

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 March 2001

Re: **INDIVIDUAL PROJECT REVIEW REPORT NUMBER 25**
APRIL SALUMEI (EAST SEPIK PROVINCE)

AUDIT CONCLUSIONS AND RECOMMENDATIONS:

RESOURCE AND PLANNING ISSUES:

The sustainable timber yield principle has been complied with. A high proportion (44%) 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 is based on a very low field inventory sample. The estimated sustainable annual cut is sufficient to support a conventional stand alone log export project. There is inadequate road access.

LEGAL COMPLIANCE:

Due process has been observed but the project has not really progressed in any substantive way.

LANDOWNER ISSUES:

The presence of Government Officers, Missions, NGOs and the PNGFA in the project area for the past 15 years means that these unsophisticated people have had significant awareness raising. However the area is still beset with confusion and conflicting aspirations. Landowners have clearly expressed their development requirements and these are set out in the Development Options Study. Some ILGs are seeking to withdraw from the Forest Management Agreement as the NGO WWF establishes its presence more securely in Ambunti and offers alternative development options.

RECOMMENDATIONS (INCLUDING CORRECTIVE MEASURES IF REQUIRED):

- That the PNGFA immediately undertake the Board directed consultation process to ascertain if there is sufficient support for a project, and that based on the findings of this consultation the Board provides a clear direction whether this project is to be further pursued or not.
- 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.

If the project is to proceed, then:

- That the PNGFA undertake proper volumetric inventory and if necessary revise the project resource data.
- That the PNGFA provide a clear position in the Development Options Study and the Project Guidelines regarding the Kauri resource.
- That there be continued efforts to fully involve landowners in informed decision making.

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. Forest Management Agreement (FMA) executed. Development Options Study (DOS) finalised.
Gross FMA area:	521,000 ha (Includes the Hunstein Range Wildlife Management Area)
Gross loggable area:	139,000 ha (Excludes the Hunstein Range Wildlife Management Area)
Net sustainable timber yield:	155,000 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

<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 August 1999</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: 	<p>The FMA document indicates a gross loggable area of 177,000 ha based on the logging exclusion areas set out in the PNG Logging Code of Practice, and excluding areas of Kauri Pine (which may not be exported). Applying the standard 15% reduction results in the net loggable area estimate of 151,000 ha as set out in the FMA. The FIMS area data indicates a slightly lower gross loggable area of 164,000 ha, and a net loggable area of 139,000 ha.</p> <p>There is some uncertainty about the 137,000 ha of “Reserves” recorded in the FIMS given that the Hunstein Range WMA is only 68,000 ha.</p> <p>Yes. The FIPS data is used in the FMA, but it is based on a very small sample (0.07%).</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>Yes. The net harvestable volume is estimated to be 5.8 million m³ in the FMA compared to 5.4 million m³ based on the FIMS and FIPS data.</p> <p>No, because there is no agreed position regarding fragile forest areas. An estimated 44% of the gross loggable area of the April Salumei project is classified as Fragile Forest.</p> <p>Yes. Large scale Gazetted conservation areas are generally excluded from the FMA area. In this case the Hunstein Wildlife Management Area was declared over top of the FMA after the FMA was signed. 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>DEC carried out an Initial Environmental Assessment, which concluded that a larger area of the Hunstein Range should be excluded from logging (much of which is classified as Fragile Forest), but which also pointed out that the Gazettal of a WMA does not necessarily rule out logging.</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: 	<p>Yes. The resource description set out in the FMA indicates a sustainable yield of 167,000 m³/a, only slightly higher than the 155,000 m³/a estimate based on the FIMS and FIPS data. The DOS sets out a sustainable cut estimate of 160,000 m³/a. If areas classified as Fragile Forest are excluded from logging, then the sustainable cut estimate would decline to about 94,000 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
<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

4. CONSISTENCY BETWEEN DOCUMENTS	
<ul style="list-style-type: none"> Is the area and volume data consistent between the FMA and the Development Options Study. 	Yes
<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 pro-actively assist the East 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

- That the PNGFA clarify the inclusion or otherwise of the Kauri resource in the project and clearly inform interested parties through the Project Guidelines.

3. 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 been observed. The Board has acted properly to ensure that landowners are consulted and that the views of the Provincial Government and the PFMC are known. However the project has not advanced in any real way since 1986.
- The Initial Environmental Report submitted to the Board by DEC is a commendable document. The process may in fact have been assisted however if there was less prevarication in its findings and a degree of forcefulness in the position taken by DEC. The suggestion that logging should not take place “if possible” is a bit of nonsense.

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

RECOMMENDATIONS REGARDING LEGAL ASPECTS:

1. That care must be taken to ensure the files reflect that every necessary step has been taken. In this instance it seems clear that landowners have been consulted and advised of relevant matters but there is no formal record of such consultations.
2. That PNGFA files at Headquarters should contain evidence of proper certification of the FMA by the PFMC. This includes steps to independently verify ILG incorporations and the willingness of landowners to sign the FMA.
3. That the need to document every step applies also to recording the presence of landowner representatives at PFMC meetings. This should also appear on the files kept by PNGFA headquarters.
4. That if the project should not proceed (and that may be the outcome of the round of consultations required by the Board), then a firm decision should be made and

appropriate action taken in relation to the FMA. If there are development options then they should have been considered long ago but it is not too late to identify them now.

- That if the project should proceed, the allocation process must take due regard of the Wildlife Management Area declared over part of the FMA.

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>A resource inventory was conducted in 1989 with intention of acquiring the whole area under TRP. TRP signed in March 1992. March 1993 ICRAF took action to prevent awarding of any timber permit subsequent to the TRP agreement. In 1993 a legal view was given stating that the TRP was invalid and that the project would have to be re-negotiated as an FMA under the new Forestry Act. This was done.</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>In line with TRP requirements signatures were collected and Agents appointed. 116 clans were identified including 75 in the timber area and 41 along the adjacent river who were supposed to share benefits because of “disturbance” of the river by logging activities. There is a concern expressed by NFS that including non-resource owners in the TRP may render it invalid. A TRP was finally signed 18 March 1992.</p> <p>1995 Under the new legislation awareness and ILG work was begun.</p> <p>1996 164 Land Groups applied for incorporation. A few are outside the resource area. The East Sepik Provincial Government objected to some once notices had been distributed.</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>The FMA was approved by the Minister on 20 Dec 1996. ILGs from Salumei area signed but not from the April so the April area has been excluded from the FMA area. It appears that the April people were unwilling to be involved with the Salumei people.</p> <p>70,000 ha were excluded from the FMA for Hunstein Range Wildlife Management Area.</p> <p>Areas and various exclusions are presented in the FMA map. The PFMC certificate of authenticity of tenure and willingness to participate in FMA is included.</p>

RESOURCE ALLOCATION	
1. Development Options Study	
<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>DOS completed by PNGFA. Very superficial from forestry point of view. Too little account taken of earlier option recommendations e.g. a detailed development option study was conducted by Vatasan from Unitech in 1992. This study was partly in response to a full project proposal from the East Sepik Provincial Government from 1987.</p> <p>10 Jan 1997 A meeting was proposed to be held in Ambunti to sort out LANCOs and the DOS. Jan 2000 An awareness campaign was directed by the PNGFA Board. There is no evidence on file that this has happened.</p> <p>PNGFA indicated to the Review Team that the Planning Division may be considering an option that takes into account a combination of suggestions made in the Vatasan Report and the DEC Environment Assessment Report. This would mean a modification of the DOS.</p>

	Landowner concerns are very adequately presented in the DOS even though some are unrealistic (e.g. a bridge across the Sepik to connect to Ambunti which is connected to nowhere).
2. Project Guidelines	
Draft guidelines must be discussed and developed in consultation with the resource owners.	Guidelines not yet prepared.
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 negotiated.
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.	EP not yet prepared. A very detailed Initial Environmental Assessment was carried out by Department of Environment and Conservation in 1998 (with PNGFA funding). This would provide guidelines for the EP.

Some additional notes are presented in Appendix 2.

CONCLUSIONS REGARDING LANDOWNER ASPECTS:

- The proposed project area still seems to be plagued with confusion. It is not clear as to which ILGs “belong” to which LANCO; which ILGs have signed up for forestry and which are working with WWF on non-logging use of the forests; did the April people stay out of the FMA for ethnic or conservation reasons; which ILGs that have signed the FMA are now wanting to withdraw; are the forest owning ILGs happy to have the river ILGs in the FMA since the latter own no forest?

- Conservation NGOs (in particular WWF) is beefing up its presence in the area. Its influence is bound to increase as people see their delivery of training, communications and small business development as “development” which is not as yet being delivered by any other party.
- There is confusion in the minds of the ILGs regarding the roles of the PNGFA and WWF with regard to what each intends to do in the area. This is also creating landowner expectations that are unrealistic.
- If this project is to proceed, then the PNGFA will have to be proactive and go beyond its narrow production forestry focus. There appears to be a real possibility for a good sustainable forestry project alongside and in conjunction with the conservation areas. This will require work with all stakeholders in a co-operative manner to overcome the present rather confrontational situation.

RECOMMENDATIONS REGARDING LANDOWNER ASPECTS:

1. That the PNGFA take a pro-active role in achieving co-operation between itself, NGOs, Provincial and Local-level governments, and landowner ILGs to ascertain the most appropriate way forward for this project area.
2. That the PNGFA undertakes ongoing maintenance work with the ILGs so as to confirm their decision making ability, and to ensure that any development decisions have the full backing of the landowners.

APPENDIX 1 : CHECKLIST OF COMPLIANCE WITH LEGAL REQUIREMENTS

PROJECT – APRIL SALUMEI FMA

Step	Compliance	Non-Compliance	Not clear
<u>1. Landowner Consultation</u>			
Awareness campaign			? 1986-1996
Vesting of title	N/A		
ILG incorporation	Aug 96		
PFMC certificate	21/11/96		
Attendance of landowners at PFMC meeting			?
<u>2. Forestry Management Agreement</u>			
Form and content	Confirmed		
Execution	20/12/96		
Ministerial approval	20/12/96		

CHECKLIST NOTES:

1. While there is no clear indication on the files that a landowner awareness campaign was conducted by the NFS it is clear that this project has been in the pipeline since mid-1986. A TRP was finalised in 1992 but as it was done immediately after the repeal of the former Act the project was re-activated as a FMA. In October 1995 Dike Kari rightly noted that the PNGFA would need to identify development options and conduct awareness campaigns for the landowners. From 1996 through to 1999 the Board has quite properly required that the views of landowners be obtained and acted upon. In April 2000 the Managing Director confirmed that the Forest Planning Division would devise strategies for landowner awareness.
2. There is no evidence that the PFMC independently verified the ILG incorporations or the willingness of landowners to sign the FMA. It is unclear whether landowner representatives were present at the relevant PFMC meetings.
3. The FMA was signed in 1996 and the matter has not progressed since that time. The files give no real indication of landowner frustration at this delay. The presence of three separate and competing landowner companies may be said to be an inevitable

result of this delay. The PNGFA responded to this unhelpful situation by attempting to bring all three groups together. Success is not apparent from the files.

4. The Board properly responded to concerns of an environmental nature raised by the PFMC. At meetings held in 1996 and 1997 the Board gave directions for all steps to be put on hold until environment and social impacts were thoroughly assessed. A report was prepared by DEC (funded by PNGFA) and this was tabled at the Board's meeting in February 1999. The report is comprehensive and makes interesting reading. It identifies a great many areas and issues of environmental sensitivity and confirms the difficulties in carrying out logging operations in much of the project area. Having raised these many valid concerns the report's Executive Summary and conclusions then "go to water". The following rather indefinite comment is the report's "final word":

"The map shows an area of land that has very high biological values and should not be logged if possible. (Review Team underlining).

It is important to understand that DEC has not said that this area cannot be logged. DEC has said only that it should not be logged".

5. The fact is that this project has not really advanced at all since the mid-1980's. The Board has acted quite properly at all times to ensure that all relevant concerns are taken into account. At its meeting in November 1996 it required that a caution be given to landowners as to the viability of the project. More recently in September 1999 the Board directed the Managing Director to consult with the Provincial Government, the PFMC and landowners and to gauge their views. This is quite proper and the fact may be that the project should not be allowed to proceed and that the FMA should be terminated. Such a step would need to be taken upon clear legal advice.

APPENDIX 2 : NOTES ON LANDOWNER ASPECTS

- 6/8/91 A letter from landowners complained about Greenlight Productions Ltd's anti-logging crusade in April Salumei area.
- May-July 1992 Feasibility Study for April Salumei done by Vatasan from Unitech.
- April 1996 Hunstein Range Holdings Ltd (a landowner company) chasing the permit and promoting Damansara Ltd as their preferred developer.
- Jan 17, 1997 Five landowner companies agree to form one united company "April Salumei Resource Development Corporation Ltd".
- 14 Oct 97 PNGFA prepared to pay for a visit by a landowner company representative to Port Moresby to meet Minister.
- Jan 1998 FMA documents and ILG documents dispatched to Ambunti.