

PAPUA NEW GUINEA REVIEW OF CURRENT LOGGING PROJECTS

CARRIED OUT UNDER THE AUSPICES OF THE DEPARTMENT OF NATIONAL
PLANNING AND MONITORING

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FINALISED INDIVIDUAL PROJECT REVIEW REPORT No 3.

TIMBER PERMIT (TP) : TP 13-38 BUHEM MONGI BUSIGA
TP HOLDER AND MARKETER : LOW IMPACT LOGGING LTD
LOGGING CONTRACTOR : WILLIS KENT LTD (From mid 2002)
DATE OF FIELD REVIEW : AUGUST 2003
DATE OF FINAL REPORT : MARCH 2004

This Final Individual Project Review Report (IPRR) has been prepared by the Review Team after undertaking a review of documents, a field assessment, and receiving feedback to a Draft IPRR distributed to stakeholders for corrections and comment. Responses were received from the following:

STAKEHOLDER	COPY DRAFT IPRR PROVIDED	RESPONSES RECEIVED
Logging Company	Yes	No
Timber Permit Holder	(*)	
Landowner Company/ Landowners	Yes	Yes
PNG Forest Authority	Yes	Yes
Dept Environment & Conservation	Yes	No
Provincial Administration	Yes	No

(*) In this case the Logging Company is the Permit holder.

Disclaimer: It should be noted that this documents sets out the findings and views of the Review Team, and does not represent an official Government position.

FOREWORD

The Terms of Reference for this Review of Existing Logging Projects provide a broad mandate to examine the operation of logging companies within their legal and contractual obligations, and the framework within which forestry activities are planned, monitored and controlled by the relevant Government Departments/Authorities. The Review is focused on future improvements in the actions of stakeholders, and not on the pursuit of instances of poor or non-performance. Of key concern are the future achievement of sustainable timber production within a stable regulatory framework; effective environmental guidelines for logging and associated roading; adequate attention to and mechanisms for forest conservation; and sound long term benefits for the forest resource owners.

Given this broad mandate, and the extensive requirements set out in the legal and contractual documents governing each logging project, the Review Team has by necessity focussed on identifying and exploring meaningful issues. This Final IPRR focuses on project specific areas of concern, and will be used as input for the Review Team's draft Observations and Recommendations Report.

ACKNOWLEDGEMENTS

The Review Team acknowledges the support and cooperation given by PNGFA, PNGFA field officers, DEC, Low Impact Logging Ltd, Willis Kent Ltd, the Morobe Provincial Government and Administration, and the landowners of the Buhem Mongi Busiga FMA area.

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1. LEGAL BASIS, PARTIES AND CONTRACTUAL RELATIONSHIPS

The key legislation governing logging projects are the Forestry Act 1991 (as amended), the Environmental Planning Act 1978, and the Environmental Contaminants Act 1978 (as amended) and the Water Resources Act, Chapter 205. The relevant documents enabling and prescribing Timber Permit 13-38 Buhem Mongi Busiga are set out in Tables 1 and 2.

Two Forest Management Agreements were entered into between the PNGFA and landowners. The first was with the landowners of Mongi Busiga signed on 27 September 1996, and the second was with the landowners of Buhem Mongi signed on 25 April 1997.

A Project Agreement was signed between Low Impact Logging Ltd and Papua New Guinea Forest Authority on 9 September 1997. The company was granted Timber Permit No. 13-38 on 12 September 1997. The Timber Permit requires Low Impact Logging Ltd to undertake its obligations under the Project Agreement as follows:

- To lodge a performance bond of K250, 000 (cl. 31 and schedule 6 of Timber Permit);
- To pay royalties as prescribed (cl. 7.1 and schedule 4 of Timber Permit);
- To pay levies as prescribed and set out in Schedule 5 of the Project Agreement (Project Development Levy and processing levy);
- To pay processing levy for domestically processed timber at the rate specified in Schedule 5 (cl. 7.3);
- To complete a detailed proposal for domestic processing after 31 March 1998 (cl. 6(b));
- To undertake reforestation (cl. 6.3);
- To construct and maintain roads, bridges and urban development facilities as required (cl. 6.2 and 6.4);
- To construct and maintain at its own costs approved wharves, berthing, loading facilities and navigational aids (cl. 6.5 and 6.6);
- To harvest at the annual allowable cut of 61,000m³ (schedule 2 of Timber Permit and cl. 6.1 of the Project Agreement); and
- To promote, support, encourage and assist (technical advice, management and artisan training) Papua New Guinean individuals, groups and companies in the establishment of business enterprises capable of supplying goods or services to the project (cl. 18).

The terms and conditions of the timber permit are to be reviewed by the Board on the expiry of 10 years and on the expiry of every successive 5 years thereafter.

Willis Kent Ltd was licensed by the PNGFA to carry out felling; transportation; sale; purchase; marketing and grading of forest produce. The licence expired on 14 August 2003. The PNGFA confirms that it has not received an application for a licence renewal.

Under the Licence Willis Kent is required to observe the following conditions:

- Comply with all standards and practices as determined from time to time by the PNGFA including but not limited to the Logging Code of Practice, Procedure for exporting logs, procedure for identification, scaling and reporting (including royalty self-assessment) on logs harvested from natural forest logging operations; and
- To lodge a performance bond of K1, 000.00.

SGS (PNG) Ltd's shipment summary for the period up to 20 August 2003 shows Low Impact Logging Ltd as the exporter. Thus Willis Kent Ltd is acting as a logging contractor. The responsibility for meeting the terms and conditions of the Project Agreement and the Timber Permit remain with Low Impact Logging Ltd.

The Review Team asked the company and the PNGFA for a copy of the logging and marketing agreement (if any) but was not provided with one. Clause 28 of the Project Agreement provides for the Managing Director to request the permit holder to forward copies of any or all agreements it has with third parties in the implementation of the project.

TABLE 1 : KEY DOCUMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING/ APPROVAL	DATE OF EXPIRY	DOCUMENT LOCATION
Forest Management Agreement	Landowners and PNGFA	27 Sept 1996 (for Mongi Busiga) and 25 April 1997 (for Buhem Mongi)	26 September 2046 and 24 April 2047 respectively	Held at PNGFA and NFS Morobe
Timber Permit	Issued to Low Impact Logging Ltd by the Minister for Forests.	12 September 1997	11 September 2032	Held by PNGFA
Timber Licence	Issued to Willis Kent Ltd, by the a/MD, PNGFA for the Forestry Board	15 August 2003	14 August 2003	Held by PNGFA
Project Agreement	Low Impact Logging and PNGFA	9 September 1997	8 September 2032	Held by PNGFA
Environmental Plan (EP) Buhem Mongi	Approved by Minister for Environment & Conservation (E&C)	19 December, 1991	TP period ¹	DEC Archives
Environmental Plan Mongi Busiga	Approved by Minister for E&C	14 July, 1997	TP period	DEC
EP Approval Conditions	Set by Minister for E&C	14 July 1997	TP period	DEC

¹ TP13-31 Buhem Mongi was issued to Low Impact Logging Ltd on 10/03/91 and expired on 04/01/97. The area was subsequently included in the area for TP 13-38 Buhem Mongi Busiga.

Environmental Management & Monitoring Programme	Approved as part of the EP by the Minister for E&C	14 July, 1997	TP period	DEC
Waste Management Plan	Approved as part of the EP by the Minister for E&C	14 July, 1997	TP period	DEC
5 Year Logging Plan	Approved by PNGFA Managing Director	18 February 2002	17 February 2007	Held by PNGFA
Annual Logging Plan	Approved by PNGFA Managing Director	29 May 2003	28 May 2004	Held by PNGFA
PNGFA's Planning, Monitoring and Control Procedures	Issued by Managing Director.	November 1995	No expiry date	Standard document available from PNGFA
PNG Logging Code of Practice (Including 24 Key Standards)	Endorsed by NEC. Observance required by Regulation	April 1996	No expiry date	Standard document available from PNGFA

TABLE 2 : ADDITIONAL (OR SUPPLEMENTARY) AGREEMENTS

DOCUMENT	PARTIES	DATE OF ISSUANCE/ SIGNING	DATE OF EXPIRY	DOCUMENT LOCATION
Agreement for use of land for log pond at Mangec	Logging Company and relevant landowners	2 nd January 1998	2 nd January 2003	PNGFA Lae
Sub - Log Pond Agreement, Buseng Village	Landowners and Low Impact Logging Ltd.	29 October, 2002	29 October 2007	PNGFA Project Office, Mangec Camp

2. SUSTAINABILITY OF LOG PRODUCTION

This logging project was set up under the new Forestry Act 1991 (as amended) and was established with the aim of achieving sustainable log production. The right to harvest logs were acquired by the State in September 1996 and April 1997, and the Project Agreement and the Timber Permit No. 13-38 allows the resource to be cut over a period of 35 years (September 1997 to September 2032).

Low Impact Logging Ltd commenced logging operations in the previous Buhem Mongi TRP area under TP 13-31 Buhem Mongi using helicopters, but ceased operations after a fatal helicopter crash. Low Impact Logging Ltd commenced conventional logging in the area, and the PNGFA made intense efforts to establish a Forest Management Agreement over the area under the new Forestry Act 1991.

As the Buhem Mongi area did not contain sufficient resources under the revised legislation and guidelines for sustainable forestry developments, intense efforts were also made to enter into an FMA over the Mongi Busiga area so that sufficient timber resources could be made available to satisfy sustainability criteria.

The PNGFA Planning Division estimated the net operable area for Buhem Mongi FMA to be 29,345 ha, with a net average commercial volume of 35 m³/ha, thus a total volume of 1,027, 075 m³. It estimated the net operable area for Mongi Busiga FMA to be 24,300 ha, with a net average commercial volume of 44 m³/ha, thus a total volume of 1,069,200 m³. The Review Team considers the volumes per hectare to be unrealistically high. Other PNGFA officers agree.

The total available resource within Timber Permit 13-38 is therefore estimated to be 2,096,275 cubic metres². The annual allowable cut is 61,000 cubic metres, which is slightly above the total volume divided by 35 years (the formula used by PNGFA for estimating the annual allowable cut).

The annual allowable cut has not been achieved to date. Production was highest in 2000 (43,606 cubic metres), and the average annual production over the past five years (1998-2002) has been approximately 35, 000 cubic metres per annum³.

3. FIELD WORK

The field inspection for TP 13-38 Buhem Mongi Busiga was undertaken during the period 12th to 16th August 2003. As well as meetings with the logging company managers and staff, and with landowners, the field inspection involved the following:

- An inspection of the logging road connecting the log pond at Wangidu to Kiserawa Village;
- An examination of Set-up 03/04 MB32, which was partly logged having been abandoned due to the adverse weather conditions in June 2003;

² Figures obtained from the FMAs.

³ Annual production figures provided by Willis Kent Ltd.

- An inspection of Set-up 28, which is in the 2001/2 Annual Logging Plan, but was logged in early 2003;
- An inspection of the ridge top road back to the log pond at Wangidu, examining regeneration of set-ups logged in 1999, and which were being re-logged in 2003;
- An inspection of roads and bridges currently being used;
- An inspection of the log ponds at Mangec and Wangidu, and associated barge loading facilities;
- An inspection of the base camp at Mangec; and
- Interviews with landowners (see Section 5).

4. REVIEW TEAM OBSERVATIONS

4.1 LEGAL DOCUMENTS AND DUE PROCESS

The Review Team examined the legal documents underpinning the logging project as listed in Tables 1 and 2. Particular attention was paid to the observance of due process with regard to the application for, processing of and issuance of the various legal instruments.

With regard to TP 13-38 Buhem Mongi Busiga, the Review Team's observations were that:

- Two Forest Management Agreements exist. The FMA relating to the Buhem Mongi area contains 13 Incorporated Land Groups (ILGs), and the FMA over the Mongi Busiga FMA contains 86 ILGs. Two Development Options Studies were carried out. Landowners and PNGFA officers noted that there are some clans with land ownership within the Buhem Mongi and Mongi Busiga FMA areas who did not sign the Forest Management Agreements. The PNGFA notes that the resource owners who are not party to the original FMAs will be included by means of a supplementary agreement.
- The project was exempted by the Board from public tender under s64 (3) in May 1997 on the basis that the project was an extension of an existing approved operation (Timber Permit 13 – 31), and that it conformed to the National Forest Development Programme. By a circular resolution the Board (with one dissenting) decided to grant the exemption. Such exemption under s63 (3) of the Act is questionable as there was no extension in respect of the boundary or area. The Forestry Amendment Act 2000 has tightened up on the requirements for extensions.
- The Common Seal of the PNGFA was not duly affixed on the copy of the Mongi Busiga Project Agreement sighted by the Review Team as required under s. 5(3)

of the Act. This may be due to the fact that for a period the PNGFA used an embossed stamp which does not show up on photocopies.

- The Licence granted to Willis Kent Ltd for a 12 months period expired on 14 August 2003.

4.2 LOGGING COMPANY

The Permit Holder, Low Impact Logging Ltd, is responsible for observing the terms and conditions of the Timber Permit and the Project Agreement.

The observations of the Review Team are that:

(a) Planning and Control of Logging

- A logging contractor, Willis Kent Ltd is carrying out the logging operations in the project area on behalf of the permit holder.
- The application for a licence by Willis Kent Ltd was lodged on 7th August 2002. On the basis of material supplied by the PNGFA, the Review Team considers this application to be flawed for the following reasons:
 - The project area in the application for the licence (Form 177) specifies the location of the project as TP 13-31 Buhem Mongi. This permit expired on 4 January 1997 (Source: letter dated 4 May 2001 from the former Managing Director, Thomas Nen to the Chairman of Buhem Mongi and Barong Investment Company); and
 - The letter in support of the application refers to benefits to be provided by Willis Kent Ltd under “Section 11 - Detailed description and independent valuation of the applicants proposals for landowner benefits”. This sets out the Log Premium Payments (K7.50/m³), the Agricultural Levy (K1.00/m³), the Infrastructure Levy (K2.00/m³), and the Reforestation Levy (K2.00/m³). These are not listed in the Project Agreement, where they are replaced with the Project Development Levy.
- Despite these flaws, PNGFA issued the licence to Willis Kent Ltd.
- The logging operation had been operating sporadically since May 2003 and had ceased operations altogether during June, leaving logs abandoned at log landings for collection once the weather improves. At the time of the Review Team’s visit, half of the employees had been stood down and half had been placed on standby rates.
- That the company has employed a forest surveyor (an expatriate) and an experienced but unqualified national to plan logging in the field, and that a fair effort is being made to meet the requirements of the Planning Monitoring and Control Procedures with regard to laying out individual set-ups in the field prior to seeking approval to log.

Review Team observations included the following;

- A major concern of the Review Team was the construction of the road linking the log pond at Wangidu to the Village of Kiserawa, which is located along a steep side-slope and is often within the buffer zone of the Bonum River (see plates 1-3). If this route was the only option then permission from the PNGFA to breach the Key Standards should have been obtained.
- The logging contractor has also cleared a site (see plate 4), for a transit camp within the buffer zone and within a few metres of the edge of the Bunum River.
- In 2003 the logging contractor has re-entered set-ups that were logged, and presumably closed in 1999.
- Other Key requirements not being met were observed to be:
 - Excessive vegetation clearance along road lines (see plates 1 and 2);
 - No decommissioning of skid tracks resulting in erosion (Key standard 21); and
 - Failure to rip log landings and ensure that re-vegetation was successful.

(b) (i) The Log Pond (Buayung - Manged Village)

The Buayung-Manged log pond is the main log loading point for the project. The area was relatively tidy with no fresh logs at the landing mainly due to the continuous bad weather experienced over the last 3 months.

The observations of the Review Team are that:

- There was no bund around the fuel storage tank;
- Fuel storage tank is located too close to a permanent creek; and
- There is a lack of proper sewerage facilities for the national employees.

(b) (ii) The Sub Log Pond (Wangidu – Buseng Village)

This log pond was created to service logs from logging coupes 5 and 6 and according to the company it will also cater for areas towards the Mongi River. It has a Site Plan illustrating the road, log landing area, office/ accommodation area, the fuel depot and the wharf. The company has since early this year exported logs from this log pond.

The observations of the Review Team are that:

- The log pond established at Wangidu is a variation activity and created without DEC's approval as required in the project's Environmental Plan approval conditions;

- The log pond has not been fully constructed, yet is operational;
- The office and accommodation blocks and the fuel depot are yet to be constructed;
- The topsoil bulldozed to the perimeter of the log pond forms large mounds which are yet to be levelled off to enable proper drainage;
- Sporadic ponds or pools of water were evident within the log pond;
- There is no proper drainage system for the log pond and the access road leading to it; and
- Coral along the immediate shoreline has been excavated for log pond and access roads. There is no evidence of DEC approval for the excavation of the shoreline.

(c) The Logging Camp

The current logging camp is situated between Mangec and Busiga villages on land leased by Low Impact Logging from the landowners (Kwembing, Yuku, Yaweng clans). It serves as the base camp for the employees of Low Impact Logging Ltd (Permit Holder) and Willis Kent Ltd (Logging Contractor).

The Review Team noted the following non-compliance issues;

- The lack of a bund for all fuel storage facilities;
- The lack of compliance with the Water Resources Act regarding water use permits for water drawn from a creek for the camp's use;
- The lack of a proper waste disposal system for workshop area; and
- The lack of proper sewerage system in both the expatriate and national housing areas.

During meetings held with Willis Kent Ltd company employees at the base camp, concerns raised by the employees included the following:

- Employees were concerned that they were not receiving appropriate remuneration for their efforts, including over time and leave entitlements, (this was a particular concern for those with trade certificates recruited from outside the logging area);
- Employees whose earnings are based on production (per m³) were concerned that a more transparent method of calculating final payment should be established as part of the logging industry's regulations;

- Employees claimed those who suffered serious injuries have not been sufficiently covered by any form of insurance. The Review Team noted that according to the Project Agreement signed between the PNGFA and Low Impact Logging Ltd (c6.7(e)) that the company is required to take out compulsory Workers Compensation insurance cover for its employees. Willis Kent is the principal employer in the project area and claims to have separate insurance cover for its employees.
- Several employees present during the meeting were concerned that their National Superannuation Fund benefits deductions in the last six months are yet to be recorded in their membership accounts (evidence of this was provided to the Review team);
- There was a concern over the lack of safety equipment and sound work practices;
- Employees complained about the standard of accommodation. There is overcrowding in the rooms with sometimes five to six people sleeping in a 5 metre by 4 metre room; and
- The Review Team observed that the location of some of these houses is too close to where the logs are stacked. The concern here is that the employees and members of their families are at risk from logging trucks and other heavy equipment operating next to the residential buildings.

(d) Landowner Financial Benefits

The financial benefits received by landowners under TP13-38 Buhem Mongi Busiga are:

- K10 per cubic meter Royalty for all logs harvested (including Small Girth Logs harvested);
- A processing Levy of K4 per cubic metre based on the throughput of Logs and Small Girth Logs processed domestically as prescribed in Clause 2(ii). No benefits have been received from this source because no sawmilling operation has been established. In October 2001, the Permit holder was exempted by the PNGFA from the requirement to establish a sawmilling operation (see plate 15); and
- Royalty for coronas used outside the Buseng Mangec clan boundaries is paid for at the rate of K1.90 per cubic metre.

There are also Supplementary Agreements for the use of the Log Ponds at Mangec (K3600.00 per annum) and Buseng (K2400.00 per annum). It should be noted here that the 5 Year Agreement for the use of the Mangec Log Pond expired in January 2003. The agreement for the use of Buseng Log Pond is current and still has four years to go.

(e) Landowner Infrastructure Benefits

Under the revised forest revenue system introduced in 1996, infrastructural benefits are delivered through a Project Development Levy, which is calculated as shown in the following table;

FOB Export Log Price (Kina/M3)	PDL Payment (Kina/M3)
K91-K110	K2.00
K111-K130	K5.00
K131-K150	K8.00
K151-K200	K13.00
Over K200	K13.00 + 7.5% of FOB prices over K200

It is noted that:

- The actual value of the PDL varies with each log shipment along with the export price and species composition of shipment; and that
- The exporter calculates the amount of PDL.

The Review Team found no evidence of the PNGFA verifying the correct amount of PDL due.

The Project Agreement states that the PDL payments will be distributed as follows: -

- **Cash Premium**

The Company (Low Impact Logging Ltd) shall pay to the Authority (PNGFA) (as trustees for the Landowners), a Cash Premium calculated as being 40 per cent of the total PDL. The Managing Director is required to pay this to the land groups within the Project Area, with the sharing arrangement based on the proportion of land owned by each group.

- **Project Area Development Fund**

60% to be distributed on developments approved by a committee representing the resource owners, the (Morobe) Provincial Administration and the Company and the Authority or their nominees, such committee to be formed and subject to such rules as determined by the Authority.

Since the project commenced in 1997, there has been an ongoing dispute between a landowner company Bugabu Resources Ltd and the PNGFA over the use of the Project Development Levy (see Section 4.5 of this report). This has resulted in two court cases and is the subject of further litigation. Furthermore the 40 per cent Cash Premium has been paid as additional royalty to the landowners where the timber has been logged, in response to landowner demands and with the agreement of the 84 ILG chairmen in the Mongi Busiga FMA area.

According to figures made available to the Review Team by the PNGFA Division of Finance;

- The total PDL received by the PNGFA at Headquarters to July 2003 is K1,325,678.28 of which K1,099,698.06 had been paid into the Momase Royalty/PDL Trust Account. The balance of K225,980.22 is still held in the PNGFA Revenue Account at HQ, pending the outcome of a court hearing.
- There are several discrepancies in the PDL account for the project. Figures provided by the PNGFA Division of Finance show that;
 - Of the K1,099,698.06, K439,879.22 (40%) was allocated as additional royalty to landowners and K659,818.84 (60%) was put aside for investment in development. Out of K659,818.84, K545,337.39 was transferred to the Mongi/Busiga Project Trust account. The balance of K114,481.45 is yet to be transferred;
 - The PNGFA is yet to receive the PDL payment for a log shipment (MV Unicorn 2, 21st of April 1998). The FOB value of that shipment is K318,215.58;
 - K85,636.48 (100% of the PDL payment received on 4 December 2000) is yet to be transferred from the PNGFA HQ account to the Momase Royalty Account in Lae; and
 - That the PDL payments for shipments 34 to 38, received from May 2002 to January 2003 amounting to K140,143.88 have yet to be transferred from PNGFA HQ account to the Momase Royalty Account in Lae.
- Infrastructures that are to be funded from the above source include feeder roads, bridges, school and health and church infrastructures and community based projects that have to be approved by the Project Development Committee.
- It should also be noted that according to the Project Agreement, the Permit Holder is bound to construct roads and bridges wholly at its own cost for its operations, in accordance with the standards prescribed in the Code of Logging Practice.
- The Review Team observed that the main road linking the coastal villages in the project area to Gagidu Station although suitable for 2-wheel drive vehicles has no permanent culverts and bridges. All bridges that exist in the project area are constructed with logs.
- No other physical infrastructure has been carried out as the PDL Funds are currently frozen until the Court makes final judgement on who should be managing the funds.

(f) Royalty Payments

Royalties payable under the Timber Permit are supposed to be paid through the respective clan agents by officers of PNGFA. The current rate of Royalty is K10 per cubic metre.

Details of Royalty collection and transfer to the Momase Royalty Account in accordance with the PNGFA records are set in the table below. (Source; PNGFA Division of Finance).

PNGFA Timber Royalty Collection and Payment Report TP 13-38 Buhem Mongi Busiga

Year	Royalty Collected	Volume M3	95% To Momase Acct.	5% Withholding Tax To IRC	Balance
1997	24,090.69	2,409.069	22,886.16	1,204.53	0.00
1998	280,228.53	28,022.853	266,217.11	14,011.42	0.00
1999	386,774.94	38,677.494	367,436.19	19,338.75	0.00
2000	450,608.48	45,060.848	428,078.07	22,530.41	0.00
2001	289,806.61	28,980.661	275,316.28	14,490.33	-0.00
2002	305,346.07	30,534.607	290,078.40	15,267.31	0.36
2003	152,221.63	15,222.163	104,205.50	5,484.50	42,531.63
Totals:	<u>K1, 889,076.95</u>	<u>188,907.695</u>	<u>K1, 754,217.71</u>	<u>K92, 327.25</u>	<u>K42, 531.99</u>

Note: The outstanding balance of K 42,531.99 in 2003, represents outstanding payment for April-June 2003.

(g) Environmental Monitoring and Management Programme

The Review Team noted that:

- There is an approved EMMP but as there is no Environmental Monitoring Officer employed on site, the programme is not being followed or supervised for compliance.

(h) Other Compliance Issues Observations

- The Forestry Regulations and the Project Agreement require the lodgement of a Performance Bond by Timber Permit holders. The Regulations require the delivery of an original copy to the PNGFA Managing Director. There is no evidence within the PNGFA files that Low Impact Logging Ltd has complied with this requirement.

- Under the terms and conditions of the Licence, Willis Kent Ltd is required to lodge a performance bond. There is no evidence that this has been done.
- The company has stated in the project's Environmental Plan that it will provide water supply to 14 Villages of the Project Area, (EP page 25, fig.9.2.3). This commitment is yet to be fulfilled.

(i) Company Search

A company search shows that Low Impact Logging Ltd has current IPA registration. Its shareholders are Nexus Commercial Enterprises Ltd of British Virgin Islands (99), Yii Ann Hii (1) and Tucuman Holdings Ltd (1). Its only director is Hii Yii Ann. The company's last annual return was lodged on 11 July 2002 for the period to 31 Dec. 2001.

The company is currently registered as a Forest Industry Participant under the Forestry Act 1991 (first listed in March 1995 – Registration Number FI 00405).

A company search on Willis Kent Ltd shows that:

- It was registered in March 1999 and it has a current registration;
- Its registered address is Maladinas Lawyers, Ground Floor, Investwell Building, Section 38, Allotment 30, New Hohola Commercial Estate, NCD;
- The Directors are Ray Chee Keong Cheong and Kong Yong Wong both of Section 487, Lot 3, Walala Estate, Gerehu Stage 1;
- The Shareholders are Ray Cheong Chee Keong (Nextus Commercial Enterprises Ltd – Co. No. 176757) (50 shares), Wong Kong Yong (Nextus Commercial Enterprises Ltd – Co. No. 176757) (49 shares) and Wong Kong Yong (Hii Yii Ann) (1 share); and
- Its last annual return was lodged on 30 June 2002.

This company has current Forest Industry Participant registration (FI 01115) as at October 1999.

A company search was also conducted on Nextus Commercial Enterprises Ltd because Ray Cheong Chee Keong and Wong Kong Yong appear to hold shares for this company in Willis Kent Ltd. Nextus is also the major shareholder in Low Impact Logging Ltd. Hii Yii Ann is a shareholder of Willis Kent Ltd and Low Impact Logging Ltd. He/she is also the only director of Low Impact Logging Ltd. It is noted that Mr Ray Cheong is also a Director of Kerawara Ltd, another logging company.

The Review Team also did a search on a company named Sisimo Ltd as this company was reported by certain landowners to be also operating in the area. Nextus Commercial Enterprises Ltd, Tucuman Holdings Ltd (a shareholder of Low Impact logging) and Sisimo Ltd have no registration with the Office of the Registrar of Companies in Papua New Guinea.

4.3 PNG FOREST AUTHORITY (PNGFA)

The PNGFA is responsible for ensuring that the requirements of the project Planning, Monitoring and Control Procedures are followed. This includes the 5 Year Logging Plan, the Annual Logging Plan, and the approval and clearance of individual logging set-ups. The approval and clearance of set-ups requires the completion of a set-up logbook by the PNGFA Project Supervisor.

The observations of the Review Team are that:

- There is much evidence on file to indicate that the PNGFA officers are attempting to carry out their duties effectively and are disciplined by senior officers when they fail to do so.
- The Review Team noted an instance where re-logging of set-ups was sanctioned by the PNGFA Regional Manager in order for landowners to settle an urgent compensation case. Only a certain volume logs, to the value (based on Royalty at K10.00/m³) of the compensation claim to be settled was authorised. This amounted to just over 2000 cubic metres.
- The acting Project Supervisor is located in Lae and therefore visits the project area only when required and weather permitting, to monitor logging operations, approve set-ups etc. The Review Team observed that this might have contributed to the inadequate monitoring of the project.
- There have been many inspections carried out which have resulted in non-compliance notices being sent to the Permit Holder by the PNGFA, recent notices have been largely ignored partly due to the logging operation having ceased due to bad weather.
- There is a recent report by the acting Project Supervisor⁴ in which he refused to close set-ups due to non-compliance for breaches of the Logging Code of Practice, these breaches included felling of trees into the buffer zone, no water bars on decommissioned snig tracks and roads and excess damage during felling.

4.4 DEPARTMENT OF ENVIRONMENT AND CONSERVATION (DEC)

DEC is responsible for monitoring logging company compliance with the Environmental Plan and the Environmental Plan Approval Conditions.

The observations of the Review Team are that:

- DEC's report of its last visit to the project cited a series of non-compliance of the Environmental Plan approval conditions. A letter was sent to Low Impact Logging Ltd dated 15 January 1998 advising them of the situation. According to DEC, the EP conditions not complied with were as follows:

⁴ File 153-13-38, dated 13th July 2003.

- The company shall employ an Environmental Management Officer (EMO) (Condition # 6 of EP approval);
 - The EMO shall work with the contractor, (Condition # 7 of EP approval);
 - The company shall establish an Environmental Management Office at the base camp, (Condition # 8 of EP approval);
 - The company shall submit to the Secretary, DEC for his approval more details of waste management, (Condition # 12 of EP approval);
 - The company shall submit a detailed progress report on its EMMP to the Secretary, DEC annually, (Condition # 14 of EP approval);
 - The company shall submit a Rehabilitation Programme for the project area within 12 months from the EP approval date, (Condition # 16 of EP approval); and
 - Non-compliance with the Water Resources Act, Chapter 205.
- The Review Team observed that none of the above conditions have been fulfilled.
 - DEC has not visited the project site for monitoring purposes since January 1998.
 - It appears that DEC has not followed up its letter of 15 January 1998.

4.5 LANDOWNER COMPANY

Although there are no provisions for a Landowner Company to be involved with logging operations under a Forest Management Agreement, a Landowner Company Bugabu Resources Ltd, which is currently in liquidation was present in the area prior to the current Project Agreement being signed between Low Impact Logging Ltd and the PNGFA. The current Managing Director of Bugabu Resources Ltd claimed that she has the support of the majority of ILGs for Bugabu Resources Ltd to manage the 60% component of the PDL so community projects can be implemented.

- Under the terms and conditions of the FMA and the Project Agreement, the 60% of the PDL funds are to be managed by a committee comprising of 4 representatives from the ILGs, and 1 representative each from the permit holder, the Morobe Provincial Government and PNGFA. This committee is then responsible for making decisions to allocate funds to the various projects presented to it by the respective ILGs.
- Because of the ongoing dispute between Bugabu Resources Ltd and PNGFA, the PDL funds remain unspent. As a result no projects have been implemented in the Project Area.
- A company search shows that Bugabu Resources Ltd is under Liquidation and the Liquidator is Robert Ronald William Southwell. The company has current IPA

registration (1-21708). Its registered office is Section 41, Lot 11 Oleander Street Lae, PO Box 2665, Lae. Its shareholders are Zibe Oberong (1), Guling Lindang (1), Nelson Tapako (1). Its directors are Zibe Oberong (Magaziaine Village), Kuling Lindang (Busiga Village), and Nelson Tapako. No Annual returns have been lodged for 2002.

- Bugabu Resources Ltd has had Forest Industry Participant registration since 1995 (F1-268).

5. LANDOWNER VOICED CONCERNS

Several meetings were held with landowners and ILG representatives at four village locations. Separate meetings were conducted with individuals at various times during the evenings at Busiga Village where the Review Team camped for four nights, and at Kiserawa where the Field Team Leader and Forestry officers camped for one night. Landowners were consulted mostly in groups but also as individuals. Groups consulted included:

- Landowners Busiga Village;
- Landowners Mangec Village;
- Landowners Buseng Village;
- Landowner representatives from Tigedu Village;
- Landowner representatives from Bukawasip;
- Landowner Company representatives;
- Landowner representatives from Butala; and
- Landowners Kisarawa village.

The observations of the Review Team with respect to the relationship between the landowners, their forests, the logging company, and concerns expressed by the landowners are:

- Landowners expressed dissatisfaction over the lack of project development in the community as a result of the PDL funds being held up pending court action. It is five years since the project started and not a single development project has been funded. Members of the community who are not receiving cash benefits (from timber royalty and 40% cash disbursements from PDL) are concerned that the delays in the release of the 60% PDL has disadvantaged them most.
- Representatives from several ILGs expressed concern that substantial amounts of their royalty payments are yet to be accounted for by the PNGFA. This concern is confirmed in an internal PNGFA audit, conducted in early 2003. The audit report states that "There are no established procedures in place to properly

monitor and control the handling of Royalty/PDL Funds held in trust in the Momase Royalty Account, or there are established procedures in place but [these] are not being followed."

- Landowners expressed concern that there was insufficient awareness carried out on the implications of them signing the FMA. Landowners also claim that they do not know of the terms and conditions of the Project Agreement, or that they were involved in any way in the Development Options Study.
- Concern was raised over a number of logs that were left in the bush. Landowners claimed that these logs had not been scaled and although the matter was brought up with the Logging Contractor and PNGFA officer, no action has been taken.
- Landowners were dissatisfied with the royalty rate of K10.00 per cubic metre and would like this reviewed.
- Landowners from Kiserawa questioned whether logs used for bridges had been scaled and royalty paid.
- A landowner from Kiserawa complained that the logging contractor had logged three cemeteries within one set-up despite being notified of their location. The a/Project Supervisor had assessed the nature of the cemeteries and the nature of destruction and accordingly issued an instruction to the contractor to pay compensation to the landowner (according to the list supplied by the Valuer General's office), amounting to K1,800 (3x K600). The contractor had duly paid this amount but the landowner was still not satisfied by the outcome.
- Concern was expressed about unregistered land groups that had forest resources within the Timber Permit Area and the potential for these groups to disrupt logging operations.
- Landowners expressed gratitude for the Review Team's visit to the project area and hope that its report would provide a more independent view of the operation of the project as the ongoing conflict between officials from Bugabu Resources and PNGFA has a lot of landowners dissatisfied.
- Lack of permanent bridges and culverts on the main road linking the project area with Gagidu Station was expressed as a major concern. Landowners would like to see a percentage of the PDL monies spent to upgrade the road condition so that it is passable in all weather conditions. The future sustainability of the agriculture program in the project area will be highly dependent on this road. (This would seem to be a very good use of PDL funds).
- Concern was also expressed over the close relationship between the PNGFA monitoring officers and the expatriate personnel belonging to the Logging Contractor. Landowners would like to see PNGFA staff totally independent of the Logging Contractor.

- There were claims by landowners that forestry officers were monitoring the project from the office in Lae.
- Landowners were concerned that the changes of logging contractors had been made without making the outgoing Logging Contractor accountable for any damages or liabilities that it may have been responsible for during the period of its operation. Examples include clearance for any outstanding Workers Compensation payments, Nasfund deductions and any claims by landowners against the outgoing contractor for environmental damages.
- Long delays in executing payments to landowners well beyond 3 months after the logs were shipped was raised as a concern that needs to be addressed and the reasons for the delays explained to the landowners. The Review Team noted several letters by the PNGFA Regional Manager requesting the permit holder to pay for log shipments where payments were long overdue. The Review Team also sighted letters threatening to close the logging operation because of the above situation.
- One particular group of landowners expressed concern over what they claimed as environment pollution of the coastal area. One of their representatives provided a written document, which was sent to various organisations including the Minister of Environment and Conservation and the Morobe Provincial Government. It appears that no response was received.
- There was a complaint from Mangec village regarding fuel spillage into the creek and the sea at the Mangec log pond. This was reported (letter sighted by Review Team) by the District Environmental Health Officer (Finschafen) on 6 March 2001. The matter was later raised with DEC in a letter dated 16 August 2002 (also sighted) by members of the Mangec community. To-date there has been no action or response from DEC.
- The Bugulung Clan of Tigidu complained that Willis Kent Ltd was extracting gravel from the Bunum River for road construction without their consent.
- Landowners were concerned that expatriates are using local people to trade in marine and agricultural produce. The Review Team was shown a price list for marine products signed by the Landowner Liaison officer of Willis Kent Ltd but on company letterhead purporting to be Fisimo Ltd, with the same postal address as Willis Kent Ltd.
- The Yamai Incorporated Land Group (ILG) have questioned the validity of the 13 ILGs facilitated by the PNGFA in the Buhem Mongi FMA area. They, being an inland group of people, claim that many coastal villages with only land use rights were recognised as land owners.

The Review Team noted the following spin-off opportunities:

- The Contractor does not run a canteen for its employees. Instead landowners have taken the opportunity to provide such a service. This differs from typical

logging operations where the Logging Contractor operates canteens for its employees and landowners within the vicinity of the base camp.

- A mobile sawmill (not operational during the time of the visit) is used for the processing of some reject logs. This is privately owned by one of the landowners and is located next to the log pond (see plate 15).
- In October 2001 the permit holder was exempted by PNGFA from establishing a sawmilling operation. This was done with the understanding that landowners would be involved directly with sawmilling of reject logs in log landings and/or log pond.
- The permit holder confirmed that it was prepared to provide mobile sawmills to landowners to allow the latter to saw reject logs. The difficulty has been to identify which group to give the sawmills to. The Review Team observed that there is conflict amongst the landowners, which needs to be resolved before the contractor can provide further assistance.

6. PROVINCIAL GOVERNMENT DISTRICT OFFICE

The Review Team was unable to brief the Provincial Administration prior to the field trip or to locate a representative of the relevant District Office to accompany the team to the project site. However a briefing session was held between the Review Team and the President and Local Government Manager of the Yabim Mape LLG, and the Morobe Administrator, on 20 August 2003.

7. OBSERVATIONS REGARDING SILVICULTURE

The quality of the logging operation (in particular observation of the 24 Key Standards) has a significant impact on the ability of the forest to produce a second yield of logs (from the current residual trees), and to produce logs in the longer term (from regeneration after logging). The Review Team observations in this regard are:

- Regeneration after logging is profuse (see plates 8 and 9), however, species composition shows the normal pattern with non-commercial species becoming predominant and thus slowing the growth of the valuable species. There is excellent potential for silvicultural treatment of the logged forests.
- There has been no reforestation carried out in the project area despite the emphasis placed on sustainability and the reforestation clause of the Project Agreement (cl 6.3), which requires Low Impact Logging Ltd to “complete a detailed proposal (at its own cost and within 6 months of the Permit Date) for a reforestation programme incorporating the treatment of logged over forests.”
- The interruption to logging operations caused by the current wet weather will mean that regeneration already growing profusely will be destroyed when logging recommences, unless efforts are made to transplant the seedlings ready for reforestation.

8. BROAD RECOMMENDATIONS FOR TP 13-38

The Buhem Mongi Busiga Forest Management Agreement area is one of the first forestry projects established in accordance with the National Forest Policy 1991, and based on an anticipated sustainable annual cut. In this case it was estimated that 61,000 m³ could be harvested annually over a 35 year period. One of the main aims of a sustainable annual cut is the provision of a continuous flow of benefits to all stakeholders, and the achievement of a sustainable logging industry.

The project is managed under the Project Agreement, which is between the PNGFA and Low Impact Logging Ltd. This contains all those aspects deemed necessary for the success of the project (see Section 1), and is based on the results of the Development Options Studies. In the case of TP 13-38 Buhem Mongi Busiga several important aspects such as details concerning reforestation, were left for later additions as "Schedules", or were expected to be covered by normal process such as the infrastructure provisions in the revenue system (Project Development Levy).

The project is located in an area which is isolated and has a regular wet season (May to September) during which time it is difficult to access and production is very low or actually has to be stopped (e.g. 2003).

Given the above findings of the Review Team it is recommended:

- That, when the weather permits, the PNGFA conduct a thorough logging inspection to investigate matters raised in this report, particularly compliance with the annual plan, re-logging and waste assessment.
- That the Project Supervisor's house at Busiga is completed, as a matter of urgency and that the Project Supervisor be transferred to the project site.
- That the Project Supervisor is given adequate operational support, including a suitable vehicle⁵.
- That the permit holder consider a planned cessation of felling during the main wet season (May-September), this would allow for, by the end of April each year;
 - All felled logs to be extracted and transported to log landings or log ponds; and
 - Set-ups to be completely logged to allow for decommissioning during the wet season.

In addition this would allow, during the wet season:

- Seedlings to regenerate undisturbed in the most recently logged set-ups;

⁵ These recommendations concur with three of the four recommendations contained in the a/Regional Inspector's report, 28 August 2003, after he accompanied the Review Team to the field.

- The previous year's logged set-ups to be treated with Timber Stand Improvement techniques; and
 - The next set-ups to be prepared by the logging contractor and checked for approval by the PNGFA.
- That PNGFA head office provide the services of an accountant to it's Regional Office in Lae to audit the Momase Royalty Account so the unresolved questions raised by landowners and confirmed in an internal report can be rectified.
 - That the court case regarding the Project Development Benefit be addressed and resolved as a matter of urgency.
 - That the Project Agreement between the PNGFA and the permit holder (Low Impact Logging Ltd) for Buhem Mongi Busiga be reviewed and a proper reforestation section be inserted.
 - That all unregistered land groups within the Buhem Mongi Busiga project area be duly incorporated and included in the FMA.
 - That the PNGFA impose a reforestation levy on all logs harvested in the Buhem Mongi Busiga FMA for use as outlined in the reforestation section of the revised Project Agreement.
 - That a draft of the revised Project Agreement be circulated to all stakeholders, including ILG groups and the Morobe Provincial Authorities for their input.
 - That the PNGFA and the Permit Holder consider all comments received before finalising the revised Project Agreement.
 - That the revised Project Agreement be made available to all stakeholders.
 - That the permit holder employs an Environmental Monitoring Officer on site as per the EMMP.
 - That the permit holder immediately applies for relevant Water Use Permits from DEC.
 - That DEC visit the project area regularly to:
 - Monitor the company's compliance with the Environmental Plan and its approval conditions;
 - Ensure that the company's Environmental Management & Monitoring Programme and the Waste Management Plan are implemented; and
 - Attend to and solve environmental issues arising from the activities of the project with concerned parties (see Section 9 of this report).

- That the permit holder negotiate with the landowners of the current set-ups so that seedlings of commercial species can be transplanted into polybags for later use in enrichment planting, or for immediate use in rehabilitation of decommissioned log landings.
- That the logging contractor directs his staff to use spades to cut small water bars along all snig tracks to prevent soil erosion as per Key standard 21.
- That the permit holder place more emphasis on negotiating with landowners of the project area with regard to establishing small sawmills at suitable locations in order to convert reject logs.
- That once the court case over the PDL has been finalised, all stakeholders make a genuine attempt to decide on which projects the funds should be spent. This should involve the PDL committee and the sitting member of the Yabim Mape LLG and the district manager.
- That strict rules be imposed by the permit holder to ensure that employees of contractors are not involved in businesses outside their employment contract conditions.

9. BROADER FORESTRY SECTOR ISSUES FOR PNG FOREST AUTHORITY AND DEPARTMENT OF ENVIRONMENT AND CONSERVATION CONSIDERATION

The following is a list of issues identified by the Review Team during its work on TP 13-38 Buhem Mongi Busiga, which are of broader concern than this specific project. These will be addressed as forestry and conservation sector issues in the Observations and Recommendations Report to be produced by the Review Team towards the completion of the Review.

- Lack of planning, coordination and monitoring of logging projects and associated developments, between relevant agencies.
- Whilst the PNGFA and DEC are the key agencies responsible for implementation and monitoring of forestry projects, only the PNGFA has officers either on site or who make regular visits to projects. This has resulted in PNGFA officers being questioned by landowners on matters which concern other government departments.
- The Review Team has received many complaints about the current revenue system, particularly from landowners concerned about the rate of Royalty, which was set at K10.00/m³ in 1996, when the purchasing power of the PNG Kina was much higher than it is today.
- In addition to the paragraph above, the issue of funding for all Government Departments and Agencies involved in planning and monitoring of Forestry Projects needs to be addressed.

- A portion of the current log export tax could be set-aside and allocated either directly to relevant Government Departments and Authorities to subsidise proportionately, each Department and Authority's activities in the planning, monitoring and controlling of logging operations and compliance with Project Agreements, or deposited in a "Forest Monitoring Fund". Such a fund would need careful rules and guidelines for its use.
- Transport and manpower requirements of the PNGFA need to be addressed, with careful consideration of optimum use of existing staff, for example transfers may be necessary from areas where logging has slowed down to areas where logging has accelerated. Vehicle suitability and allocation also needs consideration, with the possible use of off-road motorbikes for isolated areas where the supply of fuel for larger vehicles is difficult to maintain.
- Ineffective management and control of the Royalty/PDL Trust Accounts by the PNGFA. Further training and advanced computerised accounting systems, both at PNGFA Head Quarters and in the Regional Offices, could alleviate this problem.
- Direct payment of the 60% PDL (FMA projects only) by PNGFA HQ into the PDL Trust Account operated by the PDL Committee should be considered. This would allow PNGFA officers at Regional and Provincial offices to control and distribute Timber Royalty and 40% PDL. A further consideration would be to employ the services of SGS Ltd to verify the correct amount of PDL payments required for each shipment of logs.
- The terms and conditions of forestry workers is a major issue that requires investigation by relevant Government Departments and Authorities. Issues include wages, conditions of employment, adequate insurance, occupational health and safety, and that appropriate taxes and other deductions are being made and deposited correctly, for example into the National Superannuation Fund.
- Lack of a clear policy within the PNGFA on the issuing of licences to third parties that apply to operate in a timber permit area without lodgement of a copy or copies of the agreement they have with the permit holder.
- Under the old Timber Rights Purchase process, the "right to use gravel" for road building purposes within the TRP area was included in the definition of "Timber Rights", i.e. logging companies extracted gravel from rivers and gravel pits free of charge if the gravel was used in the logging operation. Logging Companies were not compelled to pay for gravel but could do so as an additional benefit. Under a Forest Management Agreement, gravel has to be paid for according to the rate approved by the Valuer General (currently K1.90/m³). This anomaly is causing confusion in many logging operations.

APPENDIX 1 : SELECTION OF PERTINENT PHOTOGRAPHS