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The Financial Provisions, & 'Fiscal Self-Reliance under the Bougainville Peace Agreement

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Bougainville Revenue and Tax Summit

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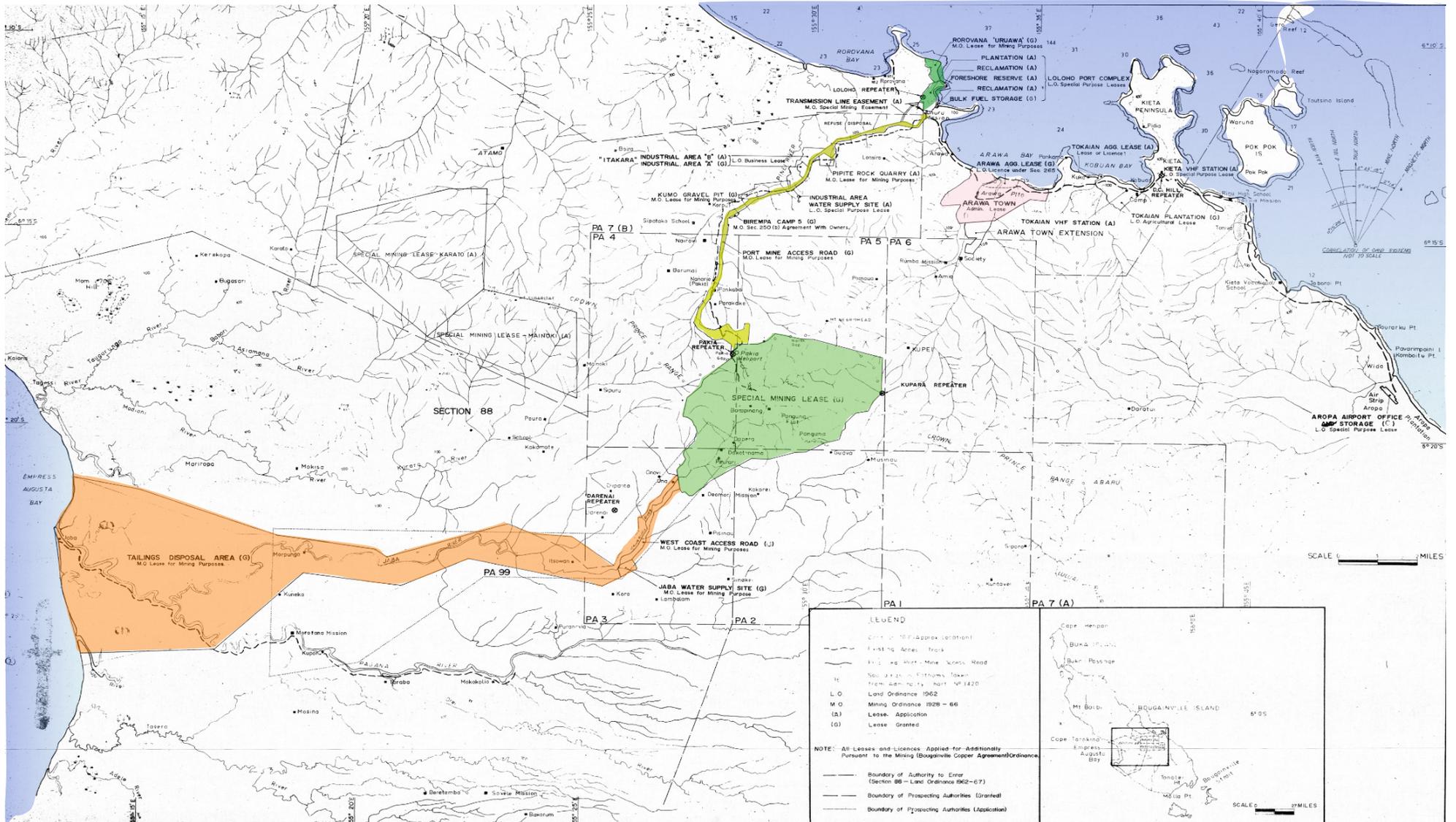
PANGUNA AND THE TAILINGS



State, Society
& Governance
in Melanesia



PANGUNA MINE LEASES

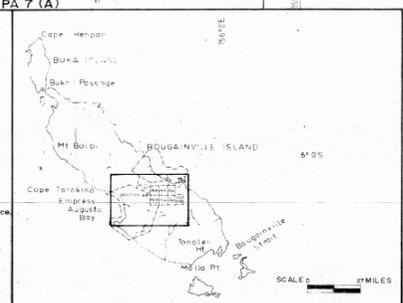


LEGEND

- Cont. of 1974 Approx. Location
- Existing Access Road
- Proposed New Access Road
- Non-Registered Strata Taken from Authority Map N° 1420
- L.O. Land Ordinance 1962
- M.O. Mining Ordinance 1928 - 66
- (A) Lease - Application
- (G) Lease - Granted

NOTE: All Leases and Licences Applied for Additionally Pursuant to the Mining (Bougainville Copper Agreement) Ordinance.

- Boundary of Authority to Enter (Section 88 - Land Ordinance 1962-67)
- Boundary of Prospecting Authorities (Granted)
- Boundary of Prospecting Authorities (Application)



REV.	DATE	BY	DESCRIPTION	CHECKED	APPROVED DATE	BY	DESCRIPTION	CHECKED	APPROVED DATE	DATE	SHEET SIZE	PLAN NUMBER
1	28/06/00	A. H. H. H.	Grainings Subject to Survey							28/06/00	B	PRO/025
2	28/06/00	A. H. H. H.	General Revision							28/06/00		
3	28/06/00	A. H. H. H.	Access Road Survey							28/06/00		
4	28/06/00	A. H. H. H.	Industrial Complex							28/06/00		
5	28/06/00	A. H. H. H.	Revised Information							28/06/00		
6	28/06/00	A. H. H. H.	Revised Information							28/06/00		
7	28/06/00	A. H. H. H.	Revised Information							28/06/00		
8	28/06/00	A. H. H. H.	Revised Information							28/06/00		
9	28/06/00	A. H. H. H.	Revised Information							28/06/00		
10	28/06/00	A. H. H. H.	Revised Information							28/06/00		

BOUGAINVILLE COPPER PTY. LTD.
 PANGUNA-BOUGAINVILLE ISLAND-TERRITORY OF PAPUA & NEW GUINEA

LOCALITY MAP SHOWING
 LAND LEASES, PROSPECTING AUTHORITIES
 & AUTHORITIES TO ENTER



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The Situation the ABG is Dealing With



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BPA Origins – *wok abaut ipainim rot*

- BPA negotiated June 1999 – August 2001
- Situation in Bougainville in those years
- Who negotiated? Leaders on both sides supported by technical teams
- Very large leadership and technical teams on the Bougainville side, multiple interests
- Negotiating a ‘comprehensive political agreement’ of a kind none had experienced before - no road map – *brukim bus tasol*





Issues about the financial arrangements were dealt with mainly from early 2001, towards end of BPA negotiation process, after referendum agreed. Implications of this timing?

Financial arrangements part of a complex agreement, 7 pages of a 75 page document, of which 2 pages concern accountability and audit

At the time of negotiations Bougainville's economy destroyed, capacity severely damaged

PNG was in the midst of an extended fiscal crisis





Negotiating - continued

B-ville: push for form of fiscal self-reliance (all tax collected in B-ville goes to ABG); increased grant (higher than under old Organic Law) for recurrent services; and funding for restoration/development

B-ville recognised that the ABG would need to rely mainly on grants for some time to come, and so pushed for high levels of grant funding.

PNG rejected higher recurrent costs, and said it was unable to agree to significant funding for restoration and development – at that stage.





The Principles

The objectives of autonomy include:

- Empowering B-villeans to solve own problems, manage own affairs, work to realise aspirations
- Providing sufficient personnel and financial resources for the ABG to exercise its powers and functions effectively.

Basic financial arrangement principles include:

1. Sufficient revenue-raising powers for the ABG to become financially self-reliant;
2. ABG to contribute to NG costs, at first thru the



NG retaining control of 3 main taxes collected in B-ville (company tax, customs duties and GST), and when B-ville reaches 'fiscal self reliance', thru a revenue-sharing formula (below)

3. Additional costs involved in establishing and operating autonomy to be shared by ABG/NG

An additional three 'unwritten' principles:

- a. Heavy initial ABG reliance on grants;
- b. Until ABG achieves fiscal self-reliance, all tax collected in Bougainville goes to support the



ABG in one of three main ways:

- i. The three main taxes are applied to credit the recurrent grant;
 - ii. Revenue collected in B-ville from either personal income tax or any NG tax other than the three main taxes is paid direct to the ABG
 - iii. All other taxes ever available to a provincial government can be imposed by the ABG.
- c. The three main taxes remain under National Government control in the interests of it's effective management of the national economy



Three main revenue categories available to ABG:

A. Grants

1. Recurrent unconditional – meets costs of functions ABG is responsible for, or will become responsible (thru transfer), in year of grant

Comment: Although it is ‘unconditional’, it is heavily tied to the costs of functions carried out by the ABG

2. Resoration and development – to meet costs of restoration and development projects, and coordinated by a joint ABG/NG mechanism

Comment: It has not been calculated as intended.



3. Policing (conditional) Grant – to meet recurrent costs of policing.

Comment: A small annual grant - K3.8 million in 2017. Police salaries are paid by the RPNGC.

4. Conditional grants – grants for specific purposes, as agreed between ABG and NG

Comment: The main such grant has been the Special Intervention Fund, though at times it has been treated as some other form of funding.



B. Shared Revenue

The ABG receives all revenue collected in Bougainville from taxes other than the three major taxes – in particular, from personal income tax, and it also receives 30% GST

C. Taxation

The ABG is entitled to impose and collect all taxes imposed by the National Government, other than the three major taxes, and (until 'restoration') personal income tax. The ABG



also able to impose and collect any tax ever available to a provincial government under either organic law. This means that the ABG could impose a retail sales tax, in addition to the GST imposed by the National Government.

Other Issues

One other essential aspect of the arrangements is that revenue from the 3 main taxes collected in B-ville is required to be paid into a trust account, and applied annually to meeting the cost of the recurrent unconditional grant.



As a result, all tax revenues collected in Bougainville are directed to the ABG, either by being paid direct to the ABG (personal income tax) or through contribution to the recurrent unconditional grant.





Fiscal Self-reliance

1. At the point where the funds being paid into the trust account to contribute to the recurrent grant is equal to the amount of the grant, and on a sustainable basis, the ABG has achieved 'fiscal self-reliance' for the purposes of the BPA and the constitutional laws that implement it.
2. At that point, the two governments will share any revenue from the three taxes which exceeds the amount of the recurrent grant.



3. The sharing will be in accordance with an 'agreed revenue-sharing formula' (PNG Constitution s.324(b)(ii)) – i.e. agreed between the two governments - which 'may be determined' by the 5 yearly review of autonomy.

4. The requirement in relation to a 'sustainable basis' is to cover a situation where the collections from the three taxes are higher than the recurrent grant on a one-off basis – e.g. because of cocoa prices being remarkably high in a particular year



Fiscal Self-reliance - continued

Fiscal self-reliance, as defined in the BPA, the PNG Constitution and the Organic Law, is a very technical concept. It is not solely about whether or not the ABG is reliant solely on revenue that it collects. Instead, it is also about the principle that under autonomy, the National Government has power to maintain a degree of control over the three main taxes for the purposes of managing the single PNG economy, and the principle that the ABG should contribute to the costs of the National Government for national services



The only way fiscal self-reliance - for the purposes of the BPA - will be achieved will be if revenue from the three main taxes increase dramatically. Each of the three main taxes will only increase in that way if the levels of activity in the formal sector of the economy increase dramatically.

Figures provided by the Secretary of the Department of Finance and Treasury indicated that in 2016, the revenue from the 3 taxes was about K2.4 million, when the recurrent grant



was K41.3 million – in other words, there was a 5.66% achievement of the fiscal self-reliance target in 2016.

At the time the BPA arrangements in relation to fiscal self-reliance were negotiated, informal discussion amongst some members of the Bougainville negotiating team acknowledged that it was difficult to imagine fiscal-self reliance without some very major economic development projects, most probably mining.





Under the BPA and as provided in section 337 of the Constitution, the two governments are required to jointly review the autonomy arrangements every five years. The first review was in 2013, and the steps to initiate the second review are under discussion.

Such a review is in two stages. The first stage involves independent experts reviewing a number of specified aspects of the arrangements. One of those is the financial arrangements, with particular reference to





‘grants, taxes and progress towards fiscal self-reliance’. The second stage involves the two governments meeting and jointly considering, amongst other things, the reports of the independent experts.

The first review occurred in 2013, and a report of the views of the independent experts who carried out the first stage of the review was published in October 2013.



The independent experts commented that Bougainville has ‘made little progress towards achieving fiscal self-reliance ... because its economy is too small to generate the tax revenues needed to finance itself.’ (para 6.5.1).

They argued the term is misunderstood (e.g. people mistakenly believed fiscal self reliance had to be achieved before the referendum could be held). They said that there ‘are serious weaknesses in the ... concept ... and question its relevance for the future of Bougainville’