

PNG FORESTRY REVIEW TEAM

AUDITING FORESTRY PROJECTS CURRENTLY "IN PROCESS" FOR COMPLIANCE WITH THE REQUIREMENTS OF THE POLICY, THE FORESTRY ACT AND OTHER REGULATIONS AND GUIDELINES

To: Government of Papua New Guinea
C/- The Interagency Forestry Review Committee
Office of the Chief Secretary to Government

From: Review Team

Date: 12 December 2000

Re: **INDIVIDUAL PROJECT REVIEW REPORT NUMBER 1**
MUSA PONGANI (ORO PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

A very high proportion (49%) of the forest is classified by the Office of Environment and Conservation as "fragile". A large planned agriculture development may impact on the potential for a sustainable forestry project. The potential sustainable annual cut is too small for a conventional stand alone log export project.

LEGAL COMPLIANCE:

Due process has been observed.

LANDOWNER ISSUES:

A very good start has been made to empower landowners. The National Forest Service has made a genuine attempt to involve landowners in decision-making process so far.

RECOMMENDATIONS (INCLUDING CORRECTIVE MEASURES IF REQUIRED):

- That the PNGFA and Office of Environment and Conservation negotiate a position regarding the harvesting of Fragile Forests for inclusion in the Logging Code of Practice.
- That the NFS investigate the status of the Managlas Plateau conservation area and its potential impact on the extent of the forest available for sustainable management.

- That the NFS investigate the status of the planned agricultural development and its impact on the extent of the forest available for sustainable management.

That subject to the above, if the potential for a sustainable forestry project is confirmed:

- That the project should proceed with continued efforts to fully involve landowners in informed decision making.
- That the PNGFA seek public expressions of interest in domestic processing options before consolidation aimed at a large scale log export operation.

Note: The individual project reports summarise the findings of the Review Team regarding material compliance issues, and present project specific recommendations for the consideration of the Interagency Forestry Review Committee. Separate reports produced at the end of the review process set out in more detail the audit procedures applied, and comments and recommendations regarding existing policies, legal requirements and project development processes.

REVIEW REPORT

SUMMARY PROJECT DETAILS:

Project type:	Forest Management Agreement / Timber Permit
Processing stage:	Formation of Incorporated Land Groups (ILGs) nearly completed. Forest Management Agreement not yet drafted.
Gross FMA area (a):	215,000 ha
Gross loggable area (a):	128,000 ha
Net sustainable timber yield (a):	34,000 m ³ /annum (b)

(a) Anticipated. To be finalised once it is known which ILGs sign the FMA.

(b) Review Team estimate based on:

- Area information extracted from the PNGFA Geographic Information System (FIMS);
- Gross volume per hectare information from PNGFA field inventory work (FIPS);
- A standard reduction factor of 15% applied to gross loggable area;
- A standard reduction factor of 30% applied to gross volume per hectare; and
- A 35 year cutting cycle.

A. FORESTRY AND PLANNING ASPECTS

<p>1. SECTORAL PLANNING AND CONTROL</p>	
<p><u>PROVINCIAL FOREST PLAN</u></p> <ul style="list-style-type: none"> • PNGFA Board endorsed Provincial Forestry Plan exists: • Is the Provincial Forestry Plan current: • Is the Project listed in the Provincial Forestry Plan: <p><u>NATIONAL FOREST PLAN</u></p> <ul style="list-style-type: none"> • Is the Project listed in the National Forest Plan as required under s54 of the Act: 	<p>Yes</p> <p>No – expired September 1998</p> <p>Yes</p> <p>Yes</p>

<p>2. PROJECT DEFINITION IN FMA DOCUMENT</p>	
<ul style="list-style-type: none"> • Is the gross loggable area properly defined: • Has the total gross merchantable volume been properly estimated: • Has the net merchantable volume been properly estimated: • Have “Fragile Forest Areas” (OEC definition) been considered: 	<p>Not yet finalised. FIMS data indicates gross loggable area of 128,000 ha.</p> <p>Not yet estimated. FIPS data indicates a gross loggable volume of 15.4 m³/ha but sample very small.</p> <p>Not yet estimated. Application of the standard gross volume reduction factor indicates a net loggable volume of 10.8 m³/ha.</p> <p>No, because there is no agreed position regarding fragile forest areas. Exclusion of Fragile Forest Areas from logging would reduce the gross loggable area by 49% to 65,000 ha, and the estimated sustainable yield to 17,000 m³/a.</p>

<ul style="list-style-type: none"> • Have environmentally sensitive areas been considered: • Have conservation set asides been appropriately implemented: 	<p>Yes. Large scale Gazetted conservation areas are excluded from the FMA area. Small scale Gazetted conservation areas are identified and excluded from the gross loggable area. The Logging Code prohibits logging in defined environmentally sensitive areas which are excluded when the gross loggable area is defined</p> <p>The standard FMA document reserves the right for the PNGFA to exclude up to 10% of the gross loggable area from logging for conservation purposes.</p> <p>The project area impinges on the Managlas Plateau conservation area which is reputed to have status among local communities and the Oro Provincial Government.</p>
---	--

<p>3. ESTIMATE OF SUSTAINABLE CUT</p>	
<ul style="list-style-type: none"> • Has the sustainable annual cut been properly calculated: • Is the estimated sustainable yield sufficient to support a financially efficient logging investment (min 30,000 m³/a): • Is the estimated sustainable yield sufficient to support a stand-alone log export operation (min 70,000 m³/a guideline set by PNGFA Board): 	<p>Not yet estimated by PNGFA. Preliminary data suggests a sustainable cut of 34,000 m³/a if Fragile Forest Areas are allowed to be logged.</p> <p>Yes</p> <p>No</p>

4. CONSISTENCY BETWEEN DOCUMENTS	
<ul style="list-style-type: none"> • Is the area and volume data consistent between the FMA, the Development Options Study and the Project Guidelines: • Any other material inconsistencies regarding the resource: 	<p>No documents prepared yet.</p> <p>None found.</p>
5. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE	
<ul style="list-style-type: none"> • The standard cutting cycle assumed in the sustainable annual cut calculation. 	<p>The National Forest Policy specifies a 40 year cutting cycle. In practice a 35 year cycle is applied. No explanation is available.</p>

RECOMMENDATIONS REGARDING FORESTRY ASPECTS:

1. SECTORAL PLANNING AND CONTROL

- That the PNGFA pro-actively assist the Oro Provincial Government update their Provincial Forest Plan (s49), and facilitate the inclusion of the updated Provincial Forest Development Programme (s49(2)(b)) into the National Forest Development Programme (s47(2)(c)(ii)) as required under the National Forest Policy (Part II (3)(b)) as the basis for the PNGFA's acquisition and allocation programme.
- That the PNG Government direct the OEC and the PNGFA to determine a formal position on whether Fragile Forest Areas (OEC definition) may be logged, and incorporate the agreed position into the Logging Code.

2. PROJECT DEFINITION

- That the NFS investigate the status of the Managlas Plateau conservation area and its potential impact on the extent of the forest available for sustainable management.
- That the PNGFA clarify the status of the planned 10,000 ha agricultural project, and if necessary redefine the area of the forestry project and the sustainable annual cut.

- That the PNGFA Board test commercial interest in this 34,000 m³/a (or 17,000 m³/ha if Fragile Forest Areas are excluded from logging) sustainable yield project by advertising for expressions of interest under s64 before investigating options for consolidation with other project areas.

B . LEGAL COMPLIANCE

SUMMARY OF LEGAL COMPLIANCE:

- This project is in its earliest stages but the need to arrange proper organisation of landowner groups, and their awareness of the project, is evident.
- The granting of permission to conduct a feasibility study was done on appropriate conditions, but the persons who were effectively given permission to do this study were not registered as required by sections 65 and 105.

Some additional notes are presented in Appendix 1.

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

- That care be taken to ensure that the registration requirements of section 105 be observed.

C. LANDOWNER ISSUES

RESOURCE ACQUISITION	
1. Landowner Awareness	
<p>The Review Team was looking for evidence of an awareness package containing information explaining the purpose, benefits and otherwise to be expected from the project. This could include general conditions that could be used for all prospective projects.</p>	<p>Forestry have conducted formal awareness programs at Musa Pongani as the new Model project. 10/11/98</p> <p>The team held two meetings with several of the chairmen of the ILGs from the Musa Pongani timber area. These were extremely positive meetings demonstrating a high degree of awareness of the significance of the Incorporated Land Group and its role in decision making and ongoing management of the project. The landowners are tremendously positive regarding progressing the project. They reported that the Forestry Officers have served them very well and they have full confidence in them actually mentioning that the Forestry Officers make a</p>

	special effort to keep them informed. They have done a lot of planning and have earmarked 10,000 ha for agricultural development.
2. Landowner Mobilisation	
<p>Landowners are required to be mobilised by means of the Land Groups Incorporation Act. The Review Team was looking to find evidence of full participation by landowners in the ILG process particularly with regard to:</p> <ul style="list-style-type: none"> • Recognition that the resources are owned by individual land groups and not collectives of land groups • The formation of representative bodies for project consultations and negotiations. 	<p>The landowners were well advanced with their mastery of the Land Groups Incorporation Act in that they understand its importance. Many mentioned that they would appreciate further training in ILG management and that they found that the Commerce Officers were lacking in an understanding of the Land Groups Incorporation Act.</p> <p>A couple of landowners were still waiting for their certificate from the Registrar Of Titles but the delay was not caused by Forestry. An Officer from the Planning Division has been taking part in assisting landowners work out their ILGs correctly.</p> <p>Existence of competing landowner companies (LANCOs) needs to be examined.</p>
3. Forest Management Agreement	
<p>Must Specify:</p> <ul style="list-style-type: none"> • Monetary benefits for the customary group • Area in agreement by map • PFMC certificate as to <ul style="list-style-type: none"> - Authenticity of the tenure of the customary land - Willingness of customary owners to enter into FMA • Review level of consultation with landowners 	FMA not drafted yet.

Whilst a Development Options Study (DOS) has not yet been prepared, the Landowners have done a lot of planning for development following timber harvesting, and have earmarked 10,000 ha for agriculture possibly through a lease lease-back development. The landowners were very clear about this commitment. How far the process has gone was not able to be determined. NFS will need to be aware of the planned agricultural development when assessing forest potential. The role of LANCOS needs to be examined closely

Additional notes are presented in Appendix 2.

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

Meetings in Popondetta with the NFS, the PFMC and the Musa Pongani landowners indicate that ILG work regard to forestry project development is being done well in Oro. There was no documentation to indicate the makeup of the various LANCOS that have sprung up nor of their allegiance in terms of ILGs. Discussions revealed however that there are a number of LANCOS and how they develop will have to be monitored closely.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. It is recommended that NFS be advised to continue to progress this project according to established procedures.
2. It is recommended that this project be used as a pilot project for the forthcoming World Bank Forestry and Conservation Project with particular reference to the allocation of resources for the Development Option Study.
3. A continuation of the ILG training of Forest Officers and landowners of the type conducted by the Forestry Human Resource Development Project would strengthen the resource owners to manage their ILGs.
4. See also general recommendation regarding ILGs.

APPENDIX 1 : NOTES ON LEGAL ASPECTS

Project Background

This project is still at the landowner consultation stage. ILG work is nearing completion. No PFMC certificate under section 58(f) has yet been issued.

The ILG work appears to be extensive. Some 50 land groups have been identified. The project has taken a long time to reach even this early stage.

Feasibility Study

On 30 September 1996 a landowner company applied under section 65 for permission to undertake a feasibility study. Tapota Resources Pty Ltd was a registered forest industry participant and was entitled to make the application.

The application was granted and very sensible conditions were placed on this grant. These were that –

- (a) no negotiations were to be held with landowners;
- (b) the FMA process would govern all future steps concerning the allocation of the project; and
- (c) the approval was not to be construed as a future commitment.

It should be noted however that the company made the application on behalf of two Singaporean nationals. Neither of them was registered as a forest industry consultant. Their registration is a requirement of section 65. Given that Tapota was duly registered and its officers were to be present when the feasibility study was done, it might be considered that this breach of section 65 was not serious. However every effort should be made to adhere to the registration requirements of section 105. An approval should only be given under section 65 where the applicant is registered and where a proposed consultant is registered also.

APPENDIX 2: NOTES ON LAND OWNER ASPECTS

Meeting held at Popondetta Oil Palm Growers Association Office

Present:

Raphael Huria	Provincial Administrator
Owen Awaita	Deputy Provincial Administrator
Nigel Inu	NFS Oro
Dickson Kun	NFS Hohola
Paul (Polonius) Uhena	Landowner member of the PFMC
Lukis Romaso	Review Team
Tony Power	Review Team

Review Team briefed the meeting as to the Moratorium and advised of activity in reviewing various projects.

A set of questions were asked regarding the performance of the PFMC particularly in regard to their performance relating to s30 of the Forestry Act. They appeared to be doing some things well particularly in regard to the rapport they have with the two projects in the pipeline, Musa Pongani and Ioma Block 5.

When pressed about ability to respond to land disputes and financial mismanagement they seemed not to realise their responsibility and the power they have under the Act. In particular they regarded two projects under the old regime of LFA and TRP in the province as basket cases and had the view that they could not do anything as they were under the old regime. They were advised that the Forestry Act gives them the responsibility and the powers without regard to the regime of the particular project.

The Administrator was very grateful for the meeting and stated that he will give some particular attention to the PFMC and get it to take on all of its responsibilities. He will take it upon himself that some powers of the PFMC will be delegated in writing to the NFS. The Province raised the point that they are not getting all the money from the National Government that they are entitled to particularly under the derivation grant and something in lieu of the PG share of the royalties. They stated that this situation is a disincentive for Provinces to get involved in timber projects.

Meeting held in Lamington Hotel Popondetta with landowners from the Musa Pongani Project

Present:

Stephen Wuri	Chairman	Ragaro LGI
Patson Baitura	Chairman	Obsura LGI
Leo Kaembo	Vice Chairman	Ragaro LGI
Robinson Okonembo	Chairman	Yamana LGI
Thomas Katuna	Chairman	Ghaunja LGI
Nelson Wedu	Chairman	Rarotu LGI
Jones Taylor	Chairman	Woia LGI
Joseph Ivet	Chairman	Yakostra LGI
Gutarii Yogoni	Chairman	Jojiroba LGI
Matthias Desegari	Chairman	Inda-Obusuna LGI

Tira Dani

“Director”

Mos Genogu LGI

Nigel Inu, Dickson Kun - NFS

Tony Power and Lukis Romaso - Review Team.

The landowners were all primed up and a very lively discussion ensued. They obviously have had a lot of involvement with NFS in the development of the ILGs and they appreciate their value.

They recognise that they can benefit from the levies only if they do their homework in terms of project preparation. They are looking forward to the DOS process.

They stressed time and time again that all the land groups are working well together. There seemed to be a bit of uncertainty about the participation and benefit sharing for those clans that were outside the 10,000 ha agricultural follow up. This will have to be addressed in the full scale follow-up.

Meeting between Tony Power (Review Team) and Paul Uhena member of the PFMC

Paul is a very astute mature Public Servant in Popondetta who has been prime mover for the Ioma Block 5 project for the last nine years. This project is at the tendering stage. In terms of landowner awareness and landowner mobilisation this project has been very thorough as one would expect after nine years of work. There are 75 ILGs. He stressed that various outsiders including some politicians have been trying to involve themselves but that they have avoided them all and are sticking to working with NFS.

There are 5 ethnic groups in the project. The boundaries between these groups are clear and not in dispute. He also stated that the actual clan borders are also clear and not in dispute. The suggestion was made that if that is the case it would be good to have a GPS record the lot. They have formed an umbrella company to be used during project negotiations with two directors from each ethnic group. Each ethnic group has their own LANCO. The umbrella organisation is a shell and would become inoperative once the project is underway. Each ethnic company would manage its own resource area.

He stated that the land groups are all of one mind to go ahead with the project and that there was full co-operation with the Provincial Government, the PFMC, NFS and the landowners.

Paul was of the opinion that the royalty money was the only real money that the landowners could get their hands on and that it should be increased to K25 /m³. He was of the opinion that the various levies were not much use to anyone. We replied that the levies would be accessed if proper plans were done during the development options study. Thus it is important for them to have very clear ideas regarding follow up development from DOS. The actual DOS will be examined later.

Musa Pongani TRP File 87-5-18

- Mathias Desegari of Musa landowner Company 20/6/95 told that things would be on hold till the Musa Collingwood people sort out what they want.

- Ambogo sawmill is trying to get into the picture prematurely.
- ILG training workshop Musa Collingwood.
- Foru-Musa Three land groups claim the entire land and request that the Forest Authority entertain no others.
- Syuen Pty Ltd Forest Working Plan deficient 14/8/96
- Tapota Resources Development with Arthur Diri and Mathias Desegari travelling with Raute Wood Singapore to assess the resources. 12/9/96
- CLM Niugini Holdings propose agro-forestry 5/11/97
- Collingwood area dropped from the Musa Pongani over tapa 15/4/98
- ITTO wanted to fund follow up ILG work
- HRD wanted to fund follow up work. MD declined? Why?
- Keroro Dev Corp claims ownership to 50,000 ha of lease leaseback land in Collingwood Bay timber area.
- Baroma and Nagerodi Investments PL claims to control part of the proposed FMA and will remain outside if they are not treated fairly. Makenzie Saofe 16/11/99