

TRANSCRIPT OF PROCEEDINGS

Commission of Inquiry into SABL
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COMMISSION OF INQUIRY INTO SABL

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COMMISSIONER

MR ALOIS JEREWAI

COMMISSIONER

MR NICHOLAS MIROU

COMMISSIONER

TOP FLOOR, GOVERNMENT PRINTING OFFICE, WAIGANI, MONDAY 8 AUGUST AT
2.04 P.M.

(Continued from Thursday 28 July 2011)

THE CHAIRMAN: My fellow Commissioners, senior Council Assisting, technical advisers and the Secretary for the Commission and I also acknowledge the presence of some of our members of the public at the back, we welcome you to this Commission of Inquiry. In the preliminary heard on Thursday 28 July 2011, the Commissioners gave certain specific directions to the senior Counsel Assisting and the technical advisors to collect and collate some primary information and documentation from the relevant government agencies which will form the basis upon which the Commission will determine the course of the substantive hearing. The primary information obtained might become evidence in due course for the purpose of this Inquiry.

It was further directed that letters be sent to the relevant Government agencies, such as the Department of Lands and Physical Planning, Investment Promotion Authority to obtain all these information, particularly relating to the 74 SABLs which was attached to the TORs for this Commission of Inquiry. Counsel Assisting, Mr Tusais, would you like to confirm that, that has been the directions issued by the Commission in the last sitting?

MR PAUL TUSAIS: Commissioners, yes, those were the directions, if I recollect.

THE CHAIRMAN: Thank you Mr Tusais. I am advised that the Technical Advisors have been given specific tasks of arranging meetings with the relevant agencies concerned to work out the protocols on how the files and records can be accessed for purposes of collecting and collating the information. I note that the Department of Lands and Physical Planning has indicated its support and cooperation towards the Commission of Inquiry and it has shown this by attending a meeting with the COI team or the Inquiry team last week following our request to meet with them. The Acting Secretary for Lands, Mr Rommily Kilapat, has also written to the Commission indicating his support and full cooperation.

I wish to, therefore, place on record the Commission's appreciation of their support and cooperation.

I understand also, that the Investment Promotion Authority has also indicated its willingness to cooperate and support the Commission of Inquiry. I must also thank the Investment and Promotion Authority for that.

I now call upon senior Counsel Assisting, Mr Tusais to report on the progress of how the primary task undertaken so far as it relates to ascertaining the existence of the 72 or 74 SABLs and their titleholders and ascertaining the nature of the titleholders in case of corporation or incorporated land groups. Those were the instructions they were issued in the last sitting and I understand that the Technical Advisors and others who have been involved in collecting and collating the information, at this stage I wish to say that you do not have to produce to us the details but just give us a progress report on where you are and where things are at the moment up until today.

MR PAUL TUSAIS: Thank you Commissioners. Firstly, for the record, I stand in for Counsel Assisting. I understand that Counsel Assisting will be present later on during the week. But, yes, Chairman, as you have stated in its first sitting on 28 July, certain directives were given to myself and the Technical Team to report back on progress and provide a collection of all legislation and court cases relevant to the subject with which this Commission of Inquiry has been tasked. I think that is the first thing I will do before proceeding any further. There are three arch-lever files handed over to the Associate, which will be made available to you so if the Associate could hand those up. They contain relevant legislation and case precedence relevant to the subject.

Commissioners, firstly, if I may report on the response from the public so far. A number of concerned persons have either turned up physically in the office or communicated with the Commission through the phone and through other means. The Commission will note that these persons with interest in the Inquiry come from both ends of the spectrum in this Inquiry. That is to say those people who supported the various SABLs and claimed that they were properly registered and incorporated et cetera, and others who comprise of customary landowners who have expressed their objections or reservations about the process by which this SABLs have been obtained.

[2.09 pm] Commissioners, interestingly, we also have one in the middle, one incorporated land group has written to the Lands Minister, Mr Dekena, I think he is still the minister, seeking to have their SABL, which was granted, cancelled. The reasons for that request, I suppose, would be made clear in the course of this Inquiry.

In keeping with the directives or in compliance with the directives issued, the team has made various inquiries and efforts to gather information, which is the first process before formal hearings are heard.

I start off with the Government Printing Office. All gazettal notices, except for four, in relation to each and every SABL found on the list has been collected from the Government Printers Office. There are about four, which appeared to have been either missing or incomplete in certain details, and that they will be followed through and ascertained before the end of today.

As for the IPA, the team has also conducted searches for titles or particulars of title holders in relation to the 72 SABLs listed. Commissioners will note that for some of the SABLs issued, they are one and the same company appearing more than once. However, of the 72 SABLs listed, about 69 titles have been perused and the team is working on ascertaining the details of those titles.

The Department of Lands and Physical Planning, Chief Commissioner, you have basically said for the record what has transpired, Chief Commissioner, you are correct in saying that the acting Secretary was very receptive and proved to be quite – as we speak, we have been making arrangements to have certain photocopier up and stationery moved to the Lands Office and files to be copied at the premises of the Lands Department, taking into account the sensitive nature of the files involved and the risks in moving them all over the place.

Commissioners, in regards to the PNG Forest Authority, a team from the Commission attended a meeting with the Managing Director, Mr Kanawi Pouru, and our selected senior managers last week. Again, the Managing Director was positive and expressed his willingness to cooperate and said, in fact, that he had already assembled a team to assist the Commission. Just a summary of what happened there. Mr Pouru and his team immediately told us that out of the 72 SABLs listed, PNGFA, sorry, about 10 or 12 on the list were pointed out as having FCAs or Forest Clearance Authorities granted. A lot of others are still in the pipeline as he expressed awaiting FCAs to be granted. Of note, the Managing Director said that there were other areas where Forest Clearance Authorities had been granted but those matters were not on the list that we provided. So we will obtain a copy of that list soon.

Commissioners, as far as the Department of Environment and Conservation, as well as the Department of Agriculture and Livestock are concerned, we are in the process of making contact with the two Departments. We had difficulty with the Department of Environment and Conservation.

[2.14 pm] But I do not have anything to report back in regards to those two Departments. That is my update on what has transpired so far.

THE CHAIRMAN: Thank you, Mr Tusais. The latest development regarding the Department of Environment and Conservation, I have signed a letter this morning and I understand that it will be delivered to the Department. It will be a similar standard letter where we are requesting support and cooperation from Government agencies and departments that are responsible or had a role in the SABL. So we are hoping that we will get some response, hopefully, from them before the end of the week. So that is the Department of Environment and Conservation.

I am not too sure what is the status it is with the Department of Agriculture and, maybe, one of you can advise later on as to what it is.

Going on to something that is slightly differently is that, there has been a number of correspondence and letters that have been received by the Commission, and these are from parties, or people or individuals who have written to us wanting us – wanting that they be involved in this Inquiry. We did a due diligence check with the – sending it to the 72 SABLs that had been attached to the Terms of Reference and, unfortunately, we realized that some of them are not listed in the 72 or 74 SABLs. Therefore, there is a need for us to set up or establish some protocols as to how we attend to those new requests, if you will, that are not part of the original 72 SABLs that have been referred to the Commission by the Government. That is something that we need to sort out and we will be requiring your advice on that as to how we will move forward in that. Some of those are genuine. It is about protection of the bio-diversity and all these. So as to how we will address that, I guess that is something that we can discuss at some stage.

It is a public Inquiry and the last thing that I think we want to do is to be able to exclude people who might have a genuine concern - a genuine claim on things. So I just want to put this on record. Commissioners, do you have other things to say before I proceed to announcement?

COMMISSIONER JEREWAI: Yes, I think I will say something. It is good to note that, particularly, the relevant departments are cooperating. But, I would like

to caution that this Commission of Inquiry would not have otherwise been necessitated by the – but for the fact that there have been grievances relating to possible inappropriate management or conduct of these matters, such as - to such an extent that necessitated this Commission of Inquiry. So I want to caution that while they are cooperative, that you deal with them at arms' length, bearing in mind that somewhere within those State authorities, irregularities may have occurred. That is my only word of caution, Chief Commissioner.

THE CHAIRMAN: Thank you, Commissioner Jerewai. Finally, I think it is an admin matter. I wish to announce Commissioners and Senior Counsel and Technical Advisors and the Secretary to the Commission that Counsel Assisting, Mr Davis Steven has resigned due to his other work commitments. I received a copy of his resignation, dated 3 August 2011. We have a copy of it to me written to the Chief Secretary, to the Government advising of his resignation.

Prime Minister, Honourable Peter O'Neill, as of today, appointed Mr Simon Ketan to replace Mr Davis Steven as Counsel Assisting. The instrument of appointment has been signed today and Mr Ketan is expected to join the Commission of Inquiry team soon.

Upon taking up office, Mr Ketan will have to be properly briefed, obviously, to carry on from where Mr Steven left off. In that regard, we will be relying on yourself, MrTusais and your team to give Mr Ketan a full briefing before he takes up his role as Counsel Assisting.

[2.19 pm] We all know that the involvement of the Counsel Assisting is very important and the Commission of Inquiry is not complete without the presence of the Counsel Assisting. Mr Tusais, we appreciate your standing in for Mr Ketan. You did the same last week or few days ago for Mr Davis and hopefully this will be last thing and we will have the actual Counsel Assisting presenting himself for the Inquiry, for us to proceed because it has been about almost three and a half weeks now since the announcement by the Government and we have not actually commenced with any substantive hearing of any sorts so it is becoming a bit urgent.

I will suggest Commissioners, that we consider to have this matter further adjourned to another date and hopefully we can have Mr Ketan, and give sufficient time for Mr Ketan to be properly briefed before we commence. I would like to suggest that we adjourn to Wednesday of this week, which means MrTusais, you have got all of tomorrow to brief Mr Ketan and we will commence on - this Wednesday, which is 10 August at 1:30 pm. Prior to that, we would like to also

meet with you as to how we would commence on Wednesday. We would want to be able to get some advice as to how you think we should proceed on Wednesday.

Commissioners, any other things to add?

COMMISSIONER JEREWAI: No.

COMMISSIONER MIROU: No.

THE CHAIRMAN: So we will rise, we will adjourn until Wednesday 10 August, which is this Wednesday at 1:30 pm for us to reconvene.

**AT 2.22 P.M. THE COMMISSION OF INQUIRY ADJOURNED TO
WEDNESDAY 10 AUGUST AT 1.30 P.M.**