

Issues in the Management of Archaeological Heritage in Sāmoa

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Abstract

Sāmoa was the first nation in the Pacific to gain independence yet it does not have in place legislation to protect its archaeological and historic heritage. This paper examines issues of custom, history, law and land tenure in Sāmoa that may have impeded the formulation of policies. It reviews the way in which these issues have been accommodated in the policy, legislation and implementation of archaeological heritage protection in several of Sāmoa's Pacific neighbours. It suggests that there may be some useful lessons in these examples for planning future heritage policy and legislation for Sāmoa.

Keywords:Sāmoa, cultural heritage management, Pulemelei, land tenure.

Introduction

This paper will discuss some of the key issues in the management of archaeological heritage; in particular land tenure in a situation where the state has limited legislative authority (see also Martinsson-Wallin et al. 2006). Our aim is to explore the current system in place for the protection of Sāmoa's archaeological heritage and compare it to its Pacific neighbours of Fiji, Vanuatu, and American Sāmoa, where heritage legislation has been in place since the late 1970s and early 1990s, respectively. We will also discuss the relevance of customary law and land tenure in Sāmoa, and how this might shape any future heritage legislation for Sāmoa.

The Independent State of Sāmoa, formerly known as Western Sāmoa, but hereafter referred to as Sāmoa, consists of the larger islands Upolu and Savai'i and the smaller islands of Manono and Apolima and a number of islets. Sāmoa holds a unique position in the history of Polynesia as being, alongside Tonga, the likely "cradle" of classical Polynesian culture. This area was populated around 3000 years ago by groups of people who originated from Island South East Asia. They had a maritime technology and lifestyle, but they also carried a typical pottery style with dentate stamping that has been called Lapita pottery, and they brought horticulture to Sāmoa.

Sāmoa has a dynamic past, including a rich and varied oral tradition, but also a multitude of important archaeological sites (Freeman 1943, 1944a,1944b,1944c;Pritchard 1985 [1866]; Stair 1895, 1897). Modern archaeological research in Sāmoa commenced in the 1950s by scholars interested in understanding Sāmoa's pre-contact past over the last 3000 years and role in the colonisation of the Pacific (Golson 1957; Green and Davidson 1969, 1974; Jennings 1976, 1979).

In American Sāmoa, research has been on-going since the 1960s as a result of the *National Historic Preservation Act* 1966 which established an American Sāmoa Historic Preservation Office in 1970 (Addison et al. 2005, 2008a, 2008b; Addison and Asaua 2006a; Best et al. 1989;Clark and Herdrich 1993; Eckert 2006; Eckert and James 2011; Eckert and Pearl 2006; Herdrich 1991; Herdrich and Clark 1993; Hunt and Kirch 1988; Ishimura and Addison 2007; Petchey and Addison 2008; Quintus 2011,2012; Quintus and Clark 2012;Reith et al. 2008).

Although research in American Sāmoa has been on-going since the 1960s, there has been a hiatus in archaeological research in Sāmoa since the work of Green and Davidson (1969,

1974) and Jennings (1976), until recently (Addison and Asaua 2006b; Cochrane et al., forthcoming; Clark and De Biran 2007; Clark and Martinsson-Wallin 2007; Cochrane 2015; Ishimura and Inoue 2006; Martinsson-Wallin 2011a, 2011b, 2014, forthcoming; Martinsson-Wallin et al. 2007; Petchey 2001; Sand et al. 2013; Wallin and Martinsson-Wallin 2007; Wallin et al. 2007). The resurgence in archaeological research in the Sāmoan archipelago encouraged courses in archaeology to be offered within the Sāmoan Language and Culture Program at the National University of Sāmoa during 2006–2012 (Martinsson-Wallin, forthcoming) leading to the establishment of a teaching program in Archaeology and Cultural Heritage Management in 2013.

At present most Sāmoans do not attach as much importance to archaeological and heritage sites, if these are known at all, as they do to intangible aspects of their cultural heritage such as oratory, oral traditions, genealogy and the traditional honorific salutations of villages. Archaeological and heritage places are afforded some protection under the *Planning and Urban Management Act* 2004. Although a number of government agencies have a limited mandate for the management of archaeological sites, there is no specific legislation for the protection and conservation of Sāmoa's tangible cultural heritage. In contrast to American Sāmoa, there is no legal requirement for the impacts on archaeological remains or heritage values to be considered in environmental impact assessments.

Custom and Law

Sāmoa is governed under a Westminster parliamentary system. Along with the body of formal laws passed by the parliament and subject to the courts, the *Constitution of Sāmoa* 1960 recognises Sāmoan customs under three provisions relating to land and leadership and the arbitration of customary matters. Article 100 provides for traditional leadership, stating that: 'A *Matai* title shall be held in accordance with Sāmoan custom and uses and with the law relating to Sāmoan custom and usage.' In Sāmoa, *matai* refers to chiefly title holders. Article 101 provides for customary tenure by defining customary land as 'land held from Sāmoa in accordance with Sāmoan custom and usage and with the law relating to Sāmoan custom and usage.' It further provides that there will be no alienation of customary land. 'Sāmoan custom and usage' is not defined in the Constitution or any other Act, but in the case of disputes over custom and usage with regard to *matai* titles or customary land, a case may be taken for arbitration to the Sāmoa Land and Titles Court, provided for in the Constitution under Article 103.

Legislation for village government comprises the *Village Fono Act* 1990 and the *Internal Affairs Act* 1995. The latter provides for the Internal Affairs Division of the Ministry of Women, Community and Social Development (MWCSO) to oversee the wellbeing of villages, village authority, and to provide for 'other matters relating to the culture and traditions of Sāmoa'. The former permits the exercise of power and authority by the village councils of traditional villages in accordance with 'custom and usage of their villages'. The structure of village government is based on the customs, usage and history of each village as interpreted by its legislative body, the village council. These appoint sub-committees for local services such as schools and water supply as they see fit. A bill to amend the Village Fono Act 1990 to further define the authority and procedures of village councils is under consideration as of May 2015.

Historical Aspects of Land Tenure in Sāmoa

Christianity was introduced to Sāmoa in the 1830s and after 70 years of increasing conflicts involving Sāmoan and settler factions in 1900, the Sāmoa archipelago was divided under the colonial administrations of Germany and the United States of America (US). After World War I the western islands of German Sāmoa became a New Zealand Trust Territory and the eastern islands remained a territory of the US (Kennedy 2009; Meleisea 1987). In 1962 Sāmoa was the first nation to gain independence in the Pacific region.

In pre-colonial Sāmoa the islands were divided into territorial chiefdoms comprising numbers of villages (*nu'u*), and use rights in land were allocated by the highest-ranking chiefs. Sāmoan's traditional system of government was based on a hierarchy of *matai* whose authority ranged from the family, to the villages, to sub-districts and districts and, at times, to the whole archipelago (Meleisea 1995). In the nineteenth century foreign settlers in Sāmoa took advantage of the civil wars between rival chiefdoms to buy land in exchange for weapons and money, and pressed for a central government to be formed to validate their claims. Eventually, in 1899, a land commission was appointed by the governments of Britain, Germany and the US to investigate foreign land claims. Those upheld by the commission became freehold titles. A large proportion of these newly created freehold lands became the property of the *Deutsche HandelsundPlantagen Gesellschaft* (DHPG), the largest of the German colonial entities operating in Sāmoa (Firth 1973; Gilson 1970).

Following Germany's defeat in World War I, the New Zealand occupation and administration of Sāmoa was formalised under a League of Nations Mandate in December 1920. The *Sāmoa Act* of 1921 transferred all freehold land held by German entities to the New Zealand administration. These former German plantations were managed by the New Zealand administration through the New Zealand Reparation Estates (Davidson 1967; Lundsgaarde 1974; Nayacakalou 1960). Various parcels of land later became classified as government land and when Sāmoa gained independence in 1962, the large plantations became state property incorporated as the Western Sāmoa Trust Estates Corporation (WSTEC), now the Sāmoa Land Corporation (SLC).

There are three categories of land tenure in Sāmoa today: government land, freehold land and customary land (Grant 2008; Jones and Kohlhasse 2002; Meleisea and Schoeffel-Meleisea 1987). The system of land classification has a significant influence on urban expansion and development today, and the land tenure system reflects the sometimes uneasy interaction between traditional Sāmoan custom and law, and the legacy of colonial settlement and administration. According to Ward and Ashcroft (1998:61–65), government land constitutes approximately 15 percent of all land, with 11 percent under direct government management and four percent under WSTEC/SLC management. The Constitution defines this government land as 'lands vested in Western Sāmoa being land that is free from customary title and from any estate in fee simple' (Boydell et al. 2006; Setefano 2001). Freehold land constitutes only three percent of the overall land resource in Sāmoa (Ward and Ashcroft 1998: 61), but much of it is prime land. Freehold land was originally customary land that was sold by village leaders and registered as such under the New Zealand and German administrations during the late 1800s and early 1900s. These German-owned lands and plantations were later transferred to the Western Sāmoa Trust Estates Corporation (WSTEC) with a small portion

being divested as freehold land. The Constitution defines freehold land as 'lands held from Western Sāmoa for an estate in fee simple'. Unlike customary land, it is not subject to customary law and the majority of freehold land is situated around the capital of Apia, the area of greatest urban concentration in Sāmoa (Grant 2008; Jones and Kohlhase 2002; Jones and Lea 2007).

Customary land comprises 81 percent of all land in Sāmoa (Ward and Ashcroft 1998:61). The majority of known or recorded archaeological sites in Sāmoa are located on customary land and sites yet to be recorded are probably also mainly located on customary land. Customary land cannot be sold or mortgaged and is regarded as being 'outside the parameters of the formal land registration system' (Grant 2008); however, it may be leased for various development purposes.

All customary land is linked to *nu'u*, which comprise a defined territory. Land within this territory falls into two broad categories: the first is family smallholdings and house sites; the second is a diminishing commons, which traditionally included inshore areas, reefs, and primary forest. Today the state owns all land below the tideline, as well as many forested watershed areas that were once part of this commons. Traditionally a *matai* may acquire additional smallholding land by clearing forest as long as the village council of *matai* agrees to this. In modern Sāmoa traditional authority has been modified but remains connected to land use and rights (Meleisea 1987, 2005; Storey 1998).

Tenure is founded on a strong connection to the Sāmoan way of life (*fa'aSāmoa*) relating to the family (*'aiga*), *nu'u*, and the authority of those with *matai* titles in the family (*fa'amatai*), and village council of chiefs (*fono*). In modern practice, *matai* are persons upon whom a title has been ritually bestowed by the senior male and female members of the extended family or lineage (*'aiga*) to whom the title belongs, and usually with the endorsement of the village with which the title is historically associated. A *matai* serves as head of that family. If resident in a village, a *matai* usually represents that family in the local village council, and often in church committees as well (Meleisea 1987).

Modern practices have complicated land tenure and title succession. For example, many *matai* titles with land appurtenant to them have multiple holders so that rights to and authority over land is often a matter of dispute. Perhaps one of the greatest changes is reflected in customs pertaining to land, which have been greatly modified by the monetary economy and the rise of customary individualism (Crocombe 1974, 1987; Fairbairn-Dunlop 2001; Grant 2008; O' Meara 1987, 1995).

Customary individualism—a modified version of the traditional land tenure system that has seen the introduction of the 'principle of descent', whereby family smallholdings remain with individual families—is more common today. In practice, this is a de-facto system of individual family tenure. Custom is still coming to terms with this change and the ideology persists that land is controlled and allocated by the *matai*, although this is seldom the case today (O' Meara 1987).

Any proposed system for the protection and management of Sāmoa's archaeological heritage would need to be sympathetic to the complexities of customary land tenure and its modern nuances. The Constitution of Sāmoa provides the state with no formal authority over customary land except to provide that it may use its legal power to acquire customary land for

national purposes such as roads and other public infrastructure. This power could conceivably be used to acquire areas of heritage value, but where these are on customary land, it is unlikely that the state would do so, as it could have negative political repercussions. This is a significant fact that needs to be considered in relation to the protection and management of archaeological sites.

A Case Study: Pulemelei Mound

The archaeological site of Pulemelei mound, an extensive prehistoric abandoned settlement, located on the Letolo plantation on the island of Savai'i, is an important case study in Sāmoa that highlights the inherent complexities of land and cultural heritage management. It is situated at the complex intersection of land tenure disputes and the relevance of cultural heritage management in a post-colonial setting in the Pacific.

The Pulemelei mound is located on the freehold land of Letolo plantation. It is part of a larger prehistoric settlement complex initially recorded by Gregory Jackmond between 1977 and 1978 (Martinsson-Wallin et al. 2007). The work carried out by Jackmond resulted in the identification of 3500 archaeological features that included 'stone platforms, roads, along with stone fences, and walkways, earth ovens, and refuse piles' (Martinsson-Wallin et al. 2007). In 2002, an international team of archaeologists from Gotland University in Sweden (now Uppsala University) and the Australian National University commenced a research project at the site. The aim of this three-year project was firstly, to understand the chronology and construction sequence of the Pulemelei mound and adjacent structures by archaeological investigation; secondly, to examine the development and meaning of monumental architecture at the Letolo plantation, and contrast Sāmoan monuments with those from other parts of West Polynesia; and thirdly, to provide archaeological fieldwork and cultural heritage training for Sāmoan and overseas students, particularly the management of monumental sites impacted by tourism. This was the first archaeological excavation in Savai'i which could develop a better understanding of the Pulemelei mound and its place in the discourse of mound building traditions in the Pacific (Martinsson-Wallin, forthcoming, 2014; Martinsson-Wallin et al. 2007).

The Pulemelei mound is situated in the Letolo plantation approximately three kilometres from the coast, in southern Savai'i. The plantation is owned by O.F. Nelson Properties Ltd. The land was sold to Frank Magnus Wilson, a European, in 1872 by Tualaulelei Siale, a paramount chief from the village and witnessed by Autagavaia, a high ranking orator of the village and a member of the powerful traditional Pule group of high orators of Savai'i (*Sia'aga and others vs. O.F. Nelson Properties Limited* [2008]). A deed dated 1886 shows that Wilson gifted the land to his daughter Ellen and his son, Charles (*O.F. Nelson Properties Limited vs Feti and others* [2008]). In 1889, Wilson lodged a land claim on behalf of his children with the aforementioned Land Commission which was established under Article IV of the Berlin Conference. In 1894, the boundaries of Wilson's land claim came under dispute from Vavaioti, an orator chief representing the village of Palauli, who felt that the payment made by Wilson of \$1500 for 6000 acres of land was inadequate. A compromise was reached between Wilson and representatives of the village of Palauli. The agreement reached allocated 1500 acres to Wilson with the remainder returned to Vavaioti and the objection was withdrawn. It appears that in 1896, Wilson's children gave 350 acres to the DHPG in cancellation of their father's

debt with the company. This left 1150 acres to Charles and Ellen Wilson, and in 1897, the land was granted back to Frank Magnus Wilson (*O.F. Nelson Properties Limited vs Feti and others*[2008]).

In 1901, Wilson sold the land to a well-known merchant Harry Jay Moors. Disputes re-emerged between the new landowner, Moors and the leaders of Vailoa, a sub-village of Palauli. Court proceedings continued between Moors and the village, with the Imperial District Court ruling that Moors was entitled to 563 acres rather than 1150 acres. By the end of 1906 an out of court agreement settled the dispute between Moors and Vailoa. The agreement reached included the distribution of 200 acres to the Treasury of the Protectorate of Sāmoa, to be distributed to the people of Palauli. In 1921, Moors gifted his remaining lands in fee simple to his daughter, Rosabel Edith Nelson [nee Moors] (Laracy 2014). Two years later, she sold the land to the O.F. Nelson and Company Ltd. The founder of this company Olaf Frederick Nelson was born in 1883 in Safune, Savai'i (Davidson 1967; Field 1991; Meleisea 1987). He is a well-known historic figure in Sāmoa associated with the Mau Movement and was the eldest son of August Nilspiter Gustav Nelson, a Swedish born merchant (Field 1991). August Nelson married Sina Masoe, a daughter of a chief of Safune (Martinsson-Wallin 2011a; Wendt 1965). In 1968, an additional 100 acres was added to the adjoining property owned by a Mr Gray (*Sia'aga and others vs. O.F. Nelson Properties Limited* [2008]). In 1994, the land was sold as estate in fee simple to the current owners, O.F. Nelson Properties Limited. Although the land has been, in effect, property of the Nelson family for almost 100 years, the nearby village of Vailoa has disputed ownership since the time of its sale in 1872. The *matai* of Vailoa village claim the Letolo plantation on which the site of Pulemelei is situated is customary land and the land transactions of the early nineteenth century were fraudulent. The village argues that Tualaulelei Siale did not have paramount authority to alienate, sell or divest lands (*Sia'aga and others vs O.F. Nelson Properties Limited*[2008]).

Prior to the archaeological excavations in 2003, a purification ceremony (*fa'alanu*), was conducted, which attracted many local dignitaries and overseas visitors, including Maori scholars Dr Pita Sharples and the Rev. Morris Gray (Tui Atua 2007). The ceremony was organised by Tui Atua Tupua Tamasese Taisi Tupuola Tufuga Efi (now Sāmoa's Head of State), a descendant of Olaf Nelson, and it attracted considerable local and media attention. One of the aims of the *fa'alanu*, to which chiefs from the whole of the district had been invited, was to reconnect with ancestors of the past and to seek permission for the excavations to go ahead (Tui Atua 2007:5). The *fa'alanu* was a means to obtain ancestral authenticity and required sandalwood (*asi*) for the ritual to proceed. The need for *asi* was advertised and obtained for the *fa'alanu* and was presided over by the local pastor. The *fa'alanu* can be interpreted as a marriage of the old and the new, the past and the present and perhaps a coming together of traditional and scientific traditions. However, the ceremony appears to have instigated a revival of village claims to the land on which Pulemelei is located. There were already economic concerns about the plantation, which was no longer operating on a scale that provided local employment within the village, leading to friction between the plantation owners and the village.

In 2004, the dispute escalated to such a level that the archaeological field season was halted due to safety concerns (Tui Atua 2007). The Prime Minister intervened and the excavations were concluded under the supervision of the chiefs from Vailoa village. In 2005

the plantation manager's house was burnt down and cattle from the plantation were slaughtered (pers.comm. Annandale 2014). In 2010, the Supreme Court of Sāmoa ruled in favour of the plaintiff, O.F. Nelson Properties Limited, ruling that the land in dispute belonged to the plaintiff and was indeed freehold land (*O.F. Nelson Properties Limited vs. Feti and others*[2008]).

The complexity of the Sāmoan political landscape and its relationship to the land tenure system and the *fa'amatai* is illustrated by this case (Huffer and So'o 2000; Meleisea 1987, 1995; Tui Atua 2004; Tuimaleali'ifano 2011). The location of the archaeological remains of Pulemelei on freehold land may well have protected this large complex, although the archaeological team in 2002 were advised that a large mound of stone, approximately six meters in height, was taken away for the building of a church in Vailoa and that another stone mound had been used as road fill in the 1950s. Had the site been on customary land, and in an era of modern construction methods, it is also possible that at least some of the stones of which the mound is constructed might have been removed for house-building and other purposes. This has happened in other parts of Sāmoa where ancient sites are no longer of remembered historical or spiritual significance. Many Sāmoans refer to the pre-Christian past as the time of darkness (*O aso o le pouliuli*) reflecting ambivalence about material relics from that time.

Archaeological and Cultural Heritage Management in Fiji, Vanuatu and American Sāmoa

Throughout the Pacific region there are several examples of how archaeological and heritage management is achieved when customary law and land tenure are still a relevant part of contemporary life (Arutangai 1987; Kamikamica 1987; Rodman 1995; Ward 1995). The following examples from Fiji, Vanuatu, and American Sāmoa provide a snapshot of the current status of strategies for managing archaeological heritage and planning in these contexts. They may offer Sāmoa some contemporary examples of opportunities and constraints in providing for the practical protection and management of its archaeological heritage.

Archaeological heritage in Fiji is afforded protection under the *Preservation of Objects of Archaeological and Paleontological Interest Act*1978. The Act is administered by the Fiji Museum, a statutory body governed by the *Fiji Museum Act*1977, which is responsible for the protection, preservation, and documentation of Fiji's national archaeological and paleontological heritage. The Museum consists of two in-house departments: Pre-history and Historical Archaeology. They are jointly responsible for the compilation and maintenance of site registers as well as carrying out research and field programs. These programs include both the identification and recording of archaeological sites and historic buildings. The *National Trust of Fiji Act*1970 also plays an important role in the preservation of Fijian cultural heritage through the promotion of preservation initiatives in targeted public awareness and educational programs.

In Vanuatu, the central piece of legislation that affords protection to archaeological sites is the *Preservation of Sites and Artefacts Act Amendment*2008. The Act defines national heritage as including any site of historical, archaeological, ethnological, and /or artistic significance, with part 2 (3) of the Act requiring the Vanuatu Cultural Centre to keep a register

of national heritage. The Act also prohibits the modification or destruction of a classified site or object without prior approval from the Minister. In addition, heritage inspectors possess wide-ranging powers to enter, search, and inspect land, premises, vehicles, or vessels where there is reasonable concern that an offence under the Act has been committed.

In addition, the *Vanuatu National Cultural Council Act* 2006 established the Vanuatu Cultural Council, which is responsible for the 'preservation, protection and development of various aspects of the cultural heritage of Vanuatu' (Part 5). The Act makes provisions for the establishment, maintenance, and administration of a number of key national institutions including the Vanuatu Cultural Centre that acts as an umbrella organisation, comprising (1) the National Museum, (2) the National Library, (3) the National Film and Sound Unit, and (4) the National Cultural and Historic Sites Survey. Protection is also afforded by the *National Parks Act* 1993 of Vanuatu that makes provision for the protection of archaeological sites under Section 2(d), and which allows for the declaration of national parks and national reserves. Moreover, the *Environmental Management and Conservation Act* 2003 provides protection of cultural heritage as part of its broader environmental and conservation legislation. This holistic approach that Vanuatu has chosen to adopt links the protection of archaeological sites into a much broader legislative framework. It is a framework that regards archaeological heritage as part of the environmental landscape and provides safeguards through an environmental impact assessment process, a function that is under-utilised in the current legislation in Sāmoa.

In American Sāmoa, archaeological heritage and historic places are protected under the *National Historic Preservation Act* 1966 (NHPA), which applies to all states and territories of the United States. The NHPA applies to projects that receive federal funding, or take place on federal land. In American Sāmoa this applies to most infrastructure development projects such as the installation of water pipes and sewage tanks etc., which often occur on customary or village lands. The NHPA also requires the establishment of a Historic Preservation Office, in this instance the American Sāmoa Historical Preservation Office (ASHPO) as well as a National Register of Historic Places that affords protection to sites or 'historic places' listed on this database. These places can be nominated for inclusion on the register, irrespective of the status of the land tenure including privately owned properties. However, the property owner must be involved in the nomination process. Where the owner objects to a listing, the historic place will not be listed until such time as a decision is made by the Advisory Council on Historic Preservation. In addition to the NHPA, the *American Sāmoa Coastal Management Act* 1990 (ASCMA) is a piece of territorial legislation that applies to all land tenure in American Sāmoa and to development projects and actions that are locally funded.

As in Sāmoa, Fiji, Vanuatu, and American Sāmoa, customary land is managed on the basis of traditional leadership. In the case of the *Preservation of Objects of Archaeological and Paleontological Interest Act* 1978 and the *Preservation of Sites and Artefacts Act Amendment* 2008 in Fiji and Vanuatu respectively, both acts allow for the management of archaeological sites irrespective of the land tenure. The same applies for the federal NHPA and the territorial ASCMA in American Sāmoa. All acts, in one form or another, make provisions for the acquisition of land with archaeological sites or monuments, or allow for the power to enter into negotiations with land owners for lease agreements. This is an important

function that is required for the preservation and management of archaeological resources in any nation.

Heritage and Planning in Sāmoa

The protection and preservation of archaeological and heritage resources through the use of legislation is less obvious in Sāmoa than in the examples from Fiji, Vanuatu and nearby American Sāmoa. As previously noted, the central legislation providing limited protection for archaeological and heritage resources in Sāmoa is the Planning and Urban Management Act 2004. This Act, administered by the Planning and Urban Management Agency (PUMA), is a division of the Ministry of Natural Resources and Environment (MNRE). The MNRE is responsible for the 'sustainable development and management of Sāmoa's natural resources and environment' and the work of the Ministry is mandated under a range of legislation, regulation, policy and multilateral agreements (MNRE 2008). A key objective of the Ministry is 'to manage sustainable planning and development services and outcomes through the implementation of the Planning and Urban Management Act'. The primary focus of this Act is strategic planning and sustainable development, which does not necessarily include procedures for preserving archaeological sites.

There are two critical applications of the Planning and Urban Management Act, which have implications for ensuring the preservation of archaeological and heritage places. Firstly, the Act applies to all development and stipulates the preservation of buildings, areas or other places of scientific, aesthetic, architectural, or historical interest. Secondly, the objectives and functions of the Planning and Urban Management Act incorporate heritage preservation and management through the provisions of the Act and incorporate its identification and management via the broader planning and development assessment process.

There are a number of other separate pieces of legislation that make reference to the requirements of the Planning and Urban Management Act 2004 such as the *Water Resources Management Act* 2008. Other legislation such as *The Lands, Surveys and Environment Act* 1989 and the *Forestry Management Act* 2011 function in similar ways to the Planning and Urban Management Act in that they incorporate provisions for the preservation of archaeological and historic places through their respective operational requirements, but the extent of these Acts is restricted to the land or resource that the agency in question administers.

At present, Sāmoa does not have legislation in place that specifically covers archaeological and heritage preservation as does Fiji, Vanuatu, or American Sāmoa. The *Sāmoan Antiquities Ordinance Act 1954* (as amended 1972) only makes provisions for the protection of Sāmoan antiquities such as 'relics, articles manufactured with ancient Sāmoan tools...and all other articles or things of historic, anthropological, or scientific value'. This Act stipulates that all archaeological, anthropological, or scientific material cannot leave the country without permission from the Head of State. One of the objectives of this Act is to promote the retention of Sāmoan antiquities within Sāmoa.

The Planning and Urban Management Act 2004 does not explicitly state the preservation of archaeological or heritage places as objectives of the Act. One important objective of the PUMA Board is that it must exercise its power to 'preserve those buildings, areas or other

places of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value' (Part III Section 9). Although this does not refer specifically to archaeological sites or heritage places, it does make reference to places of scientific value, a criterion that is commonly applied to archaeological sites in the cultural heritage management discourse, whilst historic places are commonly assessed according to their aesthetic, architectural, and historical value. Unlike Fiji's Preservation of Objects of Archaeological and Paleontological Interest Act 1978 and Vanuatu's Preservation of Sites and Artefacts Amendment Act 2008, Sāmoa's Planning and Urban Management Act 2004 lacks any explicit directive for the protection of its archaeological and heritage places. The efficacy of the Act is dependent on the implementation of the objectives and responsibilities of the Board.

In addition to PUMA there are two other government agencies in Sāmoa with an interest in the preservation of archaeological sites and heritage places: the Ministry of Education, Sports and Culture (MESC) and the Museum of Sāmoa, situated within the Culture Division of MESC. The MESC Corporate Plan is explicit about its role in the preservation, protection, and recording of heritage places, and its need to preserve Sāmoa's tangible and intangible heritage. However, MESC receives its mandate to carry out its activities through two pieces of legislation, the *Education Ordinance* 1959 and *The Youth, Sports and Cultural Affairs Act* 1976. These Acts provide MESC with the legislative tools to put into place a set of policies and strategic plans that acknowledge and promote the importance of education in Sāmoa. This focus on education also incorporates many cultural values that promote a range of tangible and intangible facets of Sāmoan culture, with many of these embedded in the *fa'aSāmoa*.

The philosophical approach of MESC is supported through the objectives of the Ministry, including to 'nurture Sāmoan cultural heritage and creativity' (MESC 2009). The Culture Division of MESC is responsible for Sāmoa's museum, facilitation of on-going processes for the formulation of cultural policy, and various cultural projects. It acknowledges the importance of participating in the protection and management of national heritage sites; however, MESC's legal mandate derives from the two Acts previously mentioned and these do include provisions for the protection of archaeological and heritage places, nor do these Acts empower MESC or the Culture Division with resource, land, management, or planning powers like those of MNRE and PUMA.

Sāmoa faces a policy conundrum. Government agencies such as PUMA have a legal mandate under the Planning and Urban Management Act 2004 to enforce some level of protection for archaeological sites and heritage places but there are no policies to guide the implementation of this Act. In contrast, MESC's Culture Division has the policies and objectives to protect and conserve archaeological sites and heritage places but no legislative mandate to implement these policies. Government officers are therefore constrained in the protection and conservation of Sāmoa's archaeological and heritage places due to a lack of a coherent policy framework backed by legislation and allocation of administrative authority.

In 2012, the Prime Minister and the Attorney General of Sāmoa asked the Sāmoa Law Reform Commission (SLRC) to investigate the establishment of a National Heritage Board. The objective of the Board would be to protect and preserve Sāmoa's national and cultural heritage and the terms of reference for the SLRC were to assess the feasibility of the establishment of a National Heritage Board and to investigate how national heritage boards in

other nations were established and operated (SLRC 2012). In 2013, the SLRC finalised its report, which is pending approval by Cabinet. Amongst its thirty-nine recommendations, the SLRC recommended the establishment of a Sāmoan Heritage Authority, or *Pulega o Measina a Sāmoa* 'under legislation dedicated to the protection of Sāmoa's national heritage sites' (SLRC 2013: 66–70). The SLRC report acknowledges the ad hoc mandate allocated to different government agencies for the protection of archaeological and cultural heritage sites in Sāmoa and it notes that there is a need to strengthen the Planning and Urban Management Act 2004, and for this Act to refer to the proposed new heritage legislation (SLRC 2013:46–49).

Conclusion

Any approach to strengthening heritage management and conservation and protection in Sāmoa must include the village and sites on customary land. Sāmoa is in a unique position to develop legislation that draws on the lessons of archaeological heritage management from its Pacific neighbours, and improve upon them by including provisions for village level authority. As a nation that recognises aspects of traditional custom at the village level combined with a Westminster parliamentary system, the management of archaeological heritage and any legislation developed to protect this aspect of Sāmoa's cultural heritage will need to find some balance between the sometimes contentious areas of authority between village councils and central government. Along with preparing coherent policy-backed legislation to protect tangible and intangible sites of cultural importance, the Government of Sāmoa could create a platform for management practices on village land through a program of education and awareness. The proposed Bill to amend to the Village Fono Act, 1990 will require villages to define and record village laws and enforcement procedures. If the government supported and funded a national cultural heritage program to assist villages to identify tangible heritage sites and to understand their value, these could be protected under village laws. This would enhance a sense of pride and convey the cultural and economic value of archaeological and historically important sites for the benefit of all Sāmoans.

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