

COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

To the Ministry of Finance

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**Recommendation on the exclusion of Noble Group Limited from the
Government Pension Fund Global's investment universe**

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1 Summary

The Council on Ethics recommends the exclusion of the company Noble Group Limited (Noble) from the Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is responsible for severe environmental damage as a result of its conversion of tropical forest into oil palm plantations.

As per the end of 2012, the GPFG owned shares in the company with a market value of USD 49.3 million, corresponding to an ownership interest of 0.81 per cent. The GPFG also held company bonds valued at some USD 5 million.

The Council on Ethics has assessed the environmental impacts of Noble's two concessions in the provinces of Papua and West Papua on the island of New Guinea, Indonesia. The concession areas total almost 70,000 ha. One of the concessions is owned and operated by Noble's subsidiary PT Pusaka Agro Lestari (PT PAL), while the other is owned by PT Henrison Inti Persada (PT HIP), a joint venture between Noble and Wilmar International Ltd.¹ Both concessions are located in biologically and ecologically important regions known for their unusually extensive and unique biodiversity. The regions are home to many endemic species of plants and animals found in few or no other places on earth.

Noble has conducted High Conservation Value (HCV) assessments for both concessions in order to identify areas that are particularly important for the protection of biodiversity. The assessments for both concessions conclude that HCVs are primarily found in riparian zones, in steep terrain and in peat swamps. To protect these HCVs and areas of cultural importance to the local population, the company intends to set aside some 13,000 ha in the two concession areas. The remaining area of 55,000 ha is to be cleared and converted into oil palm plantations.

The Council finds that the company's protection of HCV areas is a positive step in the protection of biodiversity. Nevertheless, the Council is not convinced that the values worth protecting in these two large concessions are restricted to forest areas alongside waterways and peat swamps. Moreover, these are areas that the company in any event is required to protect under national Indonesian requirements. Accordingly, it does not seem that the measures help to strengthen biodiversity to any greater extent than already required by national legislation.

The Council attaches importance to the fact that the field surveys conducted to map biodiversity in the two concession areas appear to have concentrated exclusively on the areas set aside for protection, and that large areas recommended for conversion have not been inspected on the ground at all. As regards the 55,000 ha of forest that are to be converted into plantations, no information is available on the state of the forest, diversity of species, or the condition of the ecosystem in general. This sampling bias in the surveys toward specific parts of the concessions, combined with the lack of sampling in other areas, may mean that important conservation values have been overlooked. In the Council's view, this affects the strength of the conclusions concerning what HCVs are present in the concession areas, how they have been surveyed and how they should be managed.

Noble has rejected this in its communications with the Council, pointing out that, as a member of the Roundtable for Sustainable Palm Oil (RSPO), the company has followed all of the organisation's requirements concerning HCV assessments, and that the PT PAL assessment has been approved by the RSPO. Nevertheless, the Council is of the opinion that membership

¹ The GPFG has not invested in this company.

of the RSPO does not in itself guarantee that HCVs will be identified, protected and managed in such a way that biodiversity is protected in connection with the conversion of forests.

In the Council's view, neither of the two HCV assessments provide well-founded answers to the question of whether intact forest will be converted into plantations and what biological values are likely to be lost as a result of conversion. The Council finds that the absence of such data, the size of the area under conversion and the fact that both concessions are located in areas of unusually rich and unique biodiversity, present an unacceptable risk that conversion will result in complete, irreversible change to ecosystems and vegetation in the region. The measures proposed by the company will, in the Council's opinion, be insufficient to reduce severe environmental damage connected to on-going and future conversion of forest into oil palm plantations.

The Council therefore recommends the exclusion of Noble Group from the investment universe of the Government Pension Fund Global.

2 Introduction

At its meeting in December 2012, the Council on Ethics decided to assess the Fund's investment in Noble Group (Noble) against the Guidelines for the Observation and Exclusion of Companies from the GPFG's Investment Universe (the Ethical Guidelines).²

As per the end of 2012, the GPFG owned shares in the company worth USD 49.3 million, corresponding to an ownership interest of 0.81 per cent. The GPFG also owned company bonds worth USD 5 million.

2.1 What the Council has assessed

The Council's assessment has concentrated on Noble's conversion of rainforests to oil-palm plantation in the provinces of Papua and West Papua, Indonesia. The Council has assessed whether there is an unacceptable risk that Noble contributes to or is itself responsible for severe environmental damage as per paragraph 2, section three of the Ethical Guidelines.³

In previous recommendations regarding severe environmental damage, the Council has given particular emphasis to whether:⁴

- the damage is significant;
- the damage causes irreversible or long-term effects;
- the damage has a considerable negative impact on human life and health;
- the damage is the result of violations of national laws or international norms;
- the company has failed to act to prevent the damage;
- the company has not implemented adequate measures to rectify the damage;
- it is probable that the company's unacceptable practice will continue.

Environmental impacts associated with the clearing of tropical forests

Commercial logging and the conversion of tropical forest into plantations are considered to be some of the most important threats to the preservation of ecosystems and biological diversity; they also contribute significantly to greenhouse gas emissions. Deforestation and forest

² http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/ethical-guidelines.html?id=425277.

³ Hereafter referred to as the Ethical Guidelines, http://www.regjeringen.no/en/sub/styrer-rad-utvalg/ethics_council/ethical-guidelines.html?id=425277.

⁴ In previous recommendations, the Council has elaborated on the criteria for *severe environmental damage*. See for instance the Council's recommendations regarding Samling Global, available at www.etikkradet.no.

degradation accounted for 10 to 17 per cent of global greenhouse gas emissions in the period 2000–2005.⁵

Conversion involves the felling of trees and the removal of other vegetation before an area is used to set up plantations for the production of palm oil, lumber or other monocultures. The conversion of forest into plantations is considered destructive to biodiversity and various ecosystem services. Such monocultures have little ecological value compared to natural forests.

The UN, the World Bank and national governments have recognised the need to reduce deforestation and forest degradation through the United Nations Collaborative Initiative on Reducing Emissions from Deforestation and Forest Degradation (REDD and REDD+), among others, which is also supported by the World Bank and others. The Norwegian government has also supported these initiatives by allocating up to NOK three billion a year to efforts to reduce greenhouse gas emissions from deforestation in developing countries. Importance is given to both the need for cutting greenhouse gas emissions and preserving biodiversity while promoting sustainable development.⁶

Indonesia is one of Norway's partners under the REDD+ scheme. Indonesia is home to the world's third-largest tropical forest; it also has some of the highest deforestation rates in the world. Between 1990 and 2010, Indonesia lost an annual average of 12 000 km² of forest, equal to 1.02 per cent of its total forest cover. In 2010, Norway entered into a partnership with Indonesia to support the country's efforts to reduce greenhouse gas emissions from deforestation, forest degradation and the destruction of peatlands. Under the agreement, Indonesia implemented a nationwide moratorium on new forestry and plantation concessions. The moratorium was set to expire in May 2013 but has been prolonged by two years.⁷ The moratorium forms part of Indonesia's efforts to cut its greenhouse gas emissions by 26 per cent by 2020.

The Council considers tropical forests to be among the most bio-diverse ecosystems on earth. They are habitats for many endangered species, and provide important ecosystem services such as carbon storage, water management and erosion protection. They are important for the state of the environment globally, and deforestation and forest conversion are major threats to the future existence of these ecosystems. Accordingly, and taking into account the many international and national initiatives taken to reduce deforestation and the degradation of tropical forest, the Council has evaluated the environmental damage associated with forest conversion. In its assessment, the Council has emphasised the scale of conversion, the extent to which the companies' concessions overlap with areas containing high biological values, and the consequences of conversion for, *inter alia*, endangered species and their habitats.

The Council has not assessed conflicts about land rights

The Council is aware that Noble in one of its concessions (PT Henrison) is involved in conflicts about land rights. The company is alleged of illegally having obtained land rights in

⁵ IPCC 2007: Fourth Assessment Report: Climate Change 2007, http://www.ipcc.ch/publications_and_data/publications_and_data_reports.shtml. This report estimated that deforestation accounted for 17 per cent of emissions. This estimate is reduced in a 2012 study, which calculated that tropical deforestation in the period 2000–2005 accounted for about 10 per cent of global greenhouse gas emissions; see N. L. Harris, S. Brown, S. C. Hagen, S. S. Saatchi, S. Petrova, W. Salas, M. C. Hansen, P. V. Potapov, A. Lotsch. 'Baseline Map of Carbon Emissions from Deforestation in Tropical Regions'. *Science*, 2012; 336 (6088): 1573 DOI: [10.1126/science.1217962](https://doi.org/10.1126/science.1217962).

⁶ The government's forest and climate initiative, <http://www.regjeringen.no/en/dep/md/Selected-topics/climate/the-government-of-norways-international-/why-a-climate-and-forest-initiative.html?id=547202>

⁷ http://www.norway.or.id/Norway_in_Indonesia/Environment/Indonesias-Moratorium-on-Primary-Forests-and-Peatlands-Extended-for-Two-More-Years/.

land which traditionally belongs to local clans. According to the company the cases are being tried at the District Court in Sorong. The Council has not researched these cases further.

2.2 Sources

Little public information is available on Noble's plantation operations or the environmental impacts associated with the company's conversion of tropical forests. In response to the Council's request, Noble has provided information and documents on its plantation operations, including a High Conservation Value Area assessment and management plan prepared by third parties on Noble's behalf.

The Council has consulted additional experts on HCV assessment in Indonesia to gain a better understanding of whether the company's impact assessments and planned mitigation measures may be adequate to mitigate major biodiversity impacts, as well as whether the scale of forest conversion is compatible with maintaining the HCVs that have been confirmed or are likely to exist in the license areas.

This recommendation is primarily based on the aforementioned sources.

3 Background

3.1 About the company

Noble describes itself as a supplier of agricultural and energy products, metals, minerals and ores across the value chain. The company's global operations include mining, farming, processing of raw materials, port operations, shipping and marketing.⁸ Its operations span all regions of the world. Noble is listed on the Singapore stock exchange and has its headquarters in Hong Kong.

Noble began operating plantations in 2010, when it acquired a 51 per cent stake in the company PT Henrison Inti Persada (PT HIP). Noble has informed the Council that it has recently entered into a joint venture agreement with Wilmar International Ltd. relating to this plantation. Under the terms of the agreement, Wilmar will have an ownership interest of 53.74 per cent. "The vehicle that Wilmar would be buying into already owns PT HIP and therefore Noble is no longer the controlling shareholder of PT HIP."⁹ The GPFG has not invested in Wilmar.

In June 2011, Noble acquired a 90 per cent stake in the private company PT Pusaka Agro Lestari (PT PAL).

Both of Noble's concessions are located on the western (Indonesian) half of the island of New Guinea. PT HIP was founded in 2005 to develop an oil palm plantation in Sorong Regency, West Papua province,¹⁰ while PT PAL owns a concession in Mimika Regency, Papua province. The concessions cover an area of 68,300 ha.

3.2 High Conservation Values and impact mitigation

All forests hold environmental and social values, such as habitats, protection against erosion and cultural sites of importance to local populations. Where these values are deemed to be

⁸ Noble Group website:

http://www.thisisnoble.com/index.php?option=com_content&view=article&id=29&Itemid=50.

⁹ Email from Noble to the Council on Ethics, 19 April 2013.

¹⁰ <http://www.rspo.org/en/member/594>.

particularly important, a forest can be defined as a “High Conservation Value Forest” (HCVF).¹¹

Noble has commissioned assessments of which conservation values exist in its concession areas as well as how these should be managed in order to preserve them following conversion (so-called High Conservation Value (HCV) Area assessments). The assessments are made in accordance with the Guidelines for Identification of High Conservation Values in Indonesia, which are described in Table 1 below.

Table 1: The Six High Conservation Values for Indonesian forests¹²

HCV	Explanation
1	<i>Areas with important levels of Biodiversity</i>
1.1	<i>Areas that Contain or Provide Biodiversity Support Function to Protected or Conservation Areas</i>
1.2	<i>Critically Endangered Species</i>
1.3	<i>Areas that Contain Habitat for Viable Populations of Endangered, Restricted Range or Protected Species</i>
1.4	<i>Areas that Contain Habitat of Temporary Use by Species or Congregations of Species</i>
2	<i>Natural Landscapes and Dynamics</i>
2.1	<i>Large Landscapes with Capacity to Maintain Natural Ecological Processes and Dynamics</i>
2.2	<i>Areas that Contain Two or More Contiguous Ecosystems</i>
2.3	<i>Areas that Contain Populations of Most Naturally Occurring Species</i>
3	<i>Rare or Endangered Ecosystems</i>
4	<i>Environmental Services</i>
4.1	<i>Areas or Ecosystems Important for the Provision of Water and the Prevention of Floods for Downstream Communities</i>
4.2	<i>Areas Important for the Prevention of Erosion and Sedimentation</i>
4.3	<i>Areas that Function as Natural Barriers to the Spread of Destructive Fire</i>
5	<i>Natural Areas Critical for Meeting the Basic Needs of Local People</i>
6	<i>Areas Critical for Maintaining the Cultural Identity of Local Communities</i>

¹¹ The Guidelines for Identification of High Conservation Values in Indonesia <http://www.daemeter.org/downloads/guidelines/>.

¹² HCV toolkit-Indonesia, see footnote 11.

The HCV approach can, in theory, be an effective tool for mitigating the impacts of forest conversion through a two-step process that aims to (a) identify exceptional biological and social attributes of a landscape that merit protection, and (b) develop management and monitoring plans to maintain these attributes even if the forest is converted to plantations..

The success of the HCV framework in mitigating impacts depends on three factors. First, the assessment must properly describe the biophysical and social context of the forest, identify the exceptional attributes that merit protection, map their distribution, and develop a clear understanding of threats to their persistence in the landscape arising from planned conversion. Second, the assessment must develop clear, credible and practical recommendations to protect the HCVs identified in the area. Third, the recommendations must be implemented and managed by the company to ensure that the HCV areas are maintained. Where one or more of these conditions is not met, the HCV tool is unlikely to contribute to mitigate serious environmental impacts, especially those resulting from an intervention as wide-reaching as forest conversion.

4 High Conservation Values in the concessions

4.1 The PT Pusaka Agro Lestari concession

The PT Pusaka Agro Lestari (PT PAL) concession is located in Mimika Regency, approximately 40 km inland from the southern coast of Papua province and at the foot of the Central Cordillera Range. The concession area totals almost 35,760 ha, and covers the transition zone between mixed swamp-forest and lowland rainforest. The area lies in one of the WWF's eco-regions, the Southern New Guinea Lowland Forests Eco-region, and is included on the WWF's Global 200 Priority Eco-regions list¹³ due to its exceptional biodiversity. The region is considered critically endangered by logging, planned habitat conversion and hunting.¹⁴ According to the WWF, the Global Eco-regions list is a science-based global ranking of the Earth's most biologically valuable terrestrial, freshwater and marine habitats. These habitats are also particularly important for the protection of biodiversity.

4.1.1 The High Conservation Value Forest assessment

In 2011, Noble commissioned an assessment of the concession's HCVs. The Council has focused on the part of the assessment that describes HCVs relating to biodiversity and ecosystems (HCV 1–3; see Table 1).

According to the assessment, two major ecosystems dominate the concession – riparian (riverbank) ecosystems and freshwater peat swamps. Riparian ecosystems are present along rivers, streams and lakes. They are important habitats for wildlife, providing movement corridors and playing an important role in the functioning of aquatic ecosystems. Peat swamp forests are waterlogged forests growing on a layer of dead leaves and plant material. Peat thickness in the concession varies from shallow to very deep peat (50 – >300 cm). Peat swamp forests are unique, extremely carbon-rich ecosystems with a high proportion of endemic species.

¹³ The Global 200 is a list of eco-regions identified by the World Wildlife Fund (WWF) as priorities for conservation. An eco-region is defined as 'a large unit of land or water containing a geographically distinct assemblage of species, natural communities, and environmental conditions'.
http://wwf.panda.org/about_our_earth/ecoregions/about/.

¹⁴ Wikramanayake et al. (2002): *Terrestrial Ecoregions of the Indo-Pacific. A Conservation Assessment*. USA: Island Press.

The assessment states that the concession is covered by forests which have been logged previously. There is little information on the condition of the forest that is being cleared, and the information provided in the HCV assessment is contradictory. On the one hand, the report states that the forest has low timber potential.¹⁵ On the other hand, it refers to the forest as being in “relatively good condition, forming an intact forest block and inter-connected with the forests in the surroundings of PT PAL [PT Pusaka] landscape.”¹⁶

A large number of plant species were recorded (273), although less than half were identified by their scientific names. Only one plant species is classified as Vulnerable under the International Union for the Conservation of Nature’s (IUCN) Red List.¹⁷ The report states that 58 wildlife species were observed (5 mammal species, 44 bird species and 9 reptile species. Fish, amphibians and insects do not appear to have been recorded). Of these, 23 species are protected under Indonesian law. One is classified as Critically Endangered,¹⁸ while a further eight are categorised as Vulnerable on the IUCN Red List.

The assessment identifies a number of HCVs in the concession,¹⁹ all apparently located in forests bordering rivers, streams, lakes and in peat swamp forests. The report recommends the conservation of these areas, totalling 3,940 ha of the 35,700 ha covered by the concession (see Figure 1). The centrepiece of the conservation plan is a 1500 ha interconnected area of swamp forest on deep peat (>3m) adjacent to Lake Kaya and an additional 15 riparian zones and lakeshore buffers (ca 880 ha). Some of these are connected to the peat forest and form a partial network of corridors that ensures some connectivity between conservation areas. In addition, a further 1540 ha of forest patches were recommended for protection because of their cultural importance to local people. Although these areas may also provide supplementary biodiversity conservation support, that is not their intended function.

With 3,940 ha allocated to conservation, 31,800 ha of forest remain available for conversion.

In the report, the conversion of forest appears to be justified as follows:²⁰

- In relation to the total remaining forest cover of Papua, the concession is considered “very small”, being equivalent to <0.011 per cent of the remaining forest cover province-wide. The loss is regarded as acceptable.
- The government has already allocated the area for conversion to agriculture under its spatial plans, making it difficult to argue against conversion to oil palm.
- Most of the forest area has been logged previously and is assumed to have low biodiversity value.²¹
- A combined total conservation area of 3,900 ha is deemed more than adequate to maintain populations of all species known to be present.

¹⁵ Identification and Analysis of HCVs Presence in the area of PT Pusaka Agro Lestari Mimika Regency – Papua Province (HCV assessment report for PT PAL), page III-8.

¹⁶ See footnote 15, page IV 29.

¹⁷ *Intsia bijuga* o.k. (merbau).

¹⁸ The *Chitra Chitra*, or Soft Shell Turtle, is classified as Critically Endangered (CR) on the IUCN Red List and is listed in Appendix II of CITES.

¹⁹ The report identifies values HCV 1.1–1.3; HCV 2.3; HCV 3; HCV 4.1 and HCV 6; see Table 1 for an explanation.

²⁰ HCV assessment report for PT PAL, pages IV-31, 32, III-6, III-8, Section IV.

²¹ This argument overlooks a growing body of literature concerning the biodiversity and carbon value of logged forest, indicating that logged forests may retain substantial biodiversity, carbon, and timber stocks. See e.g. Putz et al. (2012): Sustaining conservation values in selectively logged tropical forests: the attained and the attainable, *Conservation Letters* 5:296–303, Meijaard et al. (2005) Life after logging. Reconciling wildlife conservation and production forestry in Indonesian Borneo, Centre for International Forestry Research, Jakarta., Berry et al. (2010): The high value of logged tropical forests: lessons from northern Borneo, *Biodiversity and Conservation* 19:985-997, Edwards et al. (2009) The value of rehabilitating logged rainforest for birds, *Conservation Biology* 23:1628-1633.

4.1.2 Have all HCVs in the concession been identified?

The assessment report asserts that only two kinds of ecosystems are found in the concession – riparian forests associated with rivers or lakes, and peat swamp forest. According to experts the Council has consulted, it seems likely that at least one more ecosystem type is present, namely lowland tropical forest on well-drained mineral soils. Terrain that is more than 30m above sea level and more than 100m from large rivers, is likely to support this type of ecosystem rather than riparian forests or swamps. This type of ecosystem may potentially cover an area equal to the forest along the rivers, lakes, peat swamp and other swamp types. It is also likely to support higher levels of floral and faunal diversity than the areas surveyed.²²

The report shows that field sampling was clustered almost exclusively on riparian areas and peat swamp forest.²³ The report concludes that HCVs are only present in the riparian forests and peat swamp areas ultimately recommended for protection. These conservation areas will in particular help protect clean water, prevent floods, sustain habitats for a subset of threatened or protected species, and accommodate local people's nutritional and cultural needs. The report does not state how long, narrow strips of residual forest separated by large areas planted with oil palms will be sufficient to ensure that the HCVs linked to biodiversity are protected in the plantation landscape.

It is highly likely that other areas outside riparian and peat forests include ecosystems that support large populations of threatened, protected or endemic species (as per HCV 1.3). These areas have not been surveyed, and consequently there is little data, if any, on what biodiversity will be lost in areas allocated to conversion. Notwithstanding the absence of necessary data on the condition of the forest or the biological diversity, the report recommends the conversion of very large swathes of forest. It also concludes that the planned conservation areas will be sufficient to ensure the persistence of HCVs in the landscape.

²² The report describes the occurrence of four soil types, two of which are well-draining mineral soils (e.g. page III-5). The report also refers to 6 different land system classes (see page III-32), including classes which refer to lowland tropical forests.

²³ HCV assessment for PT PAL, Table II-1 and Figure II-2. Of the 20 flora and fauna field survey sites, 19 were located immediately next to rivers and lakes, while one was located on peat land.

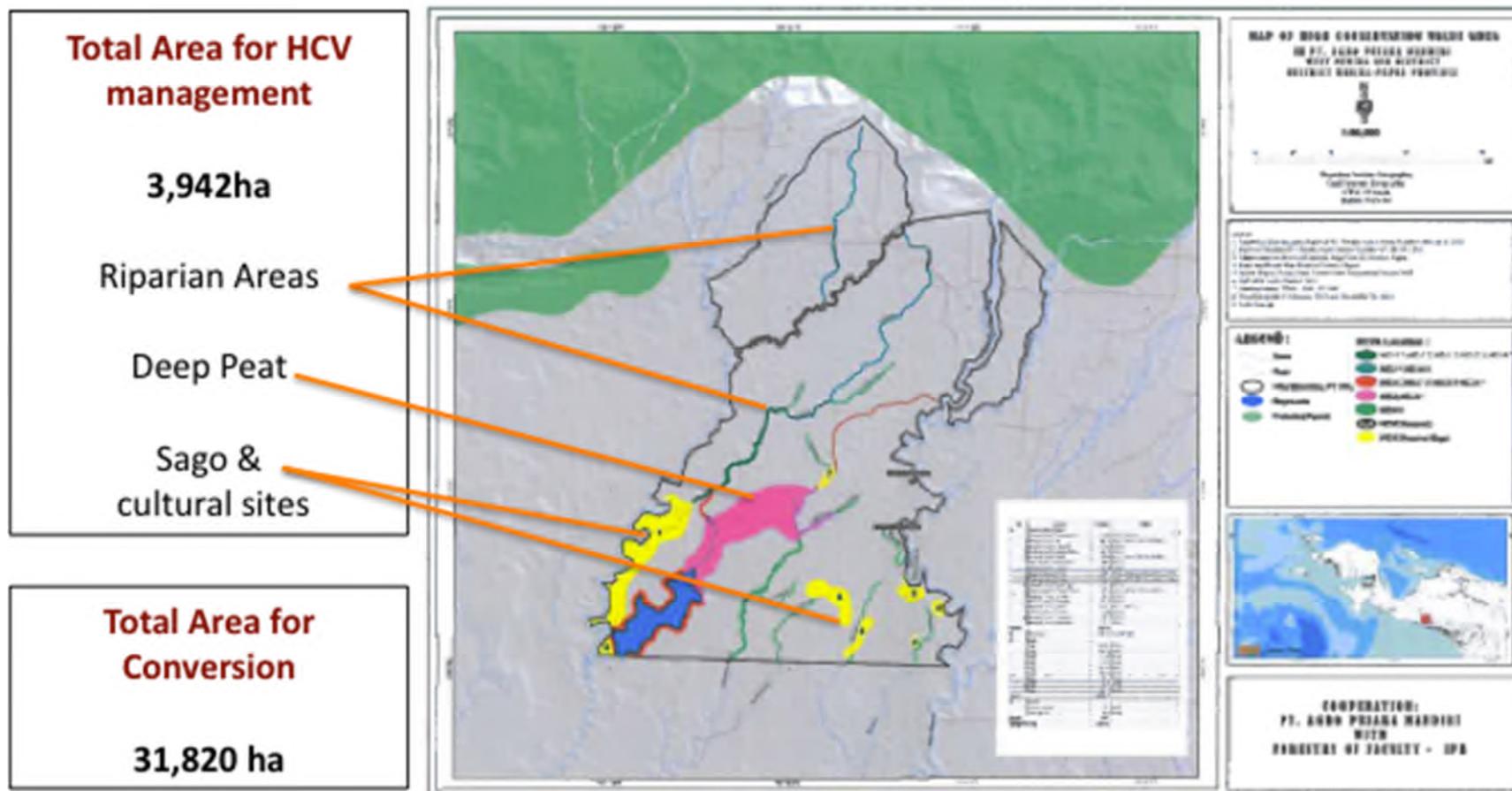


Figure 1: HCV management areas recommended for protection (pink, yellow, green, blue) and areas recommended for conversion (all others) at PT Pusaka Agro Lestari's concession in Mimika Regency, Papua, Indonesia.²⁴

²⁴ HCV assessment report for PT PAL, page V-2.

4.2 The PT Henrison Inti Persada concession

4.2.1 The High Conservation Value Forest assessment

The PT Henrison Inti Persada (PT HIP) concession is located in Sorong Regency, West Papua province, and covers 325 km² (32,546 ha) of lowland tropical forest. The first land preparations started at the end of 2005, and as of January 2012 about 9,500 ha had been planted. According to Noble, the entire concession is covered by forest²⁵ which was logged previously, in the period 1992–2000, before Noble acquired the concession. There are no peatlands in the concession.

The license area falls within the Vogelkop-Aru Lowland Rain Forests Eco-region,²⁶ which is known for its exceptional biodiversity and is threatened by logging, planned forest-conversion and hunting.²⁷ Lowland forests in the region have some of the richest flora in the whole of New Guinea.²⁸ The eco-region is also known for its rich bird life and a high degree of endemism;²⁹ 366 species are known for the region.³⁰ Of these some 21 species are considered endemic or near endemic, whereof nine are found nowhere else in the world. The concession also lies in the West Papuan Lowlands Endemic Bird Area, one of BirdLife International's Important Bird Areas.³¹

The HCV assessment for PT HIP was carried out in 2010, shortly after Noble acquired the company. According to the assessment, lowland rainforest is the area's dominant ecosystem. There is little information on the extent or condition of the forest, which is described qualitatively in the report and referred to as degraded, logged-over forest (3,600 ha), highly degraded (9,600 ha) and planted with oil palms (6,000 ha).³² There is no information on forest cover in the remainder of the concession area (13,000 ha).

The report documents an important biodiversity in what concerns both flora and fauna. As many as 661 plant species were found (of which 196 were identified by their scientific name). Three of these are on the IUCN Red list of Endangered, Vulnerable or Near Threatened species.³³ Of the 75 animal species that were identified (10 species of mammals, 55 species of birds, 4 species of reptiles and 6 species of fish), two species are listed as Critically Endangered,³⁴ six are listed as Vulnerable, and two as Near Threatened. Many of the species are protected in Indonesia.

Several HCVs have been identified.³⁵ In this concession too, HCVs are almost exclusively in riparian zones. The report recommends the conservation of some 4,700 ha in order to maintain biodiversity, environmental services and social interests. This includes 33 riparian

²⁵ Noble Group's letter to the Council of 25 June 2012.

²⁶ <http://worldwildlife.org/ecoregions/aa0128>

²⁷ Wikramanayake et al. (2002): Terrestrial Ecoregions of the Indo-Pacific. A Conservation Assessment. USA: Island Press.

²⁸ Pajmans (1975): Vegetation of Papua New Guinea. CSRIO.

²⁹ Endemism is used to describe a species whose natural habitat is restricted to a particular area.

³⁰ Beehler et al. (1986): Birds of New Guinea. Princeton University Press, Princeton NJ, USA.

³¹ <http://www.birdlife.org/datazone/ebafactsheet.php?id=172>

³² Identifikasi & Analisis Keberadaan Nilai Konservasi Tinggi di areal ijin PT Henrison Inti Persada Propinsi Irian Jaya Barat (HCV assessment report for PT HIP), see page IV-44.

³³ The *Anisoptera grossivenia* (a lowland dipterocarp forest species) is endangered.

³⁴ The *Zaglossus bruijnii* (long-beaked echidna) and *Spiloglossus rufoniger* (black-spotted cuscus) are Critically Endangered.

³⁵ The following HCVs were identified: HCV 1.1, 1.2, 1.3, 1.4; HCV 2.3; HCV 4.1, 4.2; HCV 5 and HCV 6; see Table 1 for an explanation.

zones running 25m to 50m along each side of streams and rivers throughout the concession, covering a total of about 4,270 ha. Some of these buffers are interconnected, forming a partial network of riparian corridors that together provide some level of connectivity. In addition, a further 420 ha of forest patches are recommended for protection, mainly on steep slopes and in areas of cultural importance. Although these areas may provide supplementary biodiversity conservation areas, this is not their intended function. Location maps for the HCV values are provided in the report but are not legible.

The same justification is given for the conversion of forest in the PT HIP concession as for PT PAL (see section 4.1 above).

4.2.2 Have all HCVs in the concession been identified?

As in the assessment concerning PT PAL, the biodiversity sampling areas in the PT HIP concession were clustered almost exclusively around riparian zones. In total, 33 out of 37 field survey sites for flora and fauna were situated immediately beside rivers. The sampling bias toward specific parts of the concession along with an absence of sampling in other areas means that additional HCV attributes may have been overlooked.

According to experts consulted by the Council, the number of plants, birds and animals identified in the field study was low. For example, less than 30 per cent of the plants encountered (196 of 661) could be identified by their scientific name. Many of these are common across Indonesia and are of low conservation concern. This raises questions about whether the actual presence of threatened, protected or endemic species may have been underestimated, including in the areas that were sampled. Several groups of animals (such as insects), were not included in the study.

The concession covers large areas of lowland rainforest at the bottom of valleys and on slopes, hills and plateaus on which no investigations have been carried out. Such areas are normally home to a considerable range of species of both plants and animals, particularly in areas of intact forest where hunting is restricted. As the concession is located in a region of important biological diversity, it is likely that endangered, protected and endemic species are found in the entire concession area.

This assessment is also unclear about whether intact forest will be converted, and what biodiversity is likely to be lost. The areas recommended for protection will help to protect clean water and prevent floods, sustain habitats for a subset of threatened or protected species, and accommodate forest-dependent cultural traits. Nevertheless, in its current form, the conservation plan recommends the conversion of 27,850 ha of forest without providing sufficient data on forest condition, biodiversity or ecosystems. The corridors that are to be protected also appear to be very narrow. Accordingly, there appears to be no scientific basis for the conclusion that the planned conservation areas are sufficient to ensure the HCV's continued existence.

5 Information provided by the company

5.1 The company's communication with the Council on Ethics

The Council contacted Noble in May 2012, requesting information on the environmental impact of the company's plantation operations. The Council was particularly interested in learning more about how the development of plantations would impact the natural forest, habitats and biodiversity, as well as how HCVs would be protected in the concession.

Noble replied to the Council in June 2012, providing *inter alia* the HCV assessments for the two concession areas.

After reviewing the materials and consulting experts in the field, the Council on Ethics sent Noble a draft recommendation on 21 February 2013. The Council received a reply from the company in March 2013. The main points in the company's comments are presented below.

5.2 The company's response to the Council

Noble has been a member of the Roundtable on Sustainable Palm Oil (RSPO) since October 2011.³⁶ The RSPO is a voluntary international association of stakeholders that promotes social and environmental responsibility throughout the palm oil supply chain. The RSPO requires that its members develop new plantations in a manner that ensures the preservation of any HCVs present. Noble commissioned the HCV reports for PT HIP and PT PAL to comply with RSPO requirements.

Noble says that the company will follow the recommendations in the HCV assessments and establish the recommended conservation areas. According to the management plan for the concessions, all identified HCV areas will be managed to maintain their conservation values. This includes measures like the marking of boundaries, the protection of flora and fauna, maintenance of riparian areas, reaching out to local communities and providing training to employees.³⁷ The conservation areas will be periodically monitored in order to measure developments, including factors which could influence the conservation values or biodiversity as well as other changes to the HCVs.

In its reply to the Council's draft, Noble writes that the Council, in its assessment of what constitutes severe environmental damage, does not refer to any international standards that might express what the Council expects of companies: 'In the absence of such observable standards, companies such as ours, inevitably look to comply with acknowledged standards set by organizations who are perceived to be sustainability leaders, such as the RSPO.'³⁸

The company also states that the Council's recommendation to exclude Noble from the GPFG 'is based on an incorrect assumption that inadequate measures are implemented by the Company to mitigate severe environmental damage associated with ongoing and future development of palm oil in these areas.'

The RSPO requires the publishing of a summary of the HCV assessment and the management plan for public consultation 30 days prior to the planting of new oil palms. Noble points out that this was done for PT PAL, that no objections to the assessment were received, and that the documentation had now been approved by the RSPO. A corresponding consultation process will be conducted for the PT HIP HCV assessment.

Noble rejects the Council's view concerning how the HCV assessments were conducted. Noble maintains that the assessments were carried out by experts approved by the RSPO and in accordance with the RSPO's prescribed methods. The Council's lack of confidence in the methods and assessments that have been used, 'casts fundamental aspersions on the whole process of independent RSPO certification, the validity of the NPP [new planting procedure]

³⁶ <http://www.rspo.org/en/member/830>

³⁷ PT PAL 2011: Summary Report of the Management Plan. RSPO summary of management plan PT PAL, [http://www.rspo.org/blog/topic/3/noble_plantation_pte_ltd_\(pt_pusaka_agro_lestari_papua_province_indonesi_a\)_new_planting_assessmentapplication_process](http://www.rspo.org/blog/topic/3/noble_plantation_pte_ltd_(pt_pusaka_agro_lestari_papua_province_indonesi_a)_new_planting_assessmentapplication_process)

³⁸ Noble's letter to the Council on Ethics of 25 March 2013.

process and the professionalism of the HCV studies carried out by those that are certified by the RSPO.’

Noble also writes that the management of the HCVs was further improved in 2012, when the company engaged an Indonesian environmental organisation to develop a master plan for nature conservation. The company also plans to establish dedicated Conservation Departments in both oil palm companies in mid-2013. Further, the area to be set aside for protection has been further expanded by 4.7 km². The company has not specified which concession area this concerns (or if both are included), or the HCVs that are to be protected.

In conclusion, Noble states that it cannot see how it breaches the Council’s requirements relating to severe environmental damage, and that it is in fact doing more than required of it as an RSPO member.

6 The Council on Ethics’ assessment

The Council on Ethics has assessed whether is an unacceptable risk that Noble may be responsible for severe environmental damage pursuant to section 2, third paragraph, of the Ethical Guidelines. Noble is currently converting tropical forest into palm oil plantations in the provinces of Papua and West Papua in Indonesia.

The Council has not given weight to the fact that Noble has reduced its ownership interest in one of the concessions to 46.2 per cent in 2013 and is thus no longer the controlling owner of the joint venture company that owns PT Henrison Inti Persada. Noble conducted the HCV assessments on which the plantation development is based and retains a considerable ownership interest in the joint venture company. Moreover, Noble is the controlling owner of PT Pusaka Agro Lestari.

The island of New Guinea is home to the third-largest contiguous rainforest in the world after those found in the Amazon and the DR Congo.³⁹ It is the home of an estimated five per cent of the world’s animal and plant species, some two-thirds of which are only found on New Guinea. Noble’s two concessions cover almost 700 km² and lie in two global eco-regions, the Southern New Guinea Lowland Forests eco-region and the Vogelkop-Aru Lowland Rain Forests eco-region.⁴⁰ One of the concessions also lies in the West Papuan Lowlands Endemic Bird Area, an important habitat for birds.⁴¹ Noble’s concessions are located in areas of particular ecological importance featuring an especially rich and unusual biodiversity. This raises the question of whether the conversion of rainforest in this part of Papua, and on such a large scale, is at all possible without running a high risk of irreversible damage to biodiversity and ecosystems in these unique areas.

Noble has carried out surveys of HCVs in both concession areas, not least to identify areas that are particularly important for the protection of biodiversity. To protect these HCVs and areas that are culturally important for the local population, the company plans to set aside some 130 km² in the two concession areas. The Council considers this to be a positive initiative. However, the Council gives greater weight to the fact that the company’s HCV assessments do not specify what loss of biodiversity will result from the conversion of forest in these ecologically important areas. The Council finds that the field surveys undertaken to map biodiversity in the two concession areas appear to concentrate on the areas set aside for protection and only cover plants and certain (higher) animal groups. Moreover, large areas

³⁹ http://wwf.panda.org/what_we_do/where_we_work/new_guinea_forests/.

⁴⁰ http://wwf.panda.org/about_our_earth/ecoregions/southnewguinea_lowland_forests.cfm.

⁴¹ <http://www.birdlife.org/datazone/ebafactsheet.php?id=172>.

recommended for conversion have not been inspected in the field at all. This sampling bias in the surveys toward specific parts of the concessions, combined with the lack of sampling in other areas, may mean that important HCVs have been overlooked. In the Council's view, this affects the strength of the conclusions regarding what HCVs are present in the concession areas, how they have been surveyed, and how they should be managed. As regards the 550 km² of forest that are to be converted into plantations, no information is available on the state of the forest, biodiversity or ecosystems.

In this context, the Council would also emphasise that the areas the company has set aside for protection are very limited in size, and are in fact areas that the company is required to protect under national Indonesian requirements. Accordingly, it does not seem that the measures help to strengthen biodiversity to any greater extent than already required by legislation.

In this regard, the Council would also mention the UN and World Bank REDD initiatives, which express international agreement on the importance of stopping deforestation and forest degradation in tropical rainforests for the sake of both the climate and biodiversity. Noble's conversion of tropical forest into plantations is strongly contrary to international anti-deforestation initiatives.

In its letter to the Council on Ethics, Noble rejected the Council's view regarding how the HCV assessments were conducted. The company emphasizes its membership in the Roundtable for Sustainable Palm Oil (RSPO) and points out that the HCV assessment for one of the concession areas has been approved by the RSPO while the company is in the process of securing approval of the second assessment. In Noble's view, it has followed all procedures and requirements and is in fact doing more than required of it as an RSPO member by protecting such large areas. The company is also of the opinion that the Council on Ethics has demonstrated a lack of confidence in the RSPO system, and that the Council is thereby undermining the entire system of independent third-party certification as well as the professionalism of the consultants approved by the RSPO to conduct such assessments.

The Council is of the opinion that membership in the RSPO does not in and of itself guarantee that HCVs will be identified, protected and managed in such a way that biodiversity is protected in connection with forest conversion. In the present case, as in all other cases, the Council has sought to evaluate the actual facts of the case to the extent possible. In this instance, and notwithstanding the company's membership in the RSPO, the Council has found that the assessments undertaken and the measures implemented appear insufficient to prevent severe environmental damage for the reasons explained above and summarised below.

In the Council's opinion, neither of the two HCV assessments provides well-founded answers to the question of whether intact forest will be converted into plantations or the question of what biodiversity will be lost as a result of conversion. The Council finds that the lack of such data, the scale of conversion and the fact that both concessions are located in areas of unusually rich and unique biodiversity present an unacceptable risk that conversion will result in complete, irreversible change to ecosystems and vegetation. The measures proposed by the company will, in the Council's view, be insufficient to reduce the risk of severe environmental damage connected to current and future conversion of forest into oil palm plantations.

7 Recommendation

The Council on Ethics recommends the exclusion of Noble Group from the investment universe of the Government Pension Fund Global due to an unacceptable risk of the company being responsible for severe environmental damage.

Ola Mestad Chair	Dag Olav Hessen	Ylva Lindberg	Marianne Olsson	Bente Rathe
(sign.)	(sign.)	(sign.)	(sign.)	(sign.)