



STANDING COMMITTEE ON PUBLIC ACCOUNTS

Review of the Performance Audit on the Management of Environment Impact Assessment



PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 57 of 2021

September, 2021

Published and printed by the Department of Legislature, Parliament House, Government Buildings, Suva

TABLE OF CONTENT

CHAIRPERSON'S FOREWORD	1
COMMITTEE MEMBERS	2
ACRONYMS	3
INTRODUCTION	4
GENERAL RECOMMENDATIONS	5
KEY FINDINGS	6
Chapter 1 Legal Framework, Policies & Planning.....	9
Chapter 2 Screening, Processing & Review Decisions.....	15
Chapter 3 Post EIA Approval & Monitoring of EIA Conditions.....	18
SUSTAINABLE DEVELOPMENT GOALS.....	22
CONCLUSION.....	25
APPENDICES	27
Appendix 1 PAC Questions.....	28
Appendix 2 Written Evidence – Ministry of Waterways and Environment.....	31
Appendix 3 Verbatim Report.....	38

CHAIRPERSON'S FOREWORD



Economic development is essential to meet the changing needs of the growing population in Fiji. However, such developments have the potential to impact the environment, communities and the economy. Section 40 of the 2013 Constitution of the Republic of Fiji states that “every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures”.

The development of the Environmental Impact Assessment ('EIA') is governed by the 16 year old Environment Management Act ('Act') 2005 as the principal legislation that supports the EIA in Fiji.

The purpose of the Act is:

- To apply the principles of sustainable use and development of natural resources; and
- To identify matters of national important for the Fiji Islands as set out in subsection 3 of the Act.

The Environment Management (EIA Process) Regulation 2007 was specifically developed and contain provisions with respect to EIA procedures. The Department of Environment within the Ministry of Waterways and Environment ('Ministry') manages the EIA process.

The EIA is a tool used to predict the environmental, social and economic impacts of a proposed development, in the early stages of project planning and design. In Fiji, EIA of proposed development projects are conducted through the processes set out in Part 4 of the Act. The Minister for Environment administers the EIA process under the Act while the Department of Environment manages this process.

The audit examines whether the Department of Environment is managing the EIA process efficiently and effectively for development proposals. This is due to the growing concerns on the usage of natural resources in Fiji and the need for development to be carried out with due consideration for the environment. The Committee had carefully examined how the EIA processes were assessed and determined whether:

1. the legal framework and planning policies governing the management of the EIA were efficiently and effectively administered by the Ministry;
2. screening, scoping, preparation of the Terms of Reference ('TOR') and review stages of EIA processes are managed effectively; and
3. there was adequate post EIA approval and monitoring to ensure that project developers comply with all the conditions.

I wish to acknowledge the contribution of the Honourable Members of the Committee who were part of the successful compilation of this bipartisan report namely, Hon. Joseph Nand, Hon. Virendra Lal, Hon. Ro Teimumu Kepa and Hon. Aseri Radrodro.

A handwritten signature in blue ink, appearing to read 'Alvick Avhikrit Maharaj'.

Hon. Alvick Avhikrit Maharaj
Chairperson

COMMITTEE MEMBERS

Pursuant to SO 118 (1), “A majority of the members of the standing committee shall constitute a quorum”.
The substantive members of the Standing Committee on Public Accounts are:–



**Hon. Alvick Avhikrit Maharaj
(Chairperson MP)**



**Hon. Joseph Nitya Nand
(Deputy Chairperson MP)**



**Hon. Aseri Masivou Radrodro
(Opposition MP)**



**Hon. Ro Teimumu Kepa
(Opposition MP)**



**Hon. Virendra Lal
(Government MP)**

ACRONYMS

COVID-19	2019 Novel Coronavirus
DoE	Department of Environment
DTCP	Department of Town and Country Planning
EIA	Environment Impact Assessment
EIA Unit	Environmental Impact Assessment Unit
EMA	Environment Management Act
EMP	Environment Management Plan
EMC	Environment Monitoring Committee
NGOs	Non-Government Organisations
OAG	Office of the Auditor General
PP No.	Parliamentary Paper Number
SO	Standing Orders
Ministry	Ministry of Waterways & Environment
TLTB	iTaukei Land Trust Board
RMP	Risk Management Policy
SOP	Standard Operating Procedure
WAF	Water Authority of Fiji
FRA	Fiji Roads Authority
TOR	Term of Reference
PAC	Public Accounts Committee
SDG	Sustainable Development Goal
SDG 12	Responsible Consumption and Production

INTRODUCTION

An ineffective EIA process has multiple implications including a negative impact on the environment. If the process lacks certainty, it could deter development. If the process is not timely, it could create financial and emotional stress for affected communities and local councils, and increased project costs for the project developer.

The Director of Environment makes most of the decisions on the EIA process and the EIA Unit within the Department plays a role in interpreting the legislation and executing operational guidelines, providing advice to the Director and coordinating the EIA process in a timely, transparent and integrated way.

1.1 COMMITTEE PROCEDURE

The Novel Coronavirus Disease renamed as COVID-19 was declared by the World Health Organization as a global pandemic on 11 March 2020¹. The Parliament of the Republic of Fiji therefore undertook necessary precautionary measures to control the spread of the new virus strand outbreak.

In view of the above, pursuant to SO 112 (1) (b), the Standing Committee has the powers to “*compel the production of documents or other materials or information as required for its proceedings and deliberations*” The Committee had requested the Ministry of Waterways and Environment to provide a substantive written response to the questions raised by the Honourable Members of the Committee within a specific timeframe in relation to the Report of the Auditor General – Performance Audit on Management of the Environment Impact Assessment (Parliamentary Paper No. 273 of 2020)

BACKGROUND

Land use planning and development are important for meeting the changing needs of the growing population in Fiji. The impact of development on the environment are critical considerations in planning and development. The 2013 Constitution of the Republic of Fiji establishes provisions for environmental rights for every ordinary citizens in Fiji. The preamble to the Constitution also states Fiji’s commitment to social and economic wellbeing, safeguarding the nation’s environment. Furthermore, one of the values of the Republic of Fiji is to commit to a prudent, efficient and sustainable relationship with nature and the constitution confers the authority to make laws to the Parliament of Fiji.

The Environment Management Act 2005 is an Act for the protection of natural resources, the control and management of development, waste management, pollution and control, the establishing of a national environment council, and other related matters.

The Public Accounts Committee reviewed the Auditor-General’s methodology by assessing the Department of Environment’s records and advice provided, interviews with the relevant EIA officers and issued questionnaires and projects undertaken by developers that required EIA decisions for the period 2006 to 2020.

¹ <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>

GENERAL RECOMMENDATIONS

- 1. The Committee notes that the Department has formulated the Risk Management Policy and therefore recommends that the Ministry shares this policy with other Environment Officers in other Ministries and Departments and other relevant stakeholders;***
- 2. The Ministry needs to setup an internal audit team that should report on the effectiveness and efficiency of the Department of Environment directly to the Minister;***
- 3. The Department of Environment needs to be proactive in regards to service delivery and customer satisfaction as a priority;***
- 4. Proper and adequate training needs to be provided to Environmental Officers and staff in terms of their key performance indicators ('KPI') and overall achievements of the vision and mission of the Department;***
- 5. The Department of Environment needs to be properly resourced and decentralize its officers to the 4 divisions for ease of accessibility and service delivery and timely monitoring of development projects;***
- 6. The Department of Environment should regularly consult with key & relevant Ministries and Departments on development projects undertaken on the Environment to ensure that EIA Reports are properly updated during its initial stages and appropriated in a timely manner;***
- 7. The Committee notes through the report that Conflict of Interest in the EIA Unit is of a concern, and welcomes the Department's Regulatory Risk Policy that has been formulated and recommends that sufficient awareness be carried out and implemented as soon as possible; and***
- 8. The Committee notes that EIA plays an integral role in achieving the Sustainable Development Goals. The Ministry is encouraged to take note of the findings on SDGs listed in the content of this review report.***

KEY FINDINGS

1. LEGISLATIVE AND POLICY FRAMEWORK GOVERNING EIA

This Department of Environment is governed by the Environment Management Act 2005. The Act stipulates provisions in Part 4 that are related to the EIA process. The audit noted that the assessment of legislation revealed that key substantive provisions have been implemented through enactment of the Environment Management (EIA Process) Regulations 2007. The administration and management processes within the EIA Unit needs to be further strengthened in order to achieve policy objectives and reduce administrative and compliance costs. Specific areas of improvement include the following:

1. Systemically applying risks management procedures to achieve administrative cost effectiveness;
2. Measuring and reporting regulatory performance;
3. Ensuring consistency in decision-making; and
4. Documenting key operational and regulatory decisions.

This chapter examines the effectiveness of the Department of Environment in implementing the requirements of Part 4 of the Act which relates to the Environment Impact Assessment and its efforts to improve sound governance arrangement for administering the EIA Unit. These includes:

- Framework Governing EIA Management;
- Managing Governance, Risks and Compliance;
- Accountable Decision Making;
- Efficiency of the Standard Operating Procedures;
- Managing Regulatory Performance;
- Managing Probity; and
- Management of Information in Environment Register.

1.1 Legislative Assessment of EIA Processes

The Environment Management Act 2005 is categorized into seven different parts. For the purpose of the administration of EIA, audit analysis was based on Part 4 - Environment Impact Assessment. The audit revealed that the Department of Environment did not fully implement some key provisions for EIA as per the EMA 2005. Environment Impact Assessment (EIA) in Fiji is governed by Part 4 of the Environment Management Act. The substantive provisions are analysed in the table under Appendix 1. Auditor-General's analysis which is shown in Appendix 1 indicates that majority of the key provisions governing EIA under Environment Management Act 2005 are implemented.

However, the audit noted that more work is needed to be done in terms of implementing the requirements of Section 27 (4) (b) of the Act which require the approving authorities to make the decision on whether or not an EIA will be needed for those developments that qualify under Schedule 2 and part 2 of the Act such as:

- a proposal that requires processing only because it could endanger or degrade public health or sanitation;
- a proposal that requires processing only because it could harm or destroy important;
- cultural resources including, but not limited to, archaeological sites, cemeteries, historic sites and landmarks;
- a proposal for a residential subdivision of not more than 10 lots;
- a proposal for civic or community development;
- a proposal for general commercial development; and
- a proposal for general industrial development

An approving authority is a public authority or person authorized under a written law to approve development proposal. Examples of approving authorities include Town and City Councils, Rural Local Authorities, Department of Lands, Department of Forest and iTaukei Lands Trust Board. The audit revealed that not all approving authorities will process the development proposals and make a determination as some determinations are done by the Department. Some examples include the construction of a school hall, a car park and a school classroom which was all determined by the Department on 03/07/2019.

The Committee was advised by the Ministry that presently, the Department of Town and Country Planning ('DTCP') has set up its Environment Management Unit ('EMU') within their Department and exercising duties as an Approving Authority under section 27 (1) of the Environment Management Act 2005 ('EMA 2005'). In the Ministry's view, most development activities listed under Schedule 2 Part 2 falls under the DTCP and they have been exercising their responsibilities under the Act as an Approving Authority. Other authorities have not begun this process within their respective EMU's or may not have an EMU setup at all to enable this process to take place. As for processing of EIA applications, these stakeholders are part of the Technical Review Committees appointed to review of EIA reports, undertake site joint inspections with the Department or are invited to attend public consultations organized during Social Impact Assessment exercise and public consultations during the review of EIA reports.

Recommendation

The Committee recommends that the Environment Management Act 2005 be periodically reviewed.

1.2 Administration of Risks and Other Policies

The audit noted that the EIA Unit within the Department of Environment has not developed a risk management policy that clearly define the roles of management and any internal audit function. Management should develop, implement and review the Department's risk management and internal control system. The effective implementation of this internal control system should be reviewed annually by the management. However, the management of EIA Unit has not developed policies on risk and other related policies on the administration of EIA Unit and its operations.

The Committee was informed that the Department is in the process of finalizing the Risk Management Policy ('RMP') for administration of risks. Components of the policy includes the introduction section, SOPs, charts, legislation, levels of risk, risk management matrix and management's action plan. This document will be finalized by mid-June 2021.

Recommendation

The Committee noted that the Risk Management Policy will be finalized before June 2021 and recommends that the policy be implemented as soon as possible.

1.3 Profiling Regulatory Risks

A structured and systematic risk management methodology enables a regulator to:-

- (1) identify, analyse, evaluate and monitor regulatory risk;
- (2) prioritise risk, based on assessments of likelihood consequences; and
- (3) plan and conduct activities to mitigate risk.

The audit noted that the administration of the EIA Unit is being undertaken without having an effective profiling of regulatory risk. The absence of risk management for effective administration of the EIA Unit can lead to serious consequences in the future as it could lead to potential loss of reputation for the Department if the risks that comes with the processing of EIA is not mitigated.

The Ministry advised that the Risk associate with EIA processing and Management Action Plan is being finalized as mentioned above in administration of risks and other policies. In the interim, EIA Officers are continuously reminded of their responsibilities as civil servants and the code of conduct. The Departments' Management hold unit wide and one-to-one meetings, where officers are also reminded to work honestly and report any matters relating to corruption, bribery immediately to the Permanent Secretary, Director and their supervisors. Awareness (both to the offices and the general public and permit applicants) are raised during and through the Ministry's EIA/Business Roundtables and EIA clinics.

Review of the SOP for Guiding EIA Officers

The Ministry advised that the SOPs are regularly reviewed for any potential gaps both in the interest of the process integrity and customer service excellence. The most recent review being in February 2021, working with an external consultant as part of the Ministry's digital transformation program. The checklists within the SOPs has been further refined to include a more robust 'counter vetting checklist' for the EIA screening process, EIA processing and reviewing EIA reports. The SOP was last updated in October 2020.

Recommendation

The Committee recommends:

1. *That there should be awareness for staff and the public on the risks associated with the Unit to ensure that the profiling of risks is undertaken after a policy has been developed.*
2. *The Committee notes in the response from the Ministry that corruption can lead to irreversible damage to the environment and such policy should be implemented as soon as possible.*
3. *That a more proactive system be in place to ensure that the monitoring, evaluation and reporting processes are constantly carried out by the Unit within the ambit of the approved conditions.*

1.4 Defining and Documenting the role and responsibilities of the EIA Unit

Proper management of delegations of responsibilities to assist in ensuring that decisions to invoke regulatory powers are lawful and exercised in accordance with the requirements determined by the delegated authority. Practices that enhance the management and exercise of delegations include clearly defining and documenting the roles and responsibilities of the regulator's organizational Units and key staff. The audit revealed that while the job description defined the key responsibilities of each officers, review of the EIA Unit's Individual Work Plan noted that the performance measures of the EIA Unit and Department of Environment is not clearly defined to ensure that individual targets are accurately identified and measured against.

The direction of operation and the commitment of the EIA Unit and its staff towards the Ministry's strategic plan will not be clearly defined and as a result the overall objectives of the Ministry may not be achieved.

The Committee was informed that all EIA officers have an Individual Work Plan in place. The annual work plan for the Department and Individual Units are derived from the annual budget. The Ministry also reports on the progress made to the Ministry of Economy on a quarterly basis. The EIA Unit's work is dependent on the number of EIA applications received, EIA processing and compliance and monitoring works.

Recommendation

1. *The Committee agrees with the OAG recommendations and also recommends that an Internal Audit team be established within the Ministry to conduct regular internal audits of the individual work plans of the EIA Officers.*
2. *The Ministry should regularly conduct environmental audits and submit report to Executives and also to the Office of the Auditor General for their reference.*

1.5 Monitoring Delegated Decision Making

Internal monitoring of the entire EIA process and examination of a development proposal including post EIA approval granted is a practice that enhances the whole process. The EIA Unit is responsible for examination and processing of development proposals in Fiji. Audit review of the EIA processes noted that the work performed by EIA Officers are not subject to quality assurance reviews. The absence of a quality assurance system for EIA processing can be attributed to the fact that more focus is directed to the operational processes for EIA and as such there may be less emphasis made in terms of properly administering the whole process. The absence of a well-functioning quality assurance system would mean that the Department would be missing out on an opportunity to further enhance its processes in terms of delivering quality services.

The Committee was advised that the EIA process be legislated. The process engages with both external and internal experts. Consultants who are engaged in the EIA study be qualified and registered with the Department of Environment. When there is a concern regarding quality of the process or the EIA report being submitted, the consultant is called in for an interview meeting and notified (and gaps fixed). As an **additional**

quality measure, the Department streamlined EIA consultant practice in 2018. This was completed through one-on-one interview with the consultants and re-registering them under specific portfolios based on the expertise, educational qualification and professional experience. There are also consultant engagement sessions (and roundtables) for consultants organized by the Ministry to that effect.

During the review of the EIAs, experts from various agencies including academic institutions and NGOs are appointed to review the reports. If the Department finds gaps in the reports, the EIA is not approved. Additional information is required to make informed decisions.

Recommendation

- 1. The Committee recommends that disciplinary measures should be taken against staff not performing their roles and responsibilities.*
- 2. The Committee further recommends that adequate resources should be provided to the Ministry to ensure proper accurate and timely monitoring processes are conducted.*

1.6 EIA Screening, Processing and Reporting Timelines

Standard Operating Procedures (SOPs) consist of step-by-step instructions that is compiled by an organization to help workers carry out routine operations. SOPs aim to achieve efficiency, timely and quality output and uniformity of performance, while reducing miscommunication and failure to comply with industry regulations. The Auditor-General noted that the Department did not meet the required timeline for screening and processing of EIA as per legislative and organizational requirements. The Department in its comments dated 30 October 2020 stated that the mandated timeline is for the processing officer within the EIA Unit only and does not fully reflect the time of re-submission of incomplete application by project developers. The process of resubmitting incomplete screening applications by project developer's resulted in the Department not achieving the required timelines.

The Committee was informed of the following:–

Issue of Resubmitting Incomplete Applications by Project Developers

The EIA Officers strictly use counter vetting checklists for accepting applications and reports for processing. The timeline for processing starts when the complete applications/EIA reports is accepted by the Department.

Timelines for processing complete applications

All applications processed by the Department is registered in the EIA register, when required information is retrieved from the environment register. The Department also uses internal tracking systems to track applications and timelines.

Re-submission of incomplete applications

Staff are strictly instructed not to accept incomplete submission in the first instance. However, if the Department through the review process finds gaps in the EIA report, the EIA is not approved and additional information is sought.

Recommendation

The Committee concurs with the OAG recommendation that the Department of Environment should provide necessary awareness to all the stakeholders so that complete information is provided at the application stage and where necessary communicate the revised timelines and conditions accordingly.

1.7 Customer or Stakeholder Management Relationship

The EIA process involves the interaction of different types of customers or stakeholders that receives the services from the EIA Unit within the Department of Environment. In order to promote operational efficiency, it is very important to recognize customer or stakeholder feedback through their service delivery. However, the audit noted that the IWP of EIA staff does not capture the importance of customer or stakeholder feedback on the service delivery of the Unit. The work of the Unit prioritises the processing of EIA, while other important elements such as measuring the effectiveness of services from the perspective of customers/stakeholders are not taken into consideration.

The work of the EIA Unit will not be effective in terms of meeting stakeholders' expectations, and important feedback from stakeholders will not be captured in the absence of a measure to determine the level of satisfaction of stakeholders.

The Committee was informed that the EIA Unit has an internal tracking system to track the progress of files, complaints, requests, queries, applications made to the Department of Environment. A specific officer is also assigned to manage this tracking-system and provide reports to the Executive Support Officer, Director Environment and the Permanent Secretary. Officers are also required to provide progressive updates to clients on files they are assigned with. Additionally, the Ministry will be running an annual survey to the end of the current fiscal year.

Annual Reports

Annual Reports for the years 2016 (January to June), 2016/2017 and 2017/2018 are under print (under the Ministry of Local Government, Housing & Environment). The 2018/2019 and 2019/2020 have been finalized and will be sent for printing and tabling in Parliament before end of this year.

Gold Card Membership Initiative

Membership is exclusive (unless otherwise approved by the Permanent Secretary) to companies who are compliant to the Ministry of Environment's permitting requirements which include compliance to the

- EMA 2005;
- Environment Management (EIA Process) and Environment Management (Waste Disposal and Recycling) Regulations 2007;
- Ozone Depleting Substances Act 1998;
- Litter Act 2008;
- Endangered and Protected Species Act 2002;
- Have no outstanding fee payment/debts with the Department; and
- Businesses must also demonstrate that they have contributed efficiently to promoting energy efficiency and green building, renewable energy, addressing the Ministry's supply impacts and contribution to environmentally conscious solutions including promoting recycling initiatives at workplace.

The Membership is valid for a period of 2 years. Currently there are 5 clients namely Ministry of Defence, National Security & Policing, Fiji Airways, Suva City Council, Sinohydro-HDEC Joint Venture and Fiji Airports who have qualified and are members of this initiative. The Department plans to expand this program through it Environment Business Roundtable Events.

Status of the Ministry's Communication Strategy

The Committee was informed that the Communication Strategy has been finalized.

Recommendation

The Committee concurs with the OAG recommendation for the Department to be more proactive in its service delivery, place customer satisfaction as a priority in their IWP targets as a measure of performance for EIA Officers.

1.8 Managing Conflict of Interest and Fraud in the EIA Unit

The Department of Environment is an EIA regulator and issues approvals to project developers to commence with development. This is achieved through a due diligence process which includes subjecting development proposals to a screening process, EIA processing and scoping, review and decisions. EIA Officers are involved in the different stages of EIA until the decision on the EIA has been finalised. Inspections of a project site are also conducted by EIA officers.

The audit noted that there was no policy or framework to prevent and detect actual, potential and perceived conflict of interest. EIA officers are also exposed to the risk of bribery from developers who may find the EIA process a hindrance to their projects. The absence of proactive and clear policies for identifying, declaring and managing all conflicts of interests is a concern. Given the stringent requirements for EIA processes, EIA officers are faced with the risk of bribery from corrupt developers. A policy should address how to identify conflict of interests, what to do if there is a conflict of interest and the penalties for not declaring or reporting such instances.

The Committee was informed of the following:–

Conflict of Interest Policy

The Department/EIA Unit has a Conflict of Interest Declaration Form. Each Officer has to fill out the form before they start processing applications.

Regulatory Risk Policy

The Regulatory Risk Policy will be included under the Ministry's Risk Management Policy.

Recommendation

The Committee recommends that the Ministry should address issues regarding conflict of interest situations and fraud cases seriously.

The Ministry should also formulate Policies capturing penalties to address cases of conflict of interest and fraud.

1.9 Credibility of EIA Consultants

EIA consultants prepare EIA reports on behalf of the project developer particularly assisting in the technical aspects of project developments. Registered EIA consultants are categorized into four categories, namely Principal Consultants, Assistant Consultants, Technical Assistant and Review Consultants. The costs for provision of services by EIA consultants to project developers are borne by the project developers. The EIA Unit plays a significant role in regulating the work of EIA consultants. It was noted that a Code of Practice for EIA Consultants was not prepared by the Department. The absence of an EIA Code of Practice for consultants may be due to an oversight by the Department, as its roles include monitoring of consultants. The Committee was informed that the EIA Code of Practice has been finalized. It will be sent to Solicitor General's Office for legal vetting and submitted for Cabinet endorsement before it is gazetted.

Recommendation

The Committee concurs with the OAG recommendation that the Department should ensure that the EIA Code of Practice is documented, implemented and monitored by EIA Unit.

1.10 Management of Information in Environment Register

Quality information is timely, reliable and comprehensive. Information is timely when it is readily available to management when decisions are being made, or is supplied to management when deviation from plans or assumptions warrant management's consideration. Information is reliable when it is recorded accurately and consistently, overtime and across entities. Comprehensive is when all relevant information required to make a balanced, informed and defensible decision is collected and made available to decision makers. The Department maintains two Environment Registers in the form of a spreadsheet and a manual book. However, review of these two records for screening, processing and reporting stages registers revealed that the records

do not reconcile. According to the Department of Environment, they have been working manually until electronic copy registers were updated from 2019. The Department of Environment had to ensure that it brought the legacy of information or data into a spreadsheet and have it updated. Inconsistency in maintaining records in the EIA registers will have an impact on the decision making of the Department. Hence, conclusions reached and information provided to external stakeholders by decision-makers may not be reliable.

The Committee was advised on the status of the automated e-tracking system. The Department has in place electronic tracking done at Officer Level (using Microsoft Excel). The Department has been liaising with a number of companies regarding e-tracking system. The system once up and running will be managed by the Department. Hardware (servers) will be located at the Government ITC data centre.

Recommendation

The Committee recommends that the Ministry moves from Manual to Digital platform and use the e-tracker system by end of 2021.

2. SCREENING, SCOPING, PREPARATION OF THE TERMS OF REFERENCE (TOR) AND REVIEW STAGES OF ENVIRONMENT IMPACT ASSESSMENT (EIA) PROCESSING

Monitoring enforcement actions can be further improved particularly in ensuring that EIA processes are effectively carried out in a sound and timely manner. The audit revealed that there is guidance in place for the processing timelines at each stage of the EIA process. While some applications have met the required timelines, there are opportunities to address delays in development proposal applications turnaround time.

This Chapter examines how effectively the Department of Environment manages:

- Screening, Process of the Environment Impact Assessment in Fiji; and
- EIA Processing Review and Decision

1.1 Screening Process of the Environment Impact Assessment in Fiji & EIA Processing Reviewing Decision

The Department of Environment highlighted that the checklists were created to help the developers to ensure that they submit the required supporting documents with the EIA screening applications. The audit highlighted that the reason some of the files did not have the EIA screening checklist was because these were enforced in the year 2018, therefore the older files do not have the checklists. As for the ministries, departments and statutory authorities (e.g. WAF, FRA and Ministry of Waterways) that frequently liaise with the Department of Environment for the purposes of carrying out an EIA, they are very much familiar with the documentations that should be submitted along with the EIA screening application, that is why some of these do not have the checklists. As for the other files, the Department of Environment could not provide reasons as to why the processing officer did not submit the screening checklist as part of the file documents. In the absence of an EIA screening checklist to vet the EIA screening application, the officers may not be able to determine whether an application is complete and ready for processing.

The Committee was advised that the Department continues to undertake counter check on all applications using the counter vetting checklists. Should project developers not submit full documentations (as per the Checklist), applications are not accepted and returned back to developers during counter service.

For processing EIAs, scientists and subject area experts from various agencies including academic institution and NGOs are consulted. The scientific data and methodology is verified by these experts or scientists before a decision is made by the Department.

Recommendation

The Committee recommends that the Department needs to be customer focused and customer friendly as it mostly deals with high end investors/developers and take proactive approach and mitigate the approval process of any application.

1.2 EIA Reports prepared by Accredited EIA Consultants

EIA consultants earn accreditation when they are registered with the EIA Unit upon paying registration fees for a period of three years. At the conclusion of the three years, renewal of registration is a requirement by the EIA Unit in order to continue practicing as an EIA consultant. Most EIA reports reviewed during audit were prepared by accredited EIA consultants. However, there were instances of development proposals whereby the EIA reports were prepared by non-accredited EIA consultants. This findings indicate that the internal work process of Environment Officers needs to be strengthened to ensure that the accountability of the work carried out by EIA consultants is maintained. Strict monitoring of consultants will result in better service delivery which adds credibility to the whole EIA process.

On the issue of detecting unregistered consultants, the Committee was informed that currently, the Department has in place a designed template (Acceptance Criteria – Counter Vetting) for use by the EIA officers when EA reports are submitted. Item 3 in the checklist requires confirmation if the EIA report was prepared by an accredited consultant and if the consultant has specific area of expertise relative to the proposed development. Should this be checked “No” by the EIA Officer, the EIA report is not accepted. The use of this in-house controls, has detected unregistered consultants providing EIA services. The Department has been in touch with the clients and have made available on the Ministry’s website names and contacts of all Department of Environment registered consultants.

Recommendation

The Committee recommends that the Ministry publishes annually a list of registered EIA Consultants.

Those consultants who were not registered under the Ministry’s List of EIA Consultant but still performing the EIA assessment should be levied heavy penalties as a means of deterrence.

1.3 Written Report on the review of EIA Reports

The review committee for project development proposals is responsible for independently reviewing the reports prepared by EIA consultants. Members of the committee include professionals from specialized fields of study depending on the type of developments being proposed. The Director of Environment appoints members of the review committee. The core output of the review committee is to prepare a written report after reviewing the EIA report. However, audit noted that the results of the review of EIA reports by the Committee is prepared in the form of a minute and addressed to Director Environment. The absence of proper internal control mechanisms within the Department of Environment to ensure that proper documentations are maintained and ensuring that there is adequate trail of information could be a contributing factor for anomalies found regarding the review report process. The absence of proper reporting formats and proper documentation for the selection of review committee members, recording of all necessary information regarding the review report process for EIA reports can lead to loss of credibility in the overall process and imply that there is lack of accountability and transparency in the whole process.

The Committee was informed that the Department has developed a review report template and it is being used by the EIA Officers. All review reports are kept-in-file and are entered into EIA register (to be digitalized shortly).

Training Needs Assessment

The Committee was informed that within the past 4 years, Environment Officers were trained in the area of investigation, environment management planning, prosecution, and investigations, EIA processing and environmental safeguards. These trainings were facilitated by the Asian Development Bank (ADB), Office of the Director of Public Prosecution (DPP), Commonwealth Scientific and Industrial Research Organization (CSIRO) and the Department of Environment. Staff trained are directly involved in the EIA process and holding entry, medium and senior level position in the EIA unit within the Department of Environment.

Recommendations

The Committee concurs with the OAG recommendations that the Department of Environment should:

- 1. Ensure that the standard review report template is used for all future review reports;*
- 2. Safely maintain the register for review reports on EIA;*
- 3. Have all necessary records and information stored in their respective project files.*

3. MONITORING, EVALUATION AND REPORTING

Programmes on monitoring can be further strengthened for planning and implementing of post EIA approval conditions. A comprehensive system is not in place to monitor approval conditions, as the Department only monitors those developments where complaints are received from the general public. The audit highlighted that this indicates inconsistency in monitoring of approval conditions by the Department of Environment. Although some monitoring is done by the Department, strategies are not in place to guide compliance monitoring, inspection and reporting of EIA approved developments.

This chapter examines the monitoring strategy that defines the type of activities undertaken by the Department of Environment to confirm compliance, role and responsibility of EIA officers, how frequent are the monitoring exercises conducted and how it is reported with respect to assurance responsibility to stakeholders.

1.4 Compliance Monitoring Framework

The Environment Management Act 2005 gives powers to the EIA Administrator or a person acting in that capacity to carry out compliance inspection of activities undertaken by project developers after the approval for a proposal has been granted. The Environment Management (EIA Process) Regulation 2007 also gives the power to the Director Environment to issue written guidelines that is deemed appropriate for any other matter in relation to EIA regulations. The Auditor-General noted that the Department of Environment is yet to develop any monitoring framework for EIA related matters. Ineffective monitoring plans mean that the operational objectives of being a reliable and effective environment regulator will not be achieved.

In relation to the risk-based compliance monitoring strategy the Committee was informed that the Department is constantly carrying out monitoring works and through these monitoring work, it was revealed that a number of companies were non-compliant. The Ministry is currently working with other line Ministries and the Fiji Police Force to strengthen the Ministry's compliance and monitoring work.

This matter will also be included in the Risk Management Policy.

Recommendation

The Committee concurs with the OAG recommendation that the Department of Environment should

1. *Develop a risk-based compliance monitoring strategy.*
2. *Clearly identify the types and frequency of monitoring activities and who will conduct them in line with available resources.*
3. *Monitor activities that are scheduled and implement the monitoring strategy accordingly.*
4. *Impose stringent penalties on staff who do not carry out their monitoring role effectively.*

1.5 Compliance Inspection Reporting on EIA approval conditions

The EIA Administrator or the approving authority is required to carry out independent inspection of the site after the EIA approval has been granted to the project developer. Inspection of the site is undertaken by the Department of Environment. It was noted that the Department of Environment is yet to develop Standard Operating Procedures for the conduct of inspections and for reporting findings in the inspection reports. The findings in the inspection report mostly address non-compliance aspects of the approval conditions. In addition, it took the Department more than a year to conduct compliance inspections from the date the EIA proposal applications were granted approval with conditions. The Department had stated that the reason for not undertaking regular inspections is because inspections are only undertaken for EIA approved developments or when complaints are received. The Department had not been reporting comprehensively, that is, to include the approval conditions that had been complied with in addition to the non-compliance, in order to give a more holistic picture of the compliance inspections.

The Committee was advised of the following:

Strengthening the provisions in the Compliance and Monitoring Policy

EIA Officers follow the **Site Inspection Template** for all inspections undertaken, and are guided by the Environment Management (EIA Process) Regulations 2007 for undertaking Compliance Inspection [Regulation 34] and Site Inspections [Regulation 13]. The Ministry is currently working with other line Ministries and the Fiji Police Force to strengthen the Ministry's compliance and monitoring work.

Monitoring and Reporting for Inspection of Development Proposals

EIA approval includes conditions that proponents must adhere to, some of which includes:

- the submission of the Environment Management Plan ('EMP') to describe the environmental protection measure that will be put in place and the environmental monitoring and surveillance program of action;
- setting up of the Environment Monitoring Committee ('EMC') to verify that the environmental protection plan (in the EMP) is being fulfilled and adverse impacts of the proposal documented; and
- random monitoring inspection(s) of the proposed activity by the Department. If the conditions of approval or that of the EIA is breached, the Department of Environment reserves the right to cancel the approval and take appropriate action.

Real-time reporting application is being finalized – there is a network of surveillance cameras operating at various locations. The Department is finalizing a system to have real-time reporting and action based on the same. The Department also possesses drone systems and will include drone coverage reporting format(s) – the anticipated timeframe for this form of reporting (to give live) is expected to be around the end of the current calendar year. The Ministry is currently working with other line Ministries and the Fiji Police Force to strengthen their compliance and monitoring work.

Developments Involving Prospecting Mining Licenses

Mining and mineral exploration is a listed activity under Schedule 2 Part 1 of the Environment Management Act 2005. Therefore any company who intends to undertake mineral exploration/prospecting must submit an EIA screening application to the Department who will then make a determination if a detailed EIA study must be undertaken or otherwise the submission of an Environment Management Plan (EMP). The Environment Management Act 2005 covers air, land and water.

Case of Viti Mining Propriety Limited and Dinjing Mining Limited on whether they have complied with the EIA requirements for the proposed prospecting mining license for Nabila (Nadroga), Viani (Cakaudrove) and Wailoaloa (Nadi).

The Committee was advised that Viti Mining Limited submitted EIA screening applications to the Department in October 2020 for the proposed Special Prospecting License (SPL) for Nabila, Nadroga and Viani, Cakaudrove. The scope of the prospecting proposal includes rock sampling, soil sampling, trenching, geophysics, topographic survey and potential drilling for precious base metals.

The Ministry processed the application and undertook a site visit to the prospecting site in Nabila, Nadroga before requiring Viti Mining Limited to submit an Environment Management Plan (EMP) for the proposed exploration works. Following the submission of the EMP report (for Nabila, Nadroga), the EMP report was reviewed and approved for Phase 1 (only) of the project (which includes light exploration work, sampling and geochemistry, geological assessment, desktop review, cartography, and geophysics). It was also a condition of the approval(s) that should works occur within private properties or leased land; Viti Mining Pte Limited must get the consent of owners of those land/property.

The EMP report for the prospecting license in Viani, Cakuadrove is yet to be submitted by Viti Mining Limited. Once submitted, the Department will review the report and make a decision.

In response to Ding Jing Mining Pte Limited in Wailoaloa, Nadi. The Committee was advised that the Ministry has not received an EIA screening application from Ding Jing Mining Pte Limited for the proposed mineral exploration works in Wailoaloa, Nadi.

Sand Mining Project in Votua, Ba.

Amex Resource Limited (ARL), the proponent, submitted an EIA application to the Department of Environment in March of 2011. Following a scoping exercise by the Department, a Terms of Reference (TOR) was issued to the company for an Environmental Impact Assessment to be undertaken. Amex Resource Limited submitted an EIA Report to the Department of Environment in September, 2011; following a review process that included a public consultations, the EIA report was approved on December 13, 2011. The Terms of Reference for the EIA study included the need for a social assessment to be undertaken. An integral part of the social study was to identify how the development would impact community values and community life and the overall social organization of the communities residing in the area. As part of the social assessment, house to house interviews and public consultations with local communities and villagers who use the adjacent i'qoliqoli was carried out by the EIA consultants. In addition to the two public consultations that were held, consultations were also conducted with the three (3) Yavusa of the Vanua of Votua which included the Yavusa Narai, Yavusa Balavu and Yavusa Nadua.

Through the EIA process, all due diligence were followed and public consultations were undertaken with the wider community and the *I'qoliqoli* owners. Environmental concerns raised during the public consultations were addressed through the mitigation measures in the EIA report and the approval conditions issued to Amex Resource Limited.

Recommendation

The Committee concurs with the OAG recommendations that the Department of Environment should:

- 1. Improve on compliance inspections by imposing heavy penalties and fines.*
- 2. Strengthen the provisions of the compliance and monitoring policy to ensure consistency in the inspection and reporting processes.*
- 3. Ensure monitoring and reporting for the inspection of development proposals to include compliance with the approval conditions issued by Director Environment.*
- 4. Be properly resourced for timely monitoring of development projects.*

SUSTAINABLE DEVELOPMENT GOALS

SUSTAINABLE DEVELOPMENT GOALS



The Standing Committee on Public Accounts is mindful of the requests of the Honourable Speaker to consider SDGs and Gender Analysis in its deliberation of their Reports. Standing Order 110 (2) which states that *“the committee shall ensure that full consideration will be given to the principal of gender equality so as to ensure all matters considered with regard to the impact and benefit on both men and women equally”*

SDG 1: No Poverty, End Poverty in all its forms everywhere.

By 2030, build the resilience of poor and those in vulnerable situations to reduce their exposure and vulnerability to climate related extreme events and other economic, social and environmental shocks and disasters (Target 1.5)

Proportion of local governments that adopt and implement local disaster risk strategies in line with national disaster risk reduction strategies (Indicator 1.5.4)

SDG 8: Decent Work and Economic Growth – Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

Improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation, in accordance with the 10-Year Framework of Programmes on Sustainable Consumption and Production, with developed countries taking the lead. (Target 8.4)

Material footprint, material footprint per capita and material footprint per GDP (Indicator 8.4.1)

SDG 11: Sustainable Cities and Communities – Make cities and human settlements inclusive, safe, resilient and sustainable.

By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management (Target 11.6)

Proportion of urban solid waste regularly collected and with adequate final discharge out of total urban solid waste generated, by cities (Indicator 11.6.1)

SDG 12: Responsible Consumption and Production – Ensure sustainable consumption and production patterns

By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment. (Target 12.4)

The Department of Environment should effectively uphold the number of parties to international multilateral environmental agreements on hazardous waste, and other chemicals that meet their commitments and obligations in transmitting information as required by each relevant agreement. (Indicator 12.4.1)

SDG 13: Climate Action – Take Urgent Action to combat climate change and its impacts

Integrate climate change measures into national policies, strategies and planning (Target 13.2)

Number of countries that have communicated the establishment or operationalisation of an integrated policy/strategy/plan which increases their ability to adapt to adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development in a manner that does not threaten food production (including a national adaptation plan, nationally determined contribution, national communication, biennial update report or other) (Indicator 13.2.1)

Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning (Target 13.3)

Number of countries that have integrated mitigation, adaptation, impact reduction and early warning into primary, secondary and tertiary curricula (Indicator 13.3.1)

Number of countries that have communicated the strengthening of institutional, systemic and individual capacity-building to implement adaptation, mitigation and technology transfer, and development actions (Indicator 13.3.2)

Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and Small Island Developing States (SIDS), including focusing on women, youth and local and marginalized communities (Target 13.b)

Number of least developed countries and small island developing States that are receiving specialized support, and amount of support, including finance, technology and capacity-building, for mechanisms for raising capacities for effective climate change-related planning and management, including focusing on women, youth and local and marginalized communities (Indicator 13.b.1)

SDG 14: Life Below Water – Conserve and sustainable use the oceans, seas, and marine resources for sustainable development

By 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution (Target 14.1)

Index of coastal eutrophication and floating plastic debris density (Indicator 14.1.1)

By 2030, increase the economic benefits to Small Island Developing States (SIDS) and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism (Target 14.7)

Sustainable fisheries as a proportion of GDP in Small Island Developing States (SIDS), least developed countries and all countries (Indicator 14.7.1)

Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of “The future we want” (Target 14.c)

Number of countries making progress in ratifying, accepting and implementing through legal, policy and institutional frameworks, ocean-related instruments that implement international law, as reflected in the United Nations Convention on the Law of the Sea, for the conservation and sustainable use of the oceans and their resources (Indicator 14.c.1)

CONCLUSION

The Committee notes that the Department of Environments collaborative efforts with the Department of Town and Country Planning as one of the approving authorities in enforcing legislative requirements. However, this collaboration should be extended to other approving authorities such as town and city councils, Department of Lands & Mineral Resources (Ministry of Lands & Mineral Resources), Department of Forests (Ministry of Forestry), i-Taukei Land Trust Board ('**TLTB**') in order to gain effective service delivery.

The Department has focused on the improvement of its internal processes through the introduction of operating procedures on the EIA process. It is important to note that it also requires mechanisms to ensure that the administration of the EIA Unit supports sound governance arrangements to fulfil its responsibilities and be accountable for its decisions and actions.

In addition, the legislative and organisational requirements ensure that the EIA Unit provides evidence-based information and advice to the Director of Environment on projects that are subject to EIA. In view of this, the Department needs to strengthen its internal EIA processes to avoid inconsistencies in managing evidence-based information and oversee the implementation of approval conditions for projects by monitoring, documenting and provide reports on the current level of compliance with conditions for approval of development projects.

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



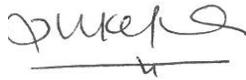
.....
Hon. Alvick Maharaj
(Chairperson MP)



.....
Hon. Joseph Nand
(Deputy Chairperson MP)



.....
Hon. Virendra Lal
(PAC Member/MP)



.....
Hon. Ro Teimumu Kepa
(PAC Member/MP)



.....
Hon. Aseri Masivou Radrodoro
(PAC Member/MP)

APPENDICES

**APPENDIX 1:
PUBLIC ACCOUNTS COMMITTEE QUESTIONS**

PUBLIC ACCOUNTS COMMITTEE

QUESTIONS

Chapter 1 Legal Framework, Policies & Planning

Legislative assessment of EIA Process

1. The requirements of the Act is for approving authorities¹ to make determinations on whether Environment Impact Assessments (EIA) will be needed for those developments that qualify under Schedule 2 and part 2 of the Act.

What is the current status of this coordinated arrangement ie. Is there any plan to include these stakeholders (*town and city councils, rural local authorities, Department of Lands, Department of Forests, and i-Taukei Land Trust Board*) in the evaluating of development proposals for Environment Impact Assessments?

Administration of risks and other policies

2. What is the management action plan on the risk identified at operational level concerning EIA processing? (Considering that there is no documented Risk Management Policy in place)
3. What are the components of the draft Risk Management Policy, and what is the timeline for finalising the document?

Profiling Regulatory Risks

4. FICAC has provided training on risk management, corruption and bribery to the Department. Is there a management action plan in place to ensure measures and controls from these trainings are implemented?
5. There is a Standard Operating Procedures (SOPs) for guiding EIA Officers. When was the recent update/review of this SOPs?

Defining and Documenting the role and responsibilities of the EIA unit

6. Has the Department developed an EIA Annual Work Plan and performance measures for EIA Officers in their Individual Work Plans?

Monitoring delegated decision making

7. What system is in place to ensure quality is not compromised in the entire EIA process?

EIA Screening, Processing and Report Timelines

8. The process of re-submitting incomplete applications by project developers is not reflected in the mandated timeline. How is this challenge resolved at the Department level?
9. The Department has stated that effective from October 2020, it has reduced the processing timelines for fully complete applications. How is this information classified in the Environment register and useful for decision making?
10. How about the applications that are not fully complete resulted in a re-submission. Is there a plan to capture this in the procedures?

Customer or Stakeholder Management Relationship

11. The work of the unit prioritises the processing of EIA which is between the stakeholders and the Department. How does the Department assess its own improved customer services?
12. Why are the Annual Reports for the years 2016 to 2020 not prepared?
13. When will the 2018/2019 and 2019/2020 draft Annual Reports be finalised?

PUBLIC ACCOUNTS COMMITTEE

QUESTIONS

14. What governs the Gold Card membership initiative and what is the current progress of this initiative?

15. The Department has indicated that a Communication Strategy is being developed. What is the current status?

Managing Conflict of Interest and Fraud in the EIA unit

16. Can the Department advise us on whether a Conflict of Interest Policy has been developed to mandate the filling of Conflict of Interest Declaration forms by EIA Officers?

17. When do you intend to finalise the development of the Regulatory Risk Policy and what are the elements included in the policy?

Credibility of the EIA Consultants

18. The Department should ensure that the EIA Code of Practice is documented, implemented and monitored by EIA unit. What is the current progress of the EIA Code of Practice?

Management of information in the Environment register

19. What is the current status of automated e-tracker system for records to be available online and how controls will be manage?

Chapter 2: Screening, Processing & Review Decisions

Screening process of the EIA in Fiji & EIA Processing review and decision

20. What is the current status of due diligence checks for screening and processing of EIA for project proposals?

EIA reports prepared by accredited EIA consultants

21. What are the current controls in place to detect unregistered consultants providing EIA services to project developers?

Written reports on the review of EIA reports

22. What is the current status of the recommendation on the standard review report template to be used and enforced for all future review reports?

23. What is the current status of the register of review reports on EIA?

Chapter 3: Post EIA Approval Monitoring of EIA Conditions

Compliance monitoring framework

24. What is the current status of developing a risk-based compliance monitoring strategy and the integration of monitoring activities as a key performance measure?

Compliance Inspection reporting on EIA approval conditions

25. What is the current status of strengthening the provisions of the compliance and monitoring policy in ensuring consistency in the inspection and reporting process?

26. What is the current status of ensuring that monitoring and reporting for inspection of development proposals include compliance with the approval conditions?

**APPENDIX 2:
PUBLISHED WRITTEN EVIDENCE – MINISTRY OF
WATERWAYS & ENVIRONMENT**



MINISTRY OF ENVIRONMENT

Levels 1 & 2, Bali Tower, 318 Toorak Road
P. O. Box 2109
Government Buildings, Suva, Fiji

TELEPHONE NO: (679) 3311-899

EMAIL: info6@govnet.gov.fj

Hon. Alvick Maharaj
The Chairperson
Public Accounts Standing Committee
Parliament of Fiji
P.O. Box 2352
Government Buildings

RE: CLARIFICATION OF ISSUES – PERFORMANCE AUDIT ON THE MANAGEMENT OF ENVIRONMENT IMPACT ASSESSMENT (PP NO. 273 OF 2020)

In reference to the letter dated April 01, 2021 the Ministry of Environment (Ministry) provides the following clarification/information as required.

Chapter 1: Legal Framework, Policies & Planning

1.1 Legislative assessments of EIA process

What is the current status of this coordinated arrangement?

Is there any plan to include these stakeholders (town and city councils, rural local authorities, Department of Lands, Department of Forests and i-Taukei Land Trust Board) in the evaluating of development proposals for Environment Impact Assessments?

Presently the Department of Town and Country Planning (DTCP) has set up its Environment Management Unit (EMU) within their Department and exercising duties as an Approving Authority under section 27 (1) of the Environment Management Act 2005 (EMA 2005). In the Ministry's view, most development activities listed under Schedule 2 Part 2 falls under DTCP and they have been exercising their responsibilities under the Act as an Approving Authority.

Other authorities have not begun this process within their respective EMU's or may not have an EMU setup at all to enable this process to take place. As for processing of EIA applications, these stakeholders are part of the Technical Review Committees appointed to review of EIA reports, undertake site joint inspections with the Department or are invited to attend public consultations organized during the Social Impact Assessment exercise and public consultations during the review of EIA reports.

1.2 Administration of risks and other policies

What is the management action plan on the risk identified at operational level concerning EIA processing? (Considering that there is no documented Risk Management Policy in place)

What are the components of the draft Risk Management Policy and what is the timeline for finalizing the document?

The Department is in the process of finalizing the Risk Management Policy (RMP) for administration of risks. Components of the RMP includes the Introduction section, Standard Operations Procedures, Charts, Legislation, Levels of Risk, the Risk Management Matrix and Management Action Plan.

The document will be finalized by mid-June, 2021.

1.3 Profiling Regulatory Risks

FICAC has provided training on Risk Management, corruption and bribery to the Department. Is there a management action plan to ensure measures and controls from these trainings are implemented?

The Risk associated with EIA processing and Management Action plan is being finalized (please see 1.2 above). In the interim, EIA Officers are continuously reminded of their responsibilities as civil servants and the code of conduct. The Department's Management hold Unit wide and one-to-one meetings; where officers are also reminded to work honestly and report any matters relating to corruption, bribery immediately to the Permanent Secretary, Director and their supervisors. Awareness (both to the officers and the general public and permit applicants) are raised during and through our EIA/Business Roundtables and EIA clinics.

There are Standard Operating Procedures (SOPs) for guiding EIA officers. When was the recent review of this SOP?

The SOPs are regularly reviewed for any potential gaps both in the interest of the process integrity and of course customer service excellence. The most recent review being in **February 2021**, working with an external consultant as part of the Ministry's digital transformation program. The checklists within the SOP's has been further refined to include a more robust 'counter vetting checklist' for the EIA screening process, EIA processing and receiving EIA reports. The SOP was last updated in October 2020.

1.4 Defining and Documenting the role and responsibilities of the EIA Unit

Has the Department developed an EIA Annual Work Plan and performance measures for EIA Officers in their Individual Work Plans?

All EIA Officers have an Individual Work Plan in place. The annual work plan for the Department and individual Units are derived from the annual budget. The Ministry also reports on the progress made to the Ministry of Economy on a quarterly basis. The EIA Units work is dependent on the number of EIA applications received, EIA processing and compliance and monitoring works.

1.5 Monitoring delegated decision making

What system is in place to ensure quality is not compromised in the entire EIA process?

The EIA process is a legislated. The process engages with both external and internal experts. Consultants who are engaged in the EIA study are qualified and registered with the Department of Environment. When there is a concern regarding quality of the process or the EIA report being submitted, the consultant is called in for an interview meeting and notified (and gaps fixed). As an **additional quality measure the Department streamlined EIA consultant practice in 2018**. This was completed through one-on-one interviews with the consultants and re-registering them under specific practice portfolios based on their expertise, educational qualification and professional experience. There are also consultant engagement sessions (and roundtables) for consultants organized by the Ministry to that effect.

During the review of the EIAs, experts from various agencies including academic institutions and NGOs are appointed to review the reports. If the Department finds gaps in the reports, the EIA is not approved. Additional information is required to make informed decisions.

1.6 EIA Screening, Processing and Report Timelines

The process of re-submitting incomplete applications by project developers is not reflected in the mandated timeline. How is this challenge resolved at the Department level?

With respect to the above query, the EIA officers strictly use counter vetting checklists for accepting applications and reports for processing. The timeline for processing starts when the complete application/EIA report is accepted by the Department.

The Department has stated that effective from October 2020, it has reduced the processing timelines

for fully complete applications. How is this information classified in the environment register and useful for decision making?

All applications processed by the Department is registered in the EIA register, when required information is retrieved from the environment register. The Department also uses internal tracking systems to track applications and timelines.

How about the applications that are not fully complete resulted in a re-submission. Is there a plan to capture this in the procedures?

Staff are instructed to strictly not accept incomplete submissions in the first instance. However, if the Department through the review process finds gaps in the EIA report, the EIA is not approved and additional information is sought.

1.7 Customer or Stakeholder Management Relationship

The work of the unit prioritizes the processing of EIA which is between the stakeholders and the Department. How does the Department assess its own improved customer services?

The EIA Unit has an internal tracking system to track the progress of every files/complaints/requests/query/applications made to the Department of Environment. A specific officer is also assigned to manage this tracking-system and provide reports to the Executive Support Officer, Director Environment and the Permanent Secretary. Officers are also required to provide progressive updates to clients on files they are assigned with. Additionally, the Ministry will be running an annual survey prior to the end of the current fiscal year.

Why are the Annual reports for the years 2016 to 2020 not prepared and submitted to Parliament as stipulated under the Financial Management Act 2014? When will the 2018/2019 and 2019/2020 draft Annual Reports be finalized?

Annual Reports for the years 2016 (January to June), 2016/2017 and 2017/2018 are under print (under the Ministry of Local Government, Housing and Environment). 2018/2019 and 2019/2020 have been finalized and will be sent for printing and tabling in Parliament before end of this year.

What governs the Gold Card membership initiative and what is the current progress of this initiative?

Membership is exclusive (unless otherwise approved by the Permanent Secretary) to companies who are compliant to the Ministry of Environment's permitting requirements which include compliance to the Environment Management Act 2005, Environment Management (EIA Process) and Environment Management (Waste Disposal and Recycling) Regulations 2007, Ozone Depleting Substances Act 1998, Litter Act 2008 and the Endangered and Protected Species Act 2002 and have no outstanding fee payment/debts with the Department. Businesses must also demonstrate that they have contributed efficiently to promoting energy efficiency and green building, renewable energy, addressing our supply impacts, and contributing to environmentally conscious solutions including promoting recycling initiatives at workplace.

The membership is valid for a period of 2 years.

Currently there are 4 clients who have qualified and are members of this initiative. The Department plans to expand this program through its Environment Business Roundtable events

The Department has indicated that a Communication Strategy is being developed. What is the status on this?

The Communication Strategy has been finalized.

1.8 Managing Conflict of Interest and Fraud in the EIA unit

Can the Department advise the Committee on whether a Conflict of Interest Policy has been

developed to mandate the filling of Conflict of Interest Declaration forms by EIA Officers?

The Department/EIA Unit has a Conflict of Interest Declaration form. Each Officer has to fill out the form before they start processing applications.

When does the Ministry intend to finalize the development of the Regulatory Risk Policy and what are the elements included in the policy?

The Regulatory Risk Policy will be included under the Ministry's Risk Management Policy (to be completed by mid-June, 2021). Please also see 1.2.

1.9 Credibility of the EIA consultants

The Department should ensure that the EIA Code of Practice is documented, implemented and monitored by EIA unit. What is the current progress of the EIA Code of Practice?

The EIA Code of Practice has been finalized. It will be sent to SG's Office for legal vetting and submitted for Cabinet endorsement before it is gazetted.

1.10 Management of information in the Environment Register

What is the current status of automated e-tracker system for records to be available online and how controls will be managed?

The Department has in place electronic tracking done at Officer Level (using Microsoft excel). The Department has been liaising with a number of companies regarding e-tracking system. The system once up and running will be managed by the Department. Hardware (servers) will be located at the Government ITC data center.

Chapter 2: Screening, Processing & Review Process

2.1 Screening process of the EIA in Fiji & EIA Processing review decision

What is the current status of due diligence checks for screening and processing of EIA for project proposals?

The Department continues to undertake counter check all applications using the counter vetting checklists. Should project developers not submit full documentations (as per the Checklist), applications are not accepted and returned back to developers during counter service.

For processing EIAs – scientists and subject area experts from various agencies including academic institutions and NGOs are consulted. The scientific data and methodology is verified by these experts/scientists before a decision is made by the Department.

2.2 EIA reports prepared by accredited EIA consultants

What are the current controls in place to detect unregistered consultants providing EIA services to project developers?

Currently the Department has in place a designed template (Acceptance Criteria – Counter Vetting) for use by EIA officers when EIA reports are submitted. Item 3 in checklist requires confirmation if the EIA report was prepared by an accredited consultant and if the consultant has specific area of expertise relative to the proposed development. Should this be checked "No" by the EIA Officer, the EIA report is not accepted.

The use of this in-house controls, has detected unregistered consultants providing EIA services. The Department has been in touch with the clients and have made available on the Ministry's website names/contacts of all Department of Environment registered consultants.

2.3 Written reports on the review of EIA reports

What is the current status of the recommendation on the standard review report template to be used and enforced for all future review reports?

The Department has developed a Review Report Template and it being used by EIA officers.

What is the current status of the register of review reports on EIA?

All review reports are kept in-file and are entered into the EIA register (to be digitalized shortly)

Chapter 3: Post EIA approval Monitoring of EIA conditions

3.1 Compliance monitoring framework

What is the current status of developing a risk-based compliance monitoring strategy and the integration of monitoring activities as a key performance measure?

The Department is constantly carrying out monitoring works and through these monitoring work has found a number of companies that are non-compliant.

The Ministry is currently working with other line Ministries and the Fiji Police to strengthen our compliance and monitoring work.

This matter will also be included in the Risk Management Policy

3.2 Compliance inspection reporting on EIA approval conditions

What is the current status of strengthening the provisions of the compliance and monitoring policy in ensuring consistency in the inspection and reporting process?

EIA Officers follow the Site Inspection Template for all inspections undertaken, and are guided by the Environment Management (EIA Process) Regulations 2007 for undertaking Compliance Inspection (Regulation 34) and Site Inspections (Regulation 13). The Ministry is currently working with other line Ministries and the Fiji Police to strengthen our compliance and monitoring work

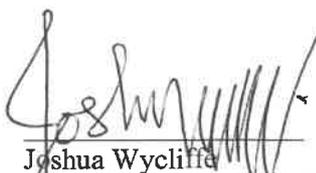
What is the current status of ensuring that monitoring and reporting for inspection of development proposals include compliance with the approval conditions?

EIA approval includes conditions that proponents must adhere to, some of which includes: the submission of the Environment Management Plan (EMP) to describe the environmental protection measures that will be put in place and the environmental monitoring and surveillance program of action; setting up of the Environment Monitoring Committee (EMC) to verify that the environmental protection plan (in the EMP) is being fulfilled and adverse impacts of the proposal documented; and random monitoring inspection(s) of the proposed activity by the Department. If the conditions of approval or that of the EIA is breached, the Department of Environment reserves the right to cancel the approval and take appropriate action.

Real-time reporting application is being finalized – there is a network of surveillance cameras operating at various locations. The Department is finalizing a system to have real-time reporting and action based on the same. The Department also possesses drone systems and will include drone coverage reporting format(s) – the anticipated timeframe for this form of reporting (to go live) is expected to be around the end of the current calendar year.

The Ministry is currently working with other line Ministries and the Fiji Police to strengthen our compliance and monitoring work.

Should you require further clarification regarding this correspondence, please contact the undersigned.


Joshua Wycliffe
Permanent Secretary
Ministry of Environment
22.04.2021

File Copy



MINISTRY OF ENVIRONMENT

Levels 1 & 2, Bali Tower, 318 Toorak Road
P. O. Box 2109
Government Buildings, Suva, Fiji

TELEPHONE NO: (679) 3311-699

EMAIL: info6@govnet.gov.fj

Hon. Alvick Maharaj
The Chairperson
Public Accounts Standing Committee
Parliament of Fiji

RE: RESPONSE TO QUERIES RAISED BY THE PUBLIC ACCOUNTS STANDING COMMITTEE

The Ministry of Environment (Ministry) writes to provide responses/information following queries raised during the Public Accounts Standing Committee (PAC) Meeting for the Performance Audit on the Management of Environment Impact Assessment (PP No. 273 of 2020) held on August 31, 2021.

- a) *In response to the question raised by Hon. Asaeli Radrodro on developments involving prospecting mining licenses, if they are required to undertake Environment Impact Assessment (EIA) process.*

Mining and mineral exploration is a listed activity under Schedule 2 Part 1 of the Environment Management Act 2005. Therefore any company who intends to undertake mineral exploration/prospecting must submit an EIA screening application to the Department who will then make a determination if a detailed EIA study must be undertaken or otherwise the submission of an Environment Management Plan (EMP). The Environment Management Act 2005 covers air, land and water.

- b) *In response to the supplementary question raised by Hon. Asaeli Radrodro if Viti Mining Propriety Limited and Dinjing Mining Limited have complied with the EIA requirements for the proposed prospecting mining license for Nabila (Nadroga), Viani (Cakaudrove) and Wailoaloa (Nadi).*

Viti Mining Limited submitted EIA screening applications to the Department in October 2020 for the proposed Special Prospecting License (SPL) for Nabila, Nadroga and Viani, Cakaudrove. The scope of the prospecting proposal includes rock sampling, soil sampling, trenching, geophysics, topographic survey and potential drilling for precious base metals.

The Ministry processed the application and undertook a site visit to the prospecting site in Nabila, Nadroga before requiring Viti Mining Limited to submit an Environment Management Plan (EMP) for the proposed exploration works. Following the submission of the EMP report (for Nabila, Nadroga), the EMP report was reviewed and approved for Phase 1 (only) of the project (which includes light exploration work, sampling and geochemistry, geological assessment, desktop review, cartography, and geophysics). It was also a condition of the approval(s) that should works occur within private properties or leased land; Viti Mining Pte Limited must get the consent of owners of those land/property.

The EMP report for the prospecting license in Viani, Cakaudrove is yet to be submitted by Viti Mining Limited. Once submitted, the Department will review the report and make a decision.

In response to Ding Jing Mining Pte Limited in Wailoaloa, Nadi, the Ministry has not received any EIA screening application from Ding Jing Mining Pte Limited for the proposed mineral exploration works in Wailoaloa, Nadi.

- c) *To provide further information on the question raised by Hon. Lal on the type of training provided to EIA officers.*

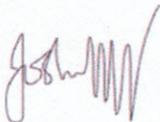
Within the past 4 years, Environment officers were trained in the area of investigation, environment management planning, prosecution, investigations, EIA processing and environmental safeguards. These trainings were facilitated by the Asian Development Bank (ADB), Office of the Director of Public Prosecution (DPP), Commonwealth Scientific and Industrial Research Organization (CSIRO) and the Department of Environment. Staff trained are directly involved in the EIA process and holding entry, medium and senior level position in the EIA unit within the Department of Environment.

- d) *In response to the question raised by Hon. Teimumu seeking an update on issues relating to the sand mining project in Votua, Ba.*

Amex Resource Limited (ARL), the proponent, submitted an EIA application to the Department of Environment in March of 2011. Following a scoping exercise by the Department, a Terms of Reference (TOR) was issued to the company for an Environmental Impact Assessment to be undertaken. Amex Resource Limited submitted an EIA Report to the Department of Environment in September, 2011; following a review process that included a public consultations, the EIA report was approved on December 13, 2011. The Terms of Reference for the EIA study included the need for a social assessment to be undertaken. An integral part of the social study was to identify how the development would impact community values and community life and the overall social organization of the communities residing in the area. As part of the social assessment, house to house interviews and public consultations with local communities and villagers who use the adjacent i'qoliqoli was carried out by the EIA consultants. In addition to the two public consultations that were held, consultations were also conducted with the three (3) Yavusa of the Vanua of Votua which included the Yavusa Narai, Yavusa Balavu and Yavusa Nadua.

Through the EIA process, all due diligence were followed and public consultations were undertaken with the wider community and the i'qoliqoli owners. Environmental concerns raised during the public consultations were addressed through the mitigation measures in the EIA report and the approval conditions issued to Amex Resource Limited.

Should you require further clarification regarding this correspondence, please contact Ms. Sandeep K Singh on phone +679 9926659 or email on singhsk@govnet.gov.fj



Joshua Wycliffe
Permanent Secretary
Ministry of Environment
File Copy

Mateo W. Lagimiri

From: Mateo Lagimiri <mateo.lagimiri@legislature.gov.fj>
Sent: Sunday, September 19, 2021 3:21 PM
To: Mateo W. Lagimiri
Subject: Fw: Performance Audit on EIA Performance

From: Senimili N. Baleicakau <senimili.baleicakau@govnet.gov.fj>
Sent: Friday, September 17, 2021 2:14 PM
To: Savenaca Koro <savenaca.koro@yahoo.com>
Cc: Mateo Lagimiri <mateo.lagimiri@legislature.gov.fj>; doenvfiji@gmail.com <doenvfiji@gmail.com>
Subject: Performance Audit on EIA Performance

Dear Mr. Koro

Following our phone-conversation this afternoon, the Department would like to inform that during the PAC Meeting on 31 August 2021 we missed out the mentioning of Fiji Airports as one of the approved Gold Card Members.

Many Thanks



Senimili Nakora |

Principal Environment Officer |
Department of Environment |
Ministry of Environment, Fiji |
P O Box 2109, Government Buildings, Suva |
Levels 1 & 2, Bali Tower, Toorak |
Ph: (679) 3311699 |

Please think of the environment before printing



APPENDIX 3: VERBATIM REPORT

A copy of the verbatim report can be accessed on the Parliament Website using the following link:
<http://www.parliament.gov.fj/committees/standing-committee-on-public-accounts/>