

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL  
Department of Prime Minister & NEC  
P O Box 639  
WAIGANI. NCD  
Papua New Guinea

Telephone: (675) 323 7000  
Facsimile : (675) 323 6478

---

10



## COMMISSION OF INQUIRY INTO SABL

MR NICHOLAS MIROU

COMMISSIONER

20

TOP FLOOR, MURUK HAUS, WAIGANI, THURSDAY 6 OCTOBER 2011  
AT 1.54 P.M.  
(Continued from Wednesday 5 October 2011)

[1.54 pm] COMMISSIONER MIROU: Good afternoon Counsel. Mr Tusais?

MR TUSAIS: Good afternoon Commissioner, sorry for the pause. We have about nine matters for mention or opening this afternoon. Three of them have been stood down from earlier this week. That is the two North East West Investment Limited matters, Tosigiba Investment Limited, all three from Western Province and then there is the Mapersa Development Corporation - sorry, the earlier ones, Nungawa Rainforest Management, Brilliant Investment and Mapersa Development Corporation, these are matters that are from the East Sepik Province and the final lot of matters are Tabut Limited, Umbukul Limited and Central New Ireland Limited.

COMMISSIONER MIROU: These are the ---

MR TUSAIS: Commissioner, I propose to or we propose to start off with the Western Province matters. Mr Bokomi, Counsel has carriage of these three matters and I believe he will be dealing with them as one or at the same time. He will start off this afternoon and I am going to do the New Hanover matters, the three of them and Ms Peipul will finish off with the East Sepik SABLs.

COMMISSIONER MIROU: Okay, yes.

MR TUSAIS: Mr Bokomi.

COMMISSIONER MIROU: We have a fairly long list so we will try our best to get through each one of them - expedite it. Mr Bokomi, when you are ready to -  
--

MR BOKOMI: Good afternoon, Commissioner. For record purposes, Counsel's name is Bokomi, initial J. I will be appearing in matters as alluded to by Senior Counsel Mr Tusais. They are namely, North East West Limited. This landowner company has two matters; there are two SABLs under consideration by this Commission of Inquiry. These two SABLs are namely portions 1C and 27C, both are located in the Western Province in the Kiunga area of the North Fly electorate of Western Province.

The final matter that I will be dealing with and making opening statement on before this Commission and for the benefit of the Commission is Tosigiba Investment Limited and that matter relates to an SABL over portion 14C also in the Western Province. I will be basically making opening statements more or less in the joint fashion because these portions of land acquired and basically

registered as SABLs under section 102 of the Land Act are adjoining portions of land. They start from, they center towards the east on or about at the border of Gulf Province and extend to up as far as – extend northerly to the border between Western Province and Southern Highlands and Enga Provinces. They go across Strickland River and all the way up to and including the Pamo River down to as far as Kiunga Station in the North Fly electorate of Western Province.

10 Before I proceed with my openings in respect of each of those matters, I propose to deal with these portions in the following manner. I will start off with portion 1C and then proceed to portion 27C and then later onto portion 14C. The reason being that the first two are basically held by one and the same company and that is North East West Investment Limited.

I seek to tender my opening statement in respect of – perhaps, Commissioner, if you please ---

COMMISSIONER MIROU: Yes, thank you Counsel, that will assist me to ---

MR BOKOMI: I seek to tender all the opening statements at once.

COMMISSIONER MIROU: Follow your submission.

[2.00 pm] MR BOKOMI: Commissioner, I will now take you through the SABL described as portion 1C, Western Province and by North East West Investment  
20 Limited. I think there is some error in photocopying and then stapling together. But anyway, be that as it may, perhaps I will retract. I will start with portion 14C. That is ---

COMMISSIONER MIROU: Tosigiba?

MR BOKOMI: Tosigiba. In fact Commissioner, you would note that at the outset I introduce the basic legal framework under which SABLs are granted and that is I set out section 102 in somewhat detail but the gist of the provision is that the Minister may grant the lease for Special Agriculture and Business Purposes out of customary land acquired by the State under section 11 of the Land Act 1996. However, section 102 (2), a Special Agriculture and Business  
30 Lease may be granted to a person or group of persons or land group, business group or any other body corporate to whom the customary landowners have agreed that such a lease should be granted.

There are certain matters that do not apply to SABLs and that is that rent is not payable by subsection (5) of section 102 in respect of an SABL by the SABL holder and there are also a number of provisions that do not apply to SABL and that includes sections 49, 68 to 76, 82,83,84 and section 122.

Section 122 in our considered opinion is provision that has basically excluded for future or exercise or discretion by the Minister to forfeit all representation by an aggrieved party. That is probably the provision that has landed a lot of these matters in court without having to have the matter resolved amicably, administratively within the auspices of the Department of Lands and Physical  
10 Planning. It is trite law that sections 10, subsection (3) and section 11 of the Land Act must be complied with in terms of reasonable inquiry being conducted into whether or not the landowners would need the land and then that is normally done through a land investigation report; land investigation conducted and once that is put together, then a Notice of Direct Grant would normally be issued.

[2.05 pm] Following the Notice of Direct Grant, a Lease-Lease Back Agreement is caused to be executed between landowners and the State in respect of the subject land considered for an SABL later on, and then later following signing of the agreement, then the lease then becomes – is registered and then issued to  
20 whichever holder. That basically is the process. In this particular instance, a perusal of the files supplied by the Lands Department, customary lands acquisition division and the Registrar of Titles show a number of things; (1) there appears to be a section 11 notice evidencing compliance with section 10(3) and forming the basis for acquisition of the subject customary land; however, no concrete evidence of that has been supplied to the Commission; (2)there is evidence of notice of Direct Grant under section 102 of the Land Act which is dated 23 September 2010. I have a copy of the National Gazette number G218 of Friday of 24 September 2010, which basically publishes the Notice of Direct Grant under section 102 in respect of this SABL, portion 14C.  
30 I seek to tender that up as well.

COMMISSIONER MIROU: Thank you, Counsel.

MR BOKOMI: In fact Commissioner, you would note that on the side bearing the National Crest, the front page, there is the Notice of Direct Grant in respect of portion 14C for the SABL granted to Tosigiba Investment Limited, and at the back there are those two SABLs under consideration this afternoon which have

been granted to North East West Investment Limited. That is namely, portions -  
--

COMMISSIONER MIROU: 1C.

MR BOKOMI: 1C and ---

COMMISSIONER MIROU: 14?

MR BOKOMI: 27C. Commissioner, one thing about all those three files that are mentioned; the three SABLs, in my perusal of the documents on file I fail to find the SABL title deed, although there is a notice of direct grant which I have just handed up. But there appears to be no SABL title deed provided to the  
10 Commission either by the customary land acquisition division or the Registrar of Titles or even the holder of the title from a copy of the owner's copy that it may have.

COMMISSIONER MIROU: And is this one of the titles that the Registrar or the Lands Department has issued an advertisement calling for the owners of the title to present?

MR BOKOMI: I would think so. I cannot be precise on that, Commissioner.

COMMISSIONER MIROU: And to date ---

[2.10 pm] MR BOKOMI: But requests have been made.

COMMISSIONER MIROU: Has the Department of Lands attended or  
20 informed the Commission with regard to the advertisement calling for those missing SABL titles to be presented to the Commission?

MR BOKOMI: I believe Mr Wasa did in the introductory stages of the Commission's Inquiry do an affidavit explaining his difficulties in securing some of those SABL titles, and I think this is one of those matters for which SABL title has not been forthcoming.

COMMISSIONER MIROU: We need to consider calling Mr Wasa because the titles are not been presented to the Commission which creates a difficulty for us to – where no titles are granted for a particular, then how on earth did this particular company come to acquire that portion or the land to undertake  
30 activities on that particular land? There are no SABL titles. But that is something that you know the ---

MR BOKOMI: Commissioner, I will suggest that is ---

COMMISSIONER MIROU: As we progress our Inquiry we can ---

MR BOKOMI: Something that we will be – we can further probe into.

COMMISSIONER MIROU: Yes.

MR BOKOMI: Perhaps the owners would have their copies that they can provide to us as well. But it would be better if we get the original copies, copies of the original on the land register file held at the Registrar of Titles Office.

COMMISSIONER MIROU: Thank you Counsel.

10 MR BOKOMI: In respect of this matter, following the land investigations conducted and report of such investigations having been made, a Lease-Lease Back Agreement was executed by the State and the landowners through their agents on 24 June 2009.

The same also applies to the other two SABLs, that is portions 1C and 27C. Commissioner, there are number of matters which raise question in respect of the land investigation report that we have obtained from the Lands Department as well as I believe the owners themselves, and that is that most of these land investigation reports are incomplete in certain, relevant and necessary parts. Either they are not completed, completely filled out, there are so many blanks there and at the same time certain questions seem to be answered in the same  
20 manner. For instance, all those clans in all the three SABLs seem to have a population of 1100 persons in each and every one of those clans who claim to own land that has now been taken over by the SABLs.

[2.15 pm] The other pertinent point from perusing the land investigation reports is that whilst the Notice of Direct Grant says that the grant as a Special Agriculture and Business Lease to for instance, Tosigiba or to NEWIL is for 99 years but the land investigation report says that the customary landowners only are willing to free up their land for SABL purposes for only 25 years and not 99 years. So there is a stark inconsistency there.

COMMISSIONER MIROU: And in contravention of section 11.

30 MR BOKOMI: That is correct.

COMMISSIONER MIROU: And 102, the Land Act.

MR BOKOMI: And then there comes the issue of whether or not the majority of the landowners have basically given their consent and approval. Because the land investigation report is so insufficient and incomplete, one cannot safely ascertain that majority of the landowners for purposes of application of section 11 and section 10(3) of the Land Act safely say that majority of the landowners have given their consent and or approval for the acquisition of their customary land by the State and then for subsequent registration as a State lease under section 102 of the Land Act and to be granted to anyone of these three companies.

10 The other glaring error that can be found in the land investigation report forming the basis of the purported acquisition of all these pieces or puzzles or portions of land now described as portions 14C, 1C and 27C is that the Lands Officer in Kiunga, one Mr Imenite Papa executed the certification on 15 December 2008, saying that he did walk that entire area at different times with the various clan groups and their clan agents, representatives. That is something which is in real sense, one cannot be led to easily believe the truthfulness or otherwise of such a declaration given the immense territory involved.

COMMISSIONER MIROU: How long did he say he took to walk the land?

MR BOKOMI: He does not say that it – he just says that on 15 December  
20 2008, he did walk the boundary with whoever nominee of a particular clan. Say for instance, if there are about, in this particular instance, there are about 56 clans. One cannot safely walk with all the 56 clans on one particular day and that is 15 December.

[2.20 pm] All I am basically trying to show the Commissioner is that the LIR forming the basis of the acquisition simply appears to have no integrity as such to be considered sufficient to warrant any acquisition.

COMMISSIONER MIROU: On issuance?

MR BOKOMI: And to facilitate for subsequent issuance of SABL title. That basically, Commissioner is the thrust of all these three SABLs.  
30 Insofar as the land investigation report being done by the Lands Officer in Kiunga, Mr Imenite Papa is concerned, it is just not properly done. That is my considered opinion after having perused all the documentations.

COMMISSIONER MIROU: So for the record Mr Imenite Papa was involved in the investigation report for portion 1C?

MR BOKOMI: Portions 1C, 27C and ---

COMMISSIONER MIROU: 14C.

MR BOKOMI: And 14C because he is the Lands Officer there. I believe there are no other Lands Officer, maybe.

COMMISSIONER MIROU: And common to these three SABLs ---

MR BOKOMI: Common to these three SABLs is that ---

COMMISSIONER MIROU: The land investigation report is incomplete?

MR BOKOMI: That is correct.

COMMISSIONER MIROU: Based on the factors that ---

10 MR BOKOMI: I have alluded to.

COMMISSIONER MIROU: That, one, he said he walked the land with the landowners for the purpose of ascertain the ---

MR BOKOMI: The boundaries.

COMMISSIONER MIROU: The boundaries and also ascertain whether they agreed to their land being freed up for SABL leases.

MR BOKOMI: Yes.

COMMISSIONER MIROU: And the second issue that you raised was ---

MR BOKOMI: The issue of the term of the lease.

COMMISSIONER MIROU: Yes. They agreed to 25 years but not 99 years.

20 MR BOKOMI: The land investigation report says 25 years is the maximum that the landowners are willing to lease their land for and they should have it back after 25 years. But the Notice of Direct Granting in respect of all those SABLs convey a different picture by saying that all those grants are for 99 years. And that is an additional 64 years which has come up for reasons only known to Mr Pepi Kimas and his officers as the ---

COMMISSIONER MIROU: Delegate of the Minister.

MR BOKOMI: Delegate of the Minister.

COMMISSIONER MIROU: And in addition to that, a certificate for alienability was issued or a recommendation for alienability was issued.

MR BOKOMI: Yes. The problem with these SABLs is that the certificates seem to have been issued on the day that apparently the Lands Officer was away in the bush making that boundary ascertainment walk with the landowners. So how can that be possible at all?

COMMISSIONER MIROU: Maybe we can ask the Lands officer when we ---

MR BOKOMI: When we get to Kiunga. The other commonality in all these three SABLs is insofar as the agro-forestry project development is concerned and that is the road corridor which is to be known as Gre-Dringas-Duara Woi Woi Falls Trans Island Island Highway Road, stage 2, road project. The stage 1 of that road project, this is the Greater Papua, the Trans Highlands Highway project which is an economic road corridor projects in and around Kiunga area to connect the highlands on the fringes of Mount Bosavi, in the Southern Highlands Province from Kiunga. The first part of that project is the Aimbak-Kiunga Road which is called stage 1 and the stage 2 of that project is basically the Gre-Dringas Duara Woi Woi Falls Road Project Agreement.

[2.25 pm] That agreement was prepared by the State Solicitor's Office and it was signed on 23 May 2011. That is just this year. The company proposed to develop the project by all the three landowner companies; - two companies, North East West Limited and Tosigiba Investment Limited. It is an independent timbers and stevedoring limited. It is a company registered in Delaware, United State of America. But I believe it has certification to operate here although I have not sighted any section 29 certification, nor an FIP. Perhaps those are matters, FIP is the Forest Industry Participant Certificate issued under the Forestry Act (1991) as amended. I have not seen any of those documentations on file. Perhaps that is a matter for further inquiry as well and the relevant entity can provide those documents to the Commission.

COMMISSIONER MIROU: Is the road corridor project includes harvesting of forest?

MR BOKOMI: That is correct. So there will be a large scale conversion of forest land for purposes of road construction to pave the way for road construction under the project agreement and the company pursuant to the project agreement will have to source its own funds. That is the

developer/contractor company Independent Timbers and Stevedoring Limited from overseas.

Under the Agreement, Independent Timbers and Stevedoring Limited apart from conducting logging activity, will be involved in major agriculture development in terms of developing cattle, poultry as well as certain garden crops like tomatoes et cetera. That is according to their agriculture development plan.

10 The environment permit, in respect of the project has been approved, including the forest clearance and authority for the project as well as the road line timber authority.

COMMISSIONER MIROU: Section 90C?

MR BOKOMI: Section 90C and I believe it is section 97 of the Forestry Act. So all those approvals have been given. I cannot ascertain from the file as to whether or not there is some work ongoing right now but that basically – I am limited to the information that ---

COMMISSIONER MIROU: It is subject to further ---

MR BOKOMI: That has been supplied to us. We can confirm any activity on the ground whilst we are there. That is basically on the project development – agro forestry project development side of things.

20 Going back to the LIR, the central issue that arises from all that I have made by way of the opening statement is whether or not proper land investigations in the circumstances of all these three SABLs have been conducted properly pursuant to sections 10(3) and section 11 of the Land Act, so as to enable grant under section 102.

[2.30 pm] That is the crux of the issue.

COMMISSIONER MIROU: It affects the ---

MR BOKOMI: It will affect ---

COMMISSIONER MIROU: The actual SABL lease.

30 MR BOKOMI: SABL and any project development, even the project agreement.

COMMISSIONER MIROU: The sublease itself are there.

MR BOKOMI: This project agreement is basically ---

COMMISSIONER MIROU: Affected by the ---

MR BOKOMI: Dependent upon---

COMMISSIONER MIROU: It is the State avenue; got the title to that SABL.

MR BOKONI: Yes. This project will run through all the three SABLs. If these SABLs are eventually found to be not in order legally, then that will adversely affect or throw to disarray the implementation of this road project agreement.

10 In terms of the preliminary findings, based on the material before us, at which I basically made reference in a nutshell far basically as follows – this is subject to further confirmation or otherwise that:

- (1) The land investigations as envisaged by section 10(3) of the Land Act may not have been properly conducted to secure the consent and/or approval of landowners for the acquisition of their customary lands which now form are part and parcel of each of those portions for which the three SABLs have been issued; that is Portion 27C, Portion 1C and Portion 14C.
- (2) In addition to that, the other preliminary finding that can be made is that the term of the lease is not 25 years as consented to by the landowners, as evidenced by the land investigation report but rather it is 99 years for reasons  
20 only known to the DLPP, meaning Department of Lands and Physical Planning.

I finally go to set out a number of witnesses that may be called. This additional include for purposes of giving evidence on this matter;

- (1) Mr Romily Kila Pat – Deputy Secretary, Customary Lands, Department of Lands
- (2) Mr Henry Wasa – Registrar of Titles
- (3) Mr Simon Malu – Director, Customary Lands, Acquisition Division, Department of Lands
- (4) Mr Imenite Papa – Lands Officer, based in Kiunga, who is the Chief  
30 Conductor of the Land Investigation Reports which are now very questionable.
- (5) Dr Wari Iamo – Secretary for DEC

- (6) Mr Anton Benjamin – Secretary for DAL
- (7) Mr Kanawi Pouru – Managing Director for PNGFA
- (8) All the landowners who signed the investigation report including the directors of the respective companies; and
- (9) Also any other witnesses which we may determine from time to time upon whom further perusal of the material on file or upon further information coming into the Commission.

Commissioner, that in a nutshell concludes my openings on for and on behalf of all those three matters because they are all in the same bag. Thank you  
10 Commissioner. Unless you have got any further questions.

COMMISSIONER MIROU: Counsel, you wish to adjourn this matter generally to a time to be fixed?

MR BOKOMI: That is correct. I would ask that this matter be adjourned to a time to be fixed by the Commission and that such date be published in the mass media.

[2.35p.m] COMMISSIONER MIROU: Yes, thank you Mr Bokomi for your – you may sit down. Yes, Mr Tusais, I will make a general statement for those parties who are present in this room in the matters relating to the SABLs that are held by the current title holders, North East West Limited in relation to Portion 27, Western  
20 Province; North East West Limited, Portion 1C, Western Province; Tosigiba Investment Limited, Portion 14C, Western Province. As you have heard Counsel has made the opening addresses, the file is now open. We will commence hearing in this particular matter on location in Kiunga or the respective areas where parties may come forward to present or assist this Inquiry and that date will be determined after we have completed all the other 75 SABL files and you will be informed through the media, the newspaper as to the time and date when the Commission will hold its inquiries in either in Kiunga or where, the nearest to the SABLs that are located. So this matter will be adjourned generally to a time and date to be fixed. So in the meantime you  
30 may be excused until such time when the Commission is ready and the schedule of hearings are posted in the newspaper, you can present yourself either in Waigani or on location in Kiunga to assist the Inquiry further with any evidence that may assist us in this Inquiry.

So I thank you for your assistance and your cooperation in attending to the Inquiry from the date we made the listings in the paper and we ask for your

cooperation in this matter when we are ready to proceed to Kiunga to hold our hearings there. Thank you.

Yes Mr Tusais?

MR BOKOMI: Commissioner, I have no further matters.

COMMISSIONER MIROU: Yes, Mr Bokomi, you---

MR TUSAIS: I have reduced what I intend to say – I ended up. This is in relation to COI file 25, Tabut Limited; COI file 26, Umbukul Limited; and COI file 27 Central New Hanover Limited. I intend to take the approach taken by Mr Bokomi and deal with them simultaneously. They all have similarities, commonalities that if I dealt with them piecemeal I will end up sounding like a broken record.

Commissioner, the Special Agriculture Business Leases on New Hanover Island issued to three landowner companies; Tabut, Umbukul and Central New Hanover made the news, headlines stated that the whole island of New Hanover had been sold to a Singaporean company for a certain sum of money within the visions of about four million PNG kina or a thousand US dollars.

Certainly, the total area granted under the three leases takes up 75 percent of the island but it remains to be seen whether in fact that portion of a very large island has been sold off to a foreign entity or entities. It is also clear that a lot of customary landowners believe they have lost their right to the use and enjoyment of their land for the next 99 years without getting anything in return. They have also expressed serious concern about the exploitation of their land and the resulting permanent environmental damage caused to it.

Commissioners, things came to a head earlier on in the piece when landowners of the Mamirum Tirapir area, that is now covered by the Tabut SABL objected to the lending and establishment of the developer company Tutumang Development Limited, known in short as TDL on their beachfront village. These landowners were arrested and locked up at the Kavieng Police Station for their defiance against the sublessee who seems to have exercised its new found rights as the tenant.

It is perhaps, Commissioner, a sign of things to come in other SABL areas and is an indication of what may be the negative aspects of an otherwise well intention concept.

[2.41 p.m] The news of the people of New Ireland, the New Hanoverians brought the issues of SABLs into the public's attention. This caused sufficient public concern in the Government's view to set up – which eventually led to the setting up of this Inquiry. What is clear from perusal of all the materials furnished so far to the Commission is that there is still a lot of this discord, distress and general anxiety out there among a large number of customary landowners. Their numbers are sufficient to indicate that they may have not been informed and given their unequivocal, unreserved consent for the creation of these three leases. Commissioner, in fact their cries reached the ears of the now Chief  
10 Secretary, Mr Manasupe Zurenuoc when he was Secretary for Provincial Affairs and designated or appointed custodian of customary and trust lands. Mr Zurenuoc has since given evidence to this Commission and his statement asked the Commission to recommend for the cancellation of the three SABLs on New Hanover Island.

The Commission needs to examine the three SABLs very carefully in order to determine firstly whether they were legally established, secondly or related to that to whether customary landowners have been mistreated in the process. Thirdly, if illegal foreign workers have been employed on the projects operated under the SABLs and other matters that may be prescribed by the Terms of  
20 Reference. Whatever conclusion this Commission reaches, there exists – I suggest a real opportunity in this matter to make findings and recommendations that may help to formulate appropriate solutions to problems which have become apparent from evidence given so far to the Commission of Inquiry.

Where are these SABLs located? Tabut – Tabut is estimated to be about 70 kilometres north west of Kavieng town on the island of New Hanover. The lease commences at the mouth of a river called Neisung and runs in a southerly direction for 11.6 kilometres. It then turns east for a further 6.3 kilometres until it arrives at the Nivau river. From there it turns north easterly and goes for a further final 3 kilometres until it reaches the mouth of the Min river and the  
30 boundary just connects where the coastline is – connects up from where it started.

Commissioner, as far as Umbukul is concerned, there was no mention of boundaries and distances involved in that SABL. But it is contiguous or very close to those two other SABLs.

Central New Hanover – According to submissions made by TDL, the land on which they intend to develop agro forestry project is located 50 kilometres out of Kavieng town – sorry, on New Hanover Island but away from Kavieng town. Its boundaries begin on the north coast of New Hanover Island at the mouth of the Min river which is to be found at the eastern boundary of the former Marium TRP. The border continues south westerly up the Min river for 12 and a half kilometres and then runs 3 kilometres up the Neissung river turning westerly along this river for 6.3 kilometres before reaching the Neissung river. From there the project area goes for another 5 kilometres southwards to the  
10 Tirpitz range.

Commissioner, a notice of direct grant in relation to all three SABLs was published in Gazette number G161. There were four SABLs including Rakubana Limited located on the mainland in Namatanai and I think operated also by TDL. So there was Rakubana - sorry, Tabut, Umbukul and Central New Hanover, they were all published together in the same notice, on gazette G161, 17 October 2007. All the grants were signed by Pepi Kimas as delegate of the Minister. The 99 year leases were over land described as follows:

- (a) Tabut Limited – Over land known as Mamirum, Portion 885C, Milinch of Lavongai, Kavieng, New Ireland Province. Land involved is 11,864  
20 hectares.
- (b) Umbukul Limited – Was granted land known as Umbukul, described as Portion 886C, Milinch of Labonga, Kavieng, New Ireland Province. The acreage involved there is 25,108 hectares.
- (c) Central New Hanover – SABL was granted over land described as Central New Hanover, Portion 887C, the acreage is 56,592 hectares.

[2.46 p.m] Commissioner, I outlined the details extracted from IPA historical and current extracts.

Tabut Limited appears to be a PNG company registered on 4 October 2007. It is currently operating and its principal place of business is section 10 lot 6 Anir  
30 Street at Kavieng Town. There are 10 shareholders named and seven directors. The secretaries listed for Tabut Limited are Elizabeth Melun and Miskus Maraleu.

For Umbukul Limited, the company is registered on 30 August 2007. It is currently operating. Again its principal place of business is section 20, lot 6 Anir Street. There are 22 shareholders and seven directors.

Central New Ireland Limited is another PNG company incorporated on 30 August 2007. Its principal place of business is the same as the two preceding companies and the shareholders are named – 36 named individuals and incorporated land groups holding one share each.

While we are on IPA extracts I also mentioned the composition of Tutuman Development Limited which seems to have dealings with all three SABLs and appears to be the developer for all those projects. Perusal of IPA extract show Tutuman to be a company incorporated in PNG. Files from PNG Forest Authority and DEC show that Ms Regina Hi, a Malaysian citizen who is  
10 resident in owns 49 percent of the total shares. A Deodatus Hii, spelt H-i-i who is a Malaysian citizen with PNG residency owes the other 12.5 percent shares whilst Pedi Anis, Janet Rauveve, Degon Logo, all PNG citizens hold the balance of 12.75 percent shares each. It would appear from this record that the majority shareholding of 61.5 percent of the company is held by foreigners. The companies are registered Forest Industry participant given registration number F101156 by PNGFA. Its main activities seem to be forestry related but it also claims to be the first company in New Ireland to be granted a cocoa export licence.

Commissioner, the Lands Department. This department has lost its all three  
20 files relating to these three SABLs. They have had to advertise in the Press for owners to come forward and provide their copies of files. Once again this department has failed to assist the Commission because of the atrocious, insecure and haphazard way it maintains its files, a fact which will not be remedied for some time to come as Mr Henry Wasa and his colleagues told the Commissioner of Inquiry.

Therefore this Commission does not have any Land investigation reports to determine whether the department took the necessary steps before granting titles to all three SABLs. It is a matter which is regrettable in light of all these protests that have arisen and come out from New Hanover Island by concerned  
30 landowners. At least it would give this Commission a balance – some balance in trying to understand whether the right thing was done in the establishment of this SABL.

There were certain files given to the Commission by the Lands Department but this consisted mainly of material that was applied by the titleholders who we believe to be TDL or Tutuman Development Limited.

For Tabut Limited a notice of – sorry, these papers were found in their file – direct grant under section 102 was made to – that is Rakubana, Tabut, Umbukuk and Central New Ireland on 16 October 2007. Owners copy of the lease to Tabut also signed by Pepi Kimas is dated 29 October 2007. Endorsements at the back of the lease title state the following: that on 5 November 2007 the SABL was subleased to Tutuman Development Limited. There is a second entry which shows that that sublease was cancelled on 30 September 2009. A third entry shows that it was subleased again to Palma Hacienda Limited on 1 October 2009. Commissioner, this sublease to Palma Hacienda was cancelled  
10 on 21 March 2011 and the final entry shows that it was subleased back to TDL or Tutuman Development Limited on 20 September 2010.

Commissioner, there is a copy of instrument of lease-lease back agreement between Tabut and Tutuman Development Limited signed on 24 September 2007. In that agreement Tabut agreed to lease to Tutuman for 40 years. Set out in that agreement are names of agents and various ILGs and villages that they come from. I do not wish to read out the long list. Under that agreement annual rent was set at K10,000 per annum to be paid to Tabut Limited. By way of comparison, Commissioner, there has been evidence given to this Commission of other SABLs with similar – not similar but arrangements between developer,  
20 for example in the West New Britain Province between the NBPOL, New Britain Palm Oil and certain customary landowners. That arrangement in one case they agreed to pay K50,000 per year for the harvest of oil palm fruit and this is on land that is only about 2,000 hectares. I am just saying this to put Commissioner into the big picture to show that this SABL is of a much larger spread. The lease-lease back agreement was signed between a Mr Ruben Peni as Chairman of Tabut, Pelick Isaiah and Passingan Kasup Ruik as committee members of Tabut Limited on the one part and a Steven Hii as managing director of Tutuman Limited on the other. The agreement was witnessed by Miskus Maraleu as tenant or – his title underneath says tenant or lawyer for  
30 tenant. Commissioner, there is a person named Miskus Maraleu who appears in forms attached to certain documentation found in this file is called “The schedule of owners status and rights to land”. I think they are attached normally to land investigation report. Part of those documents show that representatives for the Ahi Vonge clan are named as Miskus Maraleu, Margaret Maraleu, Mauna Maraleu, Miskus junior Maraleu, Malonie Maraleu, Majorie Maraleu and Melchicdek Maraleu.

I do not comment further but these are matters that the Commission may need to check out just to confirm whether it is the same person who appears to perform other roles in these SABLs.

COMMISSIONER MIROU: Is there a possibility of conflict of interest?

MR TUSAIS: Conflict of interest or there may very possibly be another Miskus Maraleu running around out there in New Ireland Province.

Secondly, for Umbukul Limited. A notice of direct grant was signed by Pepi Kimas on 16 October 2007. Owners copy of lease shows that the lease to Tabut was signed on 29 October 2007. At the back of that lease also of five  
10 endorsements or entries, the first one says that it was subleased to Tutuman on 5/11/2007.

[2.55 pm] That sublease was cancelled on 30 September 2009 and subleased to another entity called Palma Hacienda Limited on 2 October 2009. This sublease was again cancelled on 21 March 2011 and subleased back to TDL the original sublessees and developers on 22 March 2011. Commissioner, moving right along to Central New Hanover; again all information are from documents supplied by the owner which seems to be TDL. SABL to Central New Hanover Limited was signed on 29 October 2007 by Pepi Kimas. A lease-leaseback agreement was signed between CNHL and Tutuman on 29 September 2009. On  
20 the back of the lease to Central New Ireland, again the five entries, they are the same as the two I have read out except that the dates vary a bit so I will go through them again if you bear with me. The Central New Hanover was subleased to TDL on 5 November 2007. This was cancelled on 30 September 2009 and subleased to Palma Hacienda Limited on 1 October 2009. That sublease to Palma was cancelled on 20 September 2010 and subleased back to TDL on the same date on 20 September 2010.

Commissioner if you wonder who Palma Hacienda Limited is, we have made a company search, it is a company incorporated in PNG with a number given by  
30 IPA as 1-63790 and is said to be resident and conducts business principally in Kavieng town. But, Commissioner, its only shareholder is a company called Dynamicon Limited. It is a company registered in the British Virgin Islands. There are two directors of that company; they are, Huo Mee Hii, it is spelt H-i-i and a Kiong Mee Hii again spelt H-i-i. Both of these persons are of Malaysian citizenry.

The Commission of Inquiry says just tentatively that it has sighted copies of a purported agreement signed between TDL, that is Tutuman and Palma Hacienda for the latter to buy out TDLs interest in what was described as plantations on

New Hanover. This is not confirmed, I repeat, it is not confirmed and the Commission will confirm this perhaps from the owners of the two companies at Kavieng. Also included in the Lands file or files supplied by the Lands Department to the Commission of Inquiry is a completely new set of agriculture development plan submitted by Tutuman Development Limited and this time that company plans to plant rubber trees all over New Hanover Island in those SABLs granted to it.

[3.00 pm] This agriculture plan is dated May 2011. This is way past the date when this  
10 developer had entered into agreements with the landowners and the previous agreement was to plant coconuts, cocoa and possibly oil palm.

Commissioner, I move on to the aspect of agriculture. I, from perusal of the files in relation to these three SABLs, again we say that input by the Department of Agriculture and Livestock has been minimal. I say it is the same as in other SABLs that have come – that have been examined by this Commission. I submit, the trend seems to be that Department of Agriculture and Livestock enthusiastically supports agriculture development plans at the  
20 initial stages. It urges Department of Environment and Conversation to approve permits and PNGFA through the board to approve FCAs where relevant. But then it seems to disappear off the radar, if I can put it that way. In these three SABLs, the Deputy Secretary Francis Daink has just done that. There does not seem to be – there does seem to be an evidence of invitations put out for public hearings, but there is no record of such public hearings been conducted. Just as an aside or to illustrate this aspect, the same was done by DAL in another SABL granted to Rakubana Limited in Namatanai in an area known as the Danfu TRP area. The same agriculture development plans proposed by DAL was put forward for the Danfu project as they call it and once again the Department of Agriculture and Livestock was full of praise for what was put forward.

30 When it came to implementation of that agriculture program, it seems that the PNG Forest Service was the only government agency or semi government agency that saw to the implementation of the agriculture program suggested by TDL and praised by the Department of Agriculture and Livestock. What eventually happened was that the Forest Service refused to renew the FCA because TDL did not seem to be complying with this requirement for agriculture development; simply put, it was not planting the cocoa seeds and the coconut palms that it had promised to do in its program.

40 As far as the New Hanover projects are concerned the Commission of Inquiry must visit the site to ascertain the developments, if any, carried out so far. There have been landowner complaints that TDL has not kept its part of the

bargain to plant cocoa and coconut trees and the few trees that have been planted are now under thick bush.

[3.03 pm] Commissioner, for Tabut Limited, there is no mention of FCA being granted by the PNGFA Board. From what we have learnt it may still be in the pipeline if any application has been put. For Umbukul Limited, again no mention of FCA is done by the PNGFA Board, but Central New Ireland Limited was granted the FCA number 1602 on 25 November 2010.

- 10 As far as environment permits are concerned only Central New Ireland has been issued one by the Department of Environment and Conservation. That department is still considering permit for Tabut Limited and has no record for Umbukul Limited. There is no mention on the files produced to the Commission by the – see as to whether public hearings and awareness was conducted to gauge the views of customary landowners. This will be further investigated and reported on in time.

20 Just finally, on landowner concerns, Commissioner, as I mentioned in the introduction landowner disagreements over the grant of SABL has been evident right from the start and has not abated; it has not slowed down. This Commission, however, must remind itself constantly that in as much as possible it should keep an open mind and eventually make recommendations based on an impartial approach. Suggestions have been made previously by a certain newspaper that this Commission is pushing agenda or what Green Peace and other NGO group wants it to do. That is not true as the Commissioner knows, but in as much as possible, I will not point out all the grievances and dissatisfactions that New Hanover people who are against the three SABLs have made available to the Commission. There are many and there are thick volumes of those concerns.

30

[3.06 pm] I only propose to read excerpts from one person. This person, I believe, is independent and is a person of some standing. He was the – he is the provincial administrator Mr Simeon Malai. He wrote on March 2010 to the Department of Environment and Conservation and expressed his reservations about a permit to be issued to Central New Hanover Limited. He said in his letter that landowners had complained to him about the following: Firstly, that incorporation of land groups was done without the full consultation amongst clansman. Secondly, that serious questions were still unanswered with regards to landownership. There were still disputes or ongoing disputes when SABL  
40 was granted. Thirdly, it says there were no fair hearings or meetings. He says that people told him meetings were at pre-arranged sites or in other words that there were people there who had been prompted to make certain responses when asked. Fourthly, other meetings were held in various other areas – inland areas

he says where people were ignorant, mostly illiterate and were overridden and decisions made by them was done out of ignorance. Fifthly, certain group of people including TSoi Islanders, Lukus and Ungalik people who are genuine landowners were left out of meetings and negotiations. This official concludes by saying that experience has shown that the company's previous operation on West New Hanover had been a total failure.

10 Those statements, Commissioner, are basic reflections I would suggest of what has been expressed by landowners. It is best that the rest is heard through the mouth of those interested landowner representatives once the Commission goes to Kavieng.

There are many witnesses to be called. I just list four; that is Martin Banovo and Lazarus Paul Malisa are Lands officials. They will assist the Commission to determine whether there were any land investigation reports done and to what extent those investigations were carried out. Secondly, are officials of the Tutuman Development Limited; are Pedi Anis and Miskus Maraleu who is the lawyer for TDL and Secretary to other companies listed as the holders of the SABL.

20

[3.09 pm] That is all I want to say. If this matter could be stood over generally.

30 COMMISSIONER MIROU: Thank you, Mr Tusais for the opening in respect of summarizing three of the SABL files in relation to Central New Hanover. These are files in relation to Tabut Limited, Umbukul Limited and Central New Hanover Limited. For the purposes of informing those interested parties who are here, what Counsel has done is basically summarise all the information that they have obtained from the various departments; those key departments like Lands Department, Forestry DEC and also from submissions that you made, those interested parties who have made and this is the, let us say, the setting upon which this Commission has now been given an overview of the problems and things that we expect, the issues that arise out of this particular SABLs that are related to New Hanover generally. As Counsel has quite correctly informed the Commission that the Commission keeps an open mind and will remain impartial when it considers evidence by way of submissions or by way of evidence from the witness who will come and give evidence to this Inquiry. We will keep an open mind and we will also be guided by the Terms of Reference upon which we have been asked to make our findings and recommendations based on that Terms of Reference. So this matter is now – those three matters  
40 that have been mentioned will now be generally adjourned, no specific dates or time will be given until the Commission works out a timetable to which the Commission will travel to New Ireland and at that particular time now we will invite persons to come forward to assist us with the Inquiry there. So we will

have this matter adjourned generally to a time to be fixed and you will be informed through the Paper, the newspapers, as to the time and dates that will be allocated for our sitting at Kavieng. So I thank you for your attendance this afternoon and you may all be excused from the hearing. Mr Tusais, that will conclude the matters for New Ireland?

MR TUSAIS: Yes, that is it for New Ireland. We move to the East Sepik Province. Ms Peipul has carriage of those matters. She is ready and I will leave it to Ms Peipul to assist this Commission.

10

COMMISSIONER MIROU: Yes, thank you, Mr Tusais. Ms Peipul?

MS PEIPUL: Thank you. Good afternoon, Commissioner Mirou. I will be presenting opening statements on three matters from the East Sepik Province. Commission of Inquiry matter number 20. That would be on the main list that we have been working from and that was the list that was attached to the original statement of case in Terms of Reference, that would be COI file number 20, that is Brilliant Investment Limited. I will also be dealing COI file number 59 which is Mapsera Development Corporation Limited and I will also  
20 be dealing with matter number 75 on the list which is Nungawa Rainforest Management Alliance Limited.

20

[3.13 pm] I propose to start with Brilliant Investment Limited. I have copies of the statements, opening statements.

COMMISSIONER MIROU: Thank you, Ms Peipul. You may commence when you are ready.

MS PEIPUL: Thank you. Essentially what I propose to do in these opening  
30 statements is to go through much of the files and documents that have been submitted to the Commission. You will note that in paragraph 1 of all statements I have made reference to relevant Terms of Reference that I think are applicable in these instances and I mean all the Terms of Reference that I have referred to are applicable to all so I will just mention it once and then obviously I will proceed to the different - in the interest of time, I am mindful of time. Firstly, will be to determine the physical location of the SABLs and whether there is an ongoing dispute over the matter and that is pursuant to Terms of Reference (c)(i) to (iii); secondly, determine if any illegality can be attributed to the granting of these SABLs that is pursuant to Terms of Reference (d);  
40 confirm that these SABLs are subject to the processes of the implicated institutions, in this instance, it would be the Department of Agriculture and Livestock, the Department of Environment and Conservation, the PNG Forestry Authority or Service as well as the Department of Lands and Physical Planning

40

and that is pursuant to Terms of Reference (c)(vii); and lastly, the relevant Terms of Reference would be to provide submissions into the implications of SABL on the land acquired and that would be Terms of Reference (h).

10 Moving firstly to the issue of location, I have referred to the gazettal notices to give us an idea of the location of the relevant SABLs. In this instance, in Brilliant Investment, a notice of grant of the SABL pursuant to section 102 of the Land Act was published in the National Gazette, gazettal notice G22 dated 15 February 2007 and it was granted to Brilliant Investment Limited for a  
10 period of 99 years over the piece of land known as Marienberg, that is being Portion 146C Milinch Angoram and Marienberg Fourmil Bogia and Vanimo. That is in the East Sepik Province with an area of 25,600 hectares and that is as shown on survey plan catalogue number 3/605. So that gives us an idea of the location and obviously the gazettal notice in which notice was published as well.

20 We have conducted company registry searches with the IPA and in this instance we have looked at the status of Brilliant Investment Limited pursuant to historical extract obtained from the IPA on 19 September 2011. SABL grantee, Brilliant Investment Limited was registered and incorporated by one PNG  
20 national Toripe Koava on 6 July 2004 holding 100 shares. It is currently operating. However on 25<sup>th</sup> or 26 April 2005 these 100 shares were transferred to Gohill Timber SDN BHD, a company with a Malaysian registered officer. It is unknown whether it was registered as a foreign company in PNG.

[3.16 pm] At the moment we are liaising with the company's registrar to determine the status of various companies in a similar situation and whether they have the appropriate certification under the Investment Promotion Act. Over the course of five years Gohill Timber SDN BHD did transfer much of its 100 shares as  
30 follows: 35 shares to one Ling Neng Lii otherwise known as Henry Lii a Malaysian national resident at section 38 allotment 29 new Hohola commercial estate Gordons NCD and the transfer was effected on 1 January 2006. 20 shares were then transferred to Ting Chung Ching otherwise known as Douglas Ting, a Malaysian national resident at section 38 allotment 29 new Hohola commercial estate Gordons NCD on 1 January 2006. 45 shares were then transferred to one Yu Ming Yong a Malaysian national resident at section 38 allotment 29 new Hohola commercial estate Gordons NCD on 1 January 2006. On 6 July 2009 Neng Lee Ling transferred his or her shares - unfortunately I am  
40 not able to tell the gender from the name - to the other two shareholders as follows: Chung Ching Ting received 16 shares and Ming Yong Yu received 19 shares.

On August 27 - this was pursuant to the historical extract obtained from the company's register - by order of the National Court, Brilliant Investment Limited was placed under receivership with James Kruse Deloitte Touche Tohmatsu appointed as receiver of the company's property. However, this was discontinued on 29 November 2007 with the agreement of all parties. Both shareholders that I have mentioned being Chung Ching Ting and Ming Yong Yu remain as current shareholders and I believe directors at this time as well.

10 As I have mentioned there is no evidence on the extracts of any appropriate foreign enterprise certification, but as I have mentioned we are liaising with the company's registrar at this time who will no doubt provide us a status of this companies that have shareholding that is above 51 percent PNG nationally owned. So we will hopefully get some update as to the status of such companies.

20 In terms of Marienberg Hill Resources Development Limited, it was described as the landowner company, that was incorporated and registered on 11 October 2006. Shareholders and directors comprise of about 10 PNG citizens, they are all male. All being resident in the East Sepik Province, most of them in the Angoram District and one of them is named as Moses Gawi who is indeed the current chairman of the landowner company.

Turning to the relevant files that are being produced from the different departments and organizations, we firstly look at the Department of Lands and Physical Planning. The Registrar of Title's file produced; one was produced by the Registrar of Titles Mr Henry Wasa on 15 August 2011 and there was some documents within the file that was produced. There was a title document, however the back page was blank so we were unable to determine from the title document whether there was any subleases.

30

[3.19p.m.] The next document that was on file was a fax dated 15 February 2007 and it confirmed the board of directors at the time of Marienberg Hills Resources Development company and that it was the chairman Moses Gawi signed that under the company seal. Another document that is on the registrar of titles' file was a signed section 11 notice of the Land Act dated 12 February 2007 and that was signed off by ministerial delegate Pepi Kimas who was I believe the departmental secretary at the time. Notice of grant under section 102 was also on file and that is dated 12 February 2007 and also signed by Pepi Kimas. Of note on the files was a letter from the acting Surveyor General John Sireh at the time, a letter dated 6 December 2006 and it was addressed to the Chairman of the Marienberg Cocoa Project, not the company but the Chairman of the Marienberg Cocoa Project and approving essentially the carrying out of a survey under Rural Class 4 and they were advised to engage a private surveyor

40

and further advise the GPS reading to be taken to mark out the corner points and boundaries of the land. This is one of the rare times that a letter from the Surveyor General has been sighted on the titles file; and a copy of the gazettal notice is also on file.

10 Importantly, in this particular matter and it was with respect to Brilliant Investment, there was no customary lands division held native dealings file produced. Although, the customary division Deputy Secretary, Mr Romily Kila Pat swore in an affidavit that it had been produced the desire expression that no file from that particular division had been produced to date and none has been produced thus far Commissioner.

Therefore it is unable – we are unable to determine landowner consent with respect to the land investigation report that is now difficult to determine because none has been provided by the Department of Lands and Physical Planning.

[3.22 pm] Turning to the Department of Agriculture and Livestock, the files that were – documents rather, that were produced by them, there was one agro-forestry project proposal on file produced as well as another document which was a proposal to vary the work plan for clearing timber. There also was evidence on 20 that file of a required public hearing and that meeting would have been held on 18 July 2008 at the Marienberg Catholic Mission Station, Angoram District. That the document on file is a letter to the Department of Agriculture and Livestock Secretary dated the – I do not have a date but it is in September 2008 awarding Mr Daink who is the Deputy Secretary - Mr Francis Daink, he appears to be urging the Secretary to sign the Certificate of Compliance for the large scale conversion of forest to agriculture to which he has attached a report that he had intended to present to the PNG Forest Authority.

30 Also importantly, there is a minute dated sometime in November 2008 from Mr Leka Mou and he would be the Southern Regional Director for Provincial Agriculture Technical Services Division of which Mr Daink is actually the Deputy Secretary, otherwise known as PATS . Importantly within that minute, he states the apparent deficiencies in the procedures of granting approvals and we submit that he would need to be called to explain this particular memo and the concerns that he has raised within it.

He also mentions another SABL on the list that the Commissioner is looking into it which is the Sepik Oil Palm matter.

In a letter also on file and the file forwarded to us from the Department of Agriculture and Livestock is a letter dated 3 September 2009 from the Secretary of the Department to the Managing Director of Brilliant Investments where he indicated the approval of the implementation schedule for 4,000 hectares of forest being felled I believe and for cocoa planting in the 3<sup>rd</sup> and 4<sup>th</sup> quarter of this year 2011. The letter is copied to the PNG Forest Authority and states that based on the Department of Agriculture approval that appropriate forestry clearance approvals can now be given by the PNG Forestry Authority.

10

In further correspondence, this one dated the 8 November 2010, Brilliant Investments informs Department of Agriculture and Livestock that it has grown 50,000 cocoa seedlings that were ready for planting, however that it wanted to diversify its operations into oil palm and as such was seeking approval for integrated agro-industrial business on the site.

[3.25 p.m.]In a letter in response from Mr Francis Daink, the Deputy Secretary, he states that, firstly the planting of the cocoa seedlings needed to happen before approval for further cutting of 500 hectares of timber would be given; that the  
20 land use assessment of the oil palm growing needed to be conducted as well, and that a further public hearing to gauge public opinion on oil palm/cocoa integration needed also to be conducted. He proposed therefore to Brilliant Investment that the cocoa remain the primary crop for five years so as to continue to operate under the current forestry clearance authority so as to avoid a new forestry clearance authority licence being issued.

20

30

Finally, he suggested the need to revise its land use plans and implementation schedules. So those were the suggestions made by Francis Daink to Brilliant Investment and their proposal that they diversify into oil palm. Their  
30 suggestion was to remain with cocoa.

Those were the only documents that were on the file that was forwarded to us by the Department of Agriculture and Livestock so not many documents unfortunately for us to assess how Department of Agriculture has come to determine its approval for this particular project.

Now we turn to the PNG Forest Authority files that were forwarded to the Commission. There was a file produced that came into our possession on 1 September and it is quite a slim file and it does not contains much documentation as to how FCA approvals have been granted.

We can say that the Forest Clearance Authority was granted on 26 June 2009 and it has a number FCA 11-02 to Brilliant Investment Limited and that is for the large scale integrated agriculture and cocoa development project. That is the name of the project. That has been confirmed as been Portion 146C, Milinch of Marienberg, Fourmil, East Sepik, Angoram in the East Sepik Province.

Pursuant to evidence given by Kanawi Pouru when he came to the Commission for an affidavit sworn on 24 August this year, he states that there is a certain documentation that needs to provided in order for them to make their assessment which is: (i) the prescribed Regulation application form which we believe is 235 of the Forestry Act Regulations; (ii) there is a provision of the duly completed project proposal; and (iii) there is a list of documents as you see in the statement that we say, not all of them need to be provided but at least some of them need to be provided and briefly; (1) there is a certified boundary description from the Department of Lands and Physical Planning outlining exact are of project area, (2) there needs to be landowner verification and consent as evidenced by lease documentation, (3) there needs to be duly completed sales and purchase agreements with the customary owners, landowners and there needs to be agreement oversee or MOU's between landowners and developers, (4) feasibility studies of soil suitability for proposed agriculture use, (5) and there needs to be DAL report on stakeholder public hearing, (6) Department of Agriculture and Livestock prescribed form which we said is 235, and (7) an Environmental Permit is also to be attached for the proposal to proceed.

It is our submission that the documents we received we have not sighted any of these documents. They are not in the file that Forestry Authority has provided to us. Obviously, they will need to provide documentation to explain how they have decided on granting the Forest Clearance Authority. In our suggestion as to who should be summoned, we would obviously be summoning people from the PNG Forest Authority to provide explanations as to how the decisions were made.

But what is on file is some notices and correspondences relating to the current operations by Brilliant Investment Limited. There is a stop work notice, it was issued by PNG Forestry Authority to Brilliant Investment on 25 August 2010 and that is in regards to the felling of trees and they are essentially saying, stop work on cutting trees until you fulfil your agricultural requirements as per your agriculture plans.

[3.29 pm] Until such time as that happens, suspension will remain and it will only be lifted when the agricultural requirements are fulfilled.

10 In a further---

COMMISSIONER MIROU: Is the suspension still active?

MS PEIPUL: That is what needs to be determined. That is my suggestion as I continue on onto submission and note that I do suggest that in a visit to the site, we will need to determine whether there is any work progressing and obviously when we call the PNG Forest Authority personnel, we will need to ask whether the suspension is continuing.

20 There is nothing after – as I go through, you will note that there is one last piece of correspondence and that would have been in, I believe, March – 10 March this year and there is nothing after that. So I am not able to determine the status of the suspension on this to date. But as you will see in the 10 March correspondence I am referring to, it is Kanawi Pouru has wrote - who is the Managing Director of PNG Forest Authority - has noted in correspondence to the Managing Director of Brilliant Investment, a Mr Yu Ming Yong, dated 23 March, that as a result of a site visit on 10 March 2011, there was very poor performance of the Integrated Agriculture Project. He noted that:

- 30 (i) 100 hectares of clear fell land had no cocoa plants planted and that this land was left idle with no planned use;
- (ii) Only one building had been properly constructed, all others were still – were made of bush material;
- (iii) There was no Joint Venture Agreement between the landowner company, Marienberg Hills Resource Development Limited and Brilliant Investment Limited;
- (iv) There was no clear direction for the management of the cocoa plantation; and
- 40 (v) that 61,397.376 cubic metres of net resource had been cleared to that date. That is of an estimated total volume of 536,000 cubic metres gross for the acreage of the SABL being 25,600. It just goes towards

showing how much has been cleared without any agricultural development, essentially agricultural work. So that figure goes towards showing that.

As I just suggested, a site visit, I would think would be appropriate just to gauge the work in terms of the felling of logs versus the agricultural - fulfilment of the agricultural requirements come under the project. I think those several correspondences are the only documents that were forwarded to the Commission. Obviously, we will need to call people from the PNG Forest Authority to provide an explanation and I would outline that at the end of this submission.

Moving onto Department of Environment and Conservation, they submitted an arch lever of documents on 20 September to the Commission and the 5 September. Mr Michael Wau, who is the Director Environmental Wing, gave an account of the processes that have to be undertaken in order for Environmental Permits to be issued. In this instance, an Environmental Permit was issued to commence on 6 January 2009.

In terms of the steps that were undertaken, we noted on file that there was indeed the Step 1 which is a notification of preparatory work, and that was prepared and lodged by Brilliant Investment on 2 April 2008. Then secondly, that an Environmental Inception Report is the next document that needs to be submitted, and that was done so on 2 May 2008. Then there was an Environmental Impact Statement which was also lodged on 24 June 2008 and this Environmental Impact Statement needed to be accepted by the director, which was. After that, there was a public review and stakeholder review process that happened. The notice was put out on 24 July 2008.

[3.343pm] Interestingly, there was a letter from the East Sepik Provincial Administration dated 8 August but it was received on 4 September which actually highlights critically – quite critically issues that the writer had with the proposed project and the true impact that we have on the community.

COMMISSIONER MIROU: Sorry Counsel, is that 4 September 2009 or 2008?

MS PEIPUL: Yes, it should be 2008; that is typo on my part, it is 2008. Correct that. Thank you Commissioner. So, yes it did highlight on the writer's objections to the project. But it was received because it was received on the 4 September 2008. It was after the date which the feedback was to be received. So after – as you can note here, there was a public hearing held on the 4 –7 August 2008 at the site – the report does not say where exactly but that at the

site and the meeting, there was reported to be a majority of support for the project.

However, interestingly, you will know in the next paragraph that the EIS in a letter dated 15 December 2008, the Environmental Impact Statement was initially rejected for two reasons; firstly, there was insufficient information on the biological component of the Environmental Impact Statement; and secondly, there was concern on the authenticity of the information provided.

10 The suggestion was that it be reviewed – the Environmental Impact Statement was to be reviewed and resubmitted to the Director of Environment. It appears that that must have been done, it is not quite clear on the file, the process there but we see the next step being the Counsel has made positive recommendations and that has led to the ministerial approval in principal which is essentially the final step before the granting of Environment Permits. So the Environmental Council met and a decision in favour of granting, the appropriate approvals were made.

So the approval in principal, which is granted by the Ministerial – the concerned Minister was granted on the 19 November 2008.

20 So the actual Environmental Permit which is two permits – one is essentially to discharge waste and the other one is to use and take water. Those were granted on 1 December 2008 and 9 December 2009. So that is the permitting process that Brilliant Investment went through.

30 COMMISSIONER MIROU: Ms Peipul, 6 and 7, we have been alluded to by – there is a situation where the Secretary for DEC or Departmental of Environment and Conservation is also an ex-officio member of the Council that approves. Maybe you should consider that when you were - there is a potential conflict of interest by the Secretary where the Environment Impact Statement is also considered by the Council. If that can also be considered by the Commission.

MS PEIPUL: Yes, we will definitely have a closer look at the decisions in this matter.

COMMISSIONER MIROU: Thank you.

MS PEIPUL: Moving onto the persons of interest submissions; as a part of the inquiries with us, that the public any persons of interest provide submissions. We have only received one formal submission from Marienberg Hill Resource Development Limited, the landowner company and that was in a letter dated 28 September and was signed by Chairman, Moses Gawi Sakurai essentially that they were supportive of Brilliant Investments in that they fully supported and consented and authorised via clan representatives.

[3.38 p001] In the same letter there were references of ongoing discussions to have the lease to Brilliant cancelled and reissued to the landowner company. I think that is in recognition of the status of the company perhaps. But that there were negotiations to have it reissued to the landowner company. And I quote, “All parties were in the process of reaching an agreement when the COI was established.” Chairman states that his negotiations – well as I have said, I am repeating myself so I will not say that particular line. And he agrees - the Chairman agrees that there has been confusion created by loopholes and that this needs to be tightened by the State. So there is a recognition of the issues with the SABL process but they want that partnership and relationship to  
20 continue with Brilliant Investment as I believe the developer and the landowner company but to have it be more formalize, the landowner company being on the SABL, the actual title document and I believe Brilliant to carry on in its role.

I do note however that in terms of the joint venture agreement, that has been noted earlier, in terms of the letter in the PNG Forestry Authority file, I have yet to sight a joint venture agreement so I believe that may be something they are negotiating at the moment and that we do not see go towards landowner consent – landowner consent to Brilliant Investments operating as developer within the SABL and obviously goes towards landowner consent tenancy agreement of  
30 Marienberg Hill being their representative as well - landowner representative.

I think in summation or in concluding, I just make some recommendations as to the issues that the Commission should reconsider in moving on into the full hearing. Obviously, the gaps, the information that we have, the Department of Lands and Physical Planning have not provided native land dealings file for us to assess land investigation report on genuine landowner consent and that is a big gap.

When we turn to the issue of gaps in the PNG Forestry Authority file as well, we need to know how they came to the decisions they came about granting with Forest Clearance Authority and that we cannot do with the file that we have at the moment and we need to call various people to provide some form of documentation. There was no explanation in any event.

[3.41 pm] I suggest some issues in terms of what can be considered leading up to the full hearing of the matter and obviously consent issues as I have raised. Because of  
10 lack of files we are not able to determine that, but we can definitely look into that issue and we will look into the issue of the transferring of the SABL title from the developer company name which is Brilliant Investment, the landowner company, Marianberg Hill Resources. I think that is definitely something that we should consider. I think the joint venture agreement is something that needs also to be sighted, if not a draft or a signed copy if one has been signed since March this year, and we need to ensure that we have a site inspection as well once we travel to the province.

I think I have notice that the seedling that were to be planted in the last two  
20 quarters of this year, it would be interesting to go out and actually visit the site and see that has been done – the balance in between the logging and the – yes it has been done. But of course we have to ascertain whether the cessation of “stop work”, is still in place in order to do that.

So I have listed a few people to call in terms of summoning:

(1) Department of Agriculture and Livestock – I have suggested Francis  
30 Daink but I would also want Leka Mou to be – Leka Mou being the southern – anyway, he was the one who actually noted the insufficiencies in the granting of the approvals – the agriculture approvals so it would be advisable for him to be called.

(2) In terms of the PNG Forestry Authorities, Magdalene Maihua who has day to day understanding of the actual granting of the Forest Clearance Authorities; and

(3) I think Richard Kali, who is a Provincial Forestry Officer in Wewak. He has an understanding of the projects within the province and he would be well placed to give an understanding of this particular project within the SABL.

So that would be my suggested persons to possibly summons. There could be more as we go along, and of course, that list is not exhausted and it can be expanded.

10 However, that essentially concludes my submission and unless Commissioner you have questions of me, I would ask that this matter be adjourned generally to a time and date to be fixed for hearing.

[3.34 pm] COMMISSIONER MIROU: Ms Peipul, the opening statement will suffice for the time being with all the issues that have been canvassed and, definitely, there is a need for us to conduct further inquiries on site. That process will allow others to come forward to assist the Inquiry further with information and assistance that may be given so that we can answer some of the Terms of Reference that you have highlighted in your preliminary inspection and of the files that have been given to you. I thank you for your persistence and your  
20 effort in reducing to summaries that we can easily follow.

With the request for adjournment, we will definitely adjourn this matter generally. You may be seated and I will – are there any parties or members of the public that have an interest in Brilliant Investment Limited? Yes, Mr Kuman, I note your appearance. I think you appear for Brilliant Investment Limited. As you have heard, this is a preliminary opening which involves looking at the files that have been given to us in the past month or so and the issues have been highlighted by the team. We will be travelling to Wewak, East Sepik Province and Brilliant Investment is one of the SABLs that will be the  
30 subject of our Inquiry and at a time to be fixed by the Commission. You will be advised through the Paper when the team will travel to the East Sepik Province, in particular Wewak and definitely there will be a hearing for that particular period in time. So we will advise in the near future as to the time and date for that hearing. We thank you for your attendance this afternoon, and this matter will be adjourned generally to a time and date to be fixed for hearing at Wewak. Thank you.

MS PEIPUL: Thank you, Commissioner.

40 COMMISSIONER MIROU: Yes, Ms Peipul?

MS PEIPUL: I move on to matter number 59 that I noted earlier that I would be dealing with and that is Mapsera Development Corporation Limited. That is also in the East Sepik Province. I will not go through the relevant Terms of Reference because I have dealt with that previously but I will move straight into the National Gazette notice as well as the location of this particular SABL. Pursuant to Notice of Direct Grants under section 102 of the Land Act, it was printed in Gazettal number 83. That is dated 23 April 2010.

- 10 It was granted to Mapsera Development Corporation Limited over a land known as Nungawa/Sengo being portion 54C, Milinch Masalaga, Kubalia, Chambri and Yambon, Fourmil Wewak and Ambunti, Wosera Gawi District in the East Sepik Province, and the area of the land over which the SABL was granted was 54,384 hectares and that is shown in the Survey Plan catalogue number 3/657. The SABL itself was granted on 26 April 2010.

The IPA Company's records that we searched with regards to the status of the SABL grantee company, Mapsera Development Corporation although it was registered and incorporated on 7 June 1995, it is currently deregistered, and it  
20 was deregistered as of – I do not actually have a date for deregistration so I will have to check.

[3.48 pm] Sorry, Commissioner, bear with me. I shall have to check the actual date of ---

COMMISSIONER MIROU: That is okay, Counsel. Is it sometime in 2011 or 2010?

MS PEIPUL: 2011, I am referring to the date that it was printed.

30 COMMISSIONER MIROU: Okay.

MS PEIPUL: The actual---

COMMISSIONER MIROU: You may proceed.

MS PEIPUL: Yes.

COMMISSIONER MIROU: But sometimes in---

40 MS PEIPUL: But it was - yes, it was actually deregistered prior to the granting of the SABL.

COMMISSIONER MIROU: Okay, we can verify that.

MS PEIPUL: Yes, I will verify that. My apologies, Commissioner. As I have noted, the SABL was granted on 26 April of last year. I think in terms of the – I mentioned the developer, Gold World Resources (PNG), we have yet to confirm the make-up of the company at this time which we are currently doing with relevant IPA searches.

10 Turning to the Department of Lands and Physical Planning files provided, there was only a title document provided from the Registrar of Titles. There was no actual formal file but merely a title document and that was upon the urging of the Commission for him to do so to produce it for the Commission.

20 An agriculture sublease has been sighted, has being granted to one Gold World Resources (PNG) Limited, which I have noted earlier, but that is not on the Company or Registrar – he has not provided that document to us, I should say, only a title of document was provided. But obviously, that would have been registered as a dealing on the actual title document but we have not sighted that sublease as being registered on the title document that was provided to us by the Registrar of Titles.

30 Moving to the Customary Division, Land Division, held file, which is the Native Land Dealings file, a search of the file – the actual extract, company extract that the company was deregistered or Mapersa Corporation was deregistered is actually on that file that was forwarded to us. In that respect if that particular search was in the file, then why then, one would ask, has the whole registration procedure happened? Because does the company then have the capacity to be a grantee of a SABL? One must ask the question, and I think that is the submission or question that we ask for this particular matter because of the fact that the company was deregistered at the time it was granted the SABL. Does it have the capacity to be granted, really, is the essential question that I ask?

40 But the process of registering the SABL went ahead even though this particular extract was on the customary land division file. In fact, the file contains volumes of land investigation reports. So in fact, from my perusal of these land investigation reports, it is quite compelling that majority of landowner consent was obtained. There are volumes of the land investigative report, signatures and so forth and it appears to be in line with what a land investigation report should look like if there is a majority of landowner consent. In fact, recommendation as to alienability was signed. Unfortunately it was signed by the Provincial Administrator undated but there is a recommendation as to alienability on file.

[3.55 pm] Further, there was a meet in the file dated 21 April 2010 from Simon Malu, the Manager of Leases within the Customary Division, and he recognizes that there are in fact ongoing issues within that particular district. In fact, as I will go through my other opening statements and as may have been alluded to in some of the other SABLs, they are related SABLs and the same very large tract about five SABLs or a project area; project area within a very large number of land adjoining each other and there are issues with this particular land. There are about four of them that are on the SABL list which I can just briefly say are – I have them listed somewhere in this submission that I will refer you to later on.

10 But as you will see, Simon Malu, he refers to the ongoing issues between his five adjoining project areas and I would submit that he would need to be called in to give an explanation to assist the Commission as to why there are ongoing issues between these particular project areas.

As I say here, he states that this particular project area called Nungawa/Sengo, it is actually the name that has been given to it. Nungawa/Sengo Agro-Forestry Project is the name by which the project itself goes under within this particular SABL. He states that it broke away from another project area called Nungawa/Bongos project and there were issues between –the issues they had

20 was to do with the developer involved meaning that some landowners wanted one developer, other landowners wanted another developer. The developer I mention here is Gold World Resources (PNG) as it is currently known now. It was formerly known as DJC & L Limited and the conflicting developer is known as SPZ Enterprises (PNG) Limited and that is in the Nungawa/Bongos project that I am referring to. So there was a bit of a breakaway between the landowners. It would be seen more clearly when I go through the other statement - opening statement which will cover some of those issues, I hope.

I would submit that from review of the file, as I have said earlier, the land

30 investigation report goes very far to show that there is sufficient genuine consent and at the structure of Mapsera Development as a company, it is a genuine landowner company in that there are ILGs that have chairman that have come together and they have elected chairman to be the company representative and the chairman, obviously but unfortunately the company is deregistered. So it seems that it is all for not in that the processes have gone through but it does not seem to have the legal identity or the legal standing to be able to enter into contracts to actually possess a lease – to be granted a lease. So that would be my submission at this time with respect to that issue.

40 In terms of the Department of Agriculture and Livestock documentation that was given with respect to the project that I am referring to which is the Nungawa/Sengo Agro-Forestry project which is within this particular SABL, one of only two documents were received by the Commission of Inquiry on 13

September 2011 for this particular project and the proposal, I should say, an agro-forestry project proposal was lodged with the Department of Agriculture and Livestock on 30 August 2010, and that was the document that we received from the Department of Agriculture and Livestock.

10 The second document that we sighted with respect to this particular agriculture project was a completed Form 235 under the certificate under the Forestry Act Regulations and which is a Certificate of Compliance for a Forest Clearance Authority for a large scale conversion of forest to agriculture or other land use development. That certificate was signed off by then acting Secretary for the Department of Agriculture and Livestock, Francis Daink, on 3 January 2011.

There are no other documentations or documents provided to the Commission to explain the process and why it took place – why the process actually took place within five months. That is from the agriculture proposal being received by the Department and to the granting of that Form 235 which was then forwarded to the PNG Forestry Authority.

[3.58 pm] So the actual process of determining the appropriateness of this particular  
20 project, it is not in evidence in the two documents that we were – new two documents that were provided.

Similarly, when we turn to the PNG Forestry Authority file that was provided – actually, there was no file provided, I should say. So, essentially, there was no file relating to it because I mean no forestry clearance authority has been granted so I should just remind the Commission that the files that we have been forwarded are the files of forest clearance authorities that have been granted. They have not provided us files of any processing – current processing of forest  
30 clearance authority. So this may in fact be one that they are processing but we have not received any files with respect to that. It might be something we need to ask, yes, ask PNG Forest Authority to provide us documents on forest clearance authorities that they are considering for the list of 75 SABLs that we are currently looking at.

COMMISSIONER MIROU: We probably can get evidence from the department on this particular SABL---

MS PEIPUL: Yes, on this particular SABL.

40 COMMISSIONER MIROU: As to the progress of that; granting of that approval.

MS PEIPUL: Yes. I mean, in this instance, there is no approval but I mean the process of – there must be – they would have received that Form 235 Certificate which was signed off, and that was then required to be forwarded to PNG Forestry Authority. So it would therefore trigger the Forest Clearance Authority sort of process of approval. So it would be interesting to know, to sight any documentation that may be exchanged between the parties with regard to this; the permitting process for the Forest Clearance Authority. So, yes, in terms of a file from the PNG Forest Authority, there was none to speak of.

10 Turning to the Department of Environment and Conservation, just briefly on that, it is still being - the process itself is still being undertaken by the developer Gold World Resources Limited. So obviously, no Environmental Permits have been issued to date. In terms of the PNG Forestry Authority – I mean, the PNG Forest Clearance---

COMMISSIONER MIROU: Authority.

MS PEIPUL: Authority – the process, rather, they need the Environmental Permit in order to process the Forest Clearance Authorities.

20

COMMISSIONER MIROU: Yes.

MS PEIPUL: So, obviously, because this process is happening, it is still ongoing for the PNG Forest Authority in terms of their assessment on whether a clearance authority can be given.

30 So as I have noted just briefly, the notice to carry out preparatory work which is Step 1 was submitted on 1 September. Although that we do not sight the actual document on file, there is a letter on file that states that it was submitted subsequently on 9 September 2010. There was an inception report that was submitted, so it is quite fast, the process there.

The Environmental Impact Statement was then submitted on 20 December and, in fact, the covering letter mentions an urgency for the EIS as there was a moratorium on FCAs. So they were seeking to find a leeway in order to submit the Environmental Impact Statement.

40 I think I note here in the opening submission that I have noticed a copy of the agriculture sublease, which I have referred to, and that was the sublease that I say was not on the Registrar of Titles was not provided by the Registrar of Titles and was not in the Native Land Dealings file as well held by the Customary Lands Division.

[4.02 pm] I think also of note of interest is the IPA certification of Gold World Resources Company Limited under section 29 in that the appropriate certification for a foreign to operate in PNG was given and the certification is there within that particular file.

Interestingly, they were told in their requirements that they needed DEC permit approvals within six months of the grant of those particular certificates, and the grant was on 24 November 2010. So that was perhaps why they were urgently wanting the approvals for the permit as well, I would submit.

10

As mentioned earlier, Gold World Resources has had a name change. It used to be DJC & L Limited. Interestingly, in terms of forestry, industry participant the name is actually DJ & C Limited have the participant recognition, I suppose, in order to participate in the forest industry so an interesting point of note.

20

Interestingly also, there is a note of a DAL sponsored public hearing which is not on the – it was not forwarded to the Department of Agriculture and Livestock documents. So there is a record of a public hearing on 30 December 2009 at Drekikir station. I note that in attendance were relevant government leaders and those from both the national, provincial and district level and there were DAL representatives as well. Apparently, there were some 25 members of the community who spoke at this particular meeting and they were largely in agreement with the project proceeding. So it is interesting that that minute of that DAL sponsored hearing was not on the documents forwarded by DAL but was on Environmental, I think, Impact statement forwarded or lodged with the Department of Environment and Conservation. So that was just an interesting point to note there.

30

In terms of the submissions given by persons of interest, there was only one which was an affidavit by one Don Bagat of Ditu Limited. He appears to have done some consultancy work for either the landowner group, Mapsera or Gold World Resources. It was unclear in his affidavit but his – based on the structure of his affidavit as well as the attachments, he appears to be in support of this particular project and in support of Gold World Resources as the choice developer for this particular project. But what he does not mention in his affidavit is the fact that Mapsera is deregistered. It is not a registered company at this time. I think the main issue that I have mentioned throughout this particular submission is the issue of the company not being a registered entity in PNG, and can it – does it have the standing, essentially, to have---

40

COMMISSIONER MIROU: Title.

MS PEIPUL: Yes, title, exactly. I mean, that is the main issue in this respect, I would say.

Turning to possible persons to summons, definitely, the Chairman of Mapsera Development Corporation. I have just explained the status of his company and how he is proceeding with – because he is proceeding as business as usual but it needs to be confirmed from him, I think; his understanding of his status or the company status. I think, also of interest would be Simon Malu. I have noted that his understanding of this particular matter has a reflection on several files  
10 that are related – SABLs that are related, and I actually do mention the different matters here which is Nungawa Bongos which I will be dealing with when I discuss or when I make opening submissions for Nungawa Rainforest Management Alliance Limited. Nungawa Bongos is the name of the agricultural project – agro-forest project in that matter.

Nungawa Sengo is the name of the agriculture project in this particular SABL, being Mapsera Development Corporation Limited. There is Nuku portion 26 integrated agro-forest projects and I cannot recall the particular SABL that covers that integrated agricultural project but it is also on the SABL list; and  
20 also Nuku portion 59 is also on the SABL list as well. So as you can see there are four that are actually adjacent to each other, they cover very large areas of land and this particular officer has some understanding of what is going on in terms of landowner consent, in terms of encroachment issues, in terms of the developer involvement in these particular SABLs, and whether there are links between these developers or there are issues, obviously consent issues and disagreements and disputes. I think it will be very useful to have Simon Malu attend and give evidence with respect to these related projects and related SABLs.

[4.07 pm] There is another project called the Bassei Oil Palm Project which is not on our SABL list but I will briefly mention that particular project within the next opening statement that I will give shortly.

The last person that I believe we should be summoning is Michael Wal just to explain the permitting process and how because of my noting of the deregistration of the company, how they could allow the processing of the permit when there is no secure – perception of no secure - security in terms of the title being granted to an unregistered entity.

40 So that concludes my opening statement, and if there are no questions from Commissioner, then I would ask this matter be adjourned generally.

COMMISSIONER MIROU: For persons to summons too we would also include when we are on site.

MS PEIPUL: Yes, of course and obviously for a site visit, yes.

COMMISSIONER MIROU: When we site visit those landowners and affected parties.

MS PEIPUL: Yes, of course.

10

COMMISSIONER MIROU: Thank you, Ms Peipul. The request for an adjournment to this matter to a time and date to be fixed in Wewak is granted.

MS PEIPUL: Okay.

COMMISSIONER MIROU: So this matter will be generally adjourned until a time and date is fixed by the Commission in Wewak for a hearing proper. Thank you.

20

MS PEIPUL: Thank you, Commissioner. My final matter is matter number 75 of the main list. I do not believe it is for today but in any event, it is the Nungawa Rainforest Management Alliance Limited matter. I will not go through the relevant Terms of Reference. I mentioned it previously. In terms of opening, just to note the gazettal notice as well as the location of this particular SABL in that the Notice of Grant was - under section 102 - published in the National Gazette number G86 on 4 April 2011 and over portion of land known as Nungawa/Bongos and it is described as portion 55C being in the Milinch of Masalaga, Fourmil Wewak, East Sepik Province, and it consists of an area of 109,580 hectares. This is shown on the survey plan catalogue number 3/671

30

being for a period of grant of 99 years. So the lease was granted for 99 years.

A file search of the company's registry was conducted and company extracts were obtained and Nungawa Rainforest Management Alliance Limited's search shows that, one, Wawaka Agro Commodities Development Cooperative is the current shareholder.

40

When we attempted to conduct a search of Wawaka Agro Commodities Development Cooperative with the company's registry, it was shown that it was not registered. It may be that we may not be searching correctly, so we will need to investigate further as to the status of this particular company because it is the only shareholder of Nungawa Rainforest Management Alliance. That needs to be clarified what the status of that particular entity is, Commissioner.

In terms of the directors of this company, it comprises of 11 men, they are either resident in Port Moresby or in the East Sepik Province, and one of those 11 directors is a resident in Madang.

[4.11 pm] They are – and I name them: Tony Watarepu Aimo, Beno Patric, Alois Moilem, Isaac Wrongkalm, Paul Adam Ito, Charles Kundi, Paul Asahand, Joseph Koi, Gabriel Yombonga Kwa’ato, Kepas Taloh, Herman Masimbor and the Secretary is, I believe, Joseph Koi who may be their company lawyer.

10 Then, as I mentioned in terms of the actual company search, there was no record of that particular entity. It may be that we were not searching correctly, but we will have to continue our investigations into the status of this particular entity.

Upon review of the files, the proposed developer company in this particular SABL – and as I mentioned the name of the project that has been proposed within this SABL is Nungawa/Bongos Integrated Large Scale Agriculture Project. The proposed developer is one SPZ Enterprise (PNG) Limited. In conducting our searches, we have only seem to search for SPZ (PNG) Limited so we have not searched for SPZ Enterprises Limited. So, unfortunately, we  
20 will have to go back and have the correct search conducted for this particular company. So that has yet to be conducted and that is to determine the status of the proposed developer company.

Looking at the files that have been submitted to the Commission of Inquiry, particularly the Department of Lands and Physical Planning files, we will note, in terms of the Registrar of Title file, there was no file produced per se but a titled document was produced and that was upon the direction of the Commission several weeks ago. A SABL title document was produced and was signed on 12 April 2010 last year apparently by Mr Romily Kila Pat who was  
30 the Deputy Secretary Customary Lands at that time. Unfortunately, on that particular document, there is no record of any subleases at the back and it is blank, essentially. So there is no record of any subleases on that particular title document.

In terms of the Customary Lands Division file which is known at the Native Land Dealings file, it is incomplete. The file that was submitted to us was incomplete. However, there are documents on that file. Initially, in terms of chronology, the file would start with an application form and that was completed and signed off by one – from the signature, it says A. Aimo. There is  
40 no actual name under it. It is dated on 2 March 2011 – and it is important to note the dates here, Commissioner, that the application form is signed on 2 March and the receipt for the fee for the application was paid or it was receipted on 7 March 2011.

There is correspondence on the file, firstly, dated 18 May 2010 and there is a large document that refers to supplementary ILG Agreement signing and that was from 18 May 2010 and it is from the Member for Ambunti Dreikir and in the letter he states that the project area has some 380 incorporated land group chairmen. So that is just interesting to note the customary landowner representation issue.

[4.14 pm] COMMISSIONER MIROU: Is the Member---

10

MS PEIPUL: Say that again?

COMMISSIONER MIROU: Is the Member a member of the landowners?

MS PEIPUL: He states that he is a member of the landowners. His name has been on the list of ILG representatives or at least village representatives through our documentation on file.

COMMISSIONER MIROU: That will be the current member for Ambunti-  
20 Dreikir?

MS PEIPUL: Yes, I believe so; I believe the current member for Ambunti-Dreikir. In that letter, he states – as I have said there are 380 ILG chairman – in that same letter, he asks that a Forest Clearance Authority be granted to SPZ Enterprises (PNG). Obviously, there is a reference to the ILG chairman within that document.

COMMISSIONER MIROU: Would the request for Forest Clearance Authority  
30 be the application should come from the actual proponent, the project? An application for FCA should come from the actual proponent, not from a minister or a member.

MS PEIPUL: Yes, from the proponent from the landowner company. Yes, I mean, one can say that. Yes, but I am merely quoting what is on file.

COMMISSIONER MIROU: But that is something that we can inquire into and determine.

MS PEIPUL: Yes, that is something we can determine, definitely. But in terms  
40 of what is on file, that is the correspondence that is on file.

COMMISSIONER MIROU: Yes.

MS PEIPUL: That I have noted and the content of the correspondence. So that is, of course, something we can obviously determine later on as we go along.

COMMISSIONER MIROU: Yes.

MS PEIPUL: So what I take from that particular submission is that there should be 380 ILGs from which landowner consent needs to be obtained. So that assists us in determining when we look at land investigation report that there was sufficiency of the land investigation report to give us some idea of that.

10

In terms of the land investigation report that is on file, it was conducted by one Peter Francis Yapog, who is an officer of the Division of Lands in East Sepik Provincial Administration. All of those relevant documents within the Land Investigation Report were dated on one particular date which is 22 November 2010.

20

Some of the documents, they remain incomplete but it is a matter of cross-checking in terms of the ILGs that I was referring to and whether it all sinks. I would suggest that for our purposes, we will need to search the ILG registry just to cross-check with issues.

COMMISSIONER MIROU: Just out of interest, there is no file from the Department of Lands but yet there is a land investigation report.

MS PEIPUL: There is a land investigation report.

COMMISSIONER MIROU: It does not really match.

MS PEIPUL: Yes.

30

COMMISSIONER MIROU: That a land investigation report is obviously available.

MS PEIPUL: Yes.

COMMISSIONER MIROU: For our inspection and there is no file from the Department of Lands on the actual SABL; just following from your---

40

MS PEIPUL: What I think I was referring to was the Registrar of Titles file.

COMMISSIONER MIROU: But, actually, the title is there.

MS PEIPUL: Title document was produced here by Henry Wasa.

[4.17 pm] COMMISSIONER MIROU: Yes, but the file is just – the file---

MS PEIPUL: The file, the registry file.

COMMISSIONER MIROU: Yes.

MS PEIPUL: I mean, it could be that they have a file but the file was not produced.

10

COMMISSIONER MIROU: Okay.

MS PEIPUL: I mean, think of that because I think the title document was what they were not able to produce and when we initially asked them. Then they were compelled by the Commission – or, Henry Wasa was compelled by the Commission to produce the title document, which he produced. But there is nothing else he has produced from that, and that it meaning evidence of sub-dealings – I mean subleases like an agriculture sublease to the developer and so forth.

20

So in terms of the Native Land Dealings file, there is a file that was produced but the Registrar of Titles has not produced his file that he would be maintaining. But he has produced a title document that we have sighted but it does not have the record of the dealings on that particular document he provided. So, does that clarify, Commissioner?

COMMISSIONER MIROU: Yes, that does relate. It is a common trade that we can find from the SABLs that---

30 MS PEIPUL: Exactly. Some---

COMMISSIONER MIROU: It has become a common thing that---

MS PEIPUL: Yes, I think, as Commissioner would have noted with Brilliant, nothing was provided from the Native Land Dealings file. I mean, nothing from the Customary Land Division held file, although we sighted a title document. So in this instance, documents were provided, although thin. Although I do not believe they were complete, I mean, there were documents provided although not complete.

40

So, I think moving to the next part which is the actual land investigation report, my review of it, there was a certificate of alienability but it was wrongly titled

“certificate of availability”, unfortunately. So my understanding is they meant to write “certificate---

COMMISSIONER MIROU: Alienability.

MS PEIPUL: Yes, “of alienability”, rather than “availability”, which is what was on the document. But that document it should be signed by the District Administrator, not the Provincial Administrator. So that gives us some question as to whether he has the capacity to sign off on a certificate of alienability.  
10 Then there is, of course, the issue of whether certificate of alienability is sufficient as we have seen with the testimony or the evidence given by---

COMMISSIONER MIROU: Custodian.

MS PEIPUL: Yes, by the Chief – the Custodian of Customary Land.

COMMISSIONER MIROU: Yes.

MS PEIPUL: So there is that issue as well that has been raised by the Land  
20 Investigation Report.

Another document that is on file apart from the land investigation report, any other documents I referred to was a minute from the Director of Customary Leases to the Secretary of the Department as well as Deputy – through the Deputy Secretary, and he appears to be satisfied – yes, satisfied that the requirements were complied with. It was a minute dated 24 March 2011, and I am noting – Commissioner, please note the dates, with respect, to the granting of – correspondence that has been entered into. Deputy Romily Kila Pat then sighted and agreed with the contents on 29 March of this year, and the Secretary  
30 signed off on 4 April of this year 2011.

[4.21 pm] Commissioner, the Notice of Grant itself was actually issued on 4 April and it was signed off by Pepi Kimas and on that notice of grant, there were 10 men who signed off on that – or, rather, I should say the lease-lease back. Rather than the notice of grant, I should say that should be the lease-lease back instrument and only 10 men signed off on in and of those 10, there were only two that were shareholders of the Nungawa Rainforest Management Alliance Limited and that goes towards being a genuine landowner company and whether or not the people signed off on the lease-lease back instrument are in  
40 fact part of a genuine umbrella landowner company.

Also in terms of the ILG representation because on the document, it is unclear whether they represent any particular ILG because as we have seen earlier, there

is understanding that there are some 300 plus incorporated land groups; consist of 380 incorporated land groups that consist of that particular area in which the project is being undertaken. So there has to be something the Commission needs to look at carefully and closely. Another point of note is the same person appears to be signing twice with different villagers.

10 So these issues I receive in the content of this leased-lease back instrument has been signed off on, and importantly, is the date because the date of the lease-lease back instrument is, as I have said here, dated as 3 March and as has been noted earlier, all the correspondence relating to that particular document has been undertaken in April or I mean the dates are inconsistent, essentially, is what I am saying, Commissioner and that needs to be looked at carefully.

Yes, and as noted, the date on which the “certificate of alienability” or “availability” was 3 March and that happens to be the same date that the lease-lease back instrument was also signed. So how can a certificate of alienability be signed on the same date as the lease-lease back instrument is signed.

20 COMMISSIONER MIROU: It should be signed from the East Sepik Province, not in Port Moresby.

MS PEIPUL: What I mean is in terms of the processing, the certificate of alienability needs to be signed and then it needs to be processed; the process needs to happen. You cannot have a State lease or the lease-lease back instrument being signed on the same day that the land investigation report is being signed off on, essentially. So there is an inconsistency with the dates on these documents so it needs to be carefully looked at.

[4.24 pm] 30 Very importantly, I think of note, if you turn over the pages is a note on the file relating to a letter of objection. The letter of objection was actually received and is on the Lands file dated 5 April, was received on 6 April 2011. This is a letter of complaint from one Wesley Tiama, Ward 12 member, and he actually is one of the persons of interest. He has provided a submission to the Commission of Inquiry as well where his letter is on file objecting with the signature of some nine other individuals from various villages in DrekiKir objecting strenuously to the issuance of the SABL.

40 Yet with the objections, I think if we go by the dates, the certificate was issued on 12 April, I believe, if my dates are correct. In any event, Commissioner, there is an inconsistency with the dates and the fact that this was an objection made to the issuing of the SABL to this particular grantee and whether or not it was taken into consideration adequately by the department in determining

whether this SABL be granted to this particular grantee is something that we need to look at more closely is my submission at this time.

I think turning now to the Department of Agriculture and Livestock documentation, as I have indicated earlier with many other files and has been indicated throughout presentations and opening submissions is that it has been quite insufficient the documents that have been provided by the Department of Agriculture and Livestock.

- 10 On file were only several documents; two documents – three documents; firstly, was a signed certificate of compliance and that was dated 3 September 2009; secondly, was a copy of a meeting or, rather, a public hearing meeting held on 30 October 2009 at the Drekikir station and that included the DAL, Department of Agriculture and Livestock team as well as some other 25 people who spoke. Many of these public hearing minutes, unfortunately, do not give an account on how many people are in attendance at this meeting; it is unfortunate. They only give an account of who spoke and how many people actually spoke rather than who or how many have attended this meeting. So from the minutes, about 25 people spoke.

20

[4.27 pm] Further, the third letter that was within the Department of Agriculture and Livestock file was in fact the letter from the PNG Forestry Authority which was dated 8 February of last year and is sent to the Chairman of SPZ Enterprises (PNG) Limited, one Mr Steven Mera, and he asks that a certificate of compliance - that Form 35 certificate of compliance be provided under cover of letter, I think, under cover of letter from the Department of Agriculture and Livestock and that will need to be explained, I believe, by the Department of Agriculture and Livestock why a Form 235 went directly from the developer to the Forestry Authority and why then---

30

COMMISSIONER MIROU: Not through the department?

MS PEIPUL: Say it again?

COMMISSIONER MIROU: Not through the department?

MS PEIPUL: Not through the department because the response from the PNG Forest Authority is, you cannot give us directly; you need to have the Department of Agriculture and Livestock with a cover letter, send it to us making that formal; making it formal. So that needs to be explained, obviously. So that is the Department of Agriculture and Livestock documents which are only three documents that have been produced.

40

In terms of the Department of Environment and Conservation file that has been produced, it was interestingly quite a fast procedure and very interesting and of note of the fact that all of the documents were actually lodged before the granting of the SABL title proper on 19 April.

10 We are speaking of the initial step which is the developer to issue the Notice of Preparatory Work that was lodged on 9 September 2009. The Environmental Inception Report was lodged on 23 March 2010. The Environment Impact Statement was lodged on 27 July 2010, and then the Environmental Council  
10 deliberations and recommendations for approval in principal by the minister was done on 25 February 2011 and I remind the Commissioner that the SABL was granted on 19 April 2011. So all of the permitting processes went through before the actual title – SABL title was granted on the land that they were seeking the Environmental Permit for essentially.

20 But Environmental Permits were issued after the granting of the SABL title which was on 29 April 2011, and that is a standard permit for water usage and waste discharge. So that is obviously something that needs to be queried with the Department of Environment and Conservation. At what point in their  
20 assessments did they not see that there had been no SABL granted to the landowner company? I mean, although the – it could be in SPZ Enterprises that applied for the Environmental Permits, they need to be satisfied that there was actually a SABL granted over the land that the Environment---

COMMISSIONER MIROU: Yes, and also, the process itself has specific time limits placed on them.

MS PEIPUL: Yes.

30 COMMISSIONER MIROU: For it to be processed.

MS PEIPUL: Exactly, and this obviously appears to have been sped up to a certain extent, I think, the processes within this.

COMMISSIONER MIROU: And done before the granting of the SABL list to the developer.

40 MS PEIPUL: Yes, it was. So that obviously, someone will need to be called from the Department of Environment and Conservation to explain this very large issue.

Turning then to the PNG Forest Authority files as I have noted in the submission, none have been produced thus far. It could be that obviously we

have been made to trust to think that but at the moment we have not received any files because no forest authority has been granted over the particular SABL.

[4.31 p.m.] However, as noted it would be interesting or - of note to the Commission rather to have any ongoing correspondence relating to SABLs that are under process of applying for an FCA, forest clearance authority with that respect.

Turning to the persons of interest, there are several pages of it so I will try and speed a bit faster through them. Firstly, we look to Wesley Tiama, who is a Ward 12 member and I refer to him as being the gentleman who sends a letter of objection to the Department of Lands and Physical Planning to the granting of SABL to Nungawa Rain Forest Management. So in fact he has formally submitted his submission to the Commission of Inquiry and that was received on 23 August 2011 and it was under cover of a statutory declaration. He also signed off by himself representing particular named villages –which are: Hambuken, Gumanjuwi, Holambor and Akamau villages of Ambunti LLG. He lists reasons why he was making the submissions and what he stated in the submission was:

- (i) There was no proper landowner consultation and consent regarding survey plans and Land Investigation Reports;
- (ii) That landowners that signed on the Land Investigation Report were not representatives of their communities;
- (iii) That he had actually raised an objection at a public hearing on 30 October 2009 and he puts down in writing but he had been ignored;
- (iv) He has made claims of undue influence from sitting members of Parliament and the Departmental Secretary;
- (v) He has also referred to encroachment issues and that is specifically with the land earmarked for the Bassei Oil Palm Project which I have referred to earlier in the submission and that in the survey plans encroachment is apparent and he has actually, in his submission detailed that encroachment issue.

There is also another letter attached from another Ward Councillor from a Mowi village. His name is Simon Pilak and he also objects to the logging company as he quotes as is being.

They do state that they have interests in that Bassei Oil Palm Development Project and the developer company Bassei Oil Palm Investment Limited. There are approximately 280 persons' signatures that are I am going to attach to that letter. So that was one particular person of interest who made that submission.

10 Bassei Oil Palm Investment Limited itself has also made a submission under cover of a statutory declaration provided to the Commission on 24 August 2011 and that is from the Chairman and CEO of the Company, Bassei Oil Palm Investment Limited, Mr Roy Kenba Balagawi and also by a Brian Casley Tapy who is a Corporate Marketing Manager of the same company.

[4.34 pm] So they recount the issues that they have with the respective granting of the SABL to Nungawa Rainforest Management Alliance and I will just briefly go through these particular points that they raise which is that:

- 20 (i) The FMA entered into with the traditional landowners was still current at the time of the granting of the SABL and hence it was illegal and there was no valid agreement to deal otherwise from the landowners.
- (ii) That there was a hijacking of development in that area at the national level via a NEC Policy Submission for a project known as Nungawa Bongos Integrated Large Scale Agriculture Project dated 10 November 2008.
- (iii) That the Bassei Oil Palm Development Project proposal document was plagiarised.
- 30 (iv) We also note that there are para-National Court proceedings underway with respect to the Bassei Oil Palm Development which is OS258 of 2010 and that is between company Bassei Oil Palm Investment Limited, the Chairman himself Roy Kenba Balagawi and against several named people including Mr Hon Tony Aimo, Member of Parliament and five others and including, what he terms as a "ghost" developer, SPZ Enterprises Ltd. Then obviously we need to check the status of that particular company.

(v) Another contention of the Chairman of that company is Bassei Oil Palm Investments Ltd is the preferred developer as opposed to SPZ Enterprise (PNG) Ltd.

10 (vi) Another is a petition that they sent dated April 2011 of this year and that was also submitted to the Commission on 22 September. The petition is regarding the involvement of national politicians and their interference within their particular project, Bassei Oil Palm Project. The attached copies of National Court proceedings I referred to which is OS258 of 2010 which was commenced on 27 May 2010 between the parties that I have named previously. So those documents have been provided to the Commission.

20 As I have detailed earlier, I have recommended in the previous submissions that Simon Malu be called to the Commission to give an explanation on the encroachment issues and the ongoing conflicts which is evidenced from this submission and how the Department of Lands and Physical Planning are dealing with that particular issue because it is apparent, they have not been dealing with it very well and that needs to be asked of Mr Malu I would submit.

[4.37p.m] The next person of interest is Wamagian Development Corporation Ltd; about three more persons of interest on the list Commissioner.

30 Wamagian Development Corporation Limited in a letter of submission received by the Commissioner on 25 August 2011, it was signed by one Moses Joshua, the Secretary of the Wamagian Development Corporation and that is a proposed landowner company and it was sworn before a Commissioner of Oaths. Essentially, what he sets out are a lack of widespread majority landowner consents to this particular Nungawa Bongos Integrated Large Scale Agriculture Project.

So once again this is another submission saying that there is a lack of landowner consent. He is also stating that there is a confusion between the stakeholders as to those many projects that I have referred and he notes them here being;

- (i) The terminated Nungawa/Bongos Forestry Management Authority, that is the FMA.

- (ii) Nungawa/Bongos Integrated Large Scale Agriculture Project which is the project underway within this particular portion.
- (iii) Nungawa/Sengo project, and that was under Mapsera Development Corporation which is my previous submission, Commissioner.
- (iv) Bassei Oil Palm Investment Limited which is what I have just referred to as well;
- (v) There is the company, the landowner company here, Nungawa Rainforest Management Alliance Limited; and
- (vi) There are some other named companies, Nuwedu Investment Limited and Wamagian – well not his company, it is a different company – Wamagian Investment Limited; both proposed landowner companies.

So there is a lot of confusion Commissioner. He also states that Nungawa/Sengo Agro-forestry SABL has been issued to Mapsera Development Corporation and that it also be investigated as both Bongos and it criss-crossed the electorates for Wosera-Gawi and Ambunti-Drekikir. So that is that issue obviously of encroachment and criss-crossing and so forth.

That he also asks that the Department of Lands and Physical Planning be investigated as to why the letter dated 5 April 2011, that detailed landowner objections are not properly considered. So once again it is that letter of 5 April, objection letter being referred to in this Moses Joshua's submission, yet another person of interest.

Moving on to another person of interest who is signed off on a sworn affidavit dated 29 August 2011 is one Don Bakat of Ditu Limited. He states in broad terms, and I quote from his affidavit which is quite a lengthy affidavit particular issues that he has raised being that the current developer was illegally harvesting high value kwila logs and with an unwillingness to undertake agriculture development and he at that time had been a consultant with this particular company which I believe was SPZ Enterprises (PNG) Limited and that he resigned as a result of that.

He refers again to fragmentation of projects which is that the cancellation of a 1996 Forest Management Authority, the large area of land which is now consisting of the five related projects which has been mentioned which is Nungawa Bongos, Nungawa Sengo, Bassei Oil Palm, and the Nuku Portion 26C

and 59C which are the other two projects. And there are issues obviously with encroachment and landowner consent and disputes in that regard.

[4.40 pm] He also mentions in his submission the breakup of projects being highly politicized and he refers to the politics involved in this particular projects. I briefly mention the OS258 of 2010 submission and I believe he refers to them as – no, I never – let me rephrase that, I just say that there are other allegations that Mr Bakat actually makes within his affidavit and I would not want to repeat them as to being sub judice as I believe the issues are contained within OS258 of 2010 so I am not going to repeat them at this time. He just continues just to set out in his affidavit and particularly requirements, legal requirements under Forestry Act and FCA approvals and so forth and that obviously the Commission need to be mindful of. I think he ends his submission by saying that the Nungawa Rainforest Management Alliance Limited is not a genuine landowner company. Primarily due to the lack of incorporate land group chairman being involved within the makeup of the - I believe the directorship or the shareholding of the company. As was noted there is one particular entity that is the shareholder which we are unable to determine is the nature of which it is – if I can repeat the entity again. Wawaka Agro Commodity Development Corporative, the sole shareholder of the Nungawa Rainforest Alliance Management. So that obviously as I said, we need to look into further that the company and its nature.

Turning to the actual landowners company as well, the Umbrella Landowner Company that is a whole of this SABL. The Nungawa Rainforest Management Alliance Limited today, they did give some submissions, some lengthy documentation was given on 26 September to the Commission and essentially what they stated and they provided the documentation to support their position which is that the SABL has effectively mobilized customary land through the title acquired by this, which they state is the Umbrella Landowner Company, Nungawa Rainforest Management Alliance Limited. In fact the NEC recognizes - just make recognition of the Bassei project. But that is an integral part of the Nungawa Bongo Integrated Large Scale Agriculture Project.

[4.40 pm] There is also mention of the 1996 Forestry Management Authority but that it did not adequately cater for the development needs of the majority of people and essentially that led to its – some cancellation.

That through landowner consultation and compliance with agriculture certification, that environmental permits application processes have been completed and permits issued, the prerequisites for Forest Clearance Authority have been completed and that is what they have submitted.

However, they do state that the agriculture aspects of it can progress on savannah or grasslands. So essentially we are saying there is no need for the Forest Clearance Authority at this stage because agriculture can progress on clear land as it is.

10 That the umbrella landowner company has shown its commitment - that should actually read – probably – “the developer has shown its commitment being SPZ Enterprises (PNG) its commitment by advancing K1 million as seed capital to the company.”

And this is of interest here. That an inaugural Board of Directors meeting was held on 13 August 2011 wherein nine directors were endorsed, seven Board of Trustee members and other agendas for approval were also dealt with. A reminder that this particular company, Nungawa was incorporated on 8 October 2010 and had been holding itself out as representing landowner interest up to this point. They are now informing us in their submission that the inaugural board of directors meeting was held on 13 August 2011. So one must ask the  
20 question, is this a genuine umbrella landowner company if there has been no Board resolutions or meetings in order to determine very important issues with regards to the granting of this SABL to that particular company.

So in moving on, I think in concluding this particular submission, the issues that we must be deal with is looking at obviously the landowner consent issue. It is very clear from all these persons of interest submissions that there are major issues with landowner consent and encroachment issues and varying different SABLs and projects within SABLs that are encroaching on each other and that needs to be looked at carefully especially with regards to Department of Lands and Physical Planning with respect to granting on this particular SABL.

30 As I mentioned in the next issue, the process of granting, because of the differences in the dates and signatories and that needs to be clarified and obviously we will want to call someone from the DLPP to explain. The DEC process of permit granting –I mean, the question of how can permits be processed when actual SABL grant has not been made when the majority of the permitting process has been – is undertaken by the Department. So that

question must be asked of the appropriate Department of Environment and Conservation people.

[4.46 pm] So my list and my suggestions for persons to be summoned would be:

- Lazarus Malesa, regarding his assessment of the compliance SABL registration.
- Peter Yapog and he is the Provincial Land division, the gentleman that compiled the Land Investigation Report. He would need to be called to explain the dates and signatures and so forth in line of the investigation reports.
- 10 • Francis Daink of Department of Agriculture and Livestock to explain the process in which they provided the agriculture approvals.
- Bassie, Oil Palm Development Chairman, I think to just explain the issues of encroachment and ongoing divisions between himself and that particular project and this particular Nungawa Rainforest Management led Project. We want to call the Directors of Nungawa Rainforest Management Alliance because they would need to explain the shareholding structure and the genuine nature of whether this is an umbrella landowner company, that would need to be explained.
- 20 • We want Wesley Tiama because of his ongoing interest in – as a concerned landowner and the consent issues with regard to him and the people he represents and we would like to determine, as I have said, doing IPA searches determine who the directors and the shareholders are and SPZ Enterprises (PNG) and summons them to explain on their own involvement in this particular SABL and the project within SABL.

So that concludes my opening statement for the Nungawa Rainforest Management Alliance Limited matter and if there are no questions, I would ask if it be adjourned generally?

30 COMMISSIONER MIROU: Thank you Ms Peipul. Thank you for your presentation. It does cover a lot of issues that we are aware of but the Commission will be guided by the Terms of Reference in terms of what we need to do now in our inquiries as we – and this matter, Nungawa Rainforest Management Alliance Limited as you have asked for it to be adjourned will be granted. This matter will be adjourned to a time and a date to be fixed for hearing proper at Wewak, East Sepik Province. That time and date will be

made known to the public in the Post Courier and National and other newspaper. That will be in the near future. I thank you for your presentation this afternoon and for the efforts that you have put in the preparation of this presentation. Thank you Counsel. Mr Tusais. Is there any other matters to mention this afternoon?

MR TUSAIS: No, Commissioner. That is the end of today's list.

10 COMMISSIONER MIROU: Okay, I thank you Counsel for the matters that you have presented this afternoon and we will have this hearing adjourned to 9.30 tomorrow morning. Adjourn.

**AT 4.50 P.M. THE COMMISSION OF INQUIRY INTO SABL WAS  
ADJOURNED TO FRIDAY 6 OCTOBER 2011 AT 9.30 A.M.**