

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL  
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## COMMISSION OF INQUIRY INTO SABL

MR JOHN NUMAPO

CHIEF COMMISSIONER &  
CHAIRMAN

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TOP FLOOR, MURUK HAUS, WAIGANI, MONDAY 3 OCTOBER 2011 AT  
2.06 P.M.  
(Continued from Friday 30 September 2011)

THE CHAIRMAN: Yes, Counsel?

MR KETAN: Chief Commissioner, this afternoon we only have one matter, and that is the matter of Wammy Limited. It is Commission of Inquiry file number 68. In this matter we note that there are, just for the record, Counsel representing interested parties appearing, there are two lawyers, Messrs Roger Otto and Mr Ipapi.

THE CHAIRMAN: Yes, we have got to do the same thing Counsel with what we have done previously last week with regard to Counsel representation and  
10 that is that we will recognise their presence in the Inquiry room and they are free to submit any documentation they want to. But as to their address to the Inquiry, will have to be reserved until we commence with the substantive proceedings. So I think that is the same position we will be taking for this afternoon as well.

MR KETAN: Yes.

THE CHAIRMAN: And the Counsel can be advised of the appropriate date when a date is set for the actual submitted hearing of the matter. For this afternoon, it is really for the opening statement to be presented to the Inquiry.

MR KETAN: Yes. Very well, this matter was adjourned to this afternoon from  
20 last Friday to enable us time to peruse a late statement from a Nakap Agro-Forestry Department Limited. This entity is ownership and directorship composition is yet to be ascertained in the time available with the weekend we have not been able to ascertain that but we will do that during the course of the Inquiry.

This is a 99 year SABL over Portion 27C, Milinch Maimai, Fourmil Aitape in the West Sepik Province covering an area of 105,200 hectares of land. It is delineated on a Class 4 Survey Plan bearing catalogue No 2/159. It was a direct grant to Wammy Limited under the hand of the then Secretary for Lands and Physical Planing in his capacity as a ministerial delegate. The SABL was  
30 granted on 8 October 2010 and gazetted on 15 October 2010 in National Gazette No G243 of 2010.

The grant of the SABL followed the lease – lease back agreement between the State and the customary landowners executed on 9 October 2010. There were

43 ILGs representing the landowners which were all listed for the purposes of the area and customary ownership covered by this SABL and for purpose of giving consent.

2.10p.m.] Thirty-five ILG executives which were nominated representatives of the landowners signed giving their approval for the lease-lease back agreement and for the land to be leased to the State. There appears to be issues with the landowner consent generally and is elaborated in the subsequent discussions in this address, particularly in paragraph 13 of this opening statement. A land investigation report or LIR containing the land investigation report itself, the certificate of alienability, a certificate in relation to boundaries and agency agreement are on file – copies of those documents are on file; on the file that was produced by the Department of Lands and Physical Planning.

On the SABL holder or grantee - Wammy Limited was incorporated on 7 April 2010. Its shareholders are Robert Aiwar, A-iw-a-r, John Melo, Peter Tai, and Jonnah Yamaijo, spelt Y-a-m-a-i-j-o, who hold equal shares. These shareholders are also directors of that company, Wammy Limited, along with 18 other persons and they are all Papua New Guineans. We need to mention in passing that there is a Peter Tai – same name of Bewani, who is a shareholder and Director in Ainbai-Elis Development Corporation Limited – a company vying for development rights in the Ainbai Elis Integrated Rural Development Project, which is located over the SABL on Portion 40C. This SABL 40C is the other matter that has been mentioned already. Mr Peter Tai of this SABL, granted to Wammy Limited is from Mantobai village in the Telefomin District. The similarities need to be checked out to make sure that they are not the one and the same person and two different persons or that to confirm that they are the one and the same person and thereby ascertain some connection with this particular SABL and the SABL over Portion 40C in our further inquiries.

The Commission of Inquiry has received from the Department of Lands and Physical Planning, PNG Forest Authority, Department of Environment and Conservation and Department of Agriculture and Livestock plus the Investment Promotion Authority, relevant documents and files on this particular SABL.

In relation to the project agreement and Department of Agriculture and Livestock, Department Environment and Conservation approvals and FCA, Forest Clearance Authority from PNGFA or PNG Forest Authority.

2.15 pm] The next paragraph, paragraph 7 deals with that and the following paragraphs as well. Global Elite Limited is the SABL holder's preferred development partner, that is, Wammy Limited's preferred development partner that has entered into a Project Development Agreement with Global Elite Limited. The agreement is for logging, log marketing, road construction and commercial agriculture.

The Department of Environment and Conservation process has been completed. Evidence from the department – that particular department indicates this developer has gone through the process to secure ministerial approval in principle which was granted by the recently de-commissioned Minister for the Ministry of Environment and Conservation, Honourable Benny Allan, on 20 July 2011.

An agriculture land lease use plan has been made available to the Commission – this is this Commission of Inquiry – it constitutes a project proposal as well as time bound development schedules in the Agriculture Development Plan for purposes of monitoring and oversight in relation to the agriculture component of the project. Therefore, it seems that the Department of Agriculture and Livestock has approved the project.

There is no evidence from the PNGFA as to whether it has issued a FCA for this project. It is also not known whether a FCA has been applied for, but this will be further investigated.

The developer Global Allied Limited was incorporated on 2 March 2010. Its shareholding and directorship and other information are not available to us at this stage. A full historical extract from IPA is needed to ascertain further information about this nominated developer and further actual search of the IPA file will be made, some of which has been requested but the IPA is slow in producing it. Therefore, information on the ownership and directorship of the company is not available at the moment but will be obtained and made available for purposes of further inquiry and final reporting.

Global Allied Limited has a sublease of the SABL. It was entered and registered on 29 October 2010. The appended sublease agreement was approved for purposes of section 128 and 129 of the Land Act by the then Secretary for Lands, Mr Pepi Kimas, who again signed off as a minister's delegate. Global Allied Limited has a 60 year sublease on the SABL commencing on 28 October 2010.

The legality or otherwise of this sublease, and in particular, subleases generally of SABLs is something that will be investigated and reported on during the course of the Inquiry.

Submissions and evidence from persons of interest, in relation to that, a submission of sorts was presented by Nakap Agro-Forestry Development alleging irregularity in the land investigation process generally and landowner consultation and public hearings.

[2.20 pm] It is alleged that landowner consent generated for different purposes, such as Forest Management Authority, FMA users, and for incorporation of Naka Agro-Forest Development Limited were used without the consent of those who were  
10 alleged or purportedly gave consent. There are allegations in relation to the form and substance of the Environment Impact Assessment Report and Development Plan, including the propriety of the preparation process for these documents. There appears to be further allegations against soil suitability for the agriculture component of the project. All of these issues will need to be checked and verified.

The representation from Nakap Agro-Forest Development Limited appears to be in support of a position that it represents the genuine interest of the landowners and not Wammy Limited. Nakap Agro-Forest Development  
20 Limited appears to be vying to be the landowner company in place of Wammy Limited. Therefore, it is noted that its allegations presented to the Commission of Inquiry are contextual. Again, as in relation to the allegations that it makes against the SABL holder and the granting process, all of these will need to be further investigated and verified.

THE CHAIRMAN: Yes, Counsel, can I? Nakap Agro-Forest Development Limited, are they one of the SABLs?

MR KETAN: No, they seem to be an opposing group who have submitted –  
30 lodged a submission making these allegations that we have referred to. They are not currently the SABL holder. The SABL holder is Wammy Limited, and their development partner or preferred developer is Global Elite Limited.

THE CHAIRMAN: Alright, thanks.

MR KETAN: These allegations made by Nakap Agro-Forest Development Limited and the contentions that it makes in support of itself as being the true landowner representative will all need to be investigated and verified preferably on site during the circuits by evidence and witnesses. All preliminary findings  
40 will need to be confirmed, cross-checked or amplified after site visits and further inquiries.

The Commissioner of Inquiry will travel to Vanimo in the West Sepik preferably next month – or rather this month – later this month and it will hear and obtain evidence from the following persons in the course of further investigations and inquiry:

1. The Provincial Administrator of West Sepik Province;
2. The Provincial Forest Management Committee members;
3. Representatives of the Global Elite Limited, the developer or development partner;
- 10 4. Persons of interest within Global Elite Limited;
5. Provincial Lands Officer;
6. Representatives of Nakap Agro-Forest Development Limited;
7. Representatives of Wammy Limited; and
8. Provincial Forestry Officer.

On location the Commission of Inquiry will confirm the veracity and accuracy of evidence generated or originated from the site and cross-check evidence originated elsewhere that needs to be cross-referenced with people or sources on site and amplify its contextual and conceptual appreciation of the evidence and preliminary findings.

That is the opening statement that we make on this particular SABL, and we ask that this matter be adjourned generally until it is reconvened for hearing on site at Vanimo.

THE CHAIRMAN: Okay, thanks, Counsel. I think there are one or two important information that you need to also make available when you commence our hearing in Vanimo and that is information from IPA to verify the shareholders and directors of the Global Elite Limited because you will be calling them according to your list of people that you will be calling to give evidence.

[2.27 pm] You also have got representatives of the Global Elite Limited including the list. So it is important that you get the information from the IPA and establish who the directors are and the shareholders are of that particular company. Also, we need to ascertain the composition of this Nakap Agro-Forestry Development Limited and what their interests are and how they are connected to this Wammy Limited. So all those information needs to be properly verified and obtained from IPA before we proceed with the substantive hearing or inquiry into this matter. So we will have this matter adjourned generally until a date that is yet to be set for the substantive hearing in Vanimo. Hopefully, some of the information that has not been produced you will from now and then have the

time to obtain additional information to complete the file. You have got any other matters for this afternoon?

MR KETAN: No, Chief Commissioner. This is the only matter and perhaps if the hearing can be adjourned to tomorrow morning at 9.30?

THE CHAIRMAN: All right, we will adjourn to tomorrow morning at 9.30.

10 **AT 2.27 PM, THE COMMISSION OF INQUIRY INTO SABL WAS  
ADJOURNED UNTIL TUESDAY, 4 OCTOBER 2011 AT 9.30 AM**