

La'o Hamutuk

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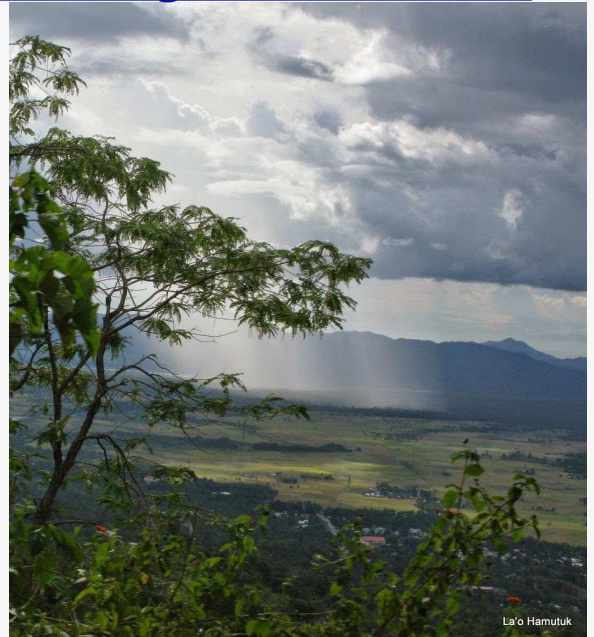
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08 May 2014

Environmental licensing – who needs it?

Protecting Timor-Leste's fragile environment is essential for national development and improving the quality of people's lives. It allows us to farm, eat, drink, fish and breathe. If we allow it to be damaged, we get famine, flooding, pollution, toxic waste and disease. This is recognized in Article 61 of Timor-Leste's Constitution: ***“Everyone has the right to a humane, healthy, and ecologically balanced environment and the duty to protect it and improve it for the benefit of the future generations. ... The State should promote actions aimed at protecting the environment and safeguarding the sustainable development of the economy.”***



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As the 2011-2030 Strategic Development Plan explains, *“The people of Timor-Leste have a strong relationship with the natural environment. For generations, our ancestors depended on the environment for food, clothing, building materials and everything else essential for life. We lived in harmony with the environment, using it sustainably to support our families.”*

To achieve these goals, and to protect Timor-Leste's unique geology and ecosystems, projects with significant environmental risk need to be evaluated and licensed before they are built, including both assessing possible environmental impacts and planning how to manage them, during both construction and operational phases. Since 2011, Timor-Leste has had our own environmental licensing law, and before that the [Indonesian AMDAL law](#) applied here. Nevertheless, very little is known about the licensing processes for environmentally risky projects which were started or built in the last three years. Many never even bothered to apply.

[RDTL Decree-Law no. 5/2011 of 9 February on Environmental Licensing](#)



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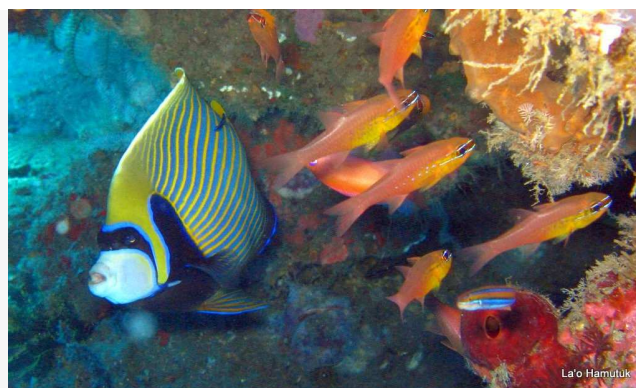
B Timor-Leste Institute for Development Monitoring and Analysis

Dili, Timor-Leste

La'o Hamutuk is a Timorese non-governmental organization (NGO) which has worked since 2000 to monitor and analyze the activities of international and government agencies in Timor-Leste, to make development responsive to the needs and desires of the people. We focus on international institutions and systems, trying to protect food sovereignty and avoid the "resource curse" in petroleum-dependent Timor-Leste, as well as to enhance democratic governance and justice.

La'o Hamutuk, hanesan Organizasaun Naun-Governmental (ONG) Timor-oan, ne'ebe servisu desde 2000 atu monitor no analiza atividade sira husi ajensia internasional no governmental iha Timor-Leste. Hodi hanoin katak dezenvolvimentu iha ne'e tenke responde ba povo nia nesesidade no povo nia hakarak. Ami foka ba sistema no institusaun internasional sira, atu proteje soberania ai-han no evita "malisan rekursu" iha Timor-Leste, ne'ebe depende makaas ba rendimento petrolifeiro. No mos atu hadiak liu tan governasaun ne'ebe demokratiku no justisa.

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(Portuguese original) requires projects which could have significant environmental effects to prepare Environmental Impact Assessments and Environment Management Plans (Art.4). The National Environment Directorate (DNMA, part of the Ministry

of Commerce, Industry and Environment) creates a committee (Art.10) to evaluate the EIA and EMP, conduct public consultation (Art.11), and require improvements (Art. 12.3, 14.3) before recommending (Art.13) that a license be issued (Art.14). No one can begin implementing a project without a license (Art.23.5), subject to up to a quarter-million-dollar fine (Art.34.5). Licenses (as well as reasons for denial or special requirements) are to be published in the *Jornál da Repúblika* (Art.14.4, 21.4) and DNMA must maintain a public register of licenses, evaluations and other information (Art. 38).

Although the Decree-Law is not perfect, it could help protect Timor-Leste's delicate ecosystems ... if it were actually implemented. A few years ago, La'o Hamutuk participated in [consultations on exploratory offshore drilling](#), and we also learned that the [Suai Supply Base](#) received a [license](#) last year (with no public consultation), but the [Jornál da Repúblika](#) has never mentioned an Environmental License.



Last January, La'o Hamutuk joined discussions with an [ADB technical assistance project](#) to improve environmental licensing processes, and it became clear that this law is violated far more often than it is obeyed.

We asked how many licenses had been granted, and a few weeks later [ADB included a list from DNMA](#) in a workshop presentation, showing that DNMA had issued eleven licenses, and five more were in process. Only two of the eleven were for large projects with major environmental impact (Category A under the Decree-Law): the now-abandoned Pelican Paradise resort project in Tasi Tolu, and the Suai Supply Base (SSB).

Funder	Proponent	Location	Area	Activity	Cat.	Applied	Status
GOTL/ Private Sector	MPRM	Suai	1105 ha	Supply Base, Industry State, New Town, Port, Airport, Two Crocodile Reserves	A	23/01/2013	Iha ona lisensa/12/6

DNMA's list said that the SSB [License](#) was "issued with political interference," a precedent they didn't want to repeat. As La'o Hamutuk has explained, the

[SSB license was issued last year without any public consultation or the required project-specific Environmental Management Plan](#). When we suggested that DNMA should implement clause 2.4 of this License -- “Due to serious violation of the EIA, EMP and Environmental License procedures, the RDTL environmental authority will suspend or cancel environmental license as described in Article 35(c) of Decree-Law No. 5/2011” -- everyone at the workshop smiled.

La’o Hamutuk then made a [formal request \(Tetum original\)](#) for information on licensing to date, and DNMA staff was cooperative. Although the public register doesn’t yet exist, in March they [provided the table of licenses](#) at right, as well as some of the licenses and other information.

Later, they told us that they were reviewing another Category A project, Esperanca Timor Oan (ETO)’s planned fuel depot in Hera, and provided the [terms of reference](#) for its upcoming licensing application.

However, we were sad to learn that many significant projects never contacted DNMA to initiate the licensing process. Multi-story buildings on two or more hectares of land are Category A, but DNMA has heard nothing from the builders of Timor Plaza (Tony Jape, Comoro), the Ministry of Finance building (Kampung Alor) or the Palm Business and Trade Center (Jackson Lay, Surik Mas), even though construction is far along for all three of these.

Even if a project uses less than two hectares, it still requires a license as Category B. The Prime Minister himself laid the cornerstone for AGP Square (Tommy Winata, Arthagraha Group Peduli, Kaikoli) last November, but DNMA has heard nothing about this project. Other large projects - the Hera and Betano power plants, Comoro bridges, tourism beach developments -- have also defied licensing requirements. We listed a few of them in the following table, and we encourage people who know of other projects which require licenses (the criteria are annexed to the [Decree-Law](#)) to tell DNMA about them.

Tabela: Lista Projeto Categoria A e B, nebe hetan ona Lisensa desde Decreto Lei No. 5/2011 vigor

No.	Nain proponente	Proponente	Lokalizasaun	Skala Atividades	Tipo atividades	Kategoria	Oberbassau/data Lisensa
1.	MOP	MOP	Dili-Liquica	28, 4 km	Rehabilitasaun estrada	B	Iha ona lisensa/31/5/2012
2.	MOP	MOP	Tibar-Gleno	31,9 km	Rehabilitasaun estrada	B	Iha ona lisensa/16/8/2012
3.	MOP	MOP	Dili-Maubisse	60 km	Rehabilitasaun estrada	B	Iha ona lisensa/17/12/2012
4.	Foo Hau Kien	Timor Cement	Liquica	15.000 ton/tn	Falun Cementi	B	Iha ona lisensa/24/1/2013
5.	MOP	MOP	Zumalai-Suai	700 m	Rehabilitasaun morru proteasaun ponte Mola	B	Iha ona lisensa/18/7/2013
6.	MOP	MOP	Maubisse-Ainaro	48 km	Rehabilitasaun estrada	B	Iha ona lisensa/21/10/2013
7.	MPRM	MPRM	Suai	1105 ha	Supply Base, Industry State, New Town, Port, Airport, Two Crocodile Reserve	A	Iha ona lisensa/12/6/2013
8.	MAF	MAF	Buluto, Lalein	780 ha	Rehabilitasaun Irigasaun	B	Iha ona lisensa/31/10/2013
9.	Steve Pickering	Ion Geophysical Corporation	JFDA & TLEA, Offshore	JFDA 472 km & TLEA 346 km	Marine Seismic Survey	B	Iha ona lisensa/21/2/2013
10.	MOP	MOP	Liquica-Batagade-Mota Ain	78,8 km	Rehabilitasaun estrada	B	Iha ona lisensa/13/01/2014
11.	Rui H. F. Quintes	MOP	Erako, Ermera	48 ha	Rehabilitasaun dam	A	Sei iha processo dokumentu EFS
12.	Odete Genoveva V. Da Costa	MOP	Laklobar, Macatato	81 km	Rehabilitasaun Estrada	B	Sei iha processo dokumentu SEIS
13.	Direc. Nac. Irigasaun jestaun be/MAF	Direc. Nac. Irigasaun jestaun be/MAF	Betano, Mamufahi	1010 ha	Rehabilitasaun irigasaun	B	Sei iha processo dokumentu SEIS
14.	Direc. Nac. Irigasaun jestaun be/MAF	Direc. Nac. Irigasaun jestaun be/MAF	Zumalai, Covalima	2263 ha	Rehabilitasaun irigasaun	B	Sei iha processo dokumentu SEIS
15.	Direc. Nac. Irigasaun jestaun be/MAF	Direc. Nac. Irigasaun jestaun be/MAF	Hatudo, Ainaro	225 ha	Rehabilitasaun irigasaun	B	Sei iha processo dokumentu SEIS
16.	Pelican Paradise	Pelican Paradise	Tael Tolu	606, 8 ha	Resort/Hotel	A	Iha ona lisensa/4/5/2012

List provided by RDTL National Directorate for Environment on 18 March 2014 in response to a request from La’o Hamutuk

Project	Location	Owner	Status	Land Area	Cat.	License status	
Timor Plaza 5-story building and several others	Comoro, Dili	Tony Jape	Some buildings finished, other construction continues	4 Ha	A	Never applied. Ground-breaking in 2009, opened 2011.	

AGP Square 26-story building	Kaikoli, Dili	Tommy Winata, Arthagraha Group Peduli	Cornerstone laid, no work since	1.5Ha	B	Not yet applied. Ground-breaking Nov. 2013	
Palm Business and Trade Centre	Surik mas, Dili	Jackson Lay	Mostly built	2 Ha	A	Never applied. Construction began in 2011, opened 2013.	
Ministry of Finance 11-story Building	Kampung Alor, Dili	RDTL MoF	Mostly built	2 Ha	A	Never applied. Construction began in 2011, not yet finished.	
Hera power station	Hera	EDTL, MOP	Built	3.5 Ha	A	Never applied. Construction began in 2009, operation in 2011.	
Betano power station		EDTL, MOP	Built	82 Ha	A	Never applied. Construction began in 2010, operation in 2012.	
Pacific Beach Resort	Dolok-oan	Tony Jape	Land clearing started recently	22 Ha	A	Not yet applied	



[million case in Angola](#) and one which [poisoned 100,000 people in Côte D'Ivoire in 2006](#), and we hope that DNMA and other regulators will prevent them from inflicting similar damage in Timor-Leste.



Tony Jape, the developer of Timor Plaza, has never applied for a single environmental license. He recently began clearing more than 20 hectares of beachfront land in Dolok-oan, between Cristo Rei and Hera, for a tourist resort. Some have asked how Jape got permission to develop this public land and a similar tract at “Dollar Beach” in Metinaro (his [projects in Darwin](#) are also problematic), but this article focuses on environmental regulation. The precedents set here could protect (or endanger) many parts of Timor-Leste’s beautiful and fragile shoreline.



Timor-Leste has not had effective environmental protection during twelve years of independence, or for centuries before that. Although we appreciate the work of the State Secretariat for Environment in discouraging littering and planting trees, the most imminent dangers to our ecosystems are from

large construction and industrial projects, which involve huge quantities of toxic chemicals that endanger health and could contaminate river ecosystems, ground water, agricultural land, oceans and the atmosphere.

We hope that Timor-Leste’s Government will become more effective in keeping our land and waters safe, clean and habitable, strengthening some communities’ use of *Tara Bandu* to protect their local areas. Government and project owners must make information available, consult with the people, and

obey and enforce our laws, so that everyone can work together to protect Rai Furak ida ne'e.

Update, June 2016: During the two years after this blog was written, environmental licensing continue to be applied sporadically and ineffectively. On 31 May 2016, [La'o Hamutuk wrote an open letter to the Provedor \(Ombudsman\) for Human Rights and Justice](#), urging his office to look into this breakdown in the of rule of law and make recommendations about how it can be addressed.



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[Alex Tilman](#) [08 May, 2014 15:46](#)

The most frustrating thing about these projects is the amount of transparency involved, i.e. no transparency at all. Government gives away public resources without due process and the only people ripping the benefit is the small well connected elites. At the very least the licenses should be auctioned openly, this way the state can earn some revenue from the sale, and the transfer more transparent.

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