

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: 5 February 2001

Re: **INDIVIDUAL PROJECT REVIEW REPORT NUMBER 15**

AMANAB BLOCKS 1 – 4 (WEST SEPIK PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

The sustainable timber yield principle has been complied with. The project is not in compliance with the Act in that it is not listed in the National Forest Plan for development. A very high proportion (75%) of the forest is classified by the Office of Environment and Conservation as "fragile". Sensible operational procedures have not been complied with in that the resource data did not include field inventory of Block 2. The estimated sustainable annual cut is sufficient to support a conventional stand alone log export project unless "fragile" forest areas are excluded from harvesting. Access through Amanab Blocks 5&6 is required.

LEGAL COMPLIANCE:

Due process has generally been observed. There are some defects in the form of the Forest Management Agreements. Doubts exist as to the attendance of landowner representatives at relevant PFMC meetings. Consultations concerning the Project Guidelines, particularly with the Provincial Government, are not indicated on the files.

LANDOWNER ISSUES:

Landowner awareness was confined to the activities of five Landowner Companies - there is no evidence of PNGFA involvement. Similarly ILG work was completed by Landowner Companies without PNGFA involvement. ILGs are mainly family groups which are an unsatisfactory basis for ongoing management of the land and forest

resource. The PNGFA conducted extensive awareness raising during the preparation of the Development Options Study, but landowner aspirations have not been included in the Project Guidelines.

RECOMMENDATIONS (INCLUDING CORRECTIVE MEASURES IF REQUIRED):

- That the PNGFA update the National Forest Plan.
- 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 PNGFA advise proponents for this project that evaluation of their proposals will await a decision regarding the loggability of Fragile Forest areas and a consideration of land access practicalities. Both of these issues indicate the sensibility of consolidation with Amanab Block 5 & 6 (see separate report).

That subject to the above, the project should be progressed provided:

- That the PNGFA revisits the ILGs and verifies the representativeness of the Landowner Companies.
- That the PNGFA rectifies the defects in the form of the Forest Management Agreements.
- That the PNGFA ensures the inclusion of landowner and Provincial Government representatives in the evaluation of proposals and the negotiation of a Project Agreement. This may compensate for the apparent lack of consultation when the Project Guidelines were drafted.

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) completed. Two separate Forest Management Agreements signed and approved by the Minister (Blocks 1 & 2 and Blocks 3 & 4). Development Options Study and Project Guidelines approved by the Board. Project advertised. Seven proposals (including one “intent” to submit a proposal) received which await evaluation.
Gross FMA areas:	Blocks 1 & 2 123,000 ha Blocks 3 & 4 120,000 ha Total <u>243,000 ha</u>
Gross loggable area:	Blocks 1 & 2 77,000 ha Blocks 3 & 4 113,000 ha Total <u>190,000 ha</u>
Net sustainable timber yield (a):	Blocks 1 & 2 37,000 m3/annum Blocks 3 & 4 70,000 m3/annum Total <u>107,000 m3/annum</u>

(a) 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 December 1999</p> <p>Yes</p> <p>No</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: 	<p>No. For Blocks 1 & 2 an attempt has been made to apply the logging exclusion zones defined in the Logging Code of Practice, but the FIMS data indicates a significantly lesser gross harvestable area. For Blocks 3 & 4 the standard reduction factor has been applied to the gross FMA area, although the result is not greatly different to that which would have been achieved by applying the logging exclusion zones from the Logging Code (this is purely fortuitous). Overall the gross harvestable area indicated in the two FMA documents adds to 214,000 ha, compared to an estimate based on the FIMS data of 190,000 ha.</p> <p>Yes for Blocks 1, 3 and 4 where the FIPS data is used in the FMA document. There was no inventory undertaken in Block 2, where Block 1 estimates were applied.</p>

<ul style="list-style-type: none"> • Has the net merchantable volume been properly estimated: • Have “Fragile Forest Areas” (OEC definition) been considered: • Have environmentally sensitive areas been considered: • Have conservation set asides been appropriately implemented: 	<p>No. Due to the over-estimate of the gross harvestable area in the FMA documents the net merchantable volume indicated in the FMA documents (4.2 million m³) is considered to be high. The net volume based on the FIMS data is 3.7 million m³.</p> <p>No, because there is no agreed position regarding fragile forest areas. An estimated 79% and 71% of Blocks 1 & 2 and Blocks 3 & 4 respectively is classified as Fragile Forest.</p> <p>Yes. Large scale Gazetted conservation areas are excluded from the FMA areas. 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 FMA documents reserve the right for the PNGFA to exclude up to 10% of the gross loggable area from logging for conservation purposes.</p>
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<p>3. ESTIMATE OF SUSTAINABLE CUT</p>	
<ul style="list-style-type: none"> • Has the sustainable annual cut been properly calculated: 	<p>Based on the data presented in the FMA documents the sustainable yield is 120,000 m³/a. Based on the FIMS data it is 107,000 m³/a.</p> <p>The Development Options Study and the Project Guidelines (approved by the Board) present a different calculation of the net harvestable area which is less than either that presented in the FMA documents or that indicated by the FIMS data. On this basis the sustainable yield is calculated here to be 94,000 m³/a.</p> <p>If the areas classified as Fragile Forests are excluded from logging then (based on the FIMS data) the sustainable yield will decline to 28,000 m³/a.</p>

<ul style="list-style-type: none"> • Is the estimated sustainable yield sufficient to support a financially efficient logging investment (min 30,000 m³/a): 	Yes, unless Fragile Forest areas are excluded from harvesting.
<ul style="list-style-type: none"> • Is the estimated sustainable yield sufficient to support a stand-alone log export operation (min 70,000 m³/a guideline set by PNGFA Board): 	Yes, unless Fragile Forest areas are excluded from harvesting.

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: 	No – as set out above.
<ul style="list-style-type: none"> • Any other material inconsistencies regarding the resource: 	None found.

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. 	The National Forest Policy specifies a 40 year cutting cycle. In practice a 35 year cycle is applied. No explanation is available.

RECOMMENDATIONS REGARDING FORESTRY ASPECTS:

1. SECTORAL PLANNING AND CONTROL

- That the PNGFA update the National Forest Plan.
- That the PNGFA pro-actively assist the West Sepik Provincial Government update and approve 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 IN FMA DOCUMENT

- That the PNGFA checks and amends if necessary the project area and gross volume per hectare information. This should include inventory of Block 2.

3. ESTIMATE OF SUSTAINABLE CUT

- That the PNGFA recalculates and amends as necessary the permitted annual sustainable cut (including data obtained from inventory of Block 2) for inclusion in the Project Guidelines.

4. CONSISTENCY BETWEEN DOCUMENTS

- That the PNGFA cross-checks and amends as necessary the resource information set out in the FMA, the Development Options Study and the Project Guidelines, and ensure consistency of information.

5. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE

- That the PNGFA either base their sustainable cut calculations on a 40 year cutting cycle (as required under the National Forest Policy) or provide justification for adopting a 35 year cutting cycle.

B . LEGAL COMPLIANCE

SUMMARY OF LEGAL COMPLIANCE:

- Due process has generally been observed.
- There are doubts that landowners representatives have attended relevant PFMC meetings.
- Consultations concerning the draft Project Guidelines, particularly with the Provincial Government, are not indicated on the files.
- There are defects in the form of both FMAs.

Some additional notes are presented in Appendix 1.

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

1. Landowner representatives must be in attendance at all future relevant PFMC meetings.
2. The defects in both FMAs must be rectified.
3. The views of the Provincial Government concerning desired infrastructure and the provision of other benefits, while apparently not taken into account in the Project Guidelines, may still be obtained and applied in the negotiations for a Project Agreement. It should be noted that this is also a requirement of the Organic Law.
4. The access problems that exist in this project must be given full consideration.

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>PFMC give approval for block 3&4 FMA. PFO to conduct awareness re consolidation of blocks 1&2 with 3&4. June 1998 awareness to amalgamate all Amanab with South West Wapei. Green River Holdings represents block 1&2. LANCO Amgrim P/L has Robert Bogan as Chairman and Oscar Mamalai as Consultant. LANCO Amag P/L and Amgrim P/L both try to get Vanimo Forest Products interested and then back off. Next Amag P/L wants Fonsen (a Rimbunan Hijau company). There is no evidence to show that the executives of the Landowner Companies (LANCOs) had informed the resource owners of the various proposed dealings that are being discussed with potential proponents and the PNGFA.</p>
2. Landowner Mobilisation	
<p>Landowners are required to be mobilised by means of the Land</p>	<p>ILGs for Blocks 3 & 4 were completed by June 1996.</p>

<p>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>LANCO Amanab Timbers P/L is led by Markus Wini. For Blocks 1 & 2 the landowners did the ILGs themselves and they were Gazetted in 1998. In all five LANCOS represent five different blocks of landowners and forest resource.</p> <p>How well these LANCOS cover the project area people without overlap is not known but if they are ethnic LANCOS then it may be good coverage.</p>
<p>3. Forest Management Agreement</p>	
<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 	<p>According to the files the FMAs for Blocks 1 & 2 and 3 & 4 have been signed by landowners and the PNGFA on 15.1.99 and 6.10.97 respectively (although the FMA document for Blocks 1 & 2 is undated).</p> <p>Advertised and expressions of interest by August 96.</p> <p>Allocation of blocks 3&4 withheld owing to area being in hinterland, until blocks 1&2 acquired plus an area between Amanab and SW Wapei. This is needed to get a more viable area to support K8 million worth of required access roads. But error in size of FMA now doubled so FMA has to be revised and landowners re-consulted! This will be even more pressing if Blocks 5&6 are also consolidated.</p>

<p>RESOURCE ALLOCATION</p>	
<p>1. Development Options Study</p>	
<p>The Review Team was looking to see if the Development Options Study:</p>	<p>DOS for Blocks 3 & 4 completed Sept 1997. Updated DOS for consolidated Blocks 1-4 has been prepared and approved. Landowners have been briefed on the proposed</p>

<ul style="list-style-type: none"> • Catered for landowner concerns and aspirations and if • All options presented for the resource development had a realistic chance of being pursued. 	<p>options as it is stated that five meetings were held with landowners in the course of preparation of the DOS. Landowner concerns expressed in general are set out in the DOS.</p>
<p>2. Project Guidelines</p>	
<p>Draft guidelines must be discussed and developed in consultation with the resource owners</p>	<p>Final Project Guidelines do not contain the landowner requirements set out in the DOS. Some of the requirements are addressed in some of the project proposals.</p>
<p>3. Project Agreement</p>	
<p>Authority is required to involve landowners in selection of the “developer” and in negotiation of the Project Agreements according to the terms of the FMA.</p>	<p>Yet to be drafted and negotiated.</p>
<p>4. Environmental Plan</p>	
<p>EP is produced by the preferred developer according to the prescription of the Environmental Planning Act. Evidence of consultation with landowners is important.</p>	<p>Yet to be submitted. NGOs warn that the area is subject to flooding. This is evident from the maps and is addressed in the definition of the gross loggable area and by proponents in their proposals.</p>

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

- Land group incorporation has been done in a superficial manner with the formation of many family rather than clan ILGs.
- It is not possible to identify the representativeness of the five active Landowner Companies. The Landowner Companies appear to support particular potential developers based on the developer’s support for the Landowner Company, rather than any assessment of the developers past and present potential to perform.

- ILGs and LANCOs would benefit from extension work. One LANCO, AMAG Holdings P/L, has tendered for the project, but on the basis of an annual allowable cut (200,000 m³/a) exceeding the sustainable annual cut indicated in the Project Guidelines (94,000 m³/a). They claim priority as a Landowner Company.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. That PNGFA vet Landowner companies must be vetted to identify their representation with the ILGs.
2. That PNGFA check the shareholding of AMAG Holdings P/L to ensure that their claim to be a representative Landowner Company is valid.

APPENDIX 1 : CHECKLIST OF COMPLIANCE WITH LEGAL REQUIREMENTS

PROJECT: AMANAB BLOCKS 1 – 4 FMA

Step	Compliance	Non-Compliance	Not clear
<u>1. Landowner Consultation</u>			
Awareness campaign	31/7/97 and 16/7/98		
Vesting of title	N/A		
ILG incorporation			?
PFMC certificate	Blk 1&2 Jul 98 Blk 3&4 Sep 97		
Attendance of landowners at PFMC meeting			?
<u>2. Forestry Management Agreement</u>			
Form and content	See notes		
Execution	Blk1&2 no date Blk 3&4 Oct 97		
Ministerial approval	Blk 1&2 Feb 99 Blk 3&4 Oct 97		
<u>3. Development Options Study</u>			
Board to arrange or exemption	31/3/99 Form 81 N/A		
Directions from PFMC	15/4/99 Form 82 No Form 83		
DOS given to Minister and PFMC	26/8/99 Form 84		
<u>4. Project Guidelines</u>			
PFMC consults with L/owners and Provincial Govt	See notes		
PFMC to prepare draft	Confirmed		

Attendance of landowners at PFMC meeting			?
PFMC to submit draft to the Board	17/1/00 Form 85		
Board issues final guidelines	19/4/00 Form 86		
<u>5. Advertisement</u>			
Project to be advertised	18/5/00 T No 2000-04		
Expressions of interest received	(7) 18/8/00		
<u>6. Feasibility Studies</u>			
Application by registered person	Reg confirmed Form 90 Jul 00		
<u>7. Project proposals</u>			
Proponents must be registered under section 105	Confirmed		
Placed in tender box	Confirmed		
Proper as to form and content	Confirmed		
Referred to PFMC	Not yet		
Attendance of landowners at PFMC meeting			
Evaluated with assistance of NFS	Currently being considered		

CHECKLIST NOTES:

1. This Checklist does not record details of the first tender of Blocks 3 and 4 alone. This was done in mid 1996 but attracted only 1 expression of interest from an unregistered company. Defects were found in the area description in the FMA. These were rectified and Blocks 1 and 2 were amalgamated with Blocks 3 and 4. There was talk of consolidating South West Wapei also but this did not eventuate for reasons that are not clear.
2. The usual concerns about PFMC certification appear to be indicated here. These are:
 - There is no indication on NFS files held at headquarters that landowner representatives attended the PFMC meetings at which certification was approved (or any other later relevant meeting).

- There is no evidence that the PFMC independently verified the ILG incorporations or the willingness of landowners to sign the FMAs.
3. There are some clear deficiencies in relation to both FMAs. The FMA for Blocks 1 and 2 is not dated and the details in Schedule 1 have not been completed. This schedule relates to the term of the Agreement and so it is an essential provision. The FMA for Blocks 3 and 4 has no Schedule 1 at all!
 4. There is no evidence on the NFS files to establish that the consultation with resource owners and the Provincial Government under section 63(1) was undertaken by the PFMC when the Project Guidelines were drafted.

There is a section in the Development Options Study that records the stated wishes of landowners. This has not been included in the Project Guidelines. It is true that the wishes are stated in general rather than project specific terms but there are good reasons why this sort of information should be included in the Guidelines. It gives an indication to developers of the expectations of landowners. It also provides a basis upon which project proposals can be evaluated within a competitive framework. If some expectations are simply never going to be realised then this should be made known to landowners at the earliest possible time.

It is however a fact that most project proposals addressed these landowner expectation issues. There is however no real indication of any useful role played by the Provincial Government in determining desired infrastructure and service provision and incorporating such matters in the provincial planning processes. This seems to be what is contemplated by the consultation requirement in section 63(1).

5. There were a number of representations made by Vanimo Forest Products for these and other Amanab Blocks to be awarded to them as extensions. These applications do not appear to have been referred to the Board but otherwise it should be said that they were dealt with in an appropriate fashion. VFP was advised to submit its proposal after the project was tendered. They did do this. This must be contrasted with the manner in which Kamula Doso was eventually approved as an extension.
6. The problem of access to these Blocks is raised in the Individual Project Report given on Amanab Blocks 5 and 6. These issues need resolution as soon as possible.