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**STANDING COMMITTEE ON PUBLIC ACCOUNTS**  
**REPORT NO. 40 OF 2018**

***Report of the Public Accounts Committee on Performance  
Audits for the year ended 31<sup>st</sup> December 2014  
(Volume 2)***



**PARLIAMENT OF THE REPUBLIC OF FIJI**  
**Parliamentary Paper No. 40 of 2018**


***May 2018***

## Chairman's Foreword

This is my eighth report as the Chair of the Standing Committee for Public Accounts. I welcome the opportunity to showcase the progress of that Government entities in Fiji continue to make. Even the issues identified in these reports have either been resolved or are in the process of being addressed.

I also thank fellow committee members for their efforts in clearing this backlog namely: Hon. Mohammed Dean, Hon. Alexander O'Connor, Hon. Aseri Radrodro, and Hon. Ratu Naiqama Lalabalavu. Members of both Government and Opposition engaged in this process in a constructive manner and this is appreciated.

This report contains two general recommendations by the Committee. These recommendations have been made in good faith, and we urge the relevant party for which the recommendation is made, to consider and respond accordingly.



**Hon. Ashneel Sudhakar**

**Chairperson**



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## **Committee Recommendations**

The Committee recommends the following:

1. The Office of the Auditor-General to conduct a follow-up audit on the 5 entities highlighted in the 2014 Performance Audit Report Volume 1 and ensure that each objective or the purpose of the audit are met.
2. The relevant Ministries and Department outlined in Performance Audit Report to take note of the Committee's recommendations outlined in this Report.

## **Committee Members**

The Standing Committee on Public Accounts comprises the following Members of Parliament:

Hon. Ashneel Sudhakar MP, Chairman  
Hon. Mohammed Abe Dean MP, Deputy Chairman  
Hon. Alexander O'Connor MP (Member)  
Hon. Aseri Radrodro MP (Member)  
Hon. Ratu Naiqama Lalabalavu (Member)

## **Resource Persons**

The Committee together with the officials from the Office of the Auditor General conducts public hearings in the Parliamentary precincts. The officials that assisted the Committee were:

### **OFFICE OF THE AUDITOR GENERAL:**

Mr. Dineshwar Prasad  
Mr. Jayant Ram  
Mr. Amit Pal  
Mr. Kuruwara Tuinisalevu  
Mr. Niraj Kumar  
Ms. Unaisi Namositava  
Ms. Nunia Michael  
Ms. Alanieta Nasilivata  
Mr. Kelemedi Tuione  
Mr. Shadab Ali

### **CONSULTANT(s)**

Mr. Robert Oakeshott

## 2014 Audit Report on Performance Audits-Volume 2

### Follow Up Audit on Monitoring of Government Entities

#### 1.0 MONITORING ARRANGEMENT

##### 1.1 Legislated reporting requirements

- Audit noted that the actual review of the Public Enterprise Act 1996 has yet to be undertaken.
- The Ministry informed that it commenced the review of the PE Act in 2016 whereby it worked jointly with the Asian Development Bank Private Sector Development and Office of the Solicitor General on this review.
- The Ministry further informed that the final draft of the new PE Bill is almost ready and will be presented to Cabinet and Parliament upon finalisation.
- The Ministry clarified that the delay in the review of the PE Act was due to challenges faced by the Ministry in securing a partner.

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

- Audit noted that 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.
- In agreeing with this recommendation, the Ministry informed that a number of SOEs have NCOs which are currently funded by Government and are generally monitored by their line Ministries.
- Furthermore, grant agreements are signed between the Line Ministries and these SOEs which are then disturbed once SOEs provide their acquittals.
- The Ministry further informed that it aims to work closely with the line Ministries to agree on key NCO deliverables by SOEs and incorporate them as part of the Monitoring Framework. It is expected that delivery of KPIs on NCOs will also be tied to the release of funds.
- The Committee was further informed that that in order to clearly demarcate commercial and non-commercial functions of each of its SOEs, the Ministry will work on identifying the costing of non-commercial obligations. This will enable the Ministry & SOE Board to set realistic profit targets which the internal Monitoring Unit of the Ministry can then monitor.



### 1.3 Procedure manual

- Audit noted that the Ministry is currently developing a draft Standard Operating Procedure (SOP). It further noted that there are certain procedures that will require compliance by external stakeholders and as such will require legislative backing.
- The Ministry informed that it is one of the pilot Ministries for the “Business Process Mapping” currently being undertaken by Government. This process involves streamlining current processes to improve efficiency, show compliance and continuous improvement, accountability and monitoring of tasks/responsibilities of staff.
- It was noted that the Ministry has developed about 50 SOPs, of which 20 relates to the Monitoring functions.
- The Ministry further informed that as these processes are reviewed, the SOPs will continuously be aligned to the existing legislations including the PE Bill.

### 1.4 Monitoring database

- Audit noted that the Ministry however, it has yet to be launched as it is still awaiting the Minister’s approval.
- The Ministry informed that this database is no longer in the Ministry’s plan and explained that it currently maintains an internal database with SOE’s financial information and other data which can be consolidated or extracted at any time for the use of management. This is seen to be sufficient and is currently being maintained.

## 2.0 COMPLIANCE WITH MONITORING ARRANGEMENT AND LEGISLATED REQUIREMENT

### 2.1 Submission of required documents by government entities

- Audit noted that most government entities have not been submitting the required documents to the Ministry for monitoring purposes.
- It was noted that the percentage of compliance rate has been gradually improving in terms of the submission of planning documents:

Year of Planning	Number of complaint SOEs	Compliance rate
2015	6	29%
2016	14	67%
2017	17	81%

- With respect to the audit of accounts, the Committee noted that only a few entities are lagging behind in audit however, they are completing their outstanding audits. Respective project officers continue to follow up on these outstanding corporate documents.

- The Ministry informed that it continues to emphasise the importance of compliance to the SOEs and reminders are done via circulars, emails and Board meetings.
- Additionally, in partnership with ADB, the Ministry conducted 4 training sessions for the Board of Directors in 2017 and included topics such as:
  - Corporate Governance;
  - Planning, Reporting and Accountability;
  - Director Duties and Conflicts of Interest; and
  - Investment Assessment.
- Furthermore, the Ministry has taken a more consultative approach with its Boards to ensure that:
  - Government policy intentions are communicated clearly to the SOEs; and
  - Government interests are protected.

## **2.2 Measuring financial performance of government entities**

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

- Audit noted that most government agencies have not been able to achieve the ROE and ROA set for the period 2009-2013.
- The Committee's attention was drawn to the Ministry's Corporate Governance Policy 2003 which states the following:  
"An initial measure that corporatized entities are operating as successful is 10% after tax return on shareholders' funds....."
- The Committee noted that only a few SOEs achieved the 10% Return on Shareholders' Funds or ROE for the reference period.
- The Ministry acknowledged that a 10% ROE expectation across all SOEs may not be the best option as the SOEs operate in different sectors and business environments.
- The Ministry further clarified that major reasons for SOE underperformance vary from aged and unproductive assets, market competition, Low tariff rates, huge capital investments, and reduced supply of raw materials.
- Furthermore, the Ministry highlighted the following general improvement in consolidated SOE:
  - **Dividends:** Government in 2017 has so far received a record breaking \$78.8m as Dividends from SOEs as compared to about \$4.2m in 2007.
  - **Improvements in performance of SOEs are attributed to (i) appointment of qualified and skilled Board of Directors who can**



provide guidance to the SOE to be commercially focused, raise level of good corporate governance and improve productivity and operational efficiency.

- **Most of the SOEs are also undertaking capital investments in order to modernize their operations and increase revenue earning capacity.** Examples include AFL's Nadi Airport's Terminal Modernization Project, Fiji Rice Limited's new rice mill, Copra Millers new Virgin Coconut Oil processing plant and PAFCO's new Cold Storage.

### **2.2.2 Annual dividends**

- Audit noted that the Ministry is yet to re-look at the dividend policy and linking it with the bonus pay out.
- The Ministry informed that as per the Corporate Governance Policy 2003, all GCCs and CSA pay at least 50% of net earnings to the Government as dividends.
- The Ministry further informed that it is preparing a revised dividend policy which will be finalised once the PE Bill is approved. At present, SOE bonus payouts are linked to staff's Key Performance Indicators and assessed separately by the management and the Board.
- The Ministry informed that linking dividend payment to bonus payout is an issue that can be discussed further with its SOE Boards.

## COMMITTEE RECOMMENDATION

### *Monitoring Arrangement and Compliance with monitoring arrangement and legislated requirements*

#### **RECOMMENDATION 1:**

Since the follow up audit was carried out for the Ministry of Public Enterprise (MPE) for the year ended 2014 on the monitoring of government entities, the Auditor-General had recommended then that the MPE should await the finalization of the Public Enterprise Act before finalizing their SOP.

Since it is now 2018, the Ministry must expedite the finalization of the Public Enterprise Act 1996 to ensure compliance for all commercial and non-commercial obligations provided by the PE Entities in terms of timely submission of annual reports, dividend policy and SOE bonuses.

#### **RECOMMENDATION 2:**

The Ministry should have a proper filing system that corresponds with the Ministry's internal database for the monitoring of state owned entities



# Follow Up audit on Timeliness in Management of Magistrates Court

## 1.0 MANAGEMENT OF COURT PROCESSES

### 1.1 Strategic Planning

1.1.1 The Department informed that it has put in place the following strategies in order to expedite the delivery of justice:

- **Implementation of Video links with Prisons Services** – The Committee was informed that this is still underway owing to network structure requirements not met by Corrections.
- **Revision of case management practices** – The Committee was informed that there is an active database for Case Management by the Court Registry; however, the disposal of matters in exercise of Judicial Authority is not a measurable output by the Auditors as every individual case differs on its own merits.
- **Establishment of a Master of the Court** – The Department informed that the Master of the Court is a High Court Judicial Officer position and that the Magistrates Court is a Court of Rules and operates as per the Magistrates Court Act, Rules and other Legislature provisions. The Judiciary cannot exercise role as Legislative to amend laws to create new Judicial Officer positions. As per provisions of the Constitution the JSC is the appointing authority.
- **Introduction of electronic court recording** – The Committee was informed that there is electronic audio recording done in every individual Court in Fiji and zoom records are maintained digitally of daily proceedings.

The Department further informed that the following strategies had been put in place enhance the quality of court systems:

- **Improved integration and liaison with law and justice sector agencies** – The Department clarified that under the doctrine of separation of powers and the autonomy of the Judiciary under the 2013 Constitution, the Judiciary is independent of any other arms of Government; however, all reasonable steps are taken to work with other agencies to improve services.

- **Refinement to processing of court documents** – The Department clarified that the Court Registries receive documents filed and put them to the attention of the Court on the day it is filed. The registry exercises no Judicial Authority in respect to vetting contents of any documents rather it's compliance with Rules that is checked.
- **Improved management of court listings** – The Department informed that listing of matters is done by Judicial Officers (i.e. Magistrates) depending on date and time availability. The Committee was further informed that the number of Courts are not running at full capacity due to shortage of Judicial Officers and support Staff (submissions for creation of new posts are still awaiting approval from Ministry of Economy).
- **Enhanced statistical collection and analysis** – The Department informed that it has Statisticians and Assistant Statisticians who attend to monthly collection of Statistics, all of which is available for inspection.

1.1.2 Audit in its 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.

The Department informed that Case Management is being attended to internally by Judicial Officers, who have received training both locally & internationally in respect to this. It was stressed that this is a Core Judicial function i.e. decision making process which neither the Auditor General nor the Registry can interfere in.

1.1.3 The Department informed that KPI's are to indicate the performance of Administrative functions of the Judiciary and not Judicial functions of the Court.

## **1.2 Performance standards and achievements**

- The Department clarified that the Auditor General's Report focuses on the Ministry of Justice Annual Corporate Plan 2011, whereas now by virtue of the 2013 Constitution, the Judiciary is independent.
- The Department confirmed that every individual case differs on its own merit; however, targets are met for disposal in consultation with Judicial Officers. Due to the nature of the Judiciary, just in order to meet statistical goals, the Court cannot go beyond the rules and make mass decisions which may cause miscarriage of Justice. As such, some months targets may not be met.
- The Department further confirmed that a Legal Practitioners Unit has been setup as an arm of the Chief Registrar's Office and has inherited complaints from Fiji Law Society and receives and actions on new complaints and is fully functional.



### **1.3 Management of case proceedings**

- The Department clarified that while Case Management is an important aspect of judicial function, the Judiciary has its own Case Management procedures that are adhered to.
- The Department highlighted that the core issue faced by the Judiciary is funding for more Courts and more Judicial Officers.
- All efforts have been made by the Judicial Services Commission to advertise vacancies for Magistrates both locally & internationally in a bid to get all Court running at full capacity. However, despite getting new Judicial Officers, the Ministry of Economy despite numerous submissions is yet to allocate funds for new Support Staff posts approved by the Judicial Services Commission.

#### **1.3.1 Coordination and commitment of stakeholders**

- The follow up audit revealed that there are still no formal arrangements in place between the Judicial Department and key stakeholders to obtain their commitment towards a shared purpose of ensuring the timely disposal of cases.
- The Department informed that pre 2013 Constitution, the Judicial Department fell under the Ministry of Justice. A number of identified stakeholder agencies had at that time also fallen within the same Ministry.
- The Department further acknowledged that there exists a MOU with LTA in respect to collection of fines for which committal warrants have been issued by the Court.
- All Court service users irrespective of whether a government agency or an individual litigant are provided the same high level of professional services as all users of the Court are equal before it.
- The Committee was further informed that if there are issues faced in respect to any agency then the Chief Registrar or his nominated Officer liaises with that agency to expeditiously deal with these matters.

### **1.4 Records maintenance and access to Magistrates Court Registries**

- Audit made the following recommendations in respect to the issue of records management:
  - The Department should impose stringent controls of access to its registries.
  - The Department informed that Registries have in place File Management Policy and there exists a Monitoring and Evaluation Unit which constantly ensures that the policies are adhered to.

- The Department should improve its court registry practices to ensure files and its contents are not tampered with or removed from the registry.
  - The Department informed that it has multiple point record keeping ensuring tampering of record is avoided, the Monitoring and Evaluation Unit continually looks into this and also does an annual random audits.
- The Department should develop a centralised database for all court cases heard in all jurisdictions for ease of reference.
  - The Committee was informed that once e-Litigation is fully implemented, information will be available on a centralized database accessible at all registries throughout Fiji.
- An officer should look after the Department's records in the Nasinu Court.
  - The Department reiterated that Nasinu Court is currently understaffed and once funds for new posts are released by Ministry of Economy, a dedicated officer can be assigned for record management.
- The Department should develop a risk management plan for court registries to cater for risk of losing information in the occurrence of any hazards.
  - The Department informed that it is looking at Contingency plans for risk management in events of loss of information.

1.4.1 In the follow up audit it was noted that the requirements of the Files Management Policy were not strictly followed by the Suva Court.

In disagreeing with the OAG's comment, the Department informed that the procedures outlined in the Policy and the setup of the filing room and numerous processes were piloted in Suva and then moved to all Judicial Department offices.

1.4.2 Audit review of the case management system revealed that it is yet to be updated to store data for both civil and criminal files.

The Committee was informed that there is still no database at the Magistrates Court Civil division.

## 1.5 Preparation of Cause List

- 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.

- In taking note of the audit finding, the Department informed that necessary steps had been taken to rectify the issue.

## **1.6 Resources to facilitate court processes**

### **1.6.1 Office accommodation**

- Audit noted that the office accommodation was overcrowded.
- The Department provided a list of all the renovations and upgrade of existing court complexes from 2013 to date reflecting its response to ensuring that the court houses are upgraded to meet the standard as well as be in line with OHS requirements.

## **1.7 Addressing issues identified in the Connors report**

Audit made the following recommendations:

- The Department should identify suitable strategies and measures in consideration of the process, system and procedure it has in place on disposal of cases.
- The Committee was informed that when the recommendations on the Conner's Report was made, the Judiciary did not have the autonomy it now has, however now as per Sections 104(5) and (6) of the 2013 Constitution, the Judicial Services Commission is responsible for the efficient functioning of the Judiciary and has the Authority to make such rules and regulations as it deems fit.
- 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.
- The Department informed that whilst it has a MOU with LTA, one needs to understand the MOU in totality, however such information sharing needs development of proper databases and electronic platforms, with the plan of e-litigation underway, such information sharing can be done through customized user portals once e-litigation is fully implemented.

## **2.0 MONITORING AND REPORTING OF COURT PROCESSES**

### **2.1 Returns of cases tried**

- The Department confirmed that monthly returns are submitted and reviews made as necessary.

### **2.2 Monthly Returns**

- The Department confirmed that monthly statistical returns are made in proper order and the same is submitted to the Chief Justice, and assessments made as to performance of the Court;

### **2.3 External Reporting**

- The follow up audit established 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.
- The Department confirmed that the Annual Reports are being finalized, however even in the absence of the Annual Reports, it has all information pertaining to the running of the Judiciary readily available. The Department further confirmed that NGO's, Government Departments and other stakeholders have requested, and had been provided our statistics which are readily available.
- The Department however notes the importance of Annual Reports and will strive to attend to updating same as soon as possible.



## COMMITTEE RECOMMENDATION

### *Management of Court Processes*

The committee notes the challenges faced by the Judiciary Department in identifying measures to reduce the time taken in disposing of cases with the explanations given:—

“.....we have set up a monitoring and evaluation team within the department and their duty is to go out and monitor the procedures and timeliness of the court proceedings.

One other area is the Fiji Mediation Centre. We opened Fiji Mediation Centre in 2015, this is to take out most of the civil matters from the court system including the Magistrate's Court, the High Court and we are also thinking of extending it to the Family Court. Family Court is also operating in the Magistrates' Court.

We have also increased the number of magistrates because it is humanly impossible for a magistrate to hear 50 cases a day. In order to bring down the number of cases you have to increase the number of magistrates otherwise when you act in a more stricter manner like if you do not give any adjournment to the Police or to the prosecution agencies then what will happen to the Rule of Law of the country. You have to have a balance of all these things.

We have dedicated magistrates right now. Previously we did not have magistrates to hear juvenile cases and family cases now we have Family Magistrates and Juvenile Magistrates. We recently implemented the Juvenile Magistrate to the Judiciary and that is working very well, that is to dispose juvenile cases in a timely manner rather than getting them into the system for a longer period because all these juveniles want to go out, they need to rehabilitate themselves and get into normal society.

We have identified a Civil Magistrate as a roving Magistrate; this particular Magistrate goes into certain areas and certain Magistrates Courts and identifies the backlog of civil cases. This is also in order to get those cases out of the system as soon as possible.

We recently created a position for a Senior Magistrate; this Magistrate will provide support and admin assistance to the Chief Magistrate where you can have case management in the Magistrates Court. At the moment it is only up to a particular Magistrate to have case management within his system or his court but now we want to centrally have a proper management

system. That is why the Senior Magistrates position was introduced.

We have our statistics department, we are collecting statistics in a very timely manner and we try to evaluate the statistics, if you have any issues in a particular area then you can identify and address these issues. These are some of the areas and initiatives taken by the Judiciary.”<sup>1</sup>

“it can be due to various reasons. In some of these cases it might be because of the non-availability of the accused persons; in some of the cases it can be due to witnesses if they cannot locate the witness. In certain cases people do make requests to the court that they need to get overseas treatment and they are not fit to be there so, the magistrates normally allow them to travel and to come back and then have hearings. I think all these things will at the end of the day contribute to the delay”<sup>2</sup>

#### **RECOMMENDATION 1:**

It is recommended that the Office of the Auditor-General conduct a follow-up audit on the judicial process undertaken by the Department in disposing cases in a timely fashion.

#### **RECOMMENDATION 2:**

The Department should have an online filing system to avoid mishandling of files from Registry to the Magistrate then Court Clerks. This is to ensure minimal human errors such as mishandling or purposefully causing some missing of files<sup>3</sup>.

#### ***Monitoring and Reporting of Court waiting times***

#### **RECOMMENDATION 1:**

The committee notes that the Department submits its reports to the Judiciary Services Commission<sup>4</sup>. It is recommended that the Department of Judiciary should submit its Annual Reports because it is important that the public are adequately

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<sup>1</sup> Verbatim notes of the Public Accounts Committee meeting held at the committee room (east wing), Parliament Precincts, Government buildings on Thursday 25<sup>th</sup> January, 2018, at 9.25 a.m. p 2-3

<sup>2</sup> Verbatim notes of the Public Accounts Committee meeting held at the committee room (east wing), Parliament Precincts, Government buildings on Thursday 25<sup>th</sup> January, 2018, at 9.25 a.m. p 14

<sup>3</sup> Verbatim notes of the Public Accounts Committee meeting held at the committee room (east wing), Parliament Precincts, Government buildings on Thursday 25<sup>th</sup> January, 2018, at 9.25 a.m. p 5

<sup>4</sup> Verbatim notes of the Public Accounts Committee meeting held at the committee room (east wing), Parliament Precincts, Government buildings on Thursday 25<sup>th</sup> January, 2018, at 9.25 a.m. p 9



informed about the performance of the Department new capital projects undertaken, human resources capacity which are of interest to NGO's, CSO's, Government Agencies and Members of the Public.

# Management of the Land Reform Program

## 1.0 POLICIES GOVERNING THE ADMINISTRATION OF LAND REFORM

### 1.1 Use of Draft Standard Operating Procedures (SOP)

- The Committee was informed that the Division's SOP is now formalized within the Ministry's final SOP edition launched in 2015.

### 1.2 Lack of Performance Bond Policy

- Audit noted that there was no policy prescribing the imposition, receipt and subsequent release of performance bonds on leases issued under the land bank scheme.
- The Committee was informed that a performance bond policy is currently being developed which will be in alignment to the existing clauses of the Mining Act and the provision of Security under Item 9, Annexure A of the reference schedule of the Land Use Regulations.
- The Committee learnt that the Ministry will be conducting further consultations with relevant stakeholders for the finalization of the policy document.
- Audit also highlighted 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.
- The Ministry informed that as the Land Use Division was newly established then, staff was unable to determine as to which situations would require performance bond and the basis on which it should be determined.
- Upon further enquiry, the Ministry informed that 480 Holdings Ltd. has not paid any performance bond to date due to the recent issue of a lease. OAG reps were requested to follow up in regard to the bond payment.

### 1.3 Mortgage over Designated Leased Land

- It was noted that there was no policy in place to clearly define the prerequisites pertaining to granting of 'consents to mortgage' land designated into the land bank.
- The Committee was informed that leases issued under the Land Use Act are protected leases and that the Regulation stipulated therein is sufficient to safeguard all interest to the lease.
- It was further highlighted that section 12(1) of the Land Use Act is sufficient to protect the lessee and the landowners without any infringement on the investor/lessee's right to restrict mortgage of his/her land subject to obtaining the written consent of the Director Lands.

#### **1.4 Lack of Policy Guidelines on the Administration of State Freehold Land under the Buy Back Scheme**

- The Committee was informed that the Sale and Purchase Agreement (SPA) executed between the Landowners and State is a legally binding contract sufficient to govern the obligations of the lessee and the Director Lands.
- A draft Cabinet paper, subject to further amendment by the SG's Office, is awaiting incorporation of the processes of transferring freehold buy back land to Landowners.

### **2.0 SYSTEMS AND PROCESSES FOR LAND DESIGNATION AND ALLOCATION**

#### **2.1 Deficiency in consultation and awareness**

- Audit noted that the LUU 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.
- The Committee was informed that the LUU is now working in collaboration with iTaukei Affairs and Rural Development with the integration of all relevant roadshow programs, Provincial Council and Tikina meetings incorporated into its Annual Work Program. Reports and recommendations are actioned accordingly.
- It was also highlighted that awareness and consultations have increased and been incorporated into the Division's ACP as a performance measure.

#### **1.2 Designation of land into the Land Bank**

- The Committee was informed that land designation has been re-strategized and re-engineered via internal and external processes as follows:
  1. Internal designation process – Initiated internally by the Division, where viable land is identified prior to LOU consultation and awareness is conducted. A viability test report is submitted after inspection to confirm land viability.
  2. External designation process – This is whereby the LOU directly approaches the land bank for the designation of their land or if a prospective investor has been identified who wishes to lease their land.

#### **2.3 Failure to appropriately conduct land capability studies**

- Audit observed that land feasibility studies were not conducted for most of the land designated into the land bank.
- The Committee was informed that prior to any designation, the current practice of the Valuation Unit is to execute land capability studies in



order to reflect a more comprehensive analysis of the socio-economic factors to ensure land viability and optimal return for the LOU.

- It was also highlighted that capability studies are guidelines and that it is not a requirement for the lessee to carry out the particulars of the capability report. Clarification was also made that this role has now been transferred to valuers due to their capacity to carry out such surveys.

## **2.3 Advertising of Designated Land**

Audit assessment of the advertisement processes of the LUU noted the following:

### **2.4.1 Failure to advertise all designated land**

- Audit noted that not all designated land has been advertised and that lands were being advertised prior to having capability studies conducted.
- The Committee was informed that all designated land suitable for development can only be advertised once survey plan is approved.
- The Ministry clarified that only under special circumstances, in the absence of the approved survey plan and the urgent need to address effective and efficient land administration process, 'Approval Notices' are issued to formalized leases to promote investor confidence and fast track commencement of development whilst simultaneously awaiting survey plan approval.

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

- Audit found insufficient evidence that reflect efforts by the LUU in informing the general public and investors of the availability of vacant land.
- The Ministry informed that the LUU has explored and secured the following outlets for effective and efficient advertising:–
  - Fiji Mission Offices and Trade Commissions Offices through the supply of the LUU dossiers on a quarterly basis;
  - Supply to Investment Fiji;
  - LUU's participation in MITT Trade shows and Fiji Day Celebration abroad;
  - Advertising through TV Commercials;
  - Hotel Room Advertisement;
  - Fiji Airways in-flight magazines; and
  - Cruise Ship advertisements.

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

- Audit review found that some leases were issued prior to the conduct of survey and approval of survey plans.

- The Ministry clarified that is only done under special circumstances due to the lengthy time (3 months) for surveying and obtaining a survey plan approval or 'Approval Notices'.

## **1.6 Construction of Access Roads**

Audit assessment of the acquisitions carried out by LUU noted the following:

### **2.6.1 Absence of defined processes for access road construction**

- The Committee noted that the Division was advised in the 2015 budget consultation with the MOE that road construction is the sole responsibility of the FRA.

### **2.6.2 Payments of acquisition made prior to obtaining engineering designs**

- Audit confirmed that the LUU does not have qualified personnel to conduct engineering designs for road construction. Audit also 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.
- The Committee was informed that a submission made by the Ministry to create a technical position for the engagement of an engineer was rejected and the Ministry was advised to seek the assistance of the FRA as the agency responsible for road construction.
- The Ministry further confirmed that the money was utilized for acquisition purposes due to the investor already having constructed the road in the absence of an engineering design.

### **2.6.3 Addition acquisition due to error in construction of Natodre Access Road**

- The Committee was informed that the acquisition was done in error. Proposals were put forth for the subdivision of the additional portion to assist the Government in recovering the cost incurred. The scheme plan for the subdivision of the subject site has been submitted to the Director Town & Country Planning.

## **2.7 Valuation conducted prior to land survey**

- Audit found that not all designated land has been valued by the LUU. It was 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.
- The Committee's attention was drawn to Section 7(2) of the Land Use Regulation which highlights that an assessment of the fair market rent



is carried out. Tentative valuation is also carried out to assist investors in making budgetary decisions. It was however highlighted that final valuation of subject property is executed before lease offer is issued.

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

- 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.
- The Committee was informed by the Ministry that due diligence is now carried out for prominent developments and other LUU leases to ensure lease conditions are complied with and furnishing of all leasing requirements to be complied with prior to issuance of lease offer.

## **3.0 RECORDING AND MONITORING OF LAND BANK ACTIVITIES**

### **3.1 Systematic recording of Land Bank Activities**

Audit assessment of LUU's records management processes noted the following:

#### **3.1.1 Absence of a Land Bank database**

- 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.
- The Committee was informed that a budget was allocated in 2015 for the development of Land Bank Database. Development of this database was outsourced to a private company which was rejected by ITC and the Division advised to liaise with ITC on the development of its database. The Ministry is awaiting a response from ITC in this regard.

#### **3.1.2 Failure to record complaints**

- Audit found that the LUU does not maintain any record of complaints received.
- The Ministry informed that it now has 3 manual registers of complaints which have been placed in the 6 Units whereby Team leaders have been tasked to monitor and update records of all complaints.
- LUU complaints are also received by the Land Department CAO at Headquarters.

#### **3.1.3 Absence of Proper Documentation**

- Audit of the LUU records found that proper record keeping practices were not effectively implemented.

- The Ministry informed that all complaints are now appropriately recorded through the registers kept in various Units, main counter and DLU's reception area which is collated by the Monitoring Officer on a weekly basis. Complaints highlighted in the weekly reports are extracted and captured in the complaints spread sheet which is forwarded to the Customer Advocate Officer on a monthly basis for recording and presentation to Senior Managers Board Meeting.
- Audit also noted that LOU Mataqali Naicobo and Mataqali Korinikula's land was recorded twice as per designation listing. The Ministry informed that this issue had been rectified. OAG reps were requested to verify the same in their follow up audit.

## **3.2 Monitoring of Land Bank activities**

Audit assessment of the monitoring processes of LUU noted the following:

### **3.2.1 Absence of documented guidelines of monitoring of leases**

- Audit observed that monitoring procedures of the LUU were not documented.
- The Ministry informed that lease monitoring is formalised and now part of the Division's ACP output and Annual Work Program (AWP) from 2016 to date. Documented guideline on the monitoring period is specified in the AWP together with its planned expenditures.

### **3.2.2 Failure to appropriately monitor conditions of lease/MOA**

- Audit found that monitoring conditions of leases/MOA has not been effectively conducted.
- The Ministry highlighted that as a result of restructure implemented in 2016, a database/monitoring officer is now responsible for monitoring all leases through the lease conditions stipulated in the lease agreement and capturing relevant data in the LUU database.

#### **3.2.2.1 Non-payment of fair share to Land Owning Units**

- Audit noted that no fair share payments have been received from Aurum Exploration (Fiji) Limited since commencement of the leases in 2011.
- The Committee was informed that the fair share payment is yet to be determined and is guided under Section 30 of the 2013 Fijian Constitution.



## **COMMITTEE RECOMMENDATION**

### ***Policies governing the administration of land reform***

#### **RECOMMENDATION 1:**

Pursuant to the recommendation set out by the Auditor-General at the time of the audit was conducted was to formulate a policy and specific guidelines on Performance Bonds. It is therefore recommended by the Committee that it is critical for the Ministry to finalize and execute this policy on Performance Bond to avoid the use of <sup>5</sup>Performance Bond on the payment of royalties.

#### **RECOMMENDATION 2:**

The Office of the Auditor-General to conduct a follow up audit on the officer responsible for authorizing payment of royalty from the Performance Bond that was paid to Tengy Cement Company Fiji Limited and the conditions set out in the Memorandum of Agreement whereby Companies failed to agree to the terms.<sup>6</sup>

#### **RECOMMENDATION 3:**

The Ministry should finalize a policy (Cabinet Paper yet to be finalized) that will incorporate the processes of transferring freehold buy back land to land owners. This will assist in the development of a Policy on consent to mortgage land prescribed under the Land Use Decree 2011 and Land Use Regulation 2011. The policy should also 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.

#### **RECOMMENDATION 4:**

The Office of the Auditor General to carry out a follow-up audit on the Management of Land Reform Program mainly on the mortgage of designated lease land.

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<sup>5</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Wednesday, 17<sup>th</sup> January, 2018 – p. 4

<sup>6</sup> Minutes of the Meeting held on Thursday 18<sup>th</sup> January 2018 – annexure (summary of submission received)



## ***Systems and processes for land designation and allocation***

### **RECOMMENDATION 1:**

The Ministry of Lands & Mineral Resources mainly the Land Use Unit should ensure continuous awareness and dissemination of information right to the grass root level to enable landowners to be properly informed and implications of designating their land into the land bank and enable them to make better informed decision.<sup>7</sup>

### **RECOMMENDATION 2:**

The Ministry should ensure that land capability studies are carried out as the findings in this study provides crucial information to the Ministry of the type of development most suitable for the subject land and should abide by it to avoid contradictory advertisements of the initial plans.<sup>8</sup>

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<sup>7</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Wednesday, 17<sup>th</sup> January, 2018 – p. 23

<sup>8</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Wednesday, 17<sup>th</sup> January, 2018 – p. 25

# Monitoring of Municipal Councils by Department of Local Government

## 1.0 PLANNING, RESOURCING & POLICY SUPPORT FOR MONITORING LOCAL GOVERNMENT

### 1.1 Legal basis to monitor Municipal Councils

- Audit noted that there is a need to review the Local Government Act to strengthen Monitoring Policy Framework.
- Audit also found that the legislation makes no mention of the role of the Department of Local Government in monitoring Municipal Councils.
- The Ministry has noted the need to strengthen the legal framework to ensure that the policies and standards of Department in monitoring Municipal Councils are reflected in the Local Government Act. This has been recommended as a Terms of Reference for the Review exercise and the Review process shall be commencing soon with more information being given from the Ministers office.
- The Ministry further informed that this review will encompass the legislative authority delegated to the DLG to closely monitor the performance of every Municipal Councils.
- The Ministry further informed that the Suva City Council and Lautoka City Council are now fully IFRS based while other councils in Fiji are small and medium IFRS based. This has been selected based on their size and was introduced in 2017. As of 2018, all municipal councils are 100 percent IFRS based in terms of reporting.
- One of the key reasons why all councils have been shifted to IFRS reporting is because of the qualifications from the OAG and the need for them to be IFRS based.

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

- 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.
- The committee was advised that:–  
***“The SOPs is shown in terms of good governance, clean growth, administration, finance and projects management. They are in place, that includes how inspections are done, how they are monitored and how they are reported”<sup>9</sup>***

<sup>9</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Tuesday, 30<sup>th</sup> January, 2018 – p. 34



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

- Audit found that the implementation of the organizational plans of the Department in relation to monitoring of municipal councils is lacking. There were a number of activities indicated in the plans for the years 2012 to 2014 DLG failed to accomplish.
- The Ministry informed that it has also reviewed its structure and business plans from 2015 onwards to reflect the exact planned activities to be implemented in a given year. The position of the Director, Senior Accountant and Executive Officer has been filled from 2016 onward.
- The Department further informed that it is taking an incremental approach in strengthening its organizational structure. In order to do so, the Department has established units based on Municipal and National Fire Authority products range rather than that of establishing units on division wise and having a staff multi skilled.

## **2.0 MONITORING LOCAL GOVERNMENT LEADERSHIP AND SERVICE DELIVERY**

### **2.1 Monitoring performance of Special Administrators**

- Audit found that the Department failed to appropriately monitor the performance of local government leaders (special administrators) in the years 2011, 2013 and 2014.
- The Ministry informed that it is currently implementing the performance assessment of the SAs in every financial year ensuring that they are achieving their expected outputs required from them.
- The Department further informed that it developed the performance measurement framework to assess the performance of local government in delivering various services to their respective communities.
- It was highlighted that the Green Town assessment is a very detailed framework used to assess the performance of all municipal councils where the award is then given to the highest scorer at the end of the year.

### **2.2 Monitoring service delivery of Local Governments**

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

#### **2.2.1 Absence of a Performance Measurement Framework for monitoring Local Government**

- Audit 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.
- The Ministry informed that it has given directive to all councils to have customer feedback form to be provided to rate payers as a basis of gauging their service delivery from time to time.

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

- 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. Furthermore, from the years 2011 to 2014, no record of follow up was documented on the complaints register.
- The Ministry informed that it has developed a Grievances Policy Management for Municipal Councils covering all grievance register, grievance recording, grievance inspection, references to agencies and grievance management.
- The Ministry further informed that the framework highlights the importance of municipal councils in addressing grievances and complaints received from its stakeholders including rate payers, business house, government agencies, media and staff.

## 3.0 MONITORING FINANCIAL PERFORMANCE OF MUNICIPAL COUNCILS

### 3.1 Monitoring financial information submitted by Municipal Councils

The Committee was advised that the

***“.....budgets and the capital finances and the funding provided to the Councils are from the Government, from the Ministry. As being a Director from the Ministry, he is able to exert the delegation and being able to hold them accountable for the performance”<sup>10</sup>***

Audit made the following findings in relation to the effectiveness of DLG in monitoring the financial performance of municipal councils:

#### 3.1.1 Receipt and assessment of budget proposals for Municipal Councils

- Audit noted that no assessment was conducted on 2014 budget proposals submitted by councils in 2013.
- The Ministry informed that it has developed budget standard templates which have been circulated to all municipal councils in the last quarter of the year for reporting of their budget. In the template, the councils have been advised to reflect their past two years actual revenues earned and expenditure level to determine their current year budget.
- Further, the department has also analyzed its budget submission and necessary changes were advised to the councils accordingly and will then be monitored in every quarter to ensure that council's budgets are actually undertaken.

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<sup>10</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Tuesday, 30<sup>th</sup> January, 2018 – p. 32



### **3.1.2 Submission and assessment of reports on rate arrears**

- The Committee was informed that the municipal council's rate collection policy was developed and circulated to all the councils for comments which will then be submitted to management for implementation approval.
- The policy articulates the background of rates, rate book maintenance, rates concession, rates awareness, rates recovery and internal rates audit.

### **3.1.3 Inadequate monitoring of capital projects**

- Audit review of the MOUs between the DLG and the various Councils found that they do not integrate requirements of monitoring and reporting of the capital projects.
- The Ministry informed that it is currently using the standard monitoring reporting template called the QPPR report to integrate the physical progress and the financial update of all government capital grant projects implemented by all municipal councils.
- Audit also 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.
- The Committee was informed that the department had developed a simple standard fortnightly capital project progress reporting which the councils will have to provide for updates to ministry management.
- Audit also 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.
- The Ministry informed that most of the significant capital projects implemented by the councils are being outsourced to reputable consultants. These consultants were paid to protect the interest of the councils and the ministry in carrying out independent assessment of the scope of works carried out by contractors to ensure that guaranteed funds disbursed were for works specified under the terms of contract.
- Further to that, some councils have Engineers who are advised to act as a clerk of works to do double checks again for the works carried out before releasing the progressive payments.

## **3.2 Submission of key financials**

- Audit noted that the Suva, Nausori, Nasinu, Levuka and Savusavu Town Councils were not audited up to date due to the delay in submission of draft accounts for audit.
- The Ministry informed that it has set up a Municipal Council Finance Managers Forum to discuss issues pertaining to councils' finance management which also includes the updating of their accounts and this has been progressed well.
- The Ministry further informed that councils have been advised on the required timeline that they need to deliver in terms of their submission of financial reports.

## **COMMITTEE RECOMMENDATION**

### ***Planning, Resourcing and Policy Support for Monitoring Local Government***

#### **RECOMMENDATION 1:**

Since the follow up audit was carried out for the Ministry Local Government, Housing and Environment for the year ended 2014 on the monitoring of municipal councils; the Auditor-General had recommended then that the Ministry should review the Local Government Act.

The Committee recommends for the Ministry to finalize the Local Government Act that that will enable the Department of Local Government to develop and streamline their SOPs in terms of the monitoring of Local Government Leadership, Financial Performance, strategic partnership service delivery, licensing fees, regulation enforcement and timely submission of annual accounts for auditing.

### **Monitoring Local Government Leadership and Service Delivery**

#### **RECOMMENDATION 1:**

The committee notes that the Ministry has developed and adopted the Auditor-General's recommendations set out in the 2014 Audit Report on the Monitoring of Municipal Councils by the Department of Local Government.

However, the Committee further recommends the Office of the Auditor General should conduct a follow up audit on the issue of performance assessments carried out for all SA's and CEO's, performance measurement and reporting framework for all Municipalities, customer feedback forms, complaints register and a standard reporting template for monitoring and evaluation of the Council's performance that identified issues or challenges faced and recommend areas for improvement in a timely manner.

## **Monitoring Financial Performance of Municipal Councils**

### **RECOMMENDATION 1:**

The Ministry must ensure that all municipal councils must submit their financial statements before the end of the financial year as one of the main issues regarding municipal councils is the delayed submission of audited financial statements.



## **Progress of Implementation of Policies and Strategies in the Fiji Forest Policy Statement 2007**

### **3.0 CONSERVATION OF FOREST AND BIOLOGICAL RESOURCES**

#### **3.1 Land use planning and forest classification**

##### **Existence of a land-use plan**

- 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 has yet to be developed.
- The Ministry informed that its role in relation to land use plan is to provide the Forest Function Maps which have now been completed and are awaiting printing before being provided to the MoE.

##### **Forest function Map**

- 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 however, there is no current arrangement in place to share the map with the Department of Lands to facilitate its printing.
- The Committee was informed that the Potential Forest Function Map was finalised by 2016 in collaboration with the Department of Lands.
- The Committee was further informed that the forest function maps took a long period of time to produce due to issues with the consultant and contractors who were engaged as issues were not resolved in a timely manner. Furthermore, there were problems with how different Ministries were working together to finalise the Forest Function Maps.

##### **Awareness program**

- Audit noted that there exist no formal arrangements (MOU) in place between the Department and the NFMV in respect to the awareness engagement.
- The Committee was informed that The NFMV is no longer undertaking any consultations on the Permanent Forest Estate.
- It was clarified that there previously was an attempt to develop a MoU with NFMV, however they declined it.

#### **3.2 Forest Inventory**

##### **National forest inventory**

- Audit noted that the Department has conducted 3 forest inventories to date however, out of the 3 only the 1969 FI report had been compiled.



- Audit further recommended that training should be provided to Officers of the MSD to be able to extract forest inventory data.
- The Committee was informed that the future role of forests in climate change mitigation and adaptation constitutes the new direction for conducting forest assessments. The REDD Plus Unit at the Forest Management Service Division in Colo-i-Suva will, in the future take over the forest assessment role of the Forest Inventory Section of the MSD with additional personnel and a new Forest Management Information System.
- Audit also noted that the forest inventory carried out by the Department covered only natural forest and not plantation forest which are privately owned.
- In agreeing with this audit finding, the Ministry clarified that forest inventory for pine and mahogany plantations are carried out by the Fiji Hardwood and Fiji Pine which are obliged to report their findings to the Department.
- Furthermore, audit noted that the result of the NFI conducted in 1969 is not available on the Department's website for ease of reference by members of the public.
- The Committee was informed that the Department is now working on this, however as some information is confidential to the owner of the resources there needs to be careful consideration as to what can be published.

### **Establishment of procedures**

- Audit noted that the Department of Forest do not 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.
- The Ministry informed that the NFI database contains timber stocks and vegetation quantity and quality at any particular time. The Procedure for the incorporation of the data will be done through the implementation of the Diameter Limit Table which will serve as the link between the Harvesting Database and the NFI database.
- It was also highlighted that the database for the 1990-1992 NFI still exists at MSD with all the tables that came with it. A report was also compiled.

### **Training of resource owners and timber company personnel**

- Audit noted that for the period 2010-2014 the Department trained and certified 1,007 machine operators and also conducted 477 sustainable forest management trainings. In addition, the Department in 2014 provided forest 141 supervisor training.

- Upon enquiry, the Ministry informed that it targets 60% male and 40% female participation in its trainings every year given the type and nature of trainings conducted.

### **3.3 Mangrove management**

#### **Advocating permanent conservation of mangroves**

- Audit noted that the Department does have any mechanism in place to advocate for permanent conservation of mangroves through prohibition of commercial harvesting.
- The Committee was informed that the Department of Forests is represented at the Mangrove Management Committee and the Protected Area Committee which are the forums where it carries out its advocacy work.
- The Ministry further informed that it has ceased the licensing of commercial harvesting of Mangroves for firewood.

## **4.0 INTEGRATED FOREST RESOURCES MANAGEMENT**

### **4.1 Management Plans**

#### **Existence and development of guidelines and forest management plans**

- Audit noted that the only forest management plan that has been prepared is the plan for Bouma Forest Park which was developed in 1991 and has yet to be reviewed. In addition, the plan has yet to comply with the requirements of the Environmental Management Act 2005.
- The Committee was informed that the Bouma Forest Park is a community owned and managed Forest Park and the management of the Park is done on their own initiative and with technical advice from the Ministry of Forests.
- It was further highlighted that the Forest Management plan initially prepared was for guidance to the community when responsibility was handed over.
- EMA requirements are for areas where forests are disturbed. Parks, such as Bouma Forest Park, are only for conservation purposes and forests are intact and undisturbed, therefore the EMA does not apply.
- The Committee noted that the new Somosomo Hydro Project catchment area has taken up part of the Taveuni Forest Protection lease which includes Bouma Forest Park.
- The Committee was advised accordingly that when a dam is constructed, an Environmental Impact Assessment (EIA) is carried out however, no EIA was carried out for the construction of the Hydro Project dam.
- The Ministry, following consultations with the Department of Environment, will provide a status update on this and the reasons why an EIA was not conducted for the construction of the Hydro project.



## **4.2 Forest Management Systems**

### **Natural Forest management**

- Audit noted that the Department has yet to issue a regulation concerning selection of silvicultural system.
- The committee was informed that there is already a regulation in place regarding Selection Silvicultural System under the Native Land Forest Regulation 1985 Cap 134 (Native Land Trust Act).

### **Silvicultural treatments in natural forest**

- Audit noted that the Department has not yet developed and issued guidelines and standards for silvicultural treatment in natural forests.
- The Committee was informed that the standards for silvicultural systems and land use plans are two non-related activities. The guidelines and standards for silvicultural treatment in natural forests are included in the harvesting section system or the Diameter Limit Table.
- The Committee was further informed that about 30,000 hectares of native forests are harvested annually however, there is a potential to harvest 100,000 hectares. The reason for not harvesting such a significant number of trees was because there had been an increase of activity in the harvesting of pine and mahogany.

### **Plantations**

- Audit noted that the Department has yet to work towards establishment of forest management plans for plantation area since extension plantations are under Fiji Pine Trust.
- The Committee was informed that forest management of plantation forests has financial and resource allocation implications and how this is addressed is the prerogative of relevant companies who own the plantation resources, including the leaving of remnants of natural forests in leased areas.

## **4.3 Fiji Forest Harvesting Code of Practice**

### **Establishment of a Steering Committee**

- Audit noted that there is a lack of evidence to indicate that the Steering Committee is fully functional.
- The Committee was informed that the establishment of the Code Steering committee with its TOR approved by Cabinet was a huge step for the Ministry as it had undergone numerous reviews and consultations. The Ministry however needs to establish better coordinated secretariat services and clarify responsibilities to ensure that the committee sits when required.
- The monitoring of logging operations and code implementation is still carried out by the Ministry of Forests.



- The committee was advised that  
*“....The code ensures that the way you cut the forest does not degrade our environment. It ensures the protection of the environment of the forest. This code is more inclined towards native forest so we probably after our SDP has been completed, we will probably put in an element where we have to review the code so that it is in line with the harvesting operations of plantations”<sup>11</sup>*

#### 4.4 Forest Certification Standard (FCS)

##### Development, endorsement and review of the FCS

- Audit noted that the FCS is still in its draft form and has yet to be submitted to Cabinet for endorsement.
- The Committee was informed that the Forest Certification is a tool for promoting sustainable forest management, and is market and private sector driven in the hope that the market will pay premiums to the private sector needs as initiative.
- Furthermore, it is an initiative that has to be private sector driven in order to work as it requires over and above the minimum requirement under the Fiji Forest Harvesting Code of Practice.
- It was highlighted that currently, overseas markets are not demanding certified timber products from Fiji. Due to market demands for certified forest products, the Fiji Harvesting Code of Practice is sufficient at present.

#### 4.5 Forest Licenses

##### Charging of fees for processing and monitoring of all licenses

- Audit noted that due to no existing fee structure for fees required under section 16(1) of the Forest Decree 1992, the Department has not been charging any fees for processing and monitoring of licenses
- The Committee was informed that the log scaling Fees that are paid for each cubic meter of log harvested covers all the activities from licensing to monitoring for that particular license. The fees also have a review timeframe normally reviewed together with timber royalties.
- The Committee was further informed that in 2012, there was a review of the fees and charges with two national stakeholder consultations and submissions were made to the Ministry of Economy.
- The Ministry to provide a status update on this at a later date.

#### 4.6 Log scaling

- Audit noted that the Department have not developed any regulation to govern the measurement of logs such as weighbridges.

<sup>11</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Thursday, 18<sup>th</sup> January, 2018 – p. 16

- The Committee was informed that the current unit of measure for logs is cubic meter. It was also highlighted that only Fiji Pine Limited and Nabou Green Energy are using tons for their pulp logs and pay according to the tonnage supplied and there is a conversion factor for the conversation from tons to cubic meters.
- The Committee was further informed that Fiji Pine Limited and Eltech Ltd are the only companies that have weighbridges in Fiji and adopt international standards hence currently there is no need for regulations.

#### **4.7 Non-timber forest products**

##### **Actions taken to protect non-timber forest product during harvesting operations**

- Audit noted that there exists no management plan specifically for the conservation, rehabilitation and protection of non-wood forest products.
- The Committee was informed that forest policy uses the term “encourage” the utilization of non-wood forest product as it recognizes that it an area that is not yet fully developed in Fiji.
- Priority areas that have been developed include bamboo, sandalwood and coco-wood. The Ministry is currently developing its strategic Development Plan which includes the sustainable use of these non-timber forest products.

#### **5.0 INSTITUTIONAL FRAMEWORK AND HUMAN RESOURCES**

##### **5.1 Framework for forest policy, planning and coordination**

- 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 arose.
- The committee was informed that the 1992 Forest Decree does not specify the frequency of the meetings however, it states that the Forestry Board shall meet as necessary. The role of the Forestry Board is confined to Forest Policy advice and not the implementation of the Forest Decree as that the role of the Permanent Secretary and the Conservator of Forests.

##### **Institutional reform**

- Audit noted that the Department have not engaged any external party for the purposes of institutional reform.
- The Committee was informed that there has been a review of the structure of the Ministry and changes have been implemented. The Ministry recognizes that further change maybe appropriate in the context of the Strategic Development Plan, which will be finalized soon.



## **5.2 Forestry Administration**

### **Promotion of cross-sectorial coordination between the Department and other government institutions**

- Audit found very little evidence to indicate that the Department has conducted wider promotion of cross-sectorial coordination with other government institutions.
- The Ministry informed that it is already a member of several inter-Ministry Committees and have also commenced a regular industry consultation at Divisional Level. Cross-sectorial coordination is normally carried out for majority forestry activities such as the implementation of the Fiji REDD Plus Policy. The Ministry of Forests will carry out wide promotion of the Forest Policy under its Strategic Development Plan 2017 to 2030.

### **Seeking international assistance**

- Audit noted that the Department have yet to seek assistance from international or regional development agencies to review its structure, administrative procedures, resources and revenue stream.
- The Ministry informed the Committee that a World Bank review was carried out in 2016 and those recommendations will be further considered in the context of the Ministry's Strategic Development Plan.

## **5.3 Association**

- Audit noted that the Department has yet to make an effort in assisting the establishment of the Forest Industries Association, Resource Owners Association, and Forest Professional's Association.
- The committee was informed that a Fiji Sawmillers' Association currently exists for industries. The Fiji Pine Trust, the Fiji Mahogany Trust and Pine Landowners Association also exist for Resource Owners. Only the Fiji Sawmillers' Association has been functional for many years whilst the Forest Professional's Association requires more discussion.

## **5.4 Extension**

### **Subsidized production of nursery seedlings**

- Audit noted that the Department has not fully phased out its subsidized production for all nursery seedlings and charge the full commercial price.
- The Committee was informed that at this stage, it is not viable for the Ministry as it needs to encourage more planting and supply free seedlings as an incentive.



## 5.5 Forestry Training and Education

- Audit noted that the Department has yet to promote the introduction of environment and natural resources education in primary and secondary schools.
- The Ministry informed that it produces booklets, posters and the book on *Trees of Fiji* has been published and widely distributed to schools.
- The Ministry further works every year on Arbor Week and International Day of Forests. This work is mostly carried out with GIZ and the Ministry of Education has always been part of the wider consultation group with the Ministry of Forests.
- Furthermore, through the Global Environment Facility (GEF) 4 Project, the Department in collaboration with Food & Agriculture Organisation (FAO) and the Ministry of Education has developed and launched an education toolkit.
- Audit further noted that the Department has not carried out a review of the viability of the training centre.
- The Committee was informed that the Department of Forests conducted a review of the training program that it carried out at Forests Training Centre in 2016 which resulted in the realigning of its curriculum to focus more on conservation activities and working with the community, including the Forest Warden course.
- It also resulted in the development of a new curriculum, a Diploma in Biodiversity Conservation as this was not being offered at either FNU or USP.

## GENDER ANALYSIS

The Ministry of Forests conducted a review of the training program that it carried out at Forests Training Centre in 2016 which resulted in the realigning its curriculum to focus more on conservation activities and working with the community, including the Forest Warden course.

In terms of the training of resource owners and timber company, the audit have highlighted that the Department had trained about 1,007 machine operators and 477 train and sustainable forest management and supervisor of training.

In terms of gender mainstreaming of training of resources owners whether it be men or women the committee was informed of the following:–

***“since the introduction of the gender balance in Government we have started adopting that initiative may be in 2010 or 2011, we consider that in our Annual Corporate Plan, now called Operation Plan of 40 to 60 percent of gender balance with 60 percent male and 40 percent female”***

***“The Ministry is now gearing towards that and we are working on it. One of the target that we put out every year when we conduct training, we consider 40 percent and 60 percent participation, given the type of training that we conducted and the nature of that training. So, that is why we allow 40 percent, 60 percent gender balance”***

***“We also have an opportunity because we are finalizing our Strategic Development Plan to incorporate the whole of Civil Service Gender Policy into all areas of our Strategic Development Plan”<sup>12</sup>***

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<sup>12</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Thursday, 18<sup>th</sup> January, 2018 – p. 10

## COMMITTEE RECOMMENDATION

### *Conservation of forests and biological resources*

#### **RECOMMENDATION 1:**

The Ministry of Forests should set out a clear trajectory its activities and projects and take ownership to ensure that it meets the required timelines and do not drag for a longer period of time such as the finalization of the Land Use Plan since its inception in 2007 when the Forest Policy was developed.

#### **RECOMMENDATION 2:**

The Office of the Auditor-General to conduct a follow up audit on the new National Forest Inventory (NFI) database as the committee notes that the old NFI database is only for standing trees, not the harvested ones.<sup>13</sup> The new database that has been created by the Consultant to consolidate all the information required.

### *Integrated Resources Management*

#### **RECOMMENDATION 1:**

The Ministry must continue to enforce the Fiji Code of Forestry Practice to ensure that there is not breach of code by companies or landowners and closely monitor any environmental activity such as excessive logging, deforestation and other man made activities that can degrade the environment.

#### **RECOMMENDATION 2:**

The Ministry must ensure consistency and exercise its functions as the Code's Steering Committee. It's noted that one of its objective is to:–

***“This steering committee or Code of Practice will resolve and recommend issues in relation to the harvesting of forests that is brought by the contractors or resource owners. Their recommendation is then passed to***

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<sup>13</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Thursday, 18<sup>th</sup> January, 2018 – p. 6



***the Forestry Board”<sup>14</sup>***

**RECOMMENDATION 3:**

The Department of Forests should be the main regulator and issuance of certification standard or review the Forest Decree 1992 that will incorporate other standing trees apart from Forests.

**RECOMMENDATION 4:**

The Office of the Auditor-General to conduct a follow-up audit on log-scaling work towards developing regulations to govern the measurement of logs such as weighbridges. It was noted that Fiji Pine and Eltech Limited are the only companies that have weighbridges in Fiji and they use international standards.<sup>15</sup>

**RECOMMENDATION 5:**

The Ministry of Forest should ensure that there is a fees and charges structure as stipulated under Section 16(1) of the Forest Decree 1992. This will need to be legislated to ensure compliance to the processes and requirements by following <sup>16</sup>Section 25 of the Finance Instructions.

***Institutional Framework and Human Resources***

**RECOMMENDATION 1:**

Revise the National Forest Programme after taking into account of actions that have been implemented and the timelines for implementation of actions should be appropriately defined in the enactment of the Forest Bill.

**RECOMMENDATION 2**

Ensure that Public Awareness on forest legislations are regulation is conducted once the

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<sup>14</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Thursday, 18<sup>th</sup> January, 2018 – p. 14

<sup>15</sup> Verbatim notes of meeting of the Standing Committee on Public Accounts held in the Committee Room (east), Parliament Precincts, Government Buildings on Thursday, 18<sup>th</sup> January, 2018 – p. 18

<sup>16</sup> Procedures and requirements for any amendments or introductions of new revenue items under Section 25 of FI. Official correspondence from the Ministry of Forests dated 31/01/2018 under 5.6.7 – Request for Supplementary Responses by the Committee

Forest Bill is enacted.

**RECOMMENDATION 3:**

Ensure that wider-promotion of cross-sectorial coordination between the Department and other government institutions are conducted.

**RECOMMENDATION 4:**

Promoting gender equality through the introduction of environment and natural resources education to all men, women, boys and girls.

## CHAPTER 6: Conclusion

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.

As an observation, PAC also notes a general trend of improvement across most, if not all Government entities.

While the instances of the mentioned issues have reduced there are issues that still need to be addressed as shown in the recommendations and committee observations. These recommendations have been made in good faith, and we urge the relevant party for which the recommendation is made, to consider and respond accordingly.






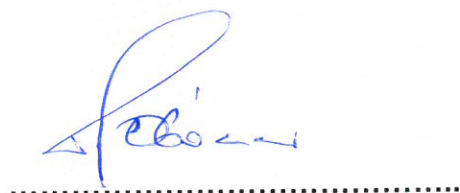
We, the Members of the Standing Committee on Public Accounts agree with the contents of this report:



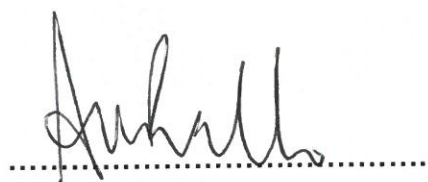
**Hon. Ashneel Sudhakar**  
(Chairperson)



**Hon. Mohammed Dean**  
(Deputy Chairperson)



**Hon. Alexander O'Connor**  
(Member)



**Hon. Aseri Radrodro**  
(Member)



**Hon. Ratu Naiqama Lalabalavu**  
(Member)





# APPENDICES





## **APPENDIX ONE – LIST OF SUBMISSIONS**

- 1 Ministry of Public Enterprises
- 2 Department of Judiciary
- 3 Ministry of Lands & Mineral Resources
- 4 Ministry of Local Government, Housing & Environment
- 5 Ministry of Forests







## Ministry of Public Enterprises

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E-mail: [info@mpe.gov.fj](mailto:info@mpe.gov.fj)

5 February, 2018.

Honorable Ashneel Sudhakar  
Chairman  
Standing Committee on Public Accounts  
P O Box 2352  
Government Buildings  
SUVA

Dear Honorable Sudhakar

### SUPPLEMENTARY QUESTIONS ON THE FOLLOW UP AUDIT ON MONITORING OF GOVERNMENT ENTITIES

Sir, I refer to your letter on the above subject dated 25 January 2018.

Please find attached as Appendix 1, the Ministry's response to the Supplementary Questions requested by the Standing Committee on Public Accounts.

Should you require further clarification, please feel free to contact me directly on 9904246.

Sincerely,

Jitendra Singh

PERMANENT SECRETARY





**A. MONITORING ARRANGEMENT**

**1. The Ministry has yet to commence the actual review of the Public Enterprise Act 1996**

- MPE commenced the review of the current PE Act in 2016 and worked jointly with the Asian Development Bank Private Sector Development and Office of the Solicitor General on the review.
- The final draft of the new PE Bill is almost ready and should be presented in Cabinet and to Parliament soon.

**2. 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.**

- We note this recommendation.
- A number of our SOEs have NCOs which are currently funded by Government and these NCOs are generally monitored by their line Ministries.
- Grant agreements are signed between Line Ministries and these SOEs, which are then disbursed once SOEs provide acquittals.
- MPE aims to work more closely with the line Ministries to agree on key NCO deliverables by our SOEs and incorporate them as part of the Monitoring Framework. It is expected that delivery of KPIs will also be tied to the release of funds.
- In order to clearly demarcate commercial and non-commercial functions of each of our SOEs, the Ministry will work on identifying the costing of non-commercial obligations. This will enable the Ministry & SOE Board to set realistic profit targets which we can then monitor.

**3. The MPE is still in the process of finalizing a Standard Operating Procedures (SOP), however the audit view that some of the procedures may require legislative backing from the intended revised PE Act.**

- The Ministry is one of the pilot Ministries for the “Business Process Mapping” currently being undertaken by Government. This process involves streamlining current processes to improve efficiency, show compliance and continuous improvement, accountability and monitoring of tasks/responsibilities of staff.

## Ministry of Public Enterprises – Follow up Audit on Monitoring of Government Entities

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- The Ministry has developed about 50 SOPs, of which 20 relates to the Monitoring functions
- As these processes are reviewed, the SOPs will continuously be aligned to the existing legislations including the PE Bill.

### 4. The MPE has a database that is readily available to be launched and is still awaiting Minister's approval.

- The database that is being referred to is no longer in the Ministry plans.
- MPE currently maintains an internal database with SOE's financial information and other data, which can be consolidated or extracted at any time for the use of management. This was seen to be sufficient and is currently being maintained.

## COMPLIANCE WITH MONITORING ARRANGEMENT AND LEGISLATED REQUIREMENTS

### 1. Most government entities have not been submitting the required documents to the Ministry for monitoring purposes.

- Improvement in submission of planning documents.

Year of Planning	Number of compliant SOEs	Compliance rate
2015	6	29%
2016	14	67%
2017	17	81%

- From the above table, with respect to planning documents SOEs have improved with the number of compliant SOEs increasing from 6 in 2015 to 17 in 2017.
- With respect to the audit of accounts, only a few entities are lagging behind in audit. All of them are completing their outstanding audits. Respective project officers follow up on these outstanding corporate documents.
- The Ministry continues to emphasise the importance of compliance to the SOEs and reminders are done via circulars, emails and at Board meetings.
- Additionally, in partnership with ADB the Ministry conducted four (4) training sessions for the Board of Directors in 2017 and included topics such as (i) Corporate Governance, (ii) Planning, Reporting & Accountability, (iii) Director Duties and Conflicts of Interest and (iv) Investment Assessment.
- The Ministry has taken a more consultative approach with our Boards to ensure that:
  - Government policy intentions are communicated clearly to the SOEs; and
  - Government interests are protected.



**2. Most government agencies have not been able to achieve the ROE and ROA set for the period 2009-2013.**

As per the Ministry's Corporate Governance Policy 2003 states the following:

"An initial measure that corporatized entities are operating as successful business is 10% after tax return on shareholders funds..."

Only a few SOEs achieved the 10% Return on Shareholders' Funds OR Return on Equity (ROE) for the reference period.

We acknowledge that a 10% ROE expectation across all SOEs may not be the best option as our SOEs operate in different sectors and business environments. (Utilities & transport SOEs are monopoly service providers but agro-based companies have major competition)

Major reasons for SOE underperformance vary from aged and unproductive assets, market competition, Low tariff rates, huge capital investments, and reduced supply of raw materials

**GENERAL IMPROVEMENT IN CONSOLIDATED SOE**

**Dividends:** Government in 2017 has so far received a record breaking \$78.8million as Dividends from SOEs as compared to about \$4.2 million in 2007.

Improvements in performance of our SOEs are attributed to (i) appointment of qualified and skilled Board of Directors who can provide guidance to the SOE to be commercially focused, raise level of good corporate governance and improve productivity and operational efficiency.

Most of our SOEs are also undertaking capital investments in order to modernize their operations and increase revenue earning capacity. Examples include AFL's Nadi Airport's Terminal Modernisation Project; Fiji Rice Limited's new rice mill; Copra Millers new Virgin Coconut Oil processing plant and PAFCO's new Cold Storage.

**3. The Ministry is yet to re-look at the dividend policy and linking it with the bonus pay out.**

All GCCs and CSA pay at least 50% of net earnings to the Government as dividends. (Corporate Governance Policy 2003)

The Ministry is preparing a revised dividend policy and this will be finalized once the PE Bill is approved. At the moment SOE bonus payouts are linked to staff's Key Performance Indicators and assessed separately by the management and the Board.

Linking Dividend payment to bonus payout is an issue that can be discussed further with our SOE Boards.

## Ministry of Public Enterprises

### Supplementary Questions on the Follow up Audit on Monitoring of Government Entities

1. On 4.2.6, Arrangements for monitoring of Non Commercial Obligations (NCOs), audit noted that there were two detailed reviews conducted by two independent consultants in 2004 and 2006 which revealed that there were other PE entities that provide NCOs, however, they were not recognized by MPE. Of the total 6 entities mentioned in Table 4.3 of the Audit Report, audit noted that only two entered into an agreement with government in regards to the NCOs services it undertakes. Provide reasons on the above audit issue.

1. Of the six (6) entities listed in Table 4.3; the following three entities receive Government funding for non-commercial activities:

- **Housing Authority:** receives funding for implementation of social housing policy and the objective of this programme is to write off housing loans for clients who have paid more than one and a half times the principal amount. This funding also applies to those clients who have retired and who can prove genuine financial difficulty based on low income or medical grounds.
- **Public Rental Board:** receives Government funding to subsidize rental to low income earners as they work towards home ownership.
- **Fiji Rice Limited:** The Government provides funding to Fiji Rice Limited for purchase of paddy from farmers at a price higher than market rate. Currently, Fiji Rice pays farmers \$650 - \$750 per tonne (assessed on quality) as compared to a market rate of \$550 per tonne.

2. In 2014, **Fiji Ships & Heavy Industries Limited (FSHIL)**, was a subsidiary of Fiji Ports Corporation Limited (FPCL) in which Government owned 100%. It was recognized by MPE as a subsidiary of Fiji Ports Corporation Limited, which was regularly monitored by MPE.

Following the divestment of FPCL in 2015, Government now owns only 49% shares in FPCL.

3. Non-commercial obligations for **Food Processors (Fiji) Limited** and **Yaqara Pastoral Company Limited** will be considered in line with their proposed restructure plans. MPE will work with different line Ministries to determine key NCO deliverables for each of the SOEs and the mode of NCO funding will also be finalized during this consultation.

2. Total costs of reinvestments that have been undertaken in the case of Airports Fiji Ltd (AFL) and other airports in Fiji.

From 2009 to 2017, Airports Fiji Limited has invested approximately \$200 million in its buildings, infrastructure and equipment for all airports around Fiji.

3. How has the Ministry mainstreamed gender equality into its policies and guidelines?

The Ministry encourages women participation at Board level. Board of Director Selection is based on merit and on professional qualifications so women have equal opportunity to be appointed on any Board.

The Ministry is in the process of advertising an Expression of Interest for Board of Directors which will encourage women to apply.





## **Follow Up Audit on Timeliness in Management of Magistrates Court**

### **Clarification on Issues**

#### **4.1.3 of the Auditor General's Report:**

Identified the priority action areas in respect to anticipated outcomes for the Judiciary. It is noted that deliverables for the admin, support & registries is an area for Audit as such we confirm the following:

- Video Links with Prisons is still underway owing to network structure requirements not met by Corrections.
- There is an active database for Case Management by the Court Registry; however, the disposal of matters in exercise of Judicial Authority is not a measurable output by the Auditors as every individual case differs on its own merits.
- The Master of the Court is a High Court Judicial Officer position, please note that the Magistrates Court is a Court of Rules and operates as per the Magistrates Court Act, Rules and other Legislature provisions. The Judiciary cannot exercise role as Legislative to amend laws to create new Judicial Officer positions. As per provisions of the Constitution the JSC is the appointing authority.
- There is electronic audio recording done in every individual Court in Fiji and zoom records are maintained digitally of daily proceedings.
- In respect to the suggestion for integration with other Justice Sector agencies, it must be understood that under the doctrine of separation of powers and the autonomy of the Judiciary under the 2013 Constitution, the Judiciary is independent of any other arms of Government; however, all reasonable steps are taken to work with other agencies to improve services.
- In respect to suggestion for refining processing of Court documents, it has to be understood that the Court Registries receive documents filed and put same to the attention of the Court on the day it is filed. The registry

exercises no Judicial Authority in respect to vetting contents of any documents rather it's compliance with Rules that is checked.

- In respect to suggestions for improvement of Court listings, we respond that listing of matters is done by Judicial Officers (i.e. Magistrates) depending on date and time availability. It has to be noted that number of Courts are not running at full capacity due to shortage of Judicial Officers and support Staff ( submissions for creation of new posts are still awaiting approval from Ministry of Economy).
- In respect to enhancing statistical collections and analysis, we state that we have Statisticians and Assistant Statisticians who attend to monthly collection of Statistics, all of which is available for inspection.

#### **4.1.5**

- It is noted that Case Management is being attended to internally by Judicial Officers, who have received training both locally & internationally in respect to this. We stress that this is a Core Judicial function i.e. decision making process which neither the Auditor General nor the Registry can interfere in.

#### **4.1.6**

- It has to be noted that KPI's are to indicate the performance of Administrative functions of the Judiciary and not Judicial functions of the Court.

#### **4.2**

- For the purpose of clarity it is stressed that the Auditor General's report focuses on Ministry of Justice Annual Corporate Plan 2011, whereas now by virtue of the 2013 Constitution, the Judiciary is independent.
- We can confirm that every individual case differs on its own merit; however, targets are met for disposal in consultation with Judicial Officers. Please note that due to the nature of the Judiciary, just in order to meet statistical goals, the Court cannot go beyond the rules and make mass



decisions which may cause miscarriage of Justice. As such some months targets may not be met.

- It can be confirmed that a Legal Practitioners Unit has been setup as an arm of the Chief Registrar's Office and has inherited complaints from Fiji Law Society and receives and actions on new complaints and is fully functional.

#### 4.3

- Whilst it is noted that Case Management is an important aspect of judicial function, the Judiciary has its own Case Management procedures that are adhered to.
- The core issue faced by the Judiciary is funding for more Courts and more Judicial Officers.
- All efforts have been made by the Judicial Services Commission to advertise vacancies for Magistrates both locally & internationally in a bid to get all Court running at full capacity. However, please note that despite getting new Judicial Officers, the Ministry of Economy despite numerous submissions is yet to allocate funds for new Support Staff posts approved by the Judicial Services Commission.

##### 4.3.2

- Focuses on Co-ordination and commitment of stakeholders. It has to be noted that pre 2013 Constitution, the Judicial Department fell under the Ministry of Justice. A number of identified stakeholder agencies had at that time also fallen within the same Ministry.
- It is acknowledged that there exists a MOU with LTA in respect to collection of fines for which committal warrants have been issued by the Court.
- All Court service users irrespective of whether a government agency or an individual litigant are provided the same high level of professional services as all users of the Court are equal before it.
- If there are issues faced in respect to any agency then the Chief Registrar or his nominated Officer liaises with that agency to expeditiously deal with these matters.

#### 4.4



- There have been issues raised in respect to how files are being kept at the Registry, it is to be noted though we have an electronic database to record summary of proceedings in order to provide instant information, we still have to maintain manual file records and until such time that proceedings are digitized (multi – million dollar project) these records have to be kept. The Judiciary is looking at e-Litigation which would result in a paperless Court system as is the case in Singapore.
- There has continually been an issue with space for record keeping rooms and with parliament now housed in the area of the Government Buildings which had housed the newly renovated Magistrates Court, there is difficulty in obtaining space to convert into filing rooms although we have purchased containers and converted same into storage.
- Most of the filing rooms are full as such as observed correctly, some files are being kept in registries where due to the structure of the floors (wooden building) new cabinets or file compacters cannot be bought in unless significant structural improvement is done.
- The old parliament complex at Veiuto as per plans will cater for the Magistrates Court and its associated facilities once renovated to required specifications.
- The report has raised issues in respect to No Officer being specifically assigned for maintenance of file, we respond that this cannot be attended to until new posts funds are available as at the moment most Court registries are grossly under- staffed with Officers having multiple responsibilities.

#### **4.4.3**

- In respect to the above in particular, Registries have in place File Management Policy and there exists a Monitoring and Evaluation Unit which constantly ensures that the policies are adhered to.

- We do have multiple point record keeping ensuring tampering of record is avoided, the Monitoring and Evaluation Unit continually looks into this and also does an annual random audits.
- Once e-Litigation is fully implemented, information will be available on a centralized database accessible at all registries throughout Fiji.
- We reiterate that Nasinu Court is currently under- staffed and once funds for new posts are released by Ministry of Economy, a dedicated officer can be assigned for record management.
- The Department is looking at Contingency plans for risk management in events of loss of information.

#### **4.4.5**

- We beg to differ on comments of Auditor General's report that File Management Policy is not followed to strictly in Suva. It is further stated that the procedures outlined in the Policy and the setup of the filing room and numerous process were piloted in Suva and then moved to all Judicial Department offices.

#### **4.4.7**

- There is still no database at the Magistrates Court Civil division.

#### **4.5**

- Had been noted and steps taken to rectify the same.



#### 4.6

- Tabulated below are all the renovations and upgrade of existing court complexes from 2013 to date reflecting the Department's response to ensuring that the court houses are upgraded to meet the standard as well as be in line with OHS requirements:

2013 Capital Projects	Amount VUP
<b>Upgrading of Existing Court Complexes</b>	
Renovation Works Ba Court House	8,400.00
Renovations Works at High Court, Govt Bldgs	541,422.93
Installation of 2 New Lifts at Govt Bldgs	490,225.71
Renovation & Relocation of High Court Library (Now COA Reg)	256,984.81
Construction of new Tribunal Court	273,918.22
Conversion of 40ft Container for New File Room at Rakiraki Court	25,050.50
<b>2014 Capital Projects</b>	<b>Amount VUP</b>
<b>Upgrading of Existing Court Complexes</b>	
Renovation & Upgrade to High Court Chamber at Govt Bldg	45,783.97
Renovation & Upgrade Works @ Govt Bldg, restoration of Clock Tower & new back up Gen Set	1,985,023.42
Alteration & Refurbishment of the Nadi Court House	358,156.00
Small Renovation works to Kelton House	5,781.05
Repair Fire Damage to Lautoka	36,500.00
Upgrade of Rakiraki Magistrate Court	22,822.04
Tiling Works at Nadi Magistrate Court	14,256.98
<b>Rural and Small Town Court Services</b>	
Extension of the Vunidawa Magistrate Court	141,610.00
Electrical Upgrade Works to Kelton House	30,467.81



2015 Capital Projects	Amount VUP
Upgrade Works to the Nadi Court Registry and Public Waiting Area	46,140.75
Renovation Works to High Court # 5 Court Room, High Court Chamber # 5, High Court # 6 Chamber and High Court # 9 Chamber at Govt Bldg	71,463.37
Renovation and Upgrade Work at High Court # 1 Chamber	48,213.37
Nadi Court Purchase of new Furnitures, Equipments and electrical Works	16,568.03
Waterblasting Works at Government Building	34,413.75
Upgrade of Roofing, changing of door locks and painting of Public Waiting Area, Public Washroom and Filing Room at Tavua Court	49,879.74
Renovation & Upgrade Works to the existing Lautoka High Court Public Washroom Male/Female, Staff Washroom Male/Female and High Court Library	49,951.95
Small Renovation Works completed for Rakiraki Court	4,200.00
Upgrade and Renovation works at Rakiraki Magistrate Court	46,706.00
Renovation nad Upgrade Work at High Court # 1 Chamber	48,213.37
Upgrade Benches, Accused & Witness Box @ Nasinu Court room 1 & 2	6,000.00
Renovation and Upgrade Works to Nadi Court Cell block	38,492.76
Upgrade Roof top and Exterior Painting Works for Nadi Cour House	43,550.99
Upgrade Ceiling & painting for 2 Court Rooms and Tiling Works	39,500.00
Supply and Installation of new benches for Government Building	12,000.00
Renovation & Upgrade Works to Staircase to Family Court and Court of Appeal	42,900.00
Renovation & Upgrade Works to Drivers Room	6,334.37
Upgrade to Hon CJ's Chamber # 1 & Creation of New Conference Room	30,850.00
Renovation & Upgrade Works Hon CJ's Carport	29,071.17
Renovation & Upgrade Works to High Court # 7 Chamber	8,950.00
Water proofing Works to COA Registry	19,561.00
Water proofing to Magistrate Court Registry	14,418.00

Tiling of Concrete Floor to HCT & Tax Tribunal	4,616.38
Installation of New Aluminium windows @ Ground Level to Hon CJ's wing	16,500.00
Upgrade of High Court Library Furnitures & Fit-out Works	28,120.00
Upgrade of Roofing and Painting Exterior Painting at Lautoka High Court	45,125.00
Tiling of Passage Corridor and painting works at Lautoka High Court	24,940.79
<b>2016 Capital Projects</b>	
Renovation & Upgrade works at Nasinu Court	45,403.67
Refurbishment & Alteration to the Proposed Fiji Mediation Centre	127,955.00
Upgrade of Network cabling for rural & small town Court Houses	62,715.37
Upgrade of CCTV at Lautoka High Court	17,067.00
Upgrade of washrooms at Nasinu Court	45,403.67
Extension & Refurbishment of Taveuni Court House	362,530.00
Repair works at Rakiraki Court after TC Winston	44,672.48.
Repair works at Tavua Court after TC Winston	35,742.15.
Renovation works at Ba Mag Court	37,885.32
Renovation RM's and Staff washroom, FEU, Juvenile Registry, Suva	89,095.93
Outside Painting and Renovation works at Nasinu Court	41,562.94
Installation of new PBex sytem for Lautoka Court	76,146.79
Alteration to Nadi Court House	15,568.77



2017 Capital Projects	
Renovation of Levuka Court House	89,900.00
Clock Tower New Belfry Doors, Water Blasting of Exterior Walls at GB	306,908.61
Nausori Court - Structured Cabling 2.) Govt Bldg - New Aluminium Windows, I.T and Electrical upgrade works 3.) Vunidawa Court - IT network upgrade 4.) Nadi Court - Roof repair, new lightings 5.) Taveuni Court - installation of CCTV Camera 6.) Korovou Court - IT network upgrade	314,363.60
Renovation of Levuka Court House	89,900.00

#### 4.7

- In respect to issues raised in the Conner's report, the department repeats its comments (Noted as Management Comments) in respect to the recommendations as raised in the OAG report.
- Further OAG Comments are noted and responded to as follows;
  - In respect to recommendation 1, the OAG needs to bear in mind that when the recommendations on the Conner's Report was made, the Judiciary did not have the autonomy it now has, however now as per Sections 104(5) and (6) of the 2013 Constitution, the Judicial Services Commission is responsible for the efficient functioning of the Judiciary and has the Authority to make such rules and regulations as it deems fit; as such the recommendations of the Report on which the OAG is making further comments/recommendations on is beyond the Jurisdiction of the OAG as it has to do with Judicial Process which the JSC oversees.
  - In respect to recommendation 3, whilst the Judiciary has a MOU with LTA, one needs to understand the MOU in totality, however such information sharing needs development of proper databases and electronic platforms, with the plan of e-litigation underway, such information sharing can be done through customized user portals once e-litigation is fully implemented.

#### 5.0



- Under heading 5.1 (Returns of Cases tried) we can confirm that monthly returns are submitted and reviews made as necessary;
- Under heading 5.2 (Monthly returns) we can confirm that monthly statistical returns are made in proper order and the same is submitted to the Chief Justice, and assessments made as to performance of the Court;
- As a response to heading 5.3 (External Reporting) we can confirm that the Annual Reports are being finalized, however even in the absence of the Annual Reports, we do have all information pertaining to the running of the Judiciary readily available. We can confirm that NGO's, Government Departments and other stakeholders have requested, and had been provided our statistics which are readily available. We do note the importance of the need of Annual Reports and will strive to attend to updating same as soon as possible.

## **PUBLIC ACCOUNTS COMMITTEE**

Please provide an update on the following:

### **4.0 Policies Governing the Administration of Land Reform**

#### ➤ **4.1 Use of Draft Standard Operating Procedures (SOP)**

Divisions' SOPs are now formalized within the Ministry's final 'SOP' edition launched in December 2013.

#### **4.2 Lack of a Performance Bond Policy.**

Policy in its developing stage, aligned to the existing clauses of the Mining Act and the provision of Security under item 9, annexe A, of interferences, identities and spatial conditions of the Landuse Regulations. More consultation with relevant stakeholders is needed to put this policy paper together.

#### ➤ **4.3 Mortgage over Designated Leased Land**

Leases issued under the Landuse Act are a protected lease. The regulation stipulated in the Act is sufficient to safeguard all interest to the lease; in the meantime, Section 12(1) of the Landuse Act is sufficient to protect the lessee and the landowners without any infringement on the investor/lessee's right to restrict mortgage of his/her land subject to obtaining the written consent of the Director Lands.

#### ➤ **4.4 Lack of Policy and Guidelines on the Administration of State Freehold Land under the Buy Back Scheme**

The Sale and Purchase agreement executed between the LOU and State is a legally binding contract sufficient to govern the obligations of the lessee and the Director Lands (the custodian of any state lease). Cabinet paper in its draft stage to be refined further to incorporate the process of transferring freehold buyback land to LOU as per SGA's office vetting and directives.

### **5.0 Systems and Processes for Land Designation and Allocation**

#### ➤ **5.1 Deficiency in consultation and awareness**

LOU have now worked in collaboration with ITARCO Affairs and Rural Development with the integration of all relevant roadshow programs, Provincial Council and Tikura meetings incorporated into its Annual Work Program. Reports and recommendations are collated and actioned accordingly. Awareness and consultations also increased and incorporated into the Divisions' ACP as a performance measure.

#### ➤ **5.2 Designation of land into the Land Bank.**

Land designation has been re-strategized and re-engineered to reflect the following:

1. Internal designation process – this is initiated internally by the Division (six team leaders) where viable land is identified prior to LOU consultation and awareness is conducted. Viability test report is submitted after inspection to confirm land viability.
2. External Designation process – this involves the direct approach of LOU to the land bank for the designation of their land or if they have identified an investor interested to lease their land.

#### ➤ **5.3 Failure to appropriately conduct land capability studies.**



- Under the Division re-structure launched in 2015 by the Honorable Minister and implemented in 2016, land capability studies now executed by the Valuation Unit to reflect a more comprehensive analysis of the socio-economic factors prior to any designation to ensure land viability and optimal return for the LOU.

#### ➤ 5.4 Advertising of Designated Land

##### • 5.4.1 Failure to Advertise all designated Land

All designated land ripe for development can only be advertised once survey plan is approved. Only under special circumstances, in the absence of approved survey plan and the urgent need to address effective and efficient land administration processes, Approval Notices are issued to formalize leases to promote investor confidence and fast track commencement of development whilst simultaneously await survey plan approval.

##### 5.4.2 Utilization of effective platforms for advertising of vacant land

LOU have explored and secured the following outlets for effective and efficient advertising through:-

1. Fiji Mission offices and Trade Commission offices through the supply of the LOU dossiers on a quarterly basis.
2. Supply to Investment Fiji.
3. LOU's participation in IMITT trade shows and Fiji Day celebration abroad for the wider advertisement of available vacant land.
4. Advertising through TV commercials.
5. Hotel room advertisements [explored]
6. Advertise through Fiji Airways in-flight magazines [explored]
7. Cruise ships advertisements [explored]

- 5.5 Issuances of lease prior to conducting surveys - This is only done under special circumstances due to the lengthy timeline it will take to carry out survey and obtain survey plan approval.

#### ➤ 5.6 Construction of access roads-

The Division was advised in the budget consultation with MOE in 2015 that road construction should be the sole responsibility of FRA.

- 5.6.1 Absence of defined processes for access road construction
- 5.6.2 Payments for acquisitions made prior to obtaining engineering designs
- 5.6.3 Additional acquisition due to error in construction of Natodre Access Road.

The acquisition was done in error. Proposals were put forth for the subdivision of the additional portion acquired to assist the government in recovering the cost incurred. Scheme plan for the subdivision of the subject site already submitted to DTCP.

##### • 5.7 Valuation conducted prior to land survey.

The Land Use Regulation Section 7 (2) highlights that an assessment of the fair market rent is carried out. Tentative valuation is also carried out to assist investor in making budgetary decisions. However, final valuation of subject property is executed before lease offer is issued.

- 5.8 Issuance of lease without submission of relevant documents and conducting proper checks. Due diligence is now carried out for prominent developments and



other LUD leases: to ensure lease conditions are complied with and the furnishing of all leasing requirements is also complied with upon the issuance of lease offer.

## 6.0 Recording and Monitoring of Land

### ➤ 6.1 Systematic recording of Land Bank activities

#### • 6.1.1 Absence of a Land Bank database.

A budget was allocated in 2015 for the development of Land Bank Database. This was outsourced to a private company to develop database, unfortunately, this was rejected by ITC and the Division was advised to lease with ITC for the development of its Database. To date, answers is still begging despite repeated follow-ups.

#### • 6.1.2 Failure to record complaints.

Three manual registers opened and placed with the six units with the Team Leaders, tasked to monitor and update records of all complaints received. Record is forwarded to CAO to capture in the Ministry's complaint's database.

#### • 6.1.3 Absence of Proper Documentation

All complaints now appropriately recorded through the registers kept in the various units, main counter and IDU's reception area which is collated by the Monitoring officer on a weekly basis. Complaints highlighted in the weekly reports are extracted and captured in the complaints spread sheet which is forwarded to the Customer Advocate Officer, on a monthly basis, for recording and presentation to Senior Managers/board/Meeting.

Refining process- Standard complaints schedule format that which is now sent to the Team Leaders to fill and submit on a weekly basis.

### ➤ 6.2 Monitoring of Land Bank activities

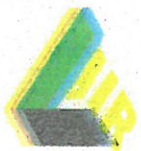
#### ➤ 6.2.1 Absence of documented guidelines for monitoring of leases

Lease monitoring is formalized and now part of the Division's ACP output and Annual Work Program from 2016 to date. Documented guideline on the monitoring period is specified in the AWP together with its planned expenditures.

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

Re-structure implemented in 2016 saw the creation of a data base/monitoring officer responsible to monitor all leases through the lease conditions stipulated in the lease agreement which is executed according to the AWP timelines and capturing of relevant data in the LUD data base which is currently formalized through a spreadsheet awaiting its migration to the Data Base to be designed by ITC.





**Ministry of Lands & Mineral Resources**  
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**MEMO**

**To:** The Chairman  
Public Accounts Committee  
Parliament.

**From:** Permanent Secretary, Ministry of Lands and Mineral Resources

**Date:** 30/01/2018

**File Ref:** LU 3/5/1; LU 3/5/4; LU 3/5/6

Dear Sir,

**RE: Request for supplementary Information on the Management of the Land Reform Program.**

Your memorandum dated 23/1/18 and subsequent e-mail regarding the above refers.

Please find attached the specific supplementary information required for the three registered lease documents for Vakabalea, Matasawalevu and Tova.

Highlighted in particular is the relevant condition specifying the five years periodic rental review.

Sale prices of these three lots are specified as follows:-

FILE REF.	LAND NAME	LEASE TERM	RENTAL PAYABLE	PROPERTY PRICE	AMOUNT PAID
LU 3/5/1	Vakabalea	30 yrs	\$5,820.00 wef 1/1/11-1/1/16 Review-\$11,500 wef 1/1/16-1/1/21	\$220,000	\$63,600
LU 3/5/4	Matasawalevu	30 yrs	\$500 wef 1/5/13 Review-\$1,000	\$72,000	\$7,500
LU 3/5/6	Tova	30 yrs	\$1,000 wef 1/6/12-1/6/16 \$2,000 wef 1/7/17-1/7/2022	\$55,000	\$7,000

Respectfully,

  
T. Ratumudu

for Permanent Secretary for Lands and Mineral Resources.





# **FURTHER RESPONSES TO THE PERFORMANCE AUDIT – MONITORING OF MUNICIPAL COUNCILS**

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

### **Volume 2 PERFORMANCE AUDIT**

#### **Section 4 MONITORING OF MUNICIPAL COUNCIL BY DEPARTMENT OF LOCAL GOVERNMENT**

##### **Further Ministry Response**

Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
<b>4.0</b>	<b>PLANNING, RESOURCING AND POLICY SUPPORT FOR MONITORING LOCAL GOVERNMENT</b>			
	4.1 Legal basis to Monitor Municipal Councils	<p>□ 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.</p>	<p><u>Review of the Local Government Act</u></p> <p>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.</p>	<p><b>Review of the Local Government Act to strengthen Monitoring Policy Framework</b></p> <p>Ministry of Local Government, Housing and Environment has noted the need to strengthen the legal framework to ensure that the policies and standards of Department in monitoring Municipal Councils are reflected in the Local Government Act. This has been recommended as a Terms of Reference for the Review exercise and the Review process shall be commencing soon with more information being given from the Ministers office.</p>
	4.2 Absence of Standard Operating Procedures for	<p>□ The Department should formulate and document procedures for monitoring each</p>	<p><u>Procedures for monitoring Council performance</u></p> <p>Whilst aspects of the Local</p>	<p>The ministry noted the OAG's comment and has developed policies and standard templates which are currently using now for monitoring the</p>



Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	<p>monitoring MCs</p> <p>4.3 Adequacy of human resources to monitor Local Governments</p> <p>4.4 Aligning and implementing organizational plans for the monitoring of LGs.</p>	<p>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.</p> <p>□ 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.</p>	<p>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.</p> <p>Activities/plans outlined in the business plans</p> <p>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</p>	<p>councils performance such as the Assessment of SA's and CEO's , Monthly Revenue and Expenditure performance, Green Town Assessment, Capital Project Assessment, Human Resource Monitoring framework and Town Boundary Extension Framework and a Standard Operating Procedure. (Please find attached as <b>Annexure 1</b>)</p> <p>Reviewed Business Plans</p> <p>The department has also reviewed its structure and business plans from 2015 onwards to reflect the exact planned activities to be implemented in a given year. (Attached as <b>Annexure 2</b>) The position of the Director, Senior Accountant and Executive Officer has been filled from 2016 onward.</p> <p>Department is taking an incremental approach in strengthening its organizational structure. To strengthen its organizational structure and measure outputs effectively the</p>



Items	Issues	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	AUDIT FINDINGS			
5.0	MONITORING LOCAL GOVERNMENT LEADERSHIP AND SERVICE DELIVERY		Accounts Officer [vacant from January 2014]; Administrative Officer [vacant from February 2014], Secretary [vacancy since September 2013]; Executive Officer [vacant since January 2012]	department has established units based on Municipal and National Fire Authority products range rather than that of establishing units on division wise and having a staff multi skilled.

Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	<p>5.1 Monitoring of performance of Special Administrators</p> <p>5.2 Failure to consistently host consultative forums with SA's</p> <p>5.3 Monitoring service delivery of Local Governments</p> <p>5.4 -Inconsistency in reporting of Local Government activities</p>	<ul style="list-style-type: none"> <li>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 organizational plans and Terms of Reference.</li> <li>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.</li> <li>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.</li> </ul>	<p><u>Provision of a consistent set of core performance measures or indicators</u></p> <p>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.</p> <p><u>Customer Feedback Form</u> Municipal Councils deal directly with the ratepayers every year in terms of rates collection. The recommendation therein is noted.</p>	<p><b>SAs Assessment.</b> The ministry is currently implementing the performance assessment of the SAs in very financial year ensuring that they are achieving their expected outputs required from them. (Template is attached as <b>Annexure 3</b>)</p> <p>As highlighted at 4.0 above, the department had went ahead to develop those performance measurement framework to assess the performance of local government in delivering various services to their respective communities. Green Town assessment is a very detailed framework used to assess the performance of all municipal councils where the award is then given to the highest scorer at the end of the year.</p> <p><b>Customer Feedback Form</b> The ministry had given directive to all councils to have customer feedback form to be provided to rate payers as a basis of gauging their service delivery from time to time. Please find attached Grievance Register attached as</p>



Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
		<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>		<p><b>Annexure 4)</b></p> <p><b>Complaints Record:</b> The ministry had developed a Grievances Policy Management for Municipal Councils covering all grievance register, grievance recording, grievance inspection, references to agencies and grievance management. The framework highlighted the importance of municipal councils in addressing grievances and complaints received from its stakeholders including rate payers, business house, government agencies, media and staff. (Refer to <b>Annexure 4</b>).</p>



Items	Issues	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	AUDIT FINDINGS			
6.0	MONITORING FINANCIAL PERFORMANCE OF MUNICIPAL COUNCILS			

Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	<p>6.1 Monitoring financial information submitted by Municipal Councils</p> <p>6.2 Submission of key financials</p>	<p>DLG should:</p> <ul style="list-style-type: none"> <li>ensure that budgets submitted by councils are analysed every year prior to being approved for implementation by the councils.</li> <li>DLG should also maintain proper records of all budgets submitted, analysis conducted and ensure activities budgeted for are actually undertaken.</li> <li>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.</li> <li>integrate monitoring and reporting requirements for capital projects in the MOU.</li> <li>These should include responsibilities for monitoring, reporting arrangements and other relevant requirements to ensure monitoring of capital projects are effectively undertaken.</li> <li>maintain spreadsheet records of funds utilised and percentage of work done in each phase of the project for</li> </ul>	<p><b>Maintenance of proper record</b> 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.</p> <p><b>Request assistance of an Engineer within</b> 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.</p> <p><b>Appointment of Senior Accounts Officer</b> The Department of Local Government acknowledges the importance of having this position filled sooner for work continuity.</p>	<p><b>Council Budgets</b> The ministry had developed budget standard templates which have been circulated to all municipal councils in the last quarter of the year for reporting of their budget. In the template, the councils have been advised to reflect their past two years actual revenues earned and expenditure level to determine their current year budget. The template is attached as <b>Annexure 5</b>.</p> <p>The department had also analyzed their budget submission and necessary changes were advised to the councils accordingly and will then be monitored in every quarter to ensure that council's budgets are actually undertaken.</p> <p><b>Rates Collection:</b> The municipal council's rate collection policy was developed and circulated to all the councils for comments which will then submitted to management for implementations approval. The policy articulates the background of rates, rate book maintenance, rates concession, rates awareness, rates recovery and internal rates audit. The draft policy is</p>



Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
		<p>ease of monitoring and availability of information by relevant users.</p> <p>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.</p> <p>meet with the Councils with delayed accounts and discuss ways to assist them in ensuring the timely submission of accounts.</p> <p>set out a requirement to the Council as to the frequency in the submission of financial reports.</p>		<p>attached as Annexure 6.</p> <p><b>Capital Projects Monitoring</b></p> <p>The ministry is currently using the standard monitoring reporting template called the QPPR report (Annexure 7) to integrate the physical progress and the financial update of all government capital grant project implemented by all municipal councils. In addition to this the department had developed a simple standard fortnightly capital project progress reporting which the councils will have to provide for updates to ministry management. The template is attached as Annexure 8.</p> <p>Most of the significant capital projects implemented by the councils are being outsourced to reputable consultants. These consultants were paid to protect the interest of the councils and the ministry in carrying out independent assessment of the scope of works carried out by contractors to ensure that guaranteed fund disbursed were for works specified under the terms of contract. Some council have Engineers where there we also advised to act as a clerk of works to do double checks</p>



Items	Issues	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
	AUDIT FINDINGS			
				<p>again for the works carried out before releasing the progressive payments.</p> <p><b>Delayed Accounts</b></p> <p>The ministry had further set up a Municipal Council Finance Managers Forum to discuss issues pertaining to councils finance management which also includes the updating of their accounts and this has been progressed well. Find attached (<b>Annexure 9</b>) is the copy of the last Finance Managers Meeting highlighting the updates of the council's respective accounts.</p> <p>The councils were also been advised on the required timeline that they need to deliver in terms of their submission of financial reports.</p>

Items	Issues AUDIT FINDINGS	OAG Recommendations	Ministry Comments in 2014	Further Ministry Response as at of Even Date
		<p>delivering relevant services.</p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> </ul>		





## MINISTRY OF FORESTS

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## MEMORANDUM

**From:** Acting Permanent Secretary, Ministry of Forests

**Phone:** 3301611

**To:** The Chairman, Public Accounts Committee

**Date:** 31/01/18

**Re:** **Response to the Request for Supplementary Information on the Progress of Implementation of Policies and Strategies in the Forest Policy Statement 2007**

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We refer to your letter dated 23<sup>rd</sup> January, 2018, following the Standing Committee on Public Accounts deliberations on the Ministry of Forests submission on the above. The Committee had requested for a written response from the Ministry of Forests on two issues.

### **5.2.7 Existence and development of guidelines and forest management plans**

The committee notes that the new Somosomo Hydro Project catchment area has taken up part of the Taveuni Forest Protection lease which includes Bouma Forest Park. Please provide a status update on this and the reasons why an EIA was not conducted for the construction of the Hydro Project.

### **Response from Ministry of Forests:**

The Somosomo Hydro Project catchment area is within the Taveuni Forest Reserve lease but Bouma Forest Park is outside this lease. An Environmental Impact Assessment (EIA) was conducted by an EIA consultant for the Somosomo Hydro Project. The question by the Standing Committee on the EIA was in the context of the Bouma Forest Park Management Plan review, referred to in the Auditor General's Report. These are two different issues.



The Environmental Management Act (EMA 2005) requirement for when an EIA needs to be undertaken is for any development which disturbs the environment, soil, flora, fauna and biodiversity. Bouma is a National Heritage Park and does not require an EIA to be undertaken when reviewing its Management Plan since the Park is a high conservation area under protection and not altered in any way.

#### **5.6.7 Charging of Fees for processing and monitoring of all licences**

Audit noted that there exists no fee structure for fees required under Section 16 (1) of the Forest Decree 1992. As such, the Department have not been charging any fees for processing and monitoring of licences. The Committee was informed by your Ministry that there was a review of the fees and charges in 2012 and submissions were made to the Ministry of Economy. Please provide a status update on this.

#### **Response from Ministry of Forests:**

Section 16 (1) of the Forest Decree 1992 states "A licence shall be subject to the payment of such fees as may be prescribed". This "fees" refers to the scaling fee which the Ministry of Forests has been collecting for the measurement (scaling) of logs and is in the amount of \$5.00 per cubic meter. This is Government revenue for services provided in scaling of logs and putting stamps before removal from the Forest.

Separately to Section 16 (1) of the Forest Decree 1992, in relation to supplementary questions by the committee members in regards to fees and charges, the Ministry of Forests has undertaken a review on their fees and charges. There had been consultations done with stakeholders and a report on reviewed fees and charges submitted to the Ministry of Economy for their comments. The Ministry of Economy and the Ministry of Forests are in the process of identifying a way forward in having these rates on fees and charges legislated by ensuring compliance to procedures and requirements for any amendments or introductions of new revenue items under Section 25 of the Finance Instructions.



Bernadette Welch PSM

**Acting Permanent Secretary for Forests**



## **MINISTRY OF FORESTS**

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# **Progress of Implementation of Policies and Strategies in the Fiji Forest Policy Statement 2007**

## **Responses on the Report of the Auditor General of the Republic of Fiji**

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### **Introduction**

The Audit recognized that overall, considerable progress had been made by the Ministry of Forests in the implementation of the Forest Policy 2007. There are clearly a number of areas that still need to be addressed or strengthened though.

It is unfortunate that there are no Ministry comments in the report, as it was a lost opportunity to clarify some matters that would have benefited from executive level input.

The Ministry has now taken this opportunity to provide comments and feedback on the individual recommendations.



## RECOMMENDATIONS (PAGE 27)

### 4.0 CONSERVATION OF FOREST AND BIOLOGICAL RESOURCES (Page 10-27)

#### 4.1 Land use planning and forest classification (page 10-14)

- ❖ *Facilitate the formalization of the Landuse Plan by ensuring that it provides its comments to Strategic Planning.*

The key focus area of the Land Use Plan is the establishment of Permanent Forest Estates based on Forest Functions derived from the National Forest Inventory in line with the National Rural Land Use Policy and Stakeholder Interest.

The Forest Function Maps for Fiji are already completed, providing the technical basis for the allocation of forest potential areas for the establishment of Permanent Forest Estates. This is the input of the Forestry Department into the Landuse Planning Exercise.

- ❖ *Ensure that actions are taken to finalise the forest function maps and that arrangements are made with the department of lands to facilitate the printing of the Map.*

The Potential Forest Function Map was finalised by 2016 in collaboration with the Department of Lands. The use of the word “Potential” means that the forest has the potential to provide the particular function based on physical, soil, vegetation, and climate characteristics. It can be allocated to another function based on current needs and priorities.

- ❖ *Seek to develop a Memorandum of Understanding in close consultation with NFMV to formalize the awareness and consultation arrangement. The terms and conditions of the engagement should set the complete agreement of both parties to ensure its achievability.*

The NFMV<sup>1</sup> are no longer undertaking any consultations on the Permanent Forest Estate. There previously was an attempt to develop a MoU with NFMV, but they did not want one.

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<sup>1</sup> Nature Fiji Mareqeti Viti



- ❖ *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 to extract forest inventory data.*

The future role of forests in climate change mitigation and adaptation constitutes the new direction for conducting forest assessments. The REDD<sup>2</sup> Plus Unit at the Forest Management Service Division in Colo-i-Suva will in the future take over the forest assessment role of the Forest Inventory Section of the MSD<sup>3</sup> with additional personnel and a new Forest Management Information System.

#### **4.2 Forest Inventory (page 15-18)**

- ❖ *Ensure that the results of the NFI<sup>4</sup> conducted in 1969 are made available on the Department's Website for ease of reference by members of the public.*

The Department is now working on this, however as some information is confidential to the owner of the resources there needs to be careful consideration as to what can be published. The main purpose of the inventory was to provide the basis for the management of Fiji's forests by the Forestry Department.

- ❖ *Develop Procedures to ensure the information obtained from Timber harvesting operations from either native or plantation forests is incorporated into the NFI database. The procedure should be communicated to relevant staffs to ensure consistency in its application.*

The NFI database contains timber stocks and vegetation quantity and quality at any particular time. The Procedure for the incorporation of the data will be done through the implementation of the Diameter Limit Table. The Diameter Limit Table will serve as the link between the Harvesting Database and the NFI database.

As for the 1990-1992 NFI, the database still exists at MSD with all the tables that came with it. A report was also compiled.

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<sup>2</sup> Reducing Emissions from Deforestation and Forest Degradation

<sup>3</sup> Management Services Division

<sup>4</sup> National Forest Inventory

#### 4.5 Mangrove Management (page 23-25)

- ❖ *Advocate for the permanent conservation of mangrove through prohibition of commercial harvesting*

The Department of Forests is represented at the Mangrove Management Committee and the Protected Area Committee. These are the forums where the Department of Forests carries out its advocacy work. Licensing of commercial harvesting of Mangroves for firewood has been ceased by the Ministry.

## RECOMMENDATIONS (PAGE 50)

### 5.0 INTEGRATED FOREST RESOURCES MANAGEMENT (page 28-50)

#### 5.2 Management Plans (Page 30 - 31)

- ❖ *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 EMA<sup>5</sup>*

Bouma Forest Park is a community owned and managed Forest Park and the management of the Park is done on their own initiative and with technical advice from the Ministry of Forests. The Forest Management plan initially prepared was for guidance to the community when responsibility was handed over. EMA requirements are for areas where forests are disturbed. Parks, such as Bouma Forest Park, are only for conservation purposes and forests are intact and undisturbed, therefore the EMA does not apply.

- ❖ *All woodlots submit strategic harvesting plans covering two years as required under the Policy*

The duration of Harvesting Plans depends on the size of the area that is targeted to be harvested. Woodlots are small in size and most operations are completed in less than one year. The audit noted that most Harvesting Plans were for one year, which is appropriate.

#### 5.3 Forest Management Systems (Page 31-35)

- ❖ *Work towards completion of relevant activities to ensure that the regulation concerning the selection of Silvicultural system is issued.*

There is already a regulation in place regarding Selection Silvicultural System under the Native Land Forest Regulation 1985 Cap 134 (Native Land Trust Act.)

*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.*

Measures to be carried out for Silvicultural treatments in plantation forests are the prerogative of FPL as it has significant financial and resource implications and as in most cases in the private sector, it is a commercial decision.

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<sup>5</sup> Environment Management Act



- ❖ *Develop and issue guidelines and standards for silvicultural treatments in natural forests once the Landuse plan is finalized.*

Standards for silvicultural systems and Land Use Plans are two non-related activities. The guidelines and standards for silvicultural treatment in natural forests are included in the harvesting selection system or the Diameter Limit Table.

- ❖ *Work towards establishment of forest management for plantation areas and discuss the remnants of natural forests plantation area with FPL.*

Forest management of plantation forests has financial and resource allocation implications. How this is addressed is the prerogative of relevant companies who own the plantation resources, including the leaving of remnants of natural forests in leased areas.

#### **5.4 Fiji Forest Harvesting Code of Practice (page 35-38)**

- ❖ *The Code Steering Committee is not fully functional.*

The establishment of the Code Steering committee with its approved Terms of Reference approved by Cabinet was a huge step and a lot of work went into it. The Ministry needs to establish better co-ordinated secretariat services and clarify responsibilities to ensure that the committee sits when required. The monitoring of logging operations and code implementation is still carried out by the Ministry of Forests.

#### **5.5 Forest Certification Standard (page 38-39)**

- ❖ *The Fiji Forest Certification Standard is finalized and put forward to Cabinet for endorsement*

Forest Certification is a tool for promoting sustainable forest management, and is market and private sector driven in the hope that the market will pay the premiums that the private sector needs as initiative.

Forest Certification is an initiative that has to be private sector driven if it is to work as it requires practices over and above the minimum requirement under the Fiji Forest Harvesting Code of Practice.

Right now, overseas markets are not demanding certified timber products from Fiji. Due to market demands for certified forest products, the Fiji Harvesting Code of Practice is sufficient at this moment

## 5.6 Forest License (page 39-43)

- ❖ *Structure is developed as required under Section 16 of the Forest Decree to account for the processing and monitoring of licenses and put forward to Cabinet for endorsement.*

The log scaling Fees that are paid for each cubic meter of log harvested covers all the activities from licensing to monitoring for that particular license, the fees also has a review timeframe normally reviewed together with timber royalties.

In 2012, there was a review of the fees and charges with two national stakeholder consultations and submissions were made to Ministry of Economy

## 5.7 Log scaling (page 43-44)

- ❖ *Work towards developing regulations to govern the measurement of logs such as Weighbridges.*

The current unit of measure for logs is the cubic metre. Only Fiji Pine limited is using tons for its pulp logs and Nabou Green Energy. They pay according to the tonnage supplied, and there is a conversion factor for the conversion from tons to cubic meters.

Fiji Pine Limited in Drasa and Eltech Ltd in Nabou are the only companies that have Weighbridges in Fiji and they use international standards. There is currently no need for regulations.

## 5.9 Environmental standards in forest management and environmental impact assessments (page 45-47)

- ❖ *Define the Scope of EIA for the Forestry sector and communicates this to all relevant stakeholders.*

The Fiji Harvesting Code of Practice defines the scope of the EIA<sup>6</sup> to forestry in forest operations.

## 5.10 Non-timber forest products (page 48-49)

- ❖ *Work towards the development of a management plan for non-wood products.*

The forest policy uses the term “encourage” the utilization of non-wood forest product as it recognises that it is an area that is not yet fully developed in Fiji. Priority areas that

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<sup>6</sup> Environment Impact Assessment

have been developed include bamboo, sandalwood and coco-wood. The Ministry is currently developing its Strategic Development Plan which includes the sustainable use of these non-timber forest products.



## RECOMMENDATION (PAGE 70)

### 6.0 INSTITUTIONAL FRAMEWORK AND HUMAN RESOURCES (page 51-70)

#### 6.1 Framework for forest policy, planning and coordination (page 51-54)

- ❖ *Ensure that it works towards its plan for institutional reform.*

There has been a review of the structure of the Ministry and changes have been implemented. The Ministry recognises that further change may be appropriate in the context of the Strategic Development Plan, which will be finalised soon.

- ❖ *Ensure that the meeting of the Forestry Board is approximately planned and that meetings are conducted yearly as required.*

The 1992 Forest Decree does not specify the frequency of the meetings, however it states that the Forestry Board shall meet as necessary. The role of the Forestry Board is confined to Forest Policy advice and not the implementation of the Forest Decree as that the role of the Permanent Secretary and the Conservator of Forests.

- ❖ *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.*

The Ministry of Forests fully agrees and will put in place measures under Forest Strategy on the review of the National Forest Program.

#### 6.2 Forestry Legislation (page 54-55)

- ❖ *Ensure that the Cabinet Memorandum is submitted to Cabinet at the earliest to facilitate the enactment of the Forest Act.*

The Cabinet Memorandum had been submitted and the Bill has been tabled in Parliament and also undergone first and second reading.

- ❖ *Ensure that public awareness on forest legislations and regulation is conducted once the Forest Act is enacted.*

This will be undertaken once the Forest Bill becomes an Act of Parliament.

### 6.3 Forest Administration (page 56-60)

- ❖ *Ensure that wider promotion of cross-sectoral coordination between the Department and other government institutions is conducted.*

The Ministry is already a member of several inter-Ministry Committees and we have also commenced a regular industry consultation at Divisional level. Cross-sectoral coordination is normally carried out for major forestry activities such as the implementation of the Fiji REDD Plus Policy. The Ministry of Forests will carry out wider promotion of the Forest Policy under its Strategic Development Plan 2017 to 2030.

- ❖ *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.*

The World Bank review was carried out in 2016. The recommendations will be further considered in the context of the Ministry's Strategic Development Plan.

### 6.4 Association (page 60-61)

- ❖ *Ensure that it work towards assisting in the establishment of the Forest Industries Association, Resource Owners Association and Forest Professional's Association.*

A Fiji Sawmillers' Association currently exists for industries. The Fiji Pine Trust, the Fiji Mahogany Trust and Pine Landowners Association also exist for Resource Owners. Only the Fiji Sawmillers has been functional for many years. Forest Professionals Association still needs more discussion.

### 6.5 Extension (page 61-64)

- ❖ *Initiate the formation of the domestic integrated extension teams.*

The Ministry has decentralised the Extension Division to ensure that Forestry services are easily accessible. The Ministry is also involved in Agroforestry Models setup using an integrated approach.

- ❖ *Ensure that it starts working towards phasing out its subsidised production for all nursery seedlings and charge the full commercial price.*

At this stage that is not viable as we need to encourage more planting and free seedlings is an incentive.



## 6.7 Forestry Training and Education (page 66-68)

### ❖ *Work towards conducting a review of the viability of its training center.*

The Department of Forests conducted a review of the training program that it carried out at Forests Training Centre in 2016 which resulted in the realigning of its curriculum to focus more on conservation activities and working with the community, including the Forests Warden course. It also resulted in the development of a new curriculum, a Diploma in Biodiversity Conservation, because this was not being offered at either FNU or USP.

### ❖ *Promote the introduction of environment and natural resource education in primary and secondary schools.*

The Ministry of Forests produces booklets, posters and the book on *Trees of Fiji* has been published and widely distributed to schools. The Ministry does work every year on Arbor Week and International Day of Forests. This work is mostly carried out with GIZ, and the Ministry of Education has always been part of the wider consultation group with the Ministry of Forests. Through the GEF 4 Project, the Department in collaboration with FAO & the Ministry of Education has developed and launched an education toolkit.



