

FOREST CLEARING AUTHORITY CASE STUDY 1

TEN YEARS WITHOUT A CROP

THE WAMMY RURAL DEVELOPMENT PROJECT

ACT NOW!

JUBILEE AUSTRALIA RESEARCH CENTRE

ABOUT THIS REPORT

This is a publication of ACT NOW! and Jubilee Australia Research Centre.

Author: Fyfe Strachan

Editors and contributors: Eddie Tanago and Professor Kristian Lasslett

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Cover image: Satellite image showing the boundaries of the Wammy FCA and areas of forest

loss. Global forest change data: Hansen/UMD/Google/USGS/NASA;

Satellite image:

Copernicus Sentinel data, 2023.

ACT NOW!

ACT NOW! is a community advocacy organisation based in Papua New Guinea. Its vision is for a 'gutpela sindaun blong olgeta' (a just and equitable society) that embraces PNG's rich and diverse cultural and biological heritage and is based on the principles of sharing, communal land ownership and environmental stewardship.

Contact us

info@actnowpng.org

+675 7715 9197

Website: www.actnowpng.org

Follow us

Facebook: @ActNowPNG1

Twitter: @actnowpng

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Contact us □

info@jubileeaustralia.org

PO Box 20885 World Square NSW 2002

Website: www.jubileeaustralia.org

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TABLE OF ABBREVIATIONS

ABC	Australian Broadcasting Commission
DAL	Department of Agriculture and Livestock
DEC	Department of Environment and Conservation
DLPP	Department of Lands and Physical Planning
FCA	Forest Clearing Authority
FMA	Forest Management Agreement
ILG	Incorporated Land Group
LFA	Local Forest Area
LIP	Land Investigation Process
LIR	Land Investigation Report
LLG	Local Level Government
PNG	Papua New Guinea
PNGFA	Papua New Guinea Forest Authority
SABL	Special Agricultural and Business Lease
SGS	Societe Generale de Surveillance SA
TA	Timber Authority
TRP	Timber Rights Purchase
US	United States

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INTRODUCTION

The Sepik River snakes for more than 1,000 kilometres through rainforests and wetlands of staggering ecological and cultural diversity. The Upper Sepik River Basin is home to multiple endangered bird species, the greatest marsupial diversity on the planet, and 430,000 people who depend almost entirely on the rivers and forests for their livelihoods. The area's ecological and cultural value has been recognised with its placement on the tentative list for World Heritage status.¹

The banks of the Upper Sepik River also mark the southernmost boundary of a vast logging concession and purported agricultural project area – the Wammy Project.² Covering 105,200 hectares of mostly forested land in the West Sepik (Sandaun) Province of Papua New Guinea (PNG), a local company in league with Malaysian logging company Global Elite Limited (Global Elite) was granted an agricultural lease for a palm oil and rubber project in 2010. On the basis of this lease, Global Elite was granted a Forest Clearing Authority to clear-fell forests for agricultural planting. Ten years later, there is no palm oil and no rubber, but selective logging has removed over 400,000 cubic metres of round logs from the area, more than enough

to fill 6,000 shipping containers, netting Global Elite more than US\$31 million (u5 million kina) .3

This report looks in detail at the Wammy Project and how the laws intended to protect PNG's forests from unsustainable timber harvesting appear to have been subverted to facilitate large-scale logging. The report focuses on the documented evidence pointing to illegality in the project, in particular:

- The lack of landowner consent
- The failure to deliver a genuine agricultural project
- The use of the land to harvest high value timber rather than clear for agriculture, and
- Reported instances of violence against landowners.

The Wammy Project has been selected not because it is unusual, but because it highlights how Forest Clearing Authorities, a type of logging licence intended to facilitate land clearance for agriculture or other land use change, are being systematically abused to allow large-scale logging of huge tracts of forest; one of the various ways in which local communities' natural resources are being stolen across PNG.

This report was written by ACT NOW! and Jubilee Australia based on desk research conducted June – August 2023. The report draws its evidence from transcripts and a report of a PNG government-backed Commission of Inquiry, media reports, satellite data, log export monitoring reports and evidence collected by civil society organisations, in particular the information shared on open-source website pngiforests.org. ACT NOW! wrote to Global Elite Limited, Giant Kingdom Group, Wammy Limited, the PNG Forest Authority and the Department of Lands and Physical Planning between June and August 2023 with questions relating to the content of this report, but did not receive a response by the date of publication.

THE WAMMY PROJECT

The Wammy Project is an agricultural lease and logging concession covering an area of around 105,000 hectares in West Sepik (Sandaun) province, including the town of Edwaki and the Yellow River area.⁴

Figure 1: Location of the Wammy Project

Logging in the Wammy concession is being carried out under a Forest Clearing Authority licence held by Malaysian-owned company Global Elite Limited.

In October 2010, a PNG landowner group, Wammy Limited, obtained a Special Agricultural and Business Lease (SABL) for 99 years over an area of 105,200 hectares in West Sepik.⁵ This was one of only 16 SABLs granted with a land area over 100,000 hectares. Wammy Limited had been incorporated six months earlier.⁶

Before the SABL was granted, the entire area was under customary land ownership. The vast majority of PNG's total land area is under customary control, which is recognised and protected under PNG's Constitution. Customary land can only be leased by the Government under specific circumstances and with agreement of the landowners.⁷

The Wammy SABL was granted based on the signed consent of seven individuals, with three individuals from neighbouring villages attesting that there were no boundary disputes. The SABL did not reserve any traditional rights to the landowners over the entire 99-year lease period.⁸ Later reports strongly suggest that several landowner groups in the area did not consent to the granting of the SABL.⁹

Within a few days of the SABL being granted, Wammy Limited issued a 60-year sublease over the entire area to Malaysian-owned logging company Global Elite Limited. At the time the lease was granted, Global Elite had a permit to carry out forestry, construction and retail, but not agricultural activities in PNG.¹⁰ In 2011¹³, a government-appointed Commission of Inquiry reviewed the Wammy SABL as part of a broader investigation into misuses of the SABL regime (see Box 1). The Chief Commissioner's final report, issued in June 2013 (Numapo Report) recommended that the Wammy SABL be surrendered and renegotiated, pointing out lack of consent by key landowners and the government's failure to undertake several legally-required processes before granting the lease.¹¹ Despite this official recommendation, Global Elite was granted a Forest Clearing Authority in July 2013 (FCA 10-07), covering 105,000 hectares, almost the entire area covered by the SABL lease. It is unclear on what basis such a large area of land was included in the FCA, when the agriculture project that Global Elite had proposed only covered 40% of the land. Logs have been exported from the Wammy concession every year since 2015. Over that time, 414,762 cubic metres of logs have been exported.¹² The logs exported from Wammy have netted Global Elite more than US\$31 million (or 115 million kina).¹³ Logs exported include a range of high value tropical species, including kwila and taun.¹⁴ According to ABC Foreign Correspondent, logs from the area covered by the Wammy Project are sent to Elimoli (sometimes spelled Elamuli), a Global Elite-run logging port on the Sepik River. Logging appears to be currently occurring, with logs exported from the concession as recently as March 2023.¹⁵

Wammy FCA – Log Exports by Year

Figure 2: Log exports from Wammy FCA by year. Source: pngiforests.org

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FOREST CLEARING AUTHORITIES

Logging in PNG is governed by the Forestry Act 1991 and managed by

the PNG Forest Authority (PNGFA), which is responsible for granting logging licences under a range of different concession types.

There are three logging concession types defined in the Act:

- Forest Management Agreement (FMA): an agreement between customary landowners and the PNGFA for the sustainable management of large areas of forest and selective timber harvesting. Under the contract the PNGFA acquires the long-term rights to manage the forest. The PNGFA is then able to select a logging company to sustainably harvest timber and issue them with a timber permit.
- Forest Clearing Authority (FCA): in contrast to a Forest Management Agreement, an FCA is intended to facilitate large-scale conversion of forested land to agriculture or other land uses. The FCA is granted "for the purpose of clearance of natural forest on areas designated for agriculture or other land use development".
- Timber Authority (TA): this is used to authorise small-scale harvesting activities. This is defined as the cutting of less than 5,000 cubic metres of timber for domestic processing, the removal of up to 50 hectares of forest for agriculture or other land use change, the clearing of a roadline not exceeding 12.5km in length, or harvesting non-timber forest products or a timber plantation.

On top of this, over a million cubic metres of logs are still exported each year under the historical, pre-1991, licence types, the Timber Rights Purchase Agreement (TRP) and the Local Forest Area (LFA).¹⁶

PNG Log Exports 2023 by Licence Type (m3)

Figure 3: PNG log exports by licence type, 2022.
Source: pngiforests.org

FCAs were introduced into the Forestry Act in 2000,¹⁷ and were initially granted to holders of Special Agricultural and Business Leases, theoretically to allow land clearing for agriculture or other land use projects (see Box, below).

The requirements in the Forestry Act that need to be met before an FCA can be granted make it clear that considering the underlying agricultural (or other land use) project is an important component of the approval process. Before the National Forest Board (the body that oversees the PNGFA) can grant an FCA, it needs to consider a detailed development plan, implementation schedule for the agricultural (or other land use) project, a map showing any areas that are important for conservation or unsuitable for agricultural or other land use development and other information about the project.

The Board also needs to see evidence of landowner consent, in the form of a document that verifies the consent of each resource owning clan, via their Incorporated Land Group or agent. There also needs to be a government report showing that a public hearing was held about the project, close to the project site, and a signed agreement between the landowners and the developers.¹⁸

The Forestry Act also stipulates that any forest clearing operation should take place in four phases. Each phase is to be subdivided into blocks for clearing of a maximum of 500 hectares. Permission for logging under a second or any subsequent phase may only be granted where "all conditions relating to the development plan and implementation schedule have been satisfied". There is no mention of permission for selective logging under an FCA.

Rights under an FCA may be suspended "where the planned land use for which a forest clearance authority is granted is not progressing according to the development plan or implementation schedule" or any condition of the FCA is breached.

SPECIAL AGRICULTURAL AND BUSINESS LEASES

PNG's Special Agricultural and Business Lease (SABL) scheme was

designed to facilitate large-scale agricultural development on customary land. The scheme allowed customary landowners to lease their land to the State, who would then lease it back to a nominated person or group of their choosing. This, in theory, would give customary landowners a legal title they could use to enter into agricultural projects. In practice, more than two thirds of SABLs were subleased directly to private companies for 99 years leaving no residual rights for landowners.⁹ Companies were then able to obtain an FCA to clear forest land on the promise of planting palm oil or other crops.

Following widespread reports of abuses of the SABL scheme, in 2011, the Government of PNG appointed a Commission of Inquiry to investigate it. Two of the three Commissioners issued final reports in 2013, covering 42 SABLs (the third Commissioner never submitted a report). The Commissioners found that 38 of the 42 SABLs demonstrated a lack of landowner consent. They found numerous instances of landowner consent being fraudulently obtained through misrepresentation, and documented a system captured by logging companies, who paid for almost every stage of the process, resulting in leases with no genuine consent, incorrect land boundaries and benefit-sharing agreements that left landowners out in the cold.¹⁰

HOW THE WAMMY PROJECT MISUSED OR IGNORED PNG'S LEGAL FRAMEWORKS

There is well documented evidence that suggests that the Wammy Project, including the Wammy logging concession, was not established in accordance with the law. Specifically, available evidence suggests that many landowners – potentially the majority – did not consent to the project, the project was not a genuine agricultural project, and the forest in the project area has been subject to selective logging rather than the land conversion activities authorised under the FCA. In addition to this, news reports have detailed abuse of police powers linked to the project.

LACK OF LANDOWNER CONSENT

Agreement of customary landowners was an important prerequisite for the grant of an SABL under the Lands Act 1996, which requires a lease to be granted to the person or body "to whom the customary landowners have agreed that such a lease should be granted".²¹ It is also an important prerequisite for granting an FCA, which requires "a verification of ownership and

the consent of each resource owning clan agent (or incorporated Land Groups if they have been formed) within the project area", a report on a public hearing, and "an agreement or agreements between the landowners and the proposed development of the agriculture or other land use project."²²

The PNG Supreme Court has also articulated the requirement for project proponents to obtain landowners' "free and informed consent and approval and ultimately, their social license to operate."²³ The Court has made it clear that:

foreign investors or developers who wish to enter any land in PNG and more so customary land [must] enter into meaningful discussions and negotiations with them [customary landowners] and get their free and informed consent or approval before entering, occupying, and using their land.²⁴

Available information suggests the Wammy Project land lease and FCA were granted without the consent of a significant portion of customary landowners – if not the majority.

During the Commission of Inquiry hearings, a landowner representing an alternative group – Nakap Agro Forestry JV Development Limited – said that his people's land had been broken up and split across three concessions, including the Wammy concession, without their consent.²⁵ He stated that the landowner company, Wammy Limited, was formed by only five villages (out of 22) from the Western part of the Namea LLG in the Telefomin District. He asserted that the name "Wammy" is an acronym made up of the names of those five villages.²⁶

The representative of Nakap Agro Forestry argued that 355,900 hectares of land was under the customary ownership of landowners who were part of that group, but had instead been included in four SABLs without their consent – three in Sandaun Province and one in East Sepik Province.²⁷

At the Commission of Inquiry hearings, the Provincial Lands Officer also testified that about 6–12 Incorporated Land Groups (ILGs) "withheld their consent for Wammy Limited and Global Elite Limited to be the vehicles of development". As Commissioner Numapo noted, this

"confirms that there was conscious dissent and opposition during the Land Investigation

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process" and "what happened thereafter was not on the basis of popular landowner wish to lease their land". A representative of Wammy Limited, on the other hand, testified that he "thinks" there was informed consent from all landowners.²⁸

Other key steps in the SABL process essential to establishing landowner consent were missed. For example, only seven landowner representatives signed to attest to their participation in the boundary walk/inspection as well as to indicate their consent (as landowner agents) for a lease to be issued.

The Chief Commissioner concluded that "the Land Investigation Process (LIP) was not properly executed and the Land Investigation Report (LIR) was badly done. Even though some landowners appear to have been consulted and their signatures collected, the genuineness of the LIR is in doubt in the light of the allegations of fraud raised by the opposing group."²⁹ In particular, he found that the boundary walk did not happen and would not have been practical given the size of the land. Despite this, the Provincial Lands Officer and Provincial Lands Administrator both approved the LIR.

The Provincial Administrator also executed a crucial project document, a Certificate of Alienability, in circumstances in which it alienated the land without reserving any land use rights for customary landowners (for example, to continue to live on and use the land to grow food, hunt or engage in traditional practices). The Commissioner called this "a reckless failure", noting the large land area covered by the SABL and that most was not needed for agriculture.³⁰ He commented "The failure of the Provincial Administrator and the Lands Officers {sic} who advised him possibly borders on criminal negligence."³¹

On top of this, the Department of Agriculture and Livestock (DAL) approved the Wammy Integrated Agriculture Project four months before the public consultation hearing on the

project was held.³² The Commissioner commented that "DAL and DEC [Department of Environment and Conservation] approvals and permits appear to have been granted without any independent assessment on the impact of ongoing, visible substantial landowner disagreements and opposition to both Wammy Limited and Global Elite Limited."³³

Some landowners in the Wammy Project area continue to assert their lack of consent for the project. A 2023 investigation by ABC's Foreign Correspondent recorded a community meeting with customary landowners in the Yellow River area, which is covered by the Wammy concession. One man, describing himself as the chairman of a land group, stated that he never signed an agreement for the logging and that someone signed it on his behalf. Another community leader interviewed stated he also did not consent to the logging. Other landowners at the meeting spoke with anger and frustration about the logging project and the involvement of PNG police (see below). The program reported that some landowners have sought legal advice to regain their title over the land.³⁴

The Foreign Correspondent team also spoke to another landowner who said the company was seeking consent for logging "block by block": "the landowner signs the consent and they go into their block and cut the trees". That landowner confirmed that he had consented to the logging operation.³⁵ Even if Global Elite is seeking piecemeal consent from individual landowners living in the area of land proposed for logging, this falls short of the consent required for development under PNG's Constitution and the Forestry Act. In PNG, the majority of land is customarily owned and development requires the consent of the whole community.

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LACK OF AN AGRICULTURAL PROJECT

The SABL was granted to Wammy Limited on the basis of a proposal for an oil palm and rubber project to be carried out by Global Elite. The FCA that allows logging in the project area is also based on the need to clear land for the oil palm and rubber project.

At the time the SABL was granted Global Elite's company registration did not include any permission to carry out agricultural activities. When asked about this at the Commission of Inquiry hearing, Global Elite's representative claimed the company would secure certification to carry out agricultural activities once it had made enough money from logging to recoup its costs and fund the agricultural component. As the Chief Commissioner pointed out:

This indicates that the developer is not bringing into the country its own resources and capital to invest in the country and instead is trying to raise money in-country through logging activities before it ventures out into agriculture and other business activities. This is contrary to the National Government's policy on foreign investment to boost the local economy by bringing in foreign exchange.³⁶

The agricultural project that Global Elite proposed at the time of applying for the SABL also only covered 40% of the land covered by the lease.³⁷ It is unclear why the remaining 60% of the land was included in the SABL and ensuing FCA if it was never needed for agriculture.

The vast size of the Wammy logging concession, at 105,200 hectares, is also at odds with a proposal for a palm oil and rubber project. At the time the concession was granted, only around 130,000 hectares of land in the whole of PNG was planted with palm oil, with less than 20,000 hectares of land planted with rubber.³⁸

A 2014 analysis of multiple SABLs, based on a review of documents including the projects' Environmental Inception Reports and Environmental Impact Statements, assessed that the Wammy concession had insufficient suitable land to sustain an economically viable palm oil production project. The report estimated that a successful project would have required 5,000–10,000 hectares of usable land.³⁹

The Certificate of Alienability ... was executed without careful assessment and regard to the lack of popular support for the project and visible opposition to both Wammy Limited and Global Elite Limited as preferred entities. No traditional land use rights were noted or preserved. That is a reckless failure.

Excess rights, both for survival or pleasure should have been reserved for the customary landowners. The land mass is vast and not all of it is needed for the proposed Agro Forestry project.

CHIEF COMMISSIONER JOHN NUMAPO

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This assessment appears to be borne out by the project's failure to establish an agricultural project. Although the FCA has been in place for a decade, the recent ABC Foreign Correspondent report found there are no currently operating oil palm or rubber projects. In response, Global Elite claimed it has "begun all the processes" but "multiple nurseries" were burned down by landowners.^{4°}

The above factors strongly suggest that the true purpose of the Wammy project was logging, not agriculture. The SABL land area – which is largely forested – appears to be largely unsuitable for oil palm and covered thousands of hectares more land than was required under Global Elite's agricultural project proposal. Global Elite was then and remains primarily a logging company. All this suggests that the project did not meet the requirements of the Land Act or Forestry Act, as it was not a genuine agricultural project. Beyond this, it suggests that Global Elite acted in bad faith by securing permission from landowners and the government for a project it may not have ever intended to carry out.

Unique marsupials, such as tree kangaroos, exist across the rainforests of PNG, including in West Sepik province.
Photo: Shutterstock

SELECTIVE LOGGING RATHER THAN LAND CLEARING

As set out above, the Forestry Act requires that FCAs be granted for land clearing and that land should be cleared in 500 hectare block phases.

However, satellite analysis of the Wammy concession, commissioned by ACT NOW! and conducted in April 2023, shows that while selective logging has occurred over a wide area, only

240 hectares of forest has been cleared for possible agriculture planting (see images below).

Under the Forestry Act, there is no provision for selective logging to be done under an FCA. The Act provides the Forest Management Agreement as the only process to allow selective logging operations and ensure they are managed sustainably.⁴¹ The FCA process is explicitly intended to facilitate conversion of forest for agriculture or another land use.⁴²

Close up showing the 240 hectare area of land clearance within the Wammy FCA.

Global forest change data: Hansen/UMD/Google/USGS/NASA; Satellite image: Copernicus Sentinel data, 2023

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Satellite image showing the boundaries of the Wammy FCA and areas of forest loss.

Global forest change data: Hansen/UMD/Google/USGS/NASA; Satellite image: Copernicus Sentinel data 2023

UNDERLYING LAND LEASE IN QUESTION

The results of the Commission of Inquiry into SABLs and the government's subsequent pronouncements about the future of SABLs have created uncertainty about whether the

Wammy SABL is still current (and therefore whether there is a valid agreement with landowners that would allow Global Elite to operate on the land).

As noted above, in 2013 Chief Commissioner Numapo recommended that the Wammy SABL be surrendered and renegotiated. In June 2014, PNG's National Executive Council approved revoking all SABLs that had been recommended for revocation by the two Commission of Inquiry reports.⁴³ It is unclear whether this covered Wammy lease.

In July 2014, the Department of Lands and Physical Planning (DLPP) published a list of 29 SABLs in The National, directing the leaseholders to return the original copies of their leases "for the purposes of deregistration/cancellation" in compliance with this cabinet decision. The Wammy SABL was not on this list.

Again, in 2022, then Lands Minister John Rosso told Parliament that 20 SABLs had been cancelled, with a further 20 to be investigated once court proceedings had ended. However, he did not issue a list of those SABLs.⁴⁴

The available information suggests that the Wammy lease has not been revoked, despite the recommendation of the Chief Commissioner. However, without a current list showing which SABLs have been revoked, and whether those not revoked have been reviewed and found to be valid or are awaiting review, the ongoing legal status of the Wammy SABL remains unclear. ACT NOW! sought this information from DLPP but did not receive a response as at the time of publication.

VIOLENCE AGAINST LANDOWNERS

There have also been reports of violence against landowners in the area in which the Wammy logging concession is located. An ABC news investigation quoted landowners who indicated that they faced police intimidation if they opposed logging companies in the area and that landowners who resisted logging were threatened with guns and locked in shipping containers.⁴⁵ The report cited evidence that police in the area used a shipping container as a jail cell, and that one landowner had been badly beaten by police and locked in a shipping container for a week.

They broke my jaw, my teeth, my mouth. They beat me badly. My life was on the line.

They pointed a gun at me. They tried to throw me out of a moving truck, but I held on. I

told them, I'm not a criminal. They locked me in a shipping container for a week.

LUKE AMIAL, LANDOWNER
Speaking to ABC Foreign Correspondent

There have been other reports of violent clashes between police and community members in West Sepik. In January 2022, one police officer and two community members were reportedly killed in the Edwaki area, with reports that the police had been working to protect the interests of a logging company in the area.⁴⁶ There is no suggestion that the logging company directed or caused the deaths of the community members or police. However, the incident highlights the risks and heightened tensions that can arise when police become embroiled in logging fights.

The ABC in its report confirmed that Global Elite has been bringing officers in and paying for their food and accommodation. Global Elite had noted that "it has a security arrangement with PNG Police because of law-and-order issues in the area. It pays for the officers' food and accommodation but said it's 'appalling that one could suggest that police are tools of the company.'" ⁴⁷ Global Elite also said it's "doing its best" for people in the area by providing ventilated shipping containers because there are no police cells in the area.⁴⁸

The ABC report quoted the PNG police commissioner, who said he had banned police deployments that support logging operations and that the officer involved in the shooting should never have been here. The ABC also cited a confidential report from PNG defence that "backs up claims of police using a shipping container as a jail cell, and that warns logging companies are, quote, 'using police to bulldoze over the rights of landowners'".⁴⁹

Forest along the banks of the Sepik river. Photo: Shutterstock

COMPANIES INVOLVED

The Wammy Integrated Agro-Forestry Project involves two main companies:

Wammy Limited, a Papua New Guinean company, was granted the Special

Agricultural and

Business Lease for the Wammy Integrated Agro-Forestry Project. Wammy Limited has eleven

directors, all Papua New Guinean men from villages in West Sepik, and four shareholders, also

men from West Sepik. Its principal activities are listed as "Forestry" and "Agriculture, Hunting

and Forestry". It was first incorporated in April 2010.⁵⁰

Global Elite Limited holds the FCA for the Wammy project and also holds a 60-year sublease

from Wammy Limited, giving it effective control over the full 105,200 hectares. Registered as a

foreign enterprise on 2 March 2010, Global Elite's business activities are listed as agriculture,

hunting and forestry; manufacturing; construction; and wholesale and retail trade, sale and

repair of motor vehicles and personal goods.⁵¹

Global Elite appears to be part of a larger Malaysian family of corporate entities, the Giant

Kingdom group. At the apex of the Giant Kingdom group is Giant Kingdom Holdings Sdn Bhd.

The Giant Kingdom group includes 18 companies in PNG, covering logging, shipping, timber

processing, palm oil, hospitality and other business interests.⁵² Since its establishment, Global

Elite has exported logs from 12 logging concessions in East and West Sepik.⁵³ Nearly 80% of

Global Elite's log exports since 2010 have come from the Wammy concession. Another Giant

Kingdom company, Summit Agriculture Limited, has exported logs from ten concessions in the

same provinces.⁵⁴

Figure 4: Companies involved in the Wammy FCA and SABL

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FCAS NATIONALLY

The Wammy Project is just one of 24 active logging concessions across nine Provinces where logging is authorised under FCA. FCAs are currently responsible for just under a third of PNG's total round log exports and, in 2022, almost 1 million cubic metres of logs (949,603 m³) were exported from FCAs.⁵⁵ Together, these actively exporting FCAs covered an average area of 61,849 hectares, the equivalent of more than 11,000 football fields.

While FCAs are intended to be granted only in situations where forested land needs to be cleared for an agricultural or other land use project, there are numerous reports of FCAs being misused for large-scale selective logging operations. For example, in 2018 Global Witness detailed evidence from field investigations that showed some FCAs were not being used to convert forest to agriculture projects but for extensive logging.⁵⁶ Global Witness also raised concerns about illegality in the granting of new FCAs, after the end of the SABL scheme. Forest Trends' 2021 Timber Legality Database also reports: ⁵⁷

development, Forest clearance permits intended for agricultural
have become often used as a pretext for gaining access to timber,
decade. a major source of logs exported from PNG over the last
without These permits are frequently issued illegally and
laws around transparency or due process, in particular violating
customary land rights.

These concerns have been endorsed by the PNG Forest Authority's own

officers. In a 2017 planning retreat, PNG Forest Authority staff identified managing FCAs and agriculture clearance as a key priority area. It was noted that "existing procedures are not being fully implemented due to developers bypassing elements of the process and political pressure for developments to go ahead." The workshop made a number of key recommendations for the future management of FCAs including, "develop only 500ha blocks at a time" and cancellation of "non-compliant" FCAs.⁵⁸

In December 2022 the National Forest Board responded to the concerns of abuse in the use of FCAs by imposing a 12-month moratorium on the issuing of new FCA permits and ordered an audit of existing FCA operations.⁵⁹

This moratorium has not impacted the existing and ongoing FCA operations and the PNG Forest Authority has not responded to calls to conduct the auditing of these operations through an open and transparent process.

FCA CASE STUDY 1: TEN YEARS WITHOUT A CROP ¹⁷

CONCLUSION AND RECOMMENDATIONS

THE WAMMY PROJECT

There is compelling evidence suggesting that the Wammy Project was established illegally in the first instance, and has seen further illegality throughout the period of its operations, which are still ongoing. This includes:

- Lack of demonstrated informed consent from a significant portion of customary landowners, with documented objections from several landowner groups at the time the lease and FCA were issued;
- Compelling evidence of non-compliance with key processes required to be undertaken before an SABL or FCA can be granted;
- Strong evidence suggesting the majority of the land under the

SABL was neither

required for an agriculture project nor suitable for palm oil planting; and

- Strong evidence that logging has been allowed to continue over at least eight years and

is still ongoing despite no agriculture project having been established.

This evidence suggests that the logging activity taking place in the Wammy Project area should

be considered illegal logging, and that the hundreds of thousands of cubic metres of logs that

have been sold from this concession should be classified as illegal timber. On this basis, ACT

NOW! and Jubilee Australia make the following recommendations:

1. Global Elite Limited should:

- a. Immediately cease all logging activities in the Wammy FCA area;

- b. Surrender its sublease, if that lease is currently in operation, as recommended by

 - the SABL Commission of Inquiry;

- c. Rehabilitate areas that have been degraded due to illegal selective logging;

- d. Provide compensation for any illegal logging activities and associated

 - environmental impacts to the customary landowners.

2. The PNG Forest Authority should:

- a. Immediately stop any further logging in the Wammy concession, stop any further

 - log exports and seize any logs already harvested;

- b. Cancel the Forest Clearing Authority granted to Global Elite Limited (FCA 10-07);

- c. Investigate whether Global Elite Limited has committed any of the offences in

 - section 122 of the Forestry Act 1991 and, if so, impose the relevant penalty;

- d. Provide compensation for any illegal logging activities and associated

 - environmental impacts to the customary landowners.

3. The Department of Lands and Physical Planning should:

- a. Cancel the Wammy Rural Development Project SABL, if it has not already been

 - cancelled, and provide notice to Wammy Limited and Global Elite Limited to vacate

 - the land.

4. The Royal PNG Constabulary should:

- a. Open a criminal investigation into the possible theft of forest resources and

 - conspiracy to defraud landowners.

5. Banks and all institutions with anti-money laundering obligations providing services to companies in the Giant Kingdom group should:
- a. Review their risk exposure and discontinue any arrangements that could be connected to funds generated from the Wammy Project.

FOREST CLEARING AUTHORITIES

The Wammy Project is just one of 24 currently exporting FCAs in PNG. The kinds of issues present in the Wammy Project have been reported in numerous FCA areas, including via the SABL Commission of Inquiry.

These concerns may have prompted the PNG Forest Authority's December 2022, 12-month moratorium on issuing new FCAs. This moratorium is very welcome in light of the well documented legal and human rights concerns in relation to FCAs, but does not go far enough.

ACT NOW! and Jubilee Australia therefore recommend that:

The PNG Forest Authority should:

- b. Publicly release information on its ongoing review of FCAs, including a schedule of the FCAs being reviewed and the findings of each review;
- c. Undertake public consultation, including and especially with affected landowners and civil society organisations, as part of the review of each FCA;
- d. Suspend log exports from all existing FCAs until this review is complete;
- e. Commit to extending the current moratorium on new FCAs until all recommendations and findings from the reviews have been fully implemented to prevent future abuse;
- f. Immediately establish a public register as required under the Forestry Act.

ANNEX: WAMMY FCA TIMELINE

DATE	EVENT
7 April 2010	Wammy Limited incorporated
11 April 2010	Project Development Agreement was executed between Wammy Limited and Global Elite Limited for "logging, log marketing and commercial agriculture".
27 September 2010	DAL advised Global Elite Limited that its Agriculture and Rural Development Project Proposal had been approved
8 October 2010	SABL over Portion 27C granted to Wammy Limited by DLPP
15 October 2010	SABL to Wammy gazetted through National Gazette issue No G243 of 2010
18 October 2010	Wammy Limited granted a sublease over the entire SABL (Portion 27C) to Global Elite Limited for 60 years
29 October 2010	Sublease registered with DLPP
5 February 2011	Public hearing held at Worikori Village in Telefomin
3 October 2011	Commission of Inquiry hearings on Wammy
26 June 2013	Final Commission of Inquiry reports submitted to the Government, including recommendation that Wammy SABL be surrendered and renegotiated
10 July 2013	FCA Granted to Global Elite
18 September 2013	Commission of Inquiry reports presented to Parliament
June 2014	Cabinet decision that all SABLs recommended for revocation be revoked

ENDNOTES

- 1 UNESCO, "Upper Sepik River Basin", <https://whc.unesco.org/en/tentativelists/5065/> (accessed 5 July 2023).
- 2 Note: this report uses the term "Wammy Project" to refer interchangeably to the Wammy Integrated Agro-Forestry Project, for which a Special Agricultural and Business Lease was granted, and the Wammy logging concession covered by a Forest Clearing Authority (FCA). The Wammy Special Agricultural and Business Lease covers 105,200 hectares while the FCA only covers 105,000 hectares.
- 3 Data from monthly log export monitoring reports produced by Societe Generale du Surveillance (SGS).
- 4 PNGi Forests, "Wammy", <https://pngiforests.org/licence/wammy> (accessed 25 May 2023); Final Report of the Commission of Inquiry into the Special Agricultural & Business Leases dated 24 June 2013 (Numapo Report), p, 103.
- 5 Numapo Report, p. 104.
- 6 Numapo Report, p. 104
- 7 See: Constitution of the Independent State of Papua New Guinea 1975, s 53 and 54; Lands Act 1996, s 10 and 11.
- 8 Numapo Report, p. 104
- 9 Numapo Report, p 107–108.
- 10 Numapo Report, p. 105.
- 11 Numapo Report, pp. 103–111.
- 12 Data taken from PNGi Forests, based on SGS Log Export Monitoring Reports, 2015–2023.
- 13 on log values declared to SGS, 2015–2023. Previous research has found that declared export prices for PNG's logging sector are substantially lower than other major exporters, and there is a high number of related party transactions in the sector. In 2023, PNG's Internal Revenue Commission imposed a K140 million tax assessment against a "prominent logging operator" for "engaging in illicit tax evasion, specifically through transfer pricing". There is no suggestion that Global Elite is this operator, or evidence to suggest Global Elite has engaged in transfer pricing. See: Internal Revenue Commission (2023) "Major Logging Operator Charged K140M For Tax Evasion", Media Release, 26 June, available at: <https://irc.gov.pg/news/media-releases/major-logging-operator-charged-k140m-for-tax-evasion> and Frederic Mousseau and Peiley Lau (2016) The Great Timber Heist: The Logging Industry in Papua New Guinea, Oakland: Oakland Institute.
- 14 SGS reports, 2015–2022.
- 15 SGS Monthly Log Export Monitoring Report April 2023 and Natalie Whiting, Alex Barry and Thekla Gunga, "How the 'second Amazon' became a battleground", ABC Foreign Correspondent, 9 March 2023, <https://www.abc.net.au/news/2023-03-09/how-the-second-amazon-became-battleground-sepik-png/102062130> (accessed 27 June 2023).
- 16 PNGi Forests, <https://pngiforests.org/> (accessed 6 July 2023).
- 17 Forestry (Amendment) Act 2000. Available at:

http://www.paclii.org/cgi-bin/sinodisp/pg/legis/num_act/fa2000219/indexhtml?stem=&synonyms=&query=forestry%20amendment (accessed 4 July 2023).

18 Forestry Act 1991 (as amended), s 90A and 90B

19 Numapo Report, p. 241.

2° See Commissioner Nicholas Mirou (2013) Commission of Inquiry into the Special Agricultural and Business Lease (SABL)1 Report p. 181.

21 LandSAct1996, S 102.

22 Forestry Act 1991 (as amended in 2007), s 90A.

23 Rimbunan Hijau (PNG) Ltd vEnei [2017] PGSC 36, [30].

24 Rimbunan Hijau (PNG) Ltd vEnei [2017] PGSC 36, [27, 57].

25 Numapo Report, p 103.

26 Numapo Report, p. 107. The five villages were: Wagou, Aiendami, Mandopai, Mokedami, and Yuwari. Company records for Wammy Limited show that its directors (the same now as in 2010) have registered addresses in eight villages in the Telefomin area, also spelling WAMMY: Wakou, Abrau, Mokwedami, Magleri, Mantubai, Yaru, Yakeltim and Yuwari.

27 Numapo Report, p 107.

28 Numapo Report, p. 108

29 Numapo Report p. no.

3° Numapo Report, p. no.

31 Numapo Report, p. 112.

32 Numapo Report, p. 106.

33 Numapo Report, p. no.

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34 ABC Foreign Correspondent, "The Second Amazon: The Hidden Natural Wonder Under Threat in PNG", TV segment,

available at: <https://www.youtube.com/watch?v=URckE1PnHzA>

35 ABC Foreign Correspondent, "The Second Amazon".

36 Numapo Report, p 105.

37 Numapo Report, p. no and 112.

38 Australian Centre for International Agricultural Research (ACIAR) (2010) Environmental sustainability of oil palm

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available at:

https://www.aciar.gov.au/sites/default/files/legacy/node/12951/trom_environmental_sustainability_of_oil_palm_cul_181

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Volume 1, Government of PNG, available at: <https://png-data.sprep.org/dataset/national-agriculture-development-plan-2007-2016> atP.117.

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4° Natalie Whiting, Alex Barry and Thekla Gunga, "How the 'second Amazon' became a battleground".

41 Forestry Act 1991, sections 56–60.

42 See for example, Forestry Act 1991, subsection 90B(9): "Where the Provincial Forest Management Committee, after having considered and evaluated an application, is of the opinion that it is satisfactory, it shall recommend to the Board to approve the application for a conversion of the forest to agriculture or other land use".

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<https://www.thenational.com.pg/20-sabls-cancelled-more-may-go/> (accessed 13 July 2023).

45 Natalie Whiting, Alex Barry and Thekla Gunga, "How the 'second Amazon' became a battleground"

46 Miriam Zarriga (2022) "Three held over cop's death", The National, 21 January, <https://www.thenational.com.pg/three-held-over-cops-death/> (accessed 4 July 2023); Donald Nangoi (2022) "Engagement of police at logging sites questioned", Post Courier, 19 January, <https://www.postcourier.com.pg/engagement-of-police-in-logging-sites-questioned/> (accessed 4 July 2023).

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5° Certificate of Good Standing – Long Form, Wammy Limited (1-72853), available from <https://ipa.gov.pg> (accessed 29 June 2023).

51 Entity Profile, Global Elite Limited, available at: <https://ipa.gov.pg> (accessed 29 June 2023)

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57 Forest Trends (2021) Timber Legality Risk Dashboard: PNG, <https://www.forest-trends.org/wp-content/uploads/2022/01/Papua-New-Guinea-Timber-Legality-Risk-Dashboard-IDAT-Risk-i.pdf>

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