

THE CRISIS AT NATADOLA THAT SHOULD NEVER HAVE HAPPENED

The nation is following closely the controversy over the Natadola resort project. The project is financed by the Fiji National Provident Fund as an investment to benefit the members of the Fund. It has excellent potential to create good dividends for members, many jobs for Fiji people and provide a host of other contributions to economic growth.

Our company, Asia Pacific Resort International Ltd (APRIL), and its chief executive officer, Mr Gerard Saliot, are the founders of the project. It was our idea; the idea became a vision. Finally, after 10 years, it reached the planning and construction stage. Approximately \$7 million was spent by Mr Saliot from 1994 to 2004 to bring the project to the point where it was possible for the FNPF to participate.

As a result of our connections and efforts, top ranking international brand name tourism operators such as InterContinental Hotels Group, Four Seasons Hotels and Resorts, and IMG (International Management Group, founded by Mark McCormack and Arnold Palmer) decided to become part of the Natadola Resort. We have also assembled a group of world-class consultants and advisers to ensure that the development meets the highest standards. APRIL works closely with all these professionals.

It was through Mr Saliot that Fiji's star international golfer, Vijay Singh, agreed to design and develop a golf course at Natadola. Mr Singh's ambition is to create a course which is a "masterpiece in my homeland". Mr Saliot proposed a marketing strategy that envisaged Mr Singh as Natadola's "Ambassador to the World".

Fijian landowners at Natadola have expressed their strong support for APRIL. Over many years, our company won their confidence through patient dialogue and explanation about the rewards the resort would bring. We have made sure that from the start of work on the resort, the landowners have been given opportunities to earn an income. Additional village amenities have been provided. Lease money has been agreed for the areas to be developed. Substantial amounts have already been paid directly to the landowners or have been made available for their benefit. Landowners say that even at this early stage the project has transformed their lives for the better.

The FNPF's decision to become involved in Natadola in 2004 followed an intensive six months study of all aspects of the scheme. People of integrity and with professional and commercial experience were involved in this.

APRIL had approached FNPF as a possible lender for the project.

It was the FNPF itself that proposed full participation, not only as lender, but as an investor and majority shareholder. The FNPF also made its involvement conditional on APRIL being retained as project developer and manager.

Natadola gave the FNPF the opportunity it was seeking to increase its investment in tourism, the fastest growing sector of the economy. This would be consistent with the FNPF's objective of providing strong and secure returns to members by diversifying its investment portfolio. Natadola, and its attractive commercial potential, would help the FNPF to achieve these goals. The Fund made the legal changes necessary for it to participate in the project in a manner consistent with its governing legislation.

The business success of the Denarau Resort in Nadi is an example of what can be achieved in integrated tourism development through substantial investment and experienced management.

The Natadola master plan proposes up to five hotels, hundreds of luxury villas and residential sections along with many other amenities. Eventually thousands of jobs will be created for Fiji people.

Construction work began at the end of 2005, concentrating initially on the InterContinental and the Vijay Singh golf course.

The project was on course for successful completion of its first stage.

As is normal with such a large and complex development, there were some delays. From time to time technical issues also arose.

But action was taken to deal with these in line with established professional and legal methods.



Questionable Decisions

Recently, questionable actions and decisions have been taken by certain FNPF-appointed directors of companies associated with the project. These companies are Natadola Land Holdings Ltd (NLH), FNPF Investments Ltd (FIL) and Natadola Bay Resort Ltd (NBRL).

Their actions and decisions have been disastrous for the Natadola project. They have effectively halted a lot of the work and thrown the project into chaos. The delays caused are adding to costs. Legal arrangements with consultants and contractors have been breached and payments to them are in default. They are not being remunerated in accordance with their contracts.

COTEBA, the construction manager, and a leading European company, has not received any payment since last August. It has expressed concern publicly about the suspension of its payments. It says this was done without "any justification or explanation".

Heritage Golf (Fiji) Ltd, the contractor for the Vijay Singh Golf Course, stopped work when it was not being paid. Some of the people employed on the course construction have lost their jobs.

All this is creating additional costs. It is estimated, for instance, that the interruption to the Golf Course contract could involve additional expenditure of well over \$2 million, just for February and March.

As a result of these and other contractual breaches, FNPF is also exposed to the very real risk of costly and damaging legal action at the expense of Fund members.

Vijay Singh has issued a personal statement protesting strongly about what is happening. He has indicated he may withdraw from the project if APRIL and Gerard Saliot are removed from it. This would be a major blow to the resort, and to the re-building of Fiji's reputation as a stable, reliable and attractive location for investment.

Landowners, who have leased 1500 acres of their land for the project, are protesting about the actions of the NBRL Board.

Unfounded Accusations

Many unfounded accusations have been made against APRIL. As mentioned already, we are the Natadola project founder, the initial financier and developer. We continue legally to be project managers.

The accusations have come mainly from Mr Felix Anthony, the chairman of Natadola Bay Resort Ltd (NBRL) and HLK Jacob, a local engineering firm.

Allegations are being made that the Natadola scheme has been mismanaged. This is part of a plan to discredit APRIL and push it out of the project.

APRIL has offered many times since December to provide the new NBRL board, led by Mr Anthony, with a full presentation on the project. But these offers have been rejected.

We believe there are a number of forces and issues at work in this campaign against APRIL. Some of these may be political and associated with the affiliations of Mr Anthony and Mr Daniel Urai, another NBRL director.

Others are connected to commercial rivalry, ambition and resentment. HLK Jacob in particular has been trying for some time to remove APRIL from the project. It is still working behind the scenes to damage APRIL's reputation and cast doubts on its contribution to the project.

We feel that the repeatedly demonstrated lack of commercial knowledge and experience by some of those against us is also a factor. For instance, a number of very unprofessional inquiries have been received from FNPF Investments Ltd (FIL) and FNPF. Some of them were made in an aggressive and provocative manner, and others demanded information that had already been made available – often many times. The inquiries have conclusively shown that those making them:

- Have no real grasp of the project or its complexities;
- Have not bothered to read or try to understand materials which have been provided to them either during the course of the project or in response to their inquiries; and
- Have no basic understanding of the procedures, rights and obligations set out in the project's various contracts and agreements – even though FNPF entities are parties to them!

The approach taken by Mr Anthony and Mr Urai also reflects a disappointingly poor grasp of how business operates. It appears they too do not fully understand the project.

APRIL - A Reputable Company

Our company totally rejects the allegations against it. APRIL is committed to properly meeting its responsibilities at Natadola. It abides by its contractual obligations, and takes very seriously the professional and proper performance of those obligations. It practises full accountability on the expenditure of funds. All payments to it and other companies are fully documented. APRIL does not have any authority to make any payments by itself.

The accountability process includes:

- Approval of contracts by respective company boards before signature;
- Approval of related expenses as part of the operating budget presented to each board meeting;
- Approval of payment by cheque with the signatures of the CEOs of NBRL and Natadola Land Holdings Ltd (NLH), plus a board director of one of the companies;

Amounts above \$50,000 require the signatures of two of the FNPF-nominated directors.

Regular and detailed reports (draft financial accounts, updated budgets) are made to the boards of Natadola Bay Resort Ltd (NBRL) and to its associate company, Natadola Land Holdings Ltd (NLH). These companies are controlled by directors representing FNPF and FNPF Investments Ltd (FIL).

Draft financial accounts are reviewed independently and presented by the accounting firm G. Lal & Co (formerly Deloitte) the project auditors.

Disregard for Legal Contracts

On March 15th, Mr Felix Anthony claimed publicly that Natadola Bay Resort Ltd (NBRL) had terminated its contract with APRIL as project manager. He also made unjustifiable comments about the money paid to APRIL.

Mr Urai appeared at first to have associated himself with comments by Mr Anthony on the contract issue.

In APRIL's view, this was a reckless disregard of the law of contracts by representatives of Fiji's biggest financial institution, the FNPF. APRIL is, therefore, taking the appropriate legal steps to protect its position.

Respect for commercial law and contracts is a fundamental part of a country's investment climate. The rule of law is a paramount principle in good governance and for the protection of citizens and the effective operation of commercial activities. Without it, confidence is undermined, and investors are unlikely to commit their funds.

Mr Anthony and Mr Urai have sent an extremely damaging message to the business community here and overseas at a time when Fiji desperately needs investment. What they are saying, in effect, is that it is acceptable to scrap contracts without following the legal procedures.

APRIL
DEVELOPMENT



A Confusing Approach

Events of March 14th and 15th underline the confusing and changing course adopted by NBRL.

The directors of APRIL were invited to attend a March 14th meeting with members of the FNPF board. When they arrived at the meeting Mr Anthony emphasised that it was not, in fact, a meeting of the FNPF board. It was instead a meeting with the board of NBRL.

After discussion of some technical issues, Mr Anthony raised the legal problems experienced by Mr Saliot in Monaco approximately 18 years ago, for which he received a two-year prison sentence. Certain options were then put to us. The following morning, as agreed, representatives of our company met with Mr Urai and other members of the boards and managements of NBRL and FNPF.

It was decided there would be an agreed Memorandum of Understanding about future arrangements at Natadola. This would address the concerns of NBRL and APRIL. It would be in the form of a variation of the Development Management Agreement to reflect a new structure for the project management team. APRIL was to continue with its role. The NBRL lawyer, who was at the meeting, was requested to prepare a draft document to present to us.

We were completely surprised, later in the day, by a sudden reversal of position by Mr Anthony. He abandoned NBRL's earlier agreement to finalise a Memorandum of Understanding to cover on-going involvement by APRIL. He then purported publicly to cancel APRIL's contract and at the same time made an announcement to the media about Mr Saliot's legal problems in Monaco some 18 years ago.

APRIL Remains As Project Manager

In terms of the law, APRIL is still the manager and developer of the resort. It is doing everything possible in the current very difficult circumstances to meet its responsibilities. This includes making overseas funds available to finance some of the operations of the project. APRIL is doing this because payments from the FNPF have been halted.

Construction of the InterContinental hotel continues. But, as a consequence of the current situation, there is no supervision at this point by COTEBA, the construction manager, and the consulting architects. This is because COTEBA has not been paid; neither has the architect.

There has been no legal termination of our contract. The contract contains procedures covering disputes and grievances. We have indicated in writing that we wish to start the dispute resolution process in an attempt to identify and, where relevant, address any legitimate grievances that FNPF may have. But there has been no appropriate response from NBRL. This suggests that the company, which is a subsidiary of the FNPF, is not prepared to follow the proper legal procedures.

The Position With Mr Saliot

Mr Saliot was sentenced to a two-year prison term in Monaco some 18 years ago. His offence was associated with his partnership in a failed business enterprise. He has paid the price for what happened.

However, his legal record in Fiji has been cleared by the law. Mr Saliot's lawyer, Ms Renee Lal, said because of the passage of time, Mr Saliot has been legally rehabilitated and his reputation in Fiji has, therefore, been restored. This means he should be treated as if he was never convicted.

In fact, it is a penal offence to disclose or publish information about a conviction when an offender is legally rehabilitated. This needs to be kept in mind by those who continue to attack and defame Mr Saliot in public. They are breaking the law and could face fines or imprisonment, if found guilty.

The relevant law in Fiji is the Rehabilitation of Offenders (Irrelevant Convictions) Act 1997.

After the criticism of him by Mr Anthony, Mr Saliot decided to resign temporarily as a director of APRIL and other companies associated with the project. He did this on legal advice and because he did not want to compromise the activities of the companies. He also wished to clarify his legal position under Fiji law.

More Confusion

In the meantime, there is confusion within NBRL about the position it has taken. Mr Anthony and Mr Urai are contradicting one another. Mr Anthony talks about the cancellation of our contract. But in a newspaper report, Mr Daniel Urai distanced himself from this. He did not mention APRIL's contract. Instead, he claimed that APRIL had been "removed by legislation". Mr Urai should explain what he means by this. What legislation is he referring to?

He then went on to say that the Fiji Trade and Investment Bureau (FTIB) had cancelled APRIL's "licence" over alleged failure to make disclosures about Mr Saliot. We stress, however, that APRIL did respond accurately in its investment application to the FTIB. There was no misrepresentation.

It is not clear what "licence" Mr Urai refers to. APRIL has no licence from FTIB.

But it does possess a foreign investment certificate. If this is what Mr Urai is referring to, then he has committed a serious and blatant misrepresentation.

There was further confusion on Wednesday, March 21st, when the FNPF's chief investment officer indicated to Mr Keni Dakuidreketi, APRIL's project director, that the APRIL contract was still intact.

Serious Misrepresentation

HLK Jacob, a Fiji engineering consultancy involved with the Natadola Project, has made serious allegations against APRIL. This company has a number of grievances, which are reflected in its attitude towards APRIL. It continues to privately spread misinformation about our company. It is attempting to smear our reputation. People sympathetic to APRIL are keeping us informed about HLK Jacob's attempts to undermine our business.

HLK Jacob was part of a group that made a bid for the design of the project. The group was unsuccessful. HLK Jacob continues to believe it should have been included in the design team.

There is now a claim from the FNPF that it has appointed HLK Jacob as project managers. But there is no legal basis for this.

HLK's relationship with the building contractor for the InterContinental Hotel is far too close for it to be able to exercise the proper and necessary independent overview of the construction works. This is still APRIL's view.

In our view, allegations by HLK Jacob about construction problems were a serious misrepresentation. The criticisms it made were not supported by leading engineers.

The Holmes Consulting Group, a leading New Zealand firm of structural engineers, conducted a detailed review of the resort's InterContinental Hotel, now under construction. This followed issues raised by COTEBA, as the Natadola Project construction manager. These issues were not raised by HLK Jacob as it claimed.

Holmes Consulting Group has accepted full responsibility for the contents of its report.

The Holmes review confirmed that the InterContinental designs complied with the relevant New Zealand codes of practice and, by reference, to the National Building Code of Fiji.

A specific technical approach had been used to minimise earthquake damage. A few minor modifications were suggested by Holmes Consulting to lessen the damage risk. The cost of this was expected to be small and well worth the investment, an investment that FNPF may not even have to pay for. The modifications only applied to work still to be done. It was not necessary to undertake the very expensive option suggested by HLK Jacob of demolishing large parts of the work already completed. This costly recommendation raises questions about HLK Jacob's approach.

Conflict of Interest

APRIL was very concerned about moves to give HLK Jacob authority over the project. This created disturbing issues of conflict of interest.

HLK Jacob has a longstanding and close relationship with Northern Projects Fiji (NPF), the building contractor for the InterContinental Hotel. In fact, HLK Jacob worked directly for NPF on the Sofitel hotel at Denarau. It is currently working for NPF on a large construction project in Suva.

This relationship between the two companies would make it impossible for HLK Jacob to independently certify payments to NPF as the Natadola contractor, and manage the project as the client's representative. This is clearly not good governance.

Building Contractor's Performance

APRIL has also expressed its concern to NBRL about the performance of Northern Projects Fiji, the main building contractor. This company was chosen after a number of tenderers withdrew. The appointment was made by the Board of NBRL, despite a recommendation by APRIL to re-tender. The FNPF felt that calling for new tenders would mean a delay in the construction of the hotel and lead to a loss of revenue. NPF, therefore, became the contractor.

In APRIL's judgement, NPF lacks financial and technical strength. In view of this, it is necessary to exercise particularly close supervision of NPF's work to protect FNPF's investment in the project.

APRIL and COTEBA have been providing that close supervision. The aim of this is to ensure that any potential difficulties created by insufficient experience by the contractor in the construction of luxury hotels, do not compromise the results expected by FNPF, APRIL and InterContinental Hotels. This applies especially to the maintenance of on-site quality supervision. Supervising the contractor's performance is one of the most demanding aspects of the project's first stage.

COTEBA, the construction manager, is very much aware of these matters, and has, therefore, exercised extremely close supervision of the building works.

An example of this involves additional variation claims by NPF. The last variation claims to date totalled \$13.5 million. But COTEBA felt it could only certify \$3.85 million of these.

NPF has had difficulty in correctly updating the initial contract programme. COTEBA, therefore, asked its own head office technical department to provide a senior programme engineer to work with the contractor to finalise a correct schedule of works. COTEBA was not obliged to provide this assistance, but it did so in the interest of the project. Without this support, it would have been difficult to establish real planned completion dates and to avoid claims of extension of time and extra costs this involves.

Our Professional Capabilities

APRIL's principals and executives are highly qualified and experienced. Our company, and its associate Euro Asia Management Group, are based in Hong Kong, with offices in Singapore and Indonesia. We provide comprehensive project development and management services to the hospitality business in the Asia Pacific region. A recent assignment was preparation of a tourism development plan for the Government of Indonesia. This included proposals for diversifying into new destination resort projects, to complement the existing vacation industry in Bali. Our work on this was financed by a French Government grant negotiated by Euro Asia Management Group.

APRIL in Fiji has put together a team of highly experienced professionals.

It is led by Mr Saliot, who has an extensive international background in sales and marketing and the hospitality industry. He spent 15 years employed in the trade division of Unilever in Africa and is the founder of the Euro Asia Management Group.

Mr Saliot is a Fiji trade adviser (Conseiller du Commerce Extérieur) to the French Government.

Robert E. Sidi, group senior vice president administration and finance, is a former banker, with more than 25 years experience in finance and hotel development in Europe and Asia Pacific.

Jacques H. Quibel, group senior vice president/technical adviser is a civil engineer, who has worked for many years in construction in the Asia Pacific region.

Keni Dakuidreketi, Natadola project director, has a Bachelor of Applied Science degree in property management. He was a founder of Rolle Hillier Parker in Fiji and has been involved with large-scale property development. He previously worked with the Native Land Trust Board and as director of valuation for Harrison Grierson Consultants.

Jerome Fillioux, the Natadola technical project manager, has worked for more than 15 years on luxury hotel development schemes in the Middle East and Europe.

Prayitno, from Indonesia, is site engineer, civil engineering. His experience covers major high quality hotel construction. He has been an acting site project manager in Jakarta, Bali and Surabaya.

Mr Berenado Vunibobo, is a director of APRIL. Mr Vunibobo, a prominent citizen of Fiji, and former minister and diplomat, has a distinguished record of public service. From 1973 to 1976, he was permanent secretary for public works, with management responsibility for a team of 15 architects and 40 civil, mechanical and water supply engineers.

Ratu Isoa Gavidi, formerly a senior civil servant, diplomat and head of the Fiji Islands Trade and Investment Board, is chief executive officer of Natadola Land Holdings, nominated by APRIL.

Difficulties Can Be Resolved

The Natadola Project is important for the Fiji National Provident Fund and its members and the tourism industry. It has the potential to be a model project of its kind, delivering good returns to the local community at Natadola and to the national economy. The current difficulties can be resolved if the correct procedures are followed in accordance with contracts, documentation and agreements. If all parties ensure that they fulfil their responsibilities in a timely and professional manner, Fiji will have a world-class integrated resort, of which the country can be proud.

Project relationships and the project itself have been seriously damaged by recent happenings. Our attempts at negotiation so far, have produced nothing but emotional, inaccurate, evasive, and misleading comments and responses. But APRIL is ready to consider all legal and viable options for future development at Natadola.

