



**PNG EXTRACTIVE INDUSTRIES  
TRANSPARENCY INITIATIVE  
NATIONAL SECRETARIAT**



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To: MSG Members, TWG Members on the Commission Bill and the Staff of the National Secretariat

Cc: Treasurer & Chairman of the PNGEITI National Secretariat and the Secretary for Department of Treasury

From: Mr. Lucas Alkan – Head of the National Secretariat  
Mr. Oliver Maingu – Stakeholder Coordinator  
Ms. Sarita Peai – Technical Officer

**SUBJECT: REPORT ON THE PNGEITI WORKSHOP ON THE DRAFT COMMISSION BILL**

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IN-ATTENDANCE

GOVERNMENT

- Lois Stanley – Constitutional & Law Reform Commission [CLRC]
- Carolyn Miana – Office of the State Solicitor [OSS]
- Shamir Sirigoi – Office of the State Solicitor [OSS]
- Channan Kumalau – Department of Petroleum & Energy [DPE]
- Aimo Sanawe – Department of Treasury [DoT]
- Maristella Kewa – Department of Treasury [DoT]
- Emmanuel Donigi – Department of Mineral Policy & Geohazards Management [DMPGM]
- Freda Kitum – Mineral Resource Authority [MRA]

State Owned Entities [SOEs]

- Fairlilyne Aiwa – Mineral Resource Development Authority [MRDC]
- Jason Mokola – Mineral Resource Development Authority [MRDC]

## INDUSTRY

- Philip Samar – K92 Mining
- Alice Aparima – Total Ltd
- Sheryl Peter - PNG Chamber of Mines & Petroleum [PNG CMP]

## CIVIL SOCIETY ORGANIZATIONS

- Yuamari Haihuie – Transparency Internal PNG [TIPNG]
- Henry Yamo – Consultative Implementation & Monitoring Council [CIMC]

## NATIONAL SECRETARIAT

- Lucan Alkan
- Oliver Maingu
- Sarita Peai

## APOLOGIES

- Fabian Kuias – Kumul Petroleum Holding Ltd [KPHL]
- Getrude Tamade – Barrick NL
- Paul Barker – Institute of National Affairs [INA]
- Collette Tsiperau – PNG Resource Governance Coalition [PNGRGC]

## TRIP OVERVIEW

- Travel destination – Mt. Hagen
- Travel period – 4 days
- Purpose – Refresher workshop on the PNGEITI draft Commission Bill

### 1. PURPOSE

The purpose of the refresher workshop was to particularly deliberate on the comments/concerns raised by State Solicitor on the draft Bill and to discuss ways to approach and address the concerns raised before responding to State Solicitor with a revised draft Bill for further review. Also to emphasize on the importance of the existence of the PNGEITI Bill together with the rationale/basis for the PNGEITI National Secretariat to have a legal basis to implement EITI in PNG.

### 2. SUMMARY

The PNGEITI National Secretariat reconvened its work on the draft Commission Bill took the TWG to Western Highlands Province and held a workshop from the 8<sup>th</sup> -11<sup>th</sup> December, 2020. It had to progress work on this project as it has been on hold for sometime due to internal challenges coupled with the covid-19 pandemic restrictions. The drafting team comprised of legal representatives from Government, Industry, State Owned Entities and the Civil Society.

The outcome of the refresher workshop was a success with the team returning on hand with a revised draft Bill concentrating on the PNGEITI establishment law.

### 3. DISCUSSION ITEMS

#### 3.1 Welcome and brief introductory remarks

The chairman, Mr. Oliver Maingu formally welcomed all TWG members and thanked everyone for making time available in their busy schedules to attend and participate in this key project of the National Secretariat. The workshop was opened with a word of prayer by Mr. Kumalau of DPE. He thanked the National Secretariat for making this trip successful for all the TWG members to attend and provide their input on the draft Commission Bill. Then followed by brief introduction of the TWG members.

The Head of the National Secretariat thanked Mr. Kumalau for the opening prayer and made the opening remarks. He also thanked everyone for committing time to attend this refresher workshop to get the draft Bill finalized and take it through the next process. Mr. Alkan provided the parameters to guide the discussions and on how to proceed with progressing the draft Bill. Mr. Alkan then provided the background of the PNGEITI Commission Bill, the challenges faced by the National Secretariat including comments from the Office of State Solicitor. He also acknowledged the presence of the team from the State Solicitor office. He indicated that their guidance would be necessary to provide for the drafting team to finalise the Commission Bill. Mr Alkan also acknowledged the presence of the officers from the Constitutional Law Reform Commission (CLRC), which is a key stakeholder to rely on to assist in completing the work. The main discussion of the refresher workshop then followed suit as outlined below.

#### 3.2 Expected outcome/s of this refresher workshop

The refresher program aimed to establish the parameters within what is contained in the letter from State Solicitor, in trying as much as possible to provide feedback to the questions and on the ratifications that have been sought. The focus was to concentrate on the State Solicitor response letter.

#### 3.3 Background of the proposed PNGEITI Commission Bill – Rationale

For this presentation, it was particularly for the new TWG members and a refresher for the existing TWG members given the timeframe of the last recent meeting. The National Secretariat did not progress this project in 2020 due to internal challenges such as manpower, reshuffle of TWG members and with the obvious Covid-19 pandemic restrictions.

The Papua New Guinea Government signed up to the initiative in 2013 through NEC Decision No. 90/2013. The decision clearly stipulated that the EITI implementation will be temporarily treated as a special project under Department of Treasury and later transitioning to an independent entity. The then Chairman of the PNGEITI MSG and Treasurer, Honourable Patrick Pruaitch at that time in 2016, took the matter into discussions at one of the MSG meetings held in Kokopo and the MSG resolved for the PNGEITI to have a legal basis to operate into the future. Currently, PNGEITI has been operating under the Cabinet Decision (NEC

Decision No. 90/2013). With EITI requirements changing every year with issues sensitive to the country particularly on Contract Transparency, Beneficial Ownership, reporting in relation to EITI in PNG, there is a need for EITI to have a legal basis to exist in order to fully implement EITI requirements. For PNG's case, an entity or an organization or a body operating under Cabinet Decision can be easily revoked by another NEC Decision and operations ceased anytime. This posed a real risk, hence for PNGEITI to sustain its operations, PNGEITI National Secretariat needed to have a legal basis to sustain its operations going forward.

### **3.4 Progress Update on the PNGEITI Draft Commission Bill**

In 2016, when the then Minister for Treasury, Honourable Patrick Pruaitch pushed for this initiative to have a legal basis, a legal consultant was engaged by the National Secretariat in 2017 to progress work on the EITI Bill however the Bill was not passed at that time. The National Secretariat Team and the consultant had series of consultations with "think tank bodies", civil societies which took place in years 2017 and 2018. Following that, there were workshops held in 2019 with the TWG members and from there a lot of work went into drafting this Bill. When the consultant left, TWG which was made up of all the legal officers from industry, civil society and the government took on the responsibility to refine the draft Bill further before submitting the draft to State Solicitor.

The last workshop was held in Alotau at the end of 2019, and a follow up workshop in Port Moresby. From there, a finalised draft version was submitted to State Solicitor for legal clearance. Early in 2020, the National Secretariat got a response from State Solicitor letter dated 21<sup>st</sup> January detailing concerns/issues on the draft Bill.

### **3.5 Addressing Comments from the Office of State Solicitor**

Comments from the Office of the State Solicitor were addressed on the 2<sup>nd</sup> day of the workshop [10<sup>th</sup>/12/2020]. Refer to attachment that contains the updated comments as discussed during the workshop.

Whilst addressing the comments, critical concerns were raised by the panel regarding the functions of the PNGEITI National Secretariat or PNGEITI Commission [type of information required and needed to be reported in EITI Reports, the Finance of the Commission, Structure of the Commission, and etc] which the PNGEITI National Secretariat is tasked to clarify or provide information to the TWG members in order to draft the said Bill. The Secretariat agreed to provide this information in the next TWG meeting on the draft Bill.

### **3.6 Restructuring and revising the existing draft Bill – PNGEITI Commission Bill**

The TWG drafting team took the initiative to revise the draft Bill section by section, omitting the irrelevant parts as a way of customising the Bill into PNG context. The revised draft is attached herewith the report. The Office of the Constitutional Law and Reform Commission volunteered to refine the draft Bill before the next TWG workshop.

## **4. Financial Report**

The expense of conducting such workshops with the TWG members is quite substantial as the host to this event. The expenses catered for are as follows; return airfares for the participants, per diem for the x4 [four] officers, accommodation for the duration of the workshop & in between tea & lunch breaks and well as vehicle hire costs.

Type of Cost	Amount [K]
Tickets	34,916.20
Accommodation + GST for 2days	33,603.00
Hire car on 8-11 Dec, 2020	2,277.31
Travel Allowances [x4 Officers]	3,024.00
Closing Dinner	2,520.00
Conferece Room [x2 day use] VENUE HIRE INCLUDING AM/PM TEA	8,502.00
<b>Total</b>	<b>73,820.51</b>

The receipt of the payments are enclosed herewith for verification purposes.

**5. Recommendations from the workshop**

The TWG Workshop recommendation and highlighted a number of actions that needed to be undertaken by the National Secretariat and the TWG members specifically DPE, MRA & MRDC, which are as follows;

- i. TWG request that invitations be extended to the other important State Team to be part of the drafting Team. These are as follows; Department of the Finance, Department of Personnel Management, Internal Revenue Commission & The First Legislative Council. The National Secretariat to formally write to invite them.
- ii. TWG members tasked the PNGEITI National Secretariat to clearly provision the functions of the proposed Commission or current National Secretariat.
- iii. TWG team request that all members review the revised draft and provide their comments to the National Secretariat to update or amend where necessary.
- iv. TWG recommended that a recap workshop be held in Port Moresby in early 2021 as a way of an update to the TWG members that missed out on the Mt Hagen workshop due to clashing work schedules.



Lucas Alkan  
Head of National Secretariat