

Nam Theun 2 Report July 2018



**Nam Theun 2
Multi-Purpose
Hydro Project
Lao PDR**

**Panel of Experts
Report No 28**

LAO PEOPLE'S DEMOCRATIC REPUBLIC



NAM THEUN 2 MULTIPURPOSE HYDRO PROJECT

INTERNATIONAL ENVIRONMENTAL AND SOCIAL PANEL OF EXPERTS

TWENTY-EIGHTH REPORT

July 2018

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Cover Page: Worker at vegetable garden near Ban Bouama, Nakai.

Title Page: Padi near Ban Bouama.

Acronyms

| | |
|---------|--|
| AFD | Agence Française de Développement |
| AWPB | Annual Workplan and Budget |
| CA | Concession Agreement |
| COTE | Consortium of Technical Experts |
| DAFO | District Agriculture and Forestry Office |
| DOF | Department of Forestry |
| E&S | Environmental and Social |
| EPF | Environment Protection Fund |
| FCS | Food Consumption Score |
| FMP | Forest Management Plan |
| GOL | Government of Lao PDR |
| HFMP | Hamlet Forest Management Plan |
| IFI | International Financial Institution |
| IMA | Independent Monitoring Agency |
| IUCN | International Union for the Conservation of Nature |
| JWG | Joint Working Group |
| LFNC | Lao Front for National Construction |
| LoA | List of Actions |
| LSMS | Living Standards Measurement Survey |
| LTA | Lenders' Technical Advisor |
| MAF | Ministry of Agriculture and Forestry |
| MFA | Lao Microfinance Association |
| MTDP | Medium Term Development Plan |
| NGO | Non-Government Organisation |
| NNT-NPA | Nakai-Nam Theun National Protected Area |
| NP-LAF | Nakai Plateau Livestock, Agriculture and Fisheries Project |
| NPWG | Nakai Plateau Working Group |
| NT2 | Nam Theun 2 Multipurpose Hydro Project |
| NT2DF | Nam Theun 2 Development Fund |
| NTFP | Non-Timber Forest Product |
| NTPC | Nam Theun 2 Power Company Ltd |
| PIZ | Peripheral Impact Zone |
| PLUP | Participatory Land Use Planning |
| POE | International Environmental and Social Panel of Experts |
| PRF | Poverty Reduction Fund |
| RDPEO | Rural Development and Poverty Eradication Office |
| RIP | Resettlement Implementation Period |
| RMU | Resettlement Management Unit |
| RO | Resettlement Office |
| RPU | Reservoir Patrol Unit |
| SCU | Savings and Credit Union |
| SERF | Social and Environmental Remediation Fund |
| VDC | Village Development Committee |
| VDF | Village Development Fund |
| VDP | Village Development Plan |

| | |
|------|---|
| VFA | Village Forestry Association |
| VFDC | Village Forest Development Corporation |
| VFG | Village Fishing Group |
| VFU | Village Forestry Unit |
| WMPA | Watershed Management Protection Authority |

Executive Summary

Introduction and recommendation on closure of RIP

In its Report on its 27th Mission, in response to a request from the Government of Lao PDR (GOL) for a recommendation to close the Resettlement Implementation Period (RIP) for the Nam Theun 2 Multipurpose Hydro Project (NT2) immediately, the International Environmental and Social Panel of Experts (POE) recommended specific conditions for closure, subject to a review in mid-2018 and a finding that the conditions had been met. The POE conducted its 28th Mission to NT2 in June-July 2018, to review action on its recommendations. As a result of its investigations on this mission it recommends in this Report **that the Government agree that the RIP be closed immediately**. The reasons for its recommendation are set out in the report and summarised in its Annex B.

Institutional arrangements

Arrangements have been made for the handover of the Company's development responsibilities. The Nam Theun 2 Power Company (NTPC) are confident that the District has the capacity to take on these responsibilities. NTPC's remaining specific resettlement obligations are now either completed or will be by the end of 2018.

The GOL has established and funded a Transition Plan Secretariat for three years to coordinate its development work.

Funds can now be released for the Company's NT2 Development Fund (NT2DF) and are already available for the Nakai Plateau Livestock, Agriculture and Fisheries Project (NP-LAF) funded jointly by the Company and the French Development Agency (*l' Agence Française de Développement*: AFD). Work programmes for both have been developed, based on Village Development Plan (VDP) priorities and hamlets should be able to submit detailed proposals for support to the Funds before the end of 2018.

Development initiatives on the plateau will be overseen by a Nakai Plateau Working Group, representing all the major stakeholders including the villagers themselves.

The monitoring arrangements for the project's results should meet the requirements of expertise, independence and transparency, provided that reviews are regular and properly resourced and reports are published. The invaluable scrutiny of the Lenders Technical Advisor (LTA) of livelihoods development should continue; its reports should be made public. The POE welcomes the continuation of regular socio-economic surveys modelled on the present Living Standards Measurement Survey (LSMS). The specifics of the POE's own continuing role as a standing body of the NTG2 Concession Agreement (CA) through to the end of the Concession Period are under discussion with the GOL.

The village planning process will generate priorities and specific activities for the development funds and the project's Social and Environmental Remediation Fund (SERF). It is important to keep the momentum up by assisting villagers to develop detailed plans and support proposals so that villagers can see action on the ground responding to the priorities they agreed.

Forestry

The new Forestry Management Plan (FMP) is the result of a well-planned and highly participatory process in all 16 hamlets which has produced priorities for both protection and use zones of community forests. Participation has generated a much stronger sense of villagers' ownership of their forests. Their wishes for a cessation in commercial logging must be honoured and protected, including by winding up the Village Forestry Development

Corporation (VFDC) and probably the sawmill operations. GOL agencies at all levels – District, Provincial and National – have a role to play in future planning and implementation.

Agriculture and Livestock

There is a similarly well-developed renewal of agricultural planning through the NP-LAF project. NP-LAF's plan of operations draws on priorities from the Village Development Plans (VDPs) and emphasizes support for farmers' own preferences rather than top-down projects. Many of the challenges to agriculture remain to be overcome: poor soil and lack of water among them.

The pressure of cattle and buffalo on carrying capacity has been alleviated only by allowing large numbers of them to wander into the Watershed to forage. The POE still regards this as a potential emergency. If the livestock are to return, more feed will have to be found in the form of additional grazing land, fodder or pasture.

Land management

Lack of clarity about the rules for land conversion is holding up the conversions required for agriculture and livestock projects, particularly in degraded community forest lands. There are also several reports of officials and others appropriating community land for private use.

Fishing

Enforcement on the reservoir is still having limited effect. The strategy of patrolling and fixed checkpoints needs review, along with the registration and licensing regime and the roles of the various bodies in co-management. The NP-LAF project should complete the review begun in 2017.

Off-farm

There is some evidence that the initiatives to develop employment and business opportunities off farm are having some effect. The Lao Microfinance Association has developed a promising detailed proposal for a Savings and Credit Union owned by the Village Development Fund (VDF) shareholders. Some useful eco-tourism initiatives are at various stages of development.

Ethnic groups

The agreed approach targeting support on disadvantage in general should if well-managed meet the priorities and needs of members of the older plateau ethnic groups. Older groups seem to have participated proportionately in the VDP process. There is still a need to investigate the language and cultural requirements of the older groups such as Makong, Bor and Ahoe.

Infrastructure

NTPC has met or is in the process of meeting all its remaining contractual obligations on infrastructure. The promised performance reviews of SERF should be put in place.

WMPA

Since the contract with the Consortium of Technical Experts (COTE) was signed last October, there has been much progress in development of administration and finance, law enforcement, research and biological monitoring and community engagement and livelihood development. Roadblocks remain: the re-staffing plan is still stalled, and the direct access of the COTE Director to the Board has been blocked.

1 Introduction

1.1 Our Mission 28

In the 27th Report of the International Environmental and Social Panel of Experts (POE) for the Nam Theun 2 Multipurpose Hydro Project (NT2), we recommended that the Government of Lao PDR (GOL) close the Concession Agreement (CA) Resettlement Implementation Period (RIP) in June 2018 subject to completion of some specific actions by the Nam Theun 2 Power Company Ltd (NTPC) and the GOL. The POE's 28th mission in June-July 2018 was to verify completion of these actions.

We arrived in Laos in late June. We first spent five days on the plateau. Two of them were spent in discussions with the company and District officials, and three holding meetings with Village Development Committees and others in thirteen of the Plateau's sixteen resettlement hamlets. We then met the Provincial Governor in Thakhek and travelled on to Vientiane. There we spent a further week calling on GOL Ministers and the Deputy Prime Minister and in further discussions with the Company, GOL officials, International Financial Institution (IFI) representatives and others. Over that week we also drafted most of this report and briefed the stakeholders on our conclusions.

We are grateful to the NTPC staff and to the government officials at all levels for their assistance in organising our mission and providing us with the information we need to write this report. We also as always owe a great deal to the resettlers of Nakai who gave up their time at a particularly busy period of village life and told us of their experiences and their concerns and hopes for the future.

1.2 Recommendation on RIP closure

In POE 27 we noted that "The GOL and other JWG members have asked the POE to 'endorse the immediate closure of the RIP' based on a proposal to establish a Nakai Plateau Working Group (NPWG) to fulfil remaining obligations under the CA and establish a post-RIP institutional platform." These commitments proposed by the JWG did not include the CA Objective to "materially improve resettler livelihoods on a sustainable basis". We concluded in our Report that "With two major pillars of resettler livelihoods in redevelopment, it cannot be confidently said that the conditions for overall sustainability of livelihoods have been achieved." However we also said "We accept that all parties apart from some resettlers wish to close the RIP soon. The project's overall innovatory aspects and its recent swift adjustment to a framework more closely aligned to the CA merit recognition. The POE is therefore prepared to recommend that the RIP be closed subject to meeting specific conditions recommended in this report."

We can advise that progress on the specific conditions we recommended in POE27 has been good. There is still much to be done to assure the future of the resettlers of Nakai, but government and company have worked diligently to complete most of the actions we recommended for closure.

The POE recommends that the Government agree that the Resettlement Implementation Period be closed immediately.

We advised the GOL of this recommendation by letter on 9 July. A copy of our letter is attached as Annex A.

1.3 Organisation of the report

The basis of the closure with conditions that we recommended is fully set out in POE27. Briefly it was that, before closure, the company and the government should meet the

remaining specific requirements of the ROP; and that the necessary agreements were in place for a handover of responsibilities from company to GOL and for continuing the medium-term development project on the Nakai plateau that began at the time of resettlement.

The remainder of this report follows the logic of POE27. First we make our overall recommendation on closure. Then we assess the institutional arrangements required for the handover of responsibilities and planning, funding and implementing future development; and fulfilment of the specific obligations of the parties in terms of the ROP. In each section we also comment on progress with other recommendations from POE27 that are not essential for closure, but are important for future development on the plateau. Finally, we assess progress with lifting management performance and extending development programmes of the Watershed Management Protection Authority (WMPA).

All the recommendations in POE27 are reproduced in Annex B, together with our assessment of action taken in response.

2 Institutional arrangements



Bouama Naiban at POE meeting with VDC members

As described in POE27 (Chapter 15), the institutional arrangements for RIP closure had three major elements: a Handover of responsibilities from NTPC to the GOL; a Transition Plan for the GOL to manage its new responsibilities; and a Medium Term Development Plan (MTDP), built up from village plans, to steer the future development of the villages of the Nakai Plateau. The arrangements for the Medium-Term Plan included development funds to support the activities prioritized by the plans; the means of monitoring planning activities and results and their social and environmental impacts; and machinery for overall coordination of these various development initiatives.

2.1 Handover

The company's Resettlement Office (RO) staff have been working together with Nakai District Office staff for some years now and are confident that the District has the capacity to take over the NTPC's development responsibilities. The RO's assets on the plateau are being progressively transferred to the District. Some key NTPC Environmental and Social (E&S) staff are staying on to the end of the year. That is helpful.

One concern is that District experience may be lost as its staff move on to other assignments elsewhere in Laos. The RO is identifying key persons in the resettlement hamlets to take on leadership and advisory roles in livelihood activities. We commend this initiative, which is in line with Sam Sang principles that the village will be the focus for development.

In preparation for RIP closure, the Company formally undertook to discharge all of its specific commitments in the ROP at its own expense, including some which might remain

incomplete following closure. We discuss these remaining items later in this report. We are satisfied that all of them are now either completed or will be in the remainder of 2018.

2.2 Post-RIP Institutional Arrangements

The Joint Working Group (JWG) of stakeholders for NT2 proposed a set of arrangements for Transition, Development Funds, Monitoring and Coordination. We recommended that these arrangements, set out in Annex C of POE27, be formally set in motion as part of a decision on RIP closure.

All of the formal arrangements proposed by the JWG have been put in place. In brief:

- As reported in December, the Provincial Transition Plan Committee is in place, supported by a Transition Plan Secretariat, and the Ministry of Finance has agreed to funding for all three years of the transition period to 2021. On the plateau the Secretariat essentially takes over and continues the functions of the GOL's Resettlement Management Unit (RMU). The District Working Group structure also continues.
- The necessary formal agreements for the two major development funds – the Nam Theun 2 Development Fund (NT2DF) and the Nakai Plateau Livestock, Agriculture and Fisheries Project (NP-LAF) – have been signed. NTPC have established a Support Group for the NT2DF and are appointing staff to it at present. The staffing of the Technical Assistance for NP-LAF, contracted by IRAM/CCL, is largely in place, and a 5-year plan of operation and annual work plan and budget for 2018-19 has been approved. Funding for NT2DF will be released when RIP is formally closed. AFD have already released the first tranche of funding for NP-LAF.
- The coordination of all development initiatives on the plateau will be overseen by a Nakai Plateau Working Group (NPWG), composed of all the stakeholders: GOL, NTPC and development partners. As we recommended, it will include membership from the villages themselves. The NPWG will hold its first meeting in September, to prepare a plan for overall coordination of development activity. We recommend that the formation of the group and its coordinating role be made public through a Memorandum of Understanding.

2.3 Monitoring

POE27 made two specific further recommendations on monitoring: there should be a periodic review of project progress and results by an independent reviewer of international standing, with the reviewer's reports made public; and the GOL should confirm the future role of the POE.

The arrangements for monitoring progress and results are set out in the various agreements and are briefly:

- Both major development funds will put in place internal project management systems to track project activities.
- An Independent Advisor to the NT2DF Steering Committee will report annually on “an overall assessment of the NT2DF”; the report will include comments on Steering Committee decisions including the Budget and on an “assessment of the impact of the Approved Projects on the local communities during [the Advisor's] annual visit”. The report will be posted on NTPC website with public access. The Advisor is to have “adequate expertise in development” and “can be a non-Lao organization or individual.” Because NT2DF is both funding projects submitted directly to it and contributing to NP-

LAF funding, the Advisor will have an oversight of results in all major development work on the plateau.

- The Agence Française de Développement (AFD) told us that they are still finalizing their arrangements for monitoring project results but they will include an evaluation of outcomes at the end of the NP-LAF project in 2023. The POE suggests that a mid-term evaluation of progress towards these outcomes would also be valuable.
- NTPC are also planning to continue periodic (3-4 yearly) socio-economic surveys modelled on the Living Standards Measurement Survey (LSMS), which we supported in a recommendation in POE27. The sample for the survey will be weighted appropriately to capture reliable statistics on a gender and ethnic basis. We comment elsewhere in this report on the need to continue collecting other regular statistics on livelihoods which is important for monitoring progress.
- The responsibilities of the Independent Monitoring Agency (IMA) under the CA for compliance monitoring during the Resettlement Period will now cease. The separate Watershed IMA will continue to report on matters relating to the Watershed and the WMPA.
- It appears that the Lenders' Technical Advisor (LTA) will be retained for engineering, environmental and socio-economic reporting but this has not yet been finally confirmed. Like the POE, the LTA has had a broad mandate on both social and environmental matters. Its reports, unlike the POE's, are not public.
- The POE itself remains as a standing body under the CA until the end of the Concession Period in 2035 but the GOL's specific requirements for it have not yet been advised. In addition to its overview of all social and environmental issues on the plateau, the POE has specific responsibilities for the Watershed. Following RIP, the GOL will no longer be reimbursed by NTPC for the expense of the POE's missions, although one more mission may be funded by NTPC next year. A new source of funding will be required beyond 2019.

We accept that the monitoring arrangements outlined above will largely meet the requirements of our Recommendation 44/27, but would emphasize that continuity, independence and transparency are all vital for a monitoring/evaluation system to be plausible. We have some specific suggestions:

- The role of the NT2DF Independent Advisor is a large one for one person. We recommend that the Advisor be funded sufficiently to draw on technical support during his/her annual mission to the plateau. The position of Advisor should be retained for the remainder of the Concession Period.
- Over the years the LTA has provided an invaluable independent and expert perspective on resettler development. We recommend that its continuing role in monitoring, on at least an annual basis, should be confirmed by the Lenders, that its present mandate be retained and that its reports should be made public.
- The arrangements should be confirmed for the proposed periodic (3-4 year) sample socio-economic survey based on the LSMS. The report on the survey should be made public.

The GOL should confirm its requirements for future advice from the POE relating to the continuing requirements of the CA on social and environmental matters, both in the resettlement villages and the Watershed.

3 Village Planning Process



VDC members at Ban Done in discussion with POE

The Village planning process will generate priorities and specific activities for the two major development funds, together with the Social and Environmental Remediation Fund (SERF). Village Development Plans (VDPs) have now been completed in all hamlets. Where hamlets are consolidated into one village, the sub-plans have been merged into one overall plan. Hamlet Forest Management Plans (HFMPs) have also been completed.

As described in POE27, the VDP consultation process enabled women and men, poor and “non-poor” to identify in separate meetings their priorities for infrastructure improvements, social services and livelihood projects. Both NT2DF and NP-LAF will explicitly take into account the priorities of the “poor” group and expect to develop tailored livelihood plans for the identified “high-risk” households.

Over all 16 hamlets, the villagers came up with over 500 priorities. Nearly 300 were requests for infrastructure improvements, mostly to hamlet roads, community buildings, or irrigation. Priorities for livelihood support were dominated by livestock and agriculture. The next step is to convert the items on these wish lists into specific prioritised activities to be submitted to one of the three main funding sources: NT2DF, NP-LAF and SERF. There will have to be further rigorous screening of the lists at hamlet level to fit them into the available resources for support.

Each activity needs to be more comprehensively developed, with details of budgets, responsibilities, where the activity will occur, who will participate, what is the District’s role,

and who will pay for what. Communities typically contribute their labour, but ownership is improved and activities likely to be more sustainable if households are also willing to contribute finance. It also seems likely that when these rather general ideas are worked out in detail, villagers' priorities will change.

Village leaders may understand how this further process of turning ideas into tangible realities will work; but in the 13 hamlets we visited, most villagers seemed unclear about what would happen next, or when, and how the new development funds would operate. There was a general attitude of "waiting for instructions". There was also some skepticism about access to funding support: particularly that it would be mainly captured at District level and not filter down to the hamlets. This emphasises the need to step up the pace to formulate activity implementation techniques and more practical help to hamlets in accessing the funds and to make sure that all villagers have an opportunity to work with the teams of District officials and technical advisors to prepare detailed proposals.

A long gap is developing between finishing the preliminary plans and making them operational. Assuming RIP is closed soon, the NT2DF will still not be ready to respond to applications until at least its next Steering Committee meeting in October or November. In practice, it looks as though activities funded under this component cannot get off the ground until 2019. Activities could start sooner under NP-LAF, but it also needs a methodology to outline activities in more detail. It is important that NP-LAF, NT2DF and SERF streamline and consolidate methodologies, and prepare a simple and common application process for identified activities as quickly as possible.

Communities are enthusiastic at present, but this momentum risks being lost if there are further delays without promise of tangible outcomes.

4 Forestry

In our Report 27 we recommended that a revised overall Forest Management Plan (FMP) be completed by a target date of 30 June 2018. The process involved completing 16 Hamlet Forest Management Plans with full participation of the villagers, agreeing on an overall strategy based on the HFMPs, deciding on implementation priorities, and preparing a revised FMP and getting it agreed by resettlers and GOL. Given the complexity of the task, we weren't sure that it could be done by 30 June. In fact all steps were completed and the full FMP – a combination of the 16 HFMPs, a common forest strategy and an implementation plan – was completed by early June. The hamlet consultations were well attended by a wide representation of villagers including all sections of the adult population, were comprehensive in scope and achieved a very high level of unanimity. The District and Provincial governments have endorsed the Plan.

4.1 Outcomes of the FMP process

The FMP includes activities directed to resettler livelihoods like self-sufficiency in timber, fuel wood and Non-Timber Forest Products (NTFPs), especially for vulnerable households; NTFP processing and commercialization; equitable eco-tourism; and agro-forestry and “under forest” grazing systems; and plantations. But beyond that was agreement on protecting and regenerating the forest: establishing protected zones; fostering natural regeneration to restore degraded forest; effective hamlet-level forest protection including patrolling and regulation; and – particularly strong – putting a stop to commercial logging, certainly by outsiders and at least without a sustainable management plan¹. These measures reflect environmental as well as economic values. They are clearly partly concerned with protecting the community forest for the use of the present population but also with preserving the forest for future generations and maybe even for its own sake: just because forests are good things to have and to keep.

As well as forest use and forest protection, a third important outcome was the palpable increase in the sense of community ownership of the forest. Villagers talk more now about “our forests” and report greater interest in active patrolling. But beyond the hamlets, it will be a challenge to recreate the original vision of the forest as a resource for the entire resettler community. The creation of the VFDC out of the Village Forestry Association (VFA) was not just an economic disaster; its failure to produce any significant benefit for villagers had alienated them from the only institution with responsibility for the forest as a whole. We were pleased to see that the implementation plan included to “assess which adaptation needs the VFA to play the federation role as forestry organisation for the 10 villages [consolidated from the 16 hamlets] with the updated FMP.” We were also pleased to see that there has been discussion of how the hamlets might share benefits amongst themselves; as we have pointed out in past reports, the forest is not equally distributed between them and there is a strong case for some benefit sharing.

4.2 Next steps for forestry planning

With the components of the 16 HFMPs endorsed by all hamlets, a meeting of stakeholders on 11 June 2018 chaired by the Khammouane Provincial Governor agreed that they must be acknowledged and implemented from the national to the local level. Activities

¹ We were therefore disturbed to hear that villagers had come across technicians out in community forests marking trees for future logging, apparently because of a decision by local officials to reissue a quota to the Village Forest Development Corporation (VFDC) in defiance of the current ban. The attempt to reinstate logging has gone no further but it indicates that respecting the villagers' wishes for a complete halt requires continued vigilance.

called for in the FMP will be further developed in the form of projects “compliant with the wishes of each village and in line with the Government’s Development Guidelines.” It is also our understanding that the updated FMP supersedes all prior FMPs and that no priorities, such as commercial logging, are carried over from the previous FMP.

Developing forest priorities has proceeded on a somewhat different track from the VDP because of the separate community-based process. Despite that, the VDP priorities directly or indirectly include similar priorities on livelihoods to those in the HFMPs. Some in the VDP priorities list like NTFP management, re-planting, and forest regeneration relate directly to forestry while others (like forest land conversion for livestock grazing or agro-forestry, or proposals for eco-tourism) will have direct implications for the forests. There may need to be some review of these priorities, particularly in deciding on what activities villagers want to develop into detailed proposals for the two development funds.

But forest planning priorities also include getting the institutions right. Most importantly if the VFDC is wound up, there will be no organisation equivalent to the VFA it replaced to determine and represent the collective interests of the 16 hamlets in the forest as a whole. A replacement organisation is called for. It will also be necessary to agree the future roles of Village Forestry Units (VFUs) and the hamlet and district roles in forest protection. These matters need to be discussed and agreed outside the determination of funding priorities. Furthermore, some priorities may be eligible for funding from other sources such as for compensatory forestry.

4.3 Future of the VFDC

Two consequences of the endorsement of the FMP are that the VFDC should be dissolved immediately and its staff laid off. The VFDC was an experiment which has failed the resettlers. It has not produced a dividend for four years now, has been inadequately managed with no systematic records or accounts kept, and has addressed only a small proportion of the tasks it was set up to achieve. A related issue is whether the sawmill should be dismantled and the asset sold for the benefit of the hamlets. The reality is that in the view of consultants the sawmill operations are “not financially viable”, its plant is run down and obsolete and needs replacement. This would be an expensive operation and there are no funds immediately accessible to finance it. A collective decision on this should be taken by the hamlet Village Development Committees (VDCs) but there are few options apparent.

4.4 Conclusion

For a number of years now we have reported on the failure of the forestry sector to contribute significantly to resettler livelihoods. Our advice on the forestry pillar in POE27 said that the best hope for the sector was for a commitment by all the major stakeholders to a rededicated community forestry strategy. Sustainable forestry is a long way further off, certainly beyond any realistic closing date for RIP. Our recommendations were therefore to meet the CA commitment for a renewed FMP as a condition for closure, and to recommend a waiving of the requirement for sustainability. This goal is not set aside lightly or indefinitely. There should be no doubt that livelihood sustainability remains a central objective of the project. We are reassured in this respect by the frequent reference in HFMPs to the aim of achieving sustainable management of the resource and to the inclusion in the lists of measures of activities - enhanced protection, tree planting, promotion of natural regeneration and so on – which will have an impact on sustainability of the resource itself.

We believe that the new FMP sets the sector on this path. It was the result of an impressively well-managed process, particularly in its high level of participation by the resettlers and its logical development of a strategy and a plan for implementation. The result

meets the expectations in our recommendations in POE Report 27. There we cited in detail the project's innovatory approach over the years and its more recent swift adjustment to a framework more closely aligned to the CA, not least in the forestry sector.

With these conditions now met, what remains is to turn the wishes of the resettlers set out in the FMP into action on the ground. We would add that the history of the community forest of Nakai puts it in the limelight of national and international civil society and is a unique experience in Lao PDR. Community ownership of and benefits from the forests will only be secured with the active involvement and support of the GOL in technical, legal and financial terms and with GOL officials monitoring implementation. This is not just a district and provincial responsibility: the Department of Forestry (DOF) has a national mandate as well to encourage its development.

5 Agriculture and Livestock



Padi at Nakai Tai

5.1 Recommendations on closure

As with forestry, the development of livelihoods in cropping and livestock has not lived up to expectations. We recommended in POE27 that the NP-LAF project to be led by the District Agriculture and Forestry Office (DAFO) should be the basis of a new agricultural development plan to meet the requirements of the CA and that its funding and technical support should be fully integrated into overall development planning for the resettlement villages.

Based on its work programme, the NP-LAF is a well-considered attempt to re-commit agriculture development on the plateau. Much of it reflects the views of the POE and others expressed over the years on the problems and limitations of existing agricultural development. Its main claim to difference from previous agricultural plans is to tailor funding and support more specifically to what is important to plateau households. The plan of operation draws on priorities from the VDPs.

Some of this work involves looking at what farmers are doing now and trying to help them do it better. Thus, because rice (particularly padi) is a high priority for many farmers, the project's first priority is to assist them to improve yields by managing soil fertility. A second priority (given that in some villages there is little land suitable for padi) however has to be to identify market opportunities for other crops, including from agro-forestry. Although not ruling out continued cultivation of cassava (which, despite the decline in area under

cultivation last year, many farmers are still planting), the project technical advisor is well aware of its soil depletion and marketing risks. The challenge will be either to mitigate these risks or to talk through with farmers the options for switching to other uses for their land.

The NP-LAF livestock plan also reflects many of the messages in previous POE reports. In POE27 we once again drew attention to the continued rapid growth in numbers of large livestock reported by farmers well above the assessed carrying capacity of the plateau based on existing practices of open grazing, and the need to plan to cope with a severe feed shortage in a drought year or a major disease outbreak. One reason there has been no crisis yet is that possibly a fifth or more of these animals – at least 1,000 by the village reports we received on this mission - have in fact been turned loose to graze in the protected area, where they do considerable damage, and the WMPA wants them out. The NP-LAF work programme addresses the problem, hopefully by improving forage and converting further land to grazing, by raising the issue of local rules for limiting access to common grazing areas, and by encouraging farmers to manage their herds as an income-generating business rather than a store of wealth. But it will not be easy to bring livestock and land back into balance without major changes in both land use and herd management.

5.2 Other recommendations

NP-LAF activities will cover our recommendations on a review of irrigation (18/27), support for farmers growing cassava (19/27) and raising large livestock as a business (21/27). We would like to see attention given to our recommendation on safe management and disease control for chickens raised as a business (our recommendation 22/27). In past years, we have had mixed reports about the poultry business: some women said they had raised chickens successfully for sale, others that it was risky because of the disease problem.

6 Land management

While we had no specific recommendations about land as a condition for closure, effective planning for both agriculture and forestry require clarity about the rules for land conversion. Some hamlets have already identified through their HFMPs, areas which they wish to set aside for livestock grazing, areas of land for agroforestry activities and degraded land for conversion to crop production, particularly padi. Lack of clarity is holding up the conversion required for these projects.

Officials may be unclear about what rules actually apply. In Ban Done for example the District has allocated degraded forest land to individuals, but conversion for cultivation is suspended because no-one can decide whether trees on the land can be cut down. There are other cases where officials turn back or hold up requests for conversion of forest land when it is not clear that they, rather than villagers themselves, can make these decisions.

There is no robust and transparent land conversion methodology in place and no apparent willingness on the part of District or Provincial authorities to ensure that it be put in place. The NP-LAF project is supposed to develop a procedure for land conversion of existing agricultural land to padi and for degraded forest land to agricultural and grazing areas. The POE has sought clarification of how land conversion will occur in a consultative fashion with both the District and villagers, but has so far not obtained it.

POE27 reported on the fact that land dispute cases forwarded to the Justice Department for resolution involved District officials. These cases appear not to be resolved yet, and further reports during the current POE visit raised additional complaints by villagers that their land was being arbitrarily taken. Among other examples, villagers in Phonphanpaek complained that the District Department of Education has demanded 27 hectares of agricultural land ostensibly to construct a secondary school - far more than any school could possibly require, while in Nongbouakham villagers reported that outsiders have taken up to 5 hectares for their own use.

It is urgent that NP-LAF develop an agreed methodology for land conversion that is compliant with the policies of the Ministry of Agriculture and Forestry (MAF), is consultative with hamlet communities who have the legal right to make decisions over their lands, and which facilitates a more robust grievance resolution procedure. In the meantime, those households with photocopies of their land titles are due to receive the original versions after RIP.

Our recommendations in POE27, covering decision-making on land use in planning (13/27) and assistance to the District to further develop land conversion rules (14/27) are relevant to the discussion above.

The NP-LAF work programme explicitly recognizes our recommendation 15/27 that there be no inclusion of non-resettler households in NP-LAF agricultural activities until eligible resettler and subsequent growth households first have land allocated and legal documents issued, and proper procedures for land conversion have been applied.

7.1 Recommendations for closure

In POE27 we recommended the completion of a review to simplify and strengthen the organisation, funding and regulation of the co-management regime on the reservoir and implementation of the results at Village and District level by the end of 2018. While a review was underway at the end of 2017, its completion was deferred beyond the expected date of RIP closure. The review, and its implementation, continue to be a matter of priority. Any real improvements in the effectiveness of enforcement have been, at least anecdotally, purely temporary – illegal fishing and trading remains a problem. Many boats are unregistered and even fewer fishers carry licenses. A recent report questioned why the WMPA was contributing so much to enforcement on the far side of the reservoir, taking it away from its core mission on land.

NP-LAF will effectively take over responsibility for this review. The work programme will support “participatory methods to analyse with the villagers the current fishing regulations” leading to “Revision and simplification of the problematic rules, as far as it is not conflicting with the national law nor with the sustainability of the resource.” NP-LAF “will also support the participatory analysis of the constraints to effective patrolling and propose a yearly patrolling plan based on actual patrolling capacity of the Village Fishing Groups (VFGs), Reservoir Fisheries Association (RFA) and district institutions. NP-LAF will also support the monitoring of the patrolling in order to revise the patrolling plans according to the results achieved.”

The NP-LAF plan is a mostly adequate response to our recommendation. There also needs to be attention to the effectiveness and roles of the various bodies involved in fisheries management – a District and Provincial responsibility. The effectiveness of the VFGs and the RFA is variable and their role in relation to the District Authority in particular is unclear.

Resolving the governance and regulatory issues and seeing some real improvement in the effectiveness of fisheries enforcement remains a high priority.

7.2 Recommendations for future development

We made further recommendations on fishing in POE27. Three of these - on continued monitoring of fisheries control activity (3/27), development of marketing and processing (4/27), and review of fish marketing regulations (5/27) would fit well into the NP-LAF work programme. Our fourth recommendation (6/27) covered both scientific monitoring of the fish ecosystem and of fishing and fishery management. The Fisheries Lab continues after RIP closure and will continue its monitoring of reservoir ecology, fish health and species diversity but will discontinue its regular surveys of household fish catch. This will be a loss to the monitoring of the management regime, since it was the only available indicator of the extent of fish not passing through the VFG landing points. We would recommend that DAFO consider a periodic household survey on the same basis.

8 Off-farm

8.1 Recommendations for closure

We recommended a review of District capacity to manage the off-farm program and further development if required; and that a start should be made to monitoring new businesses established and employment created.

On District capacity, NTPC advised that four district staff, respectively from Education Office, Youth Union, Social Welfare and Rural Development and Poverty Eradication Office (RDPEO) are working on a full time basis on the off farm programs and will continue to collaborate with the NT2DF support team in the future. Three of the four originate from Nakai. The NT2DF support team will also play a role in supporting off-farm activity and, as part of mainstreaming the off-farm programme (such as support for farming or fishing businesses) into related pillars, discussions with NP-LAF team are underway on their role.

The results of a first round of monitoring surveys of business and employment, conducted in April 2018, are available. They show growth in both small businesses and employment since 2016. A total of 62 people attended training courses from 2015 until 2018. Of these, 34 found a job of which 20 were in a field related to their training. It isn't possible to attribute all this activity to NTPC programmes, but the results are encouraging. Further business and employment surveys are planned in October 2018.

8.2 Other recommendations

We made several recommendations on the Village Development Funds (VDFs), covering audits of each VDF (23/27), a review of equity of access to VDF lending (24/27) and creation of a Network Support Organisation for the VDFs (25/27). Since we last reported, the Lao Microfinance Association (MFA) has made a detailed proposal to establish a Savings and Credit Union (SCU) for the plateau, under supervision of the Bank of Lao. The principal shareholders would be the VDF members but non-member villagers could also subscribe. Each of our recommendations would be covered by the SCU: it would provide supervision and support to the 16 VDFs and extend access to financial services in Nakai. The MFA would undertake both financial and social audits of the funds, the latter covering access to the VDFs by different groups.

The SCU would also offer the possibility of larger loans for longer terms to support business ventures, which would go some way to respond to our recommendation (26/27) in support of a MTDP action to establish a venture seed fund to complement VDFs with longer-term finance. The associated business resource centre, which we supported in our recommendation 27/27, has been established.

We also recommended planning for joint ventures with Lao tourism operators for tours to the protected area (28/27). It was pleasing to hear that a guesthouse at Thalang has begun to offer trips up the Nam Xot (which are being sold by tourist agencies now) and the WMPA eco-tourism consultant is investigating longer trips with good prospects of seeing more wildlife. The FMP consultations also brought up some potential trips into community forests. As the WMPA consultant pointed out, there is a lot of planning to be done. This activity requires ensuring proper controlled access to the protected area, tailoring trips to the time limitations of most tourists, investment in basic facilities such as toilets and shelters, track improvement and ensuring that villagers are properly engaged and benefit from the activity. But it is pleasing to see some practical moves to increase visitor days on the plateau

by taking advantage of the natural wonders of the forest and ensuring that the visits bring benefits to the residents.

9 Ethnic groups



Three generations at Nam Nian village meeting

9.1 Recommendation relating to closure

There are six recommendations in POE 27 relating to requirements drawn from the CA on the situation of ethnic groups on the Plateau. We specifically recommended that, as a condition for closure, measures to improve economic performance of lagging groups should be based on tailoring livelihood support to hamlets, groups of households and vulnerable families on the basis of needs and conditions rather than ethnicity.

We recommended this approach primarily because disadvantage is caused by a number of factors, not only ethnicity, so it is more effective to target disadvantage directly. But this approach was also a means of resolving the conflict between the CA Resettlement Objective to “apply special measures as required towards ethnic minorities and vulnerable persons to take care of their needs and foster self-reliance and to improve their socio-economic status” and GOL policy, which does not officially recognize the term “ethnic minorities” and accords “equal rights for all and participation by all”.

The end result of discussions on this issue last year was agreement to develop plans tailored to ethnic and other disadvantaged groups’ needs within broader livelihood development programmes. The modified Poverty Reduction Fund (PRF) process was based on hamlet-level meetings on VDP priorities and ensured equal consideration of the priorities of disadvantaged hamlet households so that the VDP process would reflect the needs of all disadvantaged from all ethnic groups including the poor, the vulnerable and women. Subsequent interviews with ethnic groups in each hamlet largely confirmed that the concerns

and priorities of their group had been taken into account in Hamlet Plans. A further screening of VDP priorities by hamlets ensured that the first eight priorities identified by disadvantaged groups were included. We recommend that this process be a regular part of future VDP consultations.

These developments represent a compromise which may well suit those involved including most resettlers. It remains to be assessed how effectively the tailoring system helps the disadvantaged including those from poorer ethnic groups but if well managed it may well provide a constructive way forward. The POE accepts that the procedure meets requirements adequately at this stage of its evolution.

9.2 Other recommendations

Most of the other recommendations on ethnic groups in Report 27 are classified as ones for consideration in future development on the Plateau and were largely not addressed during this verification mission. While it is true that they tend to relate to matters which will take time and resources to be resolved we remain convinced that these recommendations merit being addressed.

Recommendation 34/27, for example, designed to facilitate access by older people to hamlet affairs, suggested that a translator/interpreter fluent in more than one ethnic language but particularly Makong – the major ethnic group across the Plateau - be appointed to improve older people's access to ongoing planning consultations. This proposal was declined in the JWG's response to POE 27 on the grounds that it was not possible to find a person who spoke the various languages of the Plateau and that District staff do not speak Makong. The latter point rather tends to underline the need for a facilitator. A table in the relevant Completion Report summarizing results from a questionnaire to resettlers regarding access to planning processes records that in the case of both of the two most numerous ethnic groups (except Lao Loum) on the Plateau (Makong and Bor) "a few" older people did not understand the planning processes "due to language, methodology and literacy." There is clearly a remaining communications problem albeit not of major proportions. The POE suggests that the issue be revisited by District staff.

Recommendation 35/27 called for early action to widen further ethnic representation in the VDCs and other planning fora, as required by the Provincial Governor. It was accordingly pleasing to learn from a Table in the Completion Report that in terms of the 2017 VDP exercise there was a surprisingly close coincidence of the percentage of ethnic participants, VDC members and others, with the percentage of ethnic people in each hamlet. Thus in the case of Bor, for example, who represent 28.9% of the resettlers in Thalang, Bor participants in the VDP planning discussions in Thalang were 31.7% of the total.

Recommendations 36/27, 37/27 and 38/27 are essentially issues for resolution by Lao agencies. The first suggests further studies be initiated of the cultures and languages of the Plateau peoples "before they erode further", the second supports the conflict resolution work of the Lao Front for National Construction (LFNC) and the third encourages a continuation of the patient negotiations seeking a resolution of the issue of access for Ahoe to the Old Sop Hia site. The POE had a brief discussion with the Ahoe group resettled in Nam Nian who confirmed that they visit the old site largely to draw upon its natural resources (mainly fish) and that talks are still going on about the future.

10 Infrastructure

We recommended that compliance with the remaining infrastructure requirements should be part of independent monitoring of the LoA or Handover Agreement, and that an audit of SERF should include periodic independent monitoring of the standard of maintenance of community assets that it funds.

The Company has completed nearly all remaining infrastructure tasks and work is underway on the remainder. The one exception is an issue of how to meet domestic water supply standards in hamlets where the water table will not support more tube wells. NTPC are considering the feasibility of a public-private partnership to develop treatment and piped distribution to the affected houses.

The recommendation on SERF performance monitoring was based on a provision in the latest SERF manual that “hamlet heads ... participate in the evaluation of the performance of the SERF at least annually. This evaluation shall be undertaken in two stages: 1) within hamlet meetings that identify the strong and weak points of SERF implementation and the identification of areas for improvement in condition or stock of Resettlement Community Assets; and 2) ... the annual performance review of the operations and financial performance of the management of the SERF.” We have no information as to whether these reviews have been undertaken. SERF can never meet all the requests made of it so there are bound to be complaints in these reviews. Nevertheless, getting feedback from villagers on its performance is important for the Fund’s credibility with resettlers.

11.1 Introduction

In POE27 we reported on progress with the restructuring of the WMPA in response to its repeated failures to achieve its objectives of protecting the biodiversity of the Nam Theun 2 Watershed and fostering development of new livelihoods for its human population. The Watershed, officially known as the Nakai-Nam Theun National Protected Area (NNT-NPA), is globally important for its biological and cultural diversity. We reported that much had been achieved since our previous report in March 2017. Much of the progress has been due to the infusion of conservation, development and administrative experience and energy brought in by the Consortium of Technical Experts (COTE) following the signing of the contract with WMPA in October 2017.

The Director of COTE, Dr. Chanthavy Vongkhameng, one of only two Lao with PhDs in conservation, has assembled a truly outstanding team of very capable individuals with relevant experience in different aspects of conservation and development, who represent Non-Government Organisations (NGOs) including the Wildlife Conservation Association (Laos), Agrisud International (French), Analouk (Lao and French), and Creative Literacy (Laos) but who also have active connections with other national and international NGOs, research institutions and other relevant organizations. In the eight months of its existence COTE has been responsible for substantial innovation and achievement in areas like management, administrative reform, village livelihood development and biodiversity conservation. To provide an idea of the rate and scale of the COTE accomplishments, the achievements and issues are summarized in the sections that follow.

However we also reported there were still some significant roadblocks to completion of the major organisational tasks: particularly the failure to restructure staffing, and problems with the relationship between WMPA senior management, the leadership of COTE and the WMPA Board. In response to these difficulties we recommended in particular in POE27 that the Director of COTE should participate in meetings of the WMPA Board of Directors (49/27) and that delays in the retrenchment of existing staff and recruiting of new staff should cease (50/27).

To begin with, though, it is worth detailing some of the major accomplishments of COTE in the eight months of its existence.

11.2 Administration and Finance

In POE27 we recommended (49/27) that WMPA fiduciary management, financial handling and accounting be brought up to international standards. The lack of basic administrative and financial systems has been one of the weaker points in past WMPA management. COTE has helped bring them up to international standards. Achievements include proper records systems for staff, suppliers, maintenance and insurance; manuals for human resource management, financial management and procurement; systems for vehicles and boats fleet management; and an up-to-date asset register.

For financial management, a full new accounting system has been installed, with quarterly financial reporting for NTPC and reporting on outstanding advances. COTE personnel developed forms and systems for receipts, payments, advances and other transactions and gave guidance to technical teams on meeting financial approval and reporting requirements.

An Annual Workplan and Budget (AWPB) for 2018, a complex document that has to meet the requirements of both the two main funders, the Environment Protection Fund (EPF)

and NTPC, was submitted to the WMPA Secretariat in mid-January 2018 and approved at the subsequent Board meeting. WMPA received its first quarter budget commitment from EPF on 2 April 2018. Monthly reports on achieving effectiveness in the plan are an ongoing requirement.

11.3 Law Enforcement

Poaching of timber and wildlife in the Watershed has been rampant for many years and remains a major threat to biodiversity. Recognizing the continuing urgency of the threat and WMPA's lack of success on containing it, COTE has developed a new five-year strategy for law enforcement (LE). The strategy lays out threats, core priority biodiversity zones, structure of the LE system, monitoring system, defines targets and indicators and incorporates a targeted data monitoring system.

COTE has negotiated a border army patrol system to tackle the cross-border illegal wildlife/forest activities, particularly by Vietnamese, one of the highest LE priorities. The joint-border patrols by army and WMPA now operate in both Khammouane and Bolikhamxay provinces. COTE has working agreements with the Provincial armies, along with DOFI/POFI, and has provided technical training for them in biodiversity conservation.

A Koumban (village cluster) Law Enforcement Network (KLEN) is being set up to strengthen the law enforcement system at Koumban level, to involve the local community in effectively tackling the threats to wildlife and other biological resources; and to facilitate local authorities' greater participation in, and responsibility for, biodiversity conservation.

To improve Reservoir Patrol Unit (RPU) coverage, two mobile teams and four checkpoints have been established, although the effectiveness of the fixed check points is questionable and should be reassessed. COTE has also developed a Prosecution and Rapid Response Team to assure that good field work is followed up by effective prosecution.

Lastly, COTE has developed a set of training materials and guidelines for biodiversity conservation.

11.4 Research and Biological Monitoring.

COTE has developed a five-year strategy for biological research and monitoring of the WMPA. COTE's research and biological monitoring, based at the established Anoulak research station, has been particularly active. The core research at the station involves primates, but other activities, especially with international collaborators, involve many other forms of biodiversity. Anaoulak has also been active in training local partners, including the Nakai DAFO who will be involved in a long-term camera trapping project.

Among the other cooperating institutions are the Museum National Histoire Naturelle, from Paris, the Leibniz Institute for Zoo and Wildlife Research, University of San Francisco, Columbia University and Royal Botanic Garden Edinburgh, the University of Missouri and NTPC, and the Saola Working Group. COTE also arranged with the consultancy agency Forest Carbon (Indonesia and Laos) to map forest cover change from 2012 to 2017. Representatives from VigiLIFE and Beauval Nature came to the NNT-NPA to initiate a long-term biodiversity monitoring program using environmental DNA for biodiversity inventory, monitoring, biodiversity richness, species distribution and to detect rare species.

11.5 Community Engagement and Livelihood Development

COTE has developed a five-year strategic plan for community engagement and livelihoods development in the Watershed. The Prime Minister's decree No. 122/PM of 21 April 2017 transferred most livelihood development activities to the District authorities of

Nakai, Gnommalath and Khamkeut to take the lead in implementation. Development Committees and Technical Teams have been set up in the three Districts and WMPA has signed contracts for livelihoods development with their relevant District Offices. WMPA will provide technical and financial support to ensure all livelihood activities are truly integrated into conservation of biodiversity. COTE is providing technical support in planning, monitoring, supervising and building staff capacity. This strategy will serve as a guiding document for WMPA and local partners to work together to achieve the objective of integrated conservation and development.

COTE has had a series of meetings with partners and established District Development Committees, and organised training sessions. Socio-economic and other surveys have been completed in 17 of the 32 enclave hamlets and two of the 42 Peripheral Impact Zone (PIZ) villages in the NPA. Data collected consists of family socio-economic profiles, village history and social organizations; a Food Consumption Score (FCS); natural resource use diagnosis; access to education and health; and an assessment of infrastructure and village needs. Partial results have already been published. A rapid agrarian diagnosis in the NPA has been completed and published. Participatory Land Use Planning (PLUP) is being updated in the villages. Livelihood plans are being developed in pilot villages covering Village Development Funds, promotion of agriculture and other livelihood activities identified in Village Development Plans. Review and upgrading of health and education services is underway and an action plan is being developed for getting power to non-electrified houses in enclave hamlets.

An experienced ecotourism consultant with years of work in Laos has started work this spring. His draft report is now under preparation. The next step will be for the consultant to present the report of potential tourism activities to district stakeholders and to propose a pilot tourism product for 2018. As discussed earlier in this report, some tourists are already visiting the Watershed.

11.6 Continuing issues

11.6.1 Staff restructuring and COTE access to the Board

Despite these major accomplishments, our recommendations on staffing and Board access for the COTE Director have not been actioned.

The plan to replace all existing staff by a new independently recruited workforce is still stalled. The International Union for the Conservation of Nature (IUCN) was supposed to provide assistance with HR requirements of the restructuring but there has as yet been no signed agreement between IUCN and WMPA on the IUCN's role. The culture of the WMPA staff was a major factor in the dysfunction of the WMPA: failure to replace staff is severely limiting the ability of COTE to partner with WMPA counterparts for the longer-term strengthening of the organisation's capacity.

Furthermore, the COTE Director is still being denied access to Board meetings. This is despite COTE's status in all but name as virtually a full partner in WMPA management. The intent of the contract with COTE and the WMPA is clearly for COTE to be an integral part of the reorganization, restructuring and subsequent management of the WMPA. The contract directs that all WMPA expenditures must be co-signed by both WMPA and COTE Directors and enables the COTE Director to go to the WMPA Board as well as the WMPA Director if there is poor performance by WMPA staff. COTE also helps develop the programs of WMPA. The Director of COTE does not represent an outside NGO; he is part of a unified team with the Director of the WMPA.

As such COTE should be represented at the WMPA Board meetings. Further, it is important for the Board to have direct access to COTE's technical advice and experience. The greatly increased scope brought to the WMPA by the members of COTE means that the two senior representatives of the WMPA will provide the Board with a more balanced and complete picture than will one. For the same reasons the Director of COTE should work with the Director of the Secretariat to prepare materials and information for the Board meetings.

Ideally, to participate in the full meetings of the WMPA Board of Directors, the COTE Director should be made a member of the Board, but at present he could be an invited observer with the provision that he attend the full meetings and be able to speak. He has been denied permission to participate in the full Board meetings by the Director of the WMPA Secretariat on the basis that individuals can only participate in the full meetings if they are members of the Board. This policy should be made by the Board, not the Secretariat head.

11.6.2 Other matters

- WMPA is short on vehicles. In spite of the contract with COTE WMPA says it cannot provide vehicles, so, for example, the Director of COTE uses his personal vehicle for official travel. A past Director of the WMPA secretariat reportedly gifted five or more vehicles, presumably used, to district offices and others for individual use. These should be returned to WMPA for any needed maintenance and use by COTE and WMPA.
- As noted above, the effectiveness of fixed checkpoints in law enforcement is questionable. They should be reassessed as part of a review of the LE strategy.
- The IMA is currently providing external monitoring of the WMPA. Its reports provide useful assessments of WMPA operations and should be continued.

12 Conclusion and summary of recommendations

The POE recommended a two-year extension of the Resettlement Implementation Period in 2015. We did so because we were not able to say with confidence at that time that sufficient of the substance of the Concession Agreement had been achieved to warrant closure. The stakeholders were not pleased with our findings. Two and a half years on they agree that the additional time has enabled them to get a lot closer to accomplishing the basic objectives of the resettlement process.

The GoL agencies, the NTPC , the IFIs and the resettlers themselves have worked hard and closely together to get the project to where it is today. That is laudable. Their combined efforts have made it possible for us to recommend RIP closure in this report. We are also more optimistic about the prospect for achieving the linked goals of conservation and development in the watershed, an integral part of the project.

The journey does not end here.

For the resettlers the challenge is to seize the opportunity to take charge of their own affairs and secure a sustainable future for themselves and the generations of Plateau dwellers to come.

For the company the time has come to step back from daily management of the project while remaining engaged and providing ongoing expertise. The IFIs have an ongoing role here too.

For the GoL and notably the District agencies the role is to support the devolution of powers to hamlet and village level on the Plateau, to provide enhanced backup support and to help sustain the momentum now achieved.

The POE has confidence that the project is on the road to overall sustainability. It is not there yet. The solemn additional undertakings by all stakeholders to maintain their support in the years ahead provide evidence of a renewed commitment to the ultimate goal of sustainability by all parties.

Annex A: Letter Recommending Closure

To: Dr Xaypaseuth Phomsoupha
Director General
Department of Energy Business
Ministry of Energy and Mines
Lao People's Democratic Republic

Vientiane

9 July 2018

Dear Dr Xaypaseuth,

The Panel of Experts of the Nam Theun 2 Multi-Purpose Hydro Power Project recommends the immediate closure of the Resettlement Implementation Period for the Project. The provisions of the Concession Agreement relating to the closure have been met to our satisfaction.

We will submit a report on our current Mission to the Government of Lao PDR by 16 July 2018. The report will set out the full justification for our recommendation.

We wish the Project well in the years ahead and thank your Government for the privilege of serving on the POE.

With our respect.

Yours faithfully,

[Sgd.]

David K. McDowell

Elizabeth Mann

Lee M. Talbot

Annex B: Achievement of Recommended Actions for RIP Closure

| Recommendation | Assessment |
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| 1. Overall POE recommendations on closure | |
| Chapter 16 FINDINGS, CONCLUSIONS AND RECOMMENDATIONS | |
| 46/27 Note the advice of the POE that as at 31 December 2017 the Resettlement Objectives and Provisions (ROPs) had not been achieved. | Achieved. Since we reported, all actions required to meet the POE's conditions for closure recommended in its Report 27 have been completed or are underway. |
| 47/27 Agree to close the RIP with a target date of on or around 30 June 2018 subject to the following: • That the POE's recommendations in this Report as summarised in [this] Annex A on further action to achieve the ROPs, in addition to any other actions it considers necessary, form the basis of an agreement between the GoL and NTPC on their specific remaining obligations under the CA. • That the recommendations on further institutional arrangements in [this] Annex A form the basis of agreements between the GoL and other parties on the planning and implementation of activities for the future development of the resettlers on the Nakai Plateau to the end of the Concession Period in 2035. | Achieved. The POE recommends that the Government agree that the Resettlement Implementation Period be closed immediately. |
| 48/27 Invite the POE to verify the completion of the actions in Annex A in a mission in mid-2018. | Achieved. POE Mission 28 (June-July 2018) has been able to review and verify completion or substantial progress with all key actions. |
| 2. Recommendations on compliance with ROPs (NTPC) | |
| Chapter 5 FORESTRY | |
| 7/27 Complete the formulation of Hamlet Forest Management Plans (HFMPs) with full participation of hamlet dwellers and coordinate the development of HFMPs with the VDPs. | Achieved. Prompt action to develop and implement detailed proposals from VDP priorities is important to maintain momentum. |
| 8/27 Based on the HFMPs and consultations with all stakeholders and hamlets, formulate an overarching strategy and incorporate this in CFPs, VDPs and a revised Forest Management Plan. | Achieved. |
| 9/27 Formulate a revised FMP, approved at all levels of the GoL, for the management of the Nakai Plateau Community Forests. | Achieved. |
| 10/27 Finalize the development of HFMPs for all hamlets with full participation of hamlet dwellers. | Achieved. |

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| Chapter 9 LIVESTOCK | |
| 20/27 Review and, by the end of 2018, revise the livestock development plan, including a reassessment of the carrying capacity of the plateau and development of an emergency plan for managing large livestock feed and numbers in the event of a significant drought and for effective responses in the event of a disease epidemic. | Partly achieved in planning. NP-LAF includes assessment of feed requirements and further development of feed and vaccination campaigns for large livestock. Capacity problems will be increased if large numbers of animals have to be brought back from the Watershed. |
| Chapter 14 INFRASTRUCTURE AND OTHER ASSET PROVISION | |
| 39/27 NTPC and GoL should confirm CA infrastructural requirements included in the LoA and a Handover Agreement. | Achieved. All CA infrastructure obligations have been identified and all are completed or are underway. |
| 3. Recommendations on compliance with ROPs (GOL) | |
| Chapter 4 FISHING | |
| 2/27 Complete a review to simplify and strengthen the organisation, funding and regulation of the co-management regime on the reservoir and implement the results at Village and District level by the end of 2018. | Achieved in planning. NP-LAF includes review of the co-management regime and enforcement. |
| Chapter 12 ETHNIC GROUPS | |
| 33/27 Extend across the Plateau the measures newly being introduced through the VDP process designed to improve economic performance and based on tailoring livelihood support to hamlets, groups of households and vulnerable families on the basis of needs and conditions rather than ethnicity and further extend the tailor-made approach to the post-RIP period. | Achieved in planning. VDP process ensured separate identification of priorities of poor households. NT2DF and NP-LAF will target high-risk households. |
| 4. Recommendations for future development to be agreed as part of a decision to close the RIP | |
| Chapter 5 FORESTRY | |
| 12/27 Submit the HFMP developed for each hamlet to DAFO, PAFO and DoF for approval. | Achieved. |
| Chapter 7 AGRICULTURAL DEVELOPMENT | |
| 16/27 The GoL agree on a revised agricultural development plan on the principles in the CA, to be developed and implemented by DAFO with support from NP-LAF, through Village Development Planning. | Achieved in planning. The NP-LAF 5-year plan and work programme has been completed. Detailed plans for implementation remain to be developed. |

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| 17/27 The GoL ensure that the funding and technical support provided by NP-LAF in the medium term is fully integrated into future planning and implementation of agricultural development on the plateau. | Achieved in planning. All proposals for NP-LAF support will be made through the integrated VDP process. |
| Chapter 10 OFF-FARM | |
| 29/27 Review District capacity to manage the off-farm program and recommend further development if required. | Achieved. The Company is confident that the District has sufficient trained staff for its role. |
| 30/27 Begin monitoring new businesses established and employment created | Achieved. Results are available from a first round of monitoring. |
| Chapter 15 FUTURE INSTITUTIONAL ARRANGEMENTS AFTER RIP | |
| 42/27 Confirm that the institutional arrangements set out in Annex C are in place as requirements for the medium-term development project on the Nakai plateau. | Achieved. All arrangements are fully documented and agreed. See comments on monitoring (Recs. 44-45/27). |
| Chapter 14 INFRASTRUCTURE AND OTHER ASSET PROVISION | |
| 40/27 Compliance with the remaining infrastructure requirements should be part of independent monitoring of the LoA or Handover Agreement. | Not assessed. Independent monitoring not confirmed. However, reports are available of status of all infrastructure tasks. |
| 41/27 An audit of SERF should include periodic independent monitoring of the standard of maintenance of community assets that it funds. | Not achieved. No evidence of performance monitoring as per the SERF Handbook. |
| Chapter 15 FUTURE INSTITUTIONAL ARRANGEMENTS AFTER RIP | |
| 43/27 Agree that the Nakai Plateau Working Group should include representatives from the resettler villages and that an initial action by the group would be to conclude a joint and publicly available Memorandum of Understanding summarising the main features of project management. | Partly achieved. Villages are represented on the NPWG. The Group has yet to meet officially. |
| 44/27 Agree to a periodic review of project progress and results by an independent reviewer of international standing, with the reviewer's reports made public. | Provisionally achieved. The POE recommends review of support requirements on Mission for the NT2DF Independent Advisor and confirmation of the continuing role of the LTA on its present mandate and publication of its reports. |
| 45/27 Confirm the future role of the POE as a standing body under the CA in relation to social and environmental matters, the WMPA, review of continued achievement of the ROPs, longer-term monitoring of performance of the medium-term | Under action. To be confirmed with GoL. |

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| development project, and any other matters relating to the CA. | |
| 5. Recommendations on other matters for consideration in future development on the plateau | |
| Chapter 3 OVERVIEW: RESETTLER LIVING STANDARDS | |
| 1/27 A survey on a methodology consistent with LSMS be conducted at intervals of three to four years for the duration of the Concession Period so that livelihood conditions in the Resettlement Villages can be regularly monitored. | Provisionally achieved. The POE recommends confirmation of the methodology and timing of the survey and publication of its results. |
| Chapter 4 FISHING | |
| 3/27 Continue to monitor fisheries control activity including co-patrolling and check points, for effectiveness and revision if necessary | Achieved in planning. NP-LAF work programme includes review of enforcement effectiveness. Household catch survey will be discontinued. |
| 4/27 Further develop marketing and processing to add value to the fish catch | Achieved in planning. Included in NP-LAF work programme. |
| 5/27 Review and if necessary revise fish marketing regulations | Not assessed. Should be included in marketing development in NP-LAF work programme. |
| 6/27 Maintain the current system of monitoring of reservoir ecology, fishery health and species diversity, household fish catch and co-management operations. | Partly achieved. Fisheries Lab will continue but household fish catch survey will be discontinued. |
| Chapter 5 FORESTRY | |
| 11/27 Agree GoL policy at all levels on major issues, including: • a comprehensive and Plateau-wide forest inventory, if required; • initiation of programmes like extending cropping, including agroforestry in CFPs, developing ecotourism in hamlet forests, providing technical support for organization of a NTFP management and value chain; • incorporating CFPs in VDPs. | Achieved in planning. Priorities in HMFPS need to be developed into specific activities. |
| Chapter 6 LAND | |
| 13/27 Ensure that decision-making on land use in development of CFPs and VDPs complies with the established legal procedures for community decision-making on community land and with CA requirement to respect social and cultural cohesion of original resettlement villages and to ensure village resource use is recognised and respected; | Partly achieved. NP-LAF work programme includes analysis of land conversion requirements and processes but existing proposals are not satisfactory or acceptable. A clear land conversion methodology has already been developed as part of land use planning for forest and agriculture pillars in the CLT regulations and should be applied. |

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| 14/27 Provide additional assistance to the District to develop a procedure for land conversion according to CLT regulations. | Provisionally achieved in planning. NP-LAF work programme should include support for developing District land conversion procedures. |
| 15/27 No inclusion of non-resettler households in NP-LAF agricultural activities until eligible resettler and subsequent growth households first have land allocated and legal documents issued, and proper procedures for land conversion have been applied. | Achieved. Explicitly recognised in NP-LAF work programme. |
| Chapter 8 CROPPING AND IRRIGATION | |
| 18/27 Review progress with irrigation and the economic options for future development, utilizing MAF's national expertise in the process. | Provisionally achieved in planning. Irrigation review included in NP-LAF work programme. MAF should be consulted as appropriate for technical support. |
| 19/27 Arrange targeted discussions with farmers moving out of cassava on restoration of land and options for future cropping. | Provisionally achieved in planning. NP-LAF work programme includes cassava-related activities which should include advice on successor crops. |
| Chapter 9 LIVESTOCK | |
| 21/27 Include options for supporting development of large livestock businesses in Village Development planning and in NP-LAF. | Achieved in planning. |
| 22/27 Launch a further campaign aimed at households raising small animals as a business to encourage safe management and effective vaccination practice. | Not assessed. No evidence of a further campaign on small livestock. Concern in villages about disease risk in raising chickens as a business. |
| Chapter 10 OFF-FARM | |
| 23/27 Accelerate a planned audit of the operations of each VDF and put in place remedial actions for funds with arrears problems | Achieved in planning. Bank of Lao will carry out audits for planned SCU. |
| 24/27 Review the lending decisions and policies of the Funds to ensure that access is equally available to all groups who can manage the Funds' requirements | Achieved in planning. Lao Microfinance Association will carry out social audit of VDFs for planned SCU. |
| 25/27 Complete the creation and staffing of a Network Support Organisation to support VDFs | Achieved in planning. Plans developed for SCU with shareholder members from VDFs. |
| 26/27 Establish a venture seed fund to complement VDFs with longer-term finance | Achieved in planning. Plans for SCU incorporate larger and longer-term loans suitable for business ventures. |

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| 27/27 Complete the establishment of the planned resource centre for business startups | Achieved. |
| 28/27 Complete planning for joint venture with Lao tourism operators for tours to the protected area | Provisionally achieved in planning. Some tours already available and others planned. Requires formal approval of WMPA and development of facilities and village relationships. |
| Chapter 11 POOR AND VULNERABLE | |
| 31/27 Include a stand-alone component for Poor, Vulnerable and High-Risk households in VDP methodology. | Achieved. Separate identification of “poor” group priorities in VDP methodology. |
| 32/27 Develop a livelihoods plan for each of the High-Risk households specifically tailored to individual situations. | Achieved in planning. Explicit targeting of high risk households for tailored livelihood support in plans of NP-LAF and NT2DF |
| Chapter 12 ETHNIC GROUPS | |
| 34/27 Further upgrade project communication and presentational skills to involve the older generation more effectively in hamlet and village affairs and consider appointing a fulltime village facilitator with knowledge of ethnic languages particularly Makong to improve older people’s access to upcoming planning and design consultations. | Not assessed. Facilitator with Makong language skills not yet available. |
| 35/27 Take early action to widen further ethnic representation in the VDCs, in line with CA provisions and with the requirement of the Khammouane Provincial Governor that in selecting members of VDCs and other important hamlet and village bodies naibans ensure fair representation for women and households from ethnic groups. | Not assessed. Further statistics being sought of more recent appointments. High representation of ethnic groups in hamlet VDP planning exercises. |
| 36/27 With some evidence of cultural and language diversity diminishing in spite of apparent enhanced social cohesion resulting from the measures to accord the villages and hamlets more autonomy, initiate closer studies of the cultures and languages of the Plateau before they erode further. | Not assessed. For future development. |
| 37/27 Encourage and support the LFNC in expanding its valuable roles in fostering cultural protection and undertaking conflict resolution work on the Plateau. | Not assessed. For future development. |
| 38/27 Continue the patient negotiations with and through the LFNC seeking resolution of the issue of access to the Old Sop Hia site, with options like redesignating the site as a NNT NPA hamlet with conservation and development functions or as an | Not assessed. For future development. Discussion with Ahoé in Nam Nian confirmed that talks still going on. |

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| overnighting facility for conservation patrols being considered. | |
| Chapter 17 WMPA | |
| 49/27 The Director of COTE participate in meetings of the WMPA Board of Directors | Not achieved. COTE Director is excluded from Board meetings. |
| 50/27 The retrenchment of existing staff and recruiting of new staff which has been inexplicably delayed be pursued and accomplished rapidly; | Not achieved. Continued delays in HR procedures. |
| 51/27 The WMPA fiduciary management, financial handling and accounting, prepared with COTE per the contract, should be transparent and consistent with international standards. | Achieved. Considerable improvement in financial management and other administrative processes to meet international standards. |
| 52/27 Effective external monitoring of the WMPA should be maintained. | Achieved. IMA (Watershed) will continue in its monitoring role. Ongoing POE role under discussion. |