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Speech

By Hon. Michael Oni, ABG Minister for Natural Resources

To the Opening Session,

**PANGUNA NEGOTIATING FORUM MEETING
Buka, Autonomous Region of Bougainville, 5th-6th August 2014**

As Bougainville's Minister responsible for natural resources, and as member representing the constituency where the Panguna mine is situated, I am very pleased and proud to be able to speak at this first meeting of the Panguna Negotiations Forum.

There has been a huge effort for five years to get us to this point. The work has been done not just by the ABG, but by many, many ordinary Bougainvilleans.

The effort has included widespread consultation by the ABG with the people about two closely related subjects. One is the future of Panguna, and the other is the draft Bill for the first ever Bougainville law on mining. From 2009, the consultation efforts were mostly about the future of the mine. From mid-2013 the ABG also began developing the draft mining law, and after that, consultation expanded to include awareness and seeking views on the draft law.

Initially most consultation was with landowners from leases associated with the mine and from adjacent areas. That resulted in requests from the communities to establish nine associations to represent landowner interests in all discussions on the mine's future. From the time they began to be established from 2010-11, there has been ever increasing ABG consultation with those associations.

From 2013, the ABG held Mining Forums to consult about the future of Panguna, and about the draft Mining law. We have held five regional forums, one for former combatants and one for women.

The ABG has also consulted closely with former combatants leaders outside of the Forum processes. We have also provided awareness about the draft Law to the executives of the Panguna mine lease landowner associations, and have consulted them as well as some of their communities, about the Bill.

The Minister for Finance will explain the main reasons why ABG leaders since 2005 have been clear large-scale mining is needed for our future. The consultation has shown clearly that most Bougainvilleans support our view.

But although we support resuming large-scale mining, we are not focused only on that. We want to see broad-based development. That includes in the mining sector. As a result, we support Bougainville's home-grown mining industry – the small scale gold mining industry. We estimate 5,000 to 6,000 Bougainvilleans are directly involved, and they may be receiving as much as K75 million or more from gold sales.

Our support for them is shown by an ABG partnership in research on small-scale mining. Our draft Bougainville Mining Law that will go to our Parliament for debate later this week rejects PNG law which makes almost all small-scale mining illegal. Instead, our draft law will make most legal. Further, we oppose the PNG ban on small-scale mining in all leases associated with large mines.

I have also made it clear to the ABG Mining Department that it must establish a new section for facilitation and regulation of our small-scale mining industry.

On large-scale mining, our new draft law is an interim law. That is why it is called the *Bougainville Mining (Transitional Arrangements) Bill*. We are moving with an interim law mainly to make sure that all outside interests understand they must have approval under Bougainville law – they cannot go through the back door by dealing directly with small groups of landowners.

At the same time the ABG is continuing to work on its long-term mining law that should be ready for initial debate by the end of 2014 or early in 2015.

The draft interim law is in many ways different to PNG law. In particular:

1. Customary landowners will own minerals in their land, which will give them many more rights than landowners under PNG Law:
 - a. Our owners can say “No” to Exploration Licence for their land;
 - b. After exploration, landowners will be involved, with the ABG, in all decisions on grant of mining licences;
 - c. Owners will share in revenue, employment and business opportunities;
 - d. Land rents and compensation will be fairer than under PNG law.

2. Anyone interested in investigating resources will apply for an Exploration Licence. If they find minerals, they will have an exclusive right to negotiate for a mining licence, in a Bougainville Mining Development Forum, involving both the ABG and landowners.
3. Owners of all areas likely to be covered by mining licences or licences for associated purposes, will be participate in the Mining Development Forum, and must first be organised into democratic representative associations.
4. To reduce social impacts of mining, and ensure the rate of resource development leaves some wealth for future generations, the draft law sets a limit of no more than two 'major' mines in Bougainville at any time.
5. In relation to the Bougainville Copper Agreement (BCA), the Panguna Special Mining Lease (SML), and the Exploration Licences BCL has had since the 1960s over areas north of Panguna (Atamo, Karato, Paruparu etc.):
 - a. The BCA will not apply in Bougainville when the law is passed;
 - b. The SML and all the Exploration Licences will cease to exist;
 - c. Instead, BCL will have the same rights as an Exploration Licence holder over the SML area, meaning that it will have only a right to negotiate with the ABG and landowners about grant of a mining licence, with the conditions determined in an agreement to be negotiated with the ABG and landowners.

BCL is very unhappy with what the new law says. It has given notice to the Australian Stock Exchange of its concerns , saying the draft law “may adversely impact on the rights held by BCL”.

On Tuesday last week, two senior BCL officers met the President and other ministers, including me, to state their complaints. Their main concerns included:

1. The value of BCL shares, and the company as a whole, will be reduced by losing its previous rights under the BCA, and especially the SML;
2. It will become harder for BCL to raise loans for preparation for negotiations and operations, as it would not have valid legal title;
3. Without the Exploration Licences, it would probably be harder to achieve a viable Panguna project;
4. BCL feared other companies might try to get rights over its Exploration Licence areas, adding to problems in achieving a viable Panguna project.

The ABG Ministers and an adviser responded strongly to the BCL officers, making the following key points:

1. The injustice of BCA was the source of terrible conflict for Bougainville, and so cannot be recognised in any way in the ABG law – BCL can return only under an entirely new agreement.

2. The BCL Exploration Licences were approved in the 1960s under the same unjust colonial power relations as the BCA, and so cannot be recognised under ABG law;
3. No company, including BCL, will be able to obtain a new Exploration Licence without agreement from fully representative landowner bodies;

Of course, there are some Bougainvilleans opposed to the new draft *Bougainville Mining (Transitional Arrangements) Bill*. They say it gives too much to BCL.

Yet the clear reality is that we propose a law that takes almost everything from BCL. All they will have is the right to negotiate for a mining lease over the old SML area. If we also took that away from them, they would have little choice but to challenge what we are doing in courts, or in international tribunals. The result would be long and costly legal battles.

When the ABG sees that a few Bougainvilleans oppose us, but at the same time BCL attacks us for taking away so much from them, we are confident we have got the balance right in the new draft law.

So I ask opponents of the draft law to be honest. They are clearly not serious when they claim we are giving too much to BCL.

The new draft Transitional Mining law goes to our Parliament on Wednesday. When the law is passed, it will mark a historic step in two main ways.

First, it will be a huge step towards achieving highest possible autonomy. Second, it will ensure that all future decisions about mining in Bougainville will be made by Bougainvilleans, under Bougainville law. In particular, all negotiations and decisions about the future of Panguna will be made under our own law.

I ask all participants in this Forum to take account of these important facts as they discuss the preparations for negotiations with BCL.

Thank you all for coming and being willing to participate in this historic step on behalf of all Bougainvilleans.