



FOREST CLEARING AUTHORITY CASE STUDY 3

WHERE'S THE BEEF?

The Wasu 'Cattle Farm' Project

ABOUT THIS REPORT

This is a publication of ACT NOW!

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Cover image: Log stockpile.

Image Credit: Wagner T Cassimiro

ACT NOW! is a community advocacy organisation based in Papua New Guinea. Its vision is for a 'gutpela sindaun blong olgeta' (a just and equitable society) that embraces PNG's rich and diverse cultural and biological heritage and is based on the principles of sharing, communal land ownership and environmental stewardship.

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TABLE OF ABBREVIATIONS

DAL	Department of Agriculture and Livestock
FCA	Forest Clearing Authority
FMA	Forest Management Agreement
Ha	Hectares
ILG	Incorporated Land Group
LDC	Livestock Development Corporation
LLG	Local-level government
LFA	Local Forest Area
m ³	Cubic metre
PGK	Papua New Guinea kina
PNG	Papua New Guinea
PNGFA	Papua New Guinea Forest Authority
TA	Timber Authority
TRP	Timber Rights Purchase Agreement

1. EXECUTIVE SUMMARY

ACT NOW! is publishing a series of case studies looking at Forest Clearing Authority concessions in order to highlight concerns with the way these concessions – now responsible for the majority of PNG’s round log exports – are being granted and managed. An FCA is a type of logging licence that is granted to allow forested land to be cleared for agriculture or another land use. FCAs are meant to be tied to a specific underlying project – usually agriculture, while a more stringent licence type – the Forest Management Agreement – is used for selective logging operations. However, FCAs appear to have become a back door to allow companies to bypass, in whole or in part, consultation and sustainability requirements in the *Forestry Act 1991*.

This report, the third in the series, focuses on a project that is referred to alternately as a cattle project or an integrated agriculture project, but in which we have not as yet seen signs of either cattle or agriculture. The Morobe-based Wasu Integrated Agriculture Project (elsewhere referred to as the Wasu Cattle Farm), received an FCA in 2019 and began exporting logs in 2021. To date it has generated over US\$4.5 million (15.6 million kina) in log export revenue for Malaysian-owned Wasu Resource Limited.

Based on a review of corporate filings and log export monthly monitoring reports, Wasu Resource Limited appears to be part of a corporate group operating in Morobe that includes Malaysian-owned companies Lucky Logging Limited and Lucky 99 (PNG) Limited. ACT NOW! makes no allegations against specific directors or shareholders of those entities.

Landowner representatives from the project area interviewed by ACT NOW! have said they have not seen any evidence of an agriculture or cattle project in the Wasu FCA. Satellite imagery in the area appears to show that the logging undertaken is more consistent with selective logging (ie: the type of commercial timber project intended to be authorised by an FMA), rather than the kind of land clearance that would suggest a future agricultural project.

There is also strong evidence that the project does not have the consent of all affected landowners. An investigation on the ground by ACT NOW! has revealed that two landowning clans in the project area have raised objections to the project and assert that they were not properly consulted before the FCA was granted. One of the clans, the Nzera clan, is in the middle of a formal land mediation process and has raised serious concerns that a logging licence was granted over their land before its ownership was determined. Consent of affected clans is a legal precondition for the grant of an FCA and without this, an FCA should be considered invalid.

There are reports that the Wasu project has exacerbated conflict in the community. The project has also shifted control over forest resources from local indigenous landowning groups to a foreign-owned company.

ACT NOW! wrote to Wasu Resource Limited, Lucky Logging Limited and Lucky 99 (PNG) Limited to raise these concerns and ask for more information, however no response was received prior to publication.

Based on the evidence available, ACT NOW! has significant questions about the Wasu project and the legal validity of the Wasu Cattle Farm FCA (FCA 13-03).

RECOMMENDATIONS

1. Wasu Resource Limited should:
 - a. Immediately cease all logging activities in the Wasu Project area until an investigation of the project's legality has been undertaken;
 - b. Rehabilitate any areas that have been degraded if illegal selective logging has occurred;
 - c. Provide compensation for any logging activities that are found to have occurred in contravention of the terms of the FCA, or under an invalid FCA, and associated environmental impacts to the customary landowners;
2. The National Forest Board, supported by the PNG Forest Authority, should:
 - a. Urgently investigate the legality of the Wasu FCA, in particular whether the FCA was granted improperly as it lacked the consent of key affected landowners, and whether the logging under the FCA has met the licence conditions;
 - b. Order Wasu Resource Limited to immediately stop any further logging under the FCA and further exports of already felled logs from the FCA, until PNGFA has investigated the legality of the project;
 - c. Cancel the FCA for the Wasu Cattle Farm Project (FCA 13-03) if it cannot be shown that all relevant landowners consented to the project; and/or suspend all logging rights under the project if the project is found not to be complying with its licence terms;
 - d. Review Lucky Logging Limited and Lucky 99 (PNG) Limited's other logging projects in Morobe;
 - e. Investigate whether Lucky Logging Limited, Lucky 99 (PNG) Limited and Wasu Resource Limited, have committed any of the offences in section 122 of the *Forestry Act 1991* and, if so, impose the relevant penalty;
 - f. Provide compensation for any illegal logging activities and associated environmental impacts to the customary landowners.
3. The Department of Agriculture and Livestock should:
 - a. Investigate the Wasu FCA and determine: whether any agricultural activities have been undertaken to date and whether the forestry activities undertaken are consistent with an agriculture or cattle project;
4. Banks and financial institutions providing services to companies in the Lucky Logging corporate group should:
 - a. Review their risk exposure and conduct enhanced due diligence on any arrangements that could be connected to funds generated from the Wasu Project or the activities of companies mentioned in this report, with legal support from experts on forestry laws in PNG.
5. To address the systematic misuse of FCAs for large-scale selective logging, the PNG Forest Authority should:
 - a. Publicly release information on the outcomes of the 2022 review of FCAs, including a list of the FCAs reviewed and the findings of each review;
 - b. Undertake a new, independent, public and transparent audit of all existing FCAs and commit to implementing its recommendations;
 - c. Suspend log exports from all existing FCAs until the review results are published;
 - d. Impose a fresh moratorium on new FCAs until all a transparent independent audit of FCAs has been undertaken and its recommendations implemented;
 - e. Immediately establish a public register as required under the Forestry Act.

2. INTRODUCTION

This research is part of a series of reports examining Forest Clearing Authorities (FCAs) looking at the granting of FCA licenses and the implementation of agricultural and land use development projects within FCA areas. An FCA is a type of logging licence intended to allow forest clearing to promote use of land for the economic development. However, previous reports by ACT NOW! and others have discussed cases in which FCA licences have been misused to facilitate large-scale selective commercial logging activities.

This report looks at the Wasu Cattle Farm Project in Morobe Province (also known as the Wasu Integrated Agriculture Project), which was granted an FCA in 2019, ostensibly for a cattle farming project. It asks whether the Project has been consistent with the laws of PNG that are intended to protect PNG's forests from unsustainable timber harvesting. In particular, the report examines:

- Whether the project lacked the required consent of key landowning communities;
- Whether an FCA licence was misused to facilitate selective logging rather than agricultural clearing;
- Whether a genuine agricultural or livestock project is being, or will be, delivered;
- Issues reported by landowners in the project area, including lack of delivery of development benefits.

The following report is based on field investigation, site visits, observations and interviews undertaken by ACT NOW! in 2023, supported by desk-research. We sent letters in December 2023 to Papua New Guinea Forest Authority (PNGFA), Department of Agriculture and Livestock (DAL), and Livestock Development Corporation (LDC). These letters aimed to gain a better understanding about the Wasu FCA project and the corporate entities' awareness, if any, of any incidents impacting locals living in the areas. We also wrote to Lucky Logging Limited, Lucky 99 (PNG) Limited and Wasu Resource Limited in March 2024. As at the date of publication, we have received no responses from these organisations.

2.1 THE WASU FCA

The Wasu FCA is located in the Tewae-Siassi District, which sits along the coastline in the northern part of Morobe Province, including some of the island areas. The District consists of three local-level government (LLG) areas: Sialum Rural LLG, Siassi Rural LLG and Wasu Rural LLG. As of 2021, the total recorded population living in the District was 58,052.¹

According to Global Forest Watch, from 2002 to 2022 Morobe province lost tree cover of up to 109,000 hectares (ha), 3% of Morobe's land area, of which over half was primary forest loss.² The commercial timber industry and land conversion are major drivers of forest loss in Morobe. Records available on the PNGiForests website and PNGFA's own website show approximately 15 timber harvesting licenses granted in the province between 1973 and 2022, including three FCA licenses.³

Tewae-Siassi district, where the Wasu concession is located, has one of the highest rates of forest loss in Morobe.⁴ The district has seen increasing primary forest loss over the past two decades.⁵

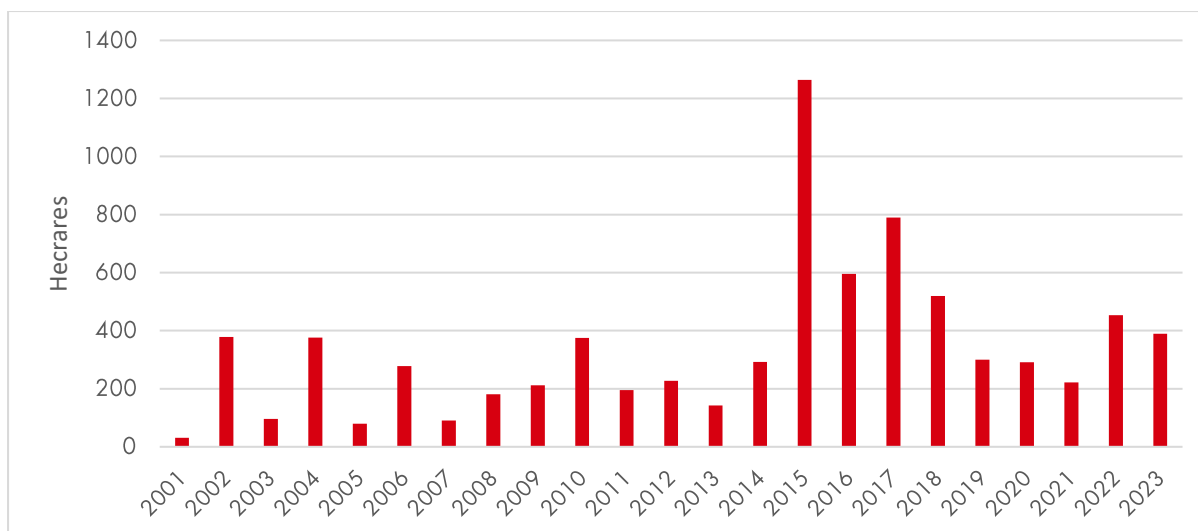


Figure 1. Primary forest loss in Tewae-Siassi district, Morobe province in the past two decades (ha), Source: <https://www.globalforestwatch.org/>

The Wasu Integrated Agriculture Project FCA (13-03) was issued to Wasu Resource Limited in 2019. Wasu Resource Limited has exported 69,482m³ of logs from the concession since 2021.⁶

Table 1. Key information: Wasu concession

Concession	Wasu FCA project
Type of project development activities	Integrated agriculture project
Permit/License no.	FCA 13-03
Area (Ha)	40,000
Year(s) acquired	2019
Period of project (years)	20
Contractor/ Log exporter	Wasu Resource Limited
Log exports (m3) from 2021 to 2023	69,482
Values of log exports from 2021 to 2023	15.65 million kina / US\$4.83 million

Source: Data from pngiforests.org and pngfa.gov.pg and SGS Monthly Log Export Monitoring Reports 2021-2023 (Data as at December 2023)

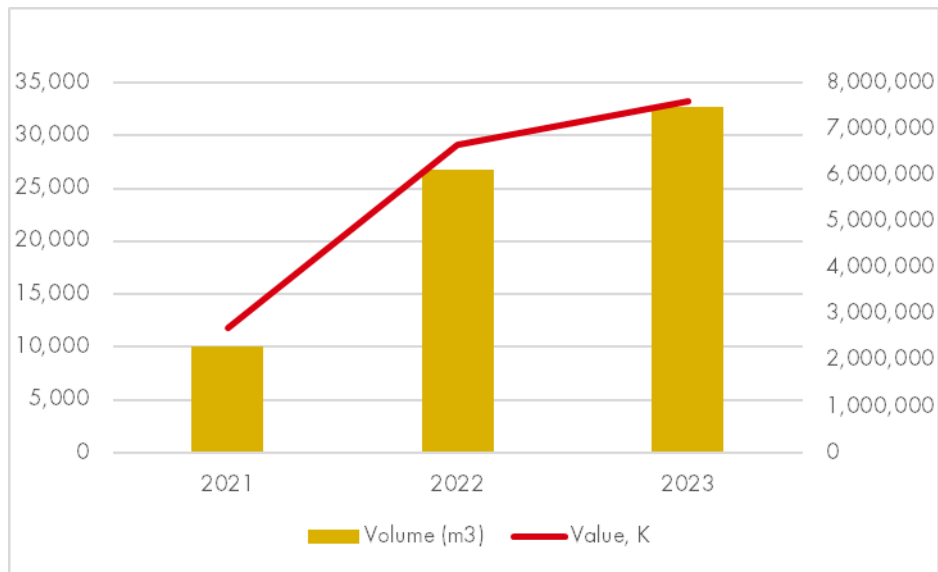


Figure 2: Log Exports from Wasu FCA Project Site by volume (m3) and value (PNG kina, K), from 2021 to 2023, Source: SGS report 2021 (Data as of December 2021), SGS report 2022 (Data as of December 2022) and SGS report 2023 (Data as of December 2023)



Bird of Paradise (Source Shutterstock)

3. FOREST CLEARING AUTHORITIES

The logging in Wasu is occurring under a Forest Clearing Authority, which is one of three logging concession types allowed in PNG's *Forestry Act 1991*.

The three logging concession types defined in the Act are:

- Forest Management Agreement (FMA): an agreement between customary landowners and the PNGFA for the sustainable management of large areas of forest and selective timber harvesting. Under the contract the PNG Forest Authority (PNGFA) acquires the long-term rights to manage the forest. The PNGFA is then able to select a logging company to sustainably harvest timber and issue them with a timber permit.
- Forest Clearing Authority (FCA): in contrast to a Forest Management Agreement, an FCA is intended to facilitate conversion of defined areas of forested land to agriculture or other land uses. The FCA is granted “for the purpose of clearance of natural forest on areas designated for agriculture or other land use development”.⁹
- Timber Authority (TA): this is used to authorise small-scale harvesting activities. This is defined as the cutting of less than 5,000 cubic metres of timber for domestic processing, the removal of up to 50 hectares of forest for agriculture or other land use change, the clearing of a roadline not exceeding 12.5km in length or harvesting non-timber forest products or a timber plantation.

On top of this, logs are still exported each year under the historical, pre-1991 Forestry Act, concession types, the Timber Rights Purchase Agreement (TRP) and the Local Forest Area (LFA).¹⁰

According to reports from Swiss certification company SGS, FCAs were responsible for the largest proportion of log exports in 2023.¹¹

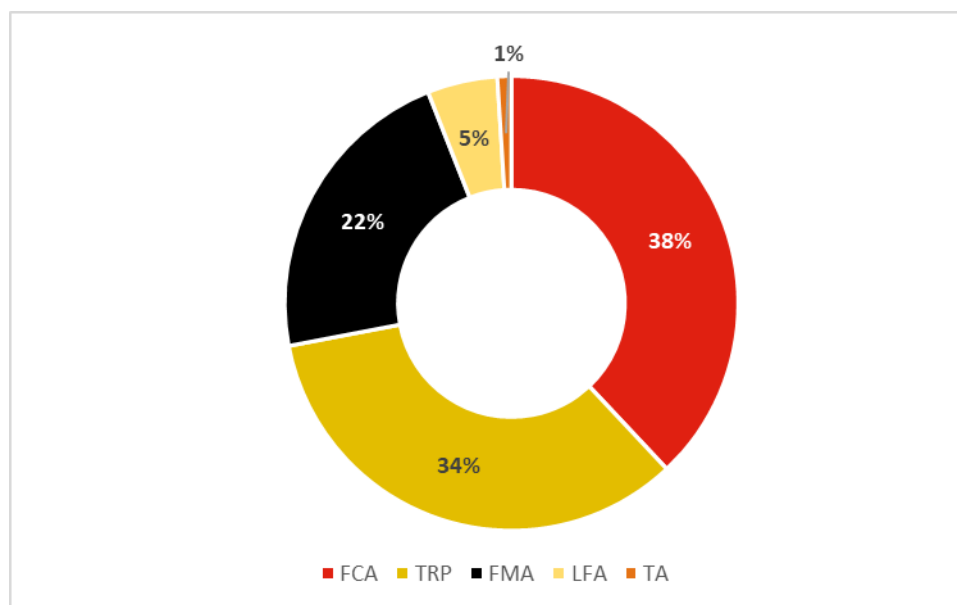


Figure 4. Log exports from PNG by licence type, 2023. Source: SGS December 2023

3.1 LEGAL REQUIREMENTS FOR FCAS

The National Forest Board, which comprises senior government officials and members representing the forestry industry and the community, is responsible for granting FCAs.¹² The PNGFA has responsibility for negotiating conditions for granting of an FCA, and the relevant Provincial Forest Management Committee is responsible for evaluating FCA applications and making recommendations to the Board.¹³

Having an agricultural (or other land use) project is a requirement for approval of an FCA. Before the National Forest Board can grant an FCA, it needs to consider a detailed development plan, implementation schedule for the agricultural (or other land use) project, a map showing any areas that are important for conservation or unsuitable for agricultural or other land use development and other information about the project.¹⁴ These documents are not generally publicly available.

The Board also needs to see evidence of landowner consent, in the form of a document that verifies the consent of each resource owning clan, via their Incorporated Land Group or clan agent. There also needs to be a government report showing that a public hearing was held about the project, close to the project site, and an agreement between the landowners and the project proponents.¹⁵

The *Forestry Act* requires FCA holders to clear land for agriculture or another use. Generally, in PNG, logging projects use selective logging – that is, trees with a merchantable value are identified, felled individually and removed from the area for sale, leaving behind smaller or lower value trees.¹⁶ An alternative to selective logging is ‘clear cutting’, removing all trees from the area to leave cleared land that can be used for crops or livestock. The *Forestry Act* states:

- (9) A forest clearing authority shall –
 - (a) in order to ensure that the planned agriculture or other land use actually takes place, provide that any forest clearing operation shall be authorised in four phases, each phase –
 - (i) shall represent approximately one quarter of the total area to be cleared under the forest clearing authority; and
 - (ii) contain such conditions as are determined by the Board; and
 - (iii) shall be subdivided into blocks for clearing of a maximum of 500 hectares unless the Board considers that the maximum of 500 hectares is inappropriate in the circumstances in which case it may increase or decrease the maximum clearance figure.¹⁷

Permission for logging under a second or any subsequent phase may only be granted “for the same purposes of forest clearance for agriculture or other land use” where all conditions relating to the development plan and implementation schedule for the agricultural or land use project have been satisfied.¹⁸

Rights under an FCA may be suspended “where the planned land use for which a forest clearance authority is granted is not progressing according to the development plan or implementation schedule” or any condition of the FCA is breached.

The above text clearly indicates that an FCA is a permit for land clearing – i.e. removal of all trees – and that logging is only permitted insofar as it is part of the implementation of an agricultural project. There is no mention of permission for selective logging under an FCA. The Logging Code of Practice, which sets out the requirements for selective logging in PNG, refers to FMAs but makes no mention of FCAs.¹⁹

4. ISSUES IN THE WASU FCA PROJECT

ACT NOW! has concerns about whether the Wasu FCA Project's approval was consistent with PNG law. In particular, some landowning clans living in the Wasu area have stated that they were not consulted about the project and did not give their consent to it, proper process in granting the FCA appears not to have been followed and there does not appear to be any evidence of a genuine agriculture project.

4.1 DID ALL RELEVANT LANDOWNER GROUPS CONSENT TO THE PROJECT?

Customary landowner consent to a logging project is a legal requirement. Over 95% of PNG's total land area is under customary ownership, which is recognised and protected under PNG's Constitution.²⁰ Before an FCA can be granted, the *Forestry Act* requires that the National Forest Board consider "a verification of ownership and the consent of each resource owning clan agent (or incorporated Land Groups if they have been formed) within the project area", a report on a public hearing, and "an agreement or agreements between the landowners and the proposed development of the agriculture or other land use project."²¹ This requires the involvement of all stakeholders, including the local, district and provincial governments, landowners and civil society.²²

The Supreme Court of PNG has previously considered what consultation is appropriate for a land use project and emphasised the 'Papua New Guinean Way' of consultation, as emphasised in Section 5 of the Constitution. The Court commented:

Papua New Guinean way of meeting and consultation with landowners as I discussed above and as provided by the Constitution was required because the SABL [Special Agricultural and Business Lease] and the related activities or projects were going to interfere with and affect their traditional lifestyle, their customary rights to land, rivers, the sea and forests. The SABL was granted to the fifth defendant for 99 years, that is how long the landowners would be denied from the use and enjoyment of their land. So the generations of landowners would be affected. This is why the defendants needed to go to the villages in SABL areas and talk to the landowners, in their families clans and tribes, in the languages they could understand. If they did understand English, Pidgin or Motu, then use interpreters to interpret things in their own languages. This to me is the Papua New Guinean way of consultation and making awareness to the landowners as envisaged by s. 5 of the Constitution. By doing things this way, people and their cultures will be recognized, acknowledged and respected.²³

ACT NOW! has serious concerns about whether all the landowning clans were properly consulted and gave their approval before the Project was approved.

Two affected clans from the Project areas – the Nzera Clan living in Sio Village and the Levo Clan living in Karangan Village -have voiced their opposition to the operations of the FCA project. The Nzera Clan (Kulambi Tribe) claim to be the principal landowning clan own most of the land and forests currently being logged under the Wasu FCA project. Nzera clan representatives have stated that their clan members were not educated about the project's details and not informed about the project implementation plans. They stated they were not aware of the project at all until the logging began in their area.²⁴

...We, being the affected landowner has never been made aware nor included in every stage of the project... We therefore, would like to present to your knowledge that there has never been any awareness presented to the concerned landowners. Instead, we were surprised by a strange project upon our land...²⁵

In interviews with ACT NOW!, Nzera Clan representatives provided information that suggests a weak consultation and awareness-raising process.



AIKUNG AND CARL
SPOKESPERSONS
FROM NZERA CLAN

The project took everyone in Sio by surprise... there were only one or maybe two sub-clans involved with the logging company who knew about the logging before it started. All the other sub-clans, we are against the project...The owners of the land, the people of Sio, we never gave our consent.

ACT NOW! also interviewed a teacher living in the affected area who noted that “The community have not been involved in decision making...There was no public meeting, no awareness”.²⁶ Another interviewee, a member of the Legus clan from Karangany village, also commented that he did not believe those who consented to the project were genuine landowners.²⁷

Nzera clan representatives have also stated they were excluded from consultation meetings as part of the FCA application process, while other clans whose land is likely to be less affected were invited to the consultation. The consultation meeting is an important part of the FCA approval process and required under the Forestry Act.²⁸



We were never consulted. Forestry Officers never came to us and explained to us that there is going to be agriculture or other projects were going to take place on our land, we never identified our land for such projects yet the company pushed to go into our land which we never consented to.

AIKUNG
NZERA CLAN, SIO VILLAGE

The Nzera clan is currently in the process of applying for an Incorporated Land Group (ILG).²⁹ The clan has also been in an ongoing land dispute and mediation process with another neighbouring clan.

The logging has led to disputes between clans and disharmony in the community. In a letter to the PNGFA, dated December 2022, Nzera landowners stated:³⁰



**NZERA
LANDOWNERS**

This has ignited a tense situation that have resulted in a fight leaving the resource owners wounded. Nzera, being the responsible clan over the forest part of Sio's Landscape, blame this dispute on 'Poor Public Hearing', which denies the resource owner's knowledge to effectively participate in the operation. Being the principal clan (according to our historical records, which awaits to be declared during/after the completion of the mediation), are not satisfied with the way and processes involved in the operation...

Representatives of the Nzera Clan wrote to the PNG Forest Authority on four occasions: in September 2022, December 2022, March 2023 and November 2023 (with the Levo Clan), bringing these and other concerns about the project to the Authority's attention.

The Morobe Provincial Forest Manager responded to the Nzera clan's September 2022 letter, noting that the clan's concerns were too broad and did not specify which project in the Tewai Siassi District the community was referring to. He invited the clan representatives to visit for more clarification. Beyond this, this response did not provide any clear information to address the issues the clan had raised.³¹

All of the above claims call into question whether the government agencies involved in the granting of this FCA followed the necessary procedures under law. The fact that one of the key clans in the project area has stated that it did not consent to the project suggests there may have been errors in the process of verifying ownership and consent over the land. ACT NOW! has not seen the documentation presented to the National Forest Board for this FCA, but even if signed verification of ownership forms (Form 267) were presented, the onus is on the Board and those advising them (PNGFA and the Provincial Forest Management Committee) to ensure that these accurately reflect ownership of the land. In this case, the Nzera Clan has claimed that an active land dispute was underway, placing even more onus on the relevant agencies to ensure that all clans living in the FCA area were consulted and provided their consent to the project.

As the likely project applicant, Wasu Resource Limited should also have ensured that the project had the consent of all landowning clans, and that paperwork submitted for approval accurately reflected customary landowning arrangements in the area. As stated above, ACT NOW! has not seen the FCA application in this case and do not know what knowledge Wasu Resource Limited would have had regarding the customary landownership dispute involving the Nzera Clan. However, appropriate due diligence should have revealed the existence of a land dispute in the area and flagged the need for consultation with the Nzera Clan and to either obtain their consent or wait for the resolution of the dispute.

4.2 IS THERE A GENUINE AGRICULTURE OR CATTLE FARMING PROJECT?

The Wasu FCA licence allows the company to clear the land for developing agricultural activities (or other land use requiring clearing). The project is described in log export records as “Wasu Cattle Farm”. ACT NOW! requested information from PNGFA, DAL and LDC about what cattle farming or other agricultural activities were proposed for the Wasu area, but did not receive a response. We also wrote to Wasu Resource Limited to seek this information, but also did not receive a response.

ACT NOW! visited the Wasu FCA area, but did not see any evidence of agricultural activities in the area. We interviewed landowners in the logging areas who said there has been no preparation for cultivation activities nor cattle farms. There have been only logging activities implemented by the company. Some of the affected clans first learned from ACT NOW! that the project was intended for cattle. Instead, the affected clans knew only that the Wasu FCA was a logging project.

Community members have informed ACT NOW! that there was a small community-run cattle project in the neighbouring Sialum area, with cattle produced for sale and customary use. This predated the project.



AIKUNG AND CARL
FROM NZERA CLAN
SEPTEMBER 2023

There is no cattle project under FCA 13-03. The logging company hasn't said anything about a cattle project. There has not been any public awareness done about what is going on. We don't know what our rights are or what sort of project is proposed. We have asked Forestry, but they have never come to help us. We want our cries to be heard...We have not been included in any aspect of this project.

On 29 August 2023, ACT NOW! called in to a FM100 radio talkback show where the Managing Director of the Livestock Development Corporation confirmed that there is no need to clear rainforest for cattle.³²



MANAGING DIRECTOR
LIVESTOCK DEVELOPMENT
CORPORATION

If you look at the country right now, we have so much grassland that needs to be used for cattle farming. There's no need for us to, you know, cut any tall trees or clear the forest, like oil palm people are trying to do. We don't want to destroy the forest. We want to keep the forest that's there. We want to use all the grassland – all the available grassland in our country we want to use them for cattle ranging first.

In the same discussion, the Managing Director indicated he had never heard of the Semon Cattle Farm, a Lucky Logging project in a neighbouring district of Morobe.

4.3 IS THE LAND BEING CLEARED FOR AGRICULTURE?

As discussed in Section 3.1, an FCA is a permit for land clearing, not selective logging. Satellite imagery on tree cover loss between 2015 and 2022 from Global Forest Watch suggests that there has been scattered logging in the Wasu rural LLG, rather than systematic agricultural clearing and planting, which would appear as larger blocks of tree cover loss in one area, rather than smaller blocks spread across the area.³³

As discussed above, the Forestry Act requires that land be cleared in 500 hectare blocks and then developed for agriculture (or other land use) in accordance with the project's implementation schedule. However, the satellite imagery does not show evidence of this kind of agriculture clearance in recent years, and the major forest loss appears to be selective logging near the new logging roads.



Figure 5. Tree cover loss (>30% canopy cover) in the eastern part of the Wasu LLG area, 2020-23, shown in pink. The red square (added) shows the size of a 500 hectare clearance block for reference. The pattern of tree cover loss (pink areas) appears consistent with several scattered patches of logging along roads rather than clearance in 500 hectare blocks. (Source: Global Forest Watch database <https://gfw.global/3Rq7fB5>, authors' analysis)

Under the Forestry Act, there is no provision for selective logging to be done under an FCA. The Act provides the Forest Management Agreement as the only process to allow selective logging operations and ensure they are managed sustainably.³⁴ However, previous research by ACT NOW! into other unrelated projects in PNG has found evidence of FCA contractors undertaking selective logging to extract only large trees and high value tree species, rather than clearing the land for agricultural development.

While ACT NOW! is not advocating for land clearing, the practice of undertaking selective logging within FCA areas can allow logging companies to avoid the safeguards involved in the FMA application process, which include an intensive awareness process among customary landowners, negotiation of terms between government and landowners with consultation at each stage of the process and stringent environmental assessments and sustainable annual logging quotas.³⁵ While both the FCA and FMA require landowner consent, the FMA process has stricter procedural requirements designed to ensure landowner consent is meaningful. The FMA process also places more restrictions on logging volumes than the FCA as the whole FMA concept is premised on the basis of sustainable forest management over a thirty-five year logging cycle.

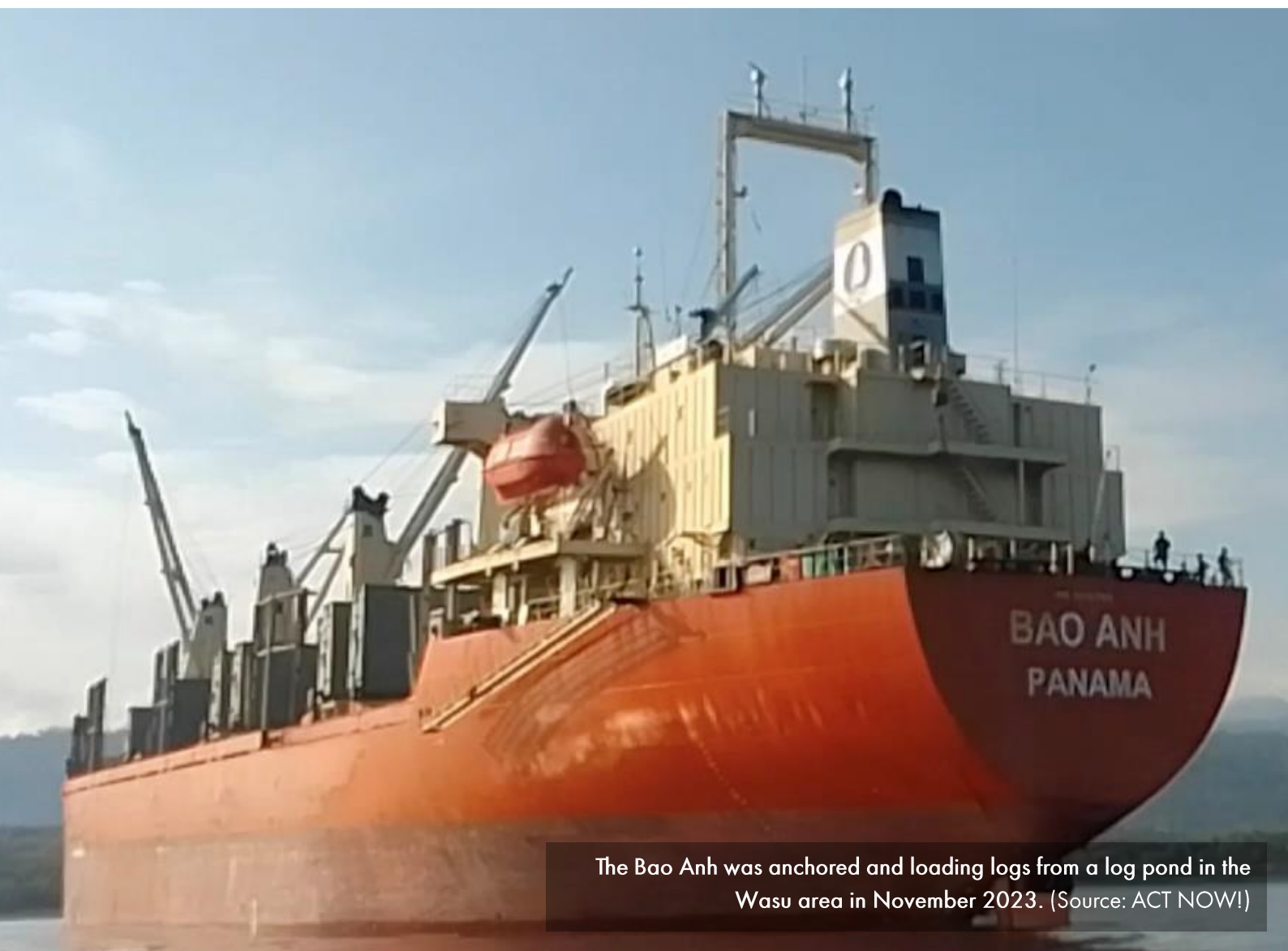
4.4 DEVELOPMENT BENEFITS

Landowners from the Wasu FCA area told ACT NOW! that they have not received any of the development benefits promised by the logging company. For example, it is claimed none of the expected schools or infrastructure development have been constructed.³⁶

One teacher living in an affected village said that “The only benefit the communities have seen is employment. But even then, they were underpaid. There have been no services provided, no schools, no roads, no water supply”.³⁷

Landowners from Bongo and Kulavi villages, who wished to remain anonymous, also spoke to ACT NOW! about their concerns that Wasu Resource Limited has failed to meet its development promises, but continues to ship logs from the concession.³⁸ Another landowner from Karang Village stated “The company came in between 2019 and 2022. When they arrived, they promised to build road, bridges, schools etc. But until today, there is no such community development.”³⁹

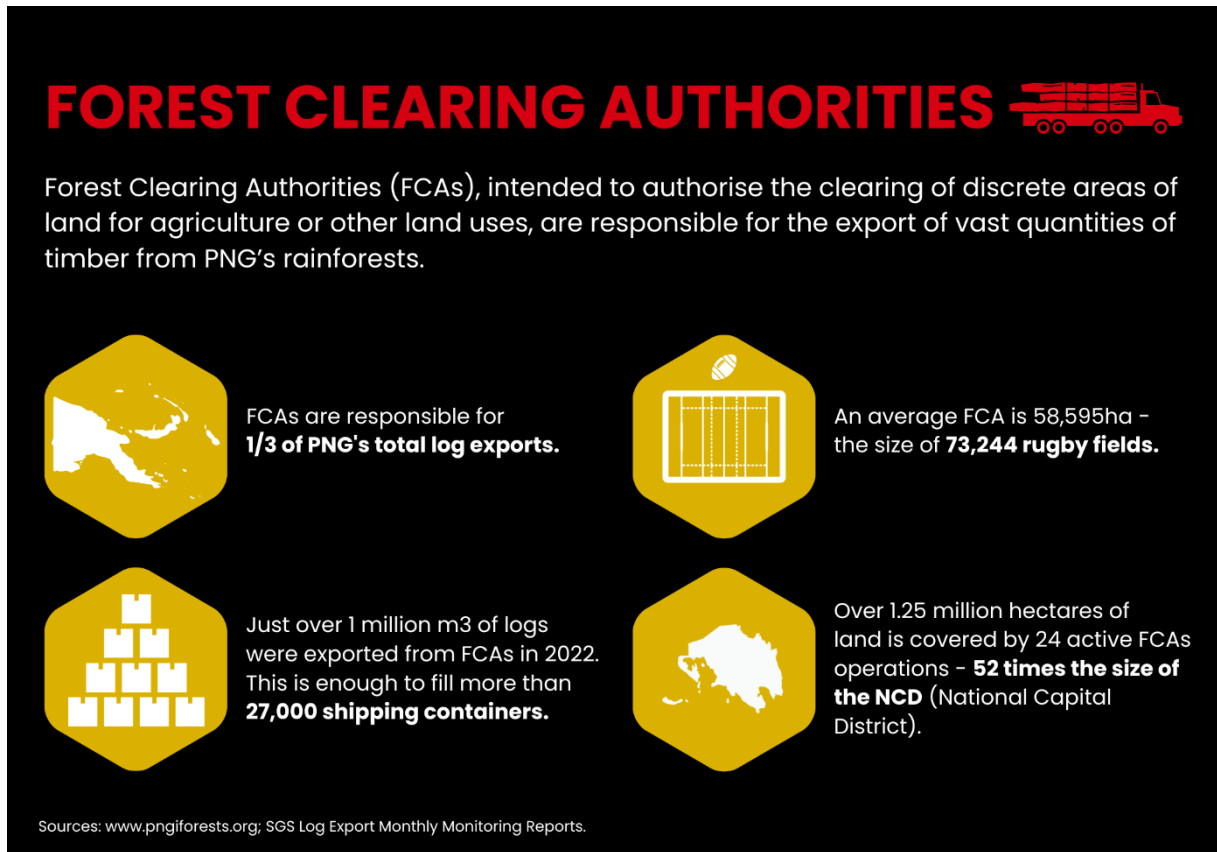
ACT NOW! has not been able to verify what, if any, infrastructure or development benefits were either promised or delivered by Wasu Resource Limited, and the company has not replied to our request for information on this.



The Bao Anh was anchored and loading logs from a log pond in the Wasu area in November 2023. (Source: ACT NOW!)

5. FCAS NATIONALLY – A SYSTEMATIC PATTERN OF MISUSE

PNG is the world's largest exporter of unprocessed tropical logs. Just under one-third of those logs are currently harvested from operations authorised under an FCA.



While FCAs are intended to be granted only in situations where discrete areas of forest need to be cleared for an agricultural or other land use project, there are numerous reports of FCAs being misused for large-scale selective logging operations. For example, in 2018 Global Witness detailed evidence from field investigations that showed some FCAs were not being used to convert forest to agriculture projects but for extensive logging.⁴⁰ Forest Trends' 2021 Timber Legality Database also reports:


FOREST TRENDS
2021

Forest clearance permits intended for agricultural development, often used as a pretext for gaining access to timber, have become a major source of logs exported from PNG over the last decade. These permits are frequently issued illegally and without transparency or due process, in particular violating laws around customary land rights.

These concerns have been endorsed by the PNG Forest Authority's own officers. In a 2017 planning retreat, PNG Forest Authority staff identified managing FCAs and agriculture clearance as a key priority area. It was noted that "existing procedures are not being fully implemented due to developers bypassing elements of the process and political pressure for developments to go ahead." The workshop made a number of key recommendations for the future management of FCAs including, "develop only 500ha blocks at a time" and cancellation of "non-compliant" FCAs.⁴¹

It is possible that FCAs are being used to bypass the long process of developing an FMA, which is the appropriate licence for a selective logging operation. Applying for an FMA is a much more laborious and intensive process than an FCA application, involving 34 detailed steps.⁴² These steps include an intensive awareness process among customary landowners, negotiation of terms between government and landowners with consultation at each stage of the process and stringent environmental assessments. While both the FCA and FMA require landowner consent, the FMA process has stricter procedural requirements designed to ensure landowner consent is meaningful. The FMA process also places more restrictions on logging volumes than the FCA as the whole FMA concept is premised on the basis of sustainable forest management.

In September 2023, ACT NOW! and Jubilee Australia published *Ten Years Without A Crop*, a case study on the Wammy FCA project in West Sepik Province.⁴³ That report revealed how another Malaysian owned logging company has been allowed to selectively log an area of over 100,000 hectares since 2013 under the guise of establishing an agriculture project that has never eventuated. In November 2023, ACT NOW! published *A New Land Grab*, a case study on the 52,500 ha Mengen FCA project in East New Britain Province, which was approved without a viable agriculture project and in the face of vocal landowner opposition.

ACT NOW! has also published an assessment of the Wewak-Turubu FCA project in East Sepik Province that has been ongoing since 2010.⁴⁴ A report from an official government inquiry and National and Supreme Court cases have all established the FCA was granted without the informed consent of local landowners and there is considerable evidence that the planned oil palm project has been established on pre-existing grassland areas with no forest clearance involved. Meanwhile, the logging company has exported more than 1 million cubic metres of logs over a fourteen-year period from a large-scale selective logging operation in adjacent forest areas. This has included logging both within and outside the FCA boundary.

In December 2022 the National Forest Board responded to the concerns of abuse in the use of FCAs by imposing a 12-month moratorium on the issuing of new FCA permits and ordered an audit of existing FCA operations.⁴⁵

That moratorium, which has now ended, has not impacted the existing and ongoing FCA operations and the PNG Forest Authority has not responded to calls to conduct the auditing of these operations through an open and transparent process.

6. CONCLUSION AND RECOMMENDATIONS

This report highlights a number of concerns about the Wasu Integrated Agriculture Project and its associated Forest Clearing Authority. In particular it raises concerns about whether the project lacked the consent of two key clans – the Nzera and Levo clans – living in the project area. Members of these clans are directly affected by the logging project. Representatives of the Nzera clan in particular have claimed that they were not adequately consulted about the project, that the project was approved during an active land dispute, and that they did not provide their consent. Consent of affected clans is a legal precondition for the grant of an FCA and without this, an FCA may be considered invalid.

The project also raises questions about whether other FCA requirements were met, in particular:

- The requirement for an underlying agriculture or land use project, with currently no signs of a new cattle project in the area;
- Whether the logging undertaken is consistent with the Forestry Act, as satellite imagery suggests that the logging undertaken in recent years is more consistent with selective logging than agricultural land clearing.

These two requirements are also key to the validity of the FCA.

The project may be another example to add to the already long list of projects in which FCAs appear to have been misused to facilitate selective logging for export, rather than national agricultural development. If companies are able to obtain an FCA for large-scale selective logging, the Forest Management Agreement process, with its sustainability safeguards and consent procedures, is pointless. This drives unsustainable forest loss and jeopardises the implementation of PNG's national goals around forest protection and carbon capture. Approving FCAs without demonstrated agriculture projects also holds back agricultural development and means that communities do not have access to the benefits that might flow from a genuine agricultural project in the area.

Based on the above, ACT NOW! recommends:

1. Wasu Resource Limited should:
 - a. Immediately cease all logging activities in the Wasu Project area until an investigation of the project's legality has been undertaken;
 - b. Rehabilitate any areas that have been degraded if illegal selective logging has occurred;
 - c. Provide compensation for any logging activities that are found to have occurred in contravention of the terms of the FCA, or under an invalid FCA, and associated environmental impacts to the customary landowners;
2. The National Forest Board, supported by the PNG Forest Authority, should:
 - a. Urgently investigate the legality of the Wasu FCA, in particular whether the FCA was granted improperly as it lacked the consent of key affected landowners, and whether the logging under the FCA has met the licence conditions;
 - b. Order Wasu Resource Limited to immediately stop any further logging under the FCA and further exports of already felled logs from the FCA, until PNGFA has investigated the legality of the project.
 - c. Cancel the FCA for the Wasu Cattle Farm Project (FCA 13-03) if it cannot be shown that all relevant landowners consented to the project; and/or suspend all logging rights under the project if the project is found not to be complying with its licence terms;
 - d. Review Lucky Logging Limited and Lucky 99 (PNG) Limited's other logging projects in Morobe;

- e. Investigate whether Lucky Logging Limited, Lucky 99 (PNG) Limited and Wasu Resource Limited, have committed any of the offences in section 122 of the *Forestry Act 1991* and, if so, impose the relevant penalty;
 - f. Provide compensation for any illegal logging activities and associated environmental impacts to the customary landowners.
3. The Department of Agriculture and Livestock should:
 - a. Investigate the Wasu FCA and determine: whether any agricultural activities have been undertaken to date and whether the forestry activities undertaken are consistent with an agriculture or cattle project;
 4. Banks and financial institutions providing services to companies in the Lucky Logging corporate group should:
 - a. Review their risk exposure and conduct enhanced due diligence on any arrangements that could be connected to funds generated from the Wasu Project or the activities of companies mentioned in this report, with legal support from experts on forestry laws in PNG.

FOREST CLEARING AUTHORITIES

The Wasu Project is just one of 24 currently exporting FCAs in PNG. The issues that appear to be present in this project have been reported in numerous FCA areas, including via the SABL Commission of Inquiry and recorded Court decisions. These concerns may have prompted the PNG Forest Authority's 2022 moratorium on issuing new FCAs. This moratorium was very welcome in light of the well documented legal and human rights concerns in relation to FCAs, but it has now ended and it is unclear that any of the issues with misuse of FCAs have been resolved, meanwhile, new FCA projects continue to be approved

ACT NOW! therefore recommends that:

1. The PNG Forest Authority should:
 - a. Publicly release information on the outcomes of the 2022 review of FCAs, including a list of the FCAs reviewed and the findings of each review;
 - b. Undertake a new, independent, public and transparent audit of all existing FCAs and commit to implementing its recommendations
 - c. Suspend log exports from all existing FCAs until the review results are published;
 - d. Impose a fresh moratorium on new FCAs until all a transparent independent audit of FCAs has been undertaken and its recommendations implemented;
 - e. Immediately establish a public register as required under the Forestry Act.



Logs stacked at a log pond in the Tewae-Siassi area (Source: supplied)

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- ¹⁵ *Forestry Act 1991* (as amended), s 90A and 90B.
- ¹⁶ See Papua New Guinea Logging Code of Practice 1996, at p. 5.
- ¹⁷ Forestry Amendment Act 2007, s 90B(9)
- ¹⁸ Forestry Amendment Act 2007, s 90B(9)
- ¹⁹ Papua New Guinea Logging Code of Practice 1996, at p. 5
- ²⁰ See: *Constitution of the Independent State of Papua New Guinea 1975*, s 53 and 54; *Lands Act 1996*, s 10 and 11.
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- ²³ *Maniwa v Malijiwi* [2014] PGNC 25. Available at: <http://www.paclii.org/cgibin/sinodisp/pg/cases/PGNC/2014/25.html>
- ²⁴ A letter from Nzera clan to the Morobe Provincial Government (Forestry Sector) dated on 19 September 2022, a letter from Nzera clan to Managing Director of PNGFA dated on 16 December 2022, and a letter from Nzera clan to Managing Director of PNGFA dated 29 March 2023.
- ²⁵ A letter from Nzera Clan to the Management of Morobe Provincial Government (Forestry Sector), dated on 19 September 2022.
- ²⁶ Interview with landowners, Wasu LLG, September 2023, by ACT NOW field observation.
- ²⁷ Interview with Miles Koik of Karangan Village, April 2024.
- ²⁸ See Forestry Amendment Act 2007, s 90A(f) (*note, this Act includes two subsections 90A(3)(f)*)

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- ²⁹ The ILG was developed under the *Land Groups Incorporation Act* of 1974. The ILG is intended to be a vehicle for clans to participate in any land and resource development projects, and provides legal recognition of groups (clans) to engage in such development activities.
- ³⁰ Letter from Nzera clan to the to Managing Director of PNGFA dated 16 December 2022.
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- ⁴⁵ Public Notice dated 22 February 2023.

