



EXCELLENCE IN PUBLIC SECTOR AUDITING

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# **REPORT OF THE AUDITOR GENERAL OF THE REPUBLIC OF FIJI**

## **Audit Report on Performance Audit – Volume 2**

### **December 2014**

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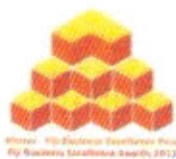


# OFFICE OF THE AUDITOR GENERAL

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File: 102

31 December 2014

The Hon. Dr. Jiko Luveni  
Speaker of the Parliament of the Republic of Fiji  
Parliament  
Fiji

Dear Dr. Luveni

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## PERFORMANCE AUDIT REPORT FOR THE YEAR ENDED 31 DECEMBER 2014 – VOLUME II

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In accordance with section 152 (13) of the Constitution, I am pleased to transmit to you the volume II of my report on the various performance audits undertaken across the public sector for the year ended 31 December 2014.

A copy of the report has been submitted to the Minister of Finance who as required under section 152 (14) of the Constitution will lay the report before Parliament within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period.

Tevita Bolanavanua  
**AUDITOR -GENERAL**

## **Performance Audit Reports**

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1. Follow up audit on Monitoring of Government Entities
2. Follow up audit on Timeliness in Management of Magistrates Court
3. Management of the Land Reform Program
4. Monitoring of Municipal Councils by Department of Local Government
5. Progress of Implementation of Policies and Strategies in the Fiji Forest Policy Statement

# FOLLOW UP AUDIT ON MONITORING OF GOVERNMENT ENTITIES

A performance audit report of the Office of the Auditor General of the Republic of Fiji



Government entities are required to operate efficiently and profitably to provide adequate return on investments to Government. The State, as owner on behalf of the people of Fiji provides the strategic direction to the entities by setting financial and non-financial performance targets and non-commercial obligations.

In view of the magnitude of the public investment that the government entities represent, the importance of the services they provide, and their economic significance, it is quite important that sufficient monitoring is carried out on GCCs and CSAs to ensure business continuity and adequate returns to Government.

This audit is a follow up audit on the performance audit that was conducted on the topic Monitoring of Government Entities in 2006. The audit focuses on two areas namely Monitoring Arrangements and Compliance with the Monitoring Arrangements and Legislative Requirements.

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## Acronyms

<b>ADB</b>	<b>Asian Development Bank</b>
<b>AFL</b>	Airports Fiji Limited
<b>AMU</b>	Asset Management Unit
<b>BAF</b>	Biosecurity Authority of Fiji
<b>CSA</b>	Commercial Statutory Authority
<b>EOI</b>	Expression of Interest
<b>FBCL</b>	Fiji Broadcasting Corporation Limited
<b>FEA</b>	Fiji Electricity Authority
<b>FHCL</b>	Fiji Hardwood Corporation Limited
<b>FPCL</b>	Fiji Ports and Corporation Limited
<b>FPL</b>	Food Process Limited
<b>FPTCL</b>	Fiji Public Trustee Corporation Limited
<b>FSHIL</b>	Fiji Shipping & Heavy Industry Limited
<b>GCC</b>	Government Commercial Companies
<b>GOC</b>	Government Owned Companies
<b>KPI</b>	Key Performance Indicators
<b>MASAF</b>	Maritime Safety Authority of Fiji
<b>MAU</b>	Monitoring Analysis Unit
<b>MOF</b>	Ministry of Finance
<b>MPE</b>	Ministry of Public Enterprise
<b>NCO</b>	Non Commercial Obligation
<b>PAFCO</b>	Pacific Fish Company Limited
<b>PE</b>	Public Enterprise
<b>PFL</b>	Post Fiji Limited
<b>PPP</b>	Public Private Partnership
<b>PRB</b>	Public Rental Board
<b>PTL</b>	Ports Terminal Limited
<b>ROA</b>	Return on Assets
<b>ROE</b>	Return on Equity
<b>ROSF</b>	Return on Shareholders' Funds
<b>RRL</b>	Rewa Rice Limited
<b>SCI</b>	Statement of Corporate Intent
<b>SFA</b>	Senior Financial Analyst
<b>SOP</b>	Standard Operating Procedure
<b>TOR</b>	Terms of Reference
<b>UTOF</b>	Unit Trust of Fiji
<b>VCL</b>	Viti Corporation Limited
<b>WAF</b>	Water Authority of Fiji
<b>YPCL</b>	Yaqara Pastoral Corporation Limited

# 1.0 EXECUTIVE SUMMARY

Background	This performance follow up audit is conducted to assess the actions taken by the Ministry of Public Enterprise on the recommendation proffered in the Auditor General's Report <i>Monitoring of Government Entities</i> published in December, 2009
Coverage	This follow up audit on Monitoring of Government Entities focuses on two areas namely <i>Monitoring arrangement</i> and <i>Compliance with monitoring arrangement and legislative requirements</i> which were also the focus of the Auditor General's Report in 2009.
Key findings	<p><i>Monitoring Arrangement</i></p> <ul style="list-style-type: none"> <li>• The Ministry has yet to commence the actual review of the Public Enterprise Act 2006.</li> <li>• The MPE needs to strengthen its role in monitoring the PE non-commercial obligation (NCO) by coordinating with line ministries and make arrangements for NCO monitoring system.</li> <li>• The MPE is still in the process of finalising a Standard Operating Procedures (SOP), however the audit view that some of the procedures may require legislative backing from the intended revised PE Act.</li> <li>• The MPE has a database that is readily available to be launched and is still awaiting the Minister's approval.</li> </ul> <p><i>Compliance with monitoring arrangement and legislated requirements</i></p> <ul style="list-style-type: none"> <li>• Most government entities have not been submitting the required documents to the Ministry for monitoring purposes.</li> <li>• Most of the government agencies have not been able to achieve the ROE and ROA set for the period 2009-2013.</li> <li>• The Ministry is yet to re-look at the dividend policy and linking it with the bonus payout.</li> </ul>
Overall Conclusion	<p>With regards to the section <i>Monitoring Arrangement</i> the Ministry has partly implemented recommendations made in the 2009 Auditor General's Report. Major improvement has been made by the Ministry in the aspect of resourcing the monitoring of government entities. However, a lot more needs to be done by the Ministry on other issues under this section of the report. Two of the critical tasks include the review of the PE Act and the development of a SOP.</p> <p>The Ministry also has yet to fully implement recommendations indicated in the 2009 report with regards to the section <i>Compliance with the monitoring arrangements and legislative requirements</i>. There is a need for the Ministry to re-look at the performance criteria used to evaluate performances of government entities in view of the nature of the entities' operations.</p>
General Recommendation	The MPE should attend to the issues raised in this follow up audit especially with the need to review the PE Act 1996.

## 2.0 INTRODUCTION

*This section of the report provides an overview of the audit and the reasons for conducting the audit.*

### 2.1 Background

- 2.1.1 Government's public enterprise reform programme was undertaken with the intention of increasing the efficiency and effectiveness of the public enterprises sector.
- 2.1.2 The Ministry of Public Enterprises and Public Sector Reforms is responsible for overseeing and implementing the reforms programme with the intention of increasing the efficiency and the effectiveness of the public enterprises sector. The programme includes the restructure, commercialisation, corporatisation and privatisation of public entities in accordance with the Public Enterprise Act, 1996 and any other legislations and relevant policies.
- 2.1.3 The Ministry of Public Enterprises is also responsible for the monitoring of the performance of GCC and CSA. It plays an active role in addressing and resolving issues concerning them as they arise to ensure that the operations of the entities are not affected by any industrial unrest. It also assists ailing entities through closer involvement and monitoring, strengthening of Boards and Management, and determining strategic partners who can invest additional capital and necessary expertise to improve performance.<sup>1</sup>
- 2.1.4 A performance audit on the topic "*Monitoring of Government Entities*" was carried out in 2009 and published in the Auditor General's report of December, 2009. Altogether audit made 10 recommendations with respect to issues identified in its performance audit report. This follow up audit is conducted to establish the status of implementation of the 10 recommendations in the 2009 report.

The MPE had provided its response to the audit; however during the period in which this audit was conducted the report has not been deliberated by the Public Accounts Committee.

- 2.1.5 The MPE has made changes in its internal structure together with its responsibility. A significant restructure occurred in the beginning of the year when the Asset Management Unit (AMU) from the Ministry of Finance (MOF) was transferred across to MPE.

The AMU public enterprise portfolio consists of 8 PE entities are all now managed and administered under the MPE portfolio but still governed by the Companies Act 1983. The current consolidated portfolio is listed below.

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<sup>1</sup> DPE&PSR 2009 Corporate Plan

Table 2.1: 2014 Public Enterprise portfolio

COMPANY NAME		GOVERNMENT INTEREST	TRANSFERRED FROM AMU
<b>GOVERNMENT COMMERCIAL COMPANY</b>			
1.	Airports Fiji Ltd	100%	
2.	Fiji Broadcasting Corporation	100%	
3.	Fiji Ports Corporation Ltd	100%	
	Fiji Ships & Heavy Industries Ltd	100% (subsidiary of Fiji Ports)	
	Ports Terminal Ltd	49% (subsidiary of Fiji Ports)	
4.	Fiji Public Trustee Corporation Ltd	100%	
5.	Food Processors (Fiji) Ltd	100%	
6.	Post Fiji Ltd	100%	
7.	Rewa Rice Ltd	100%	
8.	Unit Trust of Fiji (management) Ltd	100%	
9.	Viti Corp Corporation Ltd	100%	
10.	Yaqara Pastoral Company Ltd	100%	
11.	Fiji Hardwood Corporation Ltd	100%	
<b>COMMERCIAL STATUTORY AUTHORITY</b>			
12.	Fiji Electricity Authority	100%	
13.	Fiji Meat Industry Board	100%	
14.	Housing Authority	100%	
15.	Public Rental Board	100%	
<b>REORGANIZED ENTITIES</b>			
16.	Biosecurity Authority of Fiji	100%	
17.	Maritime Safety Authority of Fiji	100%	
18.	Water Authority of Fiji	100%	
<b>MAJORITY OWNED COMPANIES</b>			
19.	Fiji Pine Limited	99.8%	√
20.	Pacific Fishing Company Ltd	99.4%	
21.	Copra Millers Ltd	96%	√
22.	Fiji Sugar Corporation	68%	√
23.	Fiji Airways	51%	
24.	Air Terminal Services	51%	√
<b>MINORITY OWNED COMPANIES</b>			
25.	Amalgamated Telecom Holdings	34.6%	√
<b>OTHER RESPONSIBILITIES</b>			
	Government Printery		√
	Kalabu Tax Free Zone		√
	Overseas Missions		√

## 2.2 Reasons for undertaking the audit

- 2.2.1 One of the aims of performance audit is to promote the achievement of good value for money throughout the public service. Following up the recommendations in the performance audit reports is a means of ascertaining whether recommendations have been taken care of or addressed by the Ministry of Public Enterprise or the auditee.

Thus this topic was selected to confirm improvements implemented since the audit was conducted 5 years ago.

- 2.2.2 Government entities play a central role in the economy and dominate certain strategic industries. The following table provide details of core responsibilities of some of the existing companies.

**Table 2.2: Core responsibilities of GCC's**

Government Commercial Companies	Core Responsibilities
<b>Airports Fiji Limited</b>	Management of internal airports and outer airstrips
<b>Fiji Broadcasting Corporation Limited</b>	Provision of public broadcasting services
<b>Fiji Hardwood Corporation Limited</b>	Management of mahogany forest and processing of mahogany
<b>Fiji Ships and Heavy Industries Limited</b>	Provision of slipway services and shipbuilding
<b>Food Processors Fiji Limited</b>	Processing of food items especially agricultural products
<b>Fiji Ports Corporation Limited</b>	Management of all ports of entry and stevedoring services
<b>Post Fiji Limited</b>	Provision of postal services
<b>Rewa Rice Limited</b>	Mill local rice and revitalize rice farming in Fiji
<b>Unit Trust of Fiji (Management) Limited</b>	Provider of unit trust fund in which people can invest and achieve the best possible returns
<b>Viti Corps Company Limited</b>	Landlord-leasing of land
<b>Yaqara Pastoral Company Limited</b>	Cattle breeding

**Table 2.3: Core activities of CSA's**

Commercial Statutory Authorities	Core Responsibilities
<b>Fiji Electricity Authority</b>	Regulator & provider of electricity
<b>Fiji Meat and Industry Board</b>	Operate slaughtering facilities. Preservation, protection and expansion of the meat industry
<b>Housing Authority of Fiji</b>	Provision of affordable housing to low and middle income earners
<b>Public Rental Board</b>	Provision of transitional housing to low income earners

## 3.0 AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

*This section of the report describes the objective and scope for this audit. It also discusses the methodology taken by the audit team to gather information for the audit.*

### 3.1 Audit objectives and scope

- 3.1.1 The objective of this follow-up audit was to ascertain the progress made in relation to the corrective actions taken by the Ministry of Public Enterprise on monitoring arrangements that ensure the effective monitoring of public entities; and subsequent compliance by government entities to the monitoring and legislative requirements.

Audit looked into the progress made in relation to the corrective actions undertaken by the Ministry to the audit recommendations proffered in the 2009 report under the following areas:

i. ***Monitoring arrangement***

The first section of the report seeks to establish whether the Ministry of Enterprise has addressed the issues raised in the 2009 General Report with regards to the provision of relevant and effective legislations and strategies that ensure improvements in monitoring of government entities.

ii. ***Compliance with monitoring arrangement and legislated requirements***

The second part of the report seeks to determine whether the Ministry has taken the necessary actions towards issues raised in the 2009 General Report that promote compliance to monitoring arrangements and legislative requirements by government entities.

- 3.1.2 The follow up audit will focus on the above areas as reported in the 2009 Auditor General's report and covered the period 2009-2013.

### 3.2 Audit methodology

- 3.2.1 The audit was conducted using the following evidence gathering techniques.

- ***Documentary reviews***

The audit reviewed various documents to gather information on the current monitoring arrangement. The major documents reviewed are listed below:

**Table 3.1: Details of documents reviewed and source during audit**

Document	Source
Cabinet Paper and Decision – Revised of PE Act 1996	MPE
Costing Social Obligation	The Allen Consulting Group
Review of Non-Commercial Obligations of Government Commercial Companies	Pricewaterhouse Coopers Fiji
Finding Balance 2014 – Benchmarking the performance of state-owned enterprises in island countries	ADB
Dividend Matrix	MPE

- Interviews*

Interviews were carried out with the following personnels.

**Table 3.2: List of Interviewees**

Designation	Unit/Section
<b>Principal Financial Analyst /Acting Director</b>	Commercial Oversight and Commercial Optimisation
<b>Principal Economic Planning Officer /Acting Director</b>	Policy and Public Private Partnership
<b>Principal Financial Analyst</b>	Commercial Oversight
<b>Principal Economic Planning Officer</b>	PPP/Divestment
Senior Financial Analyst	PPP/Divestment

- Other*

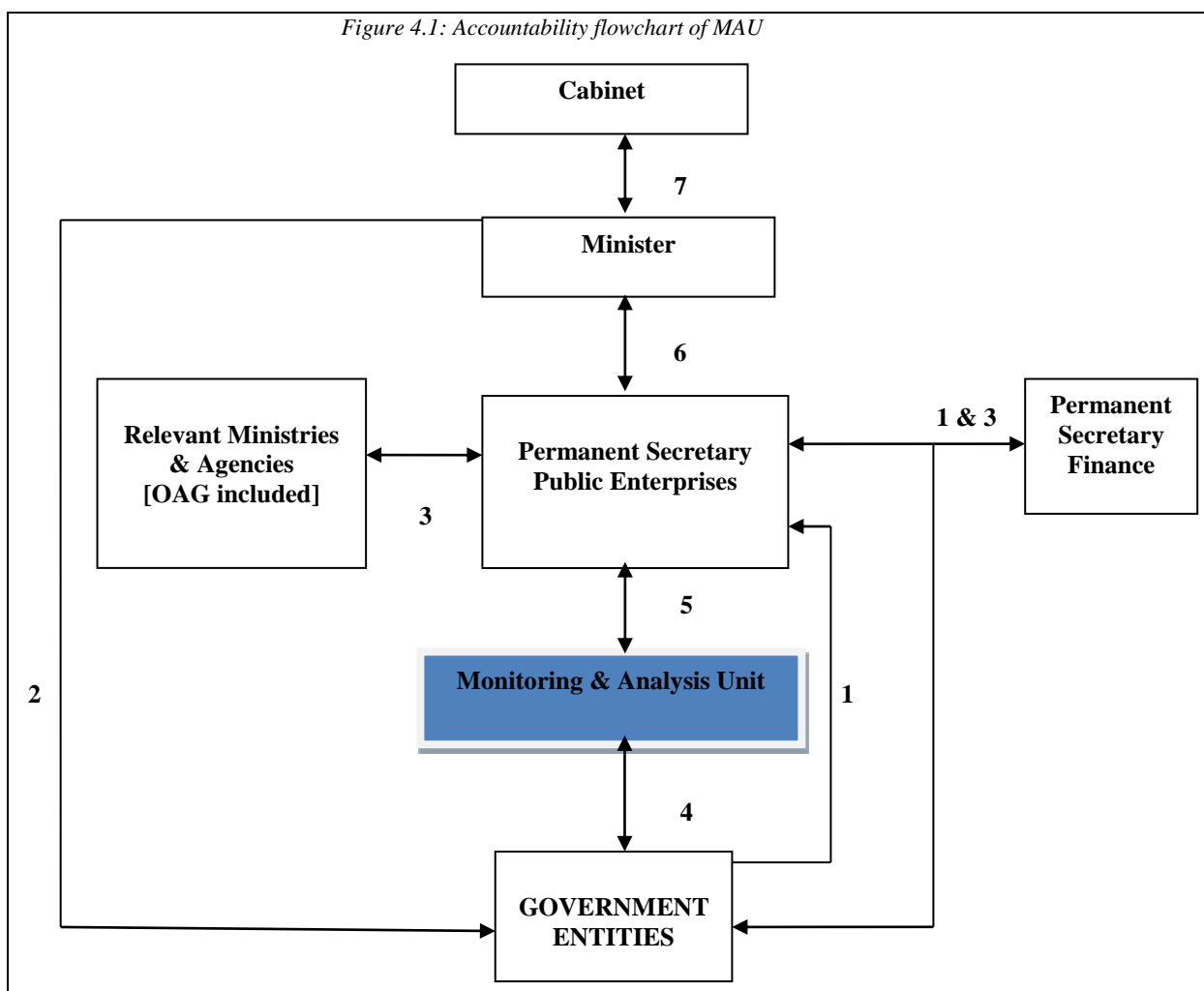
Correspondences through e-mails were also made to clarify issues.

## 4.0 MONITORING ARRANGEMENT

*This section of the report discusses whether the Ministry of Enterprise has addressed the issues raised in the 2009 General Report with regards to monitoring arrangements in place to monitor the performances of government entities.*

- 4.0.1 Given the magnitude of public resources invested and the potential losses which can arise from inappropriate management of resources the effective monitoring of government entities is pivotal.
- 4.0.2 The Government in view of the entities owned is accountable to Cabinet for their overall performance thus monitoring of the entities is critical. The following diagram summarises the accountability flowchart of MAU. Explanation of the diagram is provided under **Appendix 1**. **Appendix 2** summarises the detail process of monitoring and analysis together with their timeline.

Figure 4.1: Accountability flowchart of MAU



## 4.1 Legislated reporting requirements

4.1.1 The reform of government commercial enterprises is sanctioned under the Public Enterprise Act No. 35 of 1996 and Public Enterprises (Amendment) Act 2002. The objective of the reforms is to increase the operational efficiency of public enterprises and to improve the efficient allocation of resources between public enterprises and other sectors of the economy<sup>2</sup>.

4.1.2 The requirement of reporting and accountability of government commercial companies and commercial statutory authorities are provided for in Part 5, sections 85 to 109 of the Public Enterprise Act. Accountability for performance of government owned companies is described under the 3<sup>rd</sup> principle of public sector reforms and states that:

- The GCC's Board is accountable to the PE Minister and the relevant Minister for the GCC's performance;
- The GCC's statement of corporate intent will form the basis of accountability;
- Performance will be monitored by the Government against performance targets specified in the statement of corporate intent;
- Government monitoring of the Government Commercial Company is intended to compensate for the increase in the GCC's autonomy.

4.1.3 To ensure that GCCs and CSAs properly manage, plan and are accountable for their actions, the Act requires them to report to Government regularly and uniformly<sup>3</sup>. GCCs and CSAs are required to submit the following documents to the Public Enterprise Minister within the legislated timeframes:

**Table 4.1: Documents required to be submitted by GCC's and CSA's to the Minister of Public Enterprise**

No	Document	Time of submission	Drafts submission
1	Corporate plan	Within 3 months of the commencement of the financial year	1 month after commencement of financial year
2	Statement of corporate intent	Within 3 months of the commencement of each financial year	No later than 1 month after the commencement of each financial year
3	Half yearly reports	Within 2 months after the end of the first half of the financial year	
4	Annual reports and audited accounts	Within 5 months after the end of each financial year	Within 3 months after the end of each financial year
5	Employment and industrial relations plan	Together with SCI	

4.1.4 The Minister of Public Enterprises will present this in Parliament no later than six months after receiving the documents<sup>4</sup>.

4.1.5 Corporate plans and statement of corporate intent are planning documents prepared annually that set out future operations of the state owned entities. Half yearly reports, annual reports and audited accounts provide accounts of the Government entities operational and financial accomplishments.

<sup>2</sup> Public Enterprise Act Schedule 1 Part A s.1

<sup>3</sup> Public Enterprise Act s.86

<sup>4</sup> Public Enterprise Act s. 106

The documents presented are sufficient to account for performance of the Government entities as they encompass the entity's anticipated outcomes as well as recording its accomplishments.

- 4.1.6 The audit conducted in 2009 found that the entities being monitored do not always abide by requirements of the legislation. Whilst some entities have been forthcoming with the planning documents and reports required, others have not been compliant to the legislated timelines for submission of documents.

The inconsistency audit found was mainly due to the limitation in the Act to include a clause to address issues of non-compliance that is to reprove or penalise non complying entities. As such the Ministry cannot compel entities to abide by submitting these documents within the legislated timeframes.

Hence, the audit in 2009 recommended that the PE Act 1996 needs to be reviewed to include provisions that would enforce penalties to those entities that did not comply with the legislative requirements.

- 4.1.7 Enquiry with the MPE on the legislation found that the Ministry had prepared a Cabinet Memorandum to review the PE Act 1996. The Cabinet Memorandum was presented in Cabinet by the responsible Minister dated 10<sup>th</sup> March 2014. The paper recommended to Cabinet approval that the Solicitor General's Office to assist the Ministry of Public Enterprises with the drafting of the new Public Enterprise Decree. A Cabinet Decision was reached on 12<sup>th</sup> March, 2014 approving the recommendation by the Minister.

Audit noted that the objectives of the proposed revised Act are in line with what was recommended in the audit report in 2009. The objectives of the proposed revised Act<sup>5</sup> are as follows;

- ✓ *Privatisation* – the revised Act will expand the Ministry's current focus on reorganisation and corporatisation, to include processes with utilisation of listing on the South Pacific Stock Exchange.
- ✓ *Public Private Partnership (PPPs)* – the current PE Act does not provide provisions for PPPs for PE entities. The PPP Act 2006 provides a framework for PPPs that relate specifically to government infrastructure and services development but does not address the unique business requirements and considerations of PE commercial organisations.
- ✓ *Update reporting and monitoring requirements* – the process and timelines that PE entities are presently mandated to comply with under the Act are cumbersome and costly to administer. With the development of the Ministry's Strategic Financial Analysis System, PE entities are required to regularly upload financial and other data.

However, upon further enquiry, audit noted that the actual review of the PE Act has yet to be undertaken. Even though the audit was conducted in 2009, the MPE only managed to include the revision of the PE Act to be a key project for the year 2014, hence the proposal to Cabinet in March, 2014.

<sup>5</sup> CP (14) 59 dated 10<sup>th</sup> March 2014

Upon the approval from Cabinet, MPE had prepared a Terms of Reference (TOR) for the review of the Public Enterprise Act. The TOR has been reviewed by the Solicitor General's Office with the response of the review communicated to the Ministry on the 9<sup>th</sup> of April 2014.

Audit found that \$250,000 was allocated in the Ministry's budget for the review of the Act; however the fund is yet to be utilised. The Ministry as at the date of the audit is still awaiting approval from management for the advertisement of EOI to engage a consultant.

- 4.1.8 Further delay in the review of the PE Act 1996 will result in the continuous non-compliance by PE entities.

## 4.2 Arrangements for monitoring of Non Commercial Obligations (NCOs)

- 4.2.1 GCCs are to operate along the commercial lines, but it is recognized for the benefit of Fiji, there will be occasions where GCC, as a purely state owned entity, often have to undertake some essential services, which are usually not in the best commercial interest of the entity.<sup>6</sup>

The provision of services referred above often comes at a very high cost to the entities and it is essential that Government, as shareholders, compensate these entities for provision of such services.

- 4.2.2 The audit in 2009 found that only 2 NCOs were being provided at the time, that is, the provision of public broadcasting services and the provision of rural postal services. In addition audit found that there were other activities carried out by other entities such as AFL, HA, and PRB which also received funding from Government. The details of the two NCOs identified in the 2009 report are provided below:

**Table 4.2: Details of NCO's undertaken by government entities**

Entities	NCO Funding			NCO Activity
GCCs	2006	2007	2008	
FBCL	986,425	986,667	986,667	Provision of public service broadcasting services
PFL	733,605	514,826	517,007	Provision of rural postal services
Total	1,720,030	1,501,493	1,503,674	

- 4.2.3 However, audit noted in the 2009 audit report, that the MAU has a minimal role in the monitoring of the NCOs provided by few PE entities hence it was recommended that the MAU should consult with the line Ministries and government entities providing non-commercial obligations (NCO's) to consider including the Unit to monitor government entities' NCO activities.<sup>7</sup>
- 4.2.4 The follow up audit gathered that there are currently four entities that are recognized by MPE to be providing NCOs namely:

- Post Fiji – providing postal service in rural areas;
- FBCL – provision of public service broadcasting (Fijian and Hindi language) activities;

<sup>6</sup> Public Enterprise Act 1996 Division 13, Sec 69

<sup>7</sup> Auditor General's Report 2009 recommendation

- FEA – providing electricity to rural areas or part of the community free of charge ;and
  - AFL – upkeep and maintenance of Nausori airport and the 14 other rural airports and the provisions of spaces for government offices at the Nadi airport.
- 4.2.5 Discussions with the MPE personnel during found little evidence to indicate that actions were taken by the Ministry to consult with line Ministries in regards to NCO monitoring.
- 4.2.6 Audit also noted that there were two detailed reviews conducted by two independent consultants in 2004<sup>8</sup> and 2006<sup>9</sup> which revealed that there were other PE entities that provide NCOs. The following entities were noted by the two consultants but not recognized by MPEs:

**Table 4.3: Entities noted by consultants to provide NCOs**

Entity	NCOs
FSHIL	Employment of surplus staff and non-productive assets
Food Processors (Fiji) Ltd	Procurement of agricultural produce directly from farmers in rural areas
Rewa Rice Ltd	Purchase of paddy at artificially set market prices from farmers in the Dreketi area
Yaqara Pastoral Company Ltd	Provision of genetically superior bulls for distribution to the national beef herd
Housing Authority	Provide housing provisions for low-middle income earners
Public Rental Board	Provide affordable rental accommodation of high quality

Of the total six entities listed above, audit noted that only two entered into an agreement with government in regards to the NCO services it undertakes. Such agreement specifies the NCO activities undertaken by the entity together with following;

- NCO Reporting requirements;
  - NCO costing to establish amount to be reimbursed by government; and
  - NCO Financial Indicators.
- 4.2.7 Non monitoring of the NCOs provided by PE entities may indicate that government is not in a position to quantify the NCO costing provided by the PE entities.

## 4.3 Procedural manual

- 4.3.1 Procedural guidelines/manual should be formulated to formalize the responsibilities and accountabilities of all stakeholders concerned, and which would assist the MAU in directing its monitoring role. This would also ensure some system for capturing corporate knowledge and experience.
- 4.3.2 In the 2009 audit it was noted that there were no other regulation or procedure guideline/manual in place to direct the monitoring of government business enterprises by the Ministry and that in the absence of such guidelines the operations of the MAU were guided by the Public Enterprise Act and the unit's Business Plan. The audit thus recommended that the Ministry formulate a procedure guideline/manual.

<sup>8</sup> PWC

<sup>9</sup> The Allen Consulting Group

In response to the Auditor General Report 2009, the MPE stated that it will develop a new Procedural Manual to include MAU's monitoring roles over entities providing NCOs.

- 4.3.3 In this follow up audit, it was noted that MPE is currently developing a draft Standard Operating Procedure (SOP). The draft SOP is being developed by a Senior Financial Analyst (SFA). According to the SFA, all the required PE monitoring processes and procedures are in place, and it only requires consolidation.

The newly developed SOP is planned to have two sets of procedures which includes standard and specific procedures. Whilst the specific standards will include procedures specifically designed for each PE's nature of operations, the standard procedures will be directed for the common procedures.

According to the SFA responsible for the SOP, the draft SOP is 70 percent completed. The officer indicated that the draft SOP will be reviewed first by the section heads of the Ministry before it is presented to the Deputy Secretary and the Permanent Secretary for approval.

- 4.3.4 However, audit noted that there are certain procedures that will require compliance by external stakeholders and as such will require legislative backing. Thus for these procedures to be in force, it will first need to be included in the PE Act which is yet to be reviewed before being included as part of the SOP.
- 4.3.5 Without legal backing of requirements in the SOP that covers external parties the Ministry may find it difficult to ensure their compliance.

## 4.4 Monitoring database

- 4.4.1 A monitoring database should be in place to facilitate the monitoring of government entities by the Ministry.
- 4.4.2 In the 2009 audit report, it was noted that the MPE had a KPI in its Business Plan for 2009 to develop a better quality service analysis tool or a database. However that was not realised due to the lack of funding, hence it was recommended in the 2009 audit that the Ministry should continuously lobby for additional financial resources to fund the development of its database and the "*monitoring traffic light*" system which would greatly enhance their work.
- 4.4.3 Discussions with the MPE officials during the 2014 follow up audit revealed that the Ministry had the funding to develop a database. In the follow up audit, it was noted that the database is ready to facilitate the maintenance, storage and records provisions that will be required for an effective monitoring. However, audit noted that the database is yet to be launched as it awaits the Minister's approval.
- 4.4.4 The responsibility for setting up the database was vested to the same SFA who have been in charge with the development of the SOP. According to the SFA, the database will enable the MPE and the respective PE entities to share information online. For example, the PE entities can upload the required documents necessary from their end and MPE can view and download at their end.

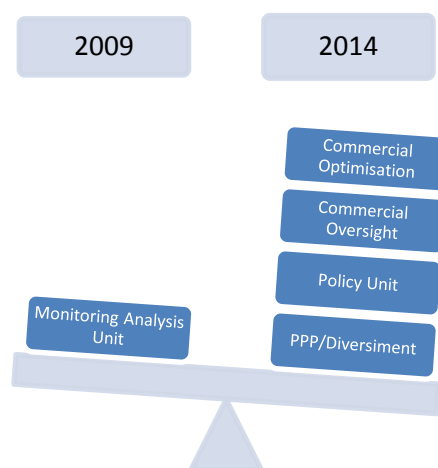
Audit gathered that certain level of controls would be put in place to safeguard the confidential information shared amongst MPE officers e.g. only project officers assigned to an entity would be able to access the assigned entity's information.

- 4.4.5 The delay in launching of the database creates missed opportunity for the MPE to enhance their coordination with its key stakeholder.

## 4.5 Vacant positions

- 4.5.1 In 2009, there was a Monitoring Analysis Unit (MAU) that looked after the monitoring of all the PE entities in Fiji.
- 4.5.2 The MAU was made up of seven positions but only 5 were filled during the time of audit in 2009. Hence, it was recommended that the Ministry should take actions to fill the two vacant positions in the Monitoring & Analysis Unit to ensure efficiency in the monitoring of government entities.
- 4.5.3 Reviewing of the organisation structure of MPE in the 2014 follow up audit revealed that a lot of changes has occurred to the structure since 2009. Our audit of the currently structure found that the MPE has 4 additional units established to look after the monitoring role on all PEs. The following diagram illustrates the changes in the structure in 2009 and 2014.

Figure 4.2: Changes in the MPE structure



In total the unit now has a total of 24 positions. Audit also gathered that at the beginning of 2014, the Asset Management Unit (AMU) of the Ministry of Finance (MOF) was transferred to the MPE together with its PE entities portfolio. A total of 6 officers transferred from MOF with 8 additional PEs to the MPE portfolios. The list of the current MPE portfolio is provided under Table 2.1 of this report.

- 4.5.4 The additional staffing provided to MPE would streamline the PE monitoring processes and certainly boost the monitoring role provided that the right monitoring framework is in place.

## **RECOMMENDATIONS**

- The Ministry should ensure that the advertisement of EOI to engage a consultant is conducted to allow the commencement of the PE Act review.
- Given the existence of the number of NCOs provided by the PE entities, the MPE should re-look into the recommendations provided by the audit report in 2009 together with the two NCO review reports provided by the two independent consultants and develop NCOs monitoring mechanisms in their SOPs.
- The MPE should await the finalization of the Public Enterprise Act before finalising their SOP as some requirements to be included in the SOP first needs to be included as part of the PEA before inclusion in the SOP.
- The MPE should advise the Minister of the need to launch the monitoring database as it would facilitate their monitoring work.

## **Management Comments**

### **Recommendation 1**

- *A draft EOI advertisement for has already been drafted and is now awaiting approval before advertisement. Once approval is obtained, MPE will advertise the EOI to engage a consultant to review the Act.*

### **Recommendation 2**

- *The MPE is also looking at reviewing and strengthening Sections 69 -71 of the PE Act on Non-Commercial Obligations. While there are existing NCO agreements with two (2) of our entities, the Ministry will work with line Ministries in formalizing an NCO agreement with our entities who are undertaking NCOs.*

### **Recommendation 3**

- *MPE has completed its draft SOPs and will await the review of the PE Act before finalizing the SOPs.*

### **Recommendation 4**

- *MPE will relook at the monitoring database (possibly update more recent information received from entities) before following up with Minister on a launch date.*

## 5.0 COMPLIANCE WITH MONITORING ARRANGEMENT AND LEGISLATIVE REQUIREMENT

*This section of the report seeks to establish whether the Ministry has taken the necessary actions on issues raised in the 2009 General Report with regards to the compliance with monitoring arrangements and legislative requirements by government entities.*

- 5.0.1 To ensure that GCCs and CSAs properly manage, plan and are accountable for their actions, the Act requires them to report to Government regularly and uniformly<sup>10</sup>.
- 5.0.2 GCCs and CSAs are required to submit the following documents to the Public Enterprise Minister within legislated timeframes:

**Table 5.1: Documents required to be submitted to the Minister of Public Enterprise by GCC's and CSA's**

Document	Time of submission	Drafts submitted
1 Corporate plan	Within 3 months of the commencement of the financial year	1 month after commencement of financial year
2 Statement of corporate intent	Within 3 months of the commencement of each financial year	No later than 1 month after the commencement of each financial year
3 Half yearly reports	Within 2 months after the end of the first half of the financial year	
4 Annual reports and audited accounts	Within 5 months after the end of each financial year	Within 3 months after the end of each financial year
5 Employment and industrial relations plan	Together with SCI	

### 5.1 Submission of required documents by government entities

- 5.1.1 The Boards of GOCs are required to submit to the Public Enterprise Minister and the relevant Minister a draft corporate plan no later than 1 month after the commencement of each financial year<sup>11</sup>. This will be discussed with the relevant Minister and the Minister of Finance after which the Board and the Public Enterprise Minister will attempt to reach an agreement. The Board of the GOC will consider any amendments and deliver the completed corporate plan to the Public Enterprise Minister and the relevant Minister within 3 months of the commencement of the financial year<sup>12</sup>.
- 5.1.2 The Corporate Plan is the main strategic planning document on which an entity sets out its plans and identifies the programmes that will deliver its priorities. The entity identifies these priorities by regular review of government policy and most importantly from consultations with residents, partners and other stakeholders in the business environment. Thus it is very important that Corporate Plans for government entities such as GCCs, CSAs and MOCs are approved by the responsible Minister so that each entity's strategic direction (mission & vision, etc.) is aligned to Government's roadmap of

<sup>10</sup> Public Enterprise Act s.86

<sup>11</sup> Public Enterprise Act s.90

<sup>12</sup> Public Enterprise Act s.91

the day. Furthermore, the performance of an entity is monitored against its formalised corporate plan, the outcomes of which Government will use to determine its future course of actions.

- 5.1.3 All GCCs, CSAs and those of its subsidiaries are required to submit to the DPE, relevant Minister and the Finance Minister its annual report of operations and audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position and other statement relevant to show its financial position.<sup>13</sup> A half year report shall be given within 2 months after the end of the first half of the financial year.<sup>14</sup>
- 5.1.4 The Annual report is a comprehensive report of a company's activities throughout the preceding year. Annual reports are intended to give shareholders and other interested persons information about the company's activities and financial performance.<sup>15</sup>
- 5.1.5 The audit conducted in 2009 noted that there had been an improvement in the number of entity's submitting their corporate plans over the 2 years 2008 and 2009. However, a review of MAU's updates of KPIs achieved as at December 2009 disclosed that there was an increase in the number of entities that did not submit their annual reports and ACFS to MAU for the three consecutive years ending 2008 indicating major non-compliance. The following table provide details of the submission of Annual Reports and ACFS.

**Table 5.2: Details of submission of Annual Reports & ACFS**

Year	Non Submission (31/12/09)	Annual Reports (received)	ACFS (received)
2006	7	10	16
2007	10	7	13
2008	13	3	3

- 5.1.6 The follow up audit gathered the following in respect to the submission of the required documents by the various government enterprises in respect to documents relating to the period 2011-2013. The Ministry was not able provide information on the submission of documents relating to the period 2009-2010.

**Table 5.3: Details of submission of required documents**

Documents	2011			2012			2013		
	Required to Receive	No. submitted	Not submitted	Required to Receive	No. submitted	Not submitted	Required to Receive	No. submitted	Not submitted
Audited Accounts	21	7	14	20	15	5	20	8	12
Annual Report	20	5	15	20	6	14	20	3	17
ACP	-	-	-	20	8	12	20	8	12
Statement of Corporate Intent	-	-	-	20	8	12	20	8	12
Draft Employment Industrial Regulation Plan	-	-	-	-	-	-	20	9	11

<sup>13</sup> Public Enterprise Act 1996, Sec 103 (a) (b)

<sup>14</sup> Public Enterprise Act 1996, Sec 101 (2)

<sup>15</sup> Wikipedia, 2007

It can be noted from the above table that most government entities still did not comply with the requirements of submitting the documents relating to the period 2011-2013.

- 5.1.7 The audit recommended in its 2009 report that the Ministry should review the adequacy of its procedures to ensure that it effectively monitor government owned entities' compliance with legislative requirements. The Ministry indicated that it agreed that the area is a weakness despite reminders sent to government entities and that non-submission is attributed to delays from entities and the time taken to complete external audits<sup>16</sup>. However, audit found from its own records that for the period in question<sup>17</sup> most entities whose accounts were audited late were either submitted late for audit or had problems which took longer for the audit to be finalised.
- 5.1.8 The non-submission of required documents by most agencies would disallow the Ministry from conducting a timely assessment of their performance.

## 5.2 Measuring financial performance of government entities

- 5.2.1 In the 2009 audit report audit noted that to assess the present state of business and to prescribe the course of action required, the Ministry prescribed key performance indicators (KPI) that GOCs should achieve. Return on Shareholder's Funds [ROSF] or Return on Equity [ROE] and Return on Assets [ROA] were two performance measures preferred by the DPE as best indicators as they align to profit.

### **5.2.1 Required return on shareholder's funds or equity and Return on Assets (ROA) – 2% growth annually**

- 5.2.1.1 The initial performance measure indicating that corporatized entities are operating as successful businesses is the attainment of 10 percent after tax return on shareholders' funds<sup>18</sup> (ROSF) annually. The inability of most entities in achieving that prompted the Department to introduce another performance measure of having a 2 percent growth in assets (ROA) by the GOCs.
- 5.2.1.2 In 2006, the Ministry proffered an alternative performance measure that entities should target at least 2 percent growth on ROA annually but with the 10% target being the long term and ideal scenario as this was the long term target that each entity should aspire towards as per the 2010 policies.<sup>19</sup>
- 5.2.1.3 The 2009 audit found that most entities have found it quite difficult to achieve a 10% rate of return on shareholders' funds or equity. As such in upholding its mission of improving profitability of government owned entities, the Ministry relaxed the requirements by reducing the required ROSF or ROE from 10% to 2% and for entities to strive towards attaining the 10% required rate ultimately. However, achieving annual positive growths consistently could not be easily attained. For the 3 years 2006 to 2008, only two entities were able to attain a 2 percent growth on ROE consistently.

<sup>16</sup> Relates only to Annual report and audited account

<sup>17</sup> 2006-2008

<sup>18</sup> Corporate Governance Policy framework – December 2003

<sup>19</sup> PE Reform Policy Framework for Management of PE, Part II Sec (22)

ROE trends for the past 4 years 2005 to 2008 is tabled below.

**Table 5.4: Return on Equity of Government Entities from 2005-2008**

GCCs	2005 ROE	% Growth	2006 ROE	% Growth	2007 ROE	% Growth	2008 ROE
AFL	2.27	-1.07	1.20	-0.54	0.66	3.10	3.76
FBCL	4.18	-0.02	4.16	-0.08	4.08	12.85	16.93
FS&HIL	0.58	-8.34	-7.76	-13.54	-21.30	-16.17	-5.13
PFL	6.53	-21.25	-14.72	20.69	5.97	-0.98	4.99
FPCL	2.15	2.84	4.99	-0.10	4.89	-3.13	1.76
PTL	19.66	-	-	-	-	-	-
RRL	1.47	-0.30	1.17	1.00	2.17	-2.20	-0.03
UTOF	21.37	-2.10	19.27	6.69	25.96	0.53	26.49
VCL	-	-	-	-	-	-	-
YPCL	5.11	2.80	7.91	4.74	12.65	-2.97	9.68
FHCL	-1.32	-	-	-	-	-	-
FPTCL	-	-	2.63	1.33	3.96	-1.00	2.96
FPL	2.31	-0.25	2.06	3.46	5.52	-10.35	-4.83
<b>CSAs</b>							
FEA	-0.39	-2.23	-2.62	5.42	2.80	-2.16	0.64
CAAF	2.60	-	-	-	-	-	-
HA	5.68	-1.37	4.31	-3.22	1.09	1.40	2.49
FMIB	-36.75	11.69	-25.06	25.42	0.36	-422.36	-422.00
MPA	-	-	-	-	-	-	-
PRB	-29.65	-18.81	-48.46	-64.59	-113.05	-16618.64	-1731.69
<b>MOCs</b>							
FHCL	-	-	-4.55	4.96	0.41	0.36	0.77
PAFCO	15.46	-10.54	4.92	-2.94	1.98	-4.20	-2.22

5.2.1.4 This follow up audit gathered that achieving annual positive growths consistently could not be easily attained by government entities for the period 2009-2013. For the 5 years 2009 to 2013, none of the entities were able to attain a 2 percent growth on ROE consistently. Refer to the following table for details.

**Table 5.5: ROE for the period 2009 to 2013**

GCCs	2009 ROE	% Growth	2010 ROE	% Growth	2011 ROE	% Growth	2012 ROE	% Growth	2013 ROE
AFL	5.00	2.0	7.00	1.72	8.72	-1.42	7.3	0.4	7.7
FBCL	4.0	-14.0	-10.0	7.4	-17.4	319.6	-302.2	-1331.6	-1634
FPCL	12.0	-6.0	6.0	-2.3	4.3	1.6	5.9	15.3	21.2
PFL	7.0	-14.0	-7.0	2.8	-4.2	6.2	2.0	7.1	9.1
RRL	-1.0	-	-	-	-	-	-	-	-
UTOF	-39.0	56.0	17.0	0.0	17.0	5.2	22.2	-2.2	20.8
VCL	-	-	-	-	-	-	-	-	-
YPCL	2.0	8.0	10.0	10.4	20.4	3.4	23.4	-2.1	21.3
FHCL	-	-	-	-	-	-	-	-	-
FPTCL	6.0	5.0	11.0	5.8	5.2	0.4	5.6	1.6	4.0
FPL	-	-	-	-	-	-	-	-	-
<b>CSAs</b>									
FEA	1.0	1.0	2.0	9.0	11.0	2.3	13.3	7.8	5.5
HA	1.0	1.0	2.0	1.0	3.0	-3.98	0.98	0.19	0.79
FMIB	14.0	-5.0	9.0	-16.4	-7.4	32.0	24.6	2.6	27.2
PRB	86.0	-59.0	27.0	-6.0	21.0	-24.0	-3.0	13.2	10.2

<b>MOCs</b>									
PAFCO	16.0	-21.0	-5.0	-20.7	-25.7	22.2	-3.5	15.6	12.1
<b>RCs</b>									
WAF	-		-5.0		-		-		-
MASF	-		-		28.0	-52.0	-24.0		-
BSF	-		-		-		-		-

Note – Figures reflected in table were derived from the audited financial statement by OAG

A favourable trend that can be derived from the above table is the consistent incurrence of a positive ROE and growth for two agencies namely FEA and FPTCL over the five year period.

5.2.1.5 The 2009 audit report also indicated that the 2% growth on ROA was merely met by some of the entities in some years but it was difficult for some to consistently maintain it on an annual basis due to the different nature of business involved. Refer below for details.

Table 5.6: Trend of ROE of Government entities from 2005-2008

<b>GCCs</b>	<b>2005 ROA</b>	<b>% Growth</b>	<b>2006 ROA</b>	<b>% Growth</b>	<b>2007 ROA</b>	<b>% Growth</b>	<b>2008 ROA</b>
AFL	1.38	-0.66	0.72	-0.32	0.40	2.19	2.59
FBCL	2.31	0.18	2.49	0.22	2.71	10.57	13.28
FS&HIL	0.47	-6.53	-6.06	-10.50	-16.56	12.66	-3.90
PFL	2.97	-8.66	-5.69	8.22	2.53	-0.39	2.14
FPCL	1.27	1.42	2.69	0	2.69	-1.74	0.95
PTL	12.19	-12.19					
RRL	-3.41	0.68	-2.73	-2.65	-5.38	5.45	0.07
UTOF	8.38	-0.07	8.31	-2.31	6.00	1.32	7.32
VCL	-						
YPCL	4.82	2.64	7.46	4.62	12.08	-2.90	9.18
FHCL	-1.20	-					
FPTCL	-	-	2.43	1.05	3.48	-0.92	2.56
FPL	1.11	-0.05	1.06	1.94	3.00	-5.39	-2.39
<b>CSAs</b>							
FEA	-0.26	-1.33	-1.59	3.17	1.58	-1.24	0.34
CAAF	2.42	-					
HA	1.59	-0.35	1.24	-0.9	0.34	0.47	0.81
FMIB	-6.20	-3.62	-9.82	9.96	0.14	-76.00	-75.86
MPA	-						
PRB	-19.93	39.19	18.26	0	18.26	-0.76	17.50
<b>MOCs</b>							
FHCL	-	-	-3.97	4.33	0.36	0.31	0.67
PAFCO	7.81	-5.22	2.59	-1.47	1.12	0.51	1.63

5.2.1.6 This follow up audit also gathered that the 2% growth on ROA was also difficult for some to consistently maintain it on an annual basis for the period 2009-2013. Refer below for details.

Table 5.7: Trend of ROA of Government entities from 2005-2008

<b>GCCs</b>	<b>2009 ROA</b>	<b>% Growth</b>	<b>2010 ROA</b>	<b>% Growth</b>	<b>2011 ROA</b>	<b>% Growth</b>	<b>2012 ROA</b>	<b>% Growth</b>	<b>2013 ROA</b>
AFL	3.0	1.0	4.0	2.5	6.5	-0.8	5.7	0.8	6.5
FBCL	1.0	-4.0	-3.0	-11.0	-4.1	-25.1	-29.2	27.0	-2.2
FPCL	6.0	-2.0	4.0	-1.5	2.5	1.45	3.99	11.71	15.7
PFL	6.0	-9.0	-3.0	1.17	-1.83	2.63	0.8	2.8	3.6
RRL	6.0								

UTOF	-23.0	34.0	11.0	2.6	13.6	5.0	18.6	2.1	20.7
VCL									
YPCL	2.0	7.0	9.0	10.2	19.2	1.5	20.7	4.1	16.6
FHCL									
FPTCL	6.0	5.0	11.0	-6.0	5.0	0.5	5.5	-1.6	3.9
FPL									
<b>CSAs</b>									
FEA	0.27	0.73	1.0	-4.3	5.3	2.0	7.3	-4.2	3.10
HA	0.36	0.64	1.0	0.0	1.0	-0.7	0.3	-0.07	0.23
FMIB	3.0	-1.0	2.0	-3.8	-1.8	13.3	11.5	-0.7	10.8
PRB	14.0	-5.0	9.0	0.0	9.0	-10.4	-1.4	6.25	4.85
<b>MOCs</b>									
PAFCO	9.6	-5.6	4.0	-19.6	-15.6	13.7	-1.89	9.19	7.3
<b>RCs</b>									
WAF			-5.0						
MASF					19.0	-42.0	-23.0		
BSF	-		-		-		-		-

Note – Figures reflected in table were derived from the audited financial statement by OAG

As can be noted from the table only UTOF managed to consistently obtain the 2% growth over the five year period.

- 5.2.1.7 The 2009 audit recommended that MAU should consult with entities and set individual ROE targets on each entity in accordance to the nature of their operations and design the level of monitoring in such a way that should be high for entities which are not performing well and low for those performing well and thus invest more resources and efforts in monitoring those not performing well.
- 5.2.1.8 The Ministry in its comments agreed that the non-achievement of stated ROE and ROA targets is a weakness as it appears that the 10% target maybe too high for some entities and as part of the review of the PE policies earmarked for 2010, benchmarking will also be pursued, especially sector specific targets.
- 5.2.1.9 Enquiry with MPE officials in this follow up audit revealed that no consultations were conducted by the Ministry with entities and that not much has been done to the classification on the performance of the PE entities. The MPE claimed that new KPIs will be considered in the revised PE Act and incorporated in the newly developed SOP which is planned to be finalized and endorsed by the Permanent Secretary of the MPE by the end of 2014.
- 5.2.1.10 There is a risk that the performances of some of the government entities may not be appropriately analysed and interpreted as the result of performance indicator being set which does not consider the nature of their operations.

## 5.2.2 Annual dividends

- 5.2.2.1 All GCCs and CSAs should be subject to making dividend payments and should pay at least 50% of the net earnings to the Government as dividend in consultation with the Minister for Public Enterprises, Minister of Finance, and relevant Minister.<sup>20</sup> GCCs and CSAs should negotiate with the Ministers for Public Enterprises and Finance on the amount of dividends to be paid while taking into

<sup>20</sup> PE Reform Policy Framework for Management of PE, Part II Sec (25) & (26)

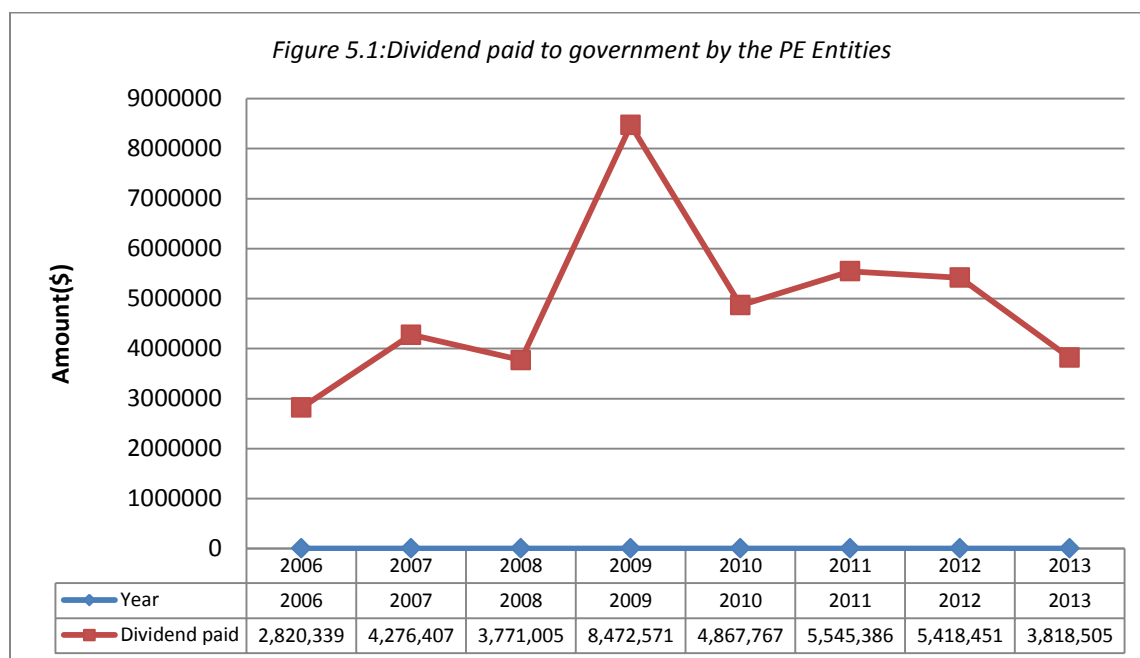
consideration the financial health of the entity and the on-going management of its cash flow requirements and capital structure.

- 5.2.2.2 The 2009 audit report indicated that some of the profit making entities did not pay dividend even though they generated profit in some of the years. It was also noted that for some entities that paid dividends, it was less than the 50 percent required. Below is a summary of those entities that did not pay and partially paid their due dividends within 2006 to 2008.

**Table 5.8: Dividend payments by government entities from 2006-2008**

GCCs	2006 Amount (\$) < 50%	2007 Amount (\$) < 50%	2008 Amount (\$) < 50%
AFL	328,905		
FBCL	7,129	46,361	256,402
PFL		200	362,874
FPCL	2,010,744		722,798
RRL			4,810
UTOF	50		41,210
YPCL	1		324,353
FHCL		308,163	585,347
FPL	20,729	56,151	
<b>CSAs</b>			
FEA			1,237,500
HA		291,500	654,000
FMIB		3,917	36,588
PRB	828,745	827,152	954,118
	3,196,303	1,533,444	5,180,000

- 5.2.2.3 This follow up audit noted that the dividend paid out by the GCCs for the past 5 years (2009 – 2013) except for the year 2009 minimal increase in the amount were noted for the period 2010-2013. Refer to the following diagram for details:



**Appendix 3** provide details of dividend payment from 2009-2013.

5.2.2.4 The 2009 audit recommended that the Ministry should request explanation to the partially paid and unpaid dividends from the profit making entities. The Ministry in its comments indicated that as part of the review of the PE policies earmarked for 2010, dividend policy is being relooked at linking it with bonus payouts.

5.2.2.5 No proper explanation was provided to the audit team while enquiring to the issue of unpaid and partial dividend paid by the PE entities that was recommended in the 2009 audit. Audit also found that the dividend policy is yet to be re-looked at by the Ministry.

5.2.2.6 The non- payment of dividend by some government entities questions their continuous viability in the long run.

## **RECOMMENDATIONS**

The Ministry should:

- ensure that the review of the PE Act addresses the difficulties currently faced by the Ministry in obtaining information from the public enterprises. In the meantime the Ministry should develop an appropriate mechanism to facilitate the timely and actual submission of the documents by the enterprises.
- consult with individual entities and set individual targets for ROE and ROA with due consideration of the nature of the various entities' operations.
- ensure that it re-look at its dividend policy and link it with bonus payment as indicated in its comments in the 2009 report.

## **Management Comments**

### **Recommendation 1**

*The review of the PE Act may include "penalty clauses" for those entities that do not submit corporate documents at all or do not meet the required timeline. Reviewed Act to include a strengthened monitoring role by the Ministry.*

### **Recommendation 2**

*This may be addressed through Joint Committee meetings as currently undertaken by MPE, Min of Finance and relevant line Ministries. The Joint Committee meetings are where the 3 Ministries discuss entities' corporate plan for the next financial year. In this meeting, forecasted financials usually for the next 3 years are discussed. Government's consolidated comments on the corporate plan are then forwarded to the entity. Following receipt of the Government's comments, entity may request for a meeting with Government reps where issues may be further discussed.*

### **Recommendation 3**

*The Dividend policy is outlined in the Ministry's Corporate Governance Policy 2003, which will also be reviewed in line the PE Act 1996. OAG's recommendation can also be incorporated once the review of the Act commences.*

## 6.0 CONCLUSION

- 6.1 With regards to the section *Monitoring Arrangement* the Ministry has partly implemented recommendations made in the 2009 Auditor General's Report. Major improvement has been made by the Ministry in the aspect of resourcing the monitoring of government entities. However, a lot more needs to be done by the Ministry on other issues for this section of the report. Two of the critical tasks include the review of the PE Act and the development of a SOP.
- 6.2 The Ministry has yet to also fully implement recommendations indicated in the 2009 report with regards to the section *Compliance with the monitoring arrangements and legislative requirements*. There is a need for the Ministry to re-look at the performance criteria used to evaluate performances of government entities in view of the nature of the entities' operations.

## 7.0 REFERENCE

1. Asian Development Bank, 2014 *"Finding Balance 2014 – Benchmarking the Performance of State-Owned Enterprises in Island Countries"* Pacific Liaison and Coordination Office, NSW Australia
2. PricewaterhouseCoopers Fiji, September 2014 *"Review of Non-Commercial Obligations of Government Commercial Companies"* Ministry of Public Enterprise & Public Sector Reform
3. The Allen Consulting Group, 2006 *"Costing Social Obligations – Costing Social Obligations – Commercial Statutory Authorities Delivery of Non Commercial Obligations"* Ministry of Public Enterprise

## **APPENDIX 1: EXPLANATION OF THE ACCOUNTABILITY FLOW CHART OF THE MAU**

- 1 Permanent Secretary for Public Enterprises and Permanent Secretary for Finance are shareholders in all Government Commercial Companies. Therefore the two officers are entrusted with shareholding functions such as representatives at the Annual General Meetings and share certificate holders;
- 2 Minister for Public Enterprises is the appointing authority for all Government Commercial Companies; The Minister also signs off on the annual KPIs with the chairpersons of the entities during the finalization of the annual planning documents;
- 3 Submission of Annual Corporate Documents (5) required under the Public Enterprises Act is made to the PS- Public Enterprises, who then coordinates the analysis, finalization and formalization of the respective documents with relevant Ministries and forums;
- 4 Attendance at Board meetings by project officers and also facilitates analysis of performance as well as facilitates issues 'to and from' the entity;
- 5 Analysis of Corporate documents by the unit advising PS Public Enterprises on relevant issues regarding performance of the entity.
- 6 Permanent Secretary provides analysis on entity performance & update to the Minister. Issues that require facilitation by the Minister and the entities are also exchanged in this working relationship;
- 7 Tabling of Annual Reports, Statement of Corporate Intent and related entity as well as portfolio issues in Cabinet; Minister also facilitates related portfolio instructions from Cabinet;

**APPENDIX 2: MONITORING & ANALYSIS PROCESSES (20 MONTHS)**

ID	Tasks involved for finalizing YR 2 Plans & monitoring of YR 2 performance	YR 1	YR 2			YR 3	
		Q4	Q1	Q2	Q3	Q4	Q1
1.1	Submission of draft Annual Corporate Plan	30 <sup>th</sup> Sept					
1.2	Circulation of draft Annual Corporate Plan to Line Ministry & Ministry of Finance for comments	Wk 1 Oct					
1.3	Joint meeting with Entity & Govt reps to discuss draft submission	Wk 3 Oct					
1.4	Formal comments to Entity for consideration in finalisation of annual plans	Wk 4 Oct					
1.5	Finalisation of Corporate Plans via Minister approval	Mid Dec					
1.6	Tabling of SCI in Cabinet as information		√				
2.1	Monitoring of KPIs contained in the finalised plans – Monthly via Board meeting & subsequent briefs to Minister		√	√	√	√	
2.2	Quarterly update for Minister			√	√	√	√
3.1	Half Year Report (HYR) submission				31 <sup>st</sup> July		
3.2	Circulation of HYR to Line Ministry & Ministry of Finance for information/comments				Wk 1 Aug		
3.3	Presentation of HYR by Entity to Joint Forum, optional				Aug/Sept		
4.1	Draft Annual Report submission that should include unaudited accounts					31 <sup>st</sup> Jan	
4.2	Circulation of draft Annual Report to Line Ministry & Ministry of Finance for information/comments					Wk 1 Feb	
4.3	Analysis comments on draft Annual Report sent to Minister & Entity					Mid Feb	
4.4	AGM to finalise audited accounts					√	
4.5	Submission of Annual Report with audited accounts						April
4.6	Tabling of Annual Report in Cabinet as information						Apr/May

**APPENDIX 3: DETAILS OF DIVIDEND PAYMENT 2009-2013**

Government Commercial Companies	2013	2012	2011	2010	2009
Airports Fiji Limited			1,000,000	1,000,000	3,000,000
Fiji Broadcasting Corporation Limited					
Fiji Shipbuilding Corporation Limited					
National Trading Corporation Limited					
Post Fiji Limited					434,820
Ports Terminal Limited					
Rewa Rice Limited					
Unit Trust of Fiji (Management)	119,526	113,574	74,276	** Refund	
Viti Corps Limited					
Yaqara Pastoral Company Limited		1,650,000	1,650,000	1,226,124	279,286
Fiji Hardwood Corporation Limited					
Fiji Ports Corporation Ltd	3,698,979	3,654,877	2,821,110	2,641,642.50	1,758,465
Fiji Public Trustee Corporation Ltd					*\$3000,000
Food Processors (Fiji) Limited					
GCC TOTAL	\$3,818,505	\$5,418,451	\$5,545,386	\$ 4,867,767	\$8,472,571
TOTAL DIVIDENDS FROM PEP	\$ 3,818,505	\$ 5,418,451	\$ 5,545,386	\$ 4,867,767	\$ 8,472,571.00

**Note:**

\* This comprises of dividend of \$0.5m from retained earnings and special payment to government of \$2.5m from capital reserves for the financial years 2006 - 2009.

\*\* In 2011, PS had advised UTOF to keep their Dividend Payment from the 2010 Profit for their Income and Growth Product.

**The figure in the table reflects the years which dividend was paid out from and not the year dividend was received.**

# **Follow up audit on Timeliness in Management of Magistrates Court**



A PERFORMANCE AUDIT REPORT OF THE  
OFFICE OF THE AUDITOR GENERAL OF  
THE REPUBLIC OF FIJI



A performance audit on “*Timeliness of Magistrate Court*” was conducted in 2011 and published in the Auditor General’s report of June 2012. The performance audit was carried out to assess the efficiency and effectiveness of the management of court processes, and the effectiveness of the monitoring and reporting systems in the Magistrates Court. The audit was focused primarily on the management of court processes within the Magistrates Court and did not extend to other Courts

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## Acronyms

ACP	Annual Corporate Plan
AMU	Asset Management Unit
HR	Human Resources
IT	Information Technology
LTA	Land Transport Authority
MOU	Memorandum of Understanding
OHS	Occupational Health and Safety
PSIP	Public Sector Investment Programme

# 1.0 EXECUTIVE SUMMARY

Background	This follow up audit is conducted to assess the progress of follow up activities to the recommendation proffered in the Auditor General's Report on the Timeliness in the management of cases in the Magistrates court published in 2012.
Coverage	This follow up audit on Timeliness in Magistrates Court verifies the actions taken by the Judicial Department in the years following 2012 to rectify anomalies raised in the Auditor General's Report of 2012.
Key findings	<p><i>Management of court processes</i></p> <ul style="list-style-type: none"> <li>▪ The Department has yet to identify measures or strategies to gauge reduction in time taken to dispose cases</li> <li>▪ The Department has yet to improve on setting of appropriate targets to appropriately reflect its performance in its ACP.</li> <li>▪ No formal arrangement exists to ensure commitment from key stakeholders.</li> <li>▪ Case management system installed needs to be updated in a timely manner.</li> <li>▪ The Suva Registry has yet to implement requirements of the files management policy as far as access to files/records and registry is concerned.</li> <li>▪ Registers and dispatch books were not updated in the Suva Court.</li> </ul> <p><i>Monitoring and reporting of court waiting times</i></p> <ul style="list-style-type: none"> <li>▪ The Department's Annual Report for the period 2011-2013 is still in a draft form.</li> </ul>
Overall Conclusion	Tremendous efforts have been taken by the Department to address the recommendations made in the Auditor General's Report of 2012. There are a few areas that the Department is in the process of addressing. However, there are a few areas that the Department has yet to address which audit has again raised in this report.
General	The audit recommends that the Department continues with ensuring that all the other issues raised in this report are addressed.
Recommendation	

## 2.0 INTRODUCTION

*This section of the report provides a brief background on the audit and the reasons for conducting the audit.*

### 2.1 Background

- 2.1.1 The Magistrates Court in the Republic of Fiji are established and governed by the Magistrates Courts Act (Cap 14).
- 2.1.2 The Magistrates' Courts are empowered by law to preside over criminal, Civil, Family and Small Claim Tribunal cases<sup>1</sup>.
- 2.1.3 Magistrates Courts set up in each division is determined by the Chief Justice<sup>2</sup>. The Chief Justice can confer extra territorial jurisdiction on individual Magistrates, decide on the jurisdiction to be exercised by each Court, and can confer on a Court specific jurisdiction to hear particular cases normally outside its jurisdiction.
- 2.1.4 Magistrates Courts are presided over by Resident Magistrates, Second Class Magistrates and Third Class Magistrates<sup>3</sup>.
- 2.1.5 A performance audit on "*Timeliness of Magistrate Court*" was conducted in 2011 and published in the Auditor General's report of June 2012. The performance audit was carried out to assess the efficiency and effectiveness of the management of court processes, and the effectiveness of the monitoring and reporting systems in the Magistrates Court. The audit focused primarily on the management of court processes within the Magistrates Court and did not extend to other Courts.
- 2.1.6 The audit found a considerable number of areas in the then existing procedures/processes requiring improvements to ensure effectiveness of the management of timeliness in the Magistrates Courts which were highlighted in the audit report, some of which are listed below:

#### Management of Court Processes

- ☐ There exists no strategy to support the accomplishment of reduction of time for case finalisations. Also no customer survey was carried out to establish customer satisfaction rating.
- ☐ Strategic plan for the years 2010 to 2014 was not provided for audit, thus audit had to rely on the Department's previous plan to evaluate its long term plans.
- ☐ ACP for 2009 reflects different targets from those entered into the 2009-2011 ACPs.
- ☐ Cases were noted where the court took more than 40 months to dispose of the cases.
- ☐ There is lack of magistrates to preside over the cases.
- ☐ Long outstanding warrants from 1990 are yet to be issued to the offenders as they cannot be located.

<sup>1</sup> Judicial Department Annual Report 2008 – 2010 (Page 12)

<sup>2</sup> Magistrates Court Act Cap 14 s. 4

<sup>3</sup> Magistrates Court Act Cap 14 s.3(2)

- ☐ There is generally lack of coordination between related parties to ensure timeliness in the management of cases in the Magistrates Court. No formal arrangement exists to ensure commitment from stakeholders to ensure that their part of the process is conducted in a timely manner.
- ☐ An electronic data recording system has yet to be developed despite being identified in the ACP.
- ☐ Proper space needs to be provided to maintain case files as the current space is not sufficient.
- ☐ Poor security measures are in place to ensure safe access of information maintained in the Registries.
- ☐ There exists irregularity in the preparation of cause lists between the Suva, Nausori and Nasinu courts. Nausori and Nasinu courts use court clerks' diaries to prepare the list which is susceptible to loss and misplacement.
- ☐ Office accommodation conditions needs to be improved. There is also a need to better equip registries to facilitate efficient provision of required court information.
- ☐ The Department had a total of \$1.4m, \$2.3m and \$0.9m unspent balances in 2008, 2009 and 2010 respectively which could have been vired for other purposes that would assist in the management of cases in the courts.

### **Monitoring and reporting of court processes**

- ☐ No evidence of returns submitted by the Magistrates Court was sighted.
- ☐ Information submitted in monthly returns are not utilised to identify weaknesses in the court process to enable implementation of improvements.
- ☐ External reporting provided through the Annual Report generally lacks reporting on the timeliness aspect of cases managed by the Magistrates Court.

2.1.7 At the time this follow up audit was conducted the Public Accounts Committee has not deliberated on the 2011 audit report.

## **2.2 Reasons for undertaking the audit**

2.2.1 The following entail reasons for the audit:

- ☐ Altogether Audit made 16 recommendations to issues identified in its performance audit report on "*Timeliness of Magistrate Court*". However, the auditee did not provide any response to the issues raised. Thus this follow up audit is ideally proposed to review any corrective actions that have been undertaken by the Department to audit recommendations made over the past 2 years.
- ☐ No responses to the audit issues were received from the client when the Draft management letter was sent to the client. This follow up audit is required to ascertain the progress made in relation to the corrective actions undertaken by the Department to audit recommendations made.

## 3.0 AUDIT OBJECTIVES SCOPE & METHODOLOGY

*This section of the report describes the objective and scope for this audit. It also discusses the methodology utilised to gather information for the audit.*

### 3.1 Audit objective and scope

- 3.1.1 The objective of this follow-up audit is to assess the progress of follow up activities to the recommendation proffered in the Auditor General's report on the Timeliness in Magistrates Court published in 2012. For the purpose of this audit, we will focus on the activities undertaken since the report was issued in 2012.

### 3.2 Audit methodology

- 3.2.1 The audit was conducted using the following evidence gathering techniques.

- *Documentary reviews*

The audit reviewed various documents to gather information on Timeliness in Magistrate Courts. The major documents reviewed are listed below:

**Table 3.1: Details of documents reviewed and source during audit**

Relevant agencies	Documents
Judicial Department	<input type="checkbox"/> Magistrates Court Act <input type="checkbox"/> Sentencing and Penalties decree 2009 <input type="checkbox"/> Annual Corporate Plans 2008 - 2011 <input type="checkbox"/> Annual Reports Judicial Department 2008 - 2010 <input type="checkbox"/> Case files
Fiji Police Force	<input type="checkbox"/> Criminal Procedure Decree 2009 <input type="checkbox"/> Police Act <input type="checkbox"/> Penal Code

- *Interviews*

Interviews were carried out with the following officers.

**Table 3.2: List of Interviewees**

Officer	Department
Senior Court Clerk - Criminal	Magistrate Court, Suva
Registry Officer - Criminal	Magistrate Court, Suva
Court Clerk	Family Court, Suva
Registry Officer Civil	Civil Court, Suva
Registry officer	Family Court, Suva
Senior Court Clerk Nasinu	Family Court, Nasinu

- *Questionnaire*

A questionnaire was also issued to the Department to address certain issues which were not in any way documented.

- *Other*

- ☐ Correspondences through e-mails were also made to clarify issues.
- ☐ In addition, physical observations were also conducted on working conditions, and court processes within two Magistrates Courts visited including Suva and Nasinu.

## 4.0 MANAGEMENT OF COURT PROCESSES

*In this section of the report audit seeks to establish whether corrective actions towards the recommendations made for 7 issues reported in the Auditor General's report of 2012 to ensure the effective management of the Timeliness in Magistrate Court have been implemented.*

### 4.1 Strategic Planning

- 4.1.1 A strategic plan provides a vital source of information of an organisation which documents its objectives, priorities and strategies in line with its legislative mandate.

In essence the plan outlines the important results an organisation aims to achieve for its clients and stakeholders over a number of years and it also sets the scene for its work at the output, business, teams and individual levels. The plan describes an organisation's work with its stakeholders and how its people, values, service and planning combine to contribute to its success.

- 4.1.2 In the 2012 report audit indicated that the Strategic Plan for the ensuing years was not provided for audit as it was still being developed. However, in the 2005-2009 Strategic Plan<sup>4</sup>, the Judicial Department identified its mission as enhancing the quality of justice in the community by providing effective and accessible system of court and tribunals with anticipated outcomes of delivering justice in an expeditious and timely manner and having quality court systems to support the delivery of justice.
- 4.1.3 The priority action areas identified for outputs under each anticipated outcome in the Strategic Department's 2005-2009 Plan which are relevant to the management of timeliness in the Magistrates Court are tabulated below.

**Table 4.1: Priority action areas identified for outputs under anticipated outcomes**

Outcomes	Outputs	Priority action area
<b>Delivery of justice in an expeditious manner</b>	Courts management	<ul style="list-style-type: none"> <li>✓ Implement video links with Prisons Services</li> <li>✓ Revise case management practices</li> <li>✓ Establish a Master of the Court</li> <li>✓ Introduce electronic court recording</li> </ul>
<b>Quality court systems to support the delivery of justice</b>	Courts support services	<ul style="list-style-type: none"> <li>✓ Improve integration and liaison with law and justice sector agencies</li> <li>✓ Refine processing of court documents</li> <li>✓ Improve records management systems</li> <li>✓ Improve management of court listings</li> <li>✓ Enhance statistical collection and analysis</li> </ul>

- 4.1.4 Audit had recommended in the 2012 report that the Department identify measures or strategies to gauge reduction in time taken to dispose cases and a customer survey be carried out to establish client satisfaction of services provided.

<sup>4</sup> for the period 2005 to 2009

- 4.1.5 This follow up audit noted that the Magistrate courts have conducted customer survey on a monthly basis where a monthly report is being prepared to gauge their performance. The report is prepared by the senior court clerk and is submitted to the Chief Registrar High Court for his perusal. However, our review of the existing Strategic Plan 2011-2014 found that the Department has yet to identify measures or strategies to gauge reduction in time taken to dispose cases.
- 4.1.6 In the absence of a strategy to monitor and capture the time for finalisation of cases the Department would not be in a position to reliably report on its performance as targeted in its organisational plans.

## 4.2 Performance standards and achievements

- 4.2.1 In its bid to improve access to the Justice and Legal Service, the Department focused on ensuring that all Civil or Criminal cases brought before the Court for hearing and determination/judgment were properly handled and disposed of in a timely manner<sup>5</sup>.
- 4.2.2 The 2012 report indicated that the targeted quantities of case files to be disposed of annually by the Magistrates' courts were identified in the Department's 2009 to 2011 ACP. The 2012 report indicated that targets set as percentages were also set for qualitative factors that would facilitate timeliness such as, all cases being processed within time standards and all parties attending court on time. Refer to table below for targets set and actual achievements of targets for the 3 years 2009 to 2011.

Table 4.2: Targets set and actual achievements of targets from 2009-2011

Output indicators	2009 Actual	2010 Target	2010 Actual	2011 Target	Strategies and timeframe
<b>Quantity</b>					
Number of case files processed (initiated)	10,152	11,678	13,979	16,000	Phased implementation of the Beattie recommendations to provide greater independence to the Judiciary by October 2010.  Implementation of certain/relevant recommendations of the Connors report to improve the Magistrate court by November 2010. Redressing the law disposal rate at the judiciary (from police) ongoing  To ensure that all cases whether Civil or Criminal in nature which are brought before the Court for hearing and determination/ Judgement are properly handled and disposed of efficiently in a timely manner
Number of case files disposed	8,046	9,554	11,109	13,000	
Number of case files pending	14,601	12,563	15,500	10,000	
<b>Quality</b>					
Reduction of errors in processing	66%	<99%	66%	<99%	Improving accountability for Judicial Officers-Adoption and effective

<sup>5</sup> Ministry of Justice Annual Corporate Plan 2011 (page 18)

Output indicators	2009	2010	2010	2011	Strategies and timeframe
	Actual	Target	Actual	Target	
All cases processed within time standards	47%	<99%	47%	<99%	enforcement of conduct standards for all Judicial officers by June 2010
All parties attend court on time	62%	<99%	62%	<99%	Upgrading of legal Registry facilities to improve services by November 2010
					Implementation of certain/relevant recommendations of the Connors report to improve the Magistrate court by December 2011.
<b>Timeliness</b>					
% age of case files pending less than 9 months old.	28%	40%	80%	70%	Establishment of legal practitioner's unit as a project for 18 months in the Judicial Department to be fully staffed before the end of January 2010.
% age of case files pending more than 12 months old	22%	20%	12%	20%	
% of cases more than 24 months old	17%	10%	8%	10%	

- 4.2.3 Targets for 2009 could not be established since outputs were identified differently in that year and actual statistics for the year 2011 cannot be determined<sup>6</sup> until year end. However, a comparison between the actual and targeted figures for 2010 revealed that the Department was able to dispose of 1,555 (i.e. 16%) more cases than what was targeted in the ACP. The actual pending cases at the end of 2010 increased by 2,937 (i.e. 23%) cases more than projected in the ACP.
- 4.2.4 In 2010, the Department was able to achieve *timeliness* targets for case files pending for more than 12 months and 24 months by maintaining them at 12% and 8% compared to their targets of 20% and 10% respectively. However case files pending less than 9 months was 80%, twice as much than its anticipated target of 40%. The audit also noted cases took more than 40 months before being disposed of.
- 4.2.5 In its 2012 audit report the audit had recommended that the Department ensure that there is consistency in setting targets in its ACP to allow for trend comparisons.
- 4.2.6 In this follow up audit our review of the ACP for the period 2011-2013 found that no improvement was made in respect to the setting of targets in the Department's ACP. As such no comparison can be made to determine the trends in the performances of the Magistrates Court as far as managing its cases are concerned. Discussion with the officer in charge further revealed that the targets in respect to the number of cases initiated as outlined in the ACP are unrealistic and is difficult to measure.
- 4.2.7 In respect to the cases that took more than 40 months before being disposed of the Department indicated that such cases were of unusual nature and were prolonged mainly under humanitarian grounds.
- 4.2.8 The inconsistency in setting statistics directly affects the ability of the Department to evaluate its performance consistently over years of operations.

<sup>6</sup> Audit conducted before the end of 2011

## 4.3 Management of case proceedings

4.3.1 Effective case proceedings should be completed within a suitable timeframe and appropriate strategies should be in place to curtail factors that may affect the timely finalisation of cases.

4.3.2 Case proceedings within a court system are time consuming and have other unfavourable effects such as:

- the deterioration of evidence;
- the overcrowding of gaols with remand detainees held for a lengthy period;
- subjection of victims of crime, the accused and their family members to stress and anxiety;
- the undermining of the deterrent effect of the criminal justice system;
- some parties manipulating delay to gain advantage;
- a waste of Court resources; and
- Inconveniencing witnesses, juries and other participants in the system.<sup>7</sup>

### 4.3.1 Unavailability of Magistrates

4.3.1.1 The Magistrates court in Fiji deals with civil, criminal and family court matters.

A Magistrate is required to preside over the cases during the trial and to ensure that cases are being disposed of in a timely manner.

4.3.1.2 In the 2012 audit report the audit found that the allocation of magistrates to the magistrates' court at the various divisions posed a challenge in the early disposal of cases. The following was noted in respect to the allocation of Magistrates in the 2012 report.

**Table 4.3: Allocation of Magistrates**

Station	Anomalies
Labasa	There are only three Magistrates in the Labasa Court who oversee 2 Magistrates courts and 1 family court. They also preside over the Nabouwalu, Savusavu and Taveuni Courts. The Labasa Court sits daily with two Magistrates who also preside at the Savusavu and Nabouwalu courts once a month. The third magistrate presides over the Labasa family court and also at the Taveuni court in the last week of the month.
Nadi Office	Nadi has two Magistrates Courts but only one Magistrate.
Nasinu Court	The Nasinu Magistrates Court has 2 courts as well as 2 magistrates that preside over cases including family court matters.
Nausori	2 Magistrates preside over the 2 Magistrates Courts in Nausori daily. The second magistrate just joined in May of 2011. The magistrates also preside over court cases in Ovalau, Tailevu and Vunidawa. The court sits 2 days in a month in Levuka, every 2 weeks in Tailevu, and once a month in Vunidawa. For the family court the magistrate comes from Suva every Mondays to hear cases. When the magistrates attend to court matters in Ovalau it takes them two days to travel.

4.3.1.3 Audit had recommended that the Judicial Department should make an effort to fill in the vacant magistrate positions.

<sup>7</sup> Timeliness in Magistrate court in Tasmania

4.3.1.4 In this follow up audit it was noted that the vacant positions for the magistrate court have been filled. The Department now have magistrates for each court as listed below:

**Table 4.4: Allocation of Magistrates**

Station	Follow up audit
Labasa	There are 2 magistrates and 1 magistrate that deals with family court
Nadi Office	There are 2 magistrates
Nasinu Court	Same 2 magistrates that also deals with family court.
Nausori	2 magistrates presiding over the court cases.

4.3.1.5 The Department also indicated that the issue on the adjournment of cases due to the non-availability of magistrates is an area that the Department is currently working on to contain and improve on.

### 4.3.2 Coordination and commitment of stakeholders

4.3.2.1 A case being brought to the Magistrates Court involves a number of stakeholders. The number of stakeholders varies depending on the type of offence brought to the court.

4.3.2.2 Illustrated in the diagram below are the various parties whose involvements have an impact over the timeliness with which cases are disposed of in the Magistrates Court.

*Figure 4.1: Relevant stakeholders*



4.3.2.3 In its 2012 report audit found that no formal arrangements exist between the Judicial Department and key stakeholders to ensure that they commit to the timely completion of their tasks so as to ensure the efficient discharge of court cases in the Magistrate courts or their referrals to a higher court.

4.3.2.4 Audit recommended that the Judicial Department develop a Memorandum of Understanding (MOU) between the key stakeholders to obtain their commitment towards a shared purpose of ensuring the timely disposal of cases.

4.3.2.5 This follow up audit revealed that there are still no formal arrangements in place. The only formal arrangement currently in place is between the Department and the Land Transport Authority (LTA) on the collection of fines and penalties on the road.

## 4.4 Records maintenance and access to Magistrates Court Registries

4.4.1 Record management is a systematic approach for organising, planning and tracking documents during the course of a court case [i.e. the initiation phase, monitoring, on-going management and disposal of the case].

4.4.2 In the 2012 audit report audit the following observations were noted in respect to records management of records:

- Even though the Department has indicated in its ACP to move away from the traditional method of recording, it has yet to put in place an electronic data recording system to capture data for all its various divisions.
- Our audit of the files at the Suva Magistrates Office gathered the following:
  - Files are stacked openly on the shelves as cabinets are either full or partly damaged. Also other important records are left on top of the cabinets due to lack of space.
  - the manila files include information of charges against the accused, details of each hearing of the case and the magistrate's notes on each hearing which is relevant to the case. However, audit found that the documents filed in the respective case files are not serially numbered making it susceptible to removal without detection.
- The audit observed the following practices during its visits to registries at the Suva Magistrates Court.
  - access to the Criminal registry which keeps both active and disposed case files was not restricted to the registry officers only. Court clerks requiring case files had access to the registry if the registry clerks were busy. Civil court staff also had access to the Criminal registry.
  - the Civil registry located at the basement of the Government buildings complex maintains both active and disposed case files and is accessible to the public as the registry door is always open. The ventilations of these rooms are not adequate as there are no windows. Although air conditions are installed the files accumulate dust over time.
- Our visit to the Nasinu Registry found that files were piled up on tables. No officer is specifically assigned to be responsible for the maintenance of files. Discussions with relevant officers revealed that they do not have a proper registry to maintain the files.

- Information in case files are not backed up and are susceptible to loss in case of any likely hazard [e.g. fire, flood, theft, etc].
- There exists no risk management plan to cover records maintained by the Magistrate Courts for all three court houses visited including Suva, Nasinu and Nausori. Discussions with the Senior Court Clerk Suva confirmed that the Department intends to have the plan developed.

4.4.3 Audit made the following recommendations in respect to the issue of records management:

- That it impose stringent controls of access to its registries;
- That it improves its court registry practices to ensure files and its contents are not tampered with or removed from the registry
- that it also develops a centralised database for all court cases heard in all jurisdictions for ease of reference.
- That an officer to look after its records in the Nasinu Court.
- that the Department develops a risk management plan for court registries to cater for risk of losing information in the occurrence of any hazards.

4.4.4 In this follow up audit it was noted that the record keeping of files have improved for the Suva and Nasinu Magistrate courts. The following improvements were noted for the two Magistrate courts:

- Nasinu Court – have extended their building to accommodate storage of files.
- Suva Court – containers were purchased to store files.

The audit also found that the Nasinu Court now has two additional registry officers.

4.4.5 Also audit found that the Department has developed a Files Management Policy which sets out procedures and guidelines to assist the Department, the respective Courts and Registries to manage its Courts records, documents and filing room in an appropriate manner and within the limitations/guidelines of the respective statutes.

A review of the policy found that it sets out requirements pertaining to access to files/records<sup>8</sup> and the filing room<sup>9</sup>. Our observation during this follow up audit found that the requirements were strictly followed by the Nasinu Court but not the Suva Court.

4.4.6 The Department indicated that they had developed a risk management plan for court registries for their old office which is currently in a draft. However, the Department has yet to establish its permanent location. As such the Department indicated that it will finalise the plan once the Department's permanent location is established. However, audit review of the newly developed Files Management Policy found that it integrates a risk management section which sets the requirement for the department to manage risks factors on matters pertaining to the maintenance of records. The following were indicated as part of the policy:

<sup>8</sup> Section 10

<sup>9</sup> Section 12.2 and 12.3

**Table 4.5: Risk Management section of the Files Management Policy**

The Department to manage risks factors and in doing so the following would be considered appropriately:

- Scanning machines to be provided to scan all the files and their contents and stored in a drive as back-up in case of fire or natural disasters;
- Pigeon-holes shelves to be at the safe height in case of flood;
- Fire Extinguisher to be installed in all the filing rooms and registries and to be regularly checked by the authority;
- Trolley to be provided for carting files in case of fire ( depending on the possibilities);
- Fire proof safe to be provided to contain Wills ( High Court Probate section)

- 4.4.7 In addition the Department has now installed a case management system to electronically store data currently stored manually. However, review of the system revealed that it is yet to be updated to store data for both civil and criminal files. Audit gathered that for civil files 2012 to 2013 data have yet to be entered into the system. As for criminal cases data from 1996 to 2013 have already been entered into the system with data for the 2014 period still outstanding.

## 4.5 Preparation of Cause List

- 4.5.1 There shall be kept in Magistrates Courts books to be called “Cause Books”, in such form as the Chief Registrar may direct, in which all actions instituted in the Court shall be entered and numbered consecutively in each year, according to the order in which the same shall be commenced, and the particulars of each action, and a note of the steps and proceedings therein, shall be entered in the said books in such manner as the Chief Registrar may from time to time direct<sup>10</sup>.
- 4.5.2 The audit gathered that the scheduling of court cases involves the assigning of hearing sessions as well as the allocation and coordination of Magistrates Court clerks and court rooms. This is to ensure the efficient flow of cases through the Magistrate Court.

The process requires the court clerks from the respective courts to have a diary to record the case numbers, and after each court hearing notes down the next available hearing dates as given by the Magistrate.

- 4.5.3 The audit report of 2012 indicated that in the case of the Suva Criminal registry, the cause list is drawn by the Registry Officer. The officer goes through the case files to determine the cases to be heard within a period a week and then submits the list to the typist for typing before it is uploaded on their website.

The above process as indicated in the 2012 report was different from the other court registries. For Nausori and Nasinu Courts the cause list is being prepared by the respective court clerks. Court clerks maintain their diaries where they note the respective case numbers and the dates of next appearance given by the Magistrates. Their cause list is drawn from the diary as per decision by the Magistrates. Thus there is a risk that difficulties would arise in compiling the cause list in cases where a court clerk in either court loses or misplaces his/her diary.

The audit was also unable to establish whether officers in charge were consistently monitoring the court clerks' diaries since diaries were not provided for audit purposes.

<sup>10</sup> Magistrates' Courts subsidiary legislation section.68 ORDER III s.(6)

- 4.5.4 The audit recommended in its 2012 report that the Department should enforce that senior court clerks check court clerk diaries to ensure that all cases to be heard on a required date appear in the relevant cause list.
- 4.5.5 The follow up audit found that the Nasinu Court have employed two registry officers who prepares the case files and dispatches them to the typist to prepare the cause list which is circulated by the typist to various court staffs to ensure that the information agrees with their own records. Once agreed the information is then dispatched to its IT section for uploading into the Department's website. In addition audit found that the cause list is no longer drawn from the court clerk diaries at the Nasinu court.

As for the Nausori Court the senior court clerk II confirmed that for the Nausori Court under the magistrate court the same procedure for preparation of the cause list in the Nasinu court is followed. The cause list is typed by the typist from the files dispatched to her by the filling officers. The first draft is usually circulated to all the various court officers every Thursday for counterchecking to ensure that no case to be appearing in the following week has been missed out. Once the list has been finalized the final master list is then dispatched to the IT officer for uploading in the judicial Department's website. In addition, audit also noted that for Nausori Court cause list is no longer drawn from the court clerks diaries.

- 4.5.6 Audit found that for the Suva Registry no evidence existed to indicate that the senior officers were checking the court clerk's diaries. In addition audit noted that also for the Suva Court some of the registers and dispatched books were not updated.
- 4.5.7 There is a risk that cases would not be included in the cause list due to non-updating of registers and that the movement of files from the registry room cannot be reliably traced due to the non-updating of the dispatched books.

## 4.6 Resources to facilitate court processes

### 4.6.1 Office accommodation

4.6.1.1 Regulations 6 of the OHS regulations state that the employer shall ensure that:

- a workplace or any other place where a worker or non-worker may be required to go in the normal course of work and any amenities provided for workers are kept in clean and hygienic state so as to ensure the health and safety of the workers.
- provision is made for the regular removal of waste and rubbish and slippery substance in such a way as to ensure that the health and safety of any worker is not affected and
- the relevant provisions of the current Public Health Act Cap 111 relating to cleanliness and hygiene have been complied with.

4.6.1.2 The audit noted the following observations in respect to office accommodation in the 2012 report:

- Office accommodation of the Magistrates Court's criminal registry was found to be non OHS compliant. Although the Department had envisaged upgrading its legal Registries by 2010, the audit found no indication of the facilities having been upgraded. Audit

observed that paints on the wall were peeling off, windows could not be shut properly and electrical wires ran exposed alongside the walls close to where court clerks sit.

In addition, the office space is not sufficient to cater for the number of staff in the Criminal Registry. The Office tends to overcrowd when all staffs are not in court. Discussions with the Senior Court Clerk revealed that plans are underway to relocate them to the office space previously occupied by the Lands Department.

- the Statistician's Office is located on the ground floor of Government Buildings where there is no proper ventilation. Although the office space was closed by the Ministry of Labour's OHS Unit, the Department still uses the space to accommodate the Statistician.
- The Criminal and Civil registries were also found to be lacking the required numbers of computers. The allocation of table and chairs in the Family Court and Civil Division was found to be adequate. The Criminal Division which employs a total of twenty four staffs has tables and chairs sufficient to cater for only 18 people. The audit gathered that, on days when all staffs of the section report to work, staffs need to rotate to use tables and chairs.

4.6.1.3 The 2012 audit report recommended that the Department should provide appropriate office accommodation and resources to the court registries to enable staff to carry out their duties efficiently and effectively.

4.6.1.4 The follow up audit gathered that adequate chairs, tables and computers have been purchased by the Department for all the divisions. However, office accommodation overcrowding as of audit inspection date<sup>11</sup> confirmed that this still remain an issue.

4.6.1.5 Audit gathered that the Department has established an Asset Management Unit (AMU) which is responsible for managing the Department's assets and ensuring that staffs have adequate resources in place to effectively and efficiently carry out their duties.

Discussion with the officer in charge in the AMU revealed that the Department is currently in the process of addressing the issue of overcrowding. Our review of the PSIP 2015-2017 confirmed that the Department have made plans to improve its office space.

4.6.1.6 Audit also found that renovations were made to the government building premises which were occupied by the Department. Refer to the following table for details:

**Table 4.6: Details of renovations**

Level of floors	Unit previous occupants
Ground floor	HR AMU and IT
1 <sup>st</sup> floor	Magistrate Court Criminal Registry
2 <sup>nd</sup> floor	Magistrate Court 1 and 2

However, audit found that the above renovated premises have been taken up by Parliament Office. As a result of this the Department have relocated various sections of the Department as follows:

<sup>11</sup> 17<sup>th</sup> of December 2014

**Table 4.7: Details of relocation**

Unit			Relocated premises
HR and IT			Kelton House
Magistrate Court Criminal Registry			Sharing premises with the Civil court registry in the former training room
Magistrate Court 1 and 2			Housed in various judicial offices including within government building and Kelton house.

4.6.1.7 Audit noted overcrowding in the former Judicial training room as the room are shared by the Magistrate Court Criminal Registry and the Civil Court Registry. In addition audit also found that the officers in the two units were sharing workstations and computers with an average of 3 people per workstation.

4.6.1.8 The Department indicated that plans are already in place for the Magistrate Court Criminal Registry will move to the Aftercare Fund Office and that the Magistrate Court 1 and 2 to the former Prime Minister's Administration block. The Aftercare Fund Office is currently under renovations for this purpose.

#### **4.6.2 Use of budgetary allocations**

4.6.2.1 Financial resources entail the most pivotal resource in managing any organisation. For a government department, amounts allocated in the budget are not usually sufficient to cover all the expenses of the department. As such measures are usually taken to ensure proper control in the use of monies. In some instances such controls results in savings.

4.6.2.2 The 2012 report indicated that the Department's Annual Report for 2008-2010 revealed that the Department incurred unspent balances throughout the three year period. Refer to the following for further details.

**Table 4.8: Department of Justice unspent balances 2008-2010**

Division	2008	2009	2010
General Administration	517,350	903,401	453,986
High Court	319,724	248,011	27,639
Magistrates Court	182,757	332,658	26,189
Court of Appeal	154,061	387,617	41,489
Small Claims Tribunal	24,293	65,926	12,180
Supreme Court	8,315	90,440	299,728
Family Court	211,933	275,782	76,740
<b>Total</b>	<b>1,418,433</b>	<b>2,303,835</b>	<b>937,951</b>

4.6.2.3 As can be noted from the above table, the Department had total savings of \$1.4m, \$2.3m and 0.9m in 2008, 2009 and 2010 respectively. General Administration recorded the highest savings throughout the three year period. The Magistrate Court incurred substantial savings in 2008 and 2009.

4.6.2.4 Also the 2012 report found after a detailed review of the Department's unspent balances for the three years that the highest contributor of savings was SEG 1- Established staff mainly due to the reduction in the number of Magistrates recruited by the Department over the three years. However, audit also found that large savings were also recorded by other SEGs, that if utilised would have alleviated some of the problems currently faced by the Department. Refer to the following for further details.

Table 4.9: SEGs with savings

SEGS	2008	2009	2010
Travel and Communication	47,051	227,927	41,289
Maintenance and operations	36,301	88,289	10,201
Purchase of goods and services	17,571	78,369	7,102
Special Expenditure	35,360	435,236	326,671
Capital construction	193,352	333,388	55,611

4.6.2.5 The audit recommended in its 2012 report that the Department closely monitor use of monies such that timely requests are made to the Ministry of Finance to vire funds to use for purposes which would contribute to the effective and efficient management of cases in the courts.

4.6.2.6 This follow up audit gathered that for the period 2011 to 2013 the Department also incurred savings in specific allocations. Refer to the following table for details:

Table 4.10: Savings incurred by the Department from 2011-2013

<b>2011</b>			
ESTABLISHED STAFF	1,359,512.00	1,226,130.18	133,381.82
GOVERNMENT WAGE EARNERS	93,111.00	79,131.71	13,979.29
TRAVEL & COMMUNICATIONS	72,294.00	71,130.90	1,163.10
MAINTENANCE & OPERATIONS	538,285.00	538,012.25	272.75
SPECIAL EXPENDITURE	63,239.00	49,536.90	13,702.10
CAPITAL CONSTRUCTION	81,823.00	63,484.79	18,338.21
CAPITAL PURCHASE	794,177.00	617,192.90	176,984.10
	<b>2,208,264.00</b>	<b>2,027,426.73</b>	<b>180,837.27</b>
<b>2012</b>			
ESTABLISHED STAFF	1,201,049.78	1,132,967.88	68,081.90
GOVERNMENT WAGE EARNERS	87,988.22	86,643.61	1,344.61
TRAVEL & COMMUNICATIONS	93,000.00	75,611.17	17,388.83
MAINTENANCE & OPERATIONS	459,845.00	443,510.79	16,334.21
PURCHASE OF GOODS & SERVICES	77,153.00	57,155.94	19,997.06
SPECIAL EXPENDITURE	153,621.00	68,717.50	84,903.50
CAPITAL PURCHASE	192,722.00	127,470.86	65,251.14
	<b>2,265,379.00</b>	<b>1,992,077.75</b>	<b>273,301.25</b>
<b>2013</b>			
ESTABLISHED STAFF	1,703,437.00	1,650,009.19	53,427.81
GOVERNMENT WAGE EARNERS	117,133.00	109,707.95	7,425.05
TRAVEL & COMMUNICATIONS	111,000.00	110,834.08	165.92
MAINTENANCE & OPERATIONS	400,547.00	396,600.86	3,946.14
PURCHASE OF GOODS & SERVICES	111,119.00	103,339.65	7,779.35
SPECIAL EXPENDITURE	90,584.00	80,679.77	9,904.23
CAPITAL CONSTRUCTION	544,061.00	485,408.56	58,652.44
CAPITAL PURCHASE	176,843.00	167,783.12	9,059.88
	<b>3,266,224.00</b>	<b>3,115,863.18</b>	<b>150,360.82</b>

4.6.2.7 Even though the Department still incurred savings in most of its allocations for the period 2011 to 2013 it had addressed the issue of working facilities and storage of case files as funds for such purpose were provided in the Department's budget within the three year period. The newly renovated office however as earlier noted in the report is now being used as the country's Parliament.

## 4.7 Addressing issues identified in the Connors report

- 4.7.1 A Commission issued by the former President on the 14<sup>th</sup> of September appointed Mr. John Connors to be a Commissioner to enquire into the Magistrates' Courts in Fiji. The Commissioner in particular was to enquire into and report on:
- ☐ the appointment, conduct and performance of the current Magistrates;
  - ☐ the operation and performance of the Magistrates Court including their Registries;
  - ☐ to make recommendations for the elimination and prevention of any corrupt, improper and inefficient practices within the Magistrates Courts;
  - ☐ to make recommendations for the efficient and effective delivery of justice by the Magistrates Courts of Fiji; and
  - ☐ any associated matters that may be thought relevant to the general objects of the inquiry.
- 4.7.2 The Commissioner's report into the enquiry was completed by May 2008. The audit noted that the report highlighted a number of issues having an effect on the timely management of cases in the Magistrates Court. Recommendations were also made by the Commissioner to address the issues. **Appendix 1.1** provides a summary and recommendations of these issues.
- 4.7.3 A follow up on the recommendations identified in the report found the following:
- the Department had factored some of the recommendations in the report as a strategy in its ACP. However, there is lack of commitment from the Department to ensure the strategy is followed through;
  - even though the report was prepared and forwarded to the Department more than three years ago there is no evidence to indicate that the Department is closely monitoring implementation of each of the recommendations in the report. A contributing factor to this is that no specific person or committee have been tasked to look into the implementation of the report; and
  - a number of issues raised in the Connor's report audit gathered during the examination are still occurring and the Department as it has yet to address the issue.
- 4.7.4 The audit recommended that the Department should set up a committee to look into the implementation of the recommendation contained in the Connors report.
- 4.7.5 The follow up audit gathered that the audit recommendation have yet to be implemented by the Department. Discussion with the Chief Administration Officer found that she is unaware of the existence of a Committee to look into the recommendations of the Connor's report and that officers that previously was involved in the implementation of the report have moved out of the Department.
- 4.7.6 The Department is forgoing considerable benefits to its Magistrates courts existing processes, systems and procedures in failing to follow up and implement recommendations of the Connor's report.

## **RECOMMENDATIONS**

The Judicial department should:

- identify measures or strategies to gauge reduction in time taken to dispose of cases.
- ensure that there is consistency in setting targets in its ACP to allow for trend comparisons. The targets set should be realistic and measurable.
- develop an MOU with key stakeholders to obtain their commitment towards a shared purpose of ensuring timely disposal of cases.
- develop a centralised database and ensure that information are always updated for all court cases for ease of reference.
- ensure that the Suva registry complies with the requirements of the Files Management Policy in respect to access to files/records and filing room.
- ensure that the senior officers check the diaries of court clerk diaries for the Suva Court and that the registers and dispatched books are updated in a timely manner.
- ensure that no further renovation works are conducted until written confirmations are received from relevant authorities as to the Department's new permanent location.
- set up a committee to look into the implementation of the recommendation contained in the Connors report.

## **Management Comments**

### Recommendation 1

*It would have been helpful if audit had suggested actual measures and strategies which we could use to reduce the time taken to dispose of cases at the Magistrates' Courts. However under the principles of natural justice and on humanitarian grounds, the Court adjourns matters so that it could be dealt in a fair and just manner and there are various reasons for these adjournments such as:*

- i. *1<sup>st</sup> and 2<sup>nd</sup> phase disclosures to be served on the accused by the prosecution;*
- ii. *Right to counsel, whereby accused person/parties is given time to engage a counsel;*
- iii. *Adjourned for plea;*
- iv. *Counsel engaged but not available (engaged in another Court, sick or some emergency). Court does not penalise the accused for that and proceed with the case, unless the excuse is unacceptable and given to mislead the Court and or prolong the case, in such situations the Court proceeds with the hearing.*
- v. *Accused is medically unfit to attend Court and this is certified by a Medical Practitioner;*
- vi. *Witness is unavailable, either cannot be located or is medically unfit to attend or even some very genuine reasons such as death of close relative or next of kin;*
- vii. *Unavailability of documentary evidence;*
- viii. *Legal Aid Commission is still processing the accused person's application;*
- ix. *Accused to prepare his/her mitigation submission [verbal/written] or even to engage a counsel to do it;*
- x. *Accused person is at large/absconding; and so on.*

*This of course leads to the delay in case disposals but it is a very necessary delay. In this regard and as explained to the Auditors during the audit exercise, the delay is therefore beyond the Court's control.*

Nevertheless, the Courts are now using an extra phase within the whole proceeding and that is the “Pre-trial Conference (PTC)”. During this conference the parties negotiate to come to some agreed facts. If they do, then the accused persons plead guilty and the matters are disposed in very little time and that is like 3 or 4 adjournments [few minutes in Court]. Unlike before when the accused pleads not guilty and at the end of the whole proceedings, which at times take several days or weeks to conclude, and then the person is found guilty due to the evidence provided to Court. PTC allows the accused person or parties to change their minds and consequently shortens the timeline to conclude a case.

However, in respect to the administrative side of proceedings, the Courts’ registries are bound by the rules and procedures, whereby it gives the dates within the limitation period. Furthermore, the Courts have so many cases that matters are given long adjournments on a case by case basis. Again, it goes back to natural justice, thus the Courts do not give short adjournments and over load their diaries and that would give insufficient time and unfair attention towards the parties. There are mandated procedures which the Courts have to follow during the proceedings and it cannot be shortened, bypassed or disregarded, otherwise the matters can be appealed and this would create further proceedings. In addition, Courts as tribunal of fact and law apply the Adversarial System of Justice hence they cannot disregard the Principles of Natural Justice in a bid to dispose of cases early.

#### Recommendation 2

The department will try to implement this in future ACPs. This of course can only be done for the disposal rates rather than initiated rates for obvious reasons.

#### Recommendation 3

The department cannot be developing MOU between the various stakeholders without piloting, monitoring and analyzing the newly agreed process. The recommendation seems to be referring to the pilot project held in Nasinu Magistrate Court, where LTA is the stakeholder concerned. The process is being piloted in Nasinu Magistrate’s Court, the results are being monitored and meetings are still held to look into further commitments and improvements. Once the process is finalised after looking at all the avenues, only then it will be implemented Fiji wide and consequently the department will develop an MOU.

#### Recommendation 4

The department has a Magistrate’s Court Case Management database piloted in Suva Magistrate’s Court. It is anticipated to be used Fiji wide once the results are up to the expectations and there are no irregularities or incompleteness.

#### Recommendation 5

Due to the movement of the registry and sharing of the filing room with another section caused the workforce in failing to fully comply with the policy. However, the new registry set up is such that the policy will be fully implemented in respect to access and other requirements. Nevertheless the Registry is trying its optimum to maintain and uphold a satisfactory file management policy by utilizing dispatch books inward and outward register to keep a track of all file movements within the Registry.

#### Recommendation 6

The senior officers will be informed accordingly.

#### Recommendation 7

The temporary movement of the registries is beyond the control of the department especially when space allocation had to be made for our current Parliament. We will of course await written confirmations prior to moving staff and resources to our new locations in future.

In respect to the temporary offices, the department cannot just put its officers in any office and in any manner or condition. It has to look into the structure and set up of the building and how it will adequately our officers to be able to deliver the required services. It also has to ensure that the office is OHS compliant and it has the ergonomics that are suitable for the Registry and Courts.

**Recommendation 8**

*The Department will certainly look into this however for the purposes of actually achieving the recommendations of the Connors Report; it would be prudent if funds are allocated accordingly so that full implementation of the recommendations could be made.*

**Further OAG Comments****Recommendation 1**

The recommendation is made for the Department to identify suitable strategies and measures in consideration of the process, system and procedure it has in place on disposal of cases.

**Recommendation 3**

The recommendation is made generally to assist the Department in ensuring timely disposal of cases as it needs the commitment of key stakeholders to ensure this is done.

## 5.0 MONITORING AND REPORTING OF COURT PROCESSES

*This section of the report discusses corrective actions taken towards the recommendations made for issues reported in the Auditor General's report of 2012 whether appropriate mechanism exist to monitor and report on the efficacy of court processes.*

### 5.1 Returns of cases tried

- 5.1.1 All Magistrate Courts shall keep written records and furnish returns of cases tried by them to the Supreme Court in such manner as the Chief Justice may from time to time direct.<sup>12</sup>

A judge of the Supreme Court shall, periodically inspect the records of all Magistrate Courts and may give instructions and advice thereon as he may deem necessary.<sup>13</sup>

The Chief Justice may make rules of court for the purpose of regulating the practice and procedure of Magistrate Courts in matters not specifically provided for in this or any other Act.<sup>14</sup>

- 5.1.2 Audit noted in 2012 report that although it was disclosed during audit that court returns were prepared and submitted by magistrate courts, evidence to that extent were not sighted. Periodic checks of the return by a Supreme Court Judge and relevant advices arising therefrom thus could not be ascertained.
- 5.1.3 Audit recommended that the Department should have Magistrate submit court returns to be monitored by Supreme Court Judge.
- 5.1.4 During our follow up audit on the issue the Chief Justice indicated that the returns are sent monthly on all cases and their disposition including from the Magistrates Courts. He further added that the Magistrates Court Act requires that the monthly returns are to be seen regularly by a Supreme (now High) Court Judge. From these reports it can be seen which courts are under pressure and where resources must be allocated to dispose of cases. Records can be called for by the judge and cases can be reviewed if necessary and different orders substituted by the judge.

### 5.2 Monthly Returns

- 5.2.1 The Statistician collects and compiles statistical information relating to the case flow in all the Courts of Fiji in a timely and coherent manner.<sup>15</sup> The Statistician reports directly to the Chief Administrative Officer and is required to be able to provide reliable, objective, relevant, timely and analytical information on the cases in the Courts of Fiji to the Judicial Department and other users of statistics.

<sup>12</sup> Magistrate Act CAP 14 s.10(1)

<sup>13</sup> Magistrate Act CAP 14 s.10(2)

<sup>14</sup> Magistrate Act CAP 14 s.68(a)

<sup>15</sup> Judicial Department Position Description for Statistician, Mr Ashwin Prasad

5.2.2 In its 2012 report, audit noted the following in respect to returns:

- the Statistician faced difficulty to effectively monitor activities in the Magistrate Court around Fiji due to the lack of support staff and transport resources;
- The current format of returns used by returning offices was not consistent. The Statistician is currently working on standardizing all the forms by creating template to be used by all court registries; and
- The Statistician is not required to submit periodic reports unless if requested to by the Chief Registrar. The analysis of monthly court returns received are maintained by the Statistician and collated for inclusion in the Department's Annual report. There is no evidence that information received is analysed in detail to identify weaknesses in the court processes for which improvements could be recommended.

5.2.3 Audit recommended that the Department consider using monthly analysis prepared by the statistician to identify areas they could improve on to facilitate management of cases brought to the Magistrate Court. Audit further recommended that the Department develop a standardised return format for all Magistrate Courts to use. The format should be such that all important elements of a case could be derived through review of the returns.

5.2.4 From the follow up audit it was observed that the Department has now appointed four Assistant Statistician to assist the Statistician who is based at the headquarters. The assistant statisticians are located in Nasinu, Nausori, Sigatoka and Lautoka.

A standardized form is currently being used by the Court clerk to prepare the monthly returns. The monthly return shows the number on cases initiated, disposed and pending in the court during the month. In addition a monthly summary of total number of cases disposed by respective Resident Magistrate for all divisions is also being collated.

5.2.5 It was also disclosed during the follow up audit that based on the monthly reports submitted, the Chief Justice gives instructions on the rotation of Magistrate and also the performance of the Magistrate are also assessed from the monthly return.

## 5.3 External Reporting

5.3.1 It is important that the public is adequately informed about the performance of the Department as far as cases brought to the courts are concerned. Information such as the number of cases initiated those that were disposed of and those which are pending and are of interest to the public. Vitally important to the public is the length of time taken for cases to be dealt with in the courts.

5.3.2 Audit noted in 2012 report that the Department's Annual Report for 2008 to 2009 was not finalised until 2011 together with the 2010 report. The review of the Annual Report for the period 2008-2010 found that for all courts including the Magistrate Court reporting on the cases were restricted to the number of cases initiated and dealt with as per court decisions. The report however lacks reporting on timeliness in the finalisation of cases which is of particular interest to the members of the public.

In the 2012 audit report it was noted that the ACP prepared by the Judicial Department in 2009 indicated that the Department had identified performance measure and indicators for timeliness and quality in the plan in addition to quantity audit noted that the Department's Annual Report for 2008-2010 in respect to 2009 results of performance only reported on the quantity aspect of the performance measure and failed to incorporate the quality and timeliness aspects.

- 5.3.3 Audit recommended that the Department ensure that it reports on its targets set out in the ACP in its Annual Report for the specific year; and ensure that its ACP also identifies timeliness as a performance measure as such information is of importance to members of the public
- 5.3.4 It was established during follow up audit that the 2011 Annual Report is still with the Chief Justice for his endorsement and the 2012 and 2013 Annual report submitted to audit is still in draft. Review of the draft 2011 to 2013 annual report revealed that a detail analysis was provided by the Statistician for Magistrate court which shows the number of cases initiated, number of cases disposed by type of offence and sentence type.
- 5.3.5 The continuous delay in the finalisation of the Department's Annual Report indicates that the users of the information are not informed of its performance in a timely manner.

## **RECOMMENDATION**

- The Department should ensure that its Annual Report for the period 2011-2013 is finalized as soon as possible and loaded on to its website. It should ensure that from 2014 onwards its Annual Report is prepared in a timely manner.

## **Management Comments**

*We will certainly take that into account and implement accordingly.*

## 6.0 CONCLUSION

- 6.1 Tremendous efforts have been taken by the Department to address the recommendations made in the Auditor General's Report of 2012. There are a few areas that the Department is in the process of addressing. However, there are a few areas that the Department has yet to address which audit has again raised in this report.

## 7.0 REFERENCES

1. Connors J; 2008; Report of the Commission of Inquiry into the Magistrates Courts in Fiji.
2. Judicial Department Annual Corporate Plans for 2008, 2009, 2010
3. Judicial Department Annual Corporate Plans for 2011 to 2014
4. Judicial Department Annual Reports for 2008, 2009, 2010, 2011-2013 (draft)
5. Judicial Department Strategic Plan 2005-2009
6. Judicial Department Strategic Plan 2011 to 2014
7. Monthly return of cases tried 2011-2014

## APPENDIX 1.1 ISSUES AND RECOMMENDATIONS OF THE CONNOR'S REPORT HAVING AN EFFECT ON THE TIMELY MANAGEMENT OF CASES IN THE MAGISTRATES COURT

Issue	Recommendations
<b>Ensuring proper management of records</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Digital sound recording be introduced into all Magistrates Courts</li> <li><input type="checkbox"/> The use of sound recording to keep the court record become the norm and any changes necessary amendment be made to section 61 of the Magistrates Court Act</li> <li><input type="checkbox"/> A Court reporting branch to be established to operate all recording units and to prepare records when required. This report to be within the Justice Department reporting to PS Justice.</li> </ul>
<b>Time standards to facilitate a Chief Magistrate gauging the performance of magistrates.</b>	That time standards be established by the Chief Magistrate in consultation with the Chief Justice for the disposal of all categories of work in the Magistrate's Court.
<b>Rotation of Magistrates to ensure justice is served</b>	All Resident Magistrates be moved from their existing court each 3 years and those that have been in one court for the last three years be moved forthwith.
<b>No history of interview process for the appointment of Magistrates</b>	That the persons be appointed magistrates to be properly scrutinised by a thorough interview process involving the Chief Magistrate, President of the Law Society, a retired judge and a lay person appointed by the Attorney General.
<b>The current listing arrangements indicate that enormous time is wasted with matters not preceding.</b>	All resident Magistrates be required to over- list in each court at least 8 hours per day.
<b>Jurisdiction of the Magistrate's Court has been significantly increased without there been any necessary amendments made to the rules of court.</b>	Rules of the Magistrates court be updated and amended forthwith.
<b>Magistrate court infrastructure lacks any proper routine maintenance nor is there any plan for such maintenance or necessary replacement.</b>	A report be prepared by the Chief Registrar within 12 months on the state of all Magistrates Courts infrastructure together with recommendations for repair or replacement where necessary.



# **Management of the Land Reform Program**



A performance audit report of the Office of the  
Auditor General of the Republic of Fiji



Land reform involves the redistribution of land by Government that is aimed at improving utilization of land resources. This reform usually involves changes in measures and processes including the changing of laws, regulations or customs regarding land ownership. Most commonly land reforms require modification or replacement of existing institutional arrangements governing possession and use of land.

This report contains findings on the activities undertaken by the Land Use Unit as the focal agency responsible for administering Government's land reform program.

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## Acronyms

DL	Director Lands
DLU	Director Land Use
FIRC	Fiji Investment Registration Certificate
FRCA	Fiji Revenue and Customs Authority
GIS	Geographic Information System
IF	Investment Fiji
iTLFC	i`Taukei Lands and Fisheries Commission
LOU	Land Owning Unit
LUU	Land Use Unit
MLGUDHE	Ministry of Local Government, Urban Development, Housing and Environment
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
SG	Solicitor General
SOP	Standard Operating Procedures
SPA	Sales and Purchase Agreement
STO	Senior Technical Officer
TOR	Terms of Reference

# 1.0 EXECUTIVE SUMMARY

**Background** The need for Land Reform in Fiji was identified during the National Council for Building a Better Fiji (NCBBF) nationwide consultation, for changes to the system of government, resource, development policies and institutional reforms. The concept for change was considered and was included as Pillar 6 of the People's Charter for Change. Based on this, the Land Use Decree 2010 and the Land Use Regulations 2011 was promulgated to provide the legal framework for the land reform.

The main objectives of the program as stipulated under the Land Use Decree 2010 are to:

- utilize designated native land in a manner that is in the best interest of native land owners; and
- utilize designated state land with a view to achieving optimal return to the government

To facilitate the achievement of the above objectives, the Land Use Unit (LUU) was established within the Ministry of Lands and Mineral Resources to be responsible for the valuation of land, issuance and renewal of lease, collection of rental; and other matters that may arise from time to time for land designated under the Decree by the Prime Minister.

**Coverage** The audit on Management of Land Reform Program focuses on three areas namely '*Policies governing the administration of land reform*', '*Systems and processes for land designation and allocation*', and '*Recording and monitoring of land bank activities*'.

The audit looked into records held at the Land Use Unit for the years 2011 to June 2014.

**Key findings** *Policies governing the administration of land reform*

- Use of draft Standard Operating Procedures which are still yet to be endorsed
- Lack of a performance bond policy
- Lack of policy governing mortgages over designated leased land
- Absence of Policy and Guidelines on the Administration of state freehold land under the Buy Back Scheme

*Systems and processes for land designation and allocation*

- Deficiency in awareness and consultation activities
- Recording and surveying of land prior to designation
- Failure to appropriately carry out land capability studies prior to land designation
- Failure to advertise all designated land
- Non utilisation of effective platforms for advertising of available land
- Issuance of lease prior to obtaining survey approvals
- Absence of documented guidelines for acquisition of land
- Payments for acquisitions made prior to obtaining engineering designs for constructing of access road
- Additional acquisition payments made due to error in road construction
- Valuations conducted prior to carrying out proper land surveys

- Failure to carry out proper assessment prior to the issuance of a lease

*Recording and monitoring of land bank activities*

- Absence of a land bank database
- Failure to record complaints
- Failure to maintain proper records of land bank activities
- Lack of documented guidelines for the monitoring of Leases
- Failure to appropriately monitor conditions of Lease/MOA

**Overall Conclusion** The overall effectiveness of managing land bank activities is weakened by the lack of documented policies and procedures that clearly provide guidance and instructions on how various activities are to be carried out. In addition, failure to carry out proper feasibility studies, the physical attributes and location of designated land, lack of access and delays from stakeholder agencies contributes to the accumulation of designations thus delaying the efficient allocation of vacant land. Furthermore, poor record keeping and continuous staff movements have also affected the efficient management of land bank activities.

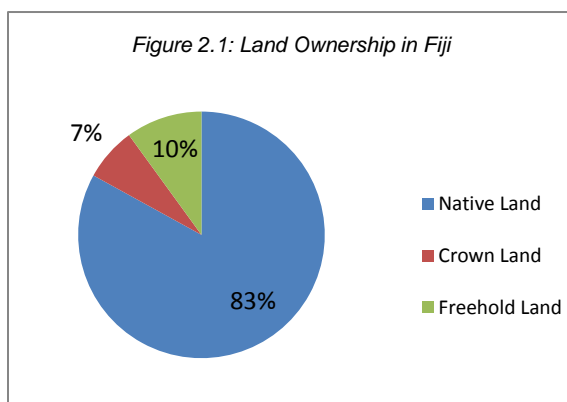
**General Recommendations** The audit recommends that the Land Use Unit develop appropriate policies and procedures/guidelines to effectively manage its activities. Awareness and consultation activities need to be improved whilst emphasis should be placed on carrying out proper feasibility studies prior to designations. Furthermore, processes needs to be carried out in a coherent manner to avoid risks of wastage of government funds. The LUU also needs to maintain proper records of its activities to ensure information is readily available. Monitoring procedures needs to be developed and the LUU should ensure monitoring of all leases or agreements issued are conducted to ensure compliance.

## 2.0 INTRODUCTION

*This section of the report provides a brief overview on Governments Land Reform Program and the reasons for conducting the audit.*

### 2.1 An overview

- 2.1.1 Land in Fiji is managed through three complementary systems - Native Land, freehold land and Crown Land. Freehold land can be bought and sold whilst Native Land and Crown Land cannot be bought and sold but is available only on a leasehold basis<sup>1</sup>. Composition of land ownership under the three systems are reflected Figure 2.1 below



- 2.1.2 As illustrated in Figure 2.1 above, approximately:

- Eighty three percent of land in Fiji is native land. All native land belongs to village groups or 'land-owning units'. Typically a portion of each land area is set aside for the site of the village, and the rest is native reserve. Land within native reserve may be made available for use and development by others through short or long term lease. In order for development to take place on native land, the developer must obtain a lease<sup>2</sup>.
- Seven percent of land in Fiji is crown land, administered by the Department of Lands. In addition, all foreshore lands below mean high water mark, the soil under Fiji waters and the beds of navigable rivers and streams are crown land. Like native land, Crown land is not sold outright but some is available on a leasehold basis. Crown leases are granted and managed by the Director of Lands<sup>3</sup>.

<sup>1</sup> <http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>

<sup>2</sup> <http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>

<sup>3</sup> <http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>

- Ten percent of land in Fiji is freehold land registered under the Torrens system of land registration, by which titles to land are guaranteed. Freehold land can be purchased, transferred, or leased, subject to the conditions of the *Land Sales Act*, which among other things restricts the quantity of land which can be purchased by individuals who are not resident in Fiji, and by companies not wholly owned by Fiji citizens<sup>4</sup>.

2.1.3 The Draft Peoples Charter for Change, Peace and Progress & State of the Nation and Economy Report identified two critical issues in Fiji as follows:

- i.) vast amounts of land in Fiji currently lie idle or are greatly underutilized; and
- i.) a major national challenge is not only to increase the supply of land, under acceptable leasing arrangements, for agricultural, commercial or social purposes but also to transform the capital inherent in land into capital that can be used either to develop that land or as collateral in the financial market or for other economic and social purposes<sup>5</sup>.

2.1.4 Whilst most freehold and crown lands are currently being utilized, most unutilized land comprises itaukei land communally owned by members of land owning units (LOU). As such the Land Use Decree 2011 and Land Use Regulations 2011 were promulgated to provide:

- for the establishment of the Land Use Unit (LUU) to administer the land reform program; and
- for the institutional arrangements that will enable utilization of all idle land as well as providing maximum return to the native land owners and optimal returns to the State.

## 2.2 Major features of the principal legislations governing land reform in Fiji

2.2.1 Major features of the Land Use Decree 2011 and Land Use Regulations 2011 include the following:

- The Land Use Decree prevails over other relevant Acts (Decree Part 4: 9(1));
- The Decree empowers Land Use Unit access to Land Information (Decree Part 4:9(2));
- No court, tribunal, commission or any other adjudicating body shall entertain claim, challenge or dispute by any person or the propriety of the Decree terms and conditions of lease issued by the Director of Lands under the Decree, or the validity or cancellation of any lease or licenses or other instruments (Decree Part 7:15(1));
- It allows for the designation of native reserve if 60 percent of the qualifying members of the relevant LOU agree (Regulation Part II: 4 (1));

<sup>4</sup> <http://www.townplanning.gov.fj/index.php/planning/planning-issues/land-tenure>

<sup>5</sup> Draft People's Charter for Change Peace and Progress & the State of the Nation and Economy Report

- Only the Prime Minister not the Minister for Lands may designate land (Decree Part 2: 6(2));
- The Prime Minister has the power to remove any trustee (Regulation Part II: 5(5);
- The Auditor General is to audit the Financial Statements of the LOU annually for the Trustees to convene their AGM where financial statements are endorsed and for the election of new trustees (Regulation Part II: 5(7);
- The trustees may after five years from the date of designation request the Prime Minister in writing for the designation of any land to cease (Regulation Part III: 6(2); and
- Schedule and special conditions (item 10) – Default Notices – First default notice 14 days commencing on the date the notice is issued; and second default notice seven days commencing upon the date the notice is given<sup>6</sup>.

## 2.3 Land designations and allocations

- 2.3.1 The Land Use Unit currently operates through the designation and allocation of three major classes of land, namely, itaukei land, state land and state freehold land under the buyback scheme. As of June 2014 the following parcels of land have been designated by the Prime Minister and allocated under the Land Bank investment scheme.

**Table 2.1: Land designated and allocated under the land bank as at June 2014**

Type of Land	Number Designated	Number Allocated (leased out)	Percentage Allocated
Itaukei	71	11	15.5%
State	3	2	66.7%
State Freehold (buy back)	14	11	78.6%
<b>Total</b>	<b>88</b>	<b>24</b>	<b>27.3%</b>

- 2.3.2 In administering Government's land reform program, the Land Use Unit undertakes the following activities:
- Awareness Programs and meetings with LOU's;
  - Receipt of consent forms endorsed by 60% of the land owning unit (LOU) members registered in the vola ni kawa bula (VKB) and endorsed by the iTaukei Land and Fisheries Commission (iTLFC);
  - Research to determine land status through the iTaukei Trust Board and the Lands Department;
  - Land use capability studies conducted
  - Vetting of designation and Deed of Trust documents by the Solicitor General's (SG's) Office;

<sup>6</sup> CP (2014) Cabinet Memorandum: Current Status on Land Reform Programs 2013

- Designation by the Prime Minister and gazetting of the Order;
- Surveying of designated land boundary;
- Valuation of the land to determine its market value;
- Advertisement of land if no prior interests is registered for the designated land;
- Issuance of lease offer to prospecting lessee; and
- Acceptance by endorsement by the Director Lands and the registration of the lease by the Registrar of Titles.

## 2.4 Reasons for undertaking the audit

- 2.4.1 Pillar 6 of the Roadmap for Democracy Sustainable and Socio Economic Development 2011-2014 highlights Governments' efforts in making more land available for productive and social purposes.
- 2.4.2 The LUU was established to implement Governments' land reform program and is tasked with developing unutilized land that will benefit the itaukei landowners, investors, and Government, as well as achieve economic growth.
- 2.4.3 Government has provided annual budgets for the years 2011 to 2014 as reflected in Table 2.2 below to enable the implementation of land reforms in Fiji,

**Table 2.2: Annual budgets provided 2011 to 2014**

Year	Capital expenditure budget \$	Operating cost budget \$
2011	5,000,000	1,000,000
2012	5,000,000	1,000,000
2013	5,000,000	1,000,000
2014	5,000,000	700,000

- 2.4.4 An audit in this area is warranted as weaknesses in the systems and processes of the LUU may directly impede on the effective and efficient management of the land reform program and the failure to achieve stipulated objectives. Furthermore, poor management of the program may result in uneconomical use of funds provided.

## 3.0 AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

*This section of the report describes the objective and scope for this audit. It also discusses the methodology utilised to gather information for the audit.*

### 3.1 Audit objective and scope

- 3.1.1 The objective of the audit is to assess the effectiveness of the actions of the Land Use Unit and key stakeholders in implementing Government's land reform program via the land bank investment scheme by examining:
- i.) the adequateness of policies and procedures governing land reform;
  - ii.) the systems and processes for land designation and allocation under the land bank; and
  - iii.) the recording and monitoring of land bank activities to ensure Governments' objectives are appropriately met with due regard for economy.
- 3.1.2 The audit focused on the activities of the Land Use Unit in administering the Land Bank Investment scheme for the years 2011 to June 2014 with emphasis on the policies, systems and processes and other related measures undertaken by the Unit for the achievement of objectives outlined in the Land Use Decree 2010 and its subsequent Land Use Regulations 2010.

### 3.2 Audit methodology

- 3.2.1 The audit was conducted using the following evidence gathering techniques:

1. *Documentary Review*

The audit reviewed all relevant files pertaining to land designations and allocations.

2. *Interviews*

Interviews were carried out with the following officers listed in Table 3.1 below.

**Table 3.1: Details of interviews conducted**

Agency/Department	Section	Officers interviewed
Land Use Unit		Director, Land Use Unit
Land Use Unit	Public Relations	Senior Public Relations Officer Public Relations Officer
Land Use Unit	Land Use & Land Development	Senior Technical Officer Technical Officer
Land Use Unit	Geographic Information Systems (GIS)	Senior Technical Officer Technical Officer

Land Use Unit	Survey	Principal Surveyor Technical Officers
Land Use Unit	Valuations	Principal Valuations Officer Valuers Senior Legal Officer
Land Use Unit	Administration	Executive officer
Mineral Resources Department	Mining Division	Acting Assistant Director Mines
Fiji Revenue & Customs Authority	Internal Audit	Senior Auditor
Department of Environment	Environment Impact Assessment Unit	Acting Senior Environment Officer
Investment Fiji	Investment Registration, Facilitation and Monitoring	Senior Investment Officer

Interviews were also carried out with land owners who had given their land or have shown interest in giving their land for designation by the Prime Minister.

### 3. Database Review

Review and analysis of spreadsheet records of land designations, leases issued, valuations and acquisitions were conducted.

### 4. Field inspection

Site inspection of a number of designate and leased land were conducted. These included the following:

**Table 3.2: Details of site inspection**

Name of Land	Province	Land Use
Nawailevu (Part of)	Lekutu, Bua	Mining Excavation Site
Nawailevu (Part of)	Lekutu, Bua	Vodafone Transmitter Site
Nawailevu (part of)	Lekutu, Bua	Access to Bauxite Mining and Camp site
Lovonidali (Part of)	Lekutu, Bua	Quarry and Stockpile Site
State Foreshore	Lekutu, Bua	Foreshore Lease
Natodre	Rewa	Soil, Rock and soapstone Extraction
	Koro Isand, Lomaiviti	Land yet to be designated
Yaukuve Island	Kadavu,	Tourism
Korodogo	Macuata	Agriculture
Seaqaqa Sugarcane Estate	Seaqaqa, Macuata	Agriculture
Matasawalevu (Lot 12, DP5800)	Dreketi, Macuata	Agriculture
Matasawalevu (Lot 4 DP5799)	Dreketi, Macuata	Agriculture

### 5. Other

Correspondences through emails were also made to clarify certain issues.

## 4.0 POLICIES GOVERNING THE ADMINISTRATION OF LAND REFORM

*This section of the report establishes the existence and effectiveness of policies and procedures governing the management of land bank activities.*

### 4.1 Use of draft Standard Operating Procedures (SOP)

- 4.1.1 Standard operating procedures (SOP) provide detailed explanations of how a policy, program or task is to be implemented. The SOP provides step-by-step instructions of how a specific task is to be performed ensuring a consistent approach and standardizing the process.
- 4.1.2 Audit established that the work of the Land Use Unit is guided by the Ministry of Lands and Mineral Resources (MLMR) Land Use Unit (LUU) Standard Operating Procedures which is still in a draft version.

The draft Standard Operating Procedures (SOP) manual defines the processes to be followed by the various sections within the LUU in executing its functions as required under the Land Use Decree 2010 and the Land Use Regulations. The draft SOP defines standard operating procedures for the following activities undertaken:

- i. Awareness program;
  - ii. Designation of land, that is, for both i`Taukei and State land;
  - iii. Registering of deed of trust for landowners;
  - iv. Land feasibility/capability studies;
  - v. Surveying of designated land, that is, for both i`Taukei and free hold land;
  - vi. Allocation of land, that is, for personal/individual applications for advertised vacant designated land, for business applications, and for interested overseas investors/applicants;
  - vii. Valuation work;
  - viii. Preparation of lease documents, and
  - ix. Advertising of vacant designated land.
- 4.1.3 The draft SOP manual for the LUU differs slightly from the MLMR SOP for Administration of State Land as the Land Use Decree 2010 and Regulations framework require additional procedures that cover for the Landowners consensual agreements, the Land Use Capability Reports, designations by the Honourable Prime Minister, the survey of i`Taukei and State lands, the Market Value Valuation on i`Taukei and State Land, surveying of i`Taukei lands and impositions of relevant leasing conditions as prescribed in the Decree and legislations. The LUU is also required to compile the SOPs for the administration of State Freehold purchased for land owning units through the Government Buy Back Scheme<sup>7</sup>.

<sup>7</sup> MLMR Land Use Unit Standard Operating Procedures (Draft) Para 5 of Preface

- 4.1.4 Since a draft SOP is not endorsed it may lack authority and be disregarded or not complied with by administrators, thus giving rise to noncompliance or inconsistencies in work practices, and which may also bring about a lack of accountability in officers for actions undertaken.

## 4.2 Lack of a performance bond policy

- 4.2.1 A Performance Bond is a form of guarantee to be submitted by a contractor who obtains a contract from the Government, and is held by the Government to protect its interest and to ensure that the contractor performs all obligations under a contract<sup>8</sup>. A policy should exist to clearly define the relevant arrangements and method to be used in charging and reimbursing such a bond.
- 4.2.2 The determination of performance bonds for procurements of goods and services by Government from a contractor is guided by the Procurement Regulations and the Ministry of Finance Determination of Performance Bond Policy 2013.
- 4.2.3 Audit noted that currently, there is no policy prescribing the imposition, receipt and subsequent release of performance bonds on leases issued under the land bank scheme. There is also no documented guidelines describing situations requiring performance bond, the basis on which performance bond is determined, and criteria for its subsequent reimbursement to the lessee (i.e. whether based on the performance of the lessee).
- 4.2.4 The performance bond is an upfront payment to be made by the lessee upon the commencement of the lease that will guarantee due performance of the project. It was established from records scrutinised that the Land Use Unit charged a performance bond for a number of leases issued for native land designated under the land bank. Refer Table 4.1 below for examples of some leases that were issued conditional to payment of a performance bond.

**Table 4.1: Leases issued conditional on payment of performance Bond**

Lessee	Type of Lease	Term of Lease	Amount \$
iViti Renewable Energy Power Plants Company Ltd.	Commercial/Industrial Energy Processing Plant	99 years	100,000
GS Energy (Fiji) Ltd.	Special Lease	99 years	100,000
National Spring Freshwater (Fiji) Ltd.	Industrial–Special Use	99 years	100,000
Tengy Cement Company (Fiji) Ltd.	Extraction–Soil, rock and soapstone	6 months	10,000
480 Holdings Ltd.	Water Extraction and Bottling	3 years	Lease agreement indicates a performance bond but no cost specified. No bond has been paid by the company

- 4.2.5 For performance bonds imposed on leases issued under a term of ninety nine years, the Memorandum of Lease provides that the bond will be reimbursed to the lessee within the next five

<sup>8</sup>Official Portal of Ministry of Finance Malaysia

years from the effective date of the lease if the Director of Lands is satisfied with the company's performance. This however requires the consent of the Director of Lands prior to uplifting of the bond.

- 4.2.6 Although a performance bond is required to be held by the bonder for the duration of the bond period, audit noted that the performance bond paid by Tengy Cement Company Fiji Limited was utilised to meet royalty payments for soil extracted as requested by the company during the bond period. Despite the performance of the company, in failing to comply with various conditions outlined in the MOA and its actions resulting in additional compensation paid by government, the LUU entertained its request for the use of the performance bond for royalty payments.
- 4.2.7 In the absence of a policy, basis of charging performance bonds and its subsequent reimbursements will be inconsistent and subjective.

### 4.3 Mortgage over designated leased land

- 4.3.1 'All leases issued under this Decree are protected leases. Therefore, it shall not be lawful for the lessee thereof to alienate or deal with the land comprised in the lease of any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the Director of Lands, shall any such lease be dealt with by any court of law or under the process of any court of law, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease'.<sup>9</sup>
- 4.3.2 Audit of lease files noted two incidences where lessees of native lands issued under a protective lease have applied for consents to a mortgage under the Crown Lands (Leases and Licenses) Regulations 1980 over the said native lands. The two applications for consents to mortgage have been consented to by the Director of Lands and are listed in Table 4.2 below.

**Table 4.2: Mortgages over native land leased**

Mortgaged Land	Land Area	Mortgagor	Mortgagee	Residential Address of Mortgagee	Sum Obtained for Mortgage
Matenamanu	71.0910ha	Iviti Renewable Disenergy Power Plants Company Limited	GS Energy Limited	18/8 Dennis Road, Springwood Queensland Australia 4127	AU\$466,950.21 plus interest and charges
Yaukuvelevu Island & Qasibale Island	54.6048 ha	Kokomo Resorts Limited	Senibong Properties PTE Limited	138 Cecil Street, #18-00 Cecil Court, Singapore, 069538	FJ\$9,292,352.00

The lessees as Mortgagors have mortgaged the leased land to the Mortgagee as security for payment of Secured Money.

- 4.3.3 Audit noted that Iviti Renewable Disenergy Power Plants Company Limited did not honour its obligation under the Memorandum for Lease resulting in its lease being cancelled. Claims made by the mortgagee for the substantial amounts of funding it had provided the lessee (mortgagor) resulted

<sup>9</sup> Land Use Decree, Part 5, section 12 (1)

in the cancellation of the lease. However the land was not re-advertised but was reissued to GS Energy Limited, having been the approved mortgagee for the land.

- 4.3.4 In addition it was also confirmed that currently there is no policy in place to clearly define the prerequisites pertaining to granting of 'consents to mortgage' land designated into the land bank.
- 4.3.5 The existence of a policy is necessary since the mortgaging of land usually provides security for the lessee in obtaining funds from financial institutions, and if which obligations are not honoured gives the lending institution the legal power to sell the land in order to recover its money.

Furthermore, the lack of a policy pertaining to granting of 'consents to mortgage' land designated into the land bank presents a susceptibility to manipulation, as investors (lessees) may use this instrument as a means of obtaining funds to be utilised for purposes other than as initially intended for the lease.

## 4.4 Lack of policy and guidelines on the administration of state freehold land under the buy back scheme

- 4.4.1 If the Trustees default in the due payment of the moneys herein before covenanted to be paid then the Minister shall rescind this agreement and require the trustees to hand over the vacant possession of the land to the Director of Lands and all moneys paid hereunder shall be forfeited<sup>10</sup>.
- 4.4.2 The Government Buy Back Scheme established in 1993 under Cabinet Decision No. 166 was an initiative of the then Government to assist original native landowners who had little or no cultivable agricultural land in buying back ancestral land alienated as freehold lands for their socio economic well-being.<sup>11</sup>

Under the Scheme, Government on behalf of native landowners purchased 26 private freehold lands with total land area of 8,520.74 acres at a fair and market price determined by government registered Valuers. The total sums paid by Government amounting to \$4,670,635.15 were treated as interest free loans with terms and conditions stated in the respective sales and purchase agreement (SPA) requiring that native land owners would pay back the money loaned from Government within 30 years interest free before the titles are transferred to them<sup>12</sup>.

- 4.4.3 However, most landowners that acquired lands under the Government Buy Back Scheme had difficulties in repaying their loans to Government. Attempts at assisting the LOUs were unsuccessful mainly due to a lack of capital as well as restrictions in accessing financial assistance from Banks and other lending institutions to enable them in developing their lands as titles for the lands were still held by the Director of Lands. Of the twenty six (26) LOUs assisted by Government, only one (1) LOU has

<sup>10</sup> Section 3(a) of Sale and Purchase Agreements between the Minister of Lands and Mineral Resources and Trustees of Land Owning Units purchasing land under the Government Buy Back Scheme

<sup>11</sup> Cabinet Memorandum, Current Status on the Freehold Lands Purchased by Government for original itaukei landowners under the Buy Back Scheme, May 2014; section 2.1

<sup>12</sup> Cabinet Memorandum, Current Status on the Freehold Lands Purchased by Government for original iTaukei landowners under the Buy Back Scheme, May 2014; section 2.2

completely paid off its loan of \$219,250.20 whilst four (4) LOUs have been up to date with their repayments.

As at 31/12/2011, twenty five (25) LOU's still owed Government a balance of \$3,423,551.34 in loans for the purchase of freehold lands on their behalf. Of this loan balance, \$881,915.07 constitutes arrears owed by twenty one (21) LOUs.

Of the remaining twenty one (21) LOUs, fourteen (14) are continuing their repayments while three (3) LOUs have not done any repayments since 2011. Four (4) LOUs have not made any repayments at all towards their loans due to the non-utilisation of the subject land on commercial basis and their unsuccessful fundraising drive to collect funds for repayment.

4.4.4 In February 2011 the Ministry of Lands prepared a Cabinet Memorandum for the purpose of seeking Cabinet's approval for the Land Use Unit to:

- i. lease lands purchased under the Government Buy Back Scheme under the Land Use Decree 2010; and
- ii. for the rentals to be directed to the repayment of the respective Land Owning Units (LOUs) outstanding loans to government

However it was confirmed during audit that the proposed Cabinet Memorandum was not tabled in Cabinet. Although it was established during interviews that designation was authorised by the Prime Minister, there was no documentation to corroborate this approval except for an endorsement on an unsigned file copy of IGCP (2011) of February 2011 with the statement "*PM's directive/ No Cabinet Paper but to proceed for designation*" dated 06/09/11.

4.4.5 Fourteen (14) freehold lands purchased under the Buy Back scheme were designated into the land bank between 15/04/11 and 20/11/12 and are listed in the Table 4.3 below. Of these, eleven (11) have been leased out by the Land Use Unit, with terms of the new leases ranging from thirty to ninety nine years.

**Table 4.3: Leases issued for buy back freehold land**

	Name of land	Loan balance	Date of designation	New lease issue date	New lease issued to
1	Dedega	92,000.00	15/04/11	01/08/11	Marika Dakuwaga
2	Matakunea	131,679.60	15/04/11	14/12/11	Lands Worth Co. Ltd
3	Marakalulu	100,000.00	15/04/11	01/07/12	Nabai Youth
4	Tova	55,000.00	15/04/11	25/05/12	Anasa Turaga and Susana Tale
5	Matasawalevu	72,000.00	15/04/11	08/03/12	Tahir Ali
6	Matasawalevu		15/04/11	06/07/13	Ganesh Prasad
7	Vakabalea	198,000.00	15/04/11	25/05/11	Kaiming Agriculture Investment Co. Ltd
8	Korodogo	24,000.00	15/04/11	01/07/12	Viliame and Kinisimere Kotoiovalau
9	Matavutou	60,000.00	15/04/11	29/05/12	Tevita Vuibau
10	Vunivesi	155,000.00	16/09/11	12/01/12	Jone Matawalu
11	Nasoqo	232,443.95	04/06/12	01/10/12	Lenaitasi Raidre
12	Namaqumaqua	223,950.00	15/04/11	n/a	
13	Nukuloa	100,000.00	15/04/11	n/a	
14	Matacadra	145,000.00	20/11/12	n/a	

4.4.6 A comparison of conditions of leases entered into initially with the land owning units and the new leases entered into above noted that:

- lease rentals for 4 new leases issued for lands located at Vakabalea, Matakunea, Matasawalevu, and Tova, were less than repayments required from LOUs. With the exception of lease issued for land at Matakunea, loan balances for the other 3 leases issued will not be recovered under terms of the new lease. For details refer table 4.4 below.

**Table 4.4: Inadequate new lease period to recover loan balance outstanding by LOUs**

New lease issued to (Location of Buy Back Land)	Loan balance as at 2011 \$	Rental payments as per SPA between Government and LOU \$/annum	Rental payments under new lease \$/annum	Term of New Lease	Number of years required to pay off balance of loan <sup>13</sup>	Remarks
Kaiming Agriculture Investment Company Ltd. (Vakabalea)	198,000.00	7,166.67 pa	5,820.00 pa	30 years	34 years	Loan balance of \$23,400 would still not be recovered
Landsworth Company Ltd. (Matakunea)	131,679.60	First 5 yrs-2,100.00 pa Next 25 yrs-5,100.00pa	4,400.00pa	30 years	30 years	ok
Tahir Ali (Matasawalevu)	72,000.00	2,400.00pa	900.00 pa	30 years	51 years	Loan balance of \$30,000 would still not be recovered
Ganesh Prasad (Matasawalevu)			500.00pa	30 years		
Anasa Turaga & Susana Tale (Tova)	55,000.00	2,000.00pa	1,000.00pa	30 years	55 years	Loan balance of \$25,000 would still not be recovered

- tenure of 3 new leases issued as listed in table 4.5 below are longer than the initial 30 year period granted to LOUs for the recovery of their loans

**Table 4.5: Lease periods longer than loan recovery period granted initially to LOUs**

New lease issued to (Location of Buy Back Land)	Loan balance as at 2011 \$	Rental payments as per SPA between Government and LOU \$ per annum	Rental payments under new lease \$ per annum	Term of New Lease	Remarks
Jone Matawalu (Vunivesi)	155,000.00	5,200.00 pa	5,200pa	50 years	Additional 20 years lease

<sup>13</sup> Assuming the contract rent remains the same for the entire lease period

Tevita Vuibau & William Salabogi Rabuku (Matavatuou)	60,000.00	2,000.00pa	2,000 pa	99 years	Additional 69 years lease
Nabai Youth (Marakalulu)	100,000.00	3,350.00pa	3,350.00pa	50 years	Additional 20 years lease

- 4.4.7 Despite the achievement, audit noted a lack of policy or guidelines articulating strategies for the management of buy back land such as administrative arrangements prior to issuance of new lease that ensures transparency and fairness to the LOUs; and terms of new leases such as duration of lease, and quantum of lease rental to ensure consistency of application, thus inhibiting audit from establishing the veracity of terms of new leases entered into with available criteria.
- 4.4.8 In the absence of strategies and clearly defined policies, the administration of buy back land may not be conducted in an efficient and effective manner.

## **RECOMMENDATIONS**

The Land Use Unit should:

- pursue the endorsement of its SOP to validate its authority;
- formulate a policy and specific guidelines on Performance Bonds which should clearly define the types of leases for which performance bond should be imposed, the formula to be used when calculating the bond, and the basis on which performance bond may be reimbursed to ensure consistency of application of performance bonds that uphold fairness for all investors, economic security for Government, and landowning rights for LOUs.
- develop a policy on consent to mortgage land prescribed under the Land Use Decree 2011 and Land Use Regulations 2011. The policy should incorporate specific requirements that guarantee funds obtained from the mortgaging of land are used primarily for the purpose of the project to which the lease was issued.
- develop appropriate policies/procedures to clearly outline necessary arrangements for administering state freehold land. This should include:
  - ✓ the relevant processes required prior to the issuance of a new lease that should take into consideration the provisions of the initial Sales and Purchase Agreement between respective LOU's and Government.
  - ✓ the appropriate term of lease to be imposed to the lessee considering the amount of repayments that has been done by the LOU and the remaining years for repayments. This would then determine the appropriate term of the lease issued by LUU.
  - ✓ method of determining lease payments to be made under the lease.
  - ✓ the ownership and tenure of the Buy Back lands after full payments have been made on the purchase price of the land.

## **Management Comments**

### 4.1 Use of Draft Standard Operating Procedures

*The Unit has always operated within the jurisdictions of the Land Use Decree and Regulations and more or less aligned ourselves to the SOP for Lands Department.*

*Agree to pursue the endorsement of the SOP for Land Use Unit*

### 4.2 Lack of a performance bond policy

*Currently the Unit has no policy of imposing, determination and release of Performance Bond however, has adopted the principle of Security as mentioned under item (9) of the Reference Schedule of a Registered Lease [Annexure A of the Land Use Regulations]. Further to this, FPO's guideline on Security Deposits had also been adopted.*

*We do agree that we need a policy in place to regulate this.*

4.3 Mortgage over designated leased land

*Provision is given under the Land Use Regulations Annexure B General Conditions.*

*We agree that we need a Policy in place for consent in line with usage of funds. This is to be done in mutual agreement with financial institutions.*

4.4 *Lack of Policy and Guidelines on the administration of state freehold land under the Buy Back scheme.*

*No policy in place, however directive was given from Minister of Lands & Mineral Resources to issue lease. Research on management of state freehold land under Buy Back Scheme is underway.*

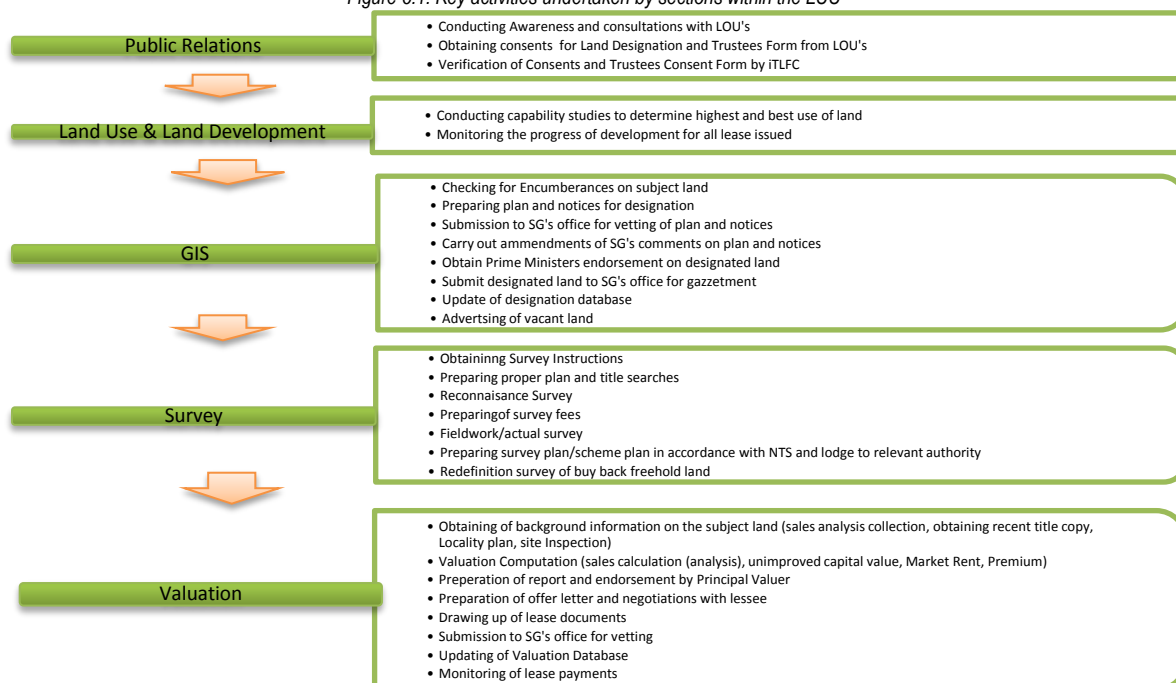
*To pursue Cabinet's approval on guidelines and policy on management of state freehold under buy back scheme.*

## 5.0 SYSTEMS AND PROCESSES FOR LAND DESIGNATION AND ALLOCATION

*This section of the report establishes the existence and effectiveness of arrangements in place for designation and allocation of native and designated state land. This will focus on the examination of systems and processes that the Land Use Unit uses to establish plan and manage activities related to the management of the land bank for the achievement of its objectives.*

- 5.0.1 The Land Use Unit, established under the Land Use Decree of 2010 as prescribed in the Republic of Fiji Islands Government Gazette Volume 11 No 78 issued on 2<sup>nd</sup> July 2010.<sup>14</sup>, is tasked with facilitating provisions in the Land Use Decree for longer tenure of leases for progressive developments of the agricultural and commercial sectors that is in the best interest of the land owners and tenants and for optimal returns to the State.<sup>15</sup>
- 5.0.2 The Land Use Unit is responsible for the valuation of land, issuance and renewal of lease, collection of rental; and other matters that may arise from time to time for land designated under the Decree by the Prime Minister. The core functions of the Unit are administered by five sections namely the Public Relations Section, the Land Use Section, the Geographic Information System (GIS) Section, the Valuation Section, and the Survey Section. The key activities undertaken by the respective sections within the LUU are illustrated in Figure 5.1 below.

Figure 5.1: Key activities undertaken by sections within the LUU



<sup>14</sup> Cabinet Memorandum – Current Status on Land Reform Programs 2013; section 2.1

<sup>15</sup> Cabinet Memorandum – Current Status on Land Reform Programs 2013; section 2.2

- 5.0.3 Observations arising from the review of the Land Use Unit's key activities in administering Government's land reform program are discussed below.

## 5.1 Deficiency in consultation and awareness

- 5.1.1 The Public Relations Team of the Land Use Unit, comprising of two officers, is responsible for creating awareness on the operations of the Land Use Unit and disseminating all relevant information to LOUs. The Team also organises consultations with LOUs.

The conducts of awareness programs by the Public Relations team sets the platform for the designation and the ultimate utilization of vacant land.<sup>16</sup>

The dissemination of all required information during the awareness programs and consultations conducted by the Public Relations Team ensures that LOUs are privy to all relevant information to make informed decisions.

- 5.1.2 The Draft SOP provides procedures for awareness creation at three levels:

- i. Awareness on Expo programs
- ii. Awareness for Provincial Council/Tikina meetings
- iii. Awareness on invitations by landowning units.

- 5.1.3 Audit established that the Land Use Unit usually undertook awareness activities mostly at the invitation of LOUs. The Unit rarely utilised other effective platforms such as Provincial Council meetings or Expo programs to create awareness.

- 5.1.4 The lack of awareness or deficiencies in communication strategies may have resulted in misunderstandings by the LOUs as reflected in responses from LOU members interviewed and in the media coverages on the issue.

Evidence of lack of understanding of LUU processes and administrative arrangements as outlined in the Land Use Decree 2011 and subsequent Land Use Regulations include activities that are undertaken by LOUs as listed in Table 5.1 below.

**Table 5.1: Activities carried out after designation of land into the Land Bank**

LOU	Location	Designation Date	Details
Mataqali Batileka	Koro Island, Lomaiviti	20/11/12	Land designated to land bank but LOU is cultivating land.
Mataqali Luvuka	Naviti, Yasawa	28/06/11	Following processes of advertising land by the LUU, one of the members of the LOU questioned the rights that LUU has in advertising the land when it has been agreed upon that the land be leased to him.

<sup>16</sup> Land Use Unit, Standard Operating Procedures, section 1

Mataqali Nakorosago	Nakorotubu, Ra	30/05/11	Land designated and surveyed but trees are logged by landowners.
Mataqali Nakausoqo	Toga, Rewa	06/04/12	Landowners raised through the Nai Lalakai publication of 27/08/14 their need and attempts for the return of their designated land due to delays in the leasing of land and failure to receive any lease payments.

- 5.1.5 The provision of all relevant information enhances transparency and clarity with the LOUs that reduce ambiguity and future misunderstandings between parties concerned. It enhances the LUU's credibility and fosters goodwill relationship with the LOUs via increased willingness in designating their land to the land bank.
- 5.1.6 The non-provision of complete and accurate information may lead to ineffective consultations.

## 5.2 Designation of land into the Land Bank

- 5.2.1 A Land Owning Unit will be deemed to consent to the designation of native Land (including where applicable native reserve) under the Decree, if a consent notice is delivered to the Minister signed by a minimum of 60 percent of qualifying members of the relevant Land Owning Unit<sup>17</sup>.

Upon receipt of the consent notice, the Minister must inform the Prime Minister and refer the land to the Prime Minister for designation<sup>18</sup>

The Consent notice must be in writing and lodged in Form 1 in the first schedule and must include all required information fully and correctly stated<sup>19</sup>

The Minister must not refer land to the Prime Minister for designation until such time as the consent of the Land Owning Unit has been first obtained<sup>20</sup>.

- 5.2.2 As required under the Land Use Regulations 2011, obtaining of consents from Land owning Units is the focal point for land designation and initialises the process for the ultimate utilisation of vacant land. The process involved for obtaining LOU consent and designation of vacant land is depicted in Figure 5.2 below.

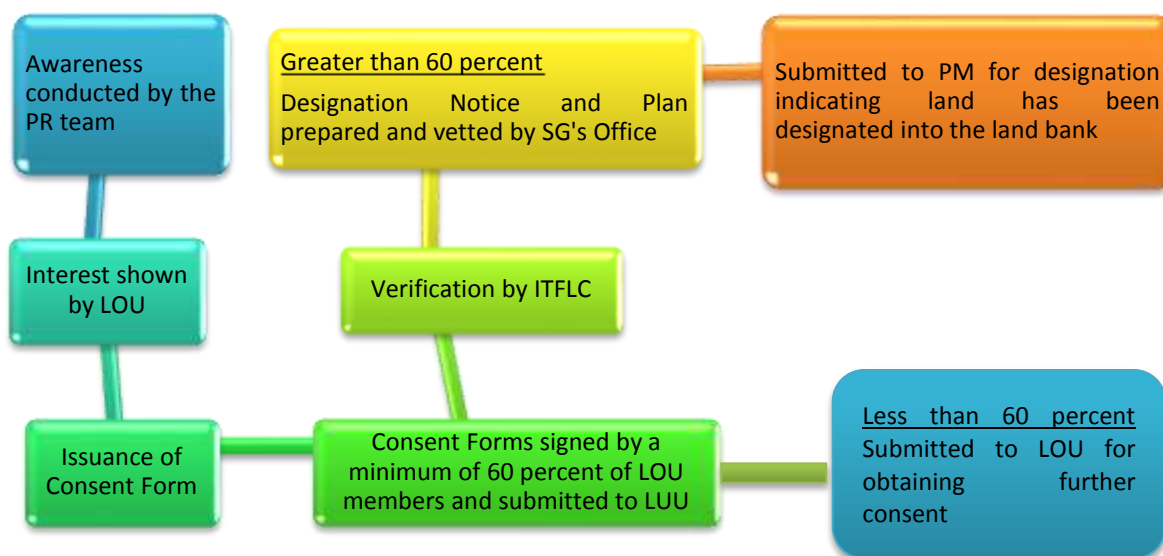
<sup>17</sup> Land Use Regulations 2010, section 4(1)

<sup>18</sup> Land Use Regulations 2010, section 4(2)

<sup>19</sup> Land Use Regulations 2010, section 4(3)

<sup>20</sup> Land Use Regulations 2010, section 4(4)

Figure 5.2: Process for Land designation into the Land Bank



- 5.2.3 Audit observed that the Land Use Unit followed due processes in obtaining consents from LOU's prior to the designation of land by the Prime Minister.

Despite the Minister for Lands and Mineral Resources also being the Prime Minister, the Land Use Unit ensured that all consent forms obtained from LOU's were vetted by the iTLFC and designation notice and plans were vetted by the Solicitor General's (SG's) Office prior to submission to the Prime Minister for designation of land.

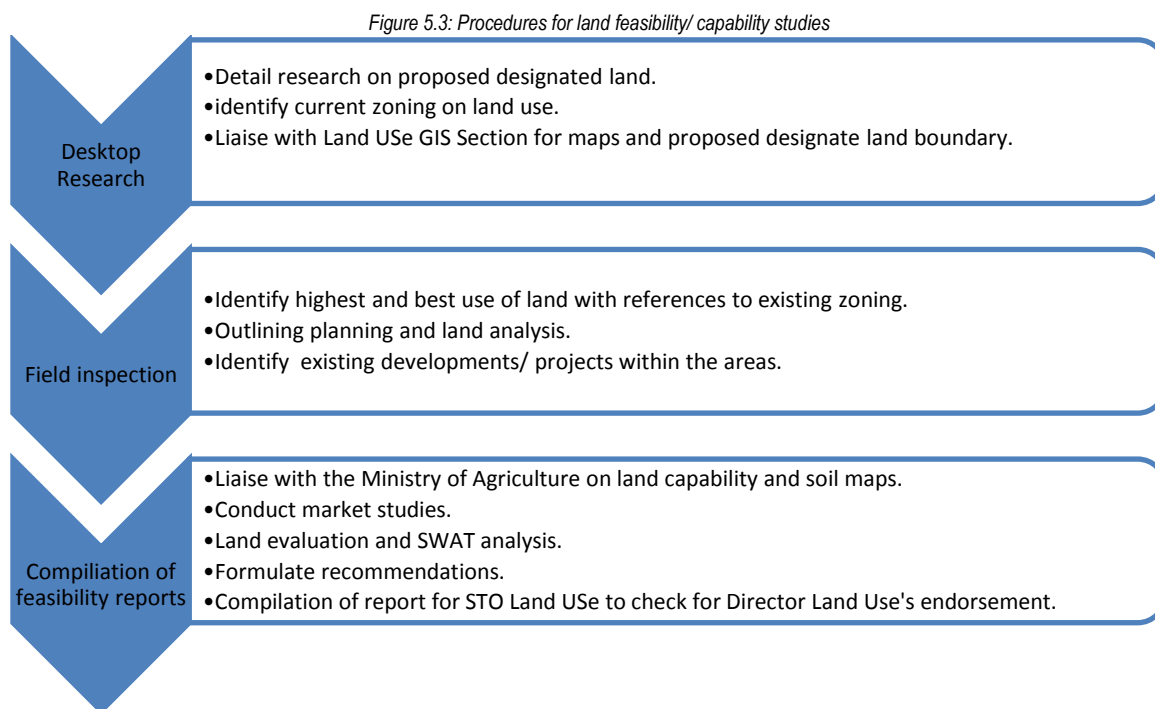
- 5.2.4 The adherence to proper processes ensures compliance to legislative requirements and counteracts future queries from members of LOU's.

## 5.3 Failure to appropriately conduct land capability studies

- 5.3.1 The land capability study reports set the platform for the types of development or land markets appropriate for any land to be designated. The physical inspections of landforms and developments, natural or man-made, with references to compiled land use maps and soil types may determine the viability for the highest and best use of such lands. The Land Use & Land Development Section of the Land Use Unit is responsible for conducting land feasibility studies<sup>21</sup>.
- 5.3.2 Capability studies are conducted to determine the highest and best use of the land and determine its viability to sustain future developments, or to provide valuable information to developers to assist in making concrete decisions on choosing appropriate project developments.

<sup>21</sup> Land Use Unit, Draft Standard Operating Procedures, section 4

- 5.3.3 Section 4 of the Land Use Unit's draft SOP provides procedures for the conducts of land feasibility studies for each of the three phases of desktop research, field inspection, and compilation of feasibility reports as illustrated in Figure 5.3 below.



*Source: Land Use Unit Draft Standard Operating Procedures*

- 5.3.4 Ideally, capability studies should be conducted prior to designation of land. However from its reviews of records held by the LUU, audit observed that land feasibility studies were not conducted for most of the land designated into the land bank. Although a total of 88 land parcels consisting of 71 native land, 3 state land, and 14 state freehold (under buy back scheme) had been designated into the land bank as at June 2014, only 13 capability study reports were provided by the Unit for audit scrutiny at the time of the audit.

Further assessment of the thirteen capability study reports sighted revealed that ten of the capability studies were undertaken after land had been designated into the land bank. Details are listed in Table 5.2 below.

**Table 5.2: Capability study conducted after designation of land into the land bank**

<b>Mataqali</b>	<b>Province</b>	<b>Date of Designation</b>	<b>Date of Capability Study</b>
Vunicibicibi state land	Macuata	15/04/11	17/05/13
Tokatoka Yavutu	Ba	30/05/11	09/02/12
Nakoso	Cakaudrove	15/09/11	15/11/12
Nakausogo	Rewa	06/04/12	06/09/13
Agnate Descendants of Mere Maramanivulu	Tailevu	15/07/12	27/05/13
Tokatoka Lalo	Ba	08/03/12	12/04/12
Yavusa Sivo	Ba	20/11/12	13/03/13
Volivoli	Cakaudrove	20/11/12	13/08/13

Navorara	Tailevu	02/06/13	06/09/13
Wayasewa	Ba	09/05/13	14/11/13

However audit gathered from interview with the STO Land Use Unit that, prior to 2013 the requirement to undertake feasibility studies for land before being designated into the land bank was not imposed, until 2013 upon the directive of the newly appointed Permanent Secretary for Lands.

- 5.3.5 In not conducting capability studies there is susceptibility that usage of the land is not properly identified, lack appeal to investors, and ultimately not utilised. For examples, listed in Table 5.3 below are designated lands which have still not been utilised due to factors such as the lack of access and other physical attributes of the land.

**Table 5.3: Designated lands which are still unutilised**

<b>Mataqali</b>	<b>Location</b>	<b>Designation date</b>	<b>Reasons for failure to utilise</b>
Tokatoka Yavutu	Nailaga, Ba	30/05/11	Rugged Terrain
Mataqali Yalimarawa	Nalotawa, Ba	15/09/11	Rugged Terrain
Mataqali Nakiakia	Wainibuka, Tailevu	17/11/11	No Access
Mataqali Nakorovatu	Wailutua, Naitasiri	23/01/12	No Access
Mataqali Naocokavika	Nabukaluka, Naitasiri	04/06/12	Rugged Terrain
Mataqali Qalitakala	Nakasaleka, Kadavu	15/07/12	Rugged Terrain
Tokatoka Lalo	Ba	08/03/12	Rugged Terrain
Mataqali Nakorosago	Rakiraki, Ra	06/02/13	Rugged Terrain

- 5.3.6 The conducts of capability studies after land has been designated is thus futile since the purpose of the study is to identify factors that may impede on the successful utilisation of the vacant land. The absence of carrying out proper feasibility studies prior to the designation of land may result in lack of interest by investors and non-utilisation of land.

Furthermore, failure to carry out a cost and benefit analysis may result in government failing to initially identify the costs and benefits related to creating access and developing the land.

## 5.4 Advertising of Designated Land

- 5.4.1 Interests in designated land can be registered either by responding to advertisements on local media or through queries channelled to the Land Use Unit for available land suitable for investments.

Advertising provides an effective platform of communicating to the public the availability of vacant land.

- 5.4.2 The Geographic System Information (GIS) Section of the LUU is responsible for preparation of locality diagrams and description for the advertising of vacant land designated under the land bank.
- 5.4.3 Procedures for the advertising of vacant land are provided for in the LUU's draft Standard operating procedures that are currently being used by the Unit.
- 5.4.4 Assessment of the advertisement processes of the Land Use Unit noted the following:

### 5.4.1 Failure to Advertise all designated Land

5.4.1.1 The Director must ensure that the availability of all designated land is advertised widely in appropriate newspaper or internet advertisements<sup>22</sup>.

5.4.1.2 Review of the LUU's processes in the advertising of vacant land noted that not all designated land has been advertised. Audit found for the years 2011 to June 2014, only twelve land parcels were advertised out of the 88 native and state freehold land designated. Furthermore, advertising of these lands were only conducted in the year 2013 in newspaper whilst no records of internet advertisements were maintained.

5.4.1.3 Enquiry into the reasons for the failure to appropriately advertise all designated land found that:

- i. some land designated into the land bank had interested investors whereby the LUU was only engaged to facilitate the need of the LOU and investor and formalise the arrangements in place. Examples are indicated in the table 5.4 below.

**Table 5.4: Land leased out to interested investors**

Mataqali	Investors	Audit Comments
Nalutu	Aurum Exploration Limited	Lease given based on the directive from PM
Noro	Aurum Exploration Limited	Lease given based on the directive from PM
Naicobo	Aurum Exploration Limited	Lease given based on the directive from PM
Leweinadroga	iViti Renewable Energy	Currently leased by GS Energy
Natusara, Kadavu	Kokomo Resort Limited	Lease Registered 08/05/12
Nabati	National Spring Fresh Water Fiji	Lease Registered 30/04/14
Nakorosago	480 Holdings Limited	Lease registered 04/07/14
Nakausoqo	Cimex	Offer issued on 19/07/13, acceptance of offer on 06/09/13. However issuance of MOL awaiting survey approval
Natodre	Equatorial	Lease offer made on 01/09/13

- ii. the Director Lands had issued verbal instructions to only advertise land with survey plans approved. Audit however found inconsistencies in advertising of land. Some lands were advertised prior to survey whilst others were not advertised despite the fact that survey plans had been approved. Examples are indicated in Appendices 1.1 and 1.2

5.4.1.4 Apart from noting that lands were being advertised prior to having capability studies conducted, audit also noted an instance where the stated purpose of the land as advertised in a newspaper daily was not consistent with the recommended use of the land after the conduct of the capability study, that is, designated land owned by mataqali Navorara in Tailevu initially identified for agricultural use when advertised on 20/07/13 was found unsuitable for agricultural use after capability study was conducted on 06/09/13.

5.4.1.5 In addition to the inconsistencies identified, audit also noted that the draft SOP of the LUU does not clearly define at what point after designation the land should be advertised.

<sup>22</sup> Land Use Regulations 2010, section 7(1)

- 5.4.1.6 Failure to document and align requirements of the Land Use Regulations, SOP and verbal instructions of Director Lands may result in inconsistencies in work practises.

## **5.4.2 Utilisation of effective platforms for advertising of vacant land**

- 5.4.2.1 Keeping the general public and especially investors informed of available land instigates the momentum for investments and subsequent economic growth<sup>23</sup>.
- 5.4.2.2 Audit found insufficient evidence that reflect efforts by the LUU in informing the general public and investors of the availability of vacant land. Audit noted that the LUU only placed twelve advertisements in the daily newspaper.

Although no records of internet advertisements were sighted, audit noted that advertisements were also placed on the Investment Fiji website. However it was confirmed that there were no formal arrangements in place between the LUU and Investment Fiji to allow for the marketing of available land.

- 5.4.2.3 Failure to utilise effective platforms for the marketing of available land impedes on the effective leasing and utilisation/development of vacant land.

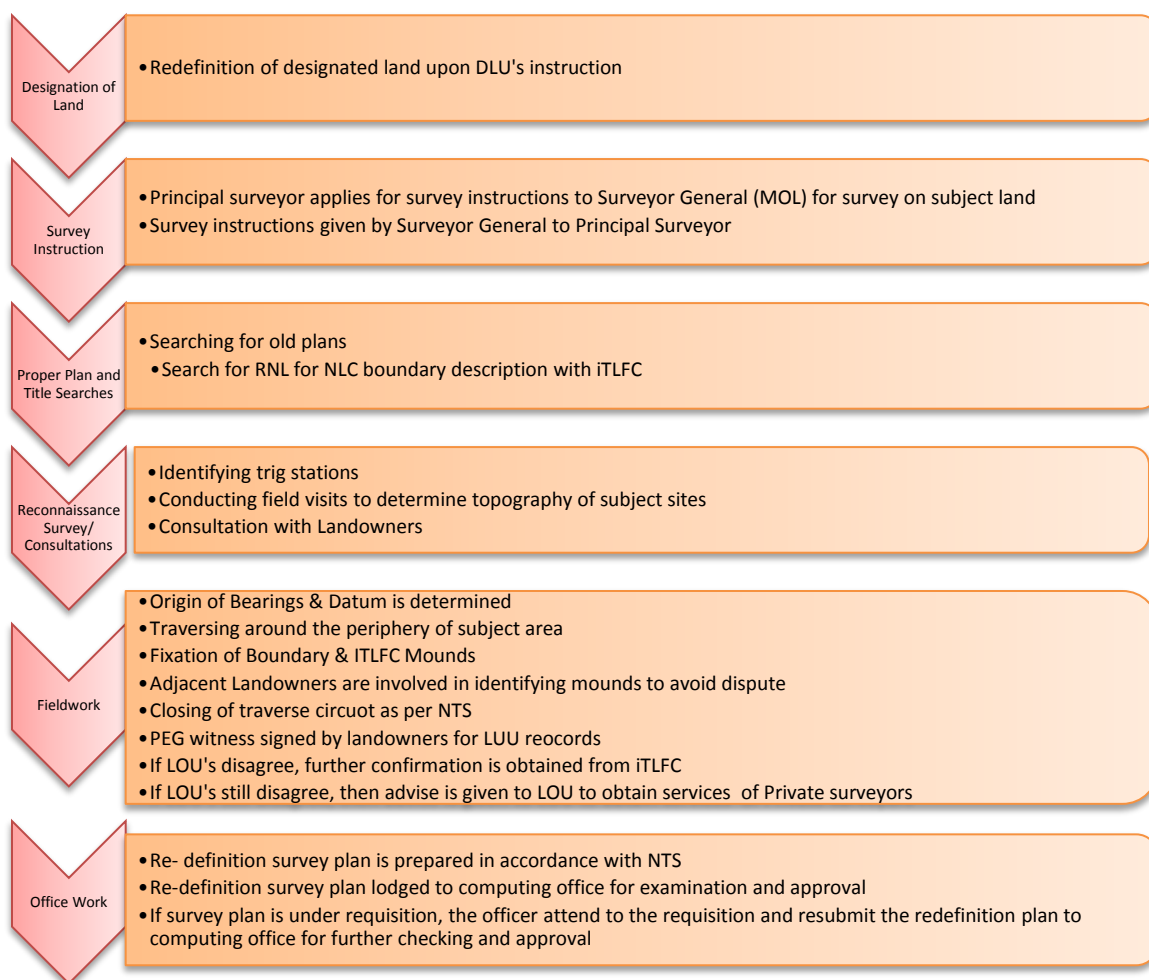
## **5.5 Issuances of lease prior to conducting surveys**

- 5.5.1 The Director must ensure that prior to granting any lease or entering into any agreement to lease with respect to designated land that (at the direction and on behalf of the Director) a professional land survey is undertaken with respect to any such designated land which is unsurveyed <sup>24</sup>.
- 5.5.2 Land survey involves a thorough examination or process of measuring land in order to establish land maps and boundaries for land ownership.
- 5.5.3 The Survey section within the Land Use Unit is responsible for carrying out surveys of native and state land designated into the land bank under the government's land reform program. Processes followed for surveying of land is outlined in Figure 5.4 below.

<sup>23</sup> LUU Standard Operating Procedure (Draft), section 9

<sup>24</sup> Land Use Regulations 2010, section 7(2)(a)

Figure 5.4: LUU Processes for Survey



5.5.4 Review of survey processes undertaken by the LUU found that some leases were issued prior to the conduct of survey and approval of survey plans. Whilst a Memorandum of Agreement (MoA) was issued to one company, memorandum of lease (MoL) was issued to other companies giving permission for the use of land as required under the terms and condition of the respective lease.

Table 5.5: Memorandum of Agreements issued out by the LUU

Land Name	Land Area	Lease Issued to	Registration date of MoL/MoA	Purpose for Lease
Lovonidali (part of)	26.1412ha	Aurum Exploration (Fiji) Limited	09/03/11	Access to Bauxite Mining and Campsite
Nawailevu (part of)	150.782ha	Aurum Exploration (Fiji) Limited	09/03/11	MOA issued for Mining Excavation site
Nawailevu (part of)	7.8868ha	Aurum Exploration (Fiji) Limited	09/03/11	Quarry and stockpile site
Natodre (part of)	16.5ha	Tengy Cement Company (Fiji) Limited	21/07/11	Commencing from 27/07/11 for the sole right of occupation, excavation and removal of soil, rocks and soapstone

- 5.5.5 It was established from discussions with the LUU officer that such leases were issued due to urgency expressed by the investor to carry out its intended developments. Thus survey works and obtaining survey plan approvals were considered cumbersome processes that delayed the entire process for obtaining the Memorandum for Lease.
- 5.5.6 Failure to carry out proper survey plans and monitoring of lessors' adherence to good engineering principles subjects Government to incurrence of additional costs.

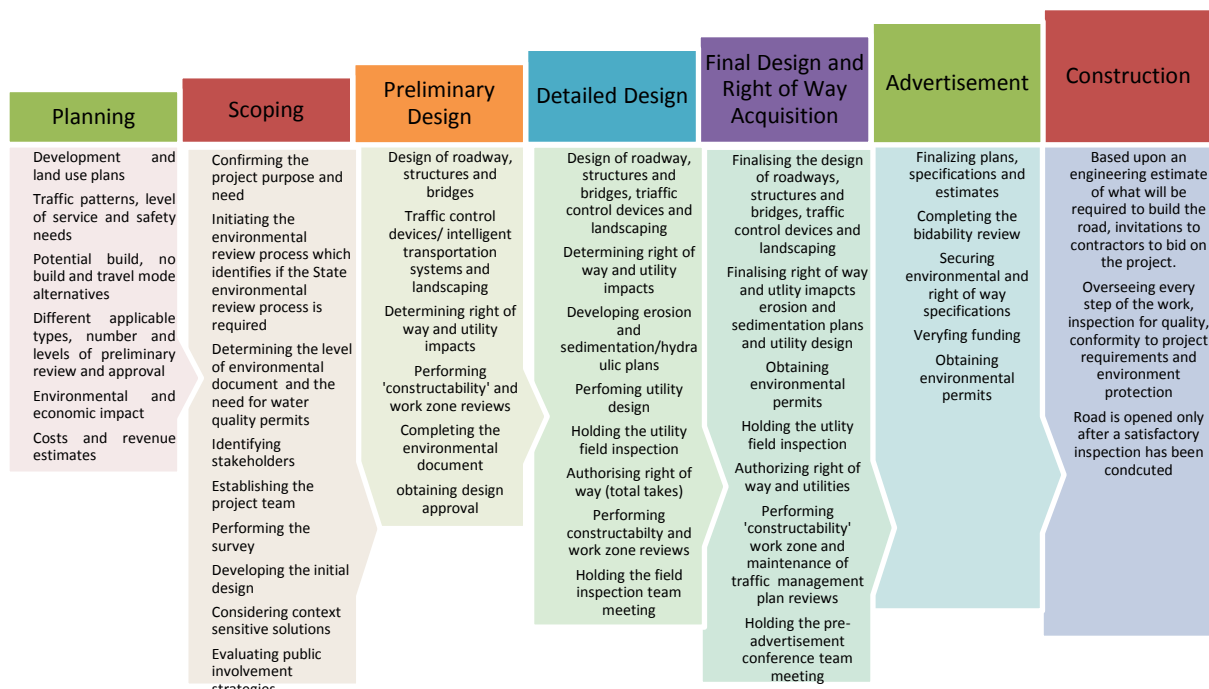
## 5.6 Construction of access roads

- 5.6.1 Pillar 6 of the Roadmap for Democracy Sustainable and Socio Economic Development 2011-2014 highlights Governments' efforts in making more land available for productive and social purposes. As such the Land Use Unit was established to administer government's land reform program through the designation and allocation of iTaukei and State land.
- 5.6.2 Whilst 79 percent of state freehold (buy back) land has been leased out since 2011, only a mere 15.5percent of native land has been successfully allocated for developments. One of the core factors attributed to the failure to lease out and develop most of these lands is the unavailability of access to the designated land that will attract interests from potential investors.

As such the government has allocated \$5 million annually for land bank investments that caters for capital projects in developing access roads that will promote the viability of land for investments.

- 5.6.3 The road building process can be a lengthy task depending on the unique circumstances, requirements, risks and complexities of each project. Figure 5.5 outlines the various phases in road building. Each phase indicates the various tasks involved however many of the tasks in each phase can occur concurrently.

Figure 5.5: Phases in road building



Source: <http://www.virginiadot.org/projects/pr-howroadblt.asp>

5.6.4 Audits assessment of the acquisitions carried out by the LUU noted the following:

### 5.6.1 Absence of defined processes for access road construction

5.6.1.1 Policies and procedures should be clearly defined and documented to ensure compliance to relevant laws and regulations, operational needs of the agency are effectively met, risks are managed and organisational performance is continuously improved.

5.6.1.2 Audit found that processes outlining the various activities that have to be undertaken by the LUU for the construction of access roads are not documented in the agency's SOP. As a result processes have not been carried out in a coherent manner as evident in item 5.6.2.

5.6.1.3 In the absence of documented procedures, tasks may not be carried out in an efficient manner and creates the risk of mistakes that may prove costly and uneconomical for government.

### 5.6.2 Payments for acquisitions made prior to obtaining engineering designs

5.6.2.1 Commitment of funds and payments for road acquisitions should only be made after proper planning and designs are carried out.

5.6.2.2 Since 2011, the LUU has been making payments for land acquisitions to provide for the construction of access roads. Payments for acquisitions are made in the following manner:

- 75 percent of the selling price is paid within one month of the date of the SPA; and
- 25 percent is paid within the two years based on the survey or in the event the survey is not completed within two years, the payment is made at the end of the two years.

5.6.2.3 Review of acquisition procedures undertaken by the LUU noted that no engineering designs were obtained prior to payments for acquisition of lands to be utilised for the construction of access roads.

Audit noted that as at June 2014 the LUU had made total payments of \$2,447,150 for acquisition of lands. However no engineering designs were obtained to determine the most appropriate location, alignment, shape and other significant details of the road that support basis of acquisition payments. Listed in table 5.6 below are details of payments for acquisitions over the years 2011 to June 2014.

**Table 5.6: Total value of acquisitions by the LUU**

Vendor	Date of SPA	Area acquired	Total value of compensation as per SPA \$	Amount \$
The Trustees of the Roman Catholic Archdiocese of Suva	19/07/11	6180m <sup>2</sup>	300,000	300,000
The Trustees of the Roman Catholic Archdiocese of Suva	05/06/12	6449m <sup>2</sup>	315,000	236,250
Surome Preminder Singh, Anil Jatindra Singh, Kiran Sarita Singh of Australia	20/01/12	3.269acres 13229m <sup>2</sup>	500,000	500,000
Itaukei Lands Trust Board on behalf of the trustees of Mataqali Nabaramai	24/10/11	11329m <sup>2</sup>	290,000	290,000
Trustees of the Mataqali Natodre	28/09/11	5785m <sup>2</sup>	230,000	230,000
Trustees of the Mataqali Natodre	11/01/12	70,000m <sup>2</sup>	700,000	700,000
Itaukei Lands Trust Board on behalf of the trustees of Mataqali Nakaubeqa	02/11/11	4471m <sup>2</sup>	115,000	115,000
Trustees of the Mataqali Korinikula, Tokatoka Saravi	07/05/12	7771m <sup>2</sup>	2,200	1,650
Mataqali Baleimoto	19/07/13	373 acres	32,000	24,000
Mataqali Nairairavanua	15/11/13	1.23 acres	11,000	8,250
Mataqali Tora	14/08/13	6.68 acres	56,000	42,000
Yavusa Viwa		1.81 acres	17,000	
Yavusa Nakoro		1.59 acres	14,000	
Yavusa Verata		1.28 acres	12,000	
Mereani Tokainamena & Virendra Singh		9881m <sup>2</sup>	8,800	
Jai Govindra Chandrika Prasad		4 acres	38,000	
Tokatoka Tubalomawai			10,000	7,500
<b>Total</b>			<b>\$2,651,000</b>	<b>\$2,447,150</b>
<b>Percentage (%)</b>			<b>92.31%</b>	

5.6.2.4 Audit confirmed from interviews carried out with relevant officers that the LUU does not have qualified personnel to conduct engineering designs for road construction. Audit noted that despite the lack of technical skills within the LUU, the Unit did not outsource nor engage the services of suitable companies/individuals for the provision of road engineering designs prior to making payments for land acquisitions.

5.6.2.5 The acquisition of land without obtaining the necessary engineering designs give rise to risks of errors in actual road construction, variations in area of land acquired and uneconomical use of funds.

### 5.6.3 Additional acquisition due to error in construction of Natodre Access Road

5.6.3.1 Construction of any access road should only be conducted after proper planning and design as the factors considered and decisions made in each phase represents the fundamental building blocks of a good road to avoid costly mistakes.

5.6.3.2 Audit gathered in one instance that significant phases for the construction of access roads were overlooked, that is, the lessee was allowed to construct access road without an approved survey plan or an engineering design for the proposed road.

5.6.3.3 Memorandum of Agreement (MoA) dated 21 July 2011 authorised Tengy Cement Company (Fiji) Limited to extract soil, rock and soapstone from a 16.5 acre land in Natrodre known as Lot 36 (part of) NLC 963 in the province of Rewa, despite the land being unsurveyed. Since there was no access to the extraction site, the LUU gave consent to the Company to construct the access road. However approval to construct access road was granted without acquiring an approved survey plan or an engineering design for the proposed road.

5.6.3.4 The absence of engineering design and approved survey plans resulted in actual road constructions exceeding required road alignment of 20 metres (refer photo 5.1) by an additional 20 metres, and consequently trespassing and damaging freehold land belonging to the Roman Catholic Church (RCC) as reflected in Photo 5.2 below. The RCC demanded compensation for trespass and damages vide correspondence dated 16/09/11. Thus Government paid an additional sum of \$315,000 to acquire land on Lot 2 DP7048 that suffered damages.

Photo 5.1: Initial construction area based on 20m alignment



Photo 5.2: Illegally constructed area based on 40 metre road alignment



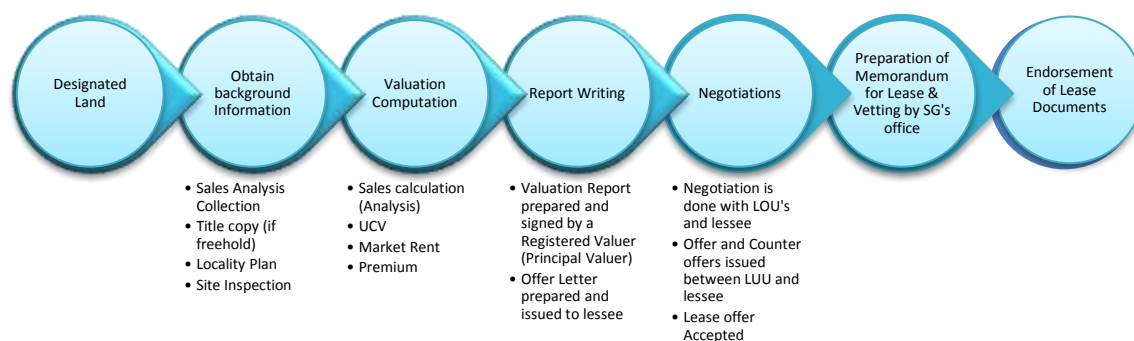
5.6.3.5 Failure to conduct proper planning and adhere to good road building practices may result in costly mistakes that are uneconomical for government.

## 5.7 Valuation conducted prior to land survey

5.7.1 The Director must ensure that following the designation of the land and at least once every 5 years thereafter an assessment of the fair market rent of all designated land is undertaken in accordance with the best principles and practices of valuation and any guidelines or directions made by the Minister<sup>25</sup> The Director must ensure that the most recent assessment report is available for inspection by the Minister<sup>26</sup>

5.7.2 The valuation section within the Land Use Unit is responsible for carrying out valuations of all land designated into the land bank. The process involved in the valuation of land is depicted in Figure 5.6 below.

Figure 5.6: Valuation Process of the LUU



5.7.3 Audit found that not all designated land has been valued by the LUU. Interview with the Valuations Officer noted that valuations are only conducted for land that has received interest for leasing whereby the fair market value of the land is determined using the comparable sales method of valuation.

5.7.4 The price imposed on the lessee is based on the market value of the land to which a certain percentage is charged as a premium and the rest to be paid as rental payments over the years.

5.7.5 Furthermore, as outlined in the LUU draft SOP for Valuation work, 'The Principal Valuer in collaboration with Director Land Use issues instructions to Senior Valuer or Valuers for the valuation of the designated land after land surveying is completed'.<sup>27</sup>

<sup>25</sup> Land Use Regulations 2010, section 8(1)

<sup>26</sup> Land Use Regulations 2010, section 8(2)

<sup>27</sup> LUU Standard Operating Procedures, section 7(a)

The LUU's draft standard operating procedures also incorporates the need to consider the highest and best use of the land outlined in the feasibility study reports when conducting valuations.

- 5.7.6 Audit found that there were instances where valuations were conducted prior to the actual survey of vacant land and in the absence of capability study reports whereby such studies were not conducted. Examples are reflected in table 5.7 below.

**Table 5.7: Land valued prior to survey**

LOU	Date of Valuation	Date of Survey	Audit Comment
Qalitu	15/07/14	Survey yet to be conducted	Land yet to be designated
Navora	*	February, 2014	Lease issued to FEA
Nananu	*	June 2012, October 2013	Lease issued to National Spring Fresh Water
Matenamanu (part of)	*	January 2011	Lease issued to Iviti Renewable Disenergy Power Plant Limited
Natodre– Aurum Fortis	*	January 2014	Lease offer now issued to Equatorial
Nawailevu (part of)	*	August 2011	Lease issued to Vodafone Fiji Limited

\* valuation reports did not include the dates when valuations were conducted. However discussions with valuation officer noted that valuations are always conducted prior to survey to facilitate for investors in knowing the value of the land prior to investing.

- 5.7.7 Interview conducted with a Valuations officer noted that this was usually undertaken when an investor has shown vast interest in leasing the land; hence to speed up the process, valuations are conducted prior to actual land survey.
- 5.7.8 In addition, recent assessment reports of all valuations conducted were not readily available as required under the Land Use Regulations. Interview with Valuations officer noted that valuation reports are maintained by respective officers conducting the valuations and a copy is filed. Review of some files noted that this was not done.
- 5.7.9 Conducting valuations prior to actual land survey and the failure to consider factors outlined in the capability study reports may create the risk of incorrect valuations of designated land.

## 5.8 Issuance of lease without submission of relevant documents and conducting proper checks

- 5.8.1 Any person may apply to the Director for the grant of a lease of designated land.<sup>28</sup> The application must include any information required by the Director or the Minister including (where applicable details of-
- a.) the proposed lessee, including details of the financial standing of the lessee and details of the person or persons in ultimate control of the lessee;

<sup>28</sup> Land Use Regulations 2010, section 9(1)

- b.) The proposed lease premiums, rent, rent adjustment and rent review and any other financial consideration to be provided by the lessee;
- c.) The proposed term and estimated commencement date;
- d.) The proposed use, including details of any environmentally sensitive or hazardous uses;
- e.) The proposed development, including details of the likely environmental impact of the development;
- f.) Any security or third party guarantees to be procured by the lessee; and
- g.) Any other lease held by the lessee. The applicant or any person associated with the lessee or the applicant and the state or the Director<sup>29</sup>

5.8.2 The Land Use Unit has in place two standard forms for application of lease which requires the submission of various documents by the applicant as indicated in the table 5.8 below.

**Table 5.8: Requirements for Lease Application**

Form	Information to be provided
<b>Business Application</b>	<ol style="list-style-type: none"> <li>1. Certified Certificate of Company Registration for Business Applicant</li> <li>2. Pay slip by employer, FNPF latest statement and bank statement. Other acceptable capital confirmations include financier supporting letter</li> <li>3. 5 years cropping program. If applying for agricultural land (which can be obtained from any agricultural department nearest to your area of application)</li> <li>4. Title of the Property/properties owned by the company.</li> </ol>
<b>Personal/Individual Application</b>	<ol style="list-style-type: none"> <li>1. Certified Marriage Certificate</li> <li>2. Applicants Certified Birth Certificate</li> <li>3. Certified Children's Birth Certificate</li> <li>4. Pay slip by employer, FNPF latest statement and bank statement. Other acceptable capital confirmations; include support letters from family members with capital availability details</li> <li>5. 5 years cropping program. If applying for agricultural land (which can be obtained from any agricultural department nearest to your area of application)</li> <li>6. Utility bill under your name for confirmation of postal address</li> <li>7. Title of the property owned by applicant</li> </ol>

5.8.3 Audit found that proper screening was not conducted for most leases issued under the land bank. Most leases were issued in the absence of relevant documents and incomplete application. Crucial information to ascertain the applicant's financial position and ability to successfully carry out the type of development were not submitted. Details attached as appendix 2.

Interview with Director Land Use Unit (DLU) noted that heavy reliance is placed on the Fiji Investment Registration Certificate (FIRC) issued by Investment Fiji. LUU issues the lease based on the understanding that Investment Fiji has carried out proper checks prior to the issuance of FIRC. However, Interviews with relevant personnel at Investment Fiji noted that Investment Fiji only conducts

<sup>29</sup> Land Use Regulations 2010, section 9(2)

primary checks on the investor which does not include financial checks. The issuance of the FIRC implies that the investor has only complied with the requirements of Investment Fiji and is not a basis for reliance by other agencies.

- 5.8.4 Furthermore, audit found that failure of the LUU to properly screen applicants have resulted in the cancellation of lease to Iviti Disenergy Processing Plant (Fiji) Limited due to the inability of the company to make lease payments.
- 5.8.5 Issuance of lease without carrying out proper assessments may create the risk of engaging fly by night investors.

## **RECOMMENDATIONS**

The Land Use Unit should:

- disseminate all significant information to LOU's during the awareness creation forums to ensure that landowners are properly informed of all the benefits and implications of designating their land into the land bank and enable them to make informed decisions.
- have a more proactive approach in planning out awareness activities and consider utilising other effective platforms for creating awareness on land bank activities such as attending Provincial Council meetings, Expo programs, road shows, etc.
- prior to designation of any land, conduct a capability study to identify the best use of the land, and for valuation assessments of the land. The capability report should also include a cost and benefit analysis of developing the land to ensure maximum returns to the LOU, the lessee and the Government.
- clearly define procedures in relation to the advertisement of vacant land in the LUU's SOP to ensure officers are clearly aware of when to advertise available land.
- utilise other effective platforms for the advertising of vacant lands. Furthermore, the LUU should communicate and work towards formalising an MOU with Investment Fiji to advertise all available land to be utilised under the Land Use Decree 2010.
- ensure a proper survey is carried out and approved plans are obtained prior to the issuance of any lease. In instances where MOA is issued pending survey approval, consistent surveillance needs to be carried out to ensure conditions of the agreement are complied with.
- document acquisition procedures in its SOP that outline the various processes that need to be followed prior and during the engagement of any third party for actual access road construction.
- ensure that proper planning is conducted and good engineering principles are employed prior to incurring payments for acquisitions of land, as well as actual construction of any access road.
- conduct valuations prior to conducts of land surveys that can be used as an estimate of the value of land. However the LUU should conduct a proper valuation of the land after an actual survey has been conducted. Moreover, in conducting the Valuation, factors outlined in the land feasibility reports should also be considered.

- ensure that applicants provide all necessary information which should be carefully assessed by a lease allocation committee, prior to recommending for the grant of a lease.
- strengthen coordination between Investment Fiji by having an MoU that clearly defines each agency's responsibility in conducting background checks on foreign investors. Furthermore, trainings should be provided to relevant personnel of the LUU on effective ways to carry out background checks.

## **Management Comments**

### Deficiency in Consultation and Awareness

*Agree with findings. To pursue endorsement of the SOP and review staff establishment. Relevant training for Communication and Negotiation Skills is being encouraged.*

### Designation of land into the Land Bank

*No comments on the issue.*

### Failure to appropriately conduct land capability studies

*Disagree as it defeats the objective of Land use Decree. Continue with the current practice and challenge is on Land Use Unit to identify strategies on best usage of land. More research work is also necessitated.*

### Advertising of Designated Land

*Agree. Pursue endorsement of SOP*

### Issuances of lease prior to conducting surveys

*Agree that some leases were issued subject to Survey. Adhere to Land Use regulation as it only allows for MOL*

### Construction of Access Roads

*LUU carries out Land Acquisition for access roads and only facilitates engineering designs and construction projects. Pursue the endorsement of the SOP*

### Valuation conducted prior to land survey

*Preliminary site inspections and sales analysis are carried out once survey works begin. We can only set a Value once the subject is regularised or surveyed*

### Issuance of Lease without submission of relevant documents and conducting proper checks

*Affirm Audit Report findings. Review SOP to capture due diligence checks of foreign investors.*

## **Further OAG Comments - Failure to appropriately conduct land capability studies**

Audit's recommendation for carrying out of land capability studies prior to designation of land should not be seen as an activity that defeats the objective of the Land Use Decree. The recommendation is based from the following findings:

- when capability studies were conducted after land designation, the purpose of lease advertised was inconsistent to what was identified in the capability study report. Eg, designated land owned by mataqali Navorara in Tailevu initially identified for agricultural use when advertised on 20/07/13 was found unsuitable for agricultural use after capability study was conducted on 06/09/13.
- At the time of audit only 15.5% of native land designated into the land bank had been successfully leased out. Most lands designated are located in inaccessible areas and/or affected by their physical attributes resulting in their lack of appeal for investment.

The capability study report should be a basis of providing crucial information to the Prime Minister (who has the sole authority to designate land) valuing officers, surveyors, interested investors and other relevant users of the type of development most suitable for the subject land. The capability/feasibility study report can be used as a basis for identifying and forecasting related costs for developing the land to ensure development of the land is economical for government and ultimate leasing of the subject land.

## 6.0 RECORDING AND MONITORING OF LAND BANK ACTIVITIES

*This section of the report seeks to determine the effectiveness and efficiency of recording and monitoring arrangements in place within the Land Use Unit.*

### 6.1 Systematic recording of Land Bank activities

6.1.1 Information is every organisation's most basic and essential asset, and in common with any other business asset, recorded information requires effective management.<sup>30</sup>

Records management is the systematic control of an organisation's records, throughout their life cycle, in order to meet operational business needs, statutory and fiscal requirements, and community expectations.

6.1.2 The systematic management of records allows organisations to:

- know what records they have, and locate them easily
- increase efficiency and effectiveness
- make savings in administration costs, both in staff time and storage
- support decision making
- be accountable
- achieve business objectives and targets
- provide continuity in the event of a disaster
- meet legislative and regulatory requirements
- protect the interests of employees, clients and stakeholders

6.1.3 Assessment of the Land Use Unit's records management processes noted the following:

#### 6.1.1 Absence of a Land Bank database

6.1.1.1 There shall be a register known as the Land Use Bank keeping a record of all land utilized under the Decree.<sup>31</sup>

6.1.1.2 Audit found that the LUU does not have a database to allow for systematic recording and reporting of land designated and utilised under the Land Use Decree 2010. However, manual records are maintained and updated on spread sheet which records the following:

- i. iTaukei Land designated

<sup>30</sup> <http://www.nas.gov.uk/recordKeeping/recordsManagement.asp>

<sup>31</sup> Land Use Decree 2010, section 7

- ii. State freehold (Buy back)/State Land designated
- iii. Leases given out
- iv. Interests shown by LOU's

The Valuation Section also maintains separate spread sheet records of all valuations conducted and lease monies received and due from leases issued under the land bank.

- 6.1.1.3 Although a sum of \$100,000 was provided in the Department's annual Budget for 2013 and 2014 for the development of a land bank database, this has not eventuated.

However the LUU had prepared a Terms of Reference (ToR) which indicated that the project should have been carried out from June 2013 and the assignment should have been completed by October 2013. The Term of Reference for the expression of interest in designing the database still had not been advertised at the time of audit.

- 6.1.1.4 Constant delays in advertising of the ToR adversely influence the timely completion of the land bank database to allow for systematic, accurate and efficient recording of land bank transactions.

## 6.1.2 Failure to record complaints

- 6.1.2.1 Complaints provide a rich source of information about how well an agency is performing and what improvements it might make.

Complaint information can provide a picture of weaknesses in existing programs, policies, and service and program delivery. This is, however, only possible if good records are kept and the information is regularly analysed<sup>32</sup>.

- 6.1.2.2 Audit found that the Land Use Unit does not maintain any record of complaints received. Due to continuous staff movements new staffs are not aware as to whether complaints were received; hence the effectiveness of the LUU's in attending to the complaints could not be ascertained.

Review of files and discussions with some officers who had been with the LUU's since inception found that complaints were received by the Unit however these were not recorded.

- 6.1.2.3 Failure to maintain proper records of complaints may result in the failure to address significant issues in a timely manner and impede on the effectiveness of service delivery.

## 6.1.3 Absence of Proper Documentation

- 6.1.3.1 Record keeping refers to the entire range of functions involved in creating and managing records throughout their life cycle.

<sup>32</sup> Commonwealth Ombudsmen - Better Practice Guide to Complaints Handling, section 5.1

Records contain information that is needed for the day to day work of government. Their purpose is to provide reliable evidence of, and information about, 'who, what, when, and why' something happened<sup>33</sup>.

6.1.3.2 More often, recordkeeping is a matter of policy and good business practice, developed over time and "built into" work processes, to ensure that the organisation can:

- refer to records of past transactions in order to perform subsequent actions;
- produce evidence of financial or contractual obligations, to avoid dispute or protect against legal liability;
- draw on evidence of past events to make informed decisions for the present and future; and
- account for its actions and decisions when required to do so<sup>34</sup>.

6.1.3.3 PSC Circular No. 10/2011 issued advice to all Permanent Secretaries and Heads of Departments for the implementation of the National Records Management policy in all Government Ministries, Departments and agencies.

6.1.3.4 The underlying objective of the policy is to state government's commitment to achieving best practices in its recordkeeping that will support good governance, assign responsibilities for good recordkeeping and establish essential baseline requirements throughout the public service and statutory bodies.<sup>35</sup>

6.1.3.5 Audit of the LUU records found that proper record keeping practices were not effectively implemented. Instances where these were noted are indicated in the table 6.1 below.

**Table 6.1: Examples of poor record keeping**

Sections	Evidence of Poor Record Keeping												
Public Relations	<ul style="list-style-type: none"><li>Awareness reports were not properly maintained. Whilst interview with officer noted that awareness and consultations were conducted with a number of LOU's no reports were sighted as evidence. This includes:<table><tr><th>Year</th><th>Number of Consultation/Awareness conducted</th><th>Number of reports sighted</th></tr><tr><td>2011</td><td>35</td><td>0</td></tr><tr><td>2012</td><td>25</td><td>10</td></tr><tr><td>2013</td><td>25</td><td>19</td></tr></table></li><li>No spread sheet record of all the awareness conducted, dates they were conducted and necessary action to be taken to systematically record and update officers on the needed action, eases reporting and assess performance of the section.</li><li>Consent forms signed by 60% of LOU members not filed with verification from iTLFC</li></ul>	Year	Number of Consultation/Awareness conducted	Number of reports sighted	2011	35	0	2012	25	10	2013	25	19
Year	Number of Consultation/Awareness conducted	Number of reports sighted											
2011	35	0											
2012	25	10											
2013	25	19											
Land Use	<ul style="list-style-type: none"><li>Feasibility study reports not properly filed away for ease of access/retrieval by prospective users.</li></ul>												
GIS	<ul style="list-style-type: none"><li>Advertisements conducted not properly maintained, especially internet advertisements. Interview with officers noted that advertisements were also done on Investment Fiji website. No records sighted as evidence</li><li>Signed copies of Memorandum for lease not filed</li><li>Errors on Spread sheet records as indicated below.</li></ul>												

<sup>33</sup> [http://www.gov.mb.ca/chc/archives/gro/recordkeeping/about\\_records.html](http://www.gov.mb.ca/chc/archives/gro/recordkeeping/about_records.html)

<sup>34</sup> [http://www.gov.mb.ca/chc/archives/gro/recordkeeping/about\\_records.html](http://www.gov.mb.ca/chc/archives/gro/recordkeeping/about_records.html)

<sup>35</sup> PSC Circular No: 10/2011, section 1.2

	LOU/Land Name	Error noted	Details
	Mataqali Naicobo	Land recorded twice	As per designation listing
	Mataqali Korinikula	Land recorded twice	As per designation listing
	Nawailevu (part of)	Date of Lease issuance recorded wrongly	Lease issued to Vodafone Fiji Limited
	Nalutu	Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet	Lease issued to Aurum Exploration Fiji Limited
	Matenamanu (part of)	Area leased out on Memorandum of Lease is not consistent to the area leased out on spread sheet	Lease issued to IViti
Valuation	Valuation reports not filed for some of the leases issued. Interview with officers noted that valuations are done by respective officers and a copy filed. Copies of valuation reports not maintained by the section but by individual officer doing the valuation. Valuation report done by officers who had moved from the LUU could not be obtained.		
Survey	All costs incurred for each land survey work are not recorded. The LUU imposes the survey costs on the lessee, however proper records of these are not maintained to ensure the accurate fees are imposed on the lessee.		

6.1.3.6 Continuous staff movements and the failure to observe good record keeping practices has resulted in the failure of current officers to understand how certain activities were previously carried out.

6.1.3.7 Failure to observe proper record keeping may create the risk of losing significant information, disrupt the consistent flow of work processes and indicates a lack of transparency and accountability of the department.

## 6.2 Monitoring of Land Bank activities

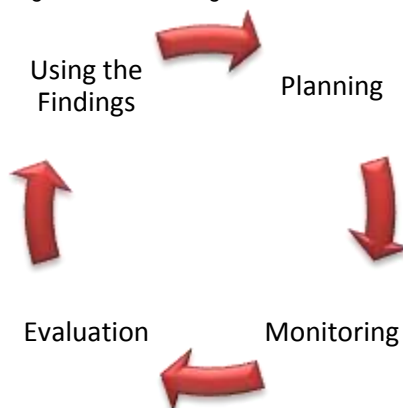
6.2.1 Monitoring progress and evaluating outputs and processes is key to constantly improving the performance of an organisation.

Monitoring refers to the systematic process of observing, tracking, and recording activities for the purpose of measuring program or project implementation and its progress towards achieving objectives. Information gathered through monitoring is used to analyse, evaluate all of the components of a project or a department in order to measure its effectiveness and adjust inputs where necessary<sup>36</sup>.

6.2.2 There are four key phases in the monitoring and evaluation cycle, which includes:

<sup>36</sup> <http://www.investorwords.com/19314/monitoring.html>

Figure 6.1: Monitoring and Evaluation Process



Source: <http://www.ces-vol.org.uk/about-performance-improvement/about-monitoring-evaluation/monitoring-evaluation-cycle>

6.2.3 Organisations use monitoring and evaluation for two key purposes:

- to learn about their own activities and results, and to support internal planning and development
- to be accountable to their stakeholders.

6.2.4 Audit's assessment of the monitoring processes of the LUU noted the following:

## 6.2.1 Absence of documented guidelines for monitoring of leases

6.2.1.1 Documenting procedures is important to ensure processes fundamental to the organization's success are properly guided, performed in a consistent way that meets the organization's needs, and that important related information and data are captured and communicated<sup>37</sup>.

6.2.1.2 Audit observed that monitoring procedures of the LUU are not documented. Whilst the draft SOP used by the Unit outlines procedures for various activities, procedures for monitoring are not defined to outline areas that needs to be monitored, responsibility for monitoring and timelines for monitoring work.

6.2.1.3 Failure to document monitoring procedures may result in inconsistencies in work practices. Also, lack of proper handing over during staff reshuffles/ turnovers have adverse impacts on the effectiveness of monitoring work.

## 6.2.2 Failure to appropriately monitor conditions of lease/MOA

6.2.2.1 The Director must administer all lease and collect all premiums, rents, outgoings, expenses, and other consideration or monies payable under any lease; enforce the terms of the lease; and with respect to

<sup>37</sup> Bizmanuals; policies, procedures and processes, website

native land, promptly pay the rent due and payable under all statutory head leases to the relevant trustees without deduction<sup>38</sup>

6.2.2.2 Monitoring compliance to lease conditions is conducted by two different sections of the LUU, namely Land Use and Valuation section. The Valuation section is responsible for monitoring of lease payments whilst the Land Use Section is responsible for monitoring progress of developments carried out on the subject land.

6.2.2.3 Whilst the tasks are verbally understood as responsibilities of each section, audit found that monitoring conditions of leases/MOA has not been effectively conducted. Instances whereby these were noted are discussed below.

#### 6.2.2.1 Extraction of bauxite exceeding allowable quota

6.2.2.1.1 Lands belonging to the Mataqali Naicobo situated in Nawailevu (part of) in the province of Bua, having an area of 150.7827 hectares on Plan number SO6268 was designated into the land bank by the Prime Minister on the 7<sup>th</sup> of January 2011.

6.2.2.1.2 A Memorandum of Lease (MoL) No. 18262 of 9<sup>th</sup> March 2011 between the Director of Lands on behalf of the Trustees of Mataqali Nawaicobo and Aurum Exploration (Fiji) Limited granted the company a special lease to the designated land as a mining excavation site for a period of 20 years with effect from 01/02/2011. The MoL defines a “*mining lease*”, inter alia, as a lease which will provide for the lessee to carry out bauxite mining and extraction from the land to a maximum of 1,000,000 tonnes and for the payment of the mining rent, mining royalties and the provision of the environment bond<sup>39</sup>.

6.2.2.1.3 However removal of rocks, soil or materials from the land for the purpose of extracting bauxite requires the lessee to obtain a mining lease, licence or permit under the Mining Act. Thus a Special Mining Lease (SML) for the above mentioned land was granted by the Director of Mines to Aurum Exploration (Fiji) Limited on 13/05/2011 for a period of 10 years with effect from 12/05/2011. The SML permits the lessee to mine the whole lease area from the surface to a depth of 10 meters for bauxite (as specified in the First Schedule)<sup>40</sup>.

6.2.2.1.4 Soil and rock extracted from the Nawailevu Mines is recorded by a tallyman on site. The tally book records of volume of soil and rock extracted are submitted to the LUU HQ for update of records and to calculate payments due from the lessee. Audit however was not able to verify records of volume of extractions (soil and rock) from the Mine during its site inspection on 13/10/2014 as the tallyman was absent on the day of site inspection. Despite assurances, the LUU did not provide any data on the total quantity of soil and rocks extracted from the Nawailevu mines thus Audit was not able to substantiate whether terms of the Lease Agreement with respect to extractions were complied with.

<sup>38</sup> Land Use Regulations 2010, section 17

<sup>39</sup> Memorandum of Lease No. 18262 of 9/3/2011 Annexure A item 2 sub item 1

<sup>40</sup> Special Mining Lease No. 59 of 13/5/2011

6.2.2.1.5 Third party confirmations were obtained from Fiji Revenue and Customs Authority (FRCA) on tonnage of soil extracted by the company by customs officers when soil is ready for shipment. However audit verifications with data obtained from the Fiji Revenue and Customs Authority (FRCA) revealed that a total of 1,287,843.7 tonnes of bauxite had been extracted as at 14/10/2014 indicating that the company had extracted volumes in excess of the allowable quota for bauxite extraction as per conditions of the Memorandum of Lease.

6.2.2.1.6 As can be noted from the information obtained from FRCA, the company has over extracted soil as required under MoL No.18262 of 9/3/2011 which limits extractions to a maximum volume of 1,000,000tonnes<sup>41</sup>. On the other hand the lessee may also be carrying out mining activities in accordance with the Special Mining Lease No. 59 of 13/5/2011 rather than the MoL No.18262 of 9/3/2011 that limits extraction to a depth of 10meters from the surface of the whole leased land<sup>42</sup>.

In addition, the non-alignment of requirement in the two lease types indicates a lack of consultation between the relevant stakeholders prior to the drawing of the terms of the leases.

6.2.2.1.7 The non-submission of records for audit scrutiny indicates a lack in record keeping. Absence of tallyman without adequate replacement casts doubt on the veracity of data as it is susceptible to alterations and misstatements.

## 6.2.2.2 Non payment of fair share to Land Owning Units

6.2.2.2.1 The lessee must pay the lessor the Fair Share Payment annually in advance and without demand for the period of 2 years commencing upon the Mining Start Date<sup>43</sup>.

6.2.2.2.2 The Aurum Exploration (Fiji) Limited was granted three surface leases on lands belonging to three different LOU's in 2011 (MOL registered 09<sup>th</sup> of March 2011). Listed in Table 6.2 below are details of the three land-owning units and the anticipated fare share that should be paid for lease entered into.

**Table 6.2: Fair share payments to be paid to LOU's**

LOU	Purpose of Lease	Land Area	Fair share payment as per Lease Agreement
Mataqali Naicobo	Mining Excavation Site	150.7827 hectares	Fair share payment means the greater of the following amounts per annum: i. \$500,000.00 and ii. The amount determined by multiplying the fair market price per tonne of bauxite in Nawailevu as at the mining start date by 12500. <sup>44</sup>
Mataqali Nalutu	Quarry and Stockpile Site	26.1412 hectares	Fair share payment means the greater of the following amounts per annum: i. \$70,000.00 and ii. The amount determined by multiplying the fair market price per tonne of bauxite in Nawailevu as

<sup>41</sup> Memorandum Of Lease Annexure A s.2

<sup>42</sup> Special Mining Lease No. 59 of 13/5/2011 Second Schedule s.11

<sup>43</sup> Memorandum of Lease Agreement

<sup>44</sup> Memorandum of Lease between the Director of Lands on behalf of the Trustees Mataqali Naicobo and Aurum Exploration Fiji Limited, section 1

			at the mining start date by 1750 <sup>45</sup> .
Mataqali Noro	Access to Bauxite Mining and Campsite	7.8868 hectares	Fair share payment means the greater of the following amounts per annum: i. \$30,000.00 and ii. The amount determined by multiplying the fair market price per tonne of bauxite in Nawailevu as at the mining start date by 750 <sup>46</sup> .

6.2.2.2.3 Audit noted that no fair share payments have been received from Aurum Exploration (Fiji) Limited since commencement of the leases in 2011, thus depriving LOUs of their just dues. Non remittance of fair share by the mining company indicates a lack of monitoring by the Unit to ensure timely compliance with requirements of the Agreements. The mining company has finally remitted \$600,000 to the Department of Lands in November 2014 (refer RR 263725 of 3/11/14) and which is still being held by the Department of Lands in trust for onward transmission to the LOUs.

6.2.2.2.4 Defaulting on contractual obligations imply a lack of concern by the mining company in meeting its contractual obligation of paying fair share to LOUs at the required timelines indicated. It reflects a lack of monitoring by the LUU in ensuring lessees meet the requirements of leases entered into. It also portrays a disregard of the goodwill and aspirations of LOUs and deprives them of their just dues.

### 6.2.2.3 Failure to monitor construction of Natodre access road

6.2.2.3.1 The Land Use Unit issued a Memorandum of Agreement (MOA) to Tengy Cement Company (Fiji) Limited on the 21<sup>st</sup> of July 2011 for the extraction of soil, rocks and soapstone from land known as Lot 36 (part of) NLC 963 in the province of Rewa for a period of six months.

6.2.2.3.2 Conditions of the agreement included, "Work carried out by the licensee shall be executed to the best engineering principles and practices under the supervision of a qualified engineer whose name, personal details and curriculum vitae is to be submitted to the Director Land Use, Ministry of Lands for approval prior to commencement of this Agreement"<sup>47</sup>.

6.2.2.3.3 In addition to the risks associated with the construction of access roads in the absence of proper survey plans and engineering designs (discussed under 5.6.3) audit found that the Land Use Unit failed to monitor compliance of the company to provisions outlined in the MOA. Audit noted that the lessee failed to provide to the LUU a name and relevant details of a qualified engineer to supervise work carried out on the subject land.

6.2.2.3.4 Furthermore, the LUU failed to consistently monitor the progress of works carried out by Tengy Cement Company (Fiji) Limited. As a result, the error in road alignment, trespass and damages caused to the freehold property could not be identified in a timely manner. LUU was only aware of the issue when notified by the legal owner of the property to which an additional acquisition was made by government amounting to \$315,000.

<sup>45</sup> Memorandum of Lease between the Director of Lands on behalf of the Trustees Mataqali Nalutu and Aurum Exploration Fiji Limited, section 1

<sup>46</sup> Memorandum of Lease between the Director of Lands on behalf of the Trustees Mataqali Noro and Aurum Exploration Fiji Limited, section 1

<sup>47</sup> Memorandum of Agreement between Tengy Cement (Fiji) Company Limited and Director Land Use, Annexure A, article 2(e)

6.2.2.3.5 Failure to consistently monitor compliance to the conditions of the Memorandum for lease or MOA may create risks of deviation from conditions and may prove more costly for government.

## **RECOMMENDATIONS**

The LUU should:

- avoid further delays and advertise the terms of reference for development of the Land Bank Database;
- maintain proper records of all complaints received. These can be recorded through a register or spread sheet clearly indicating the date of complaint, details or nature of complaint, officer receiving the complaint, action required, action taken and date in which the complaint was addressed;
- implement good record keeping practices and ensure it abides by the National Records Management Policy. The LUU may consider maintaining land capability study reports, valuation reports, monitoring reports, and any other relevant reports of a shared drive folder for ease of access to users from other sections;
- develop monitoring procedures which should be incorporated into the Units SOP. The procedures should clearly outline areas/activities to be monitored, responsibilities for monitoring and suitable timelines for carrying out the monitoring work;
- ensure that:
  - a tallyman is present at the Nawailevu mining site on a daily basis to independently record the quantity of soil and rock extracted;
  - spread sheet records of all minerals extracted with respect to mining leases issued are maintained and updated to reflect all soil and rock extracted and exported to ensure accurate information is available when needed;
  - relevant stakeholders are consulted prior to finalising lease agreements, especially those that involve large developments to ensure provisions of the agreements are consistent; and
- all access road construction works are monitored by qualified personnel to avoid any deviation from required standards.

## **Management Comments**

### *Absence of a Land Bank Database*

*ICT unable to develop LUU database in 2014 and to pursue the establishment of LUU database by outsourcing.*

### *Failure to record complaints*

*Complaints received at LUU are noted in relevant files which are then addressed by the LUU Grievances Committee. LUU complaints are also received by the Land Department CAO at Headquarters. Establishment of a Complaints database will be incorporated into the LUU database.*

*Absence of proper documentation*

*Affirm Audit Report findings and to be pursued in LUU SOP*

*Monitoring of Land Bank activities*

*In agreement with Audit findings and to be addressed in LUU SOP*

## 7.0 CONCLUSIONS

- 7.1 Despite the SOP still being in a draft form and the lack of specific policies, arrangements in place are adequate to enable the LUU to establish, plan and manage activities related to the management of the land reforms.
- 7.2 Various activities such as consultations and awareness, advertising of land, land capability studies and issuance of lease have not been carried out in an effective manner. Moreover, certain activities have been carried out in an incoherent manner mostly due to the absence of documented procedures, well defined processes and the need of investors to quickly implement their projects.
- 7.3 Delays in the development of a land bank database impedes on the efficient and effective recording of land bank activities. Also failure to appropriately record complaints, poor record keeping and continuous staff movements affects the efficient delivery of land bank services.

Absence of documented procedures also affects the effectiveness of monitoring activities and the failure to consistently carry out monitoring of lease/MOA conditions results in the incurrence of additional costs that is uneconomical for government.

## 8.0 REFERENCES

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2. Land Use Regulations 2011
3. Reform of Leasing Regimes for Customary land in Fiji, M Dodd, University of Otago, 2012
4. Land Use Unit Standard Operating Procedures – Draft copy
5. Ministry of Lands and Mineral Resources Annual Corporate Plan 2011
6. Ministry of Lands and Mineral Resources Annual Corporate Plan 2012
7. Ministry of Lands and Mineral Resources Annual Corporate Plan 2013
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9. Land Use Unit Annual Report 2012
10. Ministry of Lands and Mineral Resources Land Reform Framework Paper 2010
11. Cabinet Memorandum - Current Status on Land Reform Program 2013
12. Cabinet Memorandum - Current Status on the Freehold Lands purchased by Government for Original i'Taukei Landowners under the Buyback Scheme
13. Commonwealth Ombudsmen - Better Practice Guide to Complaints Handling
14. PSC Circular Number 10/2011
15. Draft Peoples Charter for Change, Peace and Progress & State of the Nation and Economy Report
16. Roadmap for Democracy Sustainable and Socio economic Development

## Appendix 1: Details of land surveyed but not advertised

LOU (Mataqali) Name	Province	NLC Lot No.	Survey Plan No.
Mataqali Nalutu	Bua	A24/3,E04/1	SO6300
Mataqali Noro	Bua	A24/3,E04/1	SO6268
Mataqali Naicobo	Bua	A24/3,E04/1	SO6268
Mataqali Leweinadroga	Nadroga	L03/3	SO6320
Nakoso	Cakaudrove	NLC Lot 40 B22/3	SO6438
Korinikula	Nadroga	NLC Lot 55 L8/1	SO5406
Naicobo	Bua	NLC Lot 29 E4/1	
Vunivadra	Kadavu	NLC LOT 60 & 116 P16/3	SO6439
Nabati	Tailevu	NLC LOT 52, J/13,4	SO6643
Nalotawa	Nadroga	PT OF LOT 18 NLC 152	SO6754
Nakorosago	Ra	PT OF LOT 11,NLC 171	SO6755
Tauyasa	Nadroga/Navosa	LOT 32 NLC 34	SO6841
Mataidreke	Ra	PT LOT 9 NLC 739	
Wayasewa	Ba (Yasawa)	PT LOT 18 NLC 68	SO6797
Yavusa Nadakuni	Naitasiri	PT OF LOT 11 NLC 212	
Navora	Naitasiri	PT OF LOT 25 NLC 480	SO6795

## Appendix 2: Details of land advertised but not surveyed

LOU (Mataqali) Name	Province	NLC Lot No.	Advertisement Date
Bureiwaqa	Macuata	NLC LOT 4, LOT 8, LOT 9, LOT 10, B/8,3	28/09/13
Tokatoka Lalo	Ba	Part of NLC 4	28/09/13
Yalimarawa	Ba	Lot 41 (part of) NLC 1115	28/09/13
Nakausoqo	Rewa	Part of NLC 279	28/09/13
Descendents of Mere Maramanivulu	Tailevu	Lot 70 NLC 1058	20/07/13
Yavusa Sivo	Ba	PT OF LOT 63 NLC 156	28/09/13
Navorara	Tailevu	Lot 135, NLC 54A	20/07/13

## Appendix 3: Leases issued in the absence of proper screening

Lessee	Lease Issued	Area	Purpose for Lease	Audit Comment
Aurum Exploration (Fiji) Limited	Naicobo	150.782ha	Bauxite Mining Excavation Site	<ul style="list-style-type: none"> <li>Application not made on relevant form</li> <li>Details of financial standing of the company not submitted</li> </ul>
	Noro	7.8868ha	Access to Bauxite mining and Camp site	
	Nalutu	26.1412ha	Quarry and Stockpile site	
	Naicobo Foreshore (state land)	1.702ha	Foreshore Lease	
	Vunicibicibi (state Land)	221.61ha	Bauxite Mining	
Tengy Investment Limited	Natodre		Soil, rocks and soapstone extraction	<ul style="list-style-type: none"> <li>Relevant details of the application were not filled out.</li> <li>Relevant documents required for business application were not submitted.</li> <li>FIRC certificate not filed.</li> </ul>
Landsworth Company Limited	Matakunea – State Freehold	22.67ha	Agriculture	<ul style="list-style-type: none"> <li>Application not made on prescribed form</li> <li>Details of financial standing not submitted. Lease monitoring done in 2012 and 2013 found that land still had not been developed and the lessee was in arrears in lease payments.</li> </ul>
iViti Renewable Disenergy Power Plant Company Limited	Matenamanu (part of)	71.0910ha	Commercial/Industrial Energy Processing Power Plant	<ul style="list-style-type: none"> <li>Application not made on relevant form</li> <li>Details of financial standing of the company not submitted</li> <li>The company could not meet the conditions of the lease including lease payment thus lease was cancelled 14/10/13</li> </ul>
480 Holdings Limited	Nananu, Ra	117.7903ha	Water Extraction and Bottling	<ul style="list-style-type: none"> <li>Financial details not submitted</li> <li>Source of funding were not ascertained by the LUU prior to granting the lease,</li> </ul>
GS Energy (Fiji) Limited	Matenamanu (part of)	71.0910ha	Commercial/Industrial Energy Processing Power Plant	<ul style="list-style-type: none"> <li>Cancelled lease from iViti Disenergy Power Plant Company Limited issued to this company</li> </ul>



# MONITORING OF MUNICIPAL COUNCILS BY DEPARTMENT OF LOCAL GOVERNMENT

A Performance Audit Report of the Office of  
the Auditor General of the Republic of Fiji



The audit seeks to establish the effectiveness of Department of Local Government in monitoring municipal councils by examining the adequacy of:

- i) policies, resourcing and planning for the monitoring of municipal councils
- ii) systems for monitoring local government leadership and service delivery; and
- iii) systems for monitoring the financial performance of councils.

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### Abbreviation

ACP	Annual Corporate Plan
CEO	Chief Executive Officer
DLG	Department of Local Government.
KPI	Key Performance Indicator
LG	Local Governments
LGA	Local Government Act
MLGHE	Ministry of Local Government, Housing and Environment
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
PAO	Principal Administration Officer
PS	Permanent Secretary
SA	Special Administrator
SAO	Senior Accounts Officer
SFCCO	Strategic Framework for Change and Coordinating Office
SOP	Standard operating procedures

# 1.0 EXECUTIVE SUMMARY

**Background** Local Government in Fiji is decentralised to various district through the thirteen municipal councils that assume executive and legislative authority. Powers and administrative duties of municipal councils are defined in the Local Government Act 1972 cap 125 which also gives power to the Minister for Local Government, Housing and Environment to assume oversight duties for the performance of these councils. As such the Department of Local Government on behalf of the Minister is responsible for monitoring the performance of local government by providing advice in terms of the Local Government Act Cap 125 and support services<sup>1</sup>.

**Coverage** The audit on Monitoring of Municipal Councils by the Department of Local Government focuses on three areas namely '*planning, resourcing and policy support for monitoring local government*', '*monitoring of local government leadership and service delivery*', and '*Monitoring Financial Performance of Municipal Councils*'.

The audit looked into records held at the Department of Local Government for the years 2011 to November 2014.

**Key findings** *Planning, Resourcing and Policy Support for Monitoring Local Government*

- Inadequacy of legislations to clearly define monitoring arrangements
- Absence of Standard Operating Procedures to monitor Municipal Councils
- Lack of Human Resources to effectively monitor municipal councils
- Alignment and implementation of monitoring activities in the MLGHE's organisational plans

*Monitoring Local Government Leadership and Service Delivery*

- Failure to carry out performance assessments for Special Administrators
- Failure to consistently host consultative Forums with Local Government Leaders
- Absence of a Performance Measurement Framework For Monitoring Municipal Councils
- Absence of Follow-ups and Delays in attending to complaints
- Inconsistency in Reporting of Local Government Activities

*Monitoring Financial Performance of Municipal Councils*

- Failure to assess budget proposals submitted by Councils
- Inconsistency in recommending strategies for reduction in rates arrears in Councils
- Inadequate monitoring of capital projects
- Failure to carry out analysis of Financial Reports submitted by Councils
- Absence of a requirement to indicate the frequency of submission of financial reports thus resulting in the inconsistency in submission by councils

<sup>1</sup> Annual Corporate Plan 2013

Overall Conclusion	<p>The effectiveness of monitoring municipal councils is weakened by the lack of clearly defined legislation and documented policies and procedures to provide guidance and instructions on how various council activities are to be monitored. Also the lack of human resources has not allowed the Department to effectively and consistently monitor performance of the local government. In addition service delivery of councils has not been effectively monitored due to the absence of a performance measurement framework. Furthermore improper maintenance of records is a hindrance to the Department's consistent and effective monitoring of municipal councils' performance.</p>
General Recommendations	<p>The audit recommends that the Department of Local Government request its line Ministry for the review of the Local Government Act to clearly demarcate areas/activities that should be monitored. In addition the Department should develop SOP's that will assist the Department in effectively monitoring relevant council activities.</p> <p>Monitoring of Local Government Leadership and financial performance of councils should be consistently carried out whilst a performance measurement framework should be developed to facilitate the effective monitoring of service delivery of councils.</p> <p>In addition, the DLG should maintain proper records of all reports prepared to ensure their availability when needed.</p>

## 2.0 INTRODUCTION

*This section of the report provides a brief overview of local governments in Fiji and the reasons for conducting the audit.*

### 2.1 Background

- 2.1.1 Fiji's government system operates at two levels, distinctively the Central and Local Governments. The central government is responsible for policy making, revenue collection (taxes), implementation of relevant government programs and overall economic development.
- 2.1.2 Local Governments are responsible for providing a wide range of services ranging from public health, environmental protection, municipal developments, and the provision of facilities and services that benefit the municipality, ratepayers, residents and visitors. They assume executive and legislative authority and are responsible for the oversight of municipality's functions, programs, and management of other administrative duties.

In Fiji, local governments are decentralized to various districts through the thirteen municipal councils. These include:

- Suva City Council
- Lautoka City Council
- Lami Town Council
- Nasinu Town Council
- Nausori Town Council
- Sigatoka Town Council
- Nadi Town Council
- Ba Town Council
- Rakiraki Town Council
- Tavua Town Council
- Labasa Town Council
- Savusavu Town Council; and
- Levuka Town Council

- 2.1.3 Local Governments (LG) play a pivotal and important role in the implementation and development of Fiji because of its close proximity to the local communities. With its capacity to draw community groups, business houses, industries and state at the local level, the LG has an added advantage and ability to recognize, understand and respond to individual community needs for civic development, progress and enjoyment<sup>2</sup>.

<sup>2</sup> Consumer Council of Fiji, submission to Local Government Review Committee on the Review/Reform of Local Government

- 2.1.4 Whilst the Central government decentralizes core functions to local governments through the Local Government Act and other subsidiary legislations, the Department of Local Government (DLG) under the Ministry of Local Government, Housing and Environment (MLGHE) bears responsibility for monitoring performance of local governments by providing advice in terms of the Local Government Act Cap 125 and support services<sup>3</sup>.

## 2.2 Reasons for undertaking the Audit

- 2.2.1 Municipal Councils spend millions of dollars of public funds every year. In the years 2011 to 2013, the thirteen municipal councils cumulative expenditure stood at a total of \$ 133,968,555.51 as indicated in Table 2.1 below.

Table 2.1: Cumulative Expenditure for Councils 2011 - 2013

Year	Expenditure <sup>4</sup>
2011	\$41,261,718.61
2012	\$46,503,435.64
2013	\$46,203,401.26
2014	\$133,968,555.51

- 2.2.2 With the extensive amount of funds utilised by municipal councils, extensive focus needs to be placed on how councils carry out their activities to ensure economical use of funds provided and accountability to ratepayers and the public.

<sup>3</sup> Annual Corporate Plan 2013

<sup>4</sup> Figures submitted by Councils to DLG

## 3.0 AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

*This section of the report describes the objective and scope for this audit. It also discusses the methodology utilised to gather information for the audit.*

### 3.1 Audit objectives and scope

- 3.1.1 The objective of the audit is to assess the effectiveness and efficiency of the Department of Local Government in monitoring municipal councils in Fiji by examining the;
- i) policies, resourcing and planning for the monitoring of municipal councils
  - ii) systems for monitoring local government leadership and service delivery; and
  - iii) systems for monitoring the financial performance of councils.
- 3.1.2 The audit focused on the examination of existing policies and review of systems and processes utilized by the Department of Local Government to monitor municipal council activities for the years 2011 to October 2014.

### 3.2 Audit methodology

- 3.2.1 The audit was conducted using the following evidence gathering techniques:

1. *Documentary Review*

The audit reviewed relevant documentation maintained by the Department of Local Government. Some of the key documents reviewed include:

- Local Government Act
- Business Plan
- Annual Corporate Plan
- Municipal Councils' budgets
- Complaints Register
- Annual Report
- Memorandum of Agreement for Special Administrators
- Minutes of Council meetings
- Financial reports

## 2. Interviews

Interviews were carried out with the following officers.

Officer	Section
Acting Deputy Secretary	Ministry of Local Government, Housing and Environment
Principal Administration Officer	Department of Local Government
Senior Administration Officers	Department of Local Government
Executive Officer (Acting)	Department of Local Government
Senior Administrative Officer – Capital Projects	Department of Local Government

## 3. Questionnaire

A questionnaire was sent out to all municipal councils whereby responses were received and analysed.

## 4. Other

Correspondences through emails were also made to clarify certain issues.

## 4.0 PLANNING, RESOURCING AND POLICY SUPPORT FOR MONITORING LOCAL GOVERNMENT

*This section of the report identifies the existence and adequateness of policies and procedures used in the monitoring of municipal councils in Fiji. The section also examines the availability of resources within the Department of Local Government that will allow effective and efficient monitoring of the thirteen municipal councils in Fiji.*

### 4.1 Legal basis to monitor Municipal Councils

- 4.1.1 The principal legislation governing operations of Municipal Councils in Fiji is the Local Government Act cap 125 which was developed and has been used by all municipal councils in Fiji since 1972.
- 4.1.2 Since the enactment of the Act in 1972, the Local Government Act has been amended numerous times as indicated under Table 4.1 below.

Table 4.1: Amendments to the Local Government Act cap 125 of 1972

Act/Promulgation/Decree	Entry into Force	into	Item Reviewed/Amended
Local Government Act (Amendment) (No 1) Decree 1988 (No. 21 of 1988).	01/03/1988		Power of the Minister to appoint to any council such person or persons to be member of the council of the municipality
Local Government Act (Amendment) (No 2) Decree 1988 (No. 37 of 1988).	15/08/1988		Section 64(1) Land Valuation
Local Government Act (Amendment) Decree 1990 (no. 5 of 1990)	07/03/1990		Repealing of section 71A and replacing it with a new provision
Local Government Act (Amendment) Act 1992 (no. 7 of 1992)	Passed by senate 16/12/1992	by	Repeal the Local Government Act (Amendment) (No 1) Decree 1988 (No. 21 of 1988) and to amend the LGA by providing for the election of members of councils and related matters
Local Government Act (Amendment) Act 1997 (no. 3 of 1997)	10/03/1997		The Act amends the LGS in provisions concerning among other things, definitions, procedural issues of municipal or district councils, finance, elections and rating of land, Native lands not leased or licensed to any person shall not be assessed for general rates.
Local Government Act (Amendment) Act 1997	Passed by senate 26/02/1990	by	Amendments to section 2,10,11,15,17,23,31,35,39,45,46,50 and 60
Local Government	08/09/2006		The Act amends the LGA in provisions concerning,

<b>(Amendment) Act 2006 (No. 12 of 2006)</b>			among other things, a notice of proposal to alter municipal boundaries, municipal councils, joint committees, procedures of councils, finance, rating of (agricultural) land, general powers and duties of councils, private drainage and regulation making powers of councils.
<b>Local (Amendment) 2008 (no. 29 of 2008)</b>	<b>Government Promulgation</b>	17/12/2008	Section 2, 9, for the appointment of Special Administrators
<b>Local (Amendment) 2009 (no. 12 of 2009)</b>	<b>Government Decree</b>	15/04/2009	Section 35

- 4.1.3 Review of the Local Government Act and its subsequent amendments noted that the Act outlines the financial and administrative arrangements for local government operations and provides that the Councils are required to submit certain information to the Minister which includes annual statements and reports, minutes of council meetings and such other reports, statistics and documents as the Minister from time to time require.

The Act also gives power to the Minister to appoint person(s) to investigate and report upon the manner in which a council is exercising all or any of its functions under the Act.

- 4.1.4 Despite such arrangements being defined by the Local Government Act audit found that the legislation makes no mention of the role of the Department of Local Government in monitoring Municipal Councils. The Department only acts on behalf of the Minister in monitoring the performance of local governments by providing advice in terms of the Local Government Act Cap 125 and support services<sup>5</sup>.

Furthermore, key activities of Councils that should be monitored by the DLG are not clearly defined to ensure responsible areas for monitoring by the Department is clearly demarcated and well understood by both DLG and respective municipal councils. These includes for instance the monitoring of Local Government Leadership, Financial Performance of councils, Service Delivery, Regulation enforcement, Council's devolution of authority, Institutional realignment and most importantly the service delivery of Councils to its ratepayers and the public.

- 4.1.5 Failure of the legislation to clearly define monitoring arrangements can directly impede on the effectiveness of monitoring municipal councils.

<sup>5</sup> Annual Corporate Plan 2013

## 4.2 Absence of Standard Operating Procedures for monitoring Municipal Councils

- 4.2.1 Standard operating procedures (SOP) are a detailed explanation of how a policy, program or task is to be implemented. The detail in an SOP standardizes the process and provides step-by-step how to instructions that enables the performance of a specific task in a consistent manner.
- 4.2.2 The Ministry of Local Government, Housing and Environments (MLGHE) Annual Corporate Plan (ACP) provides that the Department of Local Government is responsible for monitoring performance of local governments by providing advice in terms of the Local Government Act Cap 125 and support services<sup>6</sup>.

The Business Plan of the agency further outlines the key deliverables of the Department which includes the monitoring of:

- Local Government Leadership
  - Local Government Financial Performance
  - Municipal strategic partnerships service delivery
  - Municipal Business and Licensing Fees
  - Regulation enforcement
  - Local Government urban environment management
  - Council's devolution of authority; responsibilities and Institutional realignment.
- 4.2.3 Whilst the MLGHE's ACP specifies the various areas to be monitored, audit found that the Department does not have standard operating procedures to provide guidelines on how the various aspects of Council activities should be monitored.

Furthermore, with the absence of documented guidelines and procedures, discussions with officers of the Department revealed a lack of understanding on the various aspects of Council activities to be monitored and how they were supposed to be monitored.

- 4.2.4 The absence of documented procedures may result in the laxity and inconsistency of monitoring activities. With staff turnovers and poor handing over processes, new personnel may be unaware of how to handle certain tasks thus impeding on the effectiveness and efficiency of monitoring local government.

## 4.3 Adequacy of human resources to monitor Local Governments

- 4.3.1 Adequate human resources should be available to monitor and evaluate the performance of all municipal councils.

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<sup>6</sup> Annual Corporate Plan 2013

- 4.3.2 The Department of Local Government is responsible for monitoring the performance of local government and National Fire Authority by providing advice in terms of the Local Government Act cap 125, Business Licensing Act cap 204 and National Fire Act and support services<sup>7</sup>.
- 4.3.3 Aside from the monitoring of National Fire Authority, the Department monitors the performance of thirteen municipal councils who is responsible for providing relevant services to its ratepayers and the public. Table 4.2 outlines the thirteen councils monitored by the DLG and the number of ratepayers served by each council.

Table 4.2: Number of ratepayers for each council as at 31 November 2014

Council	No. of Ratepayers
Suva	11,385
Lami	1,443
Nasinu	11,173
Nausori	4,096
Sigatoka	249
Nadi	2,636
Lautoka	8,012
Ba	1,379
Tavua	247
Rakiraki	734
Savusavu	308
Labasa	1,386
Levuka	152

- 4.3.4 For each council, the Department of Local Government is responsible for undertaking activities for the achievement of key deliverables as outlined under Table 4.2.

Table 4.3: Key deliverables and strategies for Monitoring Local Governments

Key Deliverables	Strategies
<b>Local Government Policy Advice</b>	<ul style="list-style-type: none"> <li>Research information on Policy matters</li> <li>Consultations and meetings with municipal councils, Local Government Committee</li> <li>Implementation of matters discussion during forums</li> <li>Monitoring progress of implementation of forum decision</li> </ul>
<b>Local Government Committee Secretariat Support</b>	<ul style="list-style-type: none"> <li>Secretariat support to the Local Government Committee</li> <li>Setting plan of action for the Local Government Committee</li> </ul>
<b>Monitoring of Local Government Leadership</b>	<ul style="list-style-type: none"> <li>Strategic planning for Local Government</li> <li>Capacity Building on Good Governance</li> <li>Monitoring Code of Conduct for Local Municipalities</li> <li>Policy Advice for SAs and CEOs at Consultative Forums</li> <li>Conducting Investigations</li> <li>MOAs with Strategic Partners</li> </ul>

<sup>7</sup> Ministry for Local Government Urban Development Housing and Environment Annual Corporate Plan for the Financial year ending 31 December 2014

<b>Monitoring of Financial Performance</b>		<ul style="list-style-type: none"> <li>Budget Estimates for local Municipal Councils</li> <li>Facilitate collection of rates in arrears. SAs to recover 50 percent of rate arrears</li> <li>Analyze financial reports</li> <li>Monitoring Capital Projects and Grants</li> </ul>
<b>Monitoring Strategic Service Delivery</b>	<b>Municipal Partnerships</b>	<ul style="list-style-type: none"> <li>Monitoring Joint Venture projects for Municipal Councils</li> <li>Monitoring signed agreement</li> </ul>
<b>Monitoring Business Fees</b>	<b>Municipal and Licensing</b>	<ul style="list-style-type: none"> <li>Consult Municipalities with regards to review of fees and charges</li> <li>Monitor public consultation process</li> <li>Carry out research</li> <li>Review Municipalities Licensing and Fees Structure</li> <li>Monitor Council compliance</li> </ul>
<b>Monitoring Enforcement</b>	<b>Regulation</b>	<ul style="list-style-type: none"> <li>Revise and amend Local Government Act.</li> <li>Public awareness to amendments</li> <li>Monitor Implementation of Acts</li> </ul>
<b>Monitoring Government Environment Management</b>	<b>Local Urban</b>	<ul style="list-style-type: none"> <li>Consultation on Municipality Green Growth initiatives</li> <li>Assessment on Municipality Green Town Competition</li> <li>Ensure Council wider adaptation of 3R program</li> </ul>
<b>Monitoring devolution of Responsibilities and Institutional Realignment</b>	<b>Councils Authority, and</b>	<ul style="list-style-type: none"> <li>Monitoring Municipalities competency and Capacity Assessment</li> <li>Monitoring Municipal Councils capacity in undertakings delegated powers</li> <li>Monitoring Council's initiatives in the establishment of Town Planning and Environmental Management Units</li> </ul>

- 4.3.5 Discussions with the Principal Administrative officer of the Department noted that the major hindrance faced by the Department in the years 2011 to 2013 was the lack of manpower to carry out all monitoring work for the thirteen municipal councils. From 2011 to March 2014, only a total of five officers were directly involved in the monitoring of all of the above activities for the thirteen municipal councils in Fiji. This is indicated under Table 4.4.

Table 4.4: Staffing at DLG from 2011 - 2013

Year	Officers
2011	1 Director – Department of Local Government 1 Administrative Office 1 Executive Officer 2 Project Posts – 1 Senior Accounts Officer, 1 Senior Administrative Officer
2012 & 2013	1 Director – Department of Local Government 1 Principal Administrative Officer 1 Executive Officer 2 Project Posts – 1 Senior Accounts Officer, 1 Senior Administrative Officer

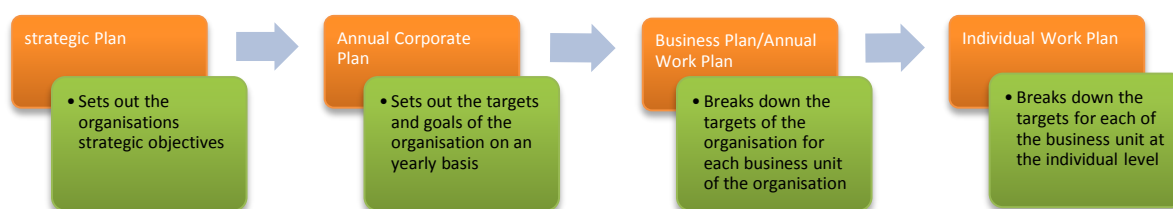
- 4.3.6 On 3<sup>rd</sup> September, 2012, the Department sought the approval of the Public Service Commission for the strengthening of staffing capacity at the DLG through the creation of six additional posts. The six posts included three Senior Administrative Officers and three Technical Assistant officers. With the approved structure and engagement of an additional six officers from April 2014, the Departments performance with respect to monitoring of local governments is anticipated to improve.
- 4.3.7 The lack of human resources can directly result in the effective and efficient monitoring work conducted by the Department.

## 4.4 Aligning and implementing organizational plans for the monitoring of Local Governments

- 4.4.1 *Workforce Management is the process of balancing work needs with available resources. It is a planning and accountability framework enabling organizations to ensure that strategic objectives are met in an efficient and cost effective manner<sup>8</sup>.*

Whilst workforce management ensures that work needs are balanced with the available resources, work planning is required to coordinate the work that needs to be done to ensure organizational plans are aligned at all levels and the work undertaken will result in the achievement of strategic objectives. The alignment of organizational plans is illustrated under Figure 4.1.

**Figure 4.1: Alignment of Organizational Plans**



- 4.4.2 The MLGHE's Strategic plan and Annual Corporate Plans for the years 2011 - 2014 are aligned to the Peoples Charter for Change, Peace and Progress and the Roadmap for Democracy, Sustainable and Socio economic Development. The DLG's output for monitoring of municipal councils is included under Pillar 4 of the charter which provides for the enhancing of public sector efficiency, performance effectiveness and service delivery.
- 4.4.3 The Department of Local Governments output of delivering an improved system of Local Government is further divided into key deliverables in the Departments Business Plan which includes:
- Local Government Policy Advice
  - Local Government Committee Secretariat Support
  - Monitoring of Local Government Leadership
  - Monitoring of Financial Performance
  - Monitoring Municipal Strategic Partnerships Service Delivery
  - Monitoring Municipal Business and Licensing Fees
  - Monitoring Regulation Enforcement
  - Monitoring Local Government Urban Environment Management
  - Monitoring Councils devolution of Authority, Responsibilities and Institutional Realignment
- 4.4.4 Audit found that the organisational plans of the Department are aligned however implementation of the plans in relation to monitoring of municipal councils is lacking. There were a number of

<sup>8</sup> <http://www.lokisys.com/2014/10/what-is-workforce-management/>

activities indicated in the plans for the years 2012 to 2014 DLG failed to accomplish, examples include:

**Table 4.5: Activities outlined in DLG's plans that were not implemented**

Year	Outputs /Strategies for Implementation	Activities to be undertaken	Performance Measure	Timeline	Audit Comment
<b>2012</b>	Monitoring Local Government Leadership	Monitoring code of conduct for local municipalities	Biannual councils report of compliance to the code of conduct	30/06/12 and 31/12/12	No Biannual councils report of compliance to the code of conduct was sighted
<b>2013</b>	Monitoring Local Government Leadership	Performance Assessment for Special Administrators	Biannual performance assessment for SA's	Assessment of SA's by 31/07/2013 and 31/12/2013	The Department failed to conduct any performance assessments on SA's for the year
	Policy advice for SA's and CEO's at consultative forums		Consultation forum briefings to the Minister and PS	Number of forum briefings	Only one consultative forum for SA's and CEO's was held in the first quarter of the year.
<b>2014</b>	Analyze and monitor Financial records and expenditure records	Analyse financial records and expenditure records	4 analysis	Quarterly	No evidence of analysis of financial reports was found for the year. The SAO post has been vacant since December 2013 hence financial reports from councils have not been analysed
	Review Municipality business processes for the issuing of business licensing	Research and review municipality processes on business license	2 reports	2 reports in June and Nov 2014	No reports sighted as evidence of research and review of municipality's processes on business license
		Conduct consultation	Hold 3 consultation	Quarterly	No consultation conducted as of 20 <sup>th</sup> December, 2014
		Formulate a standardise SOP on business license	1 SOP on business license	August 2014	No SOP on business license has been prepared as of 20 <sup>th</sup> December 2014

- 4.4.5 Discussion with the PAO (DLG) revealed that the lack of manpower within the Department resulted in the failure to implement all activities outlined in the plan. Audit however noted that the Department needs to review its current systems and processes for monitoring municipal councils to ensure monitoring work is effectively and efficiently carried out with the availability of existing human resources.

- 4.4.6 The alignment and implementation of plans of an organisation at all levels is crucial to ensure the achievement of stipulated objectives.

## **RECOMMENDATIONS**

- The Department should request its line Ministry for the review of the Local Government Act. The review should clearly outline all the functions, activities or services provided by municipal councils that should be monitored by the Department of Local Government.
- The Department should formulate and document procedures for monitoring each aspect of Council performance. This should include procedures for undertaking activities relevant to the monitoring of Local Government Leadership, Financial Performance; Strategic partnerships service delivery, Municipal Business and Licensing Fees, Regulation enforcement, Local Government urban environment management, Council's devolution of authority; responsibilities and Institutional realignment.
- The Department should ensure that activities/plans outlined in the business plans are developed in consideration of the available resources so as to ensure their achievability.

## **Management Comments**

### ***Review of the Local Government Act***

*A cabinet paper is currently being prepared on the review of the Local Government Act Cap 125. The Ministry sought the assistance of the PSC through its Volunteer Scheme early 2013, a Team consisting of four (4) volunteers was appointed to facilitate consultation process to review the principle Act. The Team managed to put together the first draft after having conducted consultations with stakeholders. The draft was presented to the PS.*

### ***Procedures for monitoring Council performance***

*Whilst aspects of the Local Government Act are laid out in the SOPs for the Department, there is room for improvement to include into the principle Act the roles that the Ministry should monitor and the current legislation is silent on the area.*

### ***Activities/plans outlined in the business plans***

*It is mandatory for each Department in this Ministry to prepare its Business Plan in the beginning of each year in spite of the number of staffs. The Department of Local Government was optimistic that the Corporate Services Division of the Ministry was to quicken its process and make appointments early however this was not case. Unfortunately the Department of Local Government is still vacant on the following positions: Director [vacant from December 2013]; Senior Accounts Officer [vacant from January 2014]; Administrative Officer [vacant from February 2014], Secretary [vacancy since September 2013]; Executive Officer [vacant since January 2012]*

### **Further OAG Comments – Procedures for monitoring Council performance**

There was no other SOP provided for audit scrutiny except for the SOP on handling complaints.

## 5.0 MONITORING LOCAL GOVERNMENT LEADERSHIP AND SERVICE DELIVERY

*This section of the report examines the measures used by the Department of Local Government in monitoring local government leadership and service delivery.*

### 5.1 Monitoring performance of Special Administrators

5.1.1 In Cabinet Decision IGCP(08)226, Cabinet approved the drafting of an amendment (by way of a Presidential Promulgation) to the Local Government Act as follows:

- a) An amendment to section 9(3) of the Local Government Act to rescind the 12 month extension granted to all municipal councils, so that the life of all municipal councils expires in October 2008;
- b) To incorporate further provisions in the Act to allow for the appointment of administrators to perform the functions of the municipal councils during the transition period

5.1.2 The Local Government (Amendment) Promulgation 2008 of 18<sup>th</sup> December 2008 provides that the Minister may by order appoint two or more persons to be special administrators (SA's) of a municipality for such period as the Minister may consider necessary to perform the functions of a council until the election date is determined by the Electoral Commission<sup>9</sup>.

5.1.3 With the appointment of SA's by the Minister in 2009 all Special Administrators appointed endorsed a Memorandum of Agreement that outlines their responsibilities. The MOA outlines that the signatory is appointed as the Special Administrator for the Councils and will be responsible to the Minister for Local Government, Urban Development, Housing and Environment. The assigned duties of the SA are as follows:

- Bring about an extensive improvement in the collection of arrears on rates by 31<sup>st</sup> December of each year
- Put in place strategies, measures and mechanisms to ensure that the Council is able to address grievances of the ratepayers in a prompt, efficient and responsive manner.
- Bring about economies of scale and efficiencies in the awarding of contracts, including the option of clustering procurement of goods and services on a cooperative basis with other Councils
- Ensure that enhanced level of services and facilities are provided to ratepayers, including clean and well maintained public amenities, road maintenance and drainage, well maintained public parks and grounds and proper health, safety and security practices.
- Work closely with District Commissioners and relevant government officials in discharging of duties and functions

<sup>9</sup> Local Government (Amendment) Promulgation 2008, Section 9A(1)

- Proactively promote opportunities for investment, business and tourism in collaboration with relevant authorities in Government
- Ensure there is accountability, transparency and good governance maintained at all times in matters pertaining to administration, operation and work programme implementation of the Council;
- Continuously bring about improvements in the customer service and public profile of the Council
- Undertake additional duties which would enhance service delivery in the areas of health and hygiene, security and safety, impacts of climate change/environment, poverty, Squatter settlements within town boundaries and disaster risk analysis; and gender mainstreaming
- Undertake all other duties and functions as contained in relevant legislations and Regulations and also as directed by the Minister.

5.1.4 One of the key performance indicators for the Department of Local Government as indicated under the MLGHE's ACP is to carry out performance assessments for Special Administrators. The number of assessments to be conducted for the years 2011 – 2014 is provided under Table 5.1.

**Table 5.1: Number of Performance Assessments carried out for SA's**

Year	Timeline	No. of SA Assessments	
		Target	Actual
2011	Not an output under the ACP	NA	0
2012	Bi-annual	2	1
2013	31/12/13	2	0
2014	31/12/14	1	0

- 5.1.5 Audit found that the Department failed to appropriately monitor the performance of local government leaders (special administrators) in the years 2011, 2013 and 2014. It was further noted that the MLGHE's 2014 ACP indicated that the Department had conducted two performance assessments in the year 2013; however review of documents and interviews with relevant personnel noted that no assessment was conducted.
- 5.1.6 With SA's being responsible persons for managing the overall performance of municipal councils, failure of DLG to monitor and assess their performance can result in the inability of the Department to identify areas of weakness and addressing them in a timely manner.

## 5.2 Failure to consistently host consultative forums with SA's

- 5.2.1 The Department of Local Government's Business Plan indicates that the DLG is required to provide policy advice for SA's and CEO's at consultative forums.
- 5.2.2 Consultative forums are organised by the Ministry as a platform to discuss matters and issues of concern between the Ministry and municipal council leaders. The forum gives an opportunity for SA's of each council to present on progress of the council in achieving targets outlined in its five

year strategic plans, Annual Corporate Plans, rates collection for the period, respective council's budget for the subsequent year and other relevant matters.

- 5.2.3 Whilst discussions with the DLG staff revealed that consultative forums are held quarterly, review of records indicated that consultative forums were only carried out once in January 2013 and December 2014.

Furthermore, audit noted through presentation slides of the DLG that the presentations are mainly focused on the financial performance of councils, that is, rates collection and financial management practices of councils. Presentations did not provide any information on the non-financial performance of councils, for example service delivery.

- 5.2.4 In addition to the failure of the department to appropriately analyse reports submitted by the councils, failure to engage forums for discussing achievements and issues by each council can result in DLG failing to identify performance issues and resolving them in a timely manner.
- 5.2.5 The Department should revive quarterly forums between the Ministry and councils. DLG should not only focus on the financial performance of councils but equivalent focus should be on council's non-financial performance.

## 5.3 Monitoring service delivery of Local Governments

- 5.3.1 Local Government (LG) play a pivotal and important role in the development of Fiji because of its close proximity to the local communities. Municipal Councils are more accessible to community members and is also directly responsible for the provision of services that have impact on the day to day lives of citizens. Basic services provided by local government are indicated in Table 5.2 below.

Table 5.2: Services provided by Municipal Councils

Services	Audit Comment
<b>Community Services</b> <ul style="list-style-type: none"> <li>• Management of bus stations, taxi stands, carrier stands and lorry stands</li> <li>• Management of Municipal Markets</li> <li>• Provision and Maintenance of roads, footpaths and streetlights</li> <li>• Provision and Maintenance of cultural, recreational (e.g. parks) and sports facilities</li> </ul>	<p>Despite the Local Government Act still outlining the responsibility of municipal councils to be responsible for care, maintenance, repair and control of streets within the municipality the Fiji Roads Authority has assumed responsibility as declared under the Fiji Roads Act.</p>
<b>Planning and Municipal Development</b> <ul style="list-style-type: none"> <li>• Urban planning and design</li> <li>• Approval for development plans</li> <li>• Business Licensing</li> </ul>	

<ul style="list-style-type: none"> <li>• Issuance of Licenses for the use of bus stations, taxi stands, carrier stands and lorry stands</li> </ul>	
<b>Environmental and Health</b> <ul style="list-style-type: none"> <li>• Solid Waste Collection</li> <li>• Public Sanitation</li> <li>• Urban environmental management (litter, commercial and industrial emissions control)</li> <li>• Public health protection (commercial operators)</li> </ul>	

5.3.2 Whilst Local Governments are responsible for the provision of such services, the Minister through the Department of Local Government assumes an oversight role in relation to the performance of local governments.

5.3.3 Audit into the effectiveness of DLG in monitoring the delivery of services by municipal councils noted the following:

### 5.3.1 Absence of a Performance Measurement Framework for monitoring Local Government

5.3.1.1 The performance of local governments is significant to communities, councils and the central government.

5.3.1.2 The above stakeholders need information on the performance of local governments for the following reasons:

**Table 5.3: Reasons for Stakeholders need for Information on Local Government Performance**

Stakeholder	Need for information on Local Government
Government	To help inform its regional plans and policies and to meet its obligation to monitor and support the Local Government
Councils	To help them understand how their organisation is doing on a daily basis, identify opportunities for improvement and determine if they are achieving community outcomes.
Communities	To know how effective and efficient their council is over time and in comparison to other councils. They also need information to be able to hold their council to account and to understand whether it is sustainable in the long term.

5.3.1.3 With the varying needs of communities, state government and councils, a performance measurement and reporting system should be in place to allow ease of monitoring and will ensure information is readily available to relevant stakeholders when needed.

- 5.3.1.4 Audit found that despite the lack of clarity in the Local Government Act the Minister for Local Government oversees and monitors the performance of councils in various aspects including their service delivery to their respective communities.

Review of the processes for monitoring service delivery of Councils noted that the Department does not have a defined system in place to monitor the service delivery of councils, which contributes to officers not being clearly aware of which services to monitor and how to monitor them.

- 5.3.1.5 It was also noted that the Department is reactive in identifying performance issues from the Councils whereby weaknesses and laxity in service delivery are identified mostly through complaints received from ratepayers and the public.

Furthermore, whilst Councils are required to submit minutes of meetings to DLG and make them available for public inspection, audit noted that the minutes do not provide a good indication of how the Council has delivered the required services to the public and thus performance of the Council for the provision of those services cannot be measured.

- 5.3.1.6 The absence of clearly defined systems to monitor and measure the performance of local governments in the delivery of services to the public may result in the failure of DLG to effectively monitor and identify performance issues in a timely manner.

## 5.3.2 Absence of follow up and delays in attending to complaints

- 5.3.2.1 Complaints are an important way for the management of an organisation to be accountable to the public, as well as providing valuable prompts to review organisational performance and the conduct of people that work within and for it<sup>10</sup>. A complaint is an “expression of dissatisfaction made to an organisation, regarding its product, service or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected”

- 5.3.2.2 An effective complaint handling system provides three key benefits to an organisation:

- It resolves issues raised by a person who is dissatisfied in a timely and cost-effective way;
- It provides information that can lead to improvements in service delivery; and
- Where complaints are handled properly, a good system can improve the reputation of an organisation and strengthen public confidence in an organisation’s administrative processes<sup>11</sup>.

As such relevant details of all complaints received by an organisation should be properly recorded and dealt with in an equitable, objective and timely manner.

<sup>10</sup> <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Binder-Complaint-Handling.pdf>

<sup>11</sup> <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Effective-handling-of-complaints-made-to-your-organisation.pdf>

- 5.3.2.3 Performance issues from Councils are mostly identified by the DLG through complaints received from ratepayers or concerned members of the public. For the years 2011 to 2013 the following number of complaints were received and recorded in the Departments complaints register.

**Table 5.4: Number of complaints received by DLG**

Year	Number of Complaints
2011	143
2012	392
2013 (Jan – June)	82

- 5.3.2.4 Audit found that the DLG did not have documented procedures for handling of complaints in the years 2011 to 2013, however procedures for complaints handling has been developed in January 2014.
- 5.3.2.5 Aside from 50 complaints recorded in 2011, audit could not gauge the timeliness of the DLG in responding to complaints received regarding councils performance. For the 50 complaints recorded in 2011, audit found that in instances the Department took as long as two weeks to two months to refer complaints to the Councils. Table 5.5 provide examples of this.

Furthermore, from the years 2011 to 2014, no record of follow up was documented on the complaints register to indicate the Departments action in ensuring that the Council had attended to the complaint and if the complainant's problem had been resolved.

**Table 5.5: Referring of Complaints to Councils**

Nature of complaint	Council	Date complain received by the DLG	Date referred to council	Length of Time Taken
Misuse of Council Vehicle by Council officer	Ba	14/10/11	01/11/11	18 days
Eye Vision – Ba Industrial Area	Ba	30/08/11	07/11/11	69 days
Poor Leadership and suspected corruption	Nausori	10/11/11	22/11/11	12 days
Problems with Nausori Market	Nausori	14/12/11	30/12/11	16 days
Service delivery	Nausori	03/05/11	15/05/11	12 days
Drainage and Environmental Pollution	Nadi	17/01/11	28/02/11	42 days
Revoking of Taxi Base LT42	Nadi	14/02/11	28/02/11	14 days
Public Transport Industry in Tavua Town	Tavua	24/01/11	01/03/11	36 days
Overgrown Grass	Nadi	22/02/11	09/03/11	15 days
Increase of Rent for Buildings in Tavua	Tavua	28/02/11	22/03/11	22 days
Complaint against Council Worker	Nadi	15/04/11	10/05/11	25 days
Abuse of Office	Nausori	23/05/11	10/06/11	18 days

- 5.3.2.6 Delays in referring complaints to councils affects the timely attendance and resolution of the issue whilst failure to properly record follow up actions indicates a lack of emphasis on ratepayers and in instances of staff movements new officers may not be aware of the status of the complaint whether being addressed or not.

## 5.4 Inconsistency in reporting of Local Government activities

5.4.1 It shall be the duty of the council to supply the Minister with a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the council and such other reports, statistics and documents as the Minister from time to time require<sup>12</sup>.

5.4.2 The Act requires Councils to provide the Minister with information on their financial and non-financial performance. Despite the lack of clarity in the Local Government Act in defining the various types and frequency of reports to be provided to the DLG, all municipal councils submit the following information to the Department:

- Annual Corporate Plans
- Annual Reports
- Arrears of Rates Report
- Progress Reports of Council Activities
- Progress Report of Capital Projects
- Minutes of Council Meetings
- Financial Reports
- Acquittals for grants provided by DLG
- Other reports as required by the Minister

5.4.3 From the questionnaire issued out to Councils audit found that the submission of information by the thirteen different councils to DLG is inconsistent. Apart from the submission of minutes on a monthly basis, other reports as identified under Table 5.6 indicate the inconsistency in reporting by the different councils.

**Table 5.6: Frequency of Reporting by Municipal Councils to DLG**

Council	Rates Report	Progress Report of Council Activities	Progress Report of Capital Projects	Minutes of Council Meetings	Financial Reports	Acquittals for Grants
Suva	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Lami	Monthly	Quarterly	Quarterly	Monthly	Annually	Monthly
Nasinu	Monthly	Monthly	Monthly Quarterly	Monthly	Monthly/Annually	Quarterly/Annually
Nausori	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Sigatoka	Monthly	Quarterly	Quarterly	Monthly	Annually	Monthly
Nadi	Monthly	Quarterly	Quarterly	Monthly	Not indicated	Monthly
Lautoka	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Ba	Monthly	Quarterly	Quarterly	Monthly	Monthly	Quarterly
Tavua	Monthly	Quarterly	Quarterly	Monthly	Monthly	Quarterly
Rakiraki	Quarterly	Monthly	Quarterly	Monthly	Monthly	Quarterly
Savusavu	Monthly	Monthly	Monthly	Monthly	Monthly	As per stages of the project
Labasa	Monthly	Quarterly	Quarterly	Monthly	Annually	Annually
Levuka	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly

<sup>12</sup> Local Government Act section 138(1)

- 5.4.4 Furthermore, reports submitted by the Councils are not standardised to allow comparisons across Councils or for monitoring of the effectiveness and efficiency of council services. Onus is on the Councils to determine the format of their reports and the types of information to disclose. Whilst some Council provided very brief reports on Council activities, some Council provided extensive information on both financial and non-financial performance.

In addition to the absence of standardised reporting, audit found no evidence of analysis done by the DLG for minutes and reports submitted by the councils to indicate that they are monitoring the Council's financial and non-financial performance. Discussions with the Principal Administrative officer (PAO) of the Department noted that the DLG has not been able to analyse the minutes and reports submitted by the Councils due to the lack of available manpower within the Department.

- 5.4.5 The absence of standardised reporting requirements impedes on the effective and efficient monitoring of council activities. Monitoring officers will find it difficult to assess and compare the performance of 'like' councils due to the inconsistency of information provided in the reports and frequency of reporting. Furthermore, failure of DLG to assess council minutes and reports results in the failure to identify and address performance issues in a timely manner.

## **RECOMMENDATIONS**

- The DLG should ensure that performance assessment are carried out for all SA's in a given year to ensure they are achieving outputs required of them as per organisational plans and Terms of Reference.
- DLG should develop a performance measurement and reporting framework to proactively gauge and assess the performance of local governments in delivering various services to their respective communities. The framework should provide a consistent set of core performance measures or indicators that can apply to all Councils and ensures accountability to communities, reporting for decision making by the state and promoting continuous improvement amongst councils.
- DLG should develop a customer Feedback Form to be issued to all councils and provided to ratepayers every year for the assessment of council performance in delivering relevant services.
- DLG should consistently record complaints received from ratepayers and the public regarding council's performance. Follow up actions should be taken to provide assurance that councils have addressed the issue. Furthermore, the DLG's SOP should clearly indicate the timelines for referring complaints to councils to ensure they are addressed in a timely manner.
- DLG should develop a standard reporting template where Councils are only able to report relevant information that will allow DLG to easily assess the performance of respective councils in different areas, compare performance of "like" Councils, identify issues and recommend areas for improvement in a timely manner.

## **Management Comments**

### ***Provision of a consistent set of core performance measures or indicators***

*The Ministry through the Department of Local Government has in place set of core performance measures or indicators derived from the SA's terms of references.*

### ***Customer Feedback Form***

*Municipal Councils deal directly with the ratepayers every year in terms of rates collection. The recommendation therein is noted.*

## 6.0 MONITORING FINANCIAL PERFORMANCE OF MUNICIPAL COUNCILS

*This section of the report examines the monitoring of financial performance of municipal councils by the Department of Local Government.*

### 6.1 Monitoring financial information submitted by Municipal Councils

- 6.1.1 The 2013 ACP of the MLGHE under output 2 *Delivering an improved system of Local Government* identifies the following strategies, KPIs and targets relating to monitoring of financial performance of Municipal Councils.

**Table 6.1: Financial Performance Targets as outlined in the ACP**

Strategies	Key Performance Indicators	2012	2013
<ul style="list-style-type: none"> <li>Budget Estimates for Local Municipal Councils &amp; NFA</li> <li>Facilitation in the collection of rates in arrears. SA's to recover 50 percent of rates in arrears</li> <li>Analysis of Financial Reports</li> <li>Monitoring Capital Projects/Grants</li> </ul>	<b>Quantity</b>		
	• Number of assessments of special administrators	2	2
	• Number of Budget Estimates received	13	14
	• Number of reports on rate arrears prepared and analysed	12	4
	• Number of Financial Reports prepared	13	14
	• Number of reports on capital projects/Grants submitted by councils, PMU and the NFA		4
	<b>Quality</b>		
	• Assessment report provided to the Minister is well researched		
	• Budget Estimates provided to the Minister is well researched		
	• Briefings provided to the Minister and PS on any variation is well researched		
	• Analysis of grants/capital projects provided to the Minister and PS on any variation is well researched		
	<b>Timeliness</b>		
	• Budget proposals received within the allocated timeframe by the end of November		
	• Budget estimates endorsed by the Minister by 31/12/13		
	• Financial Reports are analysed within the allocated timeframe		
	• Reports on capital projects/Grants are analysed within the allocated timeframe		

	Cost <ul style="list-style-type: none"> <li>Completion of work program within the budget allocation</li> </ul>		
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6.1.2 Discussed below are audit findings related to the effectiveness of DLG in monitoring the financial performance of municipal councils.

### 6.1.1 Receipt and assessment of budget proposals for Municipal Councils

6.1.1.1 Every council shall submit during the month of November in every year, prepare and approve an estimate of the income and expenditure of the council for the next succeeding year whether on account of property, contributions, rates, loans or otherwise.<sup>13</sup>

A council shall submit a copy of the estimate referred to in subsection 1 to the Minister.<sup>14</sup>

6.1.1.2 Audit found that all municipal councils are submitting their budget proposals as required under the Local Government Act. Our review of the SFCCO reports of the Ministry indicated that Council budgets for the following year are received in the fourth quarter of the current year as evident in Table 6.2 below.

Table 6.2: 2012 Achievement as per SFCCO Report

Number of Budget Proposals Received	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Target for the year	13			
Due Date	31/12/12			
Reported Progress	None, will receive in the second quarter	6 PSIP 2013 submissions received	None – 2013 submissions due November 12	Received 13 submissions from councils
Audited Progress	Quarter 2	Due by December 31 <sup>st</sup> . Minister to approve before January operation commences	4 <sup>th</sup> Quarter	13 submissions received from all the 13 councils – budget proposals for 2013 on new developments and projects undertaken and financial obligations of the council – wages, salaries, loans etc

6.1.1.3 In 2013, records indicate that the Senior Accounts officer assessed the budgets submitted by the Councils and wrote back to the Councils on behalf of the Permanent Secretary indicating that the budget proposals were realistic and have been approved for use in the following year. Audit however noted that no assessment was conducted on 2014 budget proposals submitted by councils in 2013. No correspondences were sighted to indicate that DLG had assessed and approved the use of respective council's budget in 2014.

<sup>13</sup> Local Government Act, section 46(1)

<sup>14</sup> Local Government Act, section 46(2)

- 6.1.1.4 Not assessing budget proposals submitted by councils may indicate lack of proper monitoring by the Department in determining whether the budget drawn up by the councils are realistic.

## 6.1.2 Submission and assessment of reports on rate arrears

- 6.1.2.1 One of the terms of Reference outlined in the Memorandum of Agreement between the MLGHE and Special Administrators provide that the signatory will be responsible to *bring about fifty percent improvements in collection of arrears on rates by 31st December each year.*
- 6.1.2.2 Audit found that despite the absence of documented policies to outline requirements for the frequency in submission of rates report, Councils submit their rates report on a monthly basis. Appendix 1 depicts the achievement of DLG with respect to its KPI indicated on the number of reports on rate arrears collected and analysed in 2012 and 2013.
- 6.1.2.3 Upon the receipt of Report on Rate Arrears from Council, DLG records the information on a spread sheet and a comparative analysis is done every quarter for three different categories of Councils as indicated in Table 6.3 below. After analysis is conducted a brief is then provided for management information and decision making.

**Table 6.3: Categories of Councils**

Category	Council
Small	Sigatoka Town Council
	Tavua Town Council
	Savusavu Town Council
	Levuka Town Council
	Rakiraki Town Council
Medium	Ba Town Council
	Nausori Town Council
	Nadi Town Council
	Labasa Town Council
	Lami Town Council
Large	Nasinu Town Council
	Suva City Council
	Lautoka City Council

- 6.1.2.4 Audit noted fluctuations in rates arrears for the years 2011 to 2013 as indicated in Table 6.4. In 2011 total arrears amounted to \$31, 175,326 which reduced to \$29,180,223 in 2012 and again increased to \$32,766,503 in 2013.

**Table 6.4: Rates Arrears in Councils**

<b>Councils</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Suva	17,467,009	16,159,628	13,033,676
Lami	171,248	160,928	1,199,671
Nausori	1,220,886	1,017,870	1,993,727
Nasinu	3,058,469	3,533,203	8,482,182
Lautoka	4,860,809	5,113,540	5,575,704
Ba	530,684	506,355	637,102
Nadi	1,996,182	1,311,671	290,552
Sigatoka	66,242	45,015	46,910
Levuka	115,682	118,927	14,150
Labasa	1,536,208	1,075,775	1,384,014
Tavua	4,069	6,086	729
Rakiraki	-	-	5,052
Savusavu	147,838	131,225	103,034
<b>Total</b>	<b>31,175,326</b>	<b>29,180,223</b>	<b>32,766,503</b>

6.1.2.5 The decrease in 2012 was attributed to the strategies recommended by DLG that included the following actions:

- Determine the status of arrears
- Clear books of any inflated figures
- Breakdown of rate arrears by name, businesses, Ministry/Department and amount of arrears
- Door to door interview for payments or arrangements
- Urge the use of M-Paisa for busy ratepayers
- Person to person interview/consultation
- Conduct socio economic survey to determine ratepayers ability to pay arrears

6.1.2.6 Audit found no evidence to indicate that the Department have recommended or reminded the Councils to implement the above strategies whilst monitoring the Councils arrears position in 2013 and 2014.

6.1.2.7 The anomaly may indicate inconsistency on the part of the Department to effectively monitor and identify strategies aimed at reducing Council's arrears.

### **6.1.3 Inadequate monitoring of capital projects**

6.1.3.1 Management of capital projects requires a substantial obligation of organizational time and resources. Given their scale and cost, capital projects can point to a significant risk for municipal councils. As such effective monitoring and reporting system should be in place to ensure economical use of funds provided.

6.1.3.2 To support capital developments within councils, the MLGHE through the Department of Local Government allocates funding to selected municipal councils for capital projects. Table 6.5 indicates the amounts allocated for each project in the years 2012 to 2014 for the selected councils.

**Table 6.5: Funds allocated by DLG for Capital projects**

<b>Capital Projects</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Levuka Town Council Heritage Grant	\$500,000	\$210,000	\$210,000
Relocation of Nausori Bus Stand and Market		\$1,500,000	\$1,500,000
Rakiraki Town Council	\$295,000		
Tavua Town Council Purchase of garbage truck			\$165,000
Levuka Town Council Purchase of garbage truck			\$107,000
Savusavu Town Council Market Extension			\$150,000
Sigatoka Town Council Market Improvement			\$200,000
Nadi Town Council Market Refurbishment			\$504,000
Nasinu Town Council Upgrading of Valelevu Sports Ground			\$200,000
Nasinu Town Council Streetlights and Footpath Upgrading			\$1,500,000
Challenge Fund & Investment Fund Town/City Council			\$3,000,000 <sup>15</sup>
<b>Total</b>	<b>\$795,000</b>	<b>\$1,710,000</b>	<b>\$7,536,000</b>

6.1.3.3 Audit found that a Memorandum of Understanding (MOU) is in place between the DLG and the various Councils. However, our review of the MOUs found that they do not integrate requirements of monitoring and reporting of the projects. As such no monitoring reports were sighted for the years to indicate that the Department was involved in the monitoring of capital projects. Discussions with relevant officers revealed that monitoring of capital projects were conducted by the Senior Accounts officer however documentation to indicate that this was actually conducted were not provided for audit verification.

In addition audit found that DLG does not maintain database records of the number of capital projects completed, amount utilised for each project and other relevant details of each project to ensure relevant information is available when needed.

6.1.3.4 In April 2014, a Senior Administrative Officer was engaged to be directly responsible for monitoring the implementation of capital projects in each council. Monitoring of capital projects is conducted through verification of payment vouchers and acquittals submitted by Councils which will determine the release of grant for the subsequent phase of the capital project.

Moreover, site inspections are also conducted; however audit found that the Department does not engage an independent engineer to verify the scope of works done as reliance is only placed on council engineers and/or building inspectors.

6.1.3.5 The non-inclusion of monitoring and reporting requirements in the MOU has a direct impact on the effective monitoring of the capital projects. In addition improper maintenance of capital projects may result in the failure of DLG to keep tab of issues under each project, actioning them appropriately and their availability during staff movements. Furthermore, failure of DLG to engage an independent engineer creates the risk for collusion between councils and contractors whereby, the scope of works carried out may not coincide with the actual works done and payments paid for works carried out on the project.

<sup>15</sup> Details provided under Appendix 3

## 6.2 Submission of key financials

6.2.1 Section 19 (1) (a) of the Local Government Act requires every council to submit to the Minister on or before 31 July a copy of the annual statement in accordance with the provisions of Fiji Accounting Standards.

6.2.2 Audit noted that whilst some Council have their Councils audited up to date, a few other Councils accounts are not audited up to date due to the delay in submission of draft accounts for audit. The following table indicates the Councils with delayed accounts.

**Table 6.6: Councils with delayed accounts**

Councils	Last Audited FS submitted	Number of audited FS still to be submitted
Suva	2009	4
Nausori	2010	3
Nasinu	2007	6
Levuka	2010	3
Savusavu	2008	5

6.2.3 The DLG does analysis on the Councils' audited financial statements. The purpose of the analysis is to provide an explanation of how the Councils have performed. However, audit noted that since the resignation of the SAO, audited financial statements have not been scrutinised.

6.2.4 The audit also noted that financial reports are submitted by the various Councils on a regular basis. Our audit found that the frequency of submission made by Councils varies. Refer to the following table for details:

**Table 6.7: Frequency of Reporting by Municipal Councils to DLG**

Council	Rates Report	Progress Report of Council Activities	Progress Report of Capital Projects	Minutes of Council Meetings	Financial Reports	Acquittals for Grants
Suva	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Lami	Monthly	Quarterly	Quarterly	Monthly	Annually	Monthly
Nasinu	Monthly	Monthly	Monthly Quarterly	Monthly	Monthly/Annually	Quarterly/Annually
Nausori	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Sigatoka	Monthly	Quarterly	Quarterly	Monthly	Annually	Monthly
Nadi	Monthly	Quarterly	Quarterly	Monthly	Not indicated	Monthly
Lautoka	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly
Ba	Monthly	Quarterly	Quarterly	Monthly	Monthly	Quarterly
Tavua	Monthly	Quarterly	Quarterly	Monthly	Monthly	Quarterly
Rakiraki	Quarterly	Monthly	Quarterly	Monthly	Monthly	Quarterly
Savusavu	Monthly	Monthly	Monthly	Monthly	Monthly	As per stages of the project
Labasa	Monthly	Quarterly	Quarterly	Monthly	Annually	Annually
Levuka	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly

6.2.5 Furthermore, audit noted that in 2014 no analysis of the financial reports was conducted by DLG due to the absence of a Senior Accounts Officer.

- 6.2.6 The anomalies may indicate that mechanisms for monitoring financial performance of the Councils by the Department may not be effective.

## **RECOMMENDATIONS**

DLG should:

- ensure that budgets submitted by councils are analysed every year prior to being approved for implementation by the councils. DLG should also maintain proper records of all budgets submitted, analysis conducted and ensure activities budgeted for are actually undertaken.
- continue proper monitoring of rates collection for all councils and consistently recommend the implementation of effective strategies to allow councils to collect rates from its ratepayers in a timely manner.
- integrate monitoring and reporting requirements for capital projects in the MOU. These should include responsibilities for monitoring, reporting arrangements and other relevant requirements to ensure monitoring of capital projects are effectively undertaken.
- maintain spreadsheet records of funds utilised and percentage of work done in each phase of the project for ease of monitoring and availability of information by relevant users.
- request the assistance of an engineer from the Department of Housing or Department of Town and Country Planning to carry out independent assessments of the scope of works carried out by contractors for relevant capital projects to guarantee funds disbursed were for works specified under the terms of contract.
- meet with the Councils with delayed accounts and discuss ways to assist them in ensuring the timely submission of accounts.
- set out a requirement to the Council as to the frequency in the submission of financial reports.

## **Management Comments**

### ***Maintenance of proper record***

*The Department of Local Government acknowledges the gap in its record management. A submission shall be made to Management on the provision of a Clerical Officer and office space to have a Department Registry within the Department.*

### ***Request assistance of an Engineer within***

*The Department of Local Government acknowledges sharing resources amongst the four Departments. The Department notes the importance of having a pool of technical expertise in every aspects of engineering to provide technical advice on capital projects.*

### ***Appointment of Senior Accounts Officer***

*The Department of Local Government acknowledges the importance of having this position filled sooner for work continuity.*

## 7.0 CONCLUSION

- 7.1 The effectiveness of monitoring municipal councils is weakened by the lack of clearly defined legislation and documented policies and procedures to provide guidance and instructions on how various council activities are to be monitored.
- 7.2 Also the lack of human resources has not allowed the Department to effectively and consistently monitor performance of the local government. In addition service delivery of councils has not been effectively monitored due to the absence of a performance measurement framework.
- 7.3 Furthermore improper maintenance of records is a hindrance to the Department's consistent and effective monitoring of municipal councils' performance.

## 8.0 REFERENCES

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2. Consumer Council of Fiji, submission to Local Government Review Committee on the Review/Reform of Local Government
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9. Ministry of Local Government, Urban Development Housing and Environment SFCCO Quarterly Reports 2012 – 2013
10. Monitoring and Assessing the Performance of Local Government Councils in Uganda, 2010.
11. New South Wales Auditor-Generals Report – Performance Audit Monitoring Local Government
12. Performance Measurement in Local Government - Richard Boyle

# APPENDIX 1: DLG ACHIEVEMENTS ON MONITORING RATES ARREARS AS PER SFFCCO REPORT FOR 2012-2013

2012

Number of Quarterly Reports on rate arrears	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Target for the year	12			
Due Date	31/12/12			
Reported Progress	DLG (12) Ba Town Council: Jan – March report councils have been advised to submit monthly reports. Ten councils have submitted monthly reports	12 Quarterly Reports Received	12 Quarterly Reports Received	12 Quarterly Reports Received
Audited Progress	All twelve councils have submitted except for Nadi and Rakiraki	12 Quarterly Reports on rate arrears received. Waiver of interest due to hardships – ratepayers want to pay principal and not the interest	All council rates received except for Rakiraki Town Council	12 Quarterly Reports Received. Rakiraki yet to start collecting rates 2013.

2013

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Target for the year	4			
Due Date	31/12/12			
Reported Progress	From January to march, 2013	Report on collection of rates.	3rd Quarter rates updated – July, August and September.	Report on quarter rates- October, November and December.
Audited Progress	1 report submitted on the collection of first 3 months.	1 report submitted on the collection of arrears and the current collection of rates.	Summary of Collection produced from the month of July – September.	Report on Rate Arrears Summary on collections made from 13 town councils Q4, total of \$3,433,937.32 Current Rate Summary \$2,469,696.45



# Progress of Implementation of Policies and Strategies in the Fiji Forest Policy Statement 2007

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*A performance audit report of the Office of the Auditor General of the Republic  
of Fiji*



The audit seeks to establish the progress of implementation of Policies and Strategies outlined in the Fiji Forest Policy Statement 2007. In particular the audit looked into the following areas in respect to this:

- Conservation of forest and biological resources.
- Integrated forest resource management; and
- Institutional framework and human resources.

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## Acronyms

ACIAR	Australian Centre for International Agricultural Research
ACP	annual Corporate Plans
APAFRI	Asia Pacific Association of Forestry Research Institutions
APFC	Asia Pacific Forestry Commission
APFISN	Asia Pacific Forest Invasive Species Network
APFnet	Asia Pacific Forestry Network for Sustainable Forest management and rehabilitation
CBD	Convention on Biological Diversity
CEPF	Critical Ecosystem Partnership Fund
COWRIE	Coastal and Watershed Restoration for the Integrity of Island Environments
DOF	Department Of Forest
EIA	Environment Impact Assessment
FAB	Fijian Affairs Board
FAO	Food and Agriculture Organization
FBSAP	Fiji Biodiversity Strategy and Action Plan
FD	Forest Department
FFHCOP	Fiji Forest Harvesting Code of Practise
FHCL	Fiji Hardwood Corporation Limited
FI	Forest Inventory
FPE	Permanent Forest Estate
FPL	Fiji Pine Limited
FTC	Forestry Training Centre
GEF	Global Environment Facility
GEF PASS 4	Global Environment Facility Pacific Alliance for Sustainability
GIZ	German Agency for International Cooperation
GPS	Global Positioning System
IT	Information Technology
ITLTB	Itaukei Land Trust Board
ITTO	The International Tropical Timber Organization
IUCN	International Union for Conservation of Nature
IUFRO	International Union of Forest Research Organizations
JICA	Japan International Cooperation Agency
MESCAL	Mangrove EcoSystems for Climate Change and Livelihood
MMC	Mangrove Management Committee
MMP	Mangrove Management Plan
MOA	Memorandum of Agreement

MOU	Memorandum of Understanding
MSD	Management Service Division
NBSAP	National Biodiversity Strategy and Action Plan
NEC	National Environment Council
NFI	National Forest Inventory
NFMV	Nature Fiji Mareqeti Viti
NFP	National Forest Program
NGO's	Non-Government Organisation
PAC	Protected Area Committee
REDD +	Reducing Emission from Deforestation and Degradation
SFM	Sustainable Forest Management
SG's	Solicitor General's Office
SPC	Secretariat of the Pacific Community
SPREP	Secretariat of the Pacific Regional Environment Programme
TLTB	Itaukei Land Trust Board
TOR	Terms of Reference
UNDP	United Nations Development Programme
UNFCCC	United Nations Convention to Combat the Decertification
USP	University of the South Pacific
USP-IAS-	University of the South Pacific - Institute of Applied Science
WCS	Wildlife Conservation Society
WMA	Watershed Management Areas

## Glossary

Term	Definition
Delimitation	Drawing of boundaries
Forest Inventory	Systematic collection of data and forest information for assessment or analysis
Natural Forest	Natural Forest is composed of indigenous trees, not planted by man.
Mataqali	Clan
Permanent Forest Estate	Forest area that is designated to be retained as forest and may not be converted to other land use
Plantation Forest	Forest established through plan or sowing of seeds by humans
Reforestation	Artificial (planting or seedling) or natural re-establishments of forest after harvesting/ cutting on previously forest or other wooded land
Silviculture	is the practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.
Tikina	Province
Tokatoka	Sub clan
vanua	Land and the People
watershed	A watershed is the area of land where all of the water that is under it or drains off of it goes into the same place
Yavusa	The largest social unit for Fijians

# 1.0 EXECUTIVE SUMMARY

**Background** More than 80% of Fiji's forest resources are located as indigenous land, in rural areas. Therefore, the forest sector is an important, rural based component of Fiji's economy.

**Coverage** The audit is conducted with the objective of assessing the effectiveness and efficiency of the Department in implementing actions outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007

The audit focused on examining the progress of implementation of three out of the total five areas outlined under the Policies and Strategies Section of the Fiji Forest Policy Statement 2007 which includes the following:

- Conservation of forests and biological resources;
- Integrated forest resources management; and
- Institutional Framework and Human Resources.

**Key findings** *Conservation of forests and biological resources*

- Forest function map has yet to be finalised.
- There is absence of MOU between the Department and Nature Fiji Mareketi Viti in the conduct of awareness and consultations on behalf of the Department.
- Reports for the second and third National Forest Inventory have yet to be prepared.
- No procedure is in place to ensure that information obtained from timber harvesting operations is incorporated into the National Forest Inventory database.

*Integrated forest resources management*

- Bouma Forest Park Management Plan has yet to be reviewed to integrate requirements of the EMA.
- Apart from Fiji Pine Limited other woodlots submitted harvesting plans covering only one year.
- The Department has yet to issue a regulation concerning selection of silvicultural system.
- The Department has not developed and issued guidelines and standards for silvicultural treatment in natural forests.
- The Department has yet to work towards forest management plans for plantation area.
- The Department has yet to put forward the Forest Certification Standard to Cabinet for endorsement.
- Little evidence existed to indicate that the Code of Practice Steering Committee is fully functional.
- There exists no fee structure to charge for the processing and monitoring of licenses.
- The Department has yet to work towards developing regulations to govern the measurement of logs.
- The Department has yet to define the scope of Environmental Impact Assessment for the forest sector.
- The Department has yet to work towards development of a management plan for non-wood products in Fiji.

*Institutional framework and human resources*

- Meetings of the Forestry Board were not specifically planned by the Department.
- Lack of evidence existed to indicate that the Department has conducted wider promotion of cross-sectoral coordination with other government institutions.
- The Department is yet to seek assistance from international or regional development agencies to review the structure, administrative procedures, resources and revenue stream of the Department.
- The Department is yet to make an effort to assist in the establishment of Associations for forest management.
- The Department is yet to promote the introduction of environment and natural resource education in primary and secondary schools.
- The Department is yet to conduct a review of the viability of its training centre.

**Overall conclusion** Overall the Department has made considerable progress in the implementation of actions for the three areas of the Fiji Forest Policy Statement 2007 covered in this audit. However, there are a number of areas that the Department still has to commence work on whilst some other areas require the assistance and co-operation of other stakeholders in the forest sector as well as agencies within government and the private sector to be fully implemented.

There is also a need for the Department to continuously monitor and appropriately document the progress of the implementation of the Fiji Forest Policy Statement 2007 to ensure they are aware of the status of its implementation over time.

Further to the above, progress of most of the work required by the Policy are heavily reliant on the finalisation of the revised Forest Decree. Thus, it is only vital that the Department work vigorously towards ensuring the finalisation of the Decree.

**General Recommendation** It is recommended that the Department consider the recommendation made in this report for a way forward in ensuring implementation of the three areas of the Fiji Forest Policy Statement 2007 covered in this audit.

It is also recommended that the Department reviews its current policy. In this respect the Department should first establish progress of the policy implementation before determining its actions plan for the revised policy.

## 2.0 INTRODUCTION

*This section of the report provides reasons for conducting the audit as well as a brief overview within department of forestry in terms of Fiji Forest Policy 2007.*

### 2.1 Overview

- 2.1.1 The forest sector is an important rural based component of Fiji's economy, considering that more than 80% of Fiji's forest resources are located on indigenous land in rural areas. In recognizing the multiplier effect of developing the sector, government has driven policy and strategies towards the sustainable management of the forest resources in a realistic and sustainable manner.
- 2.1.2 The conservation and sustainable management of Fiji's natural forests is the most important means of conserving the vast majority of Fiji's endemic fauna and flora. This also supports Fiji's stance as a signatory to international and regional environmental Conventions which recognize a nation's endemic biodiversity and provide undertakings for its effective conservation.
- 2.1.3 The role of forests for society has changed and broadened considerably as a consequence of social, economic, environmental, cultural and political changes. The contribution of forests to international conservation has become an important aspect of the national policy discussions globally. New demands such as the use of forests as carbon sinks illustrate that the social meaning of forests is a dynamic one, and can be subject to rapid and unpredicted changes.
- 2.1.4 The increased demand for timber and other forest products, and the ongoing conversion of forest land for other uses places a growing pressure on forest resources. These challenges have necessitated the need to redefine the forest policy to reflect the adoption of appropriate sustainable forest management system to ensure the full and successful implementation of current strategic directions and landowner aspirations on the management of their resources.
- 2.1.5 The first Forest Policy for Fiji was approved by the Legislative Assembly in 1950. Subsequently, the Forest Act was endorsed in 1953 to give legal effect to this policy. In 1988, the Government initiated a Forest Sector Review with a comprehensive analysis of the sector and reformulated sectoral objectives, strategies and development programmes as a basis for the development of the forest sector.<sup>1</sup>

Although the review did not result in the formulation of a new forest policy, it initiated changes to the forestry legislation. The Forest Act was reviewed in early 1990; and in 1992 replaced by a forest decree which simplifies, clarifies and updates its preceding legislation taking into account the need for sustainable forest management and changes in the policy environment.<sup>2</sup>

- 2.1.6 In 2003, the Forestry Department stated the need to redefine forest policy to reflect adoption of appropriate suitable forest management system to ensure the full and successful

<sup>1</sup> Fiji Forest Policy 2007 page 1x

<sup>2</sup> Fiji Forest Policy 2007 page 1x

implementation of current strategic directions and landowner aspirations on the management of their resources.<sup>3</sup>

This need has been addressed by the elaboration of the new forest policy in a process that involved wide stakeholder consultation at the national and decentralised level. With the endorsement of the Rural Land Use Policy by Cabinet in 2005, the new Fiji Forest Policy can be put into an adequate policy framework for sustainable land use and elaborate on details to be addressed by a comprehensive sectoral policy. The interim Cabinet at its meeting of 6<sup>th</sup> November 2007 approved the new Forest Policy.<sup>4</sup>

- 2.1.7 The Forest Policy Statement (2007) was developed to promote the shift to a sustainable forest management regime from a previous focus on commercial exploitation of timber resources. It was developed to reflect the multiple uses and purposes of forest management that have evolved over the years, to increase the environmental, social and economic opportunities of the sector. This includes sustainable forest management, conservation, and the use of forests as carbon sinks. The policy recognizes the economic potential of the sector as a major source of foreign exchange and aims to develop the sector in a way to ensure this is maintained.
- 2.1.8 The policy promotes conservation, rehabilitation and sustainable forest management in line with the Rural Land Use Policy (2006) and stresses the social role of forestry in creating a sustainable rural environment, employment and income opportunities. It recognizes the need to engage and involve local stakeholders and landowners in the sustainable management, protection, and rehabilitation of resources.
- 2.1.9 The formulation of the Fiji Forest Policy is an important step in the continuous development of a National Forest Programme that strives at achieving a consensus of all stakeholders on policies and implementation measures towards conservation and sustainable management of the nations' forest resources aiming at maintaining multiple values for the benefit of present and future generations alike.<sup>5</sup>

## 2.2 Reasons for undertaking the audit

- 2.2.1 Sustainably managed forests provide many benefits to society including improved livelihoods for rural communities, employment for workers, essential building and paper products or as export commodities for businesses, recreational opportunities, and key environmental and aesthetic values important to the quality of life in our society.
- 2.2.2 Since Fiji Forest Policy was endorsed over 6 years ago, this audit is necessary to establish the extent of implementation of the Policy in achieving policy goals.
- 2.2.3 No performance audit has ever been carried out since the Fiji forest policy was endorsed.

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<sup>3</sup> Fiji Forest Policy 2007 page 1x

<sup>4</sup> Fiji Forest Policy 2007 page x

<sup>5</sup> Fiji Forest Policy 2007 page x

## 3.0 AUDIT OBJECTIVES, SCOPE & METHODOLOGY

*This section of the report outlines the methodologies used to gather information utilised for the audit.*

### 3.1 Audit objectives and scope

- 3.1.1 The objective of the audit is to determine the effectiveness and efficiency of the Department in implementing actions outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007.
- 3.1.2 The audit focused on examining the progress of implementation of three out of the total five areas outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007 which includes the following:
- Conservation of forests and biological resources;
  - Integrated forest resources management; and
  - Institutional Framework and Human Resources.

### 3.2 Audit methodology

- 3.2.1 The audit was conducted using the following evidence gathering techniques.

1. Documentary reviews

Relevant documents for the audit maintained by the Department of Forestry were reviewed for the audit. The following entail some of the documents reviewed:

- Forest Decree 1992
- Fiji Forest Policy Statement 2007
- Fiji Forest Policy Statement 2007 Summary
- Fiji Forest Harvesting Code of Practice
- Fiji National Forest Program 2010-2012
- Fiji Forest Certification Standard December 2013
- Annual Corporate Plan – Department of Forestry
- 2014 Business Plan – Department of Forestry
- National Climate Change Policy
- Implementation Framework 2010-2014 for the National Biodiversity Strategy and Action Plan 2007 Fiji Islands
- Harvest Management Plans
- Rural Land-use Policy 2006

## 2. Interviews

The audit team interviewed the following personnel:

**Table 3.1: Details of officers interviewed**

Position	Organisation
Conservator of Forest (CF)	Department of Forestry
Divisional Forest Officers – Central, Northern and Western	Department of Forestry
Team Leaders – various divisions	Department of Forestry
	Mareqeti Viti Nature Fiji
	Conservation International
Principal Officer	Department of Agriculture

## 3. Site visits

The audit team also visited the following sites during the audit:

**Table 3.2: Details of sites visited**

Division	Sites
<b>Central</b>	<ul style="list-style-type: none"> <li>• Vunimaqo Forestry Station</li> <li>• Vunimaqo (native forest)</li> <li>• Nakurua mahogany plantations</li> <li>• Tagege mahogany plantations</li> </ul>
<b>Western</b>	<ul style="list-style-type: none"> <li>• Fiji Pine , Drasa Lautoka</li> <li>• Mare (Native Forest),</li> <li>• Bukuya (reserve),</li> <li>• Nalotawa (SFM),</li> <li>• Tavakubu (PSP),</li> <li>• Sabeto (SFM),</li> <li>• Nawaqadamu (SFM),</li> <li>• Vuda closed forest</li> </ul>
<b>Northern</b>	<ul style="list-style-type: none"> <li>• Fiji Pine Industry Malau</li> <li>• Tabia agroforestry,</li> <li>• Seqaqa nursery,</li> <li>• Drawa Forestry project</li> <li>• Labasa loggers &amp; saw mill logs</li> <li>• SFM projects.</li> </ul>

## 4. Questionnaire

A questionnaire was also issued to obtain responses on issues not specifically documented. The questionnaires were issued to the Conservator of Forest, Deputy Conservators and Head of the Extension Division of the Department.

## 5. Other

Communications were also made through e-mails to clarify information and also obtain certain information and documentations.

## 4.0 CONSERVATION OF FOREST AND BIOLOGICAL RESOURCES

*This section of the report seeks to examine the progress of implementation of the conservation of forest and biological resources outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007.*

- 4.0.1 Covering more than 50 % of the national territory, Fiji's forests are the key elements in the conservation and sustainable management of the natural resources. All forestry planning and activity has to take into account society's demands for goods and services from forest and the forest sector. Forests are expected to provide timber, to protect watersheds and soils and provide shelter from natural disasters as well as to host a wide range of unique species of fauna and flora. New demands, such as the use of forests as carbon sinks, illustrate that the social meaning of forests is a dynamic one that can be subject to changes. Sustainable forest management is one option among several land use alternatives. This means that there is competition between maintaining or expanding the forest cover and land clearing, and between the forestry sector and other sectors of the economy.<sup>6</sup>
- 4.0.2 A fundamental ingredient for sustainable land use planning and the management of the natural resources is an integrated approach. It has immediate and far-reaching consequences for the status and use of different categories of forest land. Nature and landscape policy, for instance, increasingly demands that forest management be subject to review and assessment with regard to ecological criteria. It establishes the need for participation of user and conservation groups in the decision-making process. Ecological and landscape inventories become an important source of information for planning and monitoring of forestry activities. It follows that forest owners and managers as well as public forest services have to consider ecological and protection aspects more intensively than in the past. This calls for broad and consistent consultation processes among public and private stakeholders, with explicit coordination among governmental agencies that have competencies in forestry matters, environmental protection, land use planning and rural development.<sup>7</sup>

**Appendix 1.1** details the objective and key focus areas of the above section of the Policy.

### 4.1 Land use planning and forest classification

- 4.1.1 The Forestry Department with the Ministry of Agriculture will develop and implement proper land use planning process involving all stakeholders in accordance with the Rural Land Use Policy and the National Forest Policy.<sup>8</sup>
- 4.1.2 In consultation with all the stakeholders a permanent forest estate will be established as an area designated for sustainable forest management which shall not be converted to other land use purpose. The forest function map will be revised accordingly.<sup>9</sup>

<sup>6</sup> Section 5.1 – Fiji Forest Policy Statement 2007

<sup>7</sup> Section 5.1 – Fiji Forest Policy Statement 2007

<sup>8</sup> Section 5.1.1 Fiji Forest Policy Statement 2007

<sup>9</sup> Section 5.1.1 Fiji Forest Policy Statement 2007

4.1.3 The Fiji Forest Policy Statement 2007 sets out the following actions to be undertaken to ensure the above requirements are met:

- Preparation of land use plans at the national, provincial and district levels including the vanua, tikina, yavusa, mataqali and tokatoka. As part of these processes the Government will identify areas of land which are best suited for long term; high-value forest production; afforestation and land rehabilitation; forest protection and conservation.
- Elaborate and issue a Forest Function Map based on forest functions, ecological differences and management criteria.
- Develop and disseminate effective programmes to raise landowner awareness using appropriate participatory tools that ensures active and meaningful contribution of resource owners to land use planning and forest classification.

The following paragraph discusses the status of the above actions:

### **Existence of a land-use plan**

4.1.4 Audit noted that the Land Use Plan as required under the Fiji Forest Policy Statement 2007 to be prepared at the national, provincial and district levels including the vanua, tikina, yavusa, mataqali and tokatoka has yet to be developed. Discussion with the Conservator of Forest confirmed the same.

4.1.5 Our discussion with the Forestry Department and the Department of Agriculture revealed that the responsibility for developing the land use plan had moved from the Department of Agriculture to Strategic Planning. Our enquiry on the Land Use Plan with Strategic Planning confirmed that there currently exists no land use plan. However, Strategic Planning indicated that a draft paper has been prepared to be presented to Parliament but awaiting the consulted stakeholders comments. Audit noted the various stakeholders that were distributed the sustainable land use paper for comments were;

- Permanent Secretary for Rural Housing and Maritime development and National Management
- Permanent Secretary for Itaukei Affairs
- Permanent Secretary for Lands and mineral resources
- Permanent Secretary for Agriculture
- Permanent Secretary for Sugar
- Permanent Secretary for Fisheries and Forest

4.1.6 Although there is no land use plan in place, the Department of Forestry has carried out some form of awareness programs alongside some NGO. According to the officer responsible part of their awareness program is to allow the communities to prepare participatory action plans as to how they will allocate their land into various land use activities e.g. which to be used for agriculture, which to be used for development and which to be used to preserve as forest and to be logged.

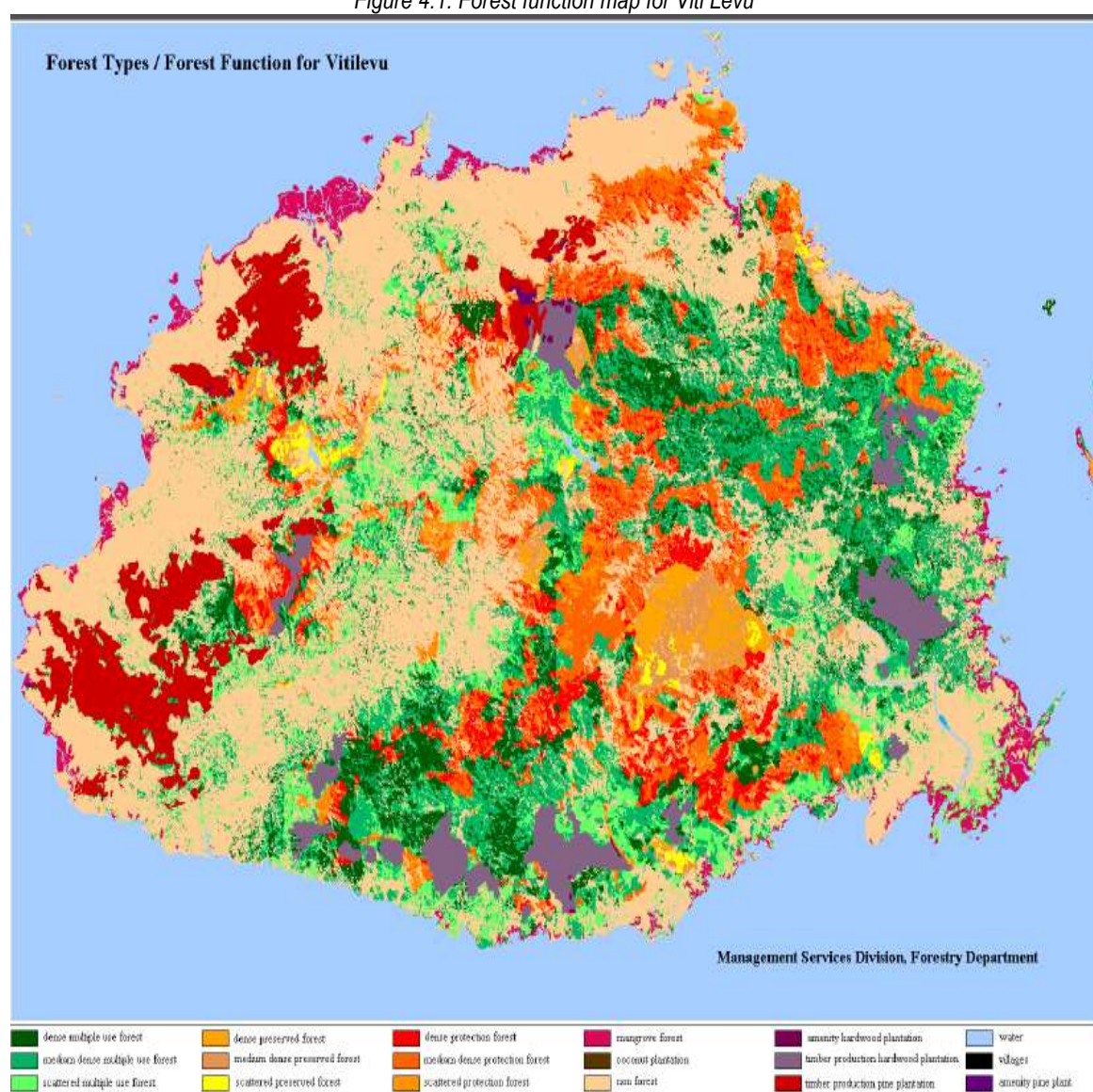
This program encourages the communities to be actively involved by taking ownership of preparing its own land use plan. These land use plans are prepared by the community themselves where the technical assistance was provided by DOF coordinated by various NGO's. Audit however was not provided with a list of communities that have undergone the participatory programme.

- 4.1.7 In the absence of comprehensive national and regional land use plans, there is no clear process for identifying and securing forest areas for different uses, which constitutes a major constraint to sustainable forest management.

### Forest function Map

- 4.1.8 A forest function map identifies areas according to their functions such as areas of ecological significance, critical importance for biodiversity, soil and water conservation or for social and cultural heritage identified for protection, and forests for production purposes which are all intended to be managed in a sustainable way for fair and increased benefits for the resource owners and communities.
- 4.1.9 According to the Department, forest mapping are divided into densities from dense, medium dense and scattered forest areas. The following is an example for the Vitilevu area only;

Figure 4.1: Forest function map for Viti Levu



- 4.1.10 The forests area are categorized as either multiple use forests, protection forest categories, forest plantations and mangroves. Refer to the following table for details of these categories of forests.

**Table 4.1: Categories of forest**

Category of forest	Details
<b>Multiple use forests</b>	<ul style="list-style-type: none"> <li>• Are indigenous forest to be maintained under forest cover for the production of timber and non-timber forest products, catchments protection, wildlife habitat, recreation values and amenity uses.</li> <li>• This category includes natural forest areas, declared forest reserves and forest areas suitable for regeneration, enrichment planting or reforestation.</li> </ul>
<b>Protection forest</b>	<ul style="list-style-type: none"> <li>• Category applies where the forest's biological diversity and ecological integrity together with values such as water supply, soil conservation, cultural or historical significance or scenic appeal will be protected.</li> <li>• The category includes: <ul style="list-style-type: none"> <li>○ soil and water protection forest with a slope &gt; 30 degrees above 650m elevation</li> <li>○ designated watershed</li> <li>○ primary forests, cloud montane forests, natural reserves, conservation areas and important biodiversity areas.</li> <li>○ Declared cultural and historical sites.</li> <li>○ Recreation forests</li> </ul> </li> </ul>
<b>Forest plantations</b>	Land under established plantation with forest species or any land identified for afforestation to provide forest products for sustainable development under a Land Use Plan.
<b>Mangroves</b>	Defined as a separate category in view of its ecological, economical and social importance.

Source: Fiji Forest Policy Statement p27-28

- 4.1.11 However, audit noted that the forest function map is only a potential map and has not been finalised yet. The Department is still in the process of printing the draft function map. Discussion with the officer in charge revealed that there is no current arrangement in place to share the map with the Department of Lands to facilitate its printing.

### **Awareness program**

- 4.1.12 The awareness programs in establishing PFE have been coordinated by Nature Fiji Mareketi Viti (NFMV) through, partnering with various other NGO's in funding the awareness programs, while the technical expertise is facilitated by the Department of Forest.
- 4.1.13 The ultimate goals of the program is to ensure that land owners, particularly those in the rural areas are aware of the wealth of the resource they have in their native forests, and that they can build their capacity to sustainably manage these resources to provide for a long-term income base as well as permanent habitats for Fiji's endemic biodiversity.
- 4.1.14 A discussion paper on Permanent Forest Estates prepared by NFMV in November 2012 indicated the following awareness of PFE have been undertaken from the period 2009-2011.

**Table 4.2: Awareness of PFE undertaken by NFMV from 2009-2011**

Year	Details of awareness
<b>2009</b>	<ul style="list-style-type: none"> <li>Strengthening Taveuni's Protected areas (CEPF, UNDP, GEF, Darwin Initiative). NFMV, Department of Forests (Northern Division), National Trust of Fiji, BirdLife International, Conservation International, Ministry of iTaukei Affairs (Institute of Language and Culture, Native Lands Commission), Department of Agriculture (Taveuni Extension officers, Department of Land Use)</li> <li>Island wide-consultations with the above stakeholders</li> </ul>
<b>2010-2011</b>	<ul style="list-style-type: none"> <li>Creating Permanent Forest Estates for the Benefit of Fiji's People and Biodiversity (Aage V. Jensen Charity Foundation), NFMV, Department of Forests, BirdLife International, SPC/GIZ, USP, Department of Environment, SPC Land Resources Division, National Trust of Fiji, Ridge to Reef Management, Ministry of iTaukei Affairs (iTaukei Affairs Board, Provincial offices)</li> <li>Communication materials produced in consultation with above stakeholders: <ul style="list-style-type: none"> <li>5 posters</li> <li>Fiji Forest Policy Statement Summary (2007) – Fijian version</li> <li>Project Supplementary Booklet (Fijian)</li> <li>Fiji Biodiversity Booklet (Fijian)</li> <li>Drawa SFM DVD – Fijian version.</li> <li>Children's Book: Bolo Journey- Burrowing into Biodiversity</li> </ul> </li> <li>Awareness <ul style="list-style-type: none"> <li>Department of Forest, NFMV and Provincial office representative</li> <li>Fiji Forest Policy: Free ecosystem services, Environmental Management Act (2005), EIA Regulations (2007)</li> <li>Sustainable Forest Management – Drawa case study</li> <li>PFE as a form of land-use</li> </ul> </li> </ul>

- 4.1.15 Audit also gathered that in 2013 NFMV conducted follow up on the PFE awareness that was conducted by them and the Department of Forest in 2010/2011. The mataqali selected for the follow up consultation were selected through the mataqali representative evaluation of the awareness on what they learnt during the awareness in comparison to the environment that surrounds them.
- 4.1.16 The area of consultation includes Navala village in the district of Qaliyalatini, Navai/Nadala and village from the district of Savatu, Ba Province, Nubutautau from Navatusila District and Vanualevu village from the District of Nadrau, Nadroga/Navosa Province, Nabalesere is located in the District of Nailuva, Ra Province.
- 4.1.17 However, audit gathered that there exist no formal arrangements in place between the Department and the NFMV in respect to the awareness engagement. Discussion with the Department indicated that they have worked towards drafting a Memorandum of Understanding (MOU) with NFMV; however the Councillors at NFMV had reservations about having an MOU as they do not wish to be held responsible for any mishaps. The NFMV position on the matter is mainly due to the fact that funding of awareness is provided by various NGOs.
- 4.1.18 In the absence of formal arrangement the Department may have little or no control over the activities and coverage of awareness undertaken by the NFMV.

## 4.2 Forest Inventory

- 4.2.1 The Forestry Department will establish acceptable standards for forest inventories and will systematically maintain and improve the knowledge on Fiji's forest resource base.<sup>10</sup>
- 4.2.2 The Department will undertake a detailed national forest inventory periodically, to elaborate adequate information for sustainable management and conservation of forest resources and for supply of timber on a sustainable basis as well as to monitor the development of the forest resources.<sup>11</sup>
- 4.2.3 Based on the result of the national forest inventory, all license holders for national forest areas will be required to forest inventories to a standard approved by the Forest department before timber harvesting commences. In addition, all owners of commercial plantation resource will be obliged to undertake periodic forest inventories.<sup>12</sup>
- 4.2.4 The Forest policy sets out the following actions to be undertaken to ensure the above requirements are met:
- The Department will conduct a National Forest Inventory that covers natural resources and plantations. The inventory will look at the entire forest ecosystem and beside trees, assess biodiversity, environmental values and non-timber forest products.
  - The Department will develop, maintain and on a periodic basis of 10 years, update a National Forest Inventory database giving priority to those areas where logging is occurring or anticipated and within those areas where the current resource information is considered to be least reliable.
  - The results of the NFI will be made public by the Department. Specific data and information will be accessible for interested parties on request. To encourage cross-sectoral planning. The Department will make the information available to other Government agencies e.g for the National Land Use Policy 2005.
  - Forest inventory at forest management unit level will be required for the elaboration of forest management plans. Procedures will be established to ensure that the information obtained from the timber harvesting operations, from either native or plantation forest is incorporated into the NFI database as a means of verifying the accuracy of the forest inventories.
  - Resource owners and timber company personnel will be trained in basic forest inventory techniques. Resource owners will be encouraged to get actively involved in forest inventory processes as part of the inventory teams.

The following paragraph discusses the status of the above actions:

### National forest inventory

- 4.2.5 A National Forest Inventory aims to collect information needed for management planning or policy development, or to follow up on the implementation of such plans and policies.<sup>13</sup>

<sup>10</sup> Section 5.1.2 Fiji Forest Policy Statement 2007

<sup>11</sup> Section 5.1.2 Fiji Forest Policy Statement 2007

<sup>12</sup> Section 5.1.2 Fiji Forest Policy Statement 2007

<sup>13</sup> Standard Operating Procedures – National Forest Inventory 2005 -2007 p1

- 4.2.6 Audit gathered that there exists no standard requirement as to when forest inventory should be conducted but based on common practice, the Department of Forest usually conducts forest inventory once in every ten years.

The Department has conducted three forest inventories so far and the last was carried out between the years 2005 to 2007. Refer to the table below for details of forest inventory conducted.

**Table 4.3: Details of forestry inventory conducted**

Order of forest inventory	Year
<b>First</b>	1969
<b>Second</b>	1990-1992
<b>Third</b>	2005-2007

The main objectives of the National Forest Inventory 2005-2007 was to collect data on species composition, volumes, quality, regeneration, non-timber forest products and environmental parameters.

- 4.2.7 Enquiry made by audit on whether any reports were compiled from the three forest inventories conducted revealed that out of the three only the 1969 FI report had been compiled. According to the officers in charge although no report was produced for the second forest inventory the Department was able to develop a forest function map using data obtained from the forest inventory conducted.

For the third FI until to date no report has been compiled but all the data collated from the inventory has been stored and saved in the forest inventory database.

The Department indicated that there were no qualified personnel at that time to carry out the compilation. However few months ago an officer in charge had been recently transferred and has recently started analysing the existing data. According to the officer he will need to analyse the data first before he can start categorising them into their classification. This would need resourcing and more time allocated for him to carry out the task. According to the officer in his own free time he is slowly trying to compile them. Audit review of the officer's IWP indicated that the task was not included as part of the work he is required to conduct during the year.

- 4.2.8 Audit also noted that the forest inventory carried out by the Department covered only natural forest and not plantation forest which are privately owned. Discussion with the officer in charge revealed that upon the private woodlots or landowners' request, DOF staff may conduct a FI but requires a prior request and a payment of fee to the Department. According to the officer the FI information is only requested from these private woodlot or owners either for harvesting or for information purposes.
- 4.2.9 In addition the audit found that there exists a database that the IT had developed in 2005 to store data that the forest inventory team had collated. This data was last updated during the period in which the second FI was conducted. However, audit gathered that the Forest Inventory officers at the Management Services Division (MSD) who are required to prepare the report of the FI during the audit was noted to not have authorised access to the data and also lack the skill to extract these data. Thus, the officers of the Division in most instances have to request the officers in the IT section of the Department for assistance in assessing the information.

- 4.2.10 Audit found that the results of the National Forest Inventory conducted in 1969 is available for public information. In this respect the Department allows members of the public to gather the results of the Forest Inventory from the Department's Office. Audit however noted that this result of the NFI is not available on the Department's website for ease of reference by members of the public.
- 4.2.11 Untimely preparation of report to reflect forest inventory results disallows the Department from having access to a vital form of information that can be used for sound planning and monitoring of the forest resource. In addition non accessibility of information in the public domain limits the use of information further by key stakeholders of forest management.

### Establishment of procedures

- 4.2.12 Audit noted that the Department of Forest do not a have any procedure in place to ensure that the information obtained from timber harvesting operation from either native or plantation forest is incorporated into the NFI database.
- 4.2.13 However, audit found that the current practice is that reports on timber harvesting are prepared and submitting to the Management and Research Unit for compilation. The information are stored on a separate database named the tab file and is not incorporated into the NFI database.
- 4.2.14 The anomaly indicates that critical information relating to timber harvesting may not be integrated as part of the information stored in the NFI database.

### Training of resource owners and timber company personnel

- 4.2.15 Audit noted that for the period 2010-2014 the Department has trained and certified 1,007 machine operators and also conducted 477 sustainable forest management training. In addition the Department in 2014 provided forest 141 supervisor training.

**Table 4.4: Details of trainings conducted  
by the Forestry Department to resource owners and timber company personnel**

Trained and Certified Operators (provided to resource owners and timber personnel)		Forest Supervisor Training in 2014 <sup>14</sup> (provided to timber personnel)		Sustainable Forest Management training (provided to resource owners)	
Year	Total	Division	Total	Year	Total
2010	124	Central & Eastern	41	2010	148
2011	204	Western	46	2011	101
2012	279	Northern	54	2012	-
2013	258	Total	141	2013	122
2014	142			2014	106

- 4.2.16 Training of resource owners and timber company personnel has the potential to significantly assist the work of the Department in forest management.

<sup>14</sup> Statistics were not provided for the period 2010-2013

## Involvement of resource owners in forest inventory process

4.2.17 Audit gathered that the Department have engaged resource owners in the Forest Inventory process through conduct of the following tasks:

- Assisting the inventory team<sup>15</sup> in locating the sampling unit
- Providing local knowledge of the area
- Assisting the inventory team measure the sampling unit

4.2.18 The above tasks are included as section 4.4 of the Standard Operating Procedures of the National Forest Inventory (2005-2007).

## 4.3 Biodiversity Conservation

4.3.1 The Forest Department will support biodiversity conservation in accordance with the FBSAP and through the on-going identification of important biodiversity sites, gene conservation areas and programs for conserving the biodiversity of Fiji's natural forests as far as resource will allow.<sup>16</sup>

4.3.2 With the permanent forest estate, a network for forest conservation areas will be established to protect and manage representative examples of all distinct forest communities of Fiji with adequate size to maintain their tropical composition of indigenous plants and animals and to allow for possible changes due to expected impacts of climate change. Biodiversity conservation will be incorporated in the management of natural forest and plantation.<sup>17</sup>

4.3.3 The Forest policy sets out the following actions to be undertaken to ensure the above requirements are met:

- The Department will lead the work with resource owners, TLTB, Ministry of Environment, National Trust for Fiji, the private sector and other stakeholders towards establishing a system of conservation areas to protect biodiversity and landscape values and will assist resource owners with the proper management of these areas consistent with local needs, taking into account the provisions of the National Biodiversity Strategy and Action Plan.
- Biodiversity conservation will be incorporated in the management regimes of natural and plantation forests.
- Conservation of mangrove ecosystem to maintain their ecological values will be a priority.
- Forest management will be based on multifunctional approaches including areas for ecotourism that will be created in forest management units, where appropriate.
- The Department will work with Department of Environment and NGOs to deliver environmental awareness programmes to resource owners and resource users and assist interested resource owners to protect forests with significant environmental values.

The following paragraph discusses the status of the above actions:

<sup>15</sup> Consists of 4 members namely a team leader, tree spotter, laborer and a villager (resource owner representative)

<sup>16</sup> Section 5.1.3 – Fiji Forest Policy Statement 2007

<sup>17</sup> Section 5.1.3 – Fiji Forest Policy Statement 2007

## **Establishing a system of conservation areas to protect biodiversity and landscape values**

- 4.3.4 The National Biodiversity Strategy and Action Plan (NBSAP) defines bio-diversity as the variability among living organism from all sources including, among others, terrestrial, marine and other aquatic eco-systems and the ecological complexes of which they are a part.
- 4.3.5 The national priorities for protection and management of biodiversity are documented through the National Environment Strategy and the NBSAP.
- 4.3.6 Fiji's NBSAP was completed in October 1999 and was endorsed by Cabinet in 2003. The NBSAP was a result of the Convention on Biological Diversity (CBD) that Fiji signed at the Earth Summit held in Rio de Janeiro in 1992, where it pledged its support with more than 150 Nations of the World to halt the continuing decline of global biodiversity.
- 4.3.7 One of the objectives of the convention is the conservation of biological diversity. Some of the obligations that the governments under the convention were obliged to carryout were as follows:
- Monitoring and identification of biodiversity
  - Environmental Impact Assessments;
  - National Strategies, plans or programmes to conserve and use the components of biological diversity sustainably; and
  - The integration of biodiversity policy into relevant sectoral or cross sectoral plans, programmes and policies.
- 4.3.8 The audit found that the Department of Forest is part of the Protected Area Committee which is the committee responsible for identifying and conserving the biodiversity areas.

The PAC is recognised as a technical committee of the National Environment Council (NEC) under section 8 (2) of the Environment Management Act 2005.<sup>18</sup>

- 4.3.9 The general purpose of the PAC is to advise the NEC on protected areas issues and to fulfil their functions as outlined below:
- To advise the NEC on protected area policies and priorities;
  - To support the establishment of an adequate and representative national protected area system;
  - To facilitate consensus on national priority areas for conservation;
  - To identify gaps in the existing protected area system including the extent of protected areas, the state of scientific knowledge and the adequacy of existing management measures;
  - To identify actions for the establishment and effective management of protected areas to be implemented by government, non-government organizations and the private sector;
  - To identify options for to resource protected area management and to support efforts to secure financial resources for protected area management activities; and
  - To facilitate the exchange of information and data sharing between stakeholders.<sup>19</sup>

<sup>18</sup> Terms of Reference for the PAC page 1

<sup>19</sup> Terms of reference for the PAC pages 1-2

The TOR of the PAC requires that membership of the Committee should include at a minimum:

- A representative of the National Trust of Fiji;
- A representative of the Environment Department;
- A representative of the Forestry Department;
- A representative of the Fisheries Department;
- A representative of the Department of Culture and Heritage;
- A representative of the National Trust Board; and
- Six representatives from non-governmental organisations, academia and the private sector.

The National Trust of Fiji is the secretariat of the Committee.

- 4.3.10 The TOR requires that meetings shall be convened by the Chairperson of the PAC as required by the Committee.

Our review of the PAC minutes obtained from the National Trust of Fiji found that since its formation the Committee have been active and have convened a total of 24 meetings as detailed in the table below:

**Table 4.5: Number of PAC meeting from 2009-2014**

Year	Number of meeting
2009	5
2010	4
2011	4
2012	5
2013	3
2014	3
Total	24

The Department of Forest have been quite involved in the work of the committee attending 18 meetings over the 6 year period. Discussion with the officer in charge revealed that the Department of Forest have been providing technical support to the committee with regards to conserving Fiji's biodiversity.

- 4.3.11 Audit review of the contents of the minutes found that the Committee have been extensively involved in activities relating to protection of biodiversity.

#### **Delivery of environmental awareness programmes to resource owners resource users**

- 4.3.12 The awareness programs for the protection of forests is also conducted by Nature Fiji Mareqeti Viti (NFMV) through, partnering with various other NGO's in funding the awareness programs, while the technical expertise is facilitated by the Department of Forest.
- 4.3.13 The following table indicates awareness undertaken from the period 2009-2011 by NFMV which also covers protected areas.

**Table 4.6: Awareness undertaken by NFMV from 2009-2011**

Year	Details of awareness
2009	<ul style="list-style-type: none"> <li>Strengthening Taveuni's Protected areas (CEPF, UNDP, GEF, Darwin Initiative). NFMV, Department of Forests (Northern Division), National Trust of Fiji, BirdLife International, Conservation International, Ministry of iTaukei Affairs (Institute of Language and Culture, Native Lands Commission), Department of Agriculture (Taveuni Extension officers, Department of Land Use)</li> <li>Island wide-consultations with the above stakeholders</li> </ul>
2010-2011	<ul style="list-style-type: none"> <li>Creating Permanent Forest Estates for the Benefit of Fiji's People and Biodiversity (Aage V. Jensen Charity Foundation), NFMV, Department of Forests, BirdLife International, SPC/GIZ, USP, Department of Environment, SPC Land Resources Division, National Trust of Fiji, Ridge to Reef Management, Ministry of iTaukei Affairs (iTaukei Affairs Board, Provincial offices)</li> <li>Communication materials produced in consultation with above stakeholders: <ul style="list-style-type: none"> <li>5 posters</li> <li>Fiji Forest Policy Statement Summary (2007) – Fijian version</li> <li>Project Supplementary Booklet (Fijian)</li> <li>Fiji Biodiversity Booklet (Fijian)</li> <li>Drawa SFM DVD – Fijian version.</li> <li>Children's Book: Bolo Journey- Burrowing into Biodiversity</li> </ul> </li> <li>Awareness <ul style="list-style-type: none"> <li>Department of Forest, NFMV and Provincial office representative</li> <li>Fiji Forest Policy: Free ecosystem services, Environmental Management Act (2005), EIA Regulations (2007)</li> <li>Sustainable Forest Management – Drawa case study</li> <li>PFE as a form of land-use</li> </ul> </li> </ul>

4.3.14 However, as previously indicated, there exists no formal arrangements in place between the Department and the NFMV in respect to the awareness engagement. Discussion with the Department indicated that they have worked towards drafting a Memorandum of Understanding (MOU) with NFMV; however the Councillors at NFMV had reservations about having an MOU as they do not wish to be held responsible for any mishaps. The NFMV position on the matter is mainly due to the fact that funding of awareness is provided by various NGOs.

4.3.15 The awareness conducted by NFMV is critical to the conservation of forests and as such securing its continuous commitment to carry out such task is vital.

## 4.4 Watershed management and soil conservation

4.4.1 The Government will clarify the role of departments and agencies and coordinate their efforts in effective watershed management for assuring water yield and water quality, and designate Watershed Management Areas to protect domestic water supplies and to maintain the ecology of freshwater and marine arrears. FD will issue guidelines for forest management in a designated WMA in the forest estate. The prescription of the FFHCOP with regards to protection of streams will be enforced.<sup>20</sup>

<sup>20</sup> Section 5.1.4- Fiji Forest Policy Statement 2007

- 4.4.2 The Department will work with the resource owners, communicate and logging operators to promote soil conservation, to limit any practice which contributes to soil erosion and to rehabilitate severely eroded areas.<sup>21</sup>
- 4.4.3 The Forest policy sets out the following actions to be undertaken to ensure the above requirements are met:
- The Department will liaise closely with organisations and communities concerned with watershed management in the identification and management of watershed areas.
  - The Department in collaboration with stakeholders will develop guidelines for forest management in designated watershed management areas.
  - Watershed management and soil conservation will be included in forest management plans.
  - Reduced impact logging will be promoted to avoid soil erosion as a consequence of harvesting operations.
  - The Department will assist communities to establish soil conservation projects & to implement rehabilitation works on severely eroded sites.

The following paragraph discusses the status of the above actions:

#### **Liaising with organisations and communities concerned with watershed management**

- 4.4.4 The Department indicated that indicated that various government agencies are responsible for watershed management with varying responsibilities. These government agencies include Department of Environment, Mineral Resources, Lands Department, Agriculture, iTaukei Land Trust Board, iTaukei Affairs and the Department of Forestry.
- 4.4.5 Audit gathered that the Department has identified and managed watershed areas in close link with organizations and communities concerned with watershed management. For example the FAO project on GEF PAS 4 for Wabu and the Delaikoro area the organizations involved in the delivery of work plans to sustain these areas include National Trust, Environment, Conservation International, Department of Lands, Department of Agriculture, IUCN, WCS and Department of Forestry.

#### **Development of guidelines for forest management in designated watershed management areas**

- 4.4.6 According to the Department of Forestry respective guidelines exist within respective jurisdictions which were discussed at wide stakeholder forums. One of the guideline is the logging code that had wide stakeholder consultant with the agencies identified above and NGOs as well as SPC.

#### **Inclusion of water management and soil conservation in forest management plans**

- 4.4.7 Audit gathered that the only forest management plan that has been approved by the Department of Forestry is the plan for Bouma Forest Park in Taveuni which was approved in

<sup>21</sup> Section 5.1.4- Fiji Forest Policy Statement 2007

1991. Our review of the plan indicated that it addresses water management and soil conservation.

### **Promotion on reduced impact logging**

- 4.4.8 According to Department of Forest one of the actions that they have taken to promote reduce of impact logging is to train and certify all logging operations including equipment, machines, logging supervisors, personnel, roading guidelines, hauling guidelines, skid tracks, silvicultural practices such as replanting on skid tracks .
- 4.4.9 The Department also undertakes training at the Forestry Training Centre with resource owners, communities and logging operators to promote soil conservation, limit practices which contribute the soil erosion and rehabilitate severely eroded areas. Examples of such training undertaken include certification in the areas of chainsaw operation, harvesting, logging supervision, code implementation, equipment use such as GPS, callipers, clinometers, .

The Extension Division of the Department also undertakes awareness work on logging practices and addressing the importance of biodiversity conservation and soil management together with replanting and the policy.

### **Assistance to communities**

- 4.4.10 The Department of Forestry indicated having provided assistance to the communities to establish soil conservation projects & to implement rehabilitation works on severely eroded sites. Some of the assistance that the Department provides includes awareness and training in seedling propagation, nursery management, building of nurseries and planting out techniques. In addition, the provision of seedlings and assistance with replanting is also provided by the Department.

## **4.5 Mangrove management**

- 4.5.1 The Government will consult with its Department and agencies involved in mangrove management and with qoliqoli owners and other stakeholders with a view to introduce an effective mangrove regulatory and management framework.<sup>22</sup>
- 4.5.2 The Government will consult widely and draw up guidelines or a plan to replace the current Mangrove Management Plan for Fiji.<sup>23</sup>
- 4.5.3 The Forest policy sets out the following actions to be undertaken to ensure the above requirements are met:
1. The Department will contribute actively to a Government review of mangrove management and will undertake the role assigned to it following the review.
  2. The Department will advocate for the permanent conservation of mangroves to serve sustainable customary uses, the sustenance of coastal fisheries, the protection of

<sup>22</sup> Section 5.1.5- Fiji Forest Policy Statement 2007

<sup>23</sup> Section 5.1.5- Fiji Forest Policy Statement 2007

shorelines and as an adaptation measure against climate change impacts. Commercial harvesting of mangroves will be prohibited.

The following paragraph discusses the status of the above actions:

### **Review of mangrove management**

- 4.5.4 The Mangrove Management Committee (MMC) was revived in 2011 and Terms of Reference (TOR) have been drawn up for it. The mandate derived from these TORs clearly recognises the need for MMC to be a technical advisory committee to the National Environment Council (NEC) and regulatory authorities.<sup>24</sup>
- 4.5.5 Audit gathered that the purpose of the Mangrove Management Committee, (MMC), is to be responsible to the National Environment Council (NEC) for the conservation and sustainable management of mangroves in Fiji. The Committee has been re-established as a technical advisory committee under the NEC provided under section 8(2) of the Environment Management Act (2005).
- 4.5.6 The Committee is chaired by the Director of Lands. The Conservator of Forests is the Vice Chairperson and the Department of Environment is the Secretariat. The Committee consists of senior level representatives from the following agencies:
- Ministry of I Taukei Affairs
  - Ministry of Agriculture
  - Department of Lands
  - Department of Mineral Resources
  - Department of Forests
  - Department of Environment
  - Department of Fisheries
  - Department of Land and Water Resource Management
  - Department of Town & Country Planning
  - National Trust of Fiji
  - Academic and Research Institutions
  - Non-Government Organisations
  - Private sector representatives

**Appendix 1.2** details the functions of the Committee.

- 4.5.7 The Mangrove Management Plan (MMP) has been developed by a consultant after several stakeholder consultations. The Plan was done through the MESCAL Project initiated by the Department of Environment and heavily supported both at policy and implementation level by the Forestry Department and the Lands Department as well as a number of NGO's.
- 4.5.8 Audit noted that the technical support contributions were provided by the Department of Forest towards the review of the plan. Some of the support provided includes:
- Data and information on mangrove harvesting and management.
  - Maps of the distribution area.

<sup>24</sup> Draft Mangrove Management Plan for Fiji 2013 page 35

- Replanting work that was done by Forestry in partnership with communities.
- The 1984 Mangrove Management Plan that was developed by Forestry also contributed largely to this 2013 plan.

4.5.9 The MMP is currently with the SG's Office for vetting before preparation of a Cabinet Paper is drawn up for Cabinet's endorsement.

### **Advocating permanent conservation of mangroves**

4.5.10 The Fiji Forest Policy Statement 2007 requires the Department of Forestry to advocate for permanent conservation of mangroves and that commercial harvesting of mangroves will be prohibited.

4.5.11 Our discussion with key officers of the Department of Forestry indicated that advocating for conservation of mangroves are done through management plans for harvesting and monitoring of harvesting activities and replanting of mangroves in heavily exploited areas.

4.5.12 As to advocating for permanent conservation of mangroves through prohibition of commercial harvesting the Department indicated that it does not have anything in place for this purpose. However, in consultation with Lands, the Forestry Department has stopped issuance of license for commercial removal of mangroves and only supports removal for religious purposes such as fire-walking which is seasonal and cremation as well as for community level sustainable usage for firewood.

## **4.6 Forestry and international agreements**

4.6.1 Numerous international agreements relating to environment and nature protection including the Convention on Biological Diversity, the Convention of Wetlands of International Importance, the United Nations Convention to Combat Desertification, the World Heritage Convention and the United Nations Framework Convention on Climate Change provide opportunities to improve governance of Fiji's forest resources and generate an enabling environment to promote sustainable resource management.<sup>25</sup>

4.6.2 The Government will create the capabilities required to respond to persistent and emerging challenges including access to global financing mechanisms.<sup>26</sup>

4.6.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:

- The Department will strengthen its internal capacity through awareness programmes referring to the scope and importance of the conventions and agreements at national and global level as opportunities arise to foster sustainable management of forest resources.
- The Department will ensure that the National Climate Change Policy devised by the Department of Environment takes into consideration forest-related issues.
- The Department will cooperate with other public agencies, national and international NGOs related to natural resource management in attracting bilateral and multilateral assistance

<sup>25</sup> Section 5.1.6 Fiji Forest Policy Statement 2007

<sup>26</sup> Section 5.1.6 Fiji Forest Policy Statement 2007

for partnership projects within the framework of climate change mitigation and adaptation schemes.

The following paragraph discusses the status of the above actions:

- 4.6.4 The Department indicated that to strengthen its internal capacity through awareness programmes on the scope and the importance of the conventions and agreements that it has participated in high level conservation meetings overseas at all forums, namely UNFF, UNFCCC, FAO, APFC, REDD+. Participation also at international workshops and training in sustainable forest management, invasive species, NBSAP, APFNet, ITTO and others. Circulation of circulars and agreements on our international obligations. Workshop participation by staff locally, organized by Department of Environment, IUCN, GIZ, FAO GEF PAS 4.

Audit gathered that the Climate Change Policy was developed by the Climate Change Unit of the Ministry of Foreign Affairs. Our review of the Policy found that forest related issue is included as part of sectoral implications of climate change. Refer to the following for details of information included in the policy.

**Table 4.7: Details of forest related issue included in the Climate Change Policy**

According to the Fiji Forestry Department Annual Report 2005, of Fiji's landmass of 1.8million hectares, approximately 51% has some form of forest cover, where 42% is native forest and the remaining 9% is exotic pine and mahogany plantations.

*Impacts on forestry sector*

The forestry sector can be affected by climate change in the following ways:

- Higher temperatures will make forests more vulnerable to fires;
- High temperatures and changes in rainfall patterns could lead to increased occurrence of invasive species and pests;
- Forest health could be reduced due to salt water intrusion, coastal and river bank erosion, exposure to salt water spray and heat stress on the soil;
- Floods, droughts and cyclones might physically damage forest plantations, natural forest and associated infrastructure.
- Changing temperature and rainfall patterns might cause shifting habitats and boundaries of certain tree species, as well as pollinators and seed dispersers.
- Changing temperature and rainfall patterns can affect the flowering behavior of certain tree species.
- The loss of arable land due to climate change will place added pressure on forest areas.

*Existing resilience in the forest sector*

Current aspects of the forest sector in Fiji provide a resilience to the projected impacts of climate change as follows:

- Healthy forest ecosystems increase the resilience of forest communities through the provision of various ecosystem services and food security;
- Healthy forest ecosystems increase the climate change resilience of many flora and fauna;
- Forests maintain land stability and waterway condition.

*Adaptation in the forestry sector*

Forestry management plays a significant role in catchment management and therefore can play a role in either minimizing or exacerbating the impacts of extreme rainfall events and floods. Poor forestry

management can result in river bank stability and siltation of rivers, contributing to flooding and changes to water quality throughout the catchment. With the increased likelihood of extreme rainfall events, the importance of integrated catchment management is heightened.

*Mitigation in the forestry sector*

Forests are critical components of the climate system due to their potential for sequestering greenhouse gases. Forestry management practices will have a significant impact on Fiji's net greenhouse gas emissions. The Forestry sector contributes 17.4% global greenhouse gas emissions. An assessment of Fiji's national forest carbon stock was conducted in 2010.

- 4.6.5 The Forestry Department indicated that it contributed largely to the implementation plan and areas of development in the forest sector which can contribute to the mitigation and adaptation to climate change by communities and people in general.
- 4.6.6 The Department has been working in collaboration with SPC/GIZ, JICA, CI, IUCN, SPREP, FAO, ITTO, APFNet in securing funding, expertise and technical advice within the framework of climate change mitigation and adaptation.

## **RECOMMENDATIONS**

The Department of Forest should:

- facilitate the formalisation of the Landuse Plan by ensuring that it provide its comments to Strategic Planning.
- ensure that actions are taken to finalise the forest function map and that arrangements are made with the Department of Lands to facilitate the printing of the map.
- seek to develop a Memorandum of Understanding in close consultation with NFMV to formalise the awareness and consultation arrangement. The terms and conditions of the engagement should be set with complete agreement of both parties to ensure its achievability.
- allocate additional personnel to assist in the preparation of outstanding reports for the forest inventories conducted. Also training should be provided to officers of the MSD to be able extract forest inventory data.
- ensure that results of the NFI conducted in 1969 are made available on the Department's website for ease of reference by members of the public.
- develop procedures to ensure that information obtained from timber harvesting operations from either native or plantation forest is incorporated into the NFI database. The procedure should be communicated to the relevant staffs to ensure consistency in its application.
- advocate for permanent conservation of mangroves through prohibition of commercial harvesting.

## **Management Comments**

*No comments received.*

## 5.0 INTEGRATED FOREST RESOURCES MANAGEMENT

*This section of the report seeks to establish the progress of implementation of the Integrated Forest Resources Management requirements and actions outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007.*

- 5.0.1 The principle of sustainable land use and management of the natural resource base in an integrated manner leads to new approaches in regulating forest uses, management requirements and current forestry practices. More specific provisions relating to inventories, planning procedures and classification regulations has to be established allowing a more integrative use of forest resources balancing economic and environmental requirements.<sup>27</sup>
- 5.0.2 The allocation of timber harvesting and forest management rights through licenses or forest utilisation contracts also needs further improvement. This refers in particular to the definition of procedures and criteria that govern the granting of licenses, specifying the process of how to award contracts in order to create greater transparency and accountability, establish equal conditions among competing firms and ensure that technical specialists are involved in the decision making process.<sup>28</sup>

Appendix 1.1 details the objective and key focus areas of the above section of the Policy.

### 5.1 Delimitation of management units for sustainable forest management

- 5.1.1 For the purposes of forest management, Fiji will be divided into geographic areas known as forest management units. These management units are managed by the resource owners themselves or individual forest companies under the Forest Management License. The license holders as well as the landowners are responsible for carrying out the activities of forest management planning, harvest, access road construction, forest renewal and maintenance, monitoring and reporting, subject to FD regulations and approvals. Before any forestry activities can take place in a management unit there must be an approved forest management plan in place for each management unit.<sup>29</sup>
- 5.1.2 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:
- The Department will develop criteria for the delimitation of permanent management units for sustainable forest management taking into account the geographical and economic conditions, the availability of forest resources, the socioeconomic situation of the landowners and the existing or potential capacities for the utilization of forest products, their processing and commercialization.

<sup>27</sup> Section 5.2 – Fiji Forest Policy Statement 2007

<sup>28</sup> Section 5.2 – Fiji Forest Policy Statement 2007

<sup>29</sup> Section 5.2.1- Fiji Forest Policy Statement 2007

- The Department will encourage resource owners to collaborate with neighbouring landowning groups forming forest management units (FMU) with a size suitable for effective forest management. The area of forest management units will be delineated in collaboration with resource owners.

The following paragraph discusses the status of the above actions:

### Criteria for the delimitation of permanent management units

- 5.1.3 The Department of Forest indicated that the criteria for the delimitation of permanent management units for sustainable forest management are broadly stipulated under the Forest Decree 1992 and sections 13 and 14 of revised draft Decree.
- 5.1.4 The revised or draft Decree section 13 stipulates the classification of forest and section 14 stipulates the details on the declaration of nature reserves and forest reserves. Refer to the following table for details of the two sections in the draft decree:

**Table 5.1: Details of section 13 and 14 of the Forest Decree**

Section	Details
<b>Section 13</b>	<p>Section 13 of the draft decree states the Forestry department shall classify the forest based on forest functions, ecological characteristics and management regimes in the following categories:</p> <ul style="list-style-type: none"> <li>• multiple use of forest</li> <li>• forest plantation and ;</li> <li>• protection forest which may include – <ul style="list-style-type: none"> <li>○ mangrove forest</li> <li>○ national heritage sites and</li> <li>○ nature reserves</li> </ul> </li> </ul>
<b>Section 14</b>	<p>Section 14 of the draft decree stipulates the minister may be noticed in the gazette, upon recommendation of the forestry Board, and in consultation with the Director of Lands, declare any of the following classes of land already reserved for another public purpose to be a nature reserve or a forest reserve.</p> <ul style="list-style-type: none"> <li>a) un-alienated state land</li> <li>b) land leased to the State</li> <li>c) un-alienated Itaukei land , with the prior consent of the Itaukei land owners and of the ITaukei Land Trust Board or the Land use Unit in relation to designated land ;and</li> <li>d) any land reverted to the State</li> </ul> <p>The minister may be upon recommendation of the forestry board and the director of Lands, declare any nature reserve or forest reserve part thereof shall cease to be a nature or a nature reserve.</p>

- 5.1.5 Audit however noted that the requirements of sections 13 and 14 above needs to be further detailed in the regulation which the Department indicated it will start drafting once the revised Forest Decree has been endorsed by the Solicitor General's Office.

## **Encouraging resource owners to collaborate with neighbouring landowning groups**

- 5.1.6 According to the Department of Forest since 2008 it has been engaged with adjacent and neighbouring landowners and key stakeholders in conducting awareness programmes with the ultimate objective that the landowners will give their forests to be managed as Permanent Forest Estates (PFE). No details were however provided by the Department on the landowners to which awareness was conducted for this purpose.

## **5.2 Management Plans**

- 5.2.1 The Government recognizes the need for proper strategic and operational forest management plans to achieve sustainable forest management. As a long-term objective, the FD will require strategic forest management plan for each Forest Management Unit, and aggregate these to the national level.<sup>30</sup>
- 5.2.2 All forest management licensees will be required to prepare a annual strategic harvesting plan together with dealing harvesting plan for each coupes consistent with the Fiji Forest Harvesting Code of Practice and comply with the principles of sustainable forestry management.<sup>31</sup>
- 5.2.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:
- All native plantation forest management units require a management plan.
  - The Department will in collaboration with key stakeholders, develop guidelines for the preparation of Management Plans.
  - Resource owners will be involved in the development of forest management plans to guide all forest protection and development measures and the preparation of harvesting plans. Management plans will be based on proper forest inventory and define the annual allowable cut for the FMU area. They will cover a period of 10 years with a review after five years. The management plans will be assessed and approved by the Department of Forestry.
  - Forest management licensees will be required to prepare a strategic harvesting plan each year showing the locations of proposed road-making and harvesting operations for the next two years.
  - All plans must comply with provisions in the Environmental Management Act 2005.

The following paragraph discusses the status of the above actions:

### **Existence and development of guidelines and forest management plans**

- 5.2.4 According to the Forest Standards Certification (FSC), forest management plan is a document that translates forest policies into a coordinated programme for a forest management unit and for regulating production, environmental and social activities for a set period of time through the use of prescriptions specifying targets, action and control arrangements.

<sup>30</sup> Section 5.2.2 – Fiji Forest Policy Statement 2007

<sup>31</sup> Section 5.2.2 – Fiji Forest Policy Statement 2007

- 5.2.5 Audit gathered that there exists no management plan for native plantation forest management units. Discussion with responsible officer at the Department of Forest revealed that the Department has no control over native land as it is owned by the landowners and as such any decision that has to be done on the land is the prerogative of the landowners themselves.
- 5.2.6 Also audit noted that the Department of Forest have yet to develop guidelines for the preparation of management plans. However, audit gathered from discussion with key personnel indicated that the Department will incorporate such guidelines in the forest regulation once the revised Forest Decree is endorsed by Cabinet.
- 5.2.7 Audit noted that the only forest management plan that has been prepared is the plan for Bouma Forest Park which was developed in 1991. However, audit noted that the plan has yet to be reviewed. In addition, the plan has yet to comply with the requirements of the Environmental Management Act 2005 as it was developed prior to the enactment of the EMA.

### **Strategic harvesting plan**

- 5.2.8 Audit gathered that forest management licensees are required to prepare and submit a strategic harvesting plan each year to the Department of Forest when making application to log.
- 5.2.9 Our review of the applications received from forest management licensees for the period 2013 found that all of them submitted a strategic harvesting plan. However, only Fiji Pine Limited submitted plans covering a two year period as required under the Policy. The remaining wood lots submitted plans covering only one year.

## **5.3 Forest Management Systems**

- 5.3.1 The forest resources will be managed under different forest management systems according to the biological potential and the forest functions in order to maintain and improve the production potential while maintaining their genetic diversity and resilience against natural disaster and impact of climate change. Silvicultural research will be conducted to improve knowledge about natural regeneration, growth processes, and management of indigenous trees and NTFPs.<sup>32</sup>

### **Natural Forest management**

- 5.3.2 Natural forests will be managed under a selection silvicultural system with careful protection of younger age class trees during harvesting operations and keeping of sufficient numbers and seed trees.<sup>33</sup>
- 5.3.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirement:
- The Department of Forestry will issue the regulations concerning the selection of silvicultural system including the establishment of minimum cutting diameters by species and standards for protection of larger seed trees for different species and forest types

<sup>32</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

<sup>33</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

based on existing research and considering provisions on threatened and endangered species. Penalties will be introduced on cutting of undersized trees or those protected from logging.

- The Department of Forestry will foster the introduction of RIL techniques in natural forest to minimise damage in the logging and extraction process to the soil, residual stand and natural regeneration.
- The Department of Forestry will encourage the development of cooperative silvicultural research programmes in natural forest in cooperation between the Forestry Department, forest management licensees, aid donors and research organisations including participatory monitoring schemes.

The following paragraph discusses the status of the above actions:

- 5.3.4 The Department has yet to issue the regulation concerning the selection of silvicultural system. Our audit gathered that the Department has recently finalised the new diameter limit for each species which is expected to come into effect on January 2015.
- 5.3.5 The FFHCOP indicated that the Department supports the introduction of RIL techniques in natural forests to minimize damage in the logging and extraction process to the soil, residual stand, and natural regeneration.
- 5.3.6 The Department of Forestry also indicated that it encourages the development of cooperative silvicultural research programmes in natural forests. This was evident in the Nakavu Block in Serua and the Drawa block in Vanua Levu which was supported by SPC and GIZ. Refer to the table below for a brief detail of the Nakavu Project. No details was provided for the Drawa Project.

**Table 5.2 : Details of Nakavu project**

Project was intended as a pilot project for sustainable Natural Forest Management (NFMPP)

The 300 hectares project area is relatively dissected into 12 compartments that are replicated under different logging intensities conventional (CL), medium (ML), heavy (HL), Zero (ZL) and light logging (LL).

According to the tree selection that was carried out in the year 2012, the total calculated harvestable volume in the whole area under second rotation logging is 6577.57m<sup>3</sup>

The project study aimed to evaluate the yield potentials of the different management regimes for its suitability to sustainable forest management by comparing the data from the ongoing operation with the assessment figures of the last 20 years whilst the new integration of REED + development project.

- 5.3.7 However, the Department indicated that the silvicultural programme has not been developed in cooperation with the Department of Forestry, Forest management licensee's aid donors and research organizations, including participatory monitoring schemes.

## Silvicultural treatments in natural forest

- 5.3.8 The Government will encourage the regeneration of natural forests. Priority will be given to the protection of natural regeneration during harvesting operations through the application of reduced impact logging (RIL) techniques and to keeping a sufficient number of seed trees to maintain regeneration potential of all important tree species. The stimulation of growth rates, the regulation of species composition, and the need for regeneration and rehabilitation may require additional silvicultural measures during the production cycles.<sup>34</sup>
- 5.3.9 The kind, extent and the responsibilities for the implementation of such measures will be part of the management plan and approval subject to guarantees for their execution.<sup>35</sup>
- 5.3.10 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirement:
- The FD will develop and issue guidelines and standards for silvicultural treatments in natural forest.
  - Management plans must include the assessment of the needs for silvicultural treatment measures and specifications of methods and techniques to be applied under the different stand conditions.
  - Management plans and strategic harvesting plans can only be approved by the FD when the implementation of the silvicultural treatments is secured by guarantees such as bank guarantees, bonds or payment of fees.

The following paragraph discusses the status of the above actions:

- 5.3.11 Audit gathered that the Department of Forestry has not developed and issued guidelines and standards for silvicultural treatment in natural forests. The Department indicated that the development of the guidelines and standards are to await the finalisation of the land use plan.
- 5.3.12 Audit also gathered that the only harvest management plans approved by the Department of Forestry was the harvest management plan provided by Fiji Pine Limited for the period 2014-2016. Our review of the plan however found that it does not integrate the assessment of the needs for silvicultural treatment measures and specifications of methods and techniques to be applied under the different stand conditions.
- 5.3.13 The Department further indicated that it has yet to go into approving management plans and strategic harvest plans on the basis of silvicultural treatments implementation being secured by guarantees.

## Plantations

- 5.3.14 Existing forest plantations will be managed effectively with the objective of providing a sustainable yield of high quality timber while conserving site quality. Certification for sustainable management of forest plantations will be encouraged and monitored by FD.<sup>36</sup>

<sup>34</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

<sup>35</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

<sup>36</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

5.3.15 The Government will encourage plantation development by the private sector and greater investment of resource owners in their own future resource base by providing extension and technical support. Plantations will be expanded only on areas designated for plantation forestry under a National Land Use Plan.<sup>37</sup>

5.3.16 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirement:

- Forest plantation and woodlot owners, managers and operators shall establish forest management plans for plantation areas that ensure the sustainable management of existing plantations and the successful establishment of future tree crops. Remnants of natural forests in plantation areas should be protected and managed in a sustainable way.
- Plantation areas will be confined to existing plantation areas or areas identified suitable for forest plantations such as in degraded forests, on abandoned agricultural lands and on grasslands.
- Plantation establishment with mixed indigenous or exotic timber species will be promoted subject to compliance with quarantine requirements and are proven to have no adverse social and environmental impacts. Species diversification for higher economic returns and for better resilience of plantations against pests will be encouraged.
- The measures needed to ensure the sustainability of the resource base (reforestation, regeneration) will be specified in the licences taking into account the specific conditions for long-term forest management licences and short-term special harvesting licences. The attachment to the licences specifies further the responsibilities for the execution of the restitution measures as well as the obligations and modalities for the provision of guarantees.
- The FD will provide technical advice to industry and landowners for planning plantation establishment programmes, for proper plantation management, for appropriate enrichment plantings in natural forest, and for forest certification.
- The FD will undertake activities, which support reforestation, including seed collection, nursery production, tree breeding, and silvicultural, management and forest protection and research.

The following paragraph discusses the status of the above actions:

5.3.17 Audit gathered that the Department of Forest have yet to work towards establishment of forest management plans for plantation area since extension plantations are under Fiji Pine Trust. According to DOF the remnants of natural forests in plantations areas are still to be further discussed by the Department with Fiji Pine Limited to ensure that they are protected and managed in a sustainable way.

5.3.18 No details were provided by the Department on the promotional activities it has provided in regards to plantation establishment with mixed indigenous or exotic timber species.

5.3.19 With the Drawa Block technical advice was provided by the Department to the landowners for planning plantation establishment programmes, for proper plantation management, for appropriate enrichment planting in natural forest and none to the private investors, as there was less interest that came from them.

<sup>37</sup> Section 5.2.3 – Fiji Forest Policy Statement 2007

- 5.3.20 Audit also gathered that the Department to support reforestation undertook seed collection, nursery production, tree breeding and silvicultural, management and forest protection and research which are carried by the Silviculture Research Division and the Forest Extension Division.

## 5.4 Fiji Forest Harvesting Code of Practice

- 5.4.1 The Government will ensure that the forest sector complies with the Fiji Forest Harvesting Code of Practice, which sets minimum standards for logging, extraction and associated activities.<sup>38</sup>
- 5.4.2 The Government will give priority to the regular revision of the FFHCOP with the incorporation of silvicultural and reduced impact logging standard. All organization, companies and person involved in forestry operation will be required to comply with the FFHCOP.<sup>39</sup>
- 5.4.3 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:
- Revise the Fiji Forest Harvesting Code of Practise to conform to the Rural Land Use Policy and the Environmental Management Act 2005. The revised FFHCOP will include silvicultural and reduced impact logging standards and standards for regeneration management,
  - Regular revision of the FFHCOP will involve consultation with key stakeholders such as harvesting contractors and FD.
  - Requirement for compliance with the FFHCOP will be written into amended forest legislation with the standards and specifications of the Code capable of alteration by Forestry Orders made by the Minister on the recommendation of the Conservator of Forests.
  - Compliance with the FFHCOP will be monitored and enforced by the FD in conjunction with resource owners and communities. Independent audits of the monitoring and enforcement of the FFHCOP will be conducted.
  - All supervisors, chainsaw and machinery operators working in forestry operations must be trained and certified in the principles of the FFHCOP a part of their mandatory licensing process.
  - The FD will encourage the adoption of the standards specified in the FFHCOP by the Government departments and agencies for any other land-based operations including road making.
  - The FD will establish a Steering Committee to drive the implementation, monitoring and review of the FFHCOP.

The following paragraph discusses the status of the above actions:

### Review of Fiji Forest Harvesting Code of Practise

- 5.4.4 A standard guideline for all Commercial Harvesting Operation was developed in 1990 to protect Fiji's environment, soil fertility and water quality, and was known as the Fiji National Code of

<sup>38</sup> Section 5.2.4- Fiji Forest Policy Statement 2007

<sup>39</sup> Section 5.2.4- Fiji Forest Policy Statement 2007

Logging Practice (FNCOLP). With the new emerging issues and development of new technologies it was found that there was an urgent need to review the FNCOLP to reflect changes and objectives.

- 5.4.5 The FNCOLP was reviewed and a new Fiji Forests Harvesting Code of Practice (FFHCOP) was endorsed by the cabinet in 2010. The FFHCOP is an important part of the national approach to sustainable forest management. The code also provides practical guidance to forestry officers, landowners, contractors and the forest industry on how forest harvesting should be conducted so as to achieve best practice and minimise any adverse impacts to the environment and forests. It highlights that the harvesting operations must be well planned and supervised and that the forest workers and land owners must have the right skills and knowledge to achieve good practice.
- 5.4.6 The Code was again reviewed in 2013. The 2013 FFHCOP incorporates the following:
- i. Fiji Rural Land Use Policy which has land use related requirements regarding all development including logging operations.
  - ii. Environment Management Act 2005 requiring Environment Impact Assessment to be undertaken for all logging operations.
  - iii. Endangered and protected species Act 2002 requires the protection of certain trees species.
  - iv. The outcome of the Nakavu Research on the most suitable tree removal and forest disturbance intensity for logging operation in Fiji.
  - v. The Forest Policy 2007 requires all logging operations to guarantee environmental protection and forest resource sustainability.
- 5.4.7 The FFHCOP was produced by the Ministry of Fisheries & Forest in consultation with stakeholders within the forest sector and with financial and technical assistance from the German Technical Cooperation (formerly GTZ now GIZ) and the Secretariat of the Pacific Community (SPC).
- 5.4.8 The 2013 FFHCOP has also adapted the illustrations from Forest Practice Code of Tasmania (2000); Revised Solomon Island Code of Logging Practice (2002); Code of Practice for Forest Harvesting in Asia-Pacific (1999), Reduced impact logging Guidelines for Indonesia (2001), North Carolina Forestry BMP Manual (2006) and the Guidelines for Roads and watercourse Crossing, Natural Resources, New Brunswick, Canada (2204)
- 5.4.9 The 2013 FFHCOP states that the code remains in force until such time that it is replaced by a revised Code. It also states that the Forestry Department in consultation with stakeholders will at least every five years undertake a review into the effectiveness of the code and will recommended any revisions that are necessary to promote the continuing improvement of forest management in Fiji. The code provides discretion to the minister and the conservator through the decree for any amendments.

### **Monitoring of the FFHCOP compliance**

- 5.4.10 The compliance with the FFHCOP is enforced by the divisional forestry offices while the monitoring of the compliance is done at two different levels. Firstly the divisional forestry offices are the primary monitoring unit within the FD, while the national monitoring is conducted twice in a year by the training centre.

- 5.4.11 The enforcement of the code lies with the Divisional Forestry Office (DFOs) since the harvesting license is issued by the DFOs. The monitoring and enforcement of the code is an ongoing process for the divisional office and the divisional forestry officers who are stationed at various districts.

### **Training in the principles of the FFHCOP and encouraging adoption of the standards in the FFHCOP**

- 5.4.12 The Department indicated that over the past three years a total of 148 licensees comprising of supervisors, chainsaw and machine operators have undergone training on forestry operations in the principles of the FFHCOP.
- 5.4.13 As to encouraging adoption of the Standard the Department indicated that the only concerned agencies include TLTB, Department of Environment and Provincial Councils. However no indications were provided by the Department as to the activities undertaken to encourage the agencies in the adoption of the Standard.

### **Establishment of a Steering Committee to drive the implementation, monitoring and review of the FFHCOP**

- 5.4.14 CP (10) 305 required that a Code Steering Implementation Committee (CSIC) is to be established to monitor the implementation of the Code.
- 5.4.15 The Committee is to be chaired by the Conservator of Forests and reports directly to the Forestry Board on the status of the implementation of the Code.<sup>40</sup> It is envisaged that the CSIC among other things to:
- Drive the implementation of the Code by putting in place an implementation strategy;
  - Foster an environment of continuous collaboration and sharing of responsibilities between key stakeholders to ensure that the Code is effectively implemented;
  - Provide an avenue for the effective monitoring and reporting mechanism that appraises implementation of the Code and continuously identifies constraints and addresses them accordingly and
  - Develop appropriate regulations to deal with would be offenders.<sup>41</sup>
- 5.4.16 Cabinet Decision Number 374 of 26<sup>th</sup> October 2010 noted the setting up of the Code Implementation Committee.
- 5.4.17 The Forestry Board Paper<sup>42</sup> provided during the audit indicates the following Terms of Reference (TOR) for the Committee:
- Become the steering committee on forest harvesting code of practice, operating under the Forestry Board;
  - Provide guidance on activities implemented by the harvesting, monitoring, control and surveillance team;
  - Audit the rate of compliance as collected at beat, divisional and national level; and

<sup>40</sup> Paragraph 5.2 of CP (10) 35

<sup>41</sup> Paragraph 5.3 of CP (10) 35

<sup>42</sup> Board Paper not dated

- Submit necessary adjustment and national monitoring reports to the Forestry Board for endorsement.

5.4.18 The TOR states the following as members of the Committee for the period 2014-2016:

**Table 5.3: Members of the Code of Practice Steering Implementation Committee for 2014-2016**

Chamber	Organisation
<b>Economic</b>	Fiji Pine Group
	Fiji Pine Trust
	Fiji Hardwood Corporation Ltd
	Sawmillers' Association of Fiji
<b>Social</b>	Fiji Mahogany Trust
	iTaukei Land Trust Board
<b>Environment</b>	National Trust
	Nature Fiji Mareqeti Viti
<b>Legal</b>	Attorney General's Office
<b>Chairperson/Facilitator</b>	Forestry Department

5.4.19 Our audit gathered that the Steering Committee have been established. However, lack of evidence existed to indicate that the Committee is fully functional.

## 5.5 Forest Certification Standard

5.5.1 Good forest management and proof of it (certification) is an increasingly important factor in marketing and trade of forest products, especially from tropical forests. The Government will address this issue by supporting the development of national standards for forest management and their implementation.<sup>43</sup>

5.5.2 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirement.

- The standard for forest certification of native and plantation forests will include adherence to domestic and international laws and agreements; tenure and use rights and responsibilities; indigenous people's rights; community relations and worker's rights; benefits from the forest (wood and non-wood products); environmental impact; management plan; monitoring and assessment; and maintenance of high conservation value forests.
- The Standard will be developed along internationally accepted guidelines to be used in forest management for the purpose of audits.
- The Government will endorse the Standard.
- The Department of Forestry will actively support landowners and the forest industry to implement sustainable forest management according to certification standards and in marketing of certified forest products.
- The Government will revise the Fiji Forest Certification Standard every 10 years.

The following paragraph discusses the status of the above actions:

<sup>43</sup> Section 5.2.5 Fiji Forest Policy Statement 2007

## **Development, endorsement and review of the Forest Certification Standard**

- 5.5.3 The Fiji Forest Certification Standard has been developed along the guidelines of the Forest Stewardship Council (FSC) as selected by the multi-interest stakeholder Fiji Forest Certification Steering Committee.
- 5.5.4 The Standard was developed by a national team of elected forest stakeholder group representatives with social, environmental and economic interests. The Social Group represented landowners, forest workers and the Native Land Trust Board; while Environmental Group represented the environmental non-government organisations, environmental consultants and the University of the South Pacific. The Economic group acted for harvesting companies and plantation management companies.
- 5.5.5 Draft 1 was completed in mid-2006 for which there was a Public Consultation meeting in each of the three Forestry divisions by November 2006. Draft 2 of the Standard incorporate the Public Consultation feedback and were completed by the Fiji Forest Certification Steering Committee by May 2007. Draft 2 was field tested by the accredited Certification Body, Smartwood in October 2007 in the following 3 forest management systems:
- Large plantation management company – Fiji Pine Limited
  - Large native forest management company – Fiji Forest Industries
  - Small native forest management company – Drawa Landowners Forest Management Corporative
- 5.5.6 Draft 3 of the Standard integrated the recommendations of the Field Test by July 2008 and were put for a 2<sup>nd</sup> Public Consultation in August 2008. Feedback from this public consultation is incorporated into Draft 4 with the guidance of the Fiji Forest Certification Steering Committee in 2008. The Steering Committee of 2013 updated the Standard to include new legal requirements and current FSC language use.
- 5.5.7 The Standard is the local adaptation of the International Forest Stewardship Standard. It incorporates all local and international laws that forest managers need to know about and provide a guideline to ensure that long term tenure and use rights to the land and forest resources are clearly defined.
- 5.5.8 Our discussion with the Conservator of Forest however found that the Standard is still in its draft form and has yet to be put forward to Cabinet for endorsement.

## **5.6 Forest Licenses**

- 5.6.1 Any company or person who carries out commercial forestry wood utilization operation will require an appropriate license from the FD. All license must comply with the required standard set the FD.<sup>44</sup>

<sup>44</sup> Section 5.2.6 Fiji Forest Policy Statement 2007

5.6.2 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:

- The Department will introduce a new licensing system to promote a long-term sustainable approach to the utilization of Fiji's forest resource to the mutual benefit of key stakeholders.
- The Department will change appropriate fees for processing and monitoring of all licences.
- The licensing system will include various types of managing, harvesting and milling licences. In this respect the policy requires the following licences:

**Table 5.4: Types of forest licenses**

Types of licenses	Details
<b>Forest management and harvesting licences</b>	<p><b>Forest Management Licence</b> The concept of the Forest Management Licence aims to providing greater security for all forest stakeholders and foresting capital investment in forests management, silvicultural treatment and harvesting operations. The Forest Management Licence (FML) will be issued to landowners' organisations or to companies which can demonstrate commitment to forest management. The duration of a forest FML is in line with the term of legal tenure. The FML also contains the condition that are agreed to by all key stakeholders and monitored by FD.</p> <p><b>Special Harvesting Licence</b> A Special Harvesting Licence includes casual or prepayment, domestic firewood and annual license. All harvesting activities will be complaint with the FFHCOP as applicable. The Conservator of Forests may grant these licences for up to five years, subject to monitoring, annual inspection and approval.</p>
<b>Mill licences</b>	<p><b>Portable Sawmill Licence</b> The granting of approval to import portable sawmills lies with the Forestry Department.</p> <p>The Fiji Islands Revenue and Customs Authority (FIRCA) will require any persons wanting to importing sawmills to provide a portable sawmill licence from the Forestry Department before the machinery is released from the port.</p> <p>The license to operate portable sawmill will be issued solely by the Forestry Department for community development in line with a sustainable Forest Management scheme. The assessment will be based on consideration of project viability, resource allocation, and occupational health and safety.</p> <p><b>Static Mill Licence</b> The Static mill licence will be issued by the Conservator of Forest for up to 10 years, subject to annual compliance inspection. All harvesting and milling licence will be subject to the payment of a bond/bank guarantee, prescribed fees, condition and guideline designed to foster sustainable forest management. All harvesting/milling licences shall not be sold or transferred without the consent of the Conservator of Forests.</p>

The following paragraph discusses the status of the above actions:

### **Licences issued by the Department**

5.6.3 Audit gathered that the Department issues all the licenses required by the Fiji Forest Policy Statement 2007. The table below provides details of the various licenses issued by the Department over a three year period.

**Table 5.5: Forest management licence and special harvesting licence issued from 2010-2013**

Year	Central Eastern	Western	Northern
2010	50	72	60
2011	124	87	98
2012	95	82	108
2013	58	82	80
<b>Total</b>	<b>327</b>	<b>323</b>	<b>346</b>

**Table 5.6: Portable sawmill licence issued from 2012-2014**

2012					
<u>Division</u>	<u>No. Portable mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	3	3	-	-	3
Southern	11	10	1	-	11
Western	9	9	-	-	9
<u>Division</u>	<u>No. Portable mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	3	3	-	-	3
Southern	11	7	-	4	11
Western	12	12	-	-	12
<u>Division</u>	<u>No. Portable mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	5	3	1	1	5
Southern	11	8	2	1	11
Western	12	10	2	-	12

**Table 5.7: Static sawmill licence issued from 2012-2014**

2012					
<u>Division</u>	<u>No. Static mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	10	8	-	2	10
Southern	8	8	-	-	8
Western	10	9	-	1	10
<u>Division</u>	<u>No. Static mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	10	9	-	1	10
Southern	8	8	-	-	8
Western	11	10	-	1	11
<u>Division</u>	<u>No. Static mills</u>	<u>Licensed</u>	<u>Unlicensed</u>	<u>Un-operation</u>	<u>Total</u>
Northern	10	10	-	-	10
Southern	8	3	4	1	8
Western	11	9	-	2	11

- 5.6.4 All applications for forest harvesting licence are submitted to DFO. Applicants applying for the license should submit the following documentation:

**Table 5.8: Documentation required for forest harvesting license applications**

Native Lease Land		Native Crown Lease	
1.	I taukei Land Trust board consent letter to forestry	1.	Lands department's consent letter to forestry
2.	Lease Title Copy	2.	Lease Title Copy
3.	Agreement Copy	3.	Agreement Copy
4.	Environmental impact assessment report	4.	Environmental impact assessment report
5.	Harvesting report	5.	Harvesting report
6.	Company Profile Table	6.	Company Profile Table
7.	Evidence of company Profile	7.	Evidence of company Profile

- 5.6.5 The Department has a licensing and logging planning procedures which is the system and procedure used by the department to issue license to contractors. This was developed on 1st April 1997 and was in its review stage during the audit. The review had commenced early in 2013.

Audit noted that the older system was not developed with much stakeholder consultation; hence the new system is being developed with all the greater variety of stakeholders' consultation to consider all the possible effects of forestry and to mitigate any vast negative impact of the natural forest. The new system for licensing requires proper and complete documentation as per the check list to ensure a sustainable approach to the natural forests

### Charging of fees for processing and monitoring of all licences

- 5.6.6 Section 16 of the Forest Decree 1992 provides the requirements in respect to fees and royalties. The section states the following:

- A licence shall be subject to the payment of such fees as may be prescribed.<sup>45</sup>
- A licence relating to State or Native land shall be subject to the payment of such royalties as may be prescribed except as provided in 12(3) of this Decree.<sup>46</sup>

- 5.6.7 Audit found that there exists no fee structure for fees required under section 16(1) above. As such the Department have not been charging any fees for processing and monitoring of licences.

- 5.6.8 In respect to the requirements under section 16(2) audit gathered that a memorandum was issued by the Conservator of Forest on September 2008 to all the DFO stating the new royalties and scaling rates. The new rates were endorsed by Minister for Fisheries and Forest. The rates were as follows:

**Table 5.9: Revised royalties and scaling rates**

Class	ZONE I		ZONE II		ZONE III	
	Royalty \$	Fees \$	Royalty \$	Fees \$	Royalty \$	Fees \$
1	45	5	45	5	37	5
2	37	5	35	5	27	5

<sup>45</sup> Section 16(1) – Forest Decree 1992

<sup>46</sup> Section 16(2) – Forest Decree 1992

Class	ZONE I		ZONE II		ZONE III	
	Royalty \$	Fees \$	Royalty \$	Fees \$	Royalty \$	Fees \$
3	12	5	12	5	10	5
4	7	5	7	5	7	5

5.6.9 Non-charging of fees is a direct loss of government revenue.

## 5.7 Log scaling

5.7.1 The Government will maintain and update production statistics from all forest areas. All logs extracted from native and plantation forests for commercial purpose will be measured as approved by the Conservator of Forests, at the processing plant, by people trained and licensed by the Department<sup>47</sup>.

5.7.2 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:

- The Department will train and licence all log scalers and encourage resource owners to be trained in log scaling procedures and to scale logs to be removed from their land.
- Except where licensed log scalers are not available, the Department shall cease to use forestry staff for scaling logs and will engage people trained and licensed by the Department for that purpose.
- The Department will use its own trained staff as log scale checkers who will randomly check logs measured by licensed log scalers.
- New regulations will be introduced to the forest legislation to govern the measurement of logs such as weightbridges for plantation resources as well as to stipulate the conditions under which logs may be measured rather than in the forest. The regulation will also stipulate monitoring requirements to ensure compliance and penalties for fraudulent log scaling.

The following paragraph discusses the status of the above actions:

5.7.3 Scaling is the determination of the gross and net volume of logs. The primary purpose of scaling is to determine the volume by product or species that will be charged at a predetermined rate.

5.7.4 Conventional scaling entails measuring log diameters and lengths, and applying an approved set of rules to deduct for defects. This process is to determine the gross and net volume of a given number (generally log truck loads) of logs. Another method being used more frequently is weight scaling, especially on low value material where there is a single species/product, or where all the products being weighed are close to or of the same value. Scale volume may be expressed in terms of cubic feet, board feet, cords, tons, linear feet, or number of pieces<sup>48</sup>.

5.7.5 Log scaling training is provided to all students going through the Forestry Training Centre. Therefore all forestry officers are trained log scalars. No documentation however was provided by the Department as to the number of trained and licensed scalars and checkers to date.

<sup>47</sup> Section 5.2.6 Fiji Forest Policy Statement 2007

<sup>48</sup> <http://www.fs.fed.us/fmsc/measure/scaling/>

- 5.7.6 Audit also noted that the Department have not developed any regulation to introduce new regulations to govern the measurement of logs such as weighbridges for plantation resource, as well as to stipulate the conditions under which logs may be measured other than in the forest.

## 5.8 Forest Protection

- 5.8.1 The Government will take all efforts to protect natural and plantation forests and their biodiversity from forest fires, pests, natural disasters and invasive species.<sup>49</sup>
- 5.8.2 The Government will ensure that commercialised forest entities take all reasonable steps to reduce the occurrence and unplanned fire in plantations and minimise damage from wildfire. Resource owners and cane farmers will be encouraged to use fire safely.<sup>50</sup>
- 5.8.3 The Government will ensure that commercialised forest entities take all reasonable steps to plan for mitigation of impacts of natural disasters such as cyclones and outbreaks of disease, pests or evasive species.<sup>51</sup>
- 5.8.4 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirement.
- The Department of Forestry will develop appropriate measures to protect forests from fire, pests and pathogens, including preventive forest health and quarantine measures.
  - The Department will develop fire protection protocols for pine and mahogany plantations and request FPL and FHCL to develop fire management systems that ensure effective fire prevention and management in their plantation areas.
  - The Department of Forest will prepare extension materials on fire prevention and management, conduct awareness and education campaigns and encourage community cooperation in the implementation of fire prevention and fire management programmes.

The following paragraph discusses the status of the above actions:

- 5.8.5 Audit gathered the following in respect to the actions identified above:

- The development of measures to protect forests from fire, pests and pathogens including preventive forest health and quarantine measures is under the responsibility of the Silviculture Research Division. Our audit found that the Forest Health Section in the Silvicultural Research Division is responsible for developing these measures and undertaking activities to protect forests from pests and pathogens including preventive forest health and quarantine measures. The following table discusses the measures currently in place:

**Table 5.10: Measures in place to protect forests**

Measure	Details
<b>Forest health surveys</b>	The forest health surveys are done once in every quarter at plantation areas which include Mahogany plantation, Pine plantation and Sandalwood plantation

<sup>49</sup> Section 5.2.8 Fiji Forest Policy Statement 2007

<sup>50</sup> Section 5.2.8 Fiji Forest Policy Statement 2007

<sup>51</sup> Section 5.2.8 Fiji Forest Policy Statement 2007

Measure	Details
<b>Pest and disease surveys</b>	A Pest and disease survey is carried out once every quarter at the two nurseries in Colo-i-suva. As in these nurseries, seedlings are raised and are sold to communities and this pest and disease needs to be controlled and treated before seedlings are being bought or taken to communities for community purposes. This is like a sickness to the plant and every sickness has a cure and needs to be treated immediately to avoid the widespread damage.
<b>Second rotation mahogany</b>	Second rotation mahogany is done once a year to analyse the growth dynamics and the health status of the second rotation mahogany grown within a first rotation plantation which was logged.
<b>Static traps surveillance</b>	Static trap surveillance has a target of 20 traps to be set up in a quarter.
<b>Sentinel plants</b>	Measure put in place at the Kings Suva Wharf as a control remedy for early detection of introduced pest and diseases into the country and to avoid its widespread damage to plantation and other areas of interest within the country. These Plants are assessed together with the static traps and the assessment is done twice a month and therefore 6 assessments in every quarter.
<b>Light trapping</b>	According to the DOF these measure that they have in place is a costly exercise and is not often carried out depending on the availability of funds. Method of insect trapping and this is one of the insect trapping method that could help the Forestry Department as a whole, decrease the number of insects regarded as Forestry Pest which is mainly Ambrosia beetles and are commonly found in plantation areas (Mahogany & Pine Plantations).
<b>Laboratory work</b>	Insects collected from traps are cleaned, recorded, placed in vials with ethanol added and stored in the entomology laboratory for future referencing according to the dates of collection. Wet specimens that have been dried up are re-filled with ethanol and pinned dry specimens are brushed with ethanol for long term preservation. Collection data gathered are stored in the computer for future referencing and use. The laboratory is kept clean all the time and that is both inside and outside.

- 5.8.6 As to the development of fire protection protocol Department of Forest indicated that the fire protocol is developed by Fiji Pine and FHCL. However, our review of the Fiji Forest Harvesting Code of Practice indicated requirements covering fire precautions that are to be taken by all issued forest licences.
- 5.8.7 The Department did not provide any documentation to indicate the preparation of extension materials on fire prevention and management, conduct of awareness and education campaigns and encouraging community cooperation in the implementation of fire prevention and fire management programmes.

## 5.9 Environmental standards in forest management and environmental impact assessments

- 5.9.1 The Government will work with all stakeholders to establish a baseline of environmental conditions (physical and biotic aspects) with monitoring and evaluation procedures.<sup>52</sup>
- 5.9.2 Environmental standards for forestry operations should be incorporated in all forest management plans. Specific programmes would be delivered to build the awareness of

<sup>52</sup> Section 5.2.9 Fiji Forest Policy Statement 2007

resource owners and forest users and to raise capacities for environmental protection in forest management.<sup>53</sup>

5.9.3 EIA will be incorporated into forest planning and decision-making processes in order to ensure in advance that unnecessary damage to the environment is avoided and possible mitigation measures are identified.<sup>54</sup>

5.9.4 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:

- The Department of Forest shall in consultation with the Department of Environment and environmental NGOs, SPC, SPREP, NLTB, FAB and other stakeholders review the Fiji Forest Harvesting Code of Practice which will set the minimum environmental standards required for all forestry operations.
- The scope of EIAs for the forest sector will be defined and guidelines will be prepared in accordance with requirements of the Environmental Management Act 2005.
- The Forestry Department will train managers and harvesting licensees about the environmental responsibilities under the Fiji Forest Harvesting Code of Practice and enforce the application of the Code. Harvesting licensees will be held responsible for environmental damage resulting from breaches of the FFHCOP.
- The Forestry Department will train resource owners on the environmental requirements of the FFHCOP and any other environmental protection requirements stipulated in the management and harvesting licenses and where possible engage these trained resource owners to monitor environmental standards.
- The Forestry Department in consultation with the Department of Environment and environmental NGOs, SPC, NLTB, FAB and other stakeholders, establish the Fiji Forest Certification Standard which will apply for all operations seeking forest certification.
- The Forestry Department shall participate in the international discourse and progress on certification standards for “Small and low intensity forest management” (SLIMF) to reflect the small landholding forest areas of Fiji’s resource owners.

The following paragraph discusses the status of the above actions:

### **Review of the Fiji Forest Harvesting Code of Practice**

5.9.5 As discussed under 5.4 a new Fiji Forests Harvesting Code of Practice (FFHCOP) was endorsed by the Cabinet in 2010. The Code was also reviewed in 2013. The 2013 FFHCOP incorporates the following:

- Fiji Rural Land Use Policy which has land use related requirements regarding all development including logging operations.
- Environment Management Act 2005 requiring Environment Impact Assessment to be undertaken for all logging operations.
- Endangered and protected species Act 2002 requires the protection of certain trees species.
- The outcome of the Nakavu Research on the most suitable tree removal and forest disturbance intensity for logging operation in Fiji.

<sup>53</sup> Section 5.2.9 Fiji Forest Policy Statement 2007

<sup>54</sup> Section 5.2.9 Fiji Forest Policy Statement 2007

- The Forest Policy 2007 requires all logging operations to guarantee environmental protection and forest resource sustainability.
- 5.9.6 The FFHCOP was produced by the Ministry of Fisheries & Forest in consultation with stakeholders within the forest sector and with financial and technical assistance from the German Technical Cooperation (formerly GTZ now GIZ) and the Secretariat of the Pacific Community (SPC).
- 5.9.7 The 2013 FFHCOP has also adapted the illustrations from Forest Practice Code of Tasmania (2000); Revised Solomon Island Code of Logging Practice (2002); Code of Practice for Forest Harvesting in Asia-Pacific (1999), Reduced impact logging Guidelines for Indonesia (2001), North Carolina Forestry BMP Manual (2006) and the Guidelines for Roads and watercourse Crossing, Natural Resources, New Brunswick, Canada (2204)

### **Defining the scope of EIAs in the forest sector and preparation of guidelines in accordance with the requirements of the Environmental Management Act 2005**

- 5.9.8 Audit gathered that the Department has yet to define the scope of Environmental Impact Assessment for the forest sector.
- 5.9.9 In addition to the above audit gathered that the only guideline that has been prepared in accordance with the requirements of the Environmental Management Act 2005 is the FFHCOP. However, audit review of the document found that the document only provides requirement that all forest harvesting operations should be conducted in accordance with the requirements of the Act but it does not elaborate further on the specific of the requirement of the EMA.

### **Training on environmental responsibilities and environmental requirements under the FFHCOP**

- 5.9.10 The Department indicated that a total of 148 licensee contractors have undergone training on the FFHCOP over the past three years. No indications were provided on the number of managers trained for the same purpose.
- 5.9.11 The Department also indicated that a total of 328 resource owners have been trained on sustainable forest management practices which includes FFHCOP over the past three years.

### **Establishment of the Fiji Forest Certification Standard and participation the small and low intensity forest management**

- 5.9.12 Audit gathered that the Fiji Forest Certification Standard has been developed which is still in its draft form as it still has yet to be submitted to Cabinet for endorsement.
- 5.9.13 The audit was not provided with any documentation as to the Department's participation in the international discourse and progress on certification standards for "Small and low intensity forest management" (SLIMF) to reflect the small landholding forest areas of Fiji's resource owners.

## 5.10 Non- timber forest products

5.10.1 The Government will encourage the production, harvesting and use of non-timber forest products, traditional medicines and items of cultural significance on a sustainable basis.<sup>55</sup>

5.10.2 Investment in non-timber forest products industry, product research, development and marketing will be promoted in order to utilise their full potential for enhancing livelihoods especially in rural areas and on outer islands.<sup>56</sup>

5.10.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:

- Resource assessment of non-timber forest products will be incorporated in forest inventories, research and resource assessments for forest management planning.
- The Department of Forest will prepare and implement a strategic development plan to encourage and facilitate the sustainable use of non-timber forest products by resource owners, communities and private investors. Mataqali, villages and private investors will be encouraged to promote NTFPs as source of income.
- The Department of Forest will support the sustainable production of high value multiple purpose species or the harvest of non-timber forest products and items of cultural significance through the provision of extensive advice, technical services and market information to villages and communal groups.
- Private sector investments will be promoted in order to utilise the full potential as well as to domesticate and commercialise products with high demand.
- Non-timber forest products should be protected during harvesting operations in consultation with resource owners.

The following paragraph discusses the status of the above actions:

### **Incorporation of resource assessment**

5.10.4 Audit gathered that the recent 2007 National Forest Inventory only records forest cover and does not have inventory specifically for non-timber forest products. The Forestry Department currently recognizes only a few non-wood species but identifies them as minor forest products. However, recording of minor forest products are only for licensing purposes and charging of appropriate fees. There is no inventory, research and resource assessment currently done specifically for non-wood and likewise there is no management plan. In terms of research and utilization, the Department is mostly concentrating on Bamboo and Coconut wood which are the 2 most predominant non-wood species.

5.10.5 The Department had also undertaken past bamboo treatment and utilization research trials and currently it is working with Australian Centre for International Agriculture Research (ACIAR) in cocowood veneer peeling trials

### **Preparation and implementation of a strategic development plan**

5.10.6 The Department indicated that the strategic developments of non-wood are mostly driven from the regional level where SPC under its Landuse & Resource Division manages the

<sup>55</sup> Section 5.2.10 Fiji Forest Policy Statement 2007

<sup>56</sup> Section 5.2.10 Fiji Forest Policy Statement 2007

implementation of developments and sustainable use of non-wood forest resource. The Department in collaboration with SPC undertakes strategic activities in line with SPC's strategic development plan of activities during the five year period. At the moment most non-wood activities are undertaken by individuals and Industries rather than communities or villagers. Examples of individuals and industries include:

- Callison Pacific tapping of pine resin (Commercial Industrial)
- Yasi plantation for exports (Individual/Commercial Industrial)
- Extraction of Refined oil production at Naila (Individual)
- Bamboo carving by Sunnyvale Bamboo Company (Individual)

### **Actions taken to support sustainable production of high value multiple purpose species and promotion of private sector investments**

5.10.7 To support sustainable production of high value multiple purpose species and promotion of private sector investments the Department indicated that it has worked in collaboration with communities and NGOs in the conservation and development of non-wood products from time to time. The following provide examples of work done by the Department in this respect:

- The Department worked in collaboration with an NGO and Sawani village in re-planting of sago seedlings. Sago is a non-wood product and is beginning to be disappearing from its original habitat because of continually removal for food. A 2 hectare of sago seedlings were re-planted.
- The Department worked in collaboration with a private academic Mr. Lex Thompson in establishing an agroforestry model farm of forestry, fisheries and resin oil extraction.
- The Department sponsored a few training on bamboo carving and manufacturing involving a Indonesian Consultant where he delivered trainings to forest resources owners, village communities and women groups.
- The Department is also currently working with a private local bamboo manufacturer Sunnyvale Bamboo Company in utilization and treatment of bamboo products for sale.
- The Department currently has a project on replanting of sandalwood with communities and private individuals in promoting replanting of sandalwood in old and new areas.

### **Actions taken to protect non-timber forest product during harvesting operations**

5.10.8 As to the actions taken to protect non-timber forest product during harvesting operations the Department indicated that its current role with regards to non-wood or non-timber forest products is restricted to only licensing of minor-forest products. This is mainly to control harvesting and recording how much has been harvested. There exists no management plan specifically for the conservation, rehabilitation and protection of non-wood forest products.

5.10.9 The Department indicated that it still has a lot of work to do on inventories of all non-timber or non-wood forest products. It still has to identify the different products and a classification that needs to be done of all products before a management plan is developed to effectively manage all non-wood products in Fiji

## **RECOMMENDATIONS**

The Department of Forestry should ensure that:

- resource owners of Bouma Forest Park are required to review the forest management plan for Bouma Forest Park and that the review should consider the requirements of the EMA.
- all woodlots submit strategic harvesting plans covering 2 years as required under the Policy.
- it work towards completion of relevant activities to ensure that the regulation concerning the selection of silvicultural system is issued.
- FPL is requested to integrate assessment of the needs for silvicultural treatment measures in its harvest management plan for the period after 2016 following expiration of the current plan.
- it develops and issues guidelines and standards for silvicultural treatment in natural forests once the landuse plan is finalised.
- it works towards establishment of forest management for plantation areas and discuss the remnants of natural forest in plantation areas with FPL.
- the Code of Practice Steering Committee is fully functional.
- the Fiji Forest Certification Standard is finalised and put forward to Cabinet for endorsement.
- a few structure is developed as required under Section 16 of the Forest Decree to account for the processing and monitoring of licences conducted by the Department.
- it works towards developing regulations to govern the measurement of logs such as weighbridges for plantation resource.
- it defines the scope of EIA for the forestry sector and communicates this to all relevant stakeholders.
- it work towards development of a management plan for non-wood products in Fiji.

### **Management Comments**

*No comments received.*

## 6.0 INSTITUTIONAL FRAMEWORK AND HUMAN RESOURCES

*This section of the report seeks to establish the progress of implementation of the Institutional Framework and Human Resources outlined under the Policies and Strategies section of the Fiji Forest Policy Statement 2007.*

- 6.0.1 The focus in the reform of the institutional framework within the forest sector will be based on more explicit coordination among the government agencies that have competencies in forest related matters. The Department will concentrate its activities on its core responsibilities and devolve functions that could be effectively implemented by others including the landowners.<sup>57</sup>
- 6.0.2 The new policies are intended to become more proactive and rely more widely on incentive and monitoring measures. Effective reforms need to correspond with the capacity and willingness of governments and other private and public actors to implement new regulations and commitments.<sup>58</sup>
- 6.0.3 The way in which governments interact with civil society on matters such as awarding forestry concessions or monitoring environmental compliance will be based on participation in decision-making, access to information, transparency and accountability.<sup>59</sup>

**Appendix 1.1** provides details of the objective and key focus areas of this section of the policy statement.

### 6.1 Framework for forest policy, planning and coordination

- 6.1.1 Successful forest resource management, based on the active involvement of communities and civil societies, is dependent upon progress in reforming institutional structures. The revised organizational structure will strengthen policy analysis capacity within the forest sector with emphasis on strategic planning and coordination for sustainable forest management and improvement of livelihood.<sup>60</sup>
- 6.1.2 A multi-stakeholder dialogue process will be conducted for the formulation and implementation of a National Forest Program (NFP) for Fiji. A broad based consultative group with advisory function will be established to provide guidance on policy-related cross-sectoral issues.<sup>61</sup>
- 6.1.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:
- The institutional reform will be based on the concept of stewardship and defines the roles and responsibilities of stakeholders in managing the forest resources.

<sup>57</sup> Section 5.5 Fiji Forest Policy Statement 2007

<sup>58</sup> Section 5.5 Fiji Forest Policy Statement 2007

<sup>59</sup> Section 5.5 Fiji Forest Policy Statement 2007

<sup>60</sup> Section 5.5.1 Fiji Forest Policy Statement 2007

<sup>61</sup> Section 5.5.1 Fiji Forest Policy Statement 2007

- The Forestry Board will be strengthened to represent stakeholders fairly, taking into account existing institutional structures that would provide advice to the Minister responsible for the forestry sector to promote cross-sector and inter-agency coordination.
- A strategically focused National Forest Programme process will be established to guide the Forestry Board on further policy development and outline strategic planning and implementation of policy instruments based on multi-stakeholder involvement and according to internationally agreed principles.
- The outcome of the National Forest Programme process would inter-alia include a revised Forest Act, a Forest Sector Master Plan and a Forest Sector Financing Strategy.

The following paragraph discusses the status of the above actions:

### **Institutional reform**

- 6.1.4 Audit gathered that the Department have not engaged any external party for the purposes of institutional reform. However, the examination gathered that the Department of Fisheries and Forestry underwent a Functional Review in 2011 which was conducted by the Public Service Commission. The review identified the following for the two departments:

**Table 6.1: Contents of the Functional Review conducted by PSC**

<b>1</b>	<b>Roles and Functions of the Ministry</b>
<b>2</b>	<b>The Current Organisation Structure</b>
<b>3</b>	<b>List of employees in the divisions and the salary structure</b>
<b>4</b>	<b>Budget and Finance</b>
<b>5</b>	<b>Key Business Process</b>
<b>6</b>	<b>Opportunities for Divestment</b>
<b>7</b>	<b>Performance of the Ministry</b>
<b>8</b>	<b>Issues and Challenges</b>

- 6.1.5 The consultation process for the review had begun in 2010 however the Department is still unaware of the results of the PSC functional review.
- 6.1.6 Our audit found that the Minister recently instructed the Statistics and Planning Unit of the Department to conduct a departmental reform. However, no progress has been made so far by the Unit on this issue.

### **Forestry Board**

- 6.1.7 The Forestry Board was re-activated in February 2011 following a request made by the Permanent Secretary to the Minister of Fisheries and Forest.
- 6.1.8 The reactivation of the Board would empower it to play its role and functions as outlined in the Forest Decree. In addition, the wide cross section of stakeholders represented in the Board would allow balanced advice on policy issues and other matters concerning the development of the forest sector. Board decisions would be desirable to support policy positions on forestry issues and would assist decision making at operational level, particularly in view of the many emerging issues in the sector such as mahogany policy, log export policy and others.<sup>62</sup>

<sup>62</sup> Permanent Secretary memo to the Minister of Fisheries and Forest dated February 21<sup>st</sup> 2011

- 6.1.9 The primary purpose of the Forestry Board is to provide advice to the Minister on matters relating to the forest Policy and forest regulation. The following table details the composition of the Forestry Board:

Table 6.2: Members of the Forestry Board	
a)	The conservator of Forests who shall be the chairman
b)	The Permanent Secretary of Fisheries and Forestry or his representative
c)	The Director of Town and Country Planning or his representative
d)	Seven other person appointed by the minister of whom:
e)	The conservator of Forests who shall be the chairman
	i. One shall represent the TLTB
	ii. One shall be a member of the Land Conservation Board
	iii. Five, being persons not holding any state office of emolument shall represent land owners, forest owners, Forest Users, forest industry and public interest.

Source: Forestry Board Paper FB 01/11- Roles of Forestry Board (Information Paper)

- 6.1.10 The Board is required to meet as necessary to advice on the preparation and revision of the national forestry plan and at such other times as the Chairman considers necessary in order to advise on any other matter. The Board is required to hold at least three meetings in a year.

Audit found that the meetings of the Board were not specifically planned by the Department and as such the meetings were held on an ad hoc basis or as and when important matter aroused. Audit was not able to establish the number of meetings conducted by the Board to date as necessary information substantiating occurrences of the meetings was not provided to audit.

- 6.1.11 Not having regular Board meetings indicates that the Minister may not have been advised on forest policy and regulations in a timely manner.

### National Forest Program

- 6.1.12 In August 2007, the draft Revised Policy Statement which was the outcome of the review and the extensive consultation with all relevant stakeholders was presented to an expert panel and in a public consultation to ensure stakeholders are aware of the issues contained in the document and for their final views and comments. The resulting draft was finalized and endorsed by Cabinet.

- 6.1.13 The Forest Policy Statement 2007 needed a working document hence the translation of the Policy to Programs for action. These programs are embedded in the National Forest Program (NFP) 2010-2012. The NFP was launched at the second National Forest Council Meeting on 6th October, 2009.

The program sets out a sequence of actions to be implemented that will not only address the impediments but ensures the sustainable management of Fiji's National Forests in a cohesive and systematic manner.

- 6.1.14 Audit noted that the Department is still using the National Forest Program 2010-2012 to implement the plans outlined in the Fiji Forest Policy. Audit was informed that most of the

actions within the NFP are implemented on a continuous and on a phase by phase basis therefore a definite timeline forecast would not be attainable.

- 6.1.15 The continuous use of the National Forest Program 2010-2012 may indicate poor planning on the part of the Department in ensuring that actions outlined in the program are implemented within a defined timeline and that a new FFP is developed to address outstanding actions outlined in the Forest Policy Statement 2007.

## 6.2 Forestry Legislation

- 6.2.1 The national legal regime will be revised in order to remove the present deficiencies in scope and equality and create an enabling legal base with proactive and stimulating instruments and guidelines. The review will consider the laws that directly govern the forest sector, land use and tenure, conflict resolution and access to information, and other laws relating to incentives and other issues that may have an impact on the forest sector. Special attention will be given to the development and adoption of national criteria and indicators for the sustainable forest management, and to the guideline for the management of different forest types.<sup>63</sup>
- 6.2.2 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:
- Revision of the Forest Law and Regulations and ensuring that the legislation is consistent with other natural resources, land use and environmental legislation as well as with the financial and economic regulations.
  - The Department of Forestry to make efforts to raise public awareness on forest legislation, rules and regulations as part of its public education programme on forests and environment and that the awareness be in the three official languages of Fiji.

The following paragraph discusses the status of the above actions.

- 6.2.3 The national goal for the forest sector is the sustainable management of Fiji's forest to maintain their natural potential and to achieve greater social, economic and environmental benefits for current and future generations. Legislations are therefore put in place to regulate the forestry activities and logging operations.

The following are the primary and secondary legislations in place to regulate the forestry operations:

**Table 6.3: Primary and Secondary legislations governing Forestry**

<b>Primary Legislation</b>		<b>Secondary Legislation</b>	
i.	Forest Decree 1992-under review.	1.	Environment Management Act 2005
ii.	Forest Guard Regulation 1985	2.	Endangered and Protected Species Act 2002
iii.	Forest Sawmills Regulation 1968	3.	Fiji Bio-Security Decree 2008
iv.	Forest Preservative Treatment Specification 1992	4.	Fiji Pine Decree 1990

<sup>63</sup> Section 5.5.2 Fiji Forest Policy Statement 2007

<b>Primary Legislation</b>		<b>Secondary Legislation</b>	
v.	Fiji Forest Harvesting Code of Practise 2013	5.	Fiji pine Trust Rules 1990
vi.	Fiji Logging Planning and Licensing Procedures.	6.	Fiji Mahogany Trust rules
vii.	Fiji Export and Imports Procedures		
viii.	Fiji Timber grading rules (native/pine/mahogany)		

- 6.2.4 The Department also manages international conventions relating to Forestry for which Fiji is a party to. Refer to the following table for details:

**Table 6.4: International treaties and conventions relating to Forestry**

1.	United Nations Forum on Forests
2.	United Nation Conservation of Biodiversity & the Cartagena Protocol on Bio-safety
3.	United Nations Framework Convention on Climate Change & Kyoto Protocol
4.	United Nations Convention to Combat Desertification
5.	International Plant Protection Convention
6.	Convention on International Trade of Endangered Species of Flora and Fauna
7.	Ramsar Convention on Wetlands
8.	International Tropical Timber Organisation

- 6.2.5 Audit found that the Department is currently liaising with the Solicitor General's Office to review the Forestry Decree. The Department had started the review of the Decree in late 2005 and in 2006 had submitted to the Solicitor General's Office a copy of the revised Decree for approval and gazetting. However, due to some legal and technical issues the Decree has still not been finalised.

Audit was informed by senior Planning Officer that the final draft (8<sup>th</sup> version of the draft) had been submitted to SG's Office and that the Department is in the process of preparing a Cabinet paper on the Decree to be tabled in Parliament.

- 6.2.6 Our audit gathered that the Department had taken the initiative to review two other regulations, namely: the National Forest Regulation and the Forest Sawmills Regulation. The Department also formulated the Fiji Forest Harvesting Regulation. Audit was informed that while the Department had held an internal forum to formulate these regulations, the Department had gone ahead to hold a national forestry forum where all forestry stakeholders were invited.
- 6.2.7 However, our discussions with senior officers revealed that the Department have not conducted any public awareness on forest legislation and regulation. Instead, the Department have relied on the wider stakeholder consultation.
- 6.2.8 Lack of awareness conducted on the existing forest legislations and regulations may result in key stakeholders not showing full commitment in ensuring their compliance as they are not fully aware of their prescribed responsibilities as far as forest management is concerned.

## 6.3 Forest Administration

6.3.1 The role of the forest administration will focus on policy development, regulation, monitoring and facilitation of sustainable forest management. The FD shall have the regulatory authority for the sustainable management of all forest resources of Fiji. It has the administrative responsibility for the natural forest area and regulatory functions with regard to plantation management. The FD will ensure the sustainable management and conservation of Fiji's natural forest and will provide forest policy advice to the government on plantation development.<sup>64</sup>

6.3.2 The mandate, structure, functions and resource of the FD will be reviewed and developed in accordance with the requirement of the approved forest policy. The service provided by FD will be strengthened through organizational and human resources' development where relevant programs will ensure better self-financing of FD in the long run. Coordination of activities of FD and all stakeholders will be improved for effective management of natural forest and plantation under SFM principles.<sup>65</sup>

6.3.3 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:

- Advise the minister responsible for forestry on forest policy, legislative matter, and sustainable forest management and will administer and enforce forest legislation, regulation and ordinance.
- The Forestry department will station officers in each Division in proportion to the level of forestry activity in that Division and ensure adequate infrastructure, transportation and operational funds for the division to effectively undertake its responsibilities. The Department will also develop mechanisms to share these responsibilities with industry and resource owners.
- The review of FD's mandate and activities, its structure, roles of staff, administrative and financial arrangements to ensure that the Department can efficiently discharge its responsibilities in line with the approved forest policy.
- Clarification of the roles and responsibilities of FD and TLTB with regard to natural forest and promotion of cross-sectoral coordination between FD and other government institutions will be promoted at all levels and effective coordination of the activities of the Department, Fiji Pine Limited and FHCL with regards to forest management will be ensured.
- Strengthening of the capacity of the Department to regulate, monitor and facilitate the implementation of sustainable forest management through organisational development and provision of adequate resources. In service and further training programmes will be conducted to ensure professional and technical competence of personnel.
- Seek the assistance from international or regional development agencies to review the structure, administrative procedures, resources and revenue stream of the FD.

The following paragraph discusses the status of the above actions:

<sup>64</sup> Section 5.5.3 Fiji Forest Policy Statement 2007

<sup>65</sup> Section 5.5.3 Fiji Forest Policy Statement 2007

## Advice provided to the Minister

- 6.3.4 In 2013, the Ministry of Fisheries and Forests as part of the provision of policy advice to the Minister and the Permanent Secretary, the Department of Forestry developed 4 Cabinet papers, 12 briefing papers and 16 Forestry Board meeting papers on various subjects including Forests Carbon Rights, Forests fee and charges, Forests Certification, Fiji REDD+ Strategy, Capital Project Implementation progress, Fiji GEF4 PAS project, Forests Decree status and Fiji Forests Harvesting Code of Practice.

## Divisional offices resources

- 6.3.5 The divisional offices within the department are tasked to administer and enforce the forest legislation, regulation and ordinance. The Fiji Forest Harvesting Code of Practice provides the divisional offices a guideline to administer and enforce the forest legislation, regulation and ordinance.
- 6.3.6 The main role of the divisional offices includes the issuing of the various forest licences and monitoring the conditions stipulated in the licences. As such, the divisional offices also assist the Department in the review of legislation and regulations by identifying gaps and making recommendation since it is the divisional officers who are involved in the technical operations.
- 6.3.7 The Department has a total of eight Divisional Offices. The following table outlines the available resources in terms of staffs and vehicles within the eight Divisions.

Table 6.5: Details of staffs and vehicles within the 8 divisions

Division	Staff	Vehicles
Western	25	5
Northern	28	4
Central/Eastern	21	3
Forestry Training Centre	21	4
Management Service Division	15	3
Extension/Parks	18	3
Research	15	4
Timber Utilisation	27	10

It can be interpreted from the above table that the eight divisions are equipped with a satisfactory number of staffs and vehicles to carry out their tasks effectively.

- 6.3.8 The following table outline the operational expenses of the Department in 2013 in respect to the various activities of the Department outlined in the budget.

Table 6.6: Department of Forestry 2014 Operational expenses (Budget vs. Actual)

Description	Budget (\$)	Actual (\$)	Variances (\$)
Forest conservation and management services	236,616.00	233,515.61	3,100.39
Training and education	592,413.00	588,628.14	3,784.86
Silviculture research,	347,960.00	340,530.54	

Description	Budget (\$)	Actual (\$)	Variances (\$)
<b>resource assessment and deployment</b>			7,429.46
<b>Timber utilisation</b>	626,401.00	619,353.06	7,047.94
<b>Extension</b>	168,322.00	167,113.05	1,208.95
<b>Forest Park</b>	181,334.00	225,531.51	(44,197.51)
<b>TOTAL</b>	<b>2,153,046</b>	<b>2,174,671.90</b>	<b>(21,625.90)</b>

It can be noted from the above table that apart from Forest Park the remaining activities of the Department incurred savings for the period 2013.

### **Clarification of roles and responsibilities of FD with TLTB on natural forest**

- 6.3.9 Our audit gathered that the Department have yet to seek clarifications from TLTB on the roles and responsibilities of FD and TLTB with regards to natural forests. However, the audit found that currently the involvement of TLTB in respect to forest management is mainly restricted to determining the party whom the forest license should be issued to. The approval from TLTB specifies the legal owner of the resource and the type of forest which is intended to be harvested.
- 6.3.10 Once the approval is received from TLTB, the FD does an inspection of the area to identify the boundaries and issues the licence to the resource owner. It is the responsibility of the resource owner to choose the harvesting company.

### **Coordination between the Department, FPL and FHCL**

- 6.3.11 Audit found that FPL involvement comes in solely as part of the harvest license issue process. Since the Department of Forest issues license for harvesting of forests FPL has to apply through the Department to obtain the licence to harvest. In applying for the licence FPL has to submit a harvest plan with boundaries for forest harvesting specifically identified in the plan. The Department would then assess the boundaries identified and make decisions accordingly whether to accept or reject the application to harvest.
- 6.3.12 In regards to FHCL audit gathered that the Department has minimal control over the company's operations in respect to management of mahogany timber or mahogany plantation lands as FHCL operations in this respect is defined by the Mahogany Industry Development Decree 2010. Section 11 (1) of the Decree states that it is the function of Fiji Hardwood Corporation Limited acting on the direction of the Council<sup>66</sup> to manage all operations in connection with the planting, growing, harvesting and sale of mahogany timber on mahogany plantation land; and to provide services and expertise to the Council in connection with the management of mahogany plantation lands and the development of mahogany industry.

Section 11(3) states that in exercising any rights or performing any duties under the Decree or any lease under a mahogany lease, FHCL is subject to the direction of the Council. Subsection 4 further states without affecting the generality of subsection (3), FHCL must comply with the directions of the Council as regards to entering into any agreement for the sale of mahogany

<sup>66</sup> Mahogany Industry Council

timber; or undertaking any transaction for or in connection with the harvesting of mahogany timber or the management of mahogany plantation lands.

**Promotion of cross-sectoral coordination between the Department and other government institutions and effective coordination of the activities of the Department, Fiji Pine Limited and FHCL with regards to forest management**

6.3.13 Audit found very little evidence to indicate that the Department has conducted wider promotion of cross-sectoral coordination between the Department and other government institutions. However, the audit gathered that most of the key agencies involved in forest management form part of the REDD+ Steering Committee which is a multi-stakeholder committee comprising of key stakeholders. The stakeholders include the following:

- The Forestry Department
- The Department of Environment
- The Ministry of Lands
- The Department of Agriculture
- iTaukei Land Trust Board
- Private sector (industry)
- Fiji Pine Limited
- Fiji Hardwood Corporation Limited
- Resource owner representative
- Ministry of Provincial Development
- Ministry of iTaukei Affairs
- Representative of environmental non-governmental organisations
- Secretariat of the Pacific Community (SPC)
- University of the South Pacific (USP)
- German Agency for International Cooperation (GIZ)

6.3.14 Under its Terms of Reference the Committee is responsible for a number of functions. **Appendix 1.3** contains the functions of the Committee.

6.3.15 The Department uses its membership of the Committee as a means of coordinating forest management activities with the government departments as well as FPL and FHCL.

**Training provided to staffs**

6.3.16 To ensure professional and technical competence of its staffs the Department have been sending most of its staff for overseas training. The following table outlines the number of overseas training and total number of staffs that attended the training from 2012-2014.

**Table 6.7: Details of overseas training attended from 2012-2014**

Year	Total Overseas Training	Total Number of Staff Attending Overseas Training
2012	19	20
2013	16	20
2014	6	6

- 6.3.17 **Appendix 1.4** provides details of the training attended by staffs of the Department. No details of training were provided by the Department with respect to local trainings attended by staffs.

### Seeking international assistance

- 6.3.18 Our audit gathered that the Department have yet to seek assistance from international or regional development agencies to review the structure, administrative procedures, resources and revenue stream of the Department.
- 6.3.19 A review of the Department's structure, administrative procedures, resources and revenue stream has the potential to streamline the operations of the Department and save money and resources if conducted.

## 6.4 Association

- 6.4.1 The government will promote and encourage the participation of a wider range of private sector and civil society organization in the sustainable management of the forest resource including non-traditional fields such as ecotourism and bio-prospecting. The FD will promote the establishment of stakeholders' association, develop and establish adequate regulatory framework to regulate and facilitate greater engagement of different partners in the development of the forest sector.<sup>67</sup>

The Fiji Forest Policy 2007 outlines the following actions to be undertaken for the above requirements:

- The Department to assist the establishment of a Forest Industries Association which the Government will recognise as the legitimate body representing the forestry industries of Fiji.
- The Department to assist the establishment of a Resource Owners' or Forest Owners' Association which the Government will recognise as the legitimate association representing the interest of resource owners and communities with regard to sustainable forest management.
- The Department to assist the establishment of a forest professionals' association which will focus on human resources development and setting of professional standards for the execution of the different management functions.

The following paragraph discusses the status of the above actions:

- 6.4.2 Associations have a crucial role to play in promoting best practice, helping companies become more competitive and formulating effective public policy and delivery. They have tremendous potential to act as a co-ordinated voice of business when talking to Government. Productive engagement between associations and Government is very important for the policy making process.
- 6.4.3 The table below lists the associations intended to be set up and their intended members as outlined in the Fiji Forest Policy 2007.

<sup>67</sup> Section 5.5.4 Fiji Forest Policy Statement 2007

**Table 6.8: Associations required to be set up as outlined in the Fiji Forest Policy 2007**

Association		Intended Members
1. <b>Forest Association</b>	<b>Industries</b>	- Sawmillers, - Logging contractors - Forest industries representatives.
2. <b>Resource Association</b>	<b>Owners</b>	- Resource Owners - Communities
3. <b>Forest Association</b>	<b>Professionals'</b>	- Forest Industry Representative

- 6.4.4 Audit however found that the Department has yet to make an effort in assisting the establishment of the three associations. Discussions with senior officers revealed that the Department currently have no plans to assist in the establishment of the associations. However, audit gathered that the Department have set up other association/committee to address concerns by various forest related stakeholders. Refer to the following for details:

**Table 6.7: Other association/committee set up to address concerns by forest stakeholders**

Other association/committee	Details of involvement in forest management
<b>Fiji Saw-Millers Association</b>	The primary role of the association is to look after the interest of all sawmillers in Fiji. Major issue brought to the Department by this association is collaboratively solved and relayed to the Forestry Board in case of endorsement.
<b>REDD+ Steering Committee</b>	The Terms of Reference for the Committee indicates that part of the membership of the Committee include a resource owner representative. Also the TOR indicates that annual progress reports of the committee's work are submitted to various stakeholders which include the Chairman of the Fiji Sawmillers Association and the President of the Viti Land Resources Association.

- 6.4.5 In the absence of Associations the Department may find it difficult to effectively and efficiently disseminate information on government policy to forest stakeholders.

## 6.5 Extension

- 6.5.1 The improvement of the livelihood of forest-dependent communities and their access to development opportunities are strategic pillars of the forest policy. The Department in partnership with resource owners will develop and promote agroforestry and silvipastoral system, particularly where resources owners wish to rehabilitate degraded land, or to improve the mix of income and other benefits for the land. The forestry extension program will focus on sustainable management of natural forests.<sup>68</sup>
- 6.5.2 The Department will improve coordination between government Department related to the rural development and elaborate extension packages for dissemination of effective forestry and

<sup>68</sup> Section 5.5.5 Fiji Forest Policy Statement 2007

agroforestry information which shall be used by the public service and non-governmental development agencies.<sup>69</sup>

6.5.3 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:

- Promote cross-sectoral coordination will be promoted between the iTaukei Affairs Board, TLTB, MOA, and Rural Development staff to form domestic intergrated extension teams.
- Target the forest extension programmes in all forest areas with a need and potential for sustainable forest management or plantation development, and in areas with high conservation values.
- The forestry extension curriculum will be revised towards sustainable forest management. Extension packages for different ecological zones will be developed in close collaboration with the respective users.
- Promote tree planting programmes by school and youth groups to help educate students on the value and utility of trees
- Phase out it subsidised production of nursery seedlings to charge the full commercial price and assist the financially viable production of nursery stock by the private sector and resource owners.

The following paragraph discusses the status of the above actions:

### **Formation of Domestic Integrated Extension teams**

6.5.4 Our audit gathered that the Department have been working closely with the iTaukei Affairs Board, TLTB, MOA, and Rural Development and other agencies in the private sector through the REDD+ Committee. However, the parties have yet to form a domestic integrated extension teams.

6.5.5 Although the domestic integrated extension team have yet to be formed, the Extension division of the Department have always been active with communities, NGO's and other stakeholders when working on the divisions thematic areas such as reforestation, a forestation , coastal management, agro forestry , conservation work, flood mitigation. Consultation with other stakeholders such as ITLTB, FAB, Rural Development and other line ministries is part of the Extension division's activities. The division has also drafted a MOU with MOA and submitted to SG's office for verification before it's used as common working agreement with the division and its stakeholders on development programs.

### **Forest extension curriculum**

6.5.6 Audit noted that the Forestry Training Centre (FTC) in collaboration with the Extension Division of the Department is responsible for developing the forestry extension curriculum. There has been a lot development to the curriculum resulting in the scheduled review of the curriculum by the FTC.

6.5.7 The review has caused a change in the name of the program hence reflecting the focus area of the course which concentrates mainly on community forestry and sustainable forest resource development.

<sup>69</sup> Section 5.5.5 Fiji Forest Policy Statement 2007

## Promotion of tree planting programmes

- 6.5.8 Audit also gathered that the Extension Division has developed several tree planting programmes to promote the participation of schools, youth groups and organisations in planting trees which in the process also creates awareness to the public on the value and utility of trees. The tree planting programs include the following:

**Table 6.8: Details of tree planting programs**

Programme		Details
1.	Arbor Week	<ul style="list-style-type: none"> <li>➤ This is an annual event where all schools, communities and other institution are encouraged to plant trees in Fiji.</li> <li>➤ Leaflets Information, brochures, awareness work, media's and other promotional activities are carried out to encourage people to plant trees</li> </ul>
2.	One Million Trees Program	<ul style="list-style-type: none"> <li>➤ This was a one year program carried out from April 2010 to April 2011.</li> <li>➤ The number of trees planted in this program was 1.7 million trees.</li> <li>➤ All planting was carried out by the communities, Industries, churches, NGO's, schools, and municipal councils.</li> </ul>
3.	Ecosystem Rehabilitation	<ul style="list-style-type: none"> <li>➤ The project is a continuation of the One Million trees carried out in 2011 to 2012.</li> <li>➤ More than One Million trees were planted in this project.</li> </ul>
4.	Coastal Rehabilitation	<ul style="list-style-type: none"> <li>➤ Mangroves and Coastal Trees are planted in this activity. This is an on-going operation.</li> <li>➤ More than 500,000 mangrove seedlings have been planted to date.</li> <li>➤ The project is closely link to the Reef Enrichment Initiative of the Fisheries department.</li> </ul>

## Subsidised production of nursery seedlings

- 6.5.9 The Extension Division has established a total of 15 nurseries in Fiji. These nurseries are managed and owned by either by the Department, the community or are private party. The division conducts training and awards certificates to the stakeholders who are tasked to manage the nurseries ensuring that the nurseries are managed sustainably.
- 6.5.10 The number of nurseries inspected by audit clearly revealed that the privately owned nurseries are managed effectively and are thus commercially viable. Refer to the diagram below for the nurseries inspected during the audit.



- 6.5.11 Audit however found that the Department has not fully phased out its subsidised production for all nursery seedlings and charge the full commercial price. Audit found that the nurseries which are owned by the communities require a great deal of constant support from the Department.
- 6.5.12 Not charging the full commercial price for nursery seedling indicates that the Department may not in a position to assist in the production of nursery stock by the private sector and resource owners.

## 6.6 Forestry Research

- 6.6.1 The government recognizes the importance of research in achieving sustainable forest management and in maintaining a competitive forest industry and the sharing of products and processes derived from forestry research. Applied research to meet priority need of conservation and sustainable management of natural forest, reforestation and the forest industries will be encouraged. The FD will review its research priorities in consultation with users. Financial resources for problem oriented research and development programs will be provided through cost sharing mechanisms and established of research funds.<sup>70</sup>
- 6.6.2 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:

<sup>70</sup> Section 5.5.6 Fiji Forest Policy Statement 2007

- Revise the forestry research priorities based on demand-driven research and promote research focusing on improved forest and tree management, chemical compounds and processes especially from indigenous species, and development of plantations and competitive industry.
- Develop close linkages with research users through information exchange, seminars and joint development of demand-oriented research programmes.
- Promote collaborative forest research with NGOs, forest industry, international and regional research cooperation by development of partnership programmes
- The Forest department will undertake research on behalf of the private forest industry, including plantation forestry, on a fee for service basis.

The following paragraph discusses the status of the above actions:

- 6.6.3 The Forestry Department reviews its forestry research priorities annually and incorporates them in the Department's Annual Corporate Plan (ACP). Research priorities are also allowing the Department to undertake significant forestry research work with collaborators nationally, regionally and internationally. The Department's Strategic Plan for 2010-2014 also includes the priorities for Forestry Research. However, audit noted that the Forestry Research development plan has not been reviewed since 2005.
- 6.6.4 The Department has also developed close linkages with research users and partner in a bid to explore the boundaries of research and achieve sustainable forest resources. The following are close linkages developed:

**Table 6.9: Details of linkages between the Department and research users and partner**

Research Users	Type of Research
<b>Future Forest Fiji Limited</b>	Teak plantation development
<b>South Pacific Regional Initiative on Forest Genetic Resources</b>	Sandalwood research & development
<b>ACIAR</b>	Establishing Pest Detection Systems in South Pacific Countries and Australia
<b>APFISN</b>	Invasive Alien Species, Forest Health Surveillance, Forest Health Technology & Phytosanitary Measures, Forest Pest Detection Systems in Fiji, Forest Surveillance for Insect Pests in Fiji
<b>IUFRO</b>	Invasive Alien Species
<b>USP-IAS</b>	Coastal and Watershed Restoration for the Integrity of Island Environment
<b>2nd Fiji Conservation Science Forum</b>	A Reforestation Project in the District of Naroko, Ra – planting Techniques for Grassland Reforestation
<b>COWRIE project manuals developed jointly with USP-IAS</b>	How To Build a Simple, Low-cost Community Nursery, A Guide to Planting Local Tree Species for Forest Restoration, What Is A Watershed & Why Look After It and Vetiver The Miracle Grass
<b>Scientific Forestry Development</b>	native tree species seedling propagation

- 6.6.5 Audit noted that the Department has vigorously encouraged collaborative forest research with NGOs, forest industry, international and regional research cooperation's. Refer to **Appendix 1.5** for details of NGOs, forestry industry, international and regional research co-operations that the Department have collaborated with in this regard. Through these collaboration the forestry Department has managed to develop partnerships and undertake the following researches:

<b>Table 6.10: Research undertaken by the Department</b>
• Sustainable Forest Management
• Exotic tree species research
• Native tree species research
• Plantation exotic species research
• Fuel wood research
• Lesser Known Species research
• Value adding
• Cottage Industry Training
• Sandalwood propagation, cultivation and plantation establishment
• Agroforestry

6.6.6 The above observations indicate that the Department have been active in the area of forestry research over the years.

## 6.7 Forestry Training and Education

6.7.1 The Government will support professional and technical forestry training programs, both in country and at overseas institutions, to ensure that there are adequate numbers of professional, technical and specialist staff to meet the needs of sustainable forest management. Specialist training will be offered to industry personal and resource owners to increase the skills base of sustainable forest management and value-adding processing.<sup>71</sup>

6.7.2 To facilitate human resource development for the forest sector, regular demand driven training need assessment, curricula review and training planning will be conducted. The FD will explore cooperation and outsourcing opportunities with forest training facilities at the regional and national level, and define the roles and responsibilities on institutions that need to be collective knowledge on forestry in the region, to reduce costs and to avoid overlapping responsibilities.<sup>72</sup>

6.7.3 The Fiji Forest Policy Statement 2007 outlines the following actions to be undertaken in respect to the above requirements:

- Develop demand-oriented curricula and training programmes based on the training needs assessment with the forest industries and other stakeholders. Adequate attention will be given to technical and vocational training.
- Review the viability of the training centre and give further consideration to their development and operation as regional pacific centres of training excellence.
- Coordinate a forestry scholarship scheme and assist students, staff and industry personal to undertake professional forestry and training to meet the needs of sustainable forest management.
- The FD will have training resources conducted for forestry personals and resource owners in all aspect of sustainable forest management, timber utilization principles and practices, log scaling and protection of environment values.

<sup>71</sup> Section 5.5.7 Fiji Forest Policy Statement 2007

<sup>72</sup> Section 5.5.7 Fiji Forest Policy Statement 2007

- Conduct national awareness programmes for public education on forest values and the need for conservation and sustainable forest management and to promote the introduction of environment and natural resource education in primary and secondary schools.

The following paragraph discusses the status of the above actions:

- 6.7.4 The Department developed the first forestry training program in 1953 with the intention to provide basic skills and understanding about Fiji's forests. The Department has reviewed the forestry training program for a total of five times. The following table outline the years in which the reviews were made.

**Table 6.11: Details of years of reviews of the training program**

<u>Year</u>	<u>Review of the Training Program</u>
1 <sup>st</sup> review	<b>1953</b>
2 <sup>nd</sup> review	<b>1976</b>
3 <sup>rd</sup> review	<b>1981</b>
4 <sup>th</sup> review	<b>2005</b>
5 <sup>th</sup> review	<b>2013</b>

- 6.7.5 The curriculum has been continually revised to suit the local forestry conditions. The current program aims to provide graduates with basic knowledge, skills and attitude required to work in all arrears of the forest sector. The program also builds on the existing skills and experiences of past students while considering the tough and vigorous requirements of current accreditation of courses.
- 6.7.6 The Department has also conducted a training needs assessment, whereby two senior officers were tasked to complete the assessment throughout the forestry department and its stakeholders. The review also included a consultation process whereby an industry consultation was conducted. The following groups were included in the consultation:
1. Forestry Department representatives
  2. The logging industry (Contractors)
  3. Fiji Pine Limited
  4. Fiji Hardwood Corporation Limited
- 6.7.7 The review resulted in change of the duration of the training which was reduced from 3 years to 2 years. The initial program which was for three years included training on activities such as planting, harvesting and management of all categories' of forests including pine and mahogany. Audit gathered that an element that was removed from the initial program was the training on planting activities. In addition audit found that there was a change in the practical period from six months to four weeks per semester.
- 6.7.8 The Department also developed a training program in 2010 which was for all resource owners. The training program developed was focused on the resource owners along the Nadi, Ba and Labasa River. The intent of this training was to educate the people on how to manage their forest in a sustainable manner. While the program included biodiversity conservation and protected area management, audit noted that the program did not cover climate change.
- 6.7.9 Audit established that the Forestry Department creates national awareness on forest values and the need for conservation and sustainable forest management. This awareness is

conducted annually through forestry road shows and the annual agriculture shows. However, the Department has yet to promote the introduction of environment and natural resource education in primary and secondary schools.

- 6.7.10 The Department established its first training centre in 1969 and had been the only forestry training provider in the country until recently when Fiji National University started offering forestry related courses and trainings. The training centre has provided trainings to hundreds of students both locally and regionally. However, audit noted that the Department has not carried out a review of the viability of the training centre.
- 6.7.11 Non conduct of a review of the viability of the training centre may not allow the Department to determine whether the centre will continue to operate in the long run in the face of competition from suitable training providers.

## 6.8 International and regional forestry cooperation

- 6.8.1 To foster governance of forest resource and prompt sustainable forest management, the international community has launched the forest Principles at the United Nations Conference on environment and Development in Rio de Janeiro, 1992, and reinforced them in the world Summit on sustainable Development in Johannesburg, 2002, which addresses global biodiversity conservation priorities and sustainable resource management. Fiji will participate in the international and regional forest- related processes, initiatives and programs in order to represent national interests, to ensure implantation of international commitments, and to attract assistance to achieve national and global goals.
- 6.8.2 The Fiji Forest Policy Statement 2007 outlined the following actions to be undertaken in respect to the above requirements:
- Participate in regional programmes such as the Secretariat for the Pacific Community, the Secretariat for the Pacific Regional Environment Programme and the South pacific Regional Initiative on forest Genetic Resource
  - Participate in International Forest Policy Dialogue and other forest related international processes and instruments to represent national interest and to ensure effective implementation and information exchange.
  - The government will seek international, bilateral and multilateral assistance for development of the forest sector and implementation of the National Forest Programme and related priority measure towards sustainable forest management
  - Ensure effective coordination of international assistance in the context of overall sector coordination involving government department with mandate for natural resources management as well as public-private sector partnership involving local and national stakeholders.

The following paragraph discusses the status of the above actions:

- 6.8.3 Fiji through the Department has been actively participating in regional forestry programs. Some of the programmes which Fiji has taken part include the SPC/ACIAR regional Programme Cocowood development, Pest and diseases Surveillance, Reduced Impact Logging, REDD+ initiatives, carbon monitoring, mangrove management and survey, invasive species in forests.

- 6.8.4 Fiji has been participating in the programmes since 1997 but in different phases of the project, some of which has been phased out and work has been regularized into the Forestry Department's core activities.
- 6.8.5 GIZ, ITTO, ACIAR, FAO, SPC, JICA and APAFRI are some of the organizations through which assistance has been provided to the Forestry Department either through funding or in-kind as support for attendance at international meetings, workshops and conferences. These assistance have aided in the Forest Policy Development, State of the Worlds Reports, Forest Health and surveillance, Tree Breeding, wood industry, Sustainable Forest Management, Invasive Species, Forest Genetics, Biodiversity Enhancement, Reduced Impact Logging, Forest Carbon calculations.
- 6.8.6 The Department has also received international assistance in the form of projects, funding for consultancy work, funding for attendance to meetings and conferences, funding for training and workshop attendance and volunteer assistance in data collection, analysis and training. This assistance has enabled the Department to collate data and information to make informed decisions at the policy level and in the sustainable management of Fiji's forests. It has assisted the Department in the implementation of policies on the ground, the communities and also the public private sectors.

## **RECOMMENDATIONS**

The Department of Forestry should:

- ensure that it works towards its plan for institutional reform.
- ensure that the meeting of the Forestry Board is appropriately planned and that meetings are conducted yearly as required.
- revise the National Forest Programme after taking account of actions that have been implemented. Timelines for implementation of actions should be appropriately defined in the revised Programme.
- ensure that the Cabinet Memorandum is submitted to Cabinet at the earliest to facilitate the enactment of the Forest Act.
- ensure that public awareness on forest legislations and regulation is conducted once the Forest Act is enacted.
- ensure that wider promotion of cross-sectoral coordination between the Department and other government institutions is conducted.
- ensure that it work towards seeking assistance from international or regional development agencies to review the structure, administrative procedures, resources and revenue streams of the Department.
- ensure that it work towards assisting in the establishment of the Forest Industries Association, Resource Owners Association and Forest Professional's Association.
- initiate the formation of the domestic integrated extension teams.
- ensure that it starts working towards phasing out its subsidised production for all nursery seedlings and charge the full commercial price.
- work towards conducting a review of the viability of its training centre.
- promote the introduction of environment and natural resource education in primary and secondary schools.

## **Management Comments**

*No comments received.*

## 5.9 CONCLUSION

- 7.1 Overall the Department has made considerable progress in the implementation of actions for the three areas of the Fiji Forest Policy Statement 2007 covered in this audit. However, there are a number of areas that the Department still has to commence work on whilst some other areas require the assistance and co-operation of other stakeholders in the forest sector as well as agencies within government and the private sector to be fully implemented.
- 7.2 There is also a need for the Department to continuously monitor and appropriately document the progress of the implementation of the Fiji Forest Policy Statement 2007 to ensure they are aware of the status of its implementation over time.
- 7.3 Further to the above, progress of most of the work required by the Policy are heavily reliant on the finalisation of the revised Forest Decree. Thus, it is only vital that the Department work vigorously towards ensuring the finalisation of the Decree.

## 8.0 REFERENCES

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6. Fiji National Forest Program 2010-2012, Fiji Ministry of Fisheries and Forest.
7. National Mangrove Management Committee (MMC), 2013. Draft Mangrove Management Plan, Department of Environment
8. Protective Area Committee Minutes 2009 – 2014
9. Secretariat of the Pacific Community, 2012, Republic of Fiji National Climate Change Policy

## APPENDIX 1.1: OBJECTIVE AND KEY FOCUS AREAS

### A. Institutional framework and human resources

#### **Objective**

Ensured ecosystem stability through conservation of forest biodiversity water catchments and soil fertility.

#### **Key focus areas**

1. Establish the Permanent Forest Estate based on forest functions derived from the National Forest Inventory in line with the

### B. Integrated forest resources management

#### **Objective**

Ensured sustainable supply of forest products and services by maintaining a permanent forest area under effective management that promotes the extension of forest areas.

#### **Key focus areas**

2. Protect and manage the nation's forest resources for biodiversity, conservation and production values by adopting principles of sustainable forest management.
3. Maintain and expand the Permanent Forest Estate.
4. Manage existing forest plantations and expand plantation area for commercial timber production as well as for landscape rehabilitation according to the national and local land use policy.
5. Incorporate environmental assessments in forest management plans and mitigate environmental impacts in harvesting operations.

### C. Institutional framework and human resources

#### **Objective**

Enhanced national capacity to manage and develop the forest sector in a collaborative approach with involvement of all stakeholders.

#### **Key focus areas**

6. Establish a multi-stakeholder National Forest Programme as a comprehensive framework to guide forest sector policy development, planning and implementation.
7. Revise legislation to provide the legal and administrative framework for sustainable management of forests and development of the forestry sector.
8. Strengthen the capacity of the Department to improve its sector management, administration, policy analysis, strategic planning and coordinated implementation towards sustainable forest management.
9. Establish mechanisms to provide sound advice to Government on forest policy and forest land use.
10. Promote the establishment of forest industry and resource owners' associations for effective representations of their interests.
11. Develop effective research, extension and training programmes for the sustainable management of natural forest plantations and processing of forest products.
12. Elaborate a strategy to ensure long-term financing for sustainable forest management and conservation and investment in forestry development.
13. Enhance regional and international cooperation on sustainable forest management.
14. Promote the domestic and international marketing forest products.

## **APPENDIX 1.2: FUNCTIONS OF THE MANGROVE MANAGEMENT COMMITTEE**

- Act as a technical advisory committee to the NEC and advice regulatory agencies with the consideration of development proposals in mangrove areas.
- To review the national legislations and policies related to mangrove management.
- Review the National Mangrove Management Plan, and take necessary actions to revise/develop/amend the plan, utilising the available GIS technology.
- Review and recommend procedures and guidelines for mangrove harvesting and foreshore development on mangrove areas.
- Monitor the implementation of the National Mangrove Management Plan, mangrove harvesting and foreshore development on mangrove areas.
- Facilitate research and the exchange of information between key mangrove stakeholders.
- Coordinate and ensure all mangrove related initiatives are align to the national mangrove management plan. This will require all initiatives related to mangrove management to be carried out in close consultation with the MMC.
- Administer the implementation, monitoring and reporting of the Mangrove Ecosystems for Climate Change Adaptation and Livelihood (MESCAL) Fiji project component.

## APPENDIX 1.3: FUNCTIONS OF THE FIJI NATIONAL REDD+ STEERING COMMITTEE

The National REDD+ Steering Committee will perform the following specific function:

- a. Monitor and evaluate the implementation of the Fiji REDD+ Strategy and associated action plans
- b. Facilitate inter-sectoral and inter-agency support in the implementation of the Fiji REDD+ Strategy and action plans
- c. Ensure alignment with international and regional developments in forest governance integrity, and international REDD technical and policy development.
- d. Serve as a advisory technical body on both national and project level REDD+ issues, including advising local community groups
- e. Assess REDD+ project proposal and make recommendations to the conservator forests and the director of Environment on the feasibility of these proposals.
- f. Promote and support awareness-raising on REDD+ issues
- g. Report to the Forestry Board at each board meeting
- h. Inform the national Climate Change Country Team (NCCCT) and the national Environment Council( NEC) at each NCCCT and NEC meetings on REDD+ activities and progress
- i. Provide advice and support to Fiji delegates participating at international negotiations relating to REDD+. Such international meeting include those on UNFCCC(united Nations Framework Convention on Climate Change) CBD ( Convention on Biological Diversity), UNFF (United Nations Forum on Forests), UNCCD ( United Nations Convention on Combating Desertification) and UNCSICH ( United Nations Convention for the Safeguarding of the Intangible Cultural Heritage)
- j. Support the establishment of an appointed executive body or private entity to manage forest carbon financing schemes.
  - i. This executive body will provide detailed carbon management advice to the Forestry Department, Fiji Pine and Fiji Hardwood Corporation, other forest industries, NGO projects, and landowners including helping to design and manage their carbon programmes.
  - ii. The executive body or private entity will be an aggregate of carbon management and carbon finance expertise and will be financed by levies on participation.
  - iii. The purpose of this body is to maximize carbon benefit to landowners
  - iv. This executive body will ensure fair and equitable distribution of benefits
- k. Facilitate the development and implementation of REDD+ guidelines
- l. Submit and annual progress report to the following key stakeholder, and other interested stakeholders, before the end of the fourth quarter:
  - a. National focal point of the UNFCCC and CBD, the Director of Environment
  - b. The Permanent Secretary of fisheries and forests
  - c. The General Manager of TLTB
  - d. The Permanent Secretary of Ministry of iTaukei Affairs
  - e. The Permanent Secretary of Ministry of Lands and Mineral Resources
  - f. The Chairman of Fiji Sawmillers Association
  - g. The permanent Secretary of Agriculture
  - h. The Permanent Secretary of Provincial Development and National Disaster Management
  - i. The President of the Viti Land Resource Association
  - j. The representative of the NGO network

**APPENDIX 1.4: DETAILS OF TRAINING****2012 OVERSEAS TRAINING**

No	Dates attended	Country	Name of Workshop/Course
1	14 - 18 Feb 2012	USA	Visit the I. P Collison & Sons Seattle based lab facility
2	08 - 16 January 2012	Vietnam	Country Led Initiative in Support of the UN Forum on Forests
3	17 - 27 January 2012	Australia	Insect Identification and Taxonomy Training
4	27 - 28 February 2012	England	REDD+ Partnership Meeting
5	29 February - 1 March 2012	England	Coalition for Rainforest Nations Policy Workshop
6	20 - 25 March 2012	Germany	13th Meeting of the CDM DNA Forum, a DNA TRAINING AND THE 1ST sdm Joint Coordination Workshop
7	11 - 13 May 2012	Germany	REDD+ Partnership Meeting
8	14 - 25 May 2012	Germany	United Nations Climate Change Conference
9	11 - 31 May 2012	China	Seminar on Principle and Practise of Forestry Management Responding to Global Climate Change
10	15 - 17 May 2012	Malaysia	Workshop on Tracking Technologies for Forest Governance
11	12 - 19 July 2012	Africa	ACP - EU Forenet CCP (Biomass Study)
12	6 - 14 August 2012	China	Workshop for Exploring Potential South-South Cooperation on Monitoring & Assessment of Forests, Deforestation and Land Degradation in the Context of Climate Change
13	14 - 20 August 2012	Australia	Invitation to attend the Stage 3 of the Pacific Executive Program (PACE)
14	30 August - 5 September 2012 6 - 7 September 2012	Thailand	Ad Hoc Working Group and REDD+ Partnership Meeting
15	1 - 3 September 2012	China	2012 APAFRI Sixth General Assembly
16	5 - 6 October 2012	Vietnam	Inception Workshop on Green House Gas Emission
17	3 - 6 September 2012	New Zealand	15th Round Table Meeting on Agricultural Trade and Sustainable Development for the Pacific Island Countries
18	8 - 10 October 2012	Indonesia	IUFRO Meeting
19	24 - 27 September 2012	Papua New Guinea	Participate in the ACP EU FORENET Regional Soil Carbon Workshop
20	14 - 18 Feb 2012	USA	Visit the I. P Collison & Sons Seattle based lab facility

**2013 OVERSEAS TRAINING**

No	Dates attended	Country	Name of Workshop/Course
1	3-8 May 2013	Hawaii	USPACOM APCSS Meeting
2	6-10 May 2013	Thailand	FRA Technical Meeting
3	29 April-3 May 2013	Germany	Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP2)
4	6 May - 30 June	China	Bamboo Technologies Training Course for Developing Countries
5	1 - 12 June	China	Workshop on Management Techniques for Sustainable Forest Management in a Changing Climate
6	29-14 June	Germany	UN Framework Convention on Climate Change Meeting
7	7 - 14 June	Germany	UN Framework Convention on Climate Change Meeting
8	3 -5 June	Ethiopia	Workshop on the Common Forest Financing Strategy for SIDS, LFCCs, Afica & LDCs
9	9th - 13th September	Japan	FRA 2015 National Correspondents Technical Meeting
10	22-23 October	Austria	workshop on international arrangement of Forests
11	8-11 October	Indonesia	REDD+ Partnership Meeting
12	18-31 Oct 2013	China	Seminar on Trans-Boundary, Bio-diversity protection, Research and Management
13	4-8 Nov 2013	New Zealand	25th Session of the Asia PACIFIC Forestry Commission Meeting
14	1-12 Nov 2013	China	Yiwa Forest Fair & 2nd China Pacific Islands Development Forum
15	4-8 Nov 2013	New Zealand	Tools for Ecological and Economic Impact Assement of Invasive Alien Species in Forest Ecosystems
16	10-Nov	Poland	REDD+ Partnership Meeting
17	23 Nov - 1 Dec	Gabon	49th Session of the International Tropical Timber Council and associated session of Committees Meeting
18	17-27 Nov 2013	Indonesia	Study Tour of Indonesian Forest Concession

**2014 OVERSEAS TRAINING**

No	Dates attended	Country	Name of Workshop/Course
1	May	Thailand	5th Annual Meeting of APFNET Focal Points
2	July	Sri Lanka	XLVI APCCC COCOTECH Conference and Coconut Festival 2014
3	September	Germany	Workshop on REED+ Infor Hub plate form on the UNFCCC
4	October	Japan	Training for regional development by systematic and Comprehensive Utilization of Forest resources through forest Certification system and product Branding
5	October	Japan	Training for regional development by systematic and Comprehensive Utilization of Forest resources through forest Certification system and product Branding
6	October	Tanzania	Forest Carbon Partnership Participant Assembly Seventh Committee

## APPENDIX 1.5: DETAILS OF NGO'S, FOREST INDUSTRY, INTERNATIONAL AND REGIONAL RESEARCH CO-OPERATIONS

- USP-IAS – COWRIE & WANI Project
- SPC – forest genetic resources research
- GIZ – Sustainable Forest Management Nakavu, Navua and Drawa Block, Vanua Levu and REDD Plus activities at Emalu, Nadroga & Dogotuki, Vanua Levu
- CI – Native tree species seedling production for reforestation in Tokaimalo, Ra
- JICA – carbon biomass forestry research
- OISCA Fiji – Native tree species propagation & reforestation
- National Trust of Fiji – *Calophyllum inophyllum* trials setup at Sigatoka Sand Dunes
- Nature Fiji Mareketi Viti – *Agmopyle* species cutting propagation
- PCDF – reforestation on Batiki Island, Lomaiviti
- Live & Learn – SFM, Drawa Block, Vanua Levu
- Future Forest Fiji Limited – pest & disease survey in nursery and forest health survey in plantations
- Forestry Fiji – Agarwood - pest & disease survey in nursery and forest health survey in plantations
- Fiji Pine Limited - pest & disease survey in nursery and forest health survey in plantations
- FHCL - pest & disease survey in nursery and forest health survey in plantations
- Forest Tree Breeding Research Centre, Japan – research on *Callophyllum inophyllum* trials
- CSIRO – Sandalwood research and
- ACIAR - Establishing Pest Detection Systems in South Pacific Countries and Australia – Forest Health Surveillance & Bio-security Traps Surveillance program for Fiji
- IUFRO – network for forestry research organizations
- APFISN – network for Invasive Aliens Species (forestry research)
- APFnet – network for forestry organizations
- Asia-Pacific Forestry Commission – Network for forestry organizations
- Delft University of Technology, Netherlands
- EU – FORENET – carbon biomass forestry research
- FAO – national reporting (Forest Resource Assessment & State of the Worlds Forest Genetic Resources)
- Kew Botanical Garden of London – Orthodox native tree species seed research

