species or category.
- (2) No person may take any of the species or categories of resources listed in Schedule 2 Part B in quantities in excess of the quantity prescribed in Schedule 2 Part B for such species or category during any period of time prescribed in Schedule 2 Part B as a prohibited month(s) for such species or category.
- (3) No person may take any other species or categories of resources listed in Schedule 2 Part C in during any month in any year which is specified in Schedule 2 Part C relation to such species or category as a prohibited month or year.

8. Offences -

Any person who breaches, or permits a breach of this Part of this Ordinance is guilty of an offence.

(a) Where the person committing the offence is an individual, that person shall be liable on conviction to a fine of \$1,000 or to imprisonment for three months, or to both such fine and imprisonment.

(b) Where the person committing the offence is a company, that person shall be liable on conviction to a fine of \$5000 and the officers of the body corporate will also be liable under section 21 to imprisonment for a term of six months.

(c) In addition to the penalties set out in subsections (a) and (b), the court may order that -

(i) Any property used in the commission of an offence and any proceeds from the offence be forfeit to the Crown; and

(ii) Any business licence held by the offender, authorising the carrying out of any business activity within the Province, be suspended and that offender be disqualified from obtaining a new licence for up to 5 years.

9. Amendment to Schedules -

The Executive may by Order published in the Solomon Islands Gazette add to, delete from or amend the contents of Schedules 1 and 2 of this Ordinance.

10. Exemptions -

The following persons are exempted from compliance with the provisions of this Part of this Ordinance subject to compliance with the conditions set out in this section in relation to such persons;

(a) Any person who has first obtained a valid research permit under the Research Act or any Act or Ordinance passed in amendment or substitution thereof or who has otherwise obtained the written consent of the Executive and the Solomon Islands Government to carry out scientific survey or other scientific works, and if appropriate has obtained an export permit, and or a Choiseul Province business licence.

(b) Any person carrying on the business of farming or ranching any prohibited or protected marine resources or wildlife resources with the prior written consent and approval of the Executive and the Ministry

of Natural Resources and the resource is being used in that farm or ranch and if appropriate such person has a permit for export and or a Choiseul Province business licence.

(b) Any person carrying on the business of farming or ranching any prohibited or protected marine resources or wildlife resources with the prior written consent and approval of the Executive and the Ministry of Natural Resources and the resource is being used in that farm or ranch and if appropriate such person has a permit for export and/or a Choiseul Province business licence.

(c) An Authorised Officer of the Ministry of Agriculture and Fisheries, Ministry of Forestry, Environment and Conservation or of the Choiseul Provincial Government where such officer is using the prohibited or protected species for research, monitoring or survey studies.

11. Defence for Solomon Islands citizens -

It shall be a defence to a person charged with an offence under this Part of this Ordinance that if , on a balance of probabilities;

(a) The person is a Solomon Islands citizen indigenous to or permanently residing in Choiseul Province; and

(b) The person took the prohibited or protected resource (being an edible resource) for the sole purpose of consumption by himself his family or other persons where no monetary reward was received or intended to be received in return for providing the resource or for the effort expended or cost incurred in taking it provided that this Section shall not provide a defence to any person who purchases or exports a resource which is prohibited or protected by this Part of this Ordinance; or

(c) The person took the prohibited or protected resource for use by himself or another or other Solomon Islands citizens indigenous or residing permanently in Choiseul Province to use in or process to be used in building, personal adornment or for a customary use or purpose, or to be used in the making of souvenirs to be sold on the Solomon Islands domestic market or to be exported provided that this section shall not provide a defence to any person who sells a prohibited or protected resource to a person not a Solomon Islands

citizen, or who exports a prohibited or protected resource which has not been processed into a souvenir.

PART III CUSTOMARY LAND RESOURCE MANAGEMENT ORDERS

12. Resource Orders -

- (1) The Executive may make Resource Orders by Order published in the Solomon Island Gazette.
- (2) A Resource Order is an Order applying to a particular area of customary land and providing for prohibition and or protection of marine resources, forest resources and/or wildlife resources existing on that land.
- (3) A Resource Order may only be made if all of the procedural requirements of this Ordinance have been satisfied, and
 - (a) The proposed Resource Order relates to customary land; and
 - (b) The boundaries of the customary land are clearly defined; and
 - (c) The Resource Order has been requested by and the Executive is satisfied that the request has been made after agreement between all qualified requesters; and
 - (d) The contents of the proposed Resource Order are not contrary to the National interest; and
 - (e) The proposed Resource Order is clear and unambiguous.

13. Request for Resource Order -

- (1) A request for a Resource Order may be made at any time in relation to any defined area of customary land by qualified requesters; such persons hereinafter called "the Applicants".
- (2) A request for a Resource Order shall be made in Form A in Schedule 3 of this Ordinance.
- (3) Upon receiving a request for a Resource Order the Executive shall consider the request and if satisfied that it complies in all respects with the requirements of this Ordinance shall, within one month of receipt of the request, endorse its approval on the request and deliver the request to the Secretary of the Area Council to whose area the request relates.

- (4) Upon receipt of the request endorsed with the approval of the Executive the Area Council Secretary shall forthwith cause a copy of the request to be displayed in a conspicuous place in each village within the area affected by the request. The Area Council Secretary shall at the time of displaying the request sign it and affix to it the date of the first complete day that it will be displayed.
- (5) Within one calendar month of the first complete day that the request is displayed, any person may give written notice of objection to an Appropriate Committee that the Applicants are not all the qualified requesters.
- (6) A copy of the notice of objection under Subsection 13(5) shall be delivered by the Objectors to the Provincial Secretary on behalf of the Executive no later than one day after the day that the notice of objection is filed in the Appropriate Committee.
- (7) A copy of the notice of objection shall be served on the Applicants, and such persons shall be Respondents for the purpose of the objection and entitled to appear and be heard in the Appropriate Committee.
- (8) Upon hearing an objection brought to it pursuant to Subsection 13(5) the Appropriate Committee shall make and record determinations as to whether or not the Applicants are all the qualified requesters.
- (9) Following the hearing of the objection, the Secretary of the Appropriate Committee shall deliver a copy of the determination to the Area Council and the Provincial Secretary on behalf of the Executive.
- (10) If the Applicants are not satisfied:
 - (a) That the Committee nominated by the Objector is qualified to make the determination sought; or
 - (b) that the determination of the Committee is correct, the Applicant may within 21 days after the date of the determination apply to the Local Court for a ruling under Subsection 13(5) of this Ordinance.
- (11) The Executive may by resolution make and cause to be gazetted a Resource Order in terms of the request provided that the time for lodging an objection to the Appropriate Committee has expired and no objection has been lodged, or if an objection has been lodged the determination of Appropriate Committee has been made and delivered and the determination was to the

effect that the Applicants are all of the qualified requesters, and no application to a Local Court under Subsection 13(10) of this Ordinance has been made.

(12) A Resource Order shall be in the form set out in Form B of Schedule 3 of this Ordinance and shall not differ substantially from the request endorsed by the Executive.

(13) (a) A Resource Order may make the defence contained in Section 11 of this Ordinance available for breaches of the Resource Order; and all Resource Orders shall state whether or not the defence contained in section 11 is available under the Resource Order.

(b) Where the defence contained in Section 11 is made available Section 11 shall be read as if the words "this Resource Order" appeared where the words "this Ordinance" appears in the section.

14. Variation or Revocation of Resources Orders -

(1) Any Resource Order may be varied by subsequent Order of the Executive, published in the Solomon Islands Gazette, in the following circumstances:

(a) The request for the variation or revocation must be made by the same persons or substantially the same persons as were the qualified requesters in the request for the Resource Order. The Executive may reject any request where it is satisfied that there is not reasonable identity between the qualified requesters and the applicants for variation or revocation.

(b) The request for variation or revocation must be made in writing and must specify a date on which the variation is to take place, being a date not less than 6 months from the date of the request.

(2) Should the Executive resolve to vary or revoke a Resource Order it may impose such reasonable terms and conditions upon the future use, occupation or management of the land or its resources as may be requested by the applicants.

15. Offences -

(1) It shall be an offence under this section to breach any of the provisions of a Resource Order.

(2) (a) Where the person committing the offence is an

individual, that person shall be liable upon conviction to a fine of \$1,000.00 or to imprisonment for a term of three months or to both such fine and imprisonment.

- (b) Any person being an individual convicted of an offence under this section shall be liable to pay such sum not exceeding \$5,000.00 as the Court deems just to the Executive for payment to the customary land owners by way of restitution for the resource damage caused.
- (3) (a) Where the person committing the offence is a company that person shall be liable on conviction to a fine of \$5,000 and the officers of the body corporate will also be liable under section 21 to imprisonment for a term of six months.
- (b) Any person, being a company, convicted of an offence under this section shall be liable to pay such sum not exceeding \$10,000 as the court deems just to the Executive for payment to the customary landowners by way of restitution for the resource damage caused.
- (4) On receipt of payment under paragraph (b) of this subsection the Executive shall forthwith pay the restitution to the signatories to the Resource Order request or their administrators or assigns.
- (5) The provisions made in this section shall not be deemed to deprive any person of civil rights and remedies otherwise available in relation to wrongful interference with resources on customary land.

PART IV PROHIBITION OF ACTIVITIES HAVING ADVERSE ENVIRONMENTAL EFFECTS

16. Prohibition on taking live coral -

- (1) Subject to Subsection (2) of this section no person shall take, cut, collect, blast using any explosive, harvest or remove any live coral from or in coastal waters.
- (2) Subsection (1) of this section shall not apply to:
 - (a) A person indigenous to the Solomon Islands who takes, cuts, collects, harvests or removes live coral for the sole purpose of producing by traditional means lime for consumption with betel nuts.

(b) A person indigenous to the Solomon Islands who takes, cuts, collects, harvests or removes live coral to use for traditional purposes.

(c) Any person who has first obtained a valid research permit under the Research Act or any Act or Ordinance passed in amendment or substitution therefor or who has otherwise obtained the written consent of the Executive and the Solomon Islands Government to carry out scientific survey or other scientific work related to corals.

(d) Any person who holds written authority from the Executive and Solomon Islands Government to clear a passage way or blast a channel through coral reef or otherwise remove coral for the purpose of a development or accessway approved by the Executive.

17. Offence to use anchor -

It shall be an offence for the Captain of any ship or boat or other vessel to cause or allow his ship, boat or other vessel to be anchored within or near any coral reef where there is a mooring, bouy, wharf or other method of securing the ship, boat or vessel within a radius of 500 yards from the place where the ship is anchored.

18. Logging -

(1) Subject to any right, privilege or licence granted pursuant to National laws, all logging and sawmilling activities within the Choiseul Province must adhere to the Choiseul Province Forest Management Policy.

(2) The Choiseul Province Forest Management Policy shall be that Policy notified and published by the Choiseul Province from time to time.

19. Harvesting methods for marine resources -

(1) No person may use scuba gear or any other underwater breathing apparatus when harvesting any marine resource.

(2) Any person may make use of traditional methods of harvesting or gathering marine resources, provided that poisonous plants may only be used for harvesting marine resources for special occasions such as feasts. Poisonous plants may not be used as a harvesting technique for regular local consumption or harvesting for monetary reward.

- (3) No person shall use dynamite when harvesting fish or other marine resources.

20. Offences -

Any person or company in breach of any of the provisions of this Part of this Ordinance is guilty of an offence.

- (1) (a) Where the person committing the offence is an individual that person shall be liable on conviction to a fine of \$1,000 or imprisonment for a term of three months or to both such fine and imprisonment.
- (b) Where the person committing the offence is a company, that person shall be liable on conviction to a fine of \$5,000 and the officers of the body corporate will also be liable under section 21 to imprisonment for a term of six months.
- (2) In addition to the penalties set out in subsection (1) the court may order that -
- (a) Any property used in the commission of an offence and any proceeds from the offence be forfeit to the Crown; and
- (b) Any business licence held by the offender, authorising the carrying out of any business activity within the Province, be suspended and that the offender be disqualified from obtaining a new licence for up to five years.

21. Liability of Company Officers.

For the purposes of Parts II, III and IV of this Ordinance, where a company commits an offence under this Ordinance, every director and every person concerned in the management of the company, will be guilty of the same offence if it is proved -

- (a) That the act that constituted the offence took place with his or her authority, permission, or consent; or
- (b) That he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take reasonable steps to prevent or stop it.

SCHEDULE I
PROHIBITED SPECIES OR CATEGORY OF RESOURCE
Section 6

PART A (Subsection 6(1))
Prohibited Marine Resource

Any live marine resource not farmed or propagated subject to permit for commercial purposes.

Tridacna gigas, giant clam
Tridacna derasa, smooth giant clam
Tridacna squamosa, fluted giant clam
Tridacna maxima, rugose giant clam
Tridacna crucea, boring clam
Hippopus hippopus, horse's hoof clam
Charonia triponis, pacific trident

Part B (Subsection 6(2))
Prohibited Wildlife Resources

Any live marine resource not farmed or propagated subject to permit for commercial purposes.

Solomys ponceleti, giant rat
Solomys sapientis, giant rat
Hromys rex, giant rat
Pteralopex atrata, monkey-faced flying fox
Pteralopex anceps, monkey-faced flying fox
Dobsonia, all species, naked-back bats
Macroglossus minimus, dagger-toothed flower bat
Melonycteris, fruit bat
Nyctimene, all species, tube-nosed bat
Pteralopex, all species, fruit bat
Pteropus, all species fruit bat

Part C (Subsection 6(3))
Prohibited Forest Resource

Any live forest resource
Saline swamp forest (Mangroves)
Freshwater swamp forest (Terminalia spp. and Metroxilon spp.)

SCHEDULE 2
PROTECTED SPECIES

Section 7

Part A (Subsection 7(1))

<u>Protected species or category of Marine/Wildlife/Forest Resource</u>	<u>Prescribed Min/max/size</u>
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<u>Holothuria scabia</u> , sandfish	8cm dry (min)
<u>Holothuria nobilis</u> , black teatfish	11cm dry (min)
<u>Holothuria fuscopunctata</u> , elephant trunkfish	12cm dry (min)
<u>Thelenota ananas</u> , prickly redfish	11cm dry (min)
<u>Actinopyga miliaris</u> , blackfish	11cm dry (min)
<u>Actinopyga echinitis</u> , deepwater redfish	5 cm dry (min)

Part B (Subsection 7(2))

<u>Prescribed species or category of Marine/Wildlife/Forest Resource</u>	<u>Quantity Prescribed Time</u>
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Nil

Part C (Subsection 7(3))

<u>Prescribed species or category of Marine/Wildlife/Forest Resource</u>	<u>Prescribed Periods Prohibited</u>
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<u>Turbo marmoratus</u> , green snail	10 years, 1994 - 2003 (inclusive)
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SCHEDULE 3
CUSTOMARY LAND RESOURCE ORDER REQUEST

AN APPLICATION affecting the land
area, on the island of Choiseul Province, (*
and including the reefs lagoons adjacent to the land specified.)

* delete if inapplicable.

1. The boundaries of the land are
described as follows and as marked and out-
lined in red on the plan attached.

2. The Customary Land Resource Management Orders which we request the Executive to make part of the laws of the Choiseul Province are as follows:

[Note: The following are examples only. You should clearly state here what marine resource, forest resource or wildlife resource prohibitions and protections you require. You may need to use a different form of wording from what is used here as an example.]

(a) No person is permitted within the area affected by this Order to take any of the prohibited species or categories of marine resource/*forest resource/*wildlife resource listed here.

* delete if inapplicable.

(list species or categories)

(b) Within the area affected by the order no person is permitted to take any indigenous forest resource for the purpose of round log exporting.

(c) Within the area affected by the Order no person is permitted to take for the purpose of exporting any of the following species or category of forest resources. (Name the prohibited species of forest resource.)

(d) Within the area affected by the Order no person is permitted to take for the purpose of exporting any of the following species of wildlife. (Name the prohibited species of wildlife.)

3. We do not (delete one) wish for the defence for persons indigenous to the Solomon Islands provided by Section 11 to apply to offences against this Order.

4. We the undersigned acknowledge that we are aware that if the request is approved by the Executive, and is not appealed against successfully, it will be gazetted in the Solomon Islands Gazette. It will then become part of the laws of the Choiseul Province. There will be penalties for not obeying it. Once an Order is made then it can not be changed unless the Executive agrees to repeal it.

5. We the undersigned are all the qualified requesters.

We certify that we have discussed this Resources Order Request with the communities which will be affected by it, and that we substantially have their agreement to it.

SIGNED by and on behalf of the land owning group tribe.

Names	Signatures	Titles if any
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The following is for official use only.

We the Choiseul Provincial Executive have on the day of 199 considered this Resource Order Request relating to the land.

1. We are satisfied that the request complies in all respects with the Choiseul Province Resource Management Ordinance 1997 and hereby ENDORSE the request under the hand of the Premier, Choiseul Province.

.....
Premier	Signature	Seal

2. We are NOT satisfied that the request complies in all respects with the Choiseul Province Resource Management Ordinance 1997. The reasons we believe it does not comply are as follows.

We therefor REJECT the request under the hand of the Premier, Choiseul Province.

.....
Premier	Signature	Seal

I, Secretary to the Area Council hereby certify that I have displayed this Resource Order Request, endorsed by the Executive, in Village, and first complete day it will be displayed is the day of 199

.....
Secretary

.....
Area Council

PASSED BY THE CHOISEUL PROVINCIAL ASSEMBLY THIS
TWENTY-EIGHTH DAY OF OCTOBER 1997.

M. Saru Jopa

.....
Clerk to the Provincial Assembly

ASSENTED TO BY THE MINISTER THIS TWENTY-THIRD
DAY OF JULY 1999.

J. Waipora

.....
Minister of Provincial Government
