

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 18**
AITAPE EAST COAST (WEST SEPIK PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

The sustainable timber yield principle has been complied with. A significant proportion (31%) of the forest is classified by the Office of Environment and Conservation as "fragile". The net loggable area has been over-estimated by an estimated 35,000 ha in the FMA document. The corrected estimated sustainable annual cut is too small to support a financially efficient logging investment or a conventional stand alone log export project.

LEGAL COMPLIANCE:

Due process has generally been observed. It appears that landowner representatives were not present at relevant PFMC meetings. It seems that consultation with landowners and the Provincial Government concerning the draft Project Guidelines did not take place. The finalisation of the Development Options Study was greatly delayed.

LANDOWNER ISSUES:

General lack of landowner awareness undertaken, or consultation regarding the proposed project development options. The ILG work is unsatisfactory. Current ILGs are an unsatisfactory basis for ongoing landowner decision making regarding the management of the land and forest resource.

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 PNGFA fully consider consolidation options before this small scale project proceeds further.
- That the PNGFA check and amend if necessary the forest resource data.

Subject to the above, if a sustainable forestry project opportunity is judged to exist:

- That the PNGFA revisits the ILGs.
- That the PNGFA Board review and if necessary seek rectification of the PFMC certification of the Forest Management Agreement.
- That the PNGFA rectify defects in the Forest Management Agreement.
- That the PNGFA ensure that the landowner aspirations set out in the Development Options Study are included in the draft Project Guidelines. That the required consultation with the resource owners and the Provincial Government should take place before final approval is given.

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:

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| Project type: | Forest Management Agreement / Timber Permit |
| Processing stage: | Formation of Incorporated Land Groups (ILGs) completed. Forest Management Agreement signed and approved by the Minister. Development Options Study completed. Project Guidelines drafted and presented to Board for approval. |
| Gross FMA area: | 97,000 ha as described in the written area description in the FMA document, but reduced to 86,000 ha on the attached map due the exclusion of a number of small defined blocks which are settlements. |
| Gross loggable area: | 41,000 ha |
| Net sustainable timber yield: | 17,000 m ³ /annum (a) |

(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

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| <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>Yes – Listed as Aitape</p> |

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| <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: | <p>No. The FMA document indicates a gross loggable area of 87,000 ha – applying the standard 15% reduction results in the net loggable area estimate of 74,000 ha shown in the FMA. The FIMS area data indicates a gross loggable area of 41,000 ha, and a net loggable area of 39,000 ha. The area data set out in the FMA is thus a significant over-estimate.</p> <p>No. The FIPS data indicates a gross volume per hectare of 21.6 m³/ha, whereas the FMA document is based on 30.6 m³/ha. The NFS explained this as human error.</p> <p>No. Both the gross loggable area and the gross volume per hectare have been over-stated in the FMA resulting in a total net harvestable volume estimate of 1.6 million m³. The corrected figure is 0.6 million m³.</p> |

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| <ul style="list-style-type: none"> • Have “Fragile Forest Areas” (OEC definition) been considered: • Have environmentally sensitive areas been considered: • Have conservation set asides been appropriately implemented: | <p>No, because there is no agreed position regarding fragile forest areas. An estimated 31% of the gross loggable area of the Aitape East Coast project area is classified as Fragile Forest. If Fragile Forest is excluded from harvesting then the net harvestable volume is reduced to 0.4 million m3.</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 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): | <p>No. The data presented in the FMA document indicates a sustainable cut of 45,000 m3/a. The Development Options Study and the Project Development Guidelines present a sustainable cut of 42,000 m3/a based on the gross FMA area (prior to deductions for settlements) and the corrected gross volume per hectare data from FIPS. All of the above are incorrect and substantially overstate the sustainable cut.</p> <p>The corrected estimate of the sustainable cut is 17,000 m3/a, or 12,000 m3/a if the areas classified as Fragile Forests are excluded from harvesting.</p> <p>No</p> |

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| <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): | No |
| <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 – as set out above.</p> <p>None 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. | <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 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.

3. ESTIMATE OF SUSTAINABLE CUT

- That the PNGFA recalculates and amends as necessary the permitted annual sustainable cut 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.
- It appears that landowner representatives have not been present at PFMC meetings and that the PFMC may not have properly certified the FMA.
- Delays in finalising the Development Options Study have been inordinately long.
- It is not too late to ensure that there is proper consultation with resource owners and the Provincial Government concerning the Project Guidelines.

A full compliance checklist and accompanying notes are presented in Appendix 1.

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

1. That the PFMC must facilitate the attendance of landowners at relevant meetings and a note of their attendance should appear on NFS files held at headquarters. The PFMC must also independently verify ILG incorporations and the willingness of landowners to sign the FMA before certification is given.
2. That care must be taken to ensure that all formalities to do with the signing of FMAs are completed. An ink stamp corporate seal has the advantage of being visible on photocopies.

3. That delays in finalising DOS must be avoided. The sensible views of landowners given during DOS preparation should be included in the Project Guidelines. And proper consultation must be had with the Provincial Government in relation to the contents of the Project Guidelines.
4. If it is clear that limited resource may impact on the viability of a project then proper consideration must be given to the possibility of consolidation with adjoining areas. This must be done as soon as possible.

C. LANDOWNER ISSUES

| RESOURCE ACQUISITION | |
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| 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>1997 NFS advises PFMC to revise their plan to have this area prioritised as the areas already acquired are in the hinterland cut off from the coast.</p> <p>Executives of Pai Resources Management Agency Limited reject the FMA concept (letter to NFS 9th July 1997).</p> <p>Concerns raised by Inland Timbers Pty Ltd (1997).</p> <p>Awareness of boundary description of East Aitape FMA needs to be clarified. Also need to clarify the clan groups involved, and the Pai clan lands and that owned by other parties.</p> <p>Insufficient awareness and consultation (Letter from Florian Tono to the chairmen of Aitape East Coast 1st of June 2000).</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 | <p>Pai area ILG work not possible in Jan 1997 owing to PNGFA commitment to Amanab and South West Wapei.</p> <p>ILG information is scanty e.g. Mitat clan has only 15 members.</p> <p>Tubulap clan has no members recorded.</p> <p>Several other clans have no children recorded.</p> <p>Clan memberships are scanty.</p> <p>Development Options Study states that there</p> |

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| <p>resources are owned by individual land groups and not collectives of land groups</p> <ul style="list-style-type: none"> • The formation of representative bodies for project consultations and negotiations. | <p>are 92 ILGs.</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>The FMA was signed by 92 ILGs, despite the problems being highlighted by the landowners. There is no indication that these problems were resolved before the FMA signing. The FMA was signed (6.10 1997) three months after the landowner issues were raised, but there is no indication as to whether the issues raised by land owners were addressed.</p> <ul style="list-style-type: none"> • Land owner benefits are specified in Schedule 7 of the FMA. • Description of the forest area in Schedule 2 and a map outlining the proposed area to be harvested. |

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| <p>RESOURCE ALLOCATION</p> | |
| <p>1. Development Options Study</p> | |
| <p>The Review Team was looking to see if the Development Options Study:</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>Letter of 20. 8.1997 from Robert Simpson indicating to PNGFA that downstream processing should be considered as an option. PNGFA presents two options:</p> <ol style="list-style-type: none"> 1. To carry out a sawmilling operation for the East Sepik market 2. To carry out export logging provided there is consolidation with adjoining blocks Romei Tadjji and Nuku as a stand alone FMA. <p>There is no specific commitment as to which option is preferred. Advice is given that the latter</p> |

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| | <p>option would require a great deal of landowner awareness.</p> <p>Landowners note the desire for maximum and meaningful participation.</p> <p>NFS carried out a comprehensive awareness on the DOS document in the area comprising 4 different meetings in February 1998. The meetings were conducted in the various villages. Wish list comprising of infrastructure, social and economic developments were presented by the land owners to the NFS team.</p> <p>A total of 26 items to be included in the DOS are presented in writing as the land owners wish list.</p> |
| 2. Project Guidelines | |
| Draft guidelines must be discussed and developed in consultation with the resource owners | Project Guidelines prepared by PNGFA and submitted to the Board for consideration but there is no mention of the landowner requirements spelled out in the DOS. |
| 3. Project Agreement | |
| 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. | Not yet drafted. |
| 4. Environmental Plan | |
| EP is produced by the preferred developer according to the prescription of the Environmental Planning Act. Evidence of consultation with landowners is important. | Environmental Plan not yet applicable. |

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

- There is no indication that sufficient awareness was conducted on the status of the proposed project. It is important that this is done, especially when there were high expectations created by a failed oil palm project. Several people involved in the latter project appear to be involved in the proposed forestry project.
- The ILGs have not been empowered and are no basis for future management.
- Some informed landowners are adamant that this project be developed excluding round log export.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. That if the PNGFA recommendation to consolidate the project area with others proceeds then this requires prior and proper awareness and consultation with landowners.
2. That if consolidation proceeds that the existing FMA must be revalidated.
3. That if consolidation does not proceed, that the PNGFA should use its best endeavours to locate a developer that can meet the landowners' wishes of developing the project as a stand alone sawmilling operation with no round log export.
4. That ILGs need to be revisited.

APPENDIX 1 : CHECKLIST OF COMPLIANCE WITH LEGAL REQUIREMENTS

PROJECT – AITAPE EAST COAST

| Step | Compliance | Non-Compliance | Not clear |
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| <u>1. Landowner Consultation</u> | | | |
| Awareness campaign | April 1997 | | |
| Vesting of title | N/A | | |
| ILG incorporation | October 1996 | | |
| PFMC certificate | 26/6/97 | | |
| Attendance of landowners at PFMC meeting | | | ? |
| <u>2. Forestry Management Agreement</u> | | | |
| Form and content | See notes | | |
| Execution | 6/10/97 | | |
| Ministerial approval | 6/10/97 | | |
| <u>3. Development Options Study</u> | | | |
| Board to arrange or exemption | 2/2/98 Form 81 N/A | | |
| Directions from PFMC | 15/12/97 Form 82 No Form 83 | | |
| DOS given to Minister and PFMC | 8/1/00 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

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| 16/11/99 Form 85 | | |
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CHECKLIST NOTES:

1. The usual concerns about PFMC certifications of FMAs are again indicated here. These are:
 - There is no evidence that landowner representatives attended the PFMC meeting (or any later relevant meeting). Their attendance must be facilitated and a record of it should appear on NFS files held at headquarters.
 - There is no evidence that the PFMC independently verified the ILG incorporations or the willingness of landowners to sign the Agreement.
 - Indeed the certification was given about 3 months before the FMA was executed and before the Board approved it. While this may not be a significant irregularity in itself, it raises the doubt about how verification could have been properly done so far in advance of signing by those purporting to be ILG representatives.
2. Schedule 1 of the FMA has not been completed. This relates to the term of the Agreement and is therefore an essential provision. The copy sighted does not bear the corporate seal. An ink stamp has the advantage of appearing clearly on photocopies of the Agreement.
3. The delay in finalising the DOS was inordinately long. The PFMC was requested to provide directions in December 1997. There is no evidence that these directions were in fact given (Form 83). The final DOS was not given to the PFMC and the Minister until January 2000.
4. Notwithstanding the concern raised above it must be noted that the process used to prepare the DOS was a commendable one. In December 1997 the Area Manager was asked to nominate a member for the DOS team. The team reported on its consultations with landowners and provincial government officers in February 1998. At that time the landowners submitted an extensive but sensible list of their expectations. These related to matters such as employment and training, preference in tendering, business development, provision of services and infrastructure and a system of committees to ensure the smooth operation of the project. They also indicated a wish for provision to be made for them to take-over the project during its lifetime. These “demands” were faithfully reflected in the final version of the DOS.
5. The matters referred to in paragraph 4 were not incorporated in the document that is said to be the “Final Project Guidelines” for the project. These have not in fact become the final guidelines. The landowner’s input should be reflected in the guidelines. Proponents are entitled to know what landowners expect. Meeting landowner expectations would in fact introduce an element of competitive tendering. It would provide a clear basis upon which proposals could be

assessed. If certain expectations are not realistic in the context of this project, then the sooner that is made clear to the resource owners the better.

6. The resource available in this project area is clearly limited. The prospect of consolidation with other areas has been mooted at every stage but apparently not really considered. When commenting on the draft DOS in August 1998 the Provincial Forest Officer opposed consolidation. He suggested that this project be activated and that adjoining areas be acquired later. There is not a great deal of sense in this. If the viability of this project is in doubt then there might never be an opportunity to add areas. Like other projects of its type the difficulties arise in achieving the commencement of operations. Consolidation options might still exist, even if they should have been considered some years ago.