

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 5**
TRANS VANAPA (CENTRAL PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

The potential sustainable annual cut is too small for a financially efficient logging investment or a conventional stand alone log export project. Some of the resource is being harvested under Timber Authorities, with applications for a number of additional Timber Authorities pending. The area is within the Port Moresby domestic supply zone from which log exports are banned by NEC decision 189/93.

LEGAL COMPLIANCE:

No valid step has yet been undertaken under the acquisition process.

LANDOWNER ISSUES:

There is no cohesion among landowners. Competing Landowner Companies claim to represent landowners. A Landowner Company claims to have completed the ILG work.

RECOMMENDATIONS (INCLUDING CORRECTIVE MEASURES IF REQUIRED):

- That the NFS fully brief the PNGFA Board on this project so that it can determine whether ongoing acquisition work is warranted. Given the effect of the Port Moresby domestic supply zone, and the fact that the resource is already being harvested under a number of existing Timber Authorities, the resource may be more appropriately developed under additional Timber Authorities with appropriate

conditions set in conjunction with the Provincial Forest Management Committee. These conditions must include arrangements to the satisfaction of landowners.

If the resource is to be acquired under a Forest Management Agreement, then:

- That no further Timber Authorities be approved.
- That very thorough landowner awareness and ILG work be done to empower the landowners to enable them to overcome the present confusion.

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:	<p>Whilst mooted since the early 1980's, this project is still at the concept stage. No field inventory or landowner awareness exercises have been carried out yet by the PNGFA. Local Landowner Companies claim to have done this work.</p> <p>The PNGFA currently view this project as a potential extension to the existing Vanapa North (TP 3-32) project, which is permitted to export logs, although it is understood to be currently not operating. The Trans Vanapa area lies within the Port Moresby domestic supply zone from which log exports are banned by virtue of NEC Decision 189/93.</p>
Gross FMA area (a):	57,000 ha
Gross loggable area (a):	41,000 ha
Net sustainable timber yield:	No PNGFA field inventory undertaken yet. Broad assumptions suggest a sustainable annual cut of about 15,000 m ³ /a.

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

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>Yes – expires April 2002</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: • Have environmentally sensitive areas been considered: 	<p>Yet to be defined. Preliminary boundary estimates indicate a gross loggable area of 41,000 ha.</p> <p>No PNGFA field inventory undertaken yet.</p> <p>Not yet estimated.</p> <p>No, because there is no agreed position regarding fragile forest areas. There are negligible Fragile Forest areas within the preliminary project boundary.</p> <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</p>

<ul style="list-style-type: none"> • Have conservation set asides been appropriately implemented: 	<p>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>
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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: • 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. Assuming a net loggable volume of 15 m3/ha the indicated sustainable annual cut (35 year cycle) is estimated to be about 15,000 m3.</p> <p>No</p> <p>No</p>

<p>4. CONSISTENCY BETWEEN DOCUMENTS</p>	
<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>Non found.</p>

<p>5. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE</p>	
<ul style="list-style-type: none"> • The standard cutting cycle assumed in the sustainable annual cut calculation. • The Port Moresby Domestic Supply Zone 	<p>The National Forest Policy specifies a 40 year cutting cycle. In practice a 35 year cycle is applied. No explanation is available.</p> <p>Progressing Trans Vanapa as an extension of an existing permit under which log export is allowed would not comply with the spirit of NEC Decision 189/93 prohibiting the export of logs from within the Port Moresby Domestic Supply Zone.</p>

RECOMMENDATIONS REGARDING FORESTRY ASPECTS:

1. PROJECT DEFINITION

- That the PNGFA check the extent of timber harvesting which has already taken place under Timber Authorities and reconsider the viability of Trans Vanapa as a sustainable forestry project.

2. ANY OTHER MATERIAL NON-COMPLIANCE REGARDING THE RESOURCE

- That the PNGFA Board reviews the options for this resource, bearing in mind in particular existing and proposed Timber Authorities, and the Port Moresby Domestic Supply Zone.

B . LEGAL COMPLIANCE

SUMMARY OF LEGAL COMPLIANCE:

- This project has been under consideration since the early 1980's and yet no valid step has been taken under the Forestry Act 1991.
- In October 1996 the PFMC purported to approve the ILG's before any work in this regard has in fact been undertaken by the PNGFA.
- The project has not proceeded for very valid reasons, but the expectations of landowners have never diminished leading to real problems. These include:
 - (a) Some landowner companies have assumed legitimacy as the proper representatives of landowners;

- (b) These companies have involved potential developers even though the project is not even close to being tendered;
 - (c) It is still indicated to landowners that it may be a stand-alone project even though it has been described as far back as 1996 as being “too small” and there are now quite a number of current and pending Timber Authorities in the area.
- The project is sometimes mooted as an extension to an adjacent existing project.

Some additional notes are presented in Appendix 1.

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

1. If a project is under serious consideration then it is essential that the preliminary ILG and resource appraisal work be done without undue delay. The delay in this instance is close to 20 years.
2. In the absence of this preliminary work it is necessary to act so as:
 - (a) To avoid giving legitimacy to persons and corporations claiming to represent the interests of landowners as active participants in the project; and
 - (b) To avoid encouraging potential developers from being involved in the project prior to the tender of it (such as funding or doing ILG work).
3. In any event sufficient preliminary work must be undertaken so as to enable a conclusions to be drawn as to:
 - (a) Whether the project should properly proceed as an extension; and
 - (b) The effect of the grant of Timber Authorities on the final status of the project.

C. LANDOWNER ISSUES

RESOURCE ACQUISITION	
1. Landowner Awareness	
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>Three Timber Authorities are in operation and three applications are pending. NFS recommends that no more Timber Authorities should be granted by the Provincial Forest Committee.</p> <p>Landowner problems abound.</p>

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>Detailed land investigation work must be done if the area is to be acquired as an FMA.</p> <p>Yolond Resources Ltd, a Landowner Company (LANCO) claims to have completed the ILGs. No PNGFA landowner awareness or ILG work has been carried out.</p> <p>Another LANCO represents the Baina area.</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 	<p>Not yet applicable.</p>

This project is not yet at a stage where the resource allocation process has been initiated. Consequently no landowner issues relating to the allocation process have yet arisen.

Additional notes regarding landowner issues are presented in Appendix 2.

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

The Trans Vanapa area is replete with problems in relation to the number of Timber Authority operators working with various LANCOS and expectations, shared by LANCOS and their preferred developers, that existing operators will get preferred access to the wider forestry resources in the area.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. A necessary pre-requisite to any FMA development by the PNGFA is to vet the ILG work purportedly completed by the LANCOS. LANCOS already have established alliances with operators past and present, and vetting that the LANCOS represent the ILGs will also be a pre-requisite

APPENDIX 1 : NOTES ON LEGAL ASPECTS

PROJECT BACKGROUND

As at August 1999 it appears that four initial stages were still to be done. These were:

- (a) the resource inventory;
- (b) the incorporation of ILG's;
- (c) the verification of ILG's; and
- (d) the execution of the FMA.

This is despite the fact that the project has been mooted since the early 1980's. Landowner expectations have been aroused throughout this period but the project has not progressed at all. This observation should not be interpreted as a general endorsement of forestry development. It is clear from this matter that raising landowner expectations without acting to facilitate the development of their resource may serve to encourage undesirable practices.

Before noting some of the concerns that have been observed in relation to this project, it should be stated that the PNGFA have delayed this project on perfectly valid grounds. Correspondence since the mid-1990's confirms the PNGFA's pre-conditions, namely –

- (a) the approval of the Provincial Forest Plan;
- (b) the inclusion of this project in the plan;
- (c) the finalisation of a resource inventory; and
- (d) confirmation of the status of the ILG's.

CONCERNS

Throughout the frequent and varied exchanges of correspondence the PNGFA has proceeded on the basis that the project would become operational once the acquisition and allocation processes had been completed. This assumption in the absence of any action to finalise these processes has led to the following concerns –

- A. In the absence of an inventory:
 - (a) As far back as 1996 a note appears on the file that suggests the project area to be "too small". It recommends consolidation or a Timber Authority. This doubt is again stated in 1997.
 - (b) In 1999 a File Note indicates that there are already 3 approved Timber Authorities in the area and another 3 applications for Timber Authorities. It notes that landowner disputes have arisen in respect of each of these operations. These existing rights may pose problems for the allocation of the resource.
- B. In the absence of confirmed ILG's:
 - (a) In 1995 two landowner companies were formed. In the absence of confirmed ILG's these companies have assumed legitimacy as representatives of the

resource owners. They have regularly made representations in respect of the project and have engaged contractors to participate in its development.

- (b) When told by the PNGFA that funds were not available to complete the FMA process, a landowner company responded by saying that its proposed contractor would supply the funds. This apparent invitation to the Landowner Company to arrange for another company to fulfil the role of the PNGFA could have led to a serious compromising of the due process. The PNGFA was forced to respond by telling the Landowner Company not to make any “pre-commitments”.

C. In the absence of any step in the allocation process:

The PNGFA has entertained a number of direct representations from interested developers. Such expressions of interest are best dealt with after the required advertisement has been placed. In the absence of the open tender process the PNGFA runs the risk of being seen to have pre-determined matters when it responds to these inquiries well in advance of the due process.

An example of such a response is as follows:

“The NFS following a field visit to your operation is aware of the need to expand your investment by securing a FMA area. Hence, the NFS has planned Trans Vanapa timber area for acquisition in Year 2000 and envisaged the possibility of allocating the area to your company as an extension to your current operation.”

The letter goes on to indicate that the development will be “very much subject to the National Forest Boards prerogative.” However there are clearly a number assumptions made in the response to the company. At that stage of the process these assumptions could not have been validly made. There had been no consultation with landowners, the Provincial Government and the PFMC as to the allocation and there had been no decision made on the question of it being an extension.

APPENDIX 2: NOTES ON LAND OWNER ASPECTS

It is not clear what the intention is in developing the resources when there are already so many Timber Authorities and pending applications for the same area.

It is important to protect the interest of the landowners in the area by not granting Trans Vanapa as an automatic extension of the adjacent existing timber permit without checking the performance of the proposed developer with regards to landowner benefits.