

**LAO PEOPLE'S DEMOCRATIC REPUBLIC
NAM THEUN 2 MULTIPURPOSE PROJECT**



**TWENTY-FIFTH REPORT OF THE
INTERNATIONAL ENVIRONMENTAL AND SOCIAL
PANEL OF EXPERTS**

**PART A: DEVELOPMENT OBJECTIVES FOR 2017 AND
BEYOND**

**PART B: RESTRUCTURING OF THE WATERSHED
MANAGEMENT PROTECTION AUTHORITY**

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ACRONYMS

ADB	Asian Development Bank
AFD	Agence Française de Développement
AP	Action Plan to close the RIP
CA	Concession Agreement for the NT2 Hydro Project
CLT	Community Land Title
DAFO	District Agriculture and Forestry Office
DEB	Lao Department of Energy Business
DLMC	District Land Management Committee
DOF	Department of Forestry
DoNRE	District Office of Natural Resources and Environment
DWG	District Working Group
EPF	Environment Protection Fund
GIZ	German Corporation for International Cooperation
GoL	Government of Lao PDR
HFMC	Hamlet Forest Management Committee
HIT	Household Income Target
HLMC	Hamlet Land Management Committee
IAG	World Bank Independent Advisory Group
IFIs	International Financial Institutions
IMA	Independent Monitoring Agency
KPI	Key Performance Indicator
LAK	Lao Kip
LENS2	Second Lao Environment and Social Project
LMC	Land Management Committee
LSMS	Living Standards Measurement Survey
MAF	Ministry of Agriculture and Forestry
MONRE	Ministry of Natural Resources and Environment
MTDP	Medium Term Development Plan
NGO	Non-Governmental Organisation
NNTNPA	Nakai Nam Theun National Protected Area
NRO	Nakai Resettlement Office
NT2DF	Nam Theun 2 Development Fund
NTFP	Non-timber forest product
NTPC	Nam Theun 2 Power Company
PAFO	Provincial Agriculture and Forestry Office
PLUP	Participatory Land Use Planning
POE	Panel of Experts
POFI	Provincial Office of Forest Inspection
PONRE	Provincial Office of Natural Resources and Environment
QSEM	Quarterly Social and Economic Monitoring Survey
R&R	Community Land Title Rules and Regulations
RIP	Resettlement Implementation Period

RMS	Reservoir Management Secretariat:
RMU	Resettlement Management Unit
SDP	Social Development Plan
SERF	Social and Environmental Remediation Fund
SSN	Social Safety Net
TA	Technical Assistance
VDC	Village Development Committee
VDF	Village Development Fund
VFA	Village Forestry Association
VFDC	Village Forest Development Company
VFG	Village Fishery Group
VLMC	Village Land Management Committee
WCS	Wildlife Conservation Society
WMPA	Watershed Management Protection Authority

EXECUTIVE SUMMARY

Introduction

This report responds to a request from the Government of Lao PDR (GoL) to comment on an Action Plan (AP) to close the Resettlement Implementation Period (RIP) as defined in the Concession Agreement for the Nam Theun 2 Hydro Project (CA) by December 2017. The report records our detailed comments on the objectives, indicators and key actions in the draft AP. Our suggestions are summarised under each pillar of the AP in terms of overall outcomes and indicators and specific important actions both by December 2017 and the longer term. We also comment on the institutional responsibilities and required capabilities for the period to the end of 2017 and the longer-term arrangements for governance and management of the development of the Nakai plateau and on.

The achievements of the AP will form a substantial part of the evidence for the POE's advice to the GoL in December 2017 on closure of the RIP.

Agriculture and livestock

There has been a significant further increase in cropping in the last year, in the form of cassava grown on contract, some agro-forestry, and rice, both upland and paddy. The number of gully dams and irrigated plots has increased and the company will respond to demand for repair of irrigation systems. Barbed wire fencing is extensive, protecting crops from wandering livestock. Numbers of buffalo and cattle have also increased, possibly beyond the carrying capacity of the plateau, but there is an increase in pasture and fodder crops as well, which may support more large animals than earlier expected.

The main risks to the project are identifying a suitable replacement for cassava, which significantly degrades the soil over 3-4 years, weaning farmers off the subsidies provided by the company without affecting production significantly, and finding more land for agriculture, probably from degraded community forest land.

We suggested setting targets for further plots in permanent agriculture and irrigated dry season cropping, increases in paddy rice yields, a shift of cassava to intercropping or rotational cropped with legumes, and progressively phasing out cassava. We proposed stabilising the Nakai herd at a (probably lower) number supported by the increase in available feed, further increasing pasture and fodder production, further increasing the large animal vaccination rate, improving market opportunities for livestock and a significant increase in farming small livestock (chicken and pigs) as a business.

Forestry

The forest sector has contributed virtually nothing to resettler incomes for several years now. The Village Forest Development Company (VFDC) is currently unable to make a profit and can process only a fraction of the timber quota allocated to it. The villagers have mostly given up on their Village Forestry Association (VFA) and the VFDC. Yet the community forests could yield much more: one expert estimate is that profits could be substantially increased – even doubled - without increasing the size of the annual log cut, while maintaining good forest stocks and protecting biodiversity.

A turn round in the fortunes of the sector will require first the GoL, with additional expertise from the World Bank and the NTPC, setting up a truly communal forestry operation and devising a strategy to achieve it, including a longer-term management plan, full forest inventory, improved forest management, and a VFDC upskilled management. The plan should cover all community forest use and not just timber harvesting. The GoL needs to back

this with technical support and a commitment to protecting the community forests from depredation. The Prime Minister's Order No 15 on timber exports and forest management is a welcome development.

We suggested indicators based on firm commitments from GoL and other stakeholders to legal and management backing and funding and technical resources and full support from villagers of the main elements of the strategy; effective protection against illegal removal of trees or other valuable forest products; and a return to efficient operations and profitability by the VFDC in 2017.

Community land use

The pressure on land on the plateau continues, with land grabbing widespread, encroachments and illegal use present in almost every hamlet, and unresolved disputes growing in number. Progress has been made with allocating additional land for larger households and second generation families but the allocation needs to be completed as a matter of priority. Community land use rights are poorly understood by villagers and sometimes by District officials as well. This lack of understanding contributes to land disputes and poorer households and minority ethnic groups missing out on additional agricultural land.

Decisions will need to be made on repurposing some community forest land for agriculture, within existing community land use regulations. District and villages need to have a common understanding of these regulations and plan for land use on that basis. Both District and Village Land Management Committees (DLMCs and VLMCs) need training in disputes resolution and outstanding major disputes ought to be settled before further land allocations proceed.

We suggested for indicators for 2017 that all major disputes are resolved, the allocation of additional lands is completed, a very high percentage of natural growth households have received their entitlements, and hamlets have plans in preparation for future use of community forest lands.

Fisheries

The Fisheries Pillar is the most successful of the livelihood pillars for the resettlers, and at the present level of fishing effort it appears to be sustainable. But there are risks. There is evidence of a lot of outsiders poaching fish, particularly north of the Thalang Bridge. Villagers on the Thalang Peninsula have limited fishing grounds because of the current protected zone. Villages in the southern zone also complain of incursions in their fishing zones by others.: probably 75% or more of fish although legally caught by resettlers do not pass through the legal landing sites, and patrolling of the reservoir is still not frequent or focused enough. The results are evident in the further declines in boat registration and fisher licensing.

For 2017 our suggested indicators are: fish protection areas are established, species diversity and fish stocks are maintained, legal fishing opportunities for northern cluster villages are improved, a new northern zone outpost is established (preferably at Old Sophia hamlet) and existing checkpoints are re-established, 80% each of individual boats, commercial boats and fishers are licensed, Village Fishery Group (VFG) and combined Watershed Management Protection Authority (WMPA) - VFG patrols are increased to several times a week, focused on areas of highest risk and randomly timed. Overall there should be a significant reduction in illegal fishing and trading based on patrol, checkpoint and other reports. For fish processing and marketing indicators we suggest that a market place is operating with upgraded facilities

in four villages and that there is a further increase in households involved in fish processing activities.

These objectives need to be supported by more effective cooperation on fisheries management between DAFO, WMPA and VFGs, an upgrade to DAFO's fisheries expertise, and resolution of the split jurisdiction problem at the north end of the reservoir.

Off-farm activities

Projects for developing employment and business opportunities outside the land (and reservoir) based occupations focus on skills training, marketing and business support, and finance for productive activities. Short-course skills training, continued at a lower rate in 2015, needs boosting but 13 longer-term scholarships were awarded to younger resettlers, a welcome development. The Nam Theun 2 Power Company (NTPC) embarked on a new participatory process to identify off-farm opportunities, piloted in one village. There are also signs of a response in the villages to the emerging opportunities for eco-tourism on the plateau, which should grow with the completed sealing of the "loop" road through Laksao.

Lending by Village Development Funds (VDFs) continues to grow and there has been a further modest increase in the share of broadly "productive" lending (small business, fishing, farming). The rate of loans significantly in arrears also rose somewhat but overall the funds remain creditworthy.

The draft AP usefully emphasized villager participation and engagement in planning new activities but could be more clearly focused on generating a broader range of income-earning opportunities. The training effort of the past has had a fairly low conversion rate into income generation. Business development should begin with identifying market opportunities before proceeding to specific business plans and helping villagers acquire the skills to implement them.

We suggested that the indicators for 2017 should focus on income generation and, in particular, that training is converted into income-generating employment and business, young people are gainfully employed following education, finance is available to meet demand for all viable small business requirements, new businesses are established, and income from village businesses increases.

Cross-Cutting Pillars

Poor and vulnerable households: the Action Plan contains a clear statement of measurable objectives consistent with the requirements of the CA and has a well-reasoned set of activities for ensuring they are achieved by the end of 2017. We underlined some important points: accurate identification of individual households in poverty requires continuing detailed monitoring during RIP by NTPC and appropriate similar means of monitoring by the district authorities after closure; support should be extended to subsequent growth households on the same basis as original and natural growth households; NTPC will backstop the District's proposed kinship support system with a guarantee of cash support, until 2035; support to equip poor and lagging households with livelihood options should continue beyond RIP and support may need to be tailored to ethnicity (perhaps at hamlet level), gender composition, or status as new natural growth households; people will continue to move in and out of poverty and guarantees of support should therefore extend to households who become "vulnerable" during the concession period.

Ethnic minorities: The draft AP addressing cross-cutting issues for ethnic minorities sets out a more positive and comprehensive program for taking care of the basic needs of ethnic minorities, improving their socio-economic status and fostering self-reliance. It is

important that ethnic minorities' voice is not lost in the larger village unit (in some cases a reality now); some important rights of ethnic minorities (for example, decision-making on land use) are better secured at the level of the hamlet (where legal land use rights also lie). Many development opportunities can also be usefully focused on the hamlet.

The AP acknowledges that NTPC and GoL staff need to be able to communicate effectively with ethnic minorities; the proposal for hiring a local ethnic minorities facilitator to undertake the livelihoods and expectations review is welcome and the position could usefully be longer term.

We draw specific attention again to the special circumstances of the Ahoe and recommend that families be allowed to remain in Old Sophia if they wish, perhaps to help police illegal fishing and fish marketing and wildlife poaching in the northern part of the reservoir.

Gender: The Action Plan for Gender sets some high level objectives for women in terms of education and health, economic opportunity and decision-making power and develops a rigorous and comprehensive approach to ensuring that a gender dimension is threaded throughout the Action Plan. The pillar is mostly about process and actual results of benefit to women should be embedded in the livelihood pillars. We suggested some ways of strengthening that perspective: more attention to the relative preferences of women for activities which suit their other commitments would be useful: e.g. to small livestock or home gardens; further development of fish processing; more focus on harvesting non-timber forest products (NTFPs); and a stronger relative focus on small business opportunities and training which fit women's other commitments. While women are better represented in the District and on village institutions, there is room for further improvement in achieving the gender balance targets. We suggest considering a specific survey of women in resettler households identifying their views on each of the major objectives of the gender strategy.

Medium-term development

Closure of the RIP is an arbitrary milestone imposed by the CA and does not spell the end of the development project on the plateau. The AP looks beyond RIP closure to a medium-term development plan. The NTPC will hand over responsibility for most development programs to the GoL but will remain as a major development funder until the end of the Concession period. There is a specific proposal from the Agence Française de Développement (AFD) for medium-term agriculture and livestock development and IFIs and other donors can also be expected to contribute.

The GoL's future role can be thought of in terms of its Sam Sang principles: villages as the development unit, districts as the integration unit, and provinces as the strategic unit. Focusing development on the Village and District, will enable proper coordination of the various inputs into the development project.

To meet these requirements, the District needs not only in-house technical skills in advising on cropping, animal husbandry, fisheries and forest planning and management but also in facilitation of participatory planning, business development and marketing and disputes resolution (particularly with respect to land). The GoL must support this by resourcing a staffing plan and overall budget for the District. Staff need to stay in place longer to become fully useful. The planning and administrative capabilities of the Village Authority and Village Development Committees (VDCs) also need to be strengthened. In the period up to closure, NTPC also needs to maintain its capability for implementing the AP.

We suggested that the AP in the medium term should cover: Village Plans based on participatory processes, covering all livelihood development including sector plans for agriculture and livestock, forestry, fishing, off-farm activity and hamlet land use decisions, and integrated into the Nakai District Plan; an overall development Steering Committee responsible for plans and project approvals, based in the District but including Provincial government and Ministries and with representation of funders or their agents as appropriate; and implementation by District Project Teams for each major livelihood pillar, consisting of relevant District staff together with TA agents as required.

Shifting primary responsibility for development to District and Villages will require strengthening the relevant District Offices, recruiting qualified District staff and retaining them for a minimum of five years; training naibans and hamlet associations for their role and providing Village Development Committees with the necessary administrative and technical support.

Major challenges for the Action Plan

Some major challenges of the Action Plan include the GoL authorizing the changes in law enforcement practices required to protect forests and fisheries; the Ministry of Agriculture and Forestry (MAF) and district offices helping to manage the revitalisation of community forestry; NTPC strengthening its Nakai team in the period to handover; substantial staff and budget increases for DAFO to meet its expanded role; motivating and empowering VDCs to take on their foundation role in development planning; resettlers becoming less dependent on outside agencies for development, contributing more of their own resources to activities, and fully including women and young people in hamlet and village management and in income producing activities; World Bank and NTPC support for the forestry pillar; and NTPC allocating a high proportion of the Nam Theun 2 Development Fund (NT2DF) to the District for management after RIP closure with appropriate monitoring and audit mechanisms in place.

The Watershed Management Protection Authority

Efforts to restructure and orient the WMPA in the last two years have failed. The organisation is mostly ineffective in its role of assistance of villages and patrolling the NPA. There should be an early and representative meeting of all stakeholders to discuss a new strategy. The strategy must include a complete restructuring. All staff except the Director should be required to reapply in a competitive process. WMPA Board of Directors should conclude a MOU with the Wildlife Conservation Society (WCS) to serve as a partner organization with the WMPA and be represented on the Board. The Board should appoint a recognized and responsible auditor to assure that the Secretariat applies the funds in accordance with an approved plan. if no substantial progress is made by November, 2016, the World Bank and EPF will need to reassess their rationale for supporting the NNTNPA.

1 INTRODUCTION AND MISSION



Interviewing, Nam Nien

1.1 Introduction: purpose and membership of the POE mission

This 25th Report of the International Environmental and Social Panel of Experts for the Nam Theun 2 Multipurpose Project in Lao PDR (POE) results from our visit to Laos in May/June 2016. It is in two Parts. Part A, Chapters 1-9 of the report, responds to a request from the Government of Lao PDR (GoL) for the POE to comment on a Comprehensive Action Plan to “close the Resettlement Implementation Period (RIP) as defined in the Concession Agreement (CA) by December 2017”. Part B of the report is Chapter 10, assessing the progress of the reorganization and restructuring of the Watershed Management Protection Authority (WMPA) and recommending further action.

We adopted our usual practice of first bringing ourselves up to date with the development situation by visiting the resettlement villages of the Nakai Plateau in central Laos. Much of the rest of our time in Laos, apart from talks on the WMPA, was taken up with discussions with the Joint Working Group (JWG) preparing the Action Plan both on what still needs to be achieved if the RIP is to be closed by the extended deadline of 31 December 2017, and on action which follows thereafter.

The POE team consisted of David McDowell (consultant, Otaki, New Zealand), Lee Talbot (Professor, George Mason University, Virginia, USA), and, as successor to the long time member Professor Emeritus Thayer (Ted) Scudder, Elizabeth Mann, a former consultant to the Asian Development Bank (ADB) working on social safeguards, land use and allocation and village planning issues in Laos, from the UK. They were again joined for the mission by Rob Laking (consultant, Wellington, New Zealand), former member and convener of the World Bank Independent Advisory Group (IAG) on the Nam Theun 2 project.

Part A of the Report was prepared by all three members of the POE. Part B is the work of David McDowell and Lee Talbot.

1.2 An Action Plan for RIP Closure

In its previous Report 24 the POE, whilst acknowledging the vigorous efforts made by the stakeholders to achieve the objectives of the project set out in its guiding document, the Concession Agreement (CA), found that the Resettlement Objectives and Provisions had not been fully met as yet, notably but not solely in terms of livelihood development and sustainability. The Panel therefore recommended that the RIP be extended by two years to December 2017. The Government, the Nam Theun 2 Power Company (NTPC) and the International Financial Institutions (IFIs) associated with the project including the World Bank and the Asian Development Bank, concurred in the recommendation.

Action since this decision has focused on an inclusive process, led by the Lao Department of Energy Business (DEB) supported by World Bank officials, to identify, analyse and prioritize action called for in both the short term and beyond. A Joint Working Group was formed by the GoL to develop an Action Plan (AP) designed “both to close the RIP consistent with the Concession Agreement and to support resettlers beyond closure of the RIP.” The purpose of the AP is to list specific issues and actions, with measurable indicators and verification included to determine whether or not RIP closure can be called in December 2017, and to identify initiatives to support sustainability of Nakai Plateau livelihoods beyond RIP closure as part of a Medium Term Development Plan (MTDP). The latter is to be funded by NTPC through to 2035, a far-sighted move which goes beyond the Company’s formal obligations set out in the CA.

The GoL had invited us before we left for Laos to advise the JWG on whether the Action Plan fully specified the actions needed by December 2017 to achieve the outcomes required in the CA Objectives and Provisions, particularly on sustainable livelihoods, and what evidence we would be looking for in December 2017 that the required outcomes had been achieved. We met the JWG in Vientiane nine times between 26 May and 6 June and provided detailed comments on the draft as requested. We suggested several redrafts of key objectives and indicators in the existing texts and, as requested by the GoL, indicated what actions we thought were particularly important in the remaining 18 months before the extended RIP deadline. The sectoral APs are now being edited and consolidated by stakeholders into one AP. This report records our response to objectives, indicators and key actions that the JWG has identified in the draft AP.

The POE supports the planning process underway and its methodology and was impressed by the positive spirit of the talks. We were happy to offer our suggestions about aspects of the drafts to give them greater specificity and relate the actions closely to desired outcomes. We do not see the AP as another binding document like the CA but, like the GoL, NTPC and IFIs, we will be guided by it in monitoring outcomes of various activities in the months through to the end of 2017 and beyond. The stakeholders have acknowledged that achievement of quantitative targets will not by itself produce an automatic closure recommendation. We have to assess the overall outcome: the evidence that resettlers are on the path to sustainable livelihoods. The achievements of the AP will form a substantial part of the evidence for the POE’s advice to the GoL on closure of the RIP.

1.3 Constraints: time and capacity

There are serious constraints to be overcome if RIP closure is to be recommended by the POE at the end of 2017. The first is the time constraint: at time of writing there were only eighteen months left to December 2017. The POE was surprised by the apparent lack of a sense of urgency in some quarters over the time factor. An accelerated program of action is demanded on all sides.

There must be fast completion of the consolidated AP, rapid assessment of what envisaged activities will require in added human and financial resources and provision of these resources, a work program prepared and rapid endorsement of the AP by the stakeholders. Many of the actions in the AP are based on existing work which should be continued without waiting for formal agreement on the entire document. For its part, the POE has used the redrafted sectoral AP texts as they stand amended as the basis for this report. Others intend to use them similarly on an interim basis which is only realistic at this late juncture.

Additionally, the key agencies will need additional expertise and other human and financial resources. Many commented in the JWG that achieving the ambitious, if appropriate, AP targets will add considerably to the strain on the resources of already stretched agencies, both public and private sector. In the case of both the NTPC's NRO and the Nakai District government, additional resources are needed if the deadlines of the Action Plan are to be met. For the District Administration additional experienced capability is required to meet both short and the longer-term challenges of supporting development on the plateau. Village administrations also need strengthening, as do other organisations with a role in development, such as the Village Forestry Development Company(VFDC).

As noted above, there are resulting implications for the shape and intent of this report. Previous POE reports have tended to be extensive assessments of the current status of each sector, with advice and numerous recommendations on what might be done next. A different approach is planned this time. Unusually for the POE, there are no formal recommendations. As sought by stakeholders, the report instead records our suggestions to them on what evidence on outcomes, outputs and actions would help us form a judgement on closure, together with comments on who or what agency is responsible for which element of the work program and on its capacity to undertake their tasks in the time envisaged.

1.4 Roles beyond the Company and GoL

A good deal of the report is addressed to GoL agencies in the first instance because they will be taking up an increasing part of the responsibility for further development. Government Ministers are going to have to take some hard prior decisions before further progress can be made. But we have also commented on the role that could be played by other parties, particularly the donor community.

The IFIs are beginning to make useful contributions. L'Agence Française de Développement (AFD) has funded an assessment of the agriculture and livestock elements of the project. The POE regards the basic thrust of the proposals for further action as sound. Some minor points where we differ have been discussed with the authors in the JWG and are addressed below. The program being put together will be jointly funded by AFD and the NTPC. It will however still be in its assessment and planning phases by the end of 2017 and there will be no concrete results on the ground by then relevant to RIP closure.

As noted below ADB, along with NTPC, is helping foster the embryonic ecotourism industry on the Plateau. The welcome sealing of the Thalang to Laksao road opens up new opportunities which the resettlers are just starting to take up. We have always seen potential in ecotourism, which could eventually provide numerous job openings for resettlers, notably perhaps the younger generation and women.

The World Bank is assessing how much it could do to help lift the ailing village forestry operation back to its feet. Recent reports from World Bank specialists on the condition and potential productivity of the village forests are very encouraging. This sector could begin, after years of failure, to make a real contribution to lifting village incomes. The

Ministry of Agriculture and Forestry (MAF) has an important role here but the Bank's substantial forestry expertise could make a big contribution. The POE strongly favours the Bank supporting the rehabilitation of this non-producing pillar, starting soon. As we said last year, achievement of RIP closure is heavily dependent on decisive action on forestry.

1.5 Post RIP closure

Whatever the state of resettler livelihoods at the end of 2017, the development needs of the plateau will not end there. NTPC has also committed itself beyond RIP closure to continuing support for this development through to the end of the Concession Period in 2035. We congratulate the company's shareholders on taking this long view of NTPC's role and backing it with annual funding of the proposed Nam Theun 2 Development Fund (NT2DF). This in itself provides some assurance that plans to move down the path to sustainable livelihoods will be implemented post-RIP. That is a big step forward. How the additional funds are to be administered is still under discussion. The old adage that the only way to learn to govern is to govern is relevant here: the only way to learn to manage livelihood programs is to manage them, including managing the funds. We discuss these issues in a concluding section of this Report. Our view is that, post RIP, the Nakai District should have a central role in managing the NT2DF funds and in managing the Medium Term Development Program itself and that the Village Development Committees should be very closely involved in both processes. This is consistent with the central role that they will play in the future development of Nakai.

1.6 Organisation and approach of this report

Our report is organized around the GoL's request for comment on the Action Plan. The GoL's request was the basis on which we entered into the discussions with the JWG. The GoL has since formalised – on behalf of the JWG - its request for our advice in a letter (20 June 2016) from the Director-General of the DEB. We have attached this letter as Annex A. Specifically on the following aspects of the AP, the letter asked us for comment on:

- The high-level outcomes we would expect to end the RIP;
- The indicators, quantitative or qualitative, that would be evidence of the achievement of these outcomes;
- Whether there was a clear logic linking the actions proposed in the draft APs to the high-level outcomes;
- What were the strengths of the AP and what should be added to ensure closure;
- What else would be helpful to enable us to monitor and advise on progress over the remaining 18 months to the target closure date of 31 December 2017.

We were also asked to consider some more general issues of funding and organisation covering “participatory processes, funding sources ..., requirements for handover (capabilities required particularly of District and Villages).”

We have organised this Report to answer these questions. The APs are divided into four “livelihood” pillars – agriculture and livestock, fishing, forestry and off-farm activities - and three “cross-cutting” pillars -poor and vulnerable households, ethnic groups, and gender issues. We deal with the five questions about the APs in five chapters, one on each of the livelihood pillars and one on the cross-cutting pillars. The two final chapters, respectively, deal with the funding and organisational issues and summarise the main challenges for stakeholders.

The penultimate chapter on the funding and organisational issues takes into account the medium term aspects of the Action Plan. We recognise that the institutional arrangements for governance and management of development in the resettlement area, as addressed by the second objective of the APs set out above, will underpin sustainable livelihoods in the longer-term. The commitment of GoL, NTPC and to some extent the donor community to a medium term plan will help underwrite development and promote sustainability. Our advice on the medium term arrangements is also therefore relevant.

The final concluding chapter summarizes what organisation should undertake the most pressing challenges before the project implementers. It is designed to focus attention on the most fundamental tasks and who might carry them out over the next vital year and a half.

2 AGRICULTURE AND LIVESTOCK



Land prepared for cassava planting near Nam Nien

2.1 The situation

There has been a further visible increase in cultivation since our visit in April 2015. The RO reports that the use of 0.66ha plots increased by 78% in 2015 and of 0.22ha plots by 20%. Fencing using company-supplied barbed wire is very evident and helps to protect crops from the increasing number of large livestock which can no longer graze freely.

The figures indicate that villagers are increasing their relative involvement in agriculture. In the 2015 wet season survey 1051 households were engaged in some form of cultivation, an increase of nearly 40% over 2014. Households engaged in agroforestry have more than doubled to 333 in 2015. About 10% of villagers were preparing land for paddy, mainly in the southern villages. However the biggest single source of growth in cropping (now an estimated 40% by value) is of cassava, mostly mono-cropping. In 2015 about 390 households were growing cassava: the proportion varies widely across the plateau but in four northern villages more than half of all households were contracted to grow cassava.

The company reports an increase in the number of irrigated plots and growing demand for repair of broken systems. Schemes repaired now total 101, on 499 plots. Operational systems cover 44% of existing schemes and 41% of total irrigated area. The company is planning to repair a further 75 based on demand from farmers. There has been a big increase in the number of gully dams: 21 are operational although not always fully used or in the right places. As noted previously by the Panel much smaller gully dams or ponds located close to the owner's house would be better utilized.



Cattle numbers are increasing while buffalo numbers are declining

As for livestock, there have been further increases in the numbers of cattle and buffalo on the plateau to approximately 4,000 at December 2015, an increase of about 13% over June 2015. Vaccination rates continue to improve and are well above the Lao national average. After two years where numbers increased significantly, there was a 8% decrease in the number of small livestock in 2015.

2.2 Future risks

The main risks to further development of agriculture are well set out in the Action Plan. Evidence is from early adopters that after three or four years cassava will no longer be viable. Finding more sustainable alternatives and publicizing them is a high priority for MAF and NTPC researchers. Converting farming to methods which develop and protect soil fertility is becoming urgent and ploughing of arable land should if practiced largely be contour ploughing not up and downhill, since the latter facilitates leaching of the thin soils in the wet season and reduces moisture retention in the dry¹. The attention of the cassava processing company should be drawn to this point.

The current numbers of cattle and buffalo on the plateau are well above the estimated carrying capacity of 3,500. The original estimate of capacity made several years ago was

¹ A small proportion of cassava cultivation is on additional lands, the drawdown zone and reservoir islands where ploughing is prohibited by the CLT Regulations. Most cassava cultivation is taking place on the .66ha or .22ha plots, where it is not expressly forbidden.

however a best guess in a wide range and might now be different. Since then there has been a substantial increase in land used for pasture or fodder cropping, with or without the use of barbed wire, so that feed intensity has also increased. A review of carrying capacity would be in order.

Up until now, agricultural development has been extensively subsidized by the project in terms of access to materials and irrigation systems. There is a real question whether villagers (especially less well-off households) will continue this development if they have to incur these expenses themselves.

Overarching all this development are strong demands to increase the area of available agricultural and pastoral land to serve a growing population and to meet the demand created by the turn to agriculture. This may require decisions on the use of community forest lands for agriculture and pastoral activities, as permitted by Community Land Titling (CLT) regulations. We discuss this topic and our suggestions for the Action Plan at greater length in a separate chapter on land.

2.3 Our suggestions

We suggested to the JWG setting objectives for further crop increases from cultivated 0.66ha and additional agricultural land (0.22ha), further agro-forestry, a net increase in irrigated plots, and replacement of cassava by crops that do less long-term damage to the land. The AP sets some objectives for promoting the further use of allocated agricultural plots and increasing agriculture productivity through soil fertility improvement. We suggested that the JWG review these targets to see that they were consistent with our suggested overall outcome for increases in sustainable cropping.

We also suggested reviewing the estimate of carrying capacity in relation to available feed and setting an objective for the herd size for each hamlet accordingly. Farmers see large animals as a store of wealth rather than a tradeable commodity but we also support the efforts to create a market in livestock so that sales can contribute more regularly to household income.

We would also like to see more emphasis in the AP on developing small livestock - especially chicken and pigs - as a business. This is likely to be of particular interest to women, since it combines well with their other commitments.

The AP covers repair of existing gully dams but not irrigation systems. The NTPC plan for replacing systems on demand ought to be incorporated as a target. We discussed setting a target of operational systems serving 65% of all irrigable plots – NTPC wished to reserve its position on that figure.

2.4 The medium term

The program up to the end of 2017 set out in the Action Plan is designed to dovetail with a proposed five-year medium term project to be co-funded by AFD and NTPC. The activities (with our suggested targets and additions) set out for RIP closure should fit well with the medium-term project and should not be held up waiting for the detail of that project to emerge. The project will continue with these trends to a wider variety of marketable crops. It also recognises the continuing importance to Lao families of rice and includes both finding more land for rice cultivation and improving yields, particularly of paddy.

2.5 Required capabilities

Overall, the resettlers will need continuing support to help them make decisions about the productive use of their land, particularly in their appraisal of the options available to them

for crops and livestock. The tasks are now mostly a shared responsibility of NTPC and the District, particularly DAFO, but they will increasingly fall on DAFO. DAFO, possibly working with a Lao Non-Governmental Organisation (NGO) backed by a French NGO, may also be the executing agency for the medium-term project.

DAFO will need to maintain and develop its capacity for technical advice and for working with villagers on land use for zoned community land. The Action Plan recognises this with its objective to mobilise a long-term program for DAFO. We would emphasize that this aspect of the handover needs to start without delay. DAFO is grossly over-committed, understaffed, and has a policy of circulating staff between districts every two or three years. This agency has not only to oversee and provide technical advice to the resettlers on the whole range of livelihood activities but also has been handed responsibility under Decree 471 for fostering livelihood development across the 31 watershed villages with a population of over 7,000 dwellers. DAFO will also be involved in helping implement the new Government's (very welcome) Prime Ministerial Order 15 banning the export of unprocessed logs and timber.

We would accordingly be looking for visible evidence by the end of 2017 that DAFO does have this increased capacity. Key skills needed in the agriculture and livestock sector include not only technical expertise in cropping and animal husbandry but also the human relations skills to facilitate participatory planning in the hamlets and, where necessary, to mediate in disputes. In the POE's view, the District ought also to employ a business development and marketing adviser who can assist villagers with developing the income-earning potential of their agriculture and livestock.

2.6 Objectives and indicators

Outcome objective 1: increased value of agricultural outputs per unit of land, produced by methods which protect and enhance the fertility of the soil.

Sub-objectives	Indicators by 31.12.17
Further increases in area and intensification of cropping	Irrigated dry season cropping on 1,000 plots Increases in paddy rice yield to 2.5t / ha 450 plots in permanent agriculture
Cropping based on sustainable system of cultivation	Shift of cassava to 80% intercropping or rotational cropped with legumes. Progressively phase out cassava.

Outcome objective 2: A balance between the number of large livestock and the available carrying capacity on the plateau; improved income opportunities from both large and small livestock.

Sub-objectives	Indicators by 31.12.17
Reduction in total large animals towards carrying capacity	Nakai herd stabilized at 3,500 head subject to increase in available pasture, fodder or forage
Further increases in pasture and fodder crop	70 ha of improved pasture / fodder / forage
No significant animal losses from disease	60% vaccination rate of large livestock

Growth in income from large and small livestock	Livestock auctions organized 4x/yr Double households with significant income from all small livestock, particularly chicken or pigs
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2.7 Major tasks by December 2017 and accountabilities

- **Improve irrigation potential (gully dams, smaller local dams and ponds, refurbished irrigation systems) with specific target (possibly 65%) for percentage of irrigable plots covered by functioning systems – NTPC now handing over to DAFO with access to funds from the Social and Environmental Remediation Fund (SERF) for maintenance.**
- **Promote use of allocated agricultural plots (fencing, agro-forestry, paddy, wet season vegetables) – NTPC with staged handover to DAFO**
- **Further large livestock vaccination campaign – NTPC with handover to DAFO**
- **Establish enclosed grazing pasture, forage plots, fodder garden for large and small ruminants; areas in the current community forest lands can be identified for these uses – NTPC with staged hand over to DAFO**
- **Support for local small livestock raising (pigs, chickens) as a business – NTPC with handover to DAFO, possible District business and marketing adviser.**
- **Get the medium-term development programme to be co-funded by AFD and NTPC underway before December 2017 and into its assessment phase – project management working with DAFO and NGOs**
- **Deploy DAFO capability necessary for the handover from NTPC and its longer-term role in development including technical advice, extension services managed by an experienced field officer from MAF and support for planning and management of community forest lands – primarily DAFO directly but with support from MAF for staffing and budget requirements.**

3 NT2 COMMUNAL FORESTRY: INSTITUTIONAL RESPONSIBILITIES



VFDC Sawmill

3.1 The situation

The forestry sector was supposed to contribute up to one third of resettler incomes, but so far has failed to live up to anything near that expectation and has been the least successful of the five project pillars. There is a long history of mismanagement of the resource and encroachments by outsiders and resettlers themselves. The VFDC has paid only small dividends since 2012 and is unlikely to pay anything more this year. The villagers have lost interest and any sense of ownership in the forests they were told were theirs. More than one villager suggested that the forests should be locked up and left to grow and be at least a source of non-timber forest products (NTFPs).

3.2 Action Plan

It doesn't have to be this way. We were heartened by the relatively upbeat tone of the draft Action Plan for the pillar. From an effective production area of around 20,000 ha it estimates that with better management, profits could be substantially increased – even doubled - without increasing the size of the annual log cut, while maintaining good forest stocks and protecting biodiversity. The natural regeneration characteristics of the species mix in the community forest lands should mean that little or no reforestation or planting of trees should be required for some time.

At the same time the draft is realistic in listing and assessing the risks and challenges ahead if the pillar is to be saved. It stresses the need for an “enabling environment” to be created and is well aware of the challenge involved in re-engaging the villagers in all 16 hamlets.

3.3 Where from here?

There is no chance of turning the sector around in the next 18 months to exploit this resource efficiently and sustainably, but a start could be made. A consensus among the major players – MAF and its Department of Forestry (DOF), NTPC, the District and Provincial Governors and the IFIs - on setting up a truly communal forestry operation and devising a strategy to achieve this is an essential first step. Nothing will change without this. The strategy would have to provide for a longer-term management plan based on a full forest inventory and with external support for forest development, improved forest management techniques with a team of technically qualified people, and a VFDC restored to profitability with upskilled management. The plan should cover all community forest use and not just timber harvesting.

3.4 Required capabilities

There would also, as stated in POE Report 24, have to be changes in the mandate of the VFDC – now in essence restricted to a harvesting, processing and selling role - and in the mobilization of hamlet support for the agreed changes across the sector. The District Governor and DAFO would have a role in the latter exercise, moving to reactivate Hamlet Forest Management Committees (HFMCs) in the 16 Hamlets as envisaged in the CA. Their initial functions would be to take part in the forest inventory, set up forest patrolling and oversee the collection of NTFPs.

The VFDC would concentrate in future – if the villagers agree – on harvesting and milling, large scale transport and marketing functions, and report through the mill manager to a reconstituted Communal Forestry Management Board. This will require an upgrading of the VFDC's planning, management and financial skills achieved through the provision of external technical assistance. Establishing a Management Board would involve the Nakai District Governor consulting with the resettlers and MAF on whether the existing VFDC Board might more appropriately be converted into a plateau-wide Communal Forestry Board with a majority of HFMC members. This option is explored further in POE Report 24.

To make all this work, all the stakeholders have to give their full support. Getting the resettlers' full participation in the decisions on options is crucial. So is the GoL's role in strengthening the enabling environment. The level of support in recent years for the NT2 forestry operation from national, provincial and district institutions has been minimal. Effective support means ensuring that the forests are protected, giving professional forestry advice and support at the Ministry, District and provincial level, and facilitating the production and marketing efforts of the VFDC. The AP sets out the requirements on the GoL's side in relation to forest management decisions, seeks technical expertise from the GoL in co-management and support for the VFDC (or other appropriate implementation institution) and calls for expanded protection of the forests through more patrolling by the Provincial Office of Forest Inspection (POFI).

There are heartening signs of GoL commitment in the recent Prime Minister's Order No 15 on controls of timber exports and exploitation of existing forests and also in the commitment of the MAF to community-based forestry. Top level MAF support, advice and action will be vitally important. We trust that the MAF Department of Forestry, under the guidance of Ministers, will give priority to restoring the viability of the communal forest operation along the lines proposed in the AP. Specifically we hope that MAF can release some of its own top staff to help jump start the new ways of operating and draw up a formal request to the World Bank to assist it over the next five years or so by providing the range of

technical assistance specified in the AP. DAFO will also need at least a forestry focal point for monitoring purposes and to keep PAFO and MAF in the picture.

Other actors must play their part too. The draft AP is not able to spell out where the financial resources for the technical assistance required might come from. As we said in POE24, the IFIs, notably the World Bank, should give early and urgent consideration to helping with technical assistance. It would be timely also for the NTPC to re-engage in this work, by assigning a suitably qualified staff member to monitor progress and provide technical assistance where called for.

We also underline again that recruitment of those chosen to help implement the options for the future decided upon, whether they be Government employees or international technical specialists, is important. The forestry sector in particular needs people who not only have the necessary technical qualifications but have experience in working in small and still relatively remote rural villages often populated by a group of ethnic minorities. Well motivated and trained specialists are called for.

Finally, we note that the AP accepts that proposals in its Agriculture and Livestock section may result in changes to existing land uses and that with the assent of a majority of resettlers, some community forest land could well be converted to agricultural or pastoral use. Although any redesignation is unlikely to have a direct impact on the old forests, it needs to be coordinated with the forest inventory exercise so resettlers are fully aware of the value of the old forests when they make their decisions. We also call attention to the point made that development of forestry-related skills should be taken into account under the Off-farm AP training program.

3.5 A re-commitment

The stakes in restructuring the NT2 forestry sector along the lines set out above and in the AP are high for both the resettlers and the stakeholders. The risk of not getting the sector on a proper footing is great. The history of Lao forestry shows that if you do not use it you lose it – to others. This is the time – quite possibly the last opportunity - for a recommitment to a key element of the NT2 livelihoods restoration work.

3.6 Objectives and indicators

Outcome objective: the forests yield the best possible income for villagers, fairly distributed, based on a sustainable (and ecologically sound) harvesting, regeneration and planting strategy.

Sub-objectives	Indicators by 31.12.17
An agreed strategy for future development and harvesting of the forestry resource agreed amongst all the stakeholders based on a reliable forest inventory	Firm commitments from GoL to necessary legal and management backing and from all stakeholders to the funding and other resources they will commit; and 100% understanding amongst VDCs of the main elements of the strategy.
Effective protection of the forestry resource backed by the GoL.	No illegal removal of trees or other valuable forest products
A VFDC capable of managing the forests efficiently for the benefit of the resettlers.	A return to efficient operations and profitability by the VFDC in 2017.

3.7 Major tasks by December 2017 and accountabilities

- **Reach a GoL consensus at a Ministerial level on a strategy to actively promote the communal forestry approach in the NT2 hamlets and to design a forest management plan accordingly, taking into account the Prime Minister's Order No 15 on forest management: MAF to take the lead in initiating this process**
- **Complete technical studies including forest inventory and NTFP component and develop a work plan: should technical assistance be approved by GoL and World Bank, specialists from the latter to undertake these tasks, in consultation with MAF, NTPC and District**
- **Authorization by District Governor of the setting up of HFMCs in 16 hamlets, with access to equipment and supplies and regular briefings by VFDC and external specialists and participation in the forest inventory, patrolling of forests and oversight of NTFP collection: District Governor, the NTPC Nakai Resettlement Office (NRO), and the GoL Resettlement Management Unit (RMU) to undertake respective tasks.**
- **Support for upgrading of VFDC sawmilling and marketing operations with external expertise in sawmill management, species and marketing and financial management: expectation that World Bank will provide such help**
- **Consultations by District and Provincial Governors with HFMCs on converting existing VFDC Board into a Communal Forest Management Board with wider membership of resettlers and wider management mandate including conflict resolution between hamlets, approving a consolidated Nakai Forestry Plan and work plan and overseeing the management of collective assets such as the sawmill: Governors and District to address.**
- **Identification of Regulatory issues and removal of constraints (see POE Report 24)**

3.8 Post RIP closure activities

- **A gradual devolution, dependent on capacity enhancement, of wider roles to the hamlets in areas such as planting of valuable trees, Assisted Natural Regeneration and enhanced timber processing ventures: VFMCs and Community Forestry Management Board to assess options and make decisions accordingly.**
- **Accelerated training programs at all levels to ensure transfer of management and technical positions to Lao as soon as feasible.**
- **Decisions taken on best use of expanding revenues, with an emphasis on lifting dividends to resettlers and reinvestment where appropriate: HFMCs and Management Board all to be involved in decision-making.**

4 COMMUNITY LAND USE



Second Generation housing, Nam Nien

4.1 The situation

The pressure on land on the plateau continues. During this mission it became clear that land grabbing was widespread, encroachments and illegal use present in almost every hamlet, and unresolved disputes growing in number. Several of the hamlets we visited raised land disputes as a major concern. The District has put a stop to encroachment on forest lands for swidden and several villages reported that they had been levied heavy fines. Allocation of additional lands is continuing but in some hamlets has run into problems with lack of suitable land or land already occupied. The allocation of additional agricultural land to eligible families was so delayed that resettler families did not wait and went ahead clearing land for rice cultivation. When land was eventually formally allocated, many eligible families found someone already cultivating the land and refusing to give it up.

Community land use rights are poorly understood. There are several reasons for the current state of confusion. First is the lack of follow-up after awarding tenure documents, to strengthen community understanding of what can and cannot be done on community land in

line with the CA requirement to develop a "partnership between villages and the Government Authorities for joint management of forests, agricultural land, [and] other lands"².

Community Land Titling Rules and Regulations

In 2012, participatory land use planning (PLUP) and land zoning as required by the CA³, was completed in the 16 Nakai resettlement hamlets. Community land use zones included the (i) additional agricultural land required for second generation households taken from degraded VFA land areas, and (ii) forest land zones still termed VFA land, but with use and management devolved to resettler households in each hamlet.⁴

Community Land Titles (CLTs) were issued in 2013 for each hamlet⁵, together with CLT Rules and Regulations (R&R) on user rights over the different land use zones. These R&R were developed through stakeholder consensus, and clearly define the legal unit of entitlement for community land use. Customary rights were also clarified and included. Hamlet Land Management Committees (HLMCs) were then supposed to be formed by the NRO with the assistance of the RMU, and training provided to enable preparation of land use and management plans for the two key community land use zones (additional agricultural and forest lands), as required by the CA⁶. These activities are limited by scope⁷.

Another reason for the current confusion is the limited knowledge at District level in DAFO and the District Office of Natural Resources and Environment (DoNRE) of the approved R&R for community land use. This is partly because knowledge has been lost due to rotation of trained staff, partly to outsider encroachments and illegal land use, and partly to the low priority placed by the Project until now, on participatory village land management planning. For example, applications to graze livestock in community forest, although allowable under the agreed R&R, have been refused by the District. This has led to poor knowledge about land rights and responsibilities within village land management committees (LMCs), resulting in disputes between hamlets and between households, with poorer households and minority ethnic groups becoming more marginalised through failure to have additional agricultural land. Where hamlets and households are deadlocked, the LMCs appear unable to resolve the problem and the District appears reluctant to become involved in dispute resolution beyond levying fines on those clearing forest land.

Last year the POE agreed with the GoL and NTPC on a list of 413 second (or subsequent) generation households (headed by children of the original resettlers) who, among other benefits, would be allocated land for houses and gardens together with 0.66ha and 0.22ha plots. Since then substantial progress has been made in 14 hamlets: 60% of the required housing plots have been allocated and 58% of required agricultural land. The process has run into some difficulties finding adequate land in some hamlets and accessing land which has been illegally occupied by other villagers. The progress made is substantial

² CA ibid 7.5.2

³ Concession Agreement, Schedule 4, part 1 Social Component, Section 7.5

⁴ Land use excluded timber cutting under the VFA forest management plan

⁵ CLTs were not issued on the basis of villages consolidated after resettlement by GoL, but for each original resettler hamlet, to secure the original land tenure rights of affected people.

⁶ CA op cit, Section 7.5.2

⁷ CA op cit, Section 16.6(c)

given the limited land available and merits recognition. But meeting these overdue entitlements remains a priority.

4.2 The Action Plan

The problems that land issues present are set out in Action Plans dependent on land availability for various activities. More land is needed for agricultural and livestock proposals. Degraded land within zoned forest areas can be used for these purposes provided the hamlets follow the decision making process outlined in the R&R. Any reallocation of forest land should also be undertaken in close coordination with a forest inventory which needs to identify existing viable timber stands, areas for regeneration, and locations of NTFPs.

Before reallocating forest land, however, a key priority is for the RO and RMU, together with the District, to reach a clear mutual understanding of what can and cannot be done, and by whom, on community zoned land areas, and to transfer this knowledge to hamlets. This requires both training and resources allocated to the District and hamlet organisations to undertake land use and management planning processes and to ensure that planning outcomes are compatible with statutory District and village planning processes. Part of this training should include land dispute mediation and resolution procedures for LMCs and for the District, who need to become more involved in settling hamlet and village land-related conflicts. It is recommended that the project first explores with Khammouane Provincial Office of Natural Resources and Environment (PONRE) whether dispute resolution training is available that was developed under the World Bank's Land Titling Project, or from the current GIZ⁸ land management and village planning programme.

4.3 Objectives and indicators

Outcome objective: Land is allocated according to community preferences and the rules on resettler household entitlements

Sub-objectives	Indicators by 31.12.17
Major outstanding land disputes in and between hamlets are resolved	Register of major disputes created All disputes on the register resolved by VLMCs or DLMC
Entitlements of resettlers under the CA and land regulations are honoured	Allocation of additional lands completed Most natural growth households receive entitlements
Hamlets have agreed plans for future use of community land	Hamlets have plans in preparation for future use of community forest lands

4.4 Major tasks by December 2017 and accountabilities

Priorities for December 2017 outcomes:

Tasks for joint NRO / RMU responsibility in collaboration with the District:

- **Training conducted by the NRO / RMU of District staff on CLT community land use regulations and responsibilities**

⁸ The *Deutsche Gesellschaft für Internationale Zusammenarbeit* or "German Corporation for International Cooperation"

- **Training conducted by the District with the support of NRO/RMU, of Village Authorities and existing LMCs**
- **Establishment of hamlet LMCs by resettler families**
- **Land-related conflicts between households in hamlets resolved**
- **A high proportion of subsequent growth households have house plot and agricultural land entitlements allocated and all have toilets constructed**
- **Other resettler households have been allocated additional agricultural land according to their entitlements**
- **Hamlet forest areas for enclosed livestock grazing and/or fodder cultivation identified**
- **At least two hamlets preparing land management plans for community forest zoned areas (note: this must be done in conjunction with forest and agriculture planning)**

Tasks for the District:

- **Encroachments by outsiders prevented**
- **Land-related conflicts between hamlets resolved**

Outcomes beyond December 2017:

- **All 16 hamlets have completed community land use and management plans for zoned forest land areas. These plans may include (i) NTFP cultivation (ii) enclosed livestock grazing (iii) fodder cultivation (iv) identified timber stands (v) identified forest regeneration areas (vi) agroforestry and silviculture areas (vii) degraded forest land which can be cultivated for rice and/or other crops**
- **All hamlet community land use and management plans harmonised with GoL planning and budgeting processes**
- **The LMCs have strong dispute resolution skills**

Cross-cutting issues:

- **Forest, agricultural and livestock planning must be coordinated with community land use and management plans**
- **Any land use and management plans need to be harmonised with statutory government village planning processes and outcomes**
- **Gender differences need to be accounted for in community land use plans, as women may be interested in different NTFP and livestock initiatives**
- **The needs of poor and vulnerable households must be given priority**
- **Marginalised ethnic groups, such as the Ahoé, must be given equal opportunity to have additional agricultural land, if eligible**

5 FISHERIES



Marking fisheries protection zone

Image courtesy NTPC

5.1 The situation

To date the Fisheries Pillar is the most successful of the livelihood pillars for the resettlers, and at the present level of fishing effort it appears to be sustainable, as noted in POE Report #24. This is important since fishing is perhaps the key pillar in overall sustainability terms. Catch as reported by households varies widely from one month to the next but seems to have been roughly stable or even slightly increasing in the last four years. Most fish is consumed or sold fresh but a small number of households are drying and smoking fish or fermenting it for fish sauce.

As we reported last year, there are however some risks to sustainability of the fishery. For obvious reasons, reliable estimates of the overall extent of illegal fishing are hard to come by; but surveillance indicates that poaching by outsiders, particularly north of the Thalang Bridge, may amount to as much as 25% of the total catch. Villages in the southern zone also complain of incursions in their fishing zones by others, particularly from the direction of Oudoumsouk.

In addition, possibly 75% of the fish caught don't pass through the legal landing sites⁹. This is not evidence of illegal catch. Most of these fish are probably caught legally; a

⁹ Based on a comparison of catch reported by households with catch recorded at legal landings: data from NTPC for 2010-2014.

lot are either taken home for the family pot or sold to other villagers. Other fish will be sold to traders outside the legal sites. It was suggested to us that the VFGs may deliberately overlook some landings to encourage traders and increase villagers' income-earning opportunities; and that the regulations were "under review" on this point.

In the meantime, unregulated sales to traders are depriving VFGs of revenue which was intended to contribute to the costs of fisheries management; if this is going to be a deliberate policy it needs attention in regulation: a system whereby some trading is levied and other trading is deliberately overlooked seems inherently unstable..

5.2 The Action Plan

Objectives

The AP on Fisheries is very forthright on the needs, tasks and risks and is in large part supported by POE. The value of the fishery to the resettlers can and should be maintained and even increased in an equitable way while maintaining the biological sustainability of the resource. The AP's objective is that the fishery is well-managed and protected – we have no problems with this but the ultimate test of the quality of management is that the resettlers benefit from it in terms of the fish they can catch.

The AP's actions generally flow logically from the overall objective of management and protection. The AP emphasizes several key areas where action is needed by the RIP closure. These include identifying and protecting fish breeding areas; ensuring that resettlers retain (or regain) their exclusive access to the reservoir fishery; continuing research on fish catch and fish stocks for better management; strengthening registration and licensing, patrolling and enforcement; reviewing and if necessary revising the fisheries co-management regime; and improving fish marketing. We made some specific suggestions for actions based on our own assessment of risks to a biologically (and economically) sustainable fishery, with its catch fairly distributed amongst the resettlers.

Future risks and priority actions

5.2.1 Illegal fishing and marketing

The catch estimates quoted above indicate that this remains a major problem threatening the stability of the fishery. There are several issues:

- Patrolling is still not frequent or focused enough to be an effective deterrent to illegal fishing or trading;
- This issue is particularly urgent in the reservoir area between the Thalang bridge and the dam where there is joint jurisdiction between the provinces, districts and WMPA units; at present there are only very occasional patrols and both fishers from outside and illegal traders appear to have almost total freedom to operate in the area;
- The poor level of enforcement is reflected in the continuing deterioration in compliance. In March 2015, about 70% of the 1,259 fishing boats on the reservoir were registered; only 112 fishing licenses were issued, compared with 398 the previous year.

The AP has mostly appropriate actions and targets related to these issues. Particularly important are:

- *Effective cooperation on reservoir fisheries management*, particularly by sharing information, patrolling including joint patrolling, identifying illegal fishing activity, and much more aggressive apprehension of those fishing or marketing illegally. This

particularly requires both DAFO and WMPA to work closely with Village Fisheries Groups.

- *Upgrading DAFO's fisheries management capability*: this is clearly required particularly for the improvement required in boat and fisher regulation; DAFO acknowledged to us that they need greater fisheries expertise – currently they have no fisheries specialist.
- *Fixing up the split jurisdiction in the northern part of the reservoir area* between the Thalang peninsula and bridge and the dam: this is a longstanding problem repeatedly addressed by the POE. Resolving it will require cooperation between the two provinces involved and the WMPA.
- *Establishment of a northern outpost*: WMPA, with the cooperation of the relevant district authorities, should establish a permanently manned northern outpost or patrol base at the site of the Old Sophia village or the dam site This is the only way to reduce the “wild west” of illegal fishing north of the Thalang bridge. The POE favours the Old Sophia site on the grounds that it enables a more comprehensive surveillance of fishing sites, would facilitate the provision of services to the remaining Ahoe families there and encourage the latter to switch from being poachers of both wildlife and fish to acting as conservators of both.

5.2.2 Ecological research and monitoring

There is need to have good data on the locations and times of fish spawning, and of other critical issues relating to the sustainability of the fish populations, including monitoring to determine the impact of fishing effort on the various species of fish. Good data identifying the locations and possibly timing of areas that should be protected from fishing are needed, so that action can be then taken to establish the necessary protected areas. Good information is being collected about the fish catches of a sample of the resettlers (quoted above – with a coverage which is a multiple of the “official” recorded catch) and this should be continued and consideration given to expanding it.

5.2.3 Establishment of Protected Areas

As noted above, research by NTPC is needed to identify the areas that should be protected because they are critical for the maintenance of the fish populations. The research and protected area establishment should be completed well before the RIP is closed.

5.2.4 Fishing from the Thalang Peninsula

The resettlers in the villages on the Thalang peninsula have very limited legal fishing zones and it would be more equitable to provide them with additional fishing zones north of the peninsula adjacent to their villages. At present, most of the adjacent area is a restricted zone on the grounds that it is important for fish spawning. We hope that the fisheries research data will enable a more finely-tuned protection zone to increase the fishing opportunities for these villagers.

5.2.5 Improving fish processing and marketing

Fisheries at present are a major component of the income generation for the resettlers. Additional income could be obtained by improving access to markets and processing of low value fish. These activities would also involve a large percentage of women. We have suggested some specific targets for 2017 for upgrading fish marketing facilities and increasing the number of households involved in fish processing.

5.3 Objectives and indicators

Outcome objective 1: The value of the fish catch is maintained within biological sustainable limits and access to the fishery is fairly distributed amongst and limited to those legally entitled to it.

Sub-objectives	Indicators by 31.12.17
New regulations redefine resettlers' fishing areas, establish species catch limits within sustainable yields and create zoning for species protection	Fish protection areas are established. Species diversity and fish stocks are maintained in the reservoir. Legal fishing opportunities for northern cluster villages are improved.
There is a significant and sustained reduction in illegal fishing and trading	A new northern zone outpost is established and existing checkpoints are re-established. 80% each of individual boats, commercial boats and fishers are licensed VFG and combined WMPA/VFG patrols are increased to several times a week, focused on areas of highest risk and randomly timed. A significant reduction in illegal fishing and trading based on patrol, checkpoint and other reports.

Outcome objective 2: Opportunities for earning household income from fish and fish products are increased.

Sub-objectives	Indicators by 31.12.17
The existing fish processing and marketing system is improved	Market place operating with upgraded facilities - 4 (villages) Total households involved in fish processing activities – 30 hhs

5.4 Major tasks by December 2017 and accountabilities

- **VFG, WMPA and DAFO cooperation on reservoir fisheries management, by sharing information, patrolling, and identifying and prosecuting illegal fishing and trading – GoL: primary responsibility with DAFO, working with VFGs and WMPA.**
- **Provide a permanent outpost at Old Sophia – favoured by the POE - or the dam site for controlling fishing and other activities on both the land and reservoir areas north of the Thalang dam area. – Primary responsibility with WMPA.**
- **On the basis of ecological research, establish a more precise basis for protecting fish spawning areas including if possible reducing the protected area adjacent to the villages of the Thalang peninsula. – NTPC with appropriate cooperation of WMPA and DAFO and consultation with VDCs.**
- **Achievement of targets for boat and fisher registration and licensing. – DAFO**

- **Strengthen DAFO's capacity for fisheries regulation and support for fish marketing and processing. - MAF**
- **Agree on the management and law enforcement of the northern reservoir area. – GoL (Khammouane and Bolikomxai provinces, Khamkeut and Nakai Districts, WMPA units in both districts).**

6 OFF-FARM ACTIVITIES



PIZ villages like Pakataan have benefited from sealed road and electricity connections

6.1 The situation

Off-farm activities concentrate on developing employment and business opportunities outside the land (and reservoir) based occupations. NTPC activities focus on skills training, marketing and business support, and finance for productive activities.

Specific skills training continued in 2015 with 23 resettlers participating in cooking, hairdressing, motorbike repair and tailoring courses. Total numbers engaged in these courses fell from 43 in 2014. A continuing issue is the low rate of conversion into actual employment. The AP reports that of the resettlers who completed training in 2013/2014 only half are still applying their skills in income generation activities. The year 2015 also saw the introduction of 13 longer-term scholarships at Khammouane Technical-Vocational College and Savannakhet University – a welcome addition to the educational opportunities for younger resettlers that should be maintained on an annual basis.

Marketing and business support included “Happy Nakai” – a group of younger volunteers established to support local business development (such as scarf weaving, wooden crafts, leaf weaving, or painting.).

There are also signs of a response in the villages to the emerging opportunities for eco-tourism on the plateau. In Thalang we heard about boat tours to the watershed area and the possibility of guided forest walks or overnight stays. With the completion of the “loop”

road through Laksao and the new bridge over the Mekong at Thakhek, and the advertising of the Konglor cave as a major attraction, there should be more opportunities for services to more adventurous tourists, particularly at the northern end of the resettlement area and into the watershed .

6.2 Village Development Funds

Village Development Funds (VDFs) finance a much wider range of activities than off-farm business but they are covered in this pillar of the AP so we comment on them generally here.

There was a 28% increase in cumulative loan disbursements: from VDFs in 2015. This represented a further modest increase in the share of broadly "productive" lending (small business, fishing, farming) from 74% (2014) to 80% (2015). (The balance, broadly "non-productive" lending – the distinction could probably be contested - covers mainly education, medicine, and household expenses.) The off-farm category ("business plus micro-services") increased by 12% but the main factor was the big increase in demand for "agriculture" loans¹⁰ which more than doubled from LAK (Lao Kip) 169m to LAK464m. The "at risk" rate (loans more than 30 days in arrears) also rose from 5.7% of total lending in 2014 to 8.6% in 2015.

6.3 The Action Plan

The draft off-farm Action Plan we saw strongly and usefully emphasized villager participation and engagement in planning new activities but could be more clearly focused on generating this broader range of income-earning opportunities.

The section of the CA covering this pillar is designated "Training on other income generating activities and technical support". This gives focus to the pillar: the emphasis is on income generating activities, which is the right emphasis for this phase of project development. The test of success is that villagers have in fact increased the number and range of their income-earning activities beyond those based on farming, fishing or forestry and that these occupations can stand on their own feet, unsubsidised. So far, although the number of new businesses has increased on the plateau, this pillar has yet to realise its full potential.

A central issue is that the training effort of the past has had a fairly low conversion rate into income generation. What is significant in terms of sustainability is not how many villagers attended training courses but how many went on to establish income generation ventures as a result. As indicated, the rate of conversion has not been spectacular.

Part of the problem seems to us to be that the training is not embedded in a business planning model with a clear focus on income generation. The social mapping pilot project initiated in Nongbouakham last year, although by no means the first such effort at social mapping in villages, seemed to engage villagers usefully and generated ideas which emerged for community and infrastructure improvements were sound in general, gender sensitive and realistic in their planning¹¹. But the priorities produced for further development were more socially oriented than directed at income generation.

In responding to the draft AP, the POE has recommended some higher-level objectives with a stronger business development approach, focused on income generation.

¹⁰ A single category in 2015. We assume it is comparable with the 2014 classification of livestock plus cultivation.

¹¹ Much of the section of the off-farm AP on planning activities could in fact form part of an overall village participatory planning approach – we discuss this topic in Chapter 8 of this report.

The strategy starts with identifying market opportunities and then, with the active participation of villagers, planning how to respond to them, certainly with focused training but also with finance and advice on accessing markets. As an approach it may well be applicable also to developing more resource-based businesses such as fish products, NTFPs, small livestock or specific crops; it would certainly make sense for villagers to consider the full range of these opportunities in their planning.

An important part of a people development strategy for the resettlers is to consider the different needs of different groups.

First, there should be a focus in fostering off-farm activities among the better educated young, the emphasis being on identifying job openings and linking them to training, but also on the longer-term investment of further education which will equip the next generation for leadership, innovation and further skills training, bringing young people into the work force and preparing them to become agents for change. We liked the emphasis in the AP on volunteer youth groups in surveying employment opportunities linked to market openings and undertaking community development projects. They should be encouraged to continue in these helpful roles.

Second, to lift them out of impoverished or low status situations, women and minority groups should be targeted, with informal village-based training initially given priority. The AP usefully recognises in particular that women need training in the village to fit around their other household commitments.

The AP is stronger in listing general risks and “preconditions” for individual projects than in defining Key Performance Indicators (KPIs). The KPIs set out are more quantitative than qualitative in character and thus amount to output measures rather than measures of the more meaningful outcomes. It is the latter which will be important in relation to RIP closure assessment.

It should be noted finally that there is little attention paid to ecotourism development in the AP apart from the listing of the opportunities opened up by the completion of the “loop” road. Another paper on this, presumably involving ADB tourism development expertise and an interested French NGO, is under preparation. The NTPC for its part has begun playing an active part in this promising field of activity, working with both ADB and the private sector. Our suggested objectives for this pillar make special mention of tourism.

The POE accordingly suggested redrafts of the high level outcome, and sub-objectives for 2017, set out in the Table below. It calls for a cohesive set of agreed activities covering all livelihood sectors, including off-farm. This includes our attempt at some appropriate KPIs. Where possible, we have suggested quantitative indicators which we think should be measurable but we recognize that some outcomes are more qualitative in nature.

6.4 Capacity development

The business development approach to off-farm income generation will place additional requirements particularly on the District and the Villages. A lot of these have to do with the social mapping approach adopted in the pillar AP, which we discuss as part of the overall approach to village-level planning in Chapter 8. Specifically on business development, though, we note the following:

- The Village Development Plan should include a village business development strategy covering market research, business planning, market development and training development. VDC members will need training in how to manage these processes, and some specialized facilitation will be required from the District.

- The District itself will need to consider how it can acquire expertise in market research and business planning to support village business planning.

6.5 Village Development Funds

From the evidence available there appears to be sufficient capacity in the Village Development Funds (VDFs) to meet demand for productive lending. The rise in the 30-day arrears rate is a concern but repayment rates are still very good by the standards of micro-credit institutions.

The pillar contains an action to “Consult with Bank of Laos on converting village funds into saving and credit union and implement the same.” This is at variance with the recommendations of the consultant on VDFs¹², which we supported in POE24, to maintain village ownership of the funds but provide them with surveillance and support in the form of a Network Support Organisation. The consultant argued that village ownership of the Funds was one reason why the at-risk rates were kept low. We agree and continue to support his recommendations.

6.6 Objectives and indicators

Outcome objective: Villagers have increased the number and range of their income-earning activities.

Sub-objectives	Indicators for 31.12.17
Training is converted into income-generating employment and business Young people are gainfully employed following education Finance is available to meet demand for all viable small business requirements New businesses are established Income from village businesses increases	70% of school or further education graduates in business or employment 90% of training graduates in training-related employment Expanded proportion of VDF loans for business requirements. Additional businesses established (women's and men's shares in ownership and income). Significantly expanded income earned by plateau businesses, preferably disaggregated to women and men where feasible. Number of visitors lifted and revenue at village-operated attractions raised.

¹² Behrle, S. 2015. *Review of the Nakai Village Development Funds*, Nakai Resettlement Office, Nam Theun 2 Power Company.

6.7 Major tasks by December 2017 and accountabilities

- **Village Development Plans include a village business development strategy – District administration with NTPC support**
- **Market research identifies potential products and potential for the plateau's natural and human resources to meet this demand – District administration with NTPC support**
- **An agreed business planning process identifies the investment requirements, costs and profitability of each option [Measure: number of specific business plans] – District administration with NTPC support**
- **Villages with planned tourism activities agree with each other on an overall tourism development plan – District administration with NTPC support**
- **Award further continuing scholarships for further education as a basis for leadership, innovative thinking and further skills training [Measure: 25 scholarships awarded] – District administration and NTPC**
- **Develop specific market-led skills training as part of a business plan to meet the requirements of the product or service [Measure: Number participating] – District administration and NTPC.**
- **Implement the recommendations of the consultant on Village Development Funds to retain ownership in the villages and create a Network Support Organisation. – GoL with support of NTPC.**

7 CROSS-CUTTING PILLARS



Children's health check, Phonesavanh

7.1 Poor and vulnerable households

7.1.1 Introduction

The Action Plan for Poor and Vulnerable households contains a clear statement of measurable objectives consistent with the requirements of the CA and has a well-reasoned set of activities for ensuring they are achieved by the end of 2017. The introductory sections to the draft plan generally recognise and address the issues raised by the POE in its Report 24. We would underline the importance of the following points.

7.1.2 Specific comments

Accurate identification of households eligible for assistance: We agree that the two main categories of “vulnerable” and “poor and lagging” have to be identified case by case. We would draw a distinction between those lacking basic resources (the poor) and those potentially or actually vulnerable to external events beyond their control, such as unusual weather events or a drop in commodity prices (the vulnerable). The Living Standards Measurement Survey (LSMS) sample survey will identify only the likely incidence of poverty amongst resettler households. Although we note that NTPC has identified 27 households in the “poor and lagging” category, there is some doubt that all such households have been identified. Accurate identification of individual households in poverty requires continuing detailed monitoring during RIP by NTPC and appropriate similar means of monitoring by the district authorities after closure. The stakeholders should also consider how households can self-identify or how hamlets and villages could help identify households in these categories.

Qualifying households: We note that natural growth households will all qualify for the support available to both categories of supported households but that the eligibility of subsequent growth households is under review. We would urge that the stakeholders consider extending support to these households on the same basis as original and natural growth households.

Assistance for vulnerable households: The POE is pleased that, under the Social Safety Net (SSN) for vulnerable households, NTPC will backstop the District’s proposed kinship support system (the efficacy of which will, we note, be tested by a pilot) with a guarantee of cash support, until 2035. We assume that the rate of NTPC cash assistance would be based on raising vulnerable households to the official poverty threshold.

Support for poor and lagging households: Support is, as we read it, to be based on plans in place for each individual household to attain sustainable livelihoods by the end of the RIP, through the support of the NTPC “special program” and the SSN. Apart from a reference to access to land and to livelihood programs, the content of the special program is not developed in the draft Action Plan and needs to be spelled out. We recognise that the detail will largely be supplied in the plans for the livelihood pillars, specifically flagged for these households. Although the objective is to have all households in this category supported by the end of the RIP, continued support may be required beyond RIP, and it will be important to see what commitments of staff and resources the District will be able to make to this ongoing support.

Design of support: We agree that the appropriate unit of support is the household. However, specific programs for which poor and lagging households are eligible, to equip them to develop sustainable livelihoods, may well need to be designed to reflect their ethnicity, gender composition, or status as new natural growth households. For some of these projects the appropriate focus may well be the hamlet.

Households’ changing status: This is particularly important for households who, over time, may move into “vulnerable” status. This guarantee should extend to households who have the misfortune to become “vulnerable” during this period.

7.1.3 Objectives and indicators

Overall outcome: Poor and vulnerable resettler households achieve, and can sustain, incomes above the poverty line

Objective	Indicators by 31.12.17
High percentage of households meet the household income target at the end of the RIP	High % of poor and vulnerable households above the rural poverty line [Measured by LSMS survey to be conducted in 2017 with Household Income Target (HIT) data disaggregated for poor and vulnerable, with an explanation for individual households falling below the HIT]
Households have a livelihood or other source of support that functions as the basis to remain above the poverty line after the end of RIP	High proportion of households identified as poor and vulnerable have livelihood sources generating income at or above the poverty line and the skills and assets to support those livelihoods.

7.1.4 Major tasks by December 2017 and accountabilities

- **Review and update method and criteria for identifying poor, lagging and vulnerable households particularly to take into account changes in household status – NTPC with support from District and Village administrations**
- **Determine eligibility of natural growth households for support – NTPC and GoL.**

7.2 Ethnic minorities

The draft AP addressing cross-cutting issues for ethnic minorities represents a substantial advance in collective stakeholder thinking on ethnic minority issues. It sets out a more positive and comprehensive program for achieving the objectives of the Social Development Plan (SDP), the CA and the Safeguard Policies of the World Bank and the Asian Development Banks than has hitherto been attempted by the NT2 project implementers. This is encouraging.

7.2.1 Outcomes for ethnic minorities

The high-level objectives in the draft Action Plan pillar are:

- Ensure that resettler ethnic minority households benefit, wherever eligible, from support under the SSN, the special program for poor households, free healthcare and other relevant programs, to take care of their basic needs. [We would add equal participation in all levels of education.]
- Improve the socio-economic status of ethnic minority households on a sustainable basis through tailored livelihood support.
- Foster self-reliance among ethnic minorities by facilitating their full and equal participation in political, economic and public life.

These objectives are all highly relevant and focused on outcomes for minorities. We support them. The challenge is to define them in terms of measurable objectives and KPIs that can be achieved in the relevant time period.

7.2.2 Reaching ethnic minorities

An important safeguard for ethnic minorities is the recognition in the CA and elsewhere of the integrity of hamlets within consolidated villages. The draft AP commented that:

“There is a risk that the vulnerable groups will be unable to have their say in village decisions, particularly where their communities have been merged (even if only administratively) with communities where other ethnic groups are dominant. These groups could lose out in resource allocation, including in allocation of new resources available, for example through the NT2DF, and village decisions might not reflect their capacities and preferences, with feedback to the risks explained above. “

We agree, and would go further to say that in cases coming to our attention, this loss of ethnic identity and voice within the larger village unit is a reality. Both in terms of securing minorities’ rights and focusing development programs specifically on minorities, the hamlet is the relevant unit of organisation.

Protecting the separate existence of hamlets within consolidated villages is an important means of securing ethnic minorities’ rights. Some important rights of ethnic minorities are better secured at the level of the hamlet. We would underline in particular the

legal right of the hamlets, acting collectively, to make decisions about land use. The Community Land Titling (CLT) rules and regulations are very specific that decision making about CLT land is vested in the hamlet, not the consolidated village. Many activities benefiting ethnic minorities (such as training or livelihood development) are also better directed to hamlets. This entitlement needs to be recognized in this AP in particular but across the range of APs as well.

Similarly, we endorse the AP’s recognition that livelihood programs and training opportunities to benefit ethnic minorities need to be targeted at the hamlet level. There is considerable evidence that the stated risk that poorer hamlets do not receive sufficient benefits from livelihood activities and fall behind other groups is in fact a reality now.

7.2.3 The Ahoe

The views of the POE on Ahoe issues are well known and covered in detail in POE 24. We would only note here that the case for a WMPA post in Old Sophia is based at least as much on the need to monitor and regulate illegal fishing and fish marketing and wildlife poaching in the northern part of the reservoir as it is, for example, on fostering development activities among the Ahoe families there.

7.2.4 Future capabilities to address ethnic issues

The AP pillar on ethnic minorities does illustrate the advantage of utilizing the knowledge and skills of a professional ethnic minorities specialist for such work. The next step, perhaps already contemplated, would be for NTPC to engage such a person on a more permanent basis to oversee implementation of the AP. Implementation will not be an easy or short-lived task, which is freely acknowledged by the AP’s authors.

The draft identifies the need for NTPC and GoL staff to be able to communicate more effectively with minority groups and envisages hiring a local facilitator with “... relevant experience, and knowledge of not only Lao but also minority languages as well (if possible).” The report notes that such a person has already been hired but what is unclear to the POE is whether this consultant will simply undertake the livelihoods and expectations review or will remain on the staff to oversee implementation. The latter seems highly desirable. An alternative is to appoint as facilitator another suitably qualified person to carry the ambitious program through to fruition.

7.2.5 Objectives and indicators

Overall outcome: ethnic minorities can secure the same basic rights and enjoy the same standards of well-being as other groups of resettlers, while maintaining their cultural identity and autonomy.

Objective	Indicators by 31.12.17
Taking care of basic needs	Access of ethnic minorities to support for poor and vulnerable households; health care and education and training are at the same rate as the average population [Measured by statistics of enrolment in these programs]
Improving socio-economic status	Participation and successful completion of basic education, adult literacy and livelihood

	<p>training programs are at the same rates as the average population</p> <p>[Measured by statistics of enrolment and completion of these programs and, in the case of training, successful uptake of likelihood opportunities as a result]</p> <p>Measured living standards and overall* participation in livelihood activities are at comparable rates to the average population</p> <p>[Measured by the Quarterly Social and Economic Monitoring (Survey) (QSEM) and LSMS.]</p>
Fostering self-reliance	<p>Membership of village and hamlet institutions at the same proportion as the average population.</p> <p>[Measured by official reports of membership of village and hamlet committees.]</p>
*Allowing for differences in mix of livelihoods appropriate for different ethnicities and locations.	

Measurement of the indicators in this table would generally be by identifying ethnicity in the appropriate monitoring survey. The AP refers particularly to the use of the QSEM and LSMS surveys for measuring performance on socio-economic indicators. The survey methodology for QSEM9 on Ethnicity adopted an appropriate definition of ethnicity, which we assume will be followed for further QSEM and LSMS surveys. There may be specific requirements for oversampling for specific smaller ethnic groups to provide a reasonable degree of statistical precision in reported statistics.

7.3 Gender

7.3.1 Introduction: process and outcomes for the pillar

The Action Plan for Gender develops quite a complex approach to ensuring that a gender dimension is embedded into all of the activities of the Action Plan. Each activity is scored G1, G2 or G3 (highest) depending on their relative relevance to women, and most activities are accompanied by a comment on how gender should be addressed in the activity. Gender assessments are informed by three broad outcomes: endowments (women's health, nutrition and education), economic opportunity (women's economic power and control of assets in livelihood activities), and agency (women's voice and influence in family, village and wider society).

7.3.2 Moving from process to results

This pillar is mostly about process and not results. This is appropriate in a program which is based on mainstreaming gender priorities. But it does mean that not much will be found in this Pillar Plan which actually directly delivers results of benefit to women – it is necessary to look elsewhere for that. The whole of Objective 1, for example, is aimed at developing a systematic approach to gender mainstreaming. Objective 2 is a general approach to developing gender awareness in local government and holding it to account. Objective 3 is about supporting women's efforts to empower themselves and developing advocacy for gender equality, although there are specific actions related to literacy and numeracy and

responding to domestic violence. These measures to support women's priorities through community action are of value: for example making district training more tailored to men's and women's different focuses in hamlets and (critical, as the AP notes) capacity building of district and hamlet-level women's organisations. But – apart from the few specific actions noted above - they are difficult to connect directly to improved outcomes for women.

7.3.3 Outcomes for women, their definition and measurement

The NT2 Framework for the Pillar defines the outcomes – endowments, economic opportunity, and agency – but in very broad terms. The gender project on Nakai ought to look for specific results in each of these spheres. We would be looking for evidence of improvement in the welfare and status of women under each of these headings; that there is evidence of positive change in women's lives in endowments, economic opportunity and agency. We have not got as far as identifying KPIs for each of these but have some suggestions below.

Endowments:

There are commonly accepted measures of improvement in women's health and nutrition and education.

Economic Opportunity:

Each of the four pillars will have specific activities which enable women to combine income-earning with family commitments; success will be measured in the income they earn and their own valuation of the satisfaction and independence it gives them. Although it is not all about income, it would be helpful to have some idea of women's contribution, in cash and in labour terms, to the household economy. A useful indicator would be the percent of women's contribution to household income. This could be measured in terms of unpaid work in household livelihood activities together with cash income derived from activities for which they are primarily responsible.

The treatment in the pillars of women's role relevant to economic opportunity is rather uneven. Specific comments on each of the pillars:

- *Agriculture and livestock*: there is no discussion of the relative roles of women and men in the pillar and the comments on the gender markets tend to be rather formulaic; e.g. “gaining additional experience is required for both men and women; ensure fair participation of women”. More attention to the relative preferences of women for activities which suit their other commitments would be useful: e.g. to small livestock (although chickens do rate a mention) or home gardens.
- *Fishing*: there is quite a good discussion of the effects of the inundation on women's role in fishing and their dominant role in fish processing; also of their representation on sector institutions. There perhaps could be more attention therefore to actions to support the development of processing.
- *Forestry*: a gender perspective is yet to be developed. There is a discussion in the text of the proven value of NTFPs as a forest use which has not yet found its way into the action plan. Given women's traditional role in harvesting NTFPs, it deserves treatment there.
- *Off-Farm*: the pillar plan specifically seeks to identify women as a target group for activities and sets a gender balance target for business activities led by women. Specific mention is made of the role of women in tourism. Separate women's off-farm plans could be developed, hamlet by hamlet, following a participatory planning

approach. Indicators could be: 70% of women's off-farm plans completed and started implementation by June 2016; and percent of income derived from women-led off-farm businesses. This first needs to assess women's skills, needs and potential in each hamlet, including how to generate business ideas, what is the marketing potential of each idea, do women want to work as a village group, smaller group, individually, or a mix of these, and how to develop business plans.

Agency:

This can be measured in the conventional terms of women's participation and leadership roles in village institutions and in employment; also in evidence of access to legal rights and protections. A direct approach might be simply to ask a sample of women each year whether their lives had improved in these respects.

7.3.4 Objectives and Indicators

Overall outcome: women's health and well-being are secured and they move progressively towards equal status with men in education, control of income and assets and voice and influence in public life.

Note: the indicators below are aspirational. In practice the POE would be looking for evidence of significant improvements by 31.12.17 over a baseline.

Objective	Indicators for 31.12.17
Equal endowments	Girls' and women's health and nutritional status achieve global standards Girls and women achieve same standards of basic and further education as boys and men
Equal economic opportunity	Women's labour hours on household and livelihood activities are more evenly shared with men's Women report that they share control with men of income and assets Women participate successfully in livelihood development programs Women have a portfolio of livelihood opportunities which they control themselves
Equal agency	Women achieve the Gender Balance Targets for participation as members and leaders of village and District organisations

7.3.5 Major tasks by December 2017 and accountabilities

- **Identify and put in place in each of the four livelihood pillars specific actions of relative importance to women and measures of achievement – NTPC and GoL**
- **Consider a specific survey of women in resettler households identifying their views on each of the major objectives of the gender strategy – NTPC and GoL**

8 LOOKING BEYOND THE RIP: THE MEDIUM TERM DEVELOPMENT PLAN



Village Committee, Khon Khaen

8.1 Introduction

The POE's advice on closure of the RIP in December 2017 will be based on the evidence that the resettlers are, overall, on the path to sustainable livelihoods. As indicated in the text, this depends primarily on evidence about performance in each of the pillars. But RIP closure, as numerous people have pointed out, is an arbitrary milestone imposed by the CA. It has significant contractual consequences in that the role of the company changes from primary agent of the development project on the plateau, to manager of a hydro station and sometime funder and monitor of that development. However, although there will be change of responsibilities for carrying development forward, RIP does not spell the end of that development. As advisers on the conditions for sustainable development, we have to look beyond this putative date of closure. Therefore what the POE sees as the Medium Term outcomes described below are those required to meet RIP closure. These link to what we see as Longer Term outcomes, which will be pursued after RIP and over the continuing development process supported by both NTPC and GoL during the subsequent two decades.

8.2 RIP and the Medium Term

The following factors come into play:

Sustainable Institutions

- (1) The institutions of government should be in place to provide a robust institutional framework for among other things: (i) protection of the resettlers' collective and

individual use rights on land and in the reservoir; (ii) resolution of conflicts in and between hamlets and villages; (iii) maintenance of the public assets of the plateau; (iv) delivery of social services such as education and health, and; (v) support for the self-governing institutions of hamlets and villages.

- (2) The hamlets and villages themselves should be able to govern themselves within their sphere of planning and decision-making.

The principles of the GoL's Sam Sang philosophy apply here: villages as the development unit, districts as the integration unit, and provinces as the strategic unit.

Sustained Development

Assuming that the RIP were to close in December 2017, the development process will continue to engage all the development partners: hamlets and villages, government, donors and the company. The company will not go away on that date – the shareholders have signalled their intention to stay engaged by the creation of the NT2 Development Fund and retention of core staff. Donors have also signalled their intention to remain engaged with the funding of major projects in farming and tourism – we hope that forestry will be included as well. But there are two consequences:

- (1) Leadership of the development process clearly becomes the responsibility of the GoL. That is what a handover means. Many of the programmes currently being managed by the company will pass to hamlets, and to District officials and in some cases require direct support of Provinces and of Ministries in Vientiane, in each case working with Village Authorities and Village Development Committees or VDC sectoral sub-committees.
- (2) There will be important contributions required from all partners to the planning, funding and implementation of development projects; coordinating plans and harmonising systems will become a significant factor.

8.3 Building local capabilities

8.3.1 Role of the District

The key to the success of both these objectives - sustainable institutions and sustained development – is a well-endowed and capable District administration. Post-company, there is no alternative: the District has to step up; the plateau cannot continue to be run as one big company town – and the international development partners and their projects come and go – they cannot take on the task either. There has been a lot of rhetoric about handover in the last few years and some steps – such as co-location of District and NRO staff – to prepare for it. But despite reports from independent reviews such as Dr Rita Gebert's 2014 study¹³, together with the regular monitoring reports of the POE and others, that the District was not ready to take on the lead role in governance and development, there is still some way to go to resource the District appropriately with budget and expertise.

We have discussed some of the requirements for strengthening the District in the pillar chapters of this report. To summarise: the District needs not only in-house technical skills in advising on cropping, animal husbandry, fisheries and forest planning and management but also in facilitation of participatory planning, business development and

¹³ Gebert, R. 2014. Institutional Assessment of District and Village Institutions in Nakai District Nam Theun 2 Resettlement Area, Nam Theun 2 Power Company Ltd.

marketing and disputes resolution (particularly with respect to land). The GoL must support this by resourcing a staffing plan and overall budget for the District. Of particular importance is keeping qualified staff in the District for longer; at present staff sometimes get moved on just as they are gaining the experience to be really valuable to the District administration.

We have made specific mention of the requirements for DAFO in other sections of this report. The POE discussed the situation during the mission with the Deputy Minister of MAF, Dr Phouangparisak Pravongviengkham, and received a sympathetic hearing. The Ministry is beginning to recognize that substantial new District resources are going to be needed to cover this extensive and demanding mandate, hopefully including secondment of some of its experienced staff to Nakai DAFO in areas like fisheries expertise, forestry and the all-important agricultural extension services, at present staffed by recent graduates who may be keen but lack practical experience and are largely "volunteers". Movement towards livelihood sustainability by the end of next year will not be attained without help in supplying high quality people from MAF. At the same time the project must keep the Ministry fully informed of its activities and plans. MAF feels somewhat out of the loop at the moment.

The NTPC will also have to lift its game in some areas if the December 2017 deadline is to be met. The POE has the impression that the NTPC operation in Nakai has been weakened by the release of a number of key middle level managers in Vientiane and on the Plateau. Continuity and institutional memory have been affected and new or reassigned staff sometimes appear over-burdened by their responsibilities. Staff numbers and expertise in Nakai and in Vientiane too need bolstering if the AP's targets are to be met and continuity maintained in the years ahead. Greater budgetary allocations over the next period and recruitment of well-qualified new staff would appear to be called for as a consequence. The POE awaits the Annual Implementation Plan, apparently now covering the next 18 months, with interest.

At the same time, NTPC has to prepare to give the lead to the District on the development project. There is little doubt that company-led development has been a source of some friction with the District. There are fears now that the District will be left out of calculations in the period to closure, the transition and the medium and longer term. First: that the District will be pushed aside in the rush to closure (including the possibility of some expedient actions which are not good for the longer term) but also that the GoL is going to be saddled with a lot of tasks in the AP's List of Actions which will fall – because there is no alternative - on the District administration. Second, that in the longer term, when closure occurs, the District will be left with the responsibility for further action, but without any effort having been made to equip them for it over the intervening 18 months. Third, that the development plans post-closure seem also to push the District aside in favour of NGOs (there has obviously been some annoyance in the District at the Meechai Viravaidya Foundation experiment which officials see as cutting across and duplicating planning which is already done by the District and villages) and development funding effectively run by the donors (including NTPC).

While these concerns may be a little mutually contradictory, they send a pretty clear message with which the POE agrees: that in the longer term, the GoL has to be primarily responsible for the well-being and development of the people of the plateau; that responsibility will fall primarily on the District Administration; and that so far the District has not been properly resourced to do the job nor sufficiently responsive to many of the issues currently impeding progress.

The vicious cycle has to be broken. The District Administration, working with the villages, has to take primary responsibility for governance and development in Nakai; GoL

has to commit the resources to enable the District to do it; and transfer of responsibility and appropriate resourcing has to start now.

8.3.2 Strengthening village planning and management

As noted in the discussion of the requirements on villages in the pillars, improving the skills of VDC members to take over the planning role is an urgent task. Lifting the planning skills and capacity of the resettlers has been too long delayed and must now be accelerated. This is also a national priority, and needs to go beyond preparing a 5-year shopping list for incorporation into District plans. Much of the remaining programmes in the various sectors will be planned and determined henceforth, as originally envisaged by the CA, by the VDCs through participatory processes. Such processes at this stage of the Project need to focus primarily on livelihoods development and existing community land use and management. Participatory planning is a sensitive and time-consuming process to mount and successfully implement, so must be well prepared and initiated quickly. It is important that the VDCs become much more involved in the planning exercises which lead to the District, Provincial and national plans. While the NTPC has committed to providing some funds right through to 2035 the task of maintaining successful livelihood programs will increasingly have to be funded from GoL budgets and include more contribution in ideas, cash and kind from resettlers themselves. The competition for scarce resources will become more intense. So it is important that the Nakai District, backed by the VDCs, is able to present well prepared plans for the future.

A particular requirement is strengthening the administrative capabilities of the Village Authority and Village Development Committees (VDCs). The POE held talks with VDC members in nine of the sixteen hamlets. It was apparent that in most cases there is little logistic or advisory support available to either the naibans (village chiefs) or the VDC. Records of hamlet meetings are not readily to hand, basic texts like the Land Law and land use regulations, and even the villagers' contributions to the District Plan, are not available to VDC members – or have been mislaid. Basic aids like the land use maps prepared for each hamlet are missing. The standing of the VDCs, intended to be the linchpin of the village planning and implementation processes in the years ahead, is weak. Naibans are paid something for their time but there are few other inbuilt incentives for VDC members to devote time and energy to this work, and many are tired of the years of meetings under the Project. While excessive bureaucratization of the village participatory processes would not necessarily be helpful, some basic facilities, equipment (including basic computers, allied with training in their use for VDC members with aptitude for IT), supplies, information and incentives to perform – including payment for work performed - are required.

8.4 Future Governance and Management of the Nakai Development Project

The evolving Nakai development program after RIP will involve all the major stakeholders. The pillar APs clearly identify who is accountable for each activity and also identify linkages with other actors up to RIP but the arrangements for coordination and harmonisation of activities in the medium term were not spelled out as clearly in the drafts available to us. The relationships are many and various, and a lot of the activities can make demands on the same players and may cover the same topics, for example in GoL, NTPC (and potentially AFD-funded) interventions in agriculture and livestock. The important actors and institutions include:

- (1) GoL and its constituent organisations: staff and budget for (especially) District and Province and its developed Village-District-Province-National planning hierarchy and timetable;

- (2) NTPC: NT2 Development Fund;
- (3) SERF;
- (4) AFD/NTPC: joint funding (and co-governance) of the proposed 5 year Ag and Livestock project;
- (5) World Bank: possible support for community forestry;
- (6) ADB: Khammouane Tourism Project;
- (7) Villages: ideas, planning, labour, village-based finance (VDF).

There are other potential projects in the wings. In addition, as well as the actors identified in the AP, there are others who may well play a valuable part, such as NGOs. There is potential for a range of (confusing and not necessarily consistent) sets of rules and practices for consultation, funding and procurement, decision-making, monitoring and auditing.

Most activities require the resettlers to give not only their labour and other implementation contributions to project activities but their time in VDC and other institutions to planning and monitoring. Several initiatives are emphasizing community-based participatory planning. The GoL planning system and the Sam Sang principle start with a village plan decided by the village as a community. There are similar participatory approaches suggested for forestry, agriculture and livestock (the AFD project), further land use planning, off-farm activities and related training, and the validation of the Action Plan itself.

These various initiatives need to be harmonised: not only because of the risk of meeting fatigue with participative processes competing for villagers' attention but because of the risk of confusing and conflicting messages to the villages about priorities. The social planning process involving a Thai NGO trialled in Nongbouakham, for example, has caused considerable irritation in District government because it not only replicates work done in the past but also cuts across the established government planning cycle. On the other hand, it has inspired considerable enthusiasm from villagers themselves, and some clarified responsibilities and contributions for a wide variety of activities. Recognising that village planning undoubtedly requires support and facilitation from outside, the Village Plan could be the central node of these processes, but as already mentioned above this is going to require direct involvement of District staff in the initial stages at least, as well as commitment from all the parties involved and support in the form of trained advisors, equipment, supplies and probably payment to VDC members for attendance at meetings.

During the RIP, there have been reasonably clear means of coordination between the NRO, the RMU and the District Working Group (DWG), supplemented by day to day working relationships between NTPC and District staff. In transition and following RIP closure, responsibility for social and environmental programs will be progressively handed over from NTPC to District. Other development partners will have to be considered as well. The two biggest potential funders at present are NTPC with the NT2DF (together with social safety net and SERF) and the AFD (jointly funding the five-year farming project with NTPC). Future partners may include the World Bank and the Asian Development Bank. In addition, funders may well wish to see other agents involved in technical assistance and support roles, such as local or international NGOs. A new model for coordination clearly needs to be developed, and without delay if RIP closure is to be achieved.

The Sam Sang principles also apply here. To quote a recent review of Sam Sang: "Multiple planning increases transaction costs for villagers – donor projects delivered through line ministries often require separate village planning work because donors and

NGOs rarely use existing village or district development plans. Uncertainty about the amount or timing of government budget can result in duplication [and] priorities identified by villagers can be over-ridden by donor programs. ... District staff interviewed for the study emphasised their capacity to act as the integrative unit – coordinating donor programs, foreign direct investment and government programs in their location so long as partners and investors consult with them.”¹⁴

In our view, therefore – and in terms of the GoL’s own philosophy and governance principles - the District Administration should be the primary “switchboard” between the other actors and the resettlers. This is why we have consistently emphasized building the capacity of the District as critical: not only to provide technical and institutional support for the villages but also to play a central role in medium and long term planning.

We can’t avoid recognising however that “coordination” is not value free – it involves reconciling competing interests. The District wants to be clearly in charge, but other actors have their own priorities and need to satisfy their stakeholders that their resources are being properly utilised. The RMU by taking authority away from local government line administration has been a source of friction, we suspect partly because it was in the middle of a three-way relationship between District administration, Provincial government and NTPC. The Provincial Governor needs to sort this out with the District Governor and administration, but our view is that the Provincial and national interests will be best served if the primary responsibility for development planning and management rests with the District, with supervision and support as appropriate from Provincial offices and the national Ministries.

Arrangements for project planning and execution in both cases are not yet finalised. In the case of the NT2DF, we were advised that "the principle is an administration of the fund by NTPC, with a co-management by the GoL (District and Village level)." It seems¹⁵ that the Company has been thinking about an arrangement with a separate Advisory Board (“in charge of endorsement of projects”), Steering Committee (“in charge of the approval, the monitoring and assessment of projects”) and Project Team (perhaps involving an NGO) although with representation of District and Villages on the Steering Committee. For the medium term agriculture project, two options were presented for governance¹⁶, one with two Steering Committees at District and Provincial level and the other with a single District-level committee. Both options would involve GoL representation at national, provincial and district levels together with villages together with the technical assistance (TA) agent. The AFD representative commented (with qualifications regarding the TA component¹⁷) that “Whatever the chosen option AFD funds will be put at the disposal of the GoL to be allocated to the project and then will follow the GoL procedure for implementation.” Implementation would be by a blended team of district staff and the TA agent.

The agriculture project governance and execution model would be the POE's preference for wider arrangements for the overall medium and longer term Nakai

¹⁴ Laos-Australia Development Learning Facility 2015. Sam Sang in practice: early lessons from pilot implementation, Australian Aid / Adam Smith International.

¹⁵ Based on an exploratory paper from mid-2015 “NT2 Development Fund - Feedback from local / regional experiences” of 29 May 2015.

¹⁶ AFD/National University of Laos (2016) Agriculture and Livestock livelihood pillars - 5 years Programme Formulation Draft Report. Pp72-3

¹⁷ In an email to the POE: that the funders and GoL may wish to retain some control over the choice of an agent for the TA, and that AFD has in mind a possible partnership with a local Lao NGO (with it appears French support).

Development Project, perhaps with the addition of a funders' representative who would have delegated responsibility for monitoring of project choice and execution. At the execution level the model has the major advantage of coordinating the communications between district (and implementing partners) and the villages and particularly ensuring that participatory planning processes can be harmonised under the umbrella of the GoL's village planning process.

8.5 Suggested further action

As indicated, we were asked by the Joint Working Group to consider specifically what arrangements might be required for governing and managing the development project in the medium term. We have couched these as suggestions for inclusion in the general introduction to the Action Plan.

- **Future development on the plateau should be based on a District Development Plan, which should be prepared by integrating Village Development Plans. Village Plans based on participatory processes should bring together all elements of plateau livelihood development including sector plans for agriculture and livestock, forestry, fishing, off-farm activity and hamlet land use decisions. Participatory processes do not imply that all the community involved have to take part directly in every discussion – VDC sub-committees such as in forestry would be participatory but not necessarily involve those more involved in other sector consultations.**
- **Consistent with the Sam Sang principle, the longer-term Nakai Development Program should be governed by a Steering Committee with substantial representation of VDCs and with effective participation by the relevant Ministries (particularly MAF and Ministry of Natural Resources and Environment (MONRE), and Provincial and District governments and with representation as required of funders or their agents; the Steering Committee to be responsible for approval of the District Development Plan and specific projects within it and monitoring and assessment of projects and outcomes.**
- **The District Administration should be accountable to the Steering Committee for the formation of District Project Teams for each major livelihood pillar, consisting of relevant District staff together with TA agents and resettler representation and responsible for the implementation of projects approved in the District Plan.**
- **In preparation for a handover of primary responsibility for development to Villages and the District Administration, the relevant District (Sectoral) Offices need to be strengthened with capabilities in cropping, animal husbandry, fisheries and forest planning and management but also in facilitation of participatory planning, business development and marketing and disputes resolution (particularly with respect to land);**
- **The District needs to make the commitment to retain qualified staff for the next five years at minimum, and GoL at Provincial and national levels to support this strategy by endorsing the budgets and staff appointments required;**
- **The administrative capabilities of villages and particularly Village Development Committees need to be strengthened by training naibans in their role and considering increasing their stipends in line with national Sam Sang policy, providing them with basic administrative facilities, supporting VDC training in**

how to manage participatory development processes, refreshing training on applicable planning regulations, particularly on community land use in different hamlets.

9 CONCLUSION: THE BIG CHALLENGES

The POE is concerned at the risk that the big tasks to be undertaken over the next year and a half will be lost in the detail of this report. We are therefore spelling out below the biggest and most difficult challenges as we see them. At the same time readers should appreciate that the details in the body of the report are also important. And as elsewhere in the text we are concerned that the accountable institution or agency is fully aware of its responsibilities for particular actions. Hence the focus on institutions/agencies in the listing below.

Assessing the big challenges over the eighteen months to December 2017, the Panel has concluded that they are, by institution or agency:

- GoL Ministers/Ministries: authorizing the changes in law enforcement practices which would result in the NT2 reservoir fishery and forests (and watershed) being effectively protected from major depredations.
- MAF/DOF/DAFO: filling the gap in forest sector oversight (created by the restriction of the VFDC to timber harvesting and sales) by helping manage the conversion of the pillar to communal forestry in which the resettlers start down the road leading to assumption of key planning and decision-making roles and by helping upgrade the VFDC's operations in the cause of greater profitability.
- NTPC: strengthening its Nakai team by, for example, adding an experienced and inclusive middle level manager, maintaining its fishery expertise and creating a forestry and tourism development monitoring capacity.
- MAF, Provincial Agriculture and Forestry Office (PAFO) and DAFO: DAFO's staff and budget being very substantially expanded to enable it to handle its multiple and widened roles in relation to strengthening village management, forestry pillar oversight, fishery sustainability and WMPA development programs.
- VDCs: being motivated and empowered to assume wider powers, funded and equipped to handle the tasks this entails, upskilled in planning and management and recompensed more adequately for their work.
- Resettlers in general: adjusting to a less dependent phase, accepting the challenge of forging their own futures and advancing further their gender- and age-specific attitudes to wider participation by women and the young in hamlet and village management and in income producing activities.
- World Bank and NTPC: deciding to underpin the forestry pillar's rehabilitation by providing expertise at several levels for up to five years.
- NTPC: allocating a high proportion of the NT2DF funds to the Nakai District for management after RIP closure with appropriate monitoring and audit mechanisms in place.

10 RESTRUCTURING THE WATERSHED MANAGEMENT PROTECTION AUTHORITY

David K McDowell and Lee M Talbot

10.1 Introduction

The WMPA was created in 2001 to manage the NT2 watershed, later the Nakai Nam Theun National Protected Area (NNTNPA) to ensure sustainability of both the area's truly outstanding biological diversity and the welfare of the watershed inhabitants. The overall goal of management for the watershed is to restore, maintain and enhance the biodiversity, habitats, and conservation values, as well as the cultural values, of the NPA and guarantee sufficient volume of water with low sediment loads flowing into the NT2 Reservoir. Funded by the commitment of the NTPC to provide US\$ one million a year (indexed for inflation) for the duration of the concession, the WMPA was created as a special unit, not a regular GoL agency. Unfortunately it soon became clear that the WMPA was not realizing its mandate. By 2013 the POE stated that "the WMPA has been totally ineffective in protecting the watershed's biodiversity," and by the following year two outside reviews of WMPA had documented that the situation had become critical. Consequently GoL initiated action in 2014 to restructure and reorient the WMPA and created a task force to carry this out. The World Bank offered additional funds and assistance to help with the process.

However, almost two years later virtually everyone that the POE has consulted has emphasized that there have been no real results and that the restructuring, etc., must be considered a failure. While there has been some minor reduction in staff, many of the original staff remain, albeit often in different jobs. Funding was reduced somewhat to reduce the grossly expensive leadership and administration costs while maintaining the assistance to villagers and the essential anti poaching patrols. However, the WMPA reportedly removed funds from the village and patrol accounts to maintain what the World Bank called the "bloated administration." As a result the effectiveness of assistance to villages and the patrols was significantly reduced. There has been little if any follow up by WMPA on the World Bank assistance to the reorganization through the Second Lao Environment and Social Project (LENS2) project, including provision of support for study tours for key personnel.

It is clear that if the WMPA is to avoid becoming a total failure there must be an effective strategy that calls for – and provides indicators of – identifiable achievements of action to reorganize and restructure the WMPA without delay.

A more detailed background to the above conclusions may be found in POE Reports 21A, 22 and 24. In the POE's view the time has come for a discussion among all WMPA stakeholders and monitors on the strategy to be followed to rehabilitate and restructure the WMPA. The Panel would support an early and representative meeting to propose decisions on the way forward. Elements of a strategy should include the following:

10.2 Staff

The present director of the WMPA Secretariat may be kept in place, but all other members of the staff to be separated with the provision that they may reapply for positions later. There may need to be some sort of a "redundancy" payment from WMPA funds, removal costs covered where applicable and interventions with Departments where appropriate to try to help them get a job. All new staff should be based on a strategic staffing plan which is prepared, shared, cleared and adopted. Such a procedure would require a professional consultant to develop. A new organigram would be required and it should be discussed with the World Bank, Independent Monitoring Agency (IMA) and POE. Staff

should only be taken on as is consistent with the strategic staffing plan and organigram. No new hires should be made until this process is completed.

Other than the director, a complete removal of present staff is required, given the situation of the WMPA. There is an urgent need to change the institutional culture of the Secretariat. Since the culture is determined by the staff and leadership, changing the culture requires changing the staff and most leadership.

New TORs should be prepared for each staff position and an independent selection panel with substantial outside membership should be set up to review the qualifications and experience of those who apply for positions, and to determine which ones are to be hired. In considering re-applications of present staff, consideration should be given to the role, dynamics and work ethic of the staff during their tenure with the Authority, remembering the need to change the institutional culture.

All new staff should be hired for a probationary period to assure that their performance warrants a more permanent position.

Study tours should be held for key personnel, to enable them to experience effective protected area management. These were offered by the World Bank but the WMPA has never acted upon them.

10.3 Partner Organization

The POE believes that the WMPA Board of Directors should conclude an MOU with the Wildlife Conservation Society (WCS) to serve as a partner organization with the WMPA. The POE and others involved with the reorganization of WMPA have all strongly recommended that the WMPA needs a partner organization, to provide the experience and expertise required to develop an effective organization to carry out the WMPA's mandate. The WCS has worked with the GoL in Laos for many years, and has some form of partner arrangement with various protected areas. It has an outstanding record of often long term accomplishment with working with protected areas in many countries. It could provide senior staff to work with the WMPA leadership, backed up by an international organization. It would have to have a fully collaborative position, not merely that of providing technical assistance, and the relationship should be on a long term basis. The relationship should be initiated without delay and if possible should be accomplished well before the end of this year.

10.4 Board of Directors.

The direct institutional responsibility for the WMPA is with the WMPA Board of Directors. The new decree under consideration makes the Minister of Agriculture and Forestry the chairman, and other Board members include representatives of the provinces, districts and others potentially involved with WMPA. The decree (Article 5) states that "The Authority reports directly to the Prime Minister." The GoL Task Force established to guide the reorientation, etc., of the WMPA also has a role in guiding the actions of the authority.

The legal basis for establishing WCS as a full partner to WMPA could be through a MOU between the Board and WCS. The MOU should spell out explicitly the relationships between the WMPA and WCS, as noted above. If WCS is to be a full partner of WMPA it would be most appropriate if they had a representative on the Board of Directors.

10.5 Senior Outside Fiduciary Advisor/Auditor

The Board should appoint a recognized and responsible auditor to assure that the Secretariat applies the funds in accordance with the approved plan. As noted above, the

Secretariat has shifted funds intended for patrolling and village work to the administration. An outside auditor is required to see that this practice does not continue.

10.6 Conclusion

The above elements of the strategy are required to achieve effective restructuring of the WMPA. Failure to achieve the restructuring and reorientation, and consequent continuation of the basically failed approach of WMPA, will probably result in the watershed component of the NT2 project being determined to be unsatisfactory or in non-compliance, and the World Bank and Environment Protection Fund (EPF) will need to reassess their rationale for supporting the NNT NPA if no substantial progress is made by November, 2016.

ANNEX: LETTER FROM GOVERNMENT OF LAO PDF REQUESTING POE ADVICE

20 June 2016

Ministry of Energy and Mines
Department of Energy Business
Nongbone Road, Vientiane, Lao PDR
PO Box 11694
E-mail : [enerqy\(3\)deb.qov.la](mailto:enerqy(3)deb.qov.la)

Attention:

Mr. David McDowell

Mr. Lee Talbot

Dr. Elizabeth Mann

Dear POE members,

As the representative of Government of Laos under NT2 CA and on behalf of the Joint Working Group (JWG), we would like to express our thanks to the NT2 Panel of Experts (PoE) for their recent mission. In particular, we appreciate the productive discussion on the draft Action Plans for closing the Resettlement Implementation Period (RIP), both the challenges and positive observations.

As you know, the JWG has made seven Actions Plans grouped into a Comprehensive Action Plan. Each of the Action Plans contains (i) a List Of Actions (LOA) to close the Resettlement Implementation Period (ii) and actions related to the long-term involvement of stakeholders in the support of the Resettlers' livelihood under the Medium Term Development Plan.

The collaborative process for closing the RIP by the extended deadline of 2017, through well-defined actions and indicators, is intended to embed the insights and recommendations of the POE. Hence, before the JWG finalizes the Comprehensive Action Plan, we request that the PoE provide their comprehensive and consensus comments on each of the seven Action Plans.

As discussed in the meetings, we would like to formally request that you provide your detailed insights to the following questions:

- What high level outcomes are expected by the PoE to end the RIP in accordance with the Concession Agreement (CA) requirements? Please identify (to the extent possible) how those objectives are/are not identified in the Action Plans.
- What evidence/indicators of those outcomes are recommended in terms of quantitative targets or, where not possible, criteria to describe the outcome objective?
- Do the actions identified in Annex 1 of each Action Plan (under LOA) provide a clear logic flow to the higher level objectives) do you consider that these are consistent with the CA requirements for closure of the RIP? Please identify gaps as well as unnecessary or low priority or irrelevant actions.
- What are the strengths of the APs that the PoE considers particularly helpful and high priority?
- Is there anything else missing, in your opinion, that should be added in order to ensure closure of the RIP by 2017?

- Is there anything that need to be added to enable the PoE to use the Action plan to monitor and inform on progress towards RIP over the next 18 months?

In addition, the JWG would appreciate any advice on cross-cutting issues that will help consolidate the individual Action Plans into a Comprehensive Plan. For example: what are key features for participatory processes; what funding sources (e.g. VDF, SERF) should be linked or consolidated; what actions could help promote the hand-over process in the service of transient to greater self-reliance?

We appreciate that these comments were verbally shared and, in most cases, informally presented in the form of preliminary notes and track changes. A consolidation of those comments into a formal document will help avoid misinterpretations and degradation of understanding through time. This document will be used to update the Comprehensive Action Plan, which clearly set out the actions to be taken by the parties in order to achieve the RIP by 2017. An analysis of progress of the specific and measurable actions contained in it will inform the PoE as it makes its decision to recommend the conclusion of the RIP in 2017. It will also serve as an ongoing guide to the well-being of the villagers on the Plateau.

Many thanks for your critical contribution to an effective RIP closure in the interests of the people of the Nakai Plateau.

Sincerely yours

Xaypaseuth PHOMSOUPHA

Director General