



**National Minerals Policy  
2017 - 2021**

**Ministry of Mines, Energy and Rural Electrification**

**Solomon Islands**

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## Glossary of terms

Axiom	Axiom KB Ltd
BMP	Building Materials Permit
CBSI	Central Bank of Solomon Islands
CDA	Community Development Agreement
CML	Community Mining Licence
CRA	Community Reserved Area
CSR	Corporate Social Responsibility
DSM	Deep Sea Mining
DSO	Direct Shipping of Ore
EIA/S	Environmental Impact Assessment/Statement
EITI	Extractive Industries Transparency Initiative
GDL	Gold Dealer's Licence
LAA	Land Access Agreement
MCILI	Ministry of Commerce, Industries, Labour, and Immigration
MDPAC	Ministry of Development Planning and Aid Coordination
MECDM	Ministry of Environment, Climate Change, Disaster Management and Meteorology
MoFT	Ministry of Finance and Treasury
MHMS	Ministry of Health and Medical Services
MID	Ministry of Infrastructure Development
MLHS	Ministry of Lands, Housing and Survey

MMA	Mines and Minerals Act 1990
MMERE	Ministry of Mines, Energy, and Rural Electrification
MPGIS	Ministry of Provincial Government and Institutional Strengthening
MSR	Marine Scientific Research
NMP	National Minerals Policy
NRIAC	Natural Resources Independent Advisory Centre
OHS	Occupational Health & Safety
PG	Provincial Government
PGA	Provincial Government Act 1997
PMO	Prime Minister's Office
SESA	Strategic Environmental and Social Assessment
SMM	Sumitomo Metal Mining Ltd
SPC	Secretariat of the Pacific Community
TNC	The Nature Conservancy
World Bank	The World Bank Group

All other words have the same definition as in the Mines and Minerals Act 1990.

Policy Objectives are referenced by inserting a decimal point between the objective and the measure. For example, Objective 33, Policy Measure 5 will read Objective 33.5

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### **Alignment with international instruments:**

This policy is developed in support of, and in alignment with:

- The Equator Principles
- The International Finance Corporation Performance Standards, especially PS1, 7 & 8
- The United Nations Sustainable Development Goals
- The United Nations Declaration on the Rights of Indigenous Peoples
- The Voluntary Principles on Security and Human Rights

## FOREWORD



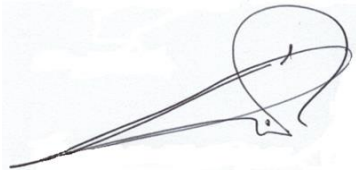
While Solomon Islands has, at the time of writing, no active mines, it is nonetheless currently experiencing consistently high levels of interest in mineral exploration. This exploration is taking place in many parts of the country, both onshore and offshore, and these exploration efforts may result in the discovery of commercially valuable minerals. While there is no doubt an abundance of minerals, our limited land mass and the scattered islands mean that the impacts of mining are heavily felt. There is little room for error and we have few opportunities to get the sector right. For this reason, it is more vital than ever that the country attracts reputable investors who are willing to work alongside the Government, building responsible practices and ensuring that there is a good balance between commercial gain, local benefits, and environmental and social risk.

The recent closure of Gold Ridge mine (and its continued declaration as a disaster zone), the lengthy court case involving the Isabel nickel deposit, and the explosion of bauxite mining – most significantly felt in Rennell Island – have left a mark on the mining sector in Solomon Islands. It has highlighted the urgent need for the sector to have a vision, and for changes to be made to mining legislation left largely untouched since 1996. Above all, mining must avoid the malign outcomes experienced in both the logging industry and elsewhere in the Pacific.

Mining by its basic nature is not sustainable over the long run. Minerals are a non-renewable resource, and we must plan wisely for minerals-led sustained development even after our minerals have been depleted. To make the most of this resource, a holistic minerals policy that takes into account both the short and long-term aspirations of our nation is required. To achieve this, the development of the sector must look beyond the mere payment of landowner compensation and collection of taxes, ensuring that future generations will continue to enjoy a healthy environment and bettered circumstances. Traditional values need to be respected in the pursuit of a better life for our people, and it is important that as we move forward, the respective rights and roles of government, impacted communities, mining companies and others be carefully defined and integrated.

Our present system of mineral sector regulation is far from perfect. Experience has demonstrated that we are faced with numerous challenges that must be addressed. First and foremost is the need to situate mining within a Solomon Islands specific context. This is necessary to understand and negotiate the social and cultural issues that underpin the viability of many mining activities. In addition, and critical to our ability to secure sustainable benefits from the mining sector, is the need to manage volatility in revenue due to shifting commodity prices and sector productivity. This is contingent on our ability to regulate and tax the sector in a manner beneficial to all and by embracing efforts to improve approaches to mineral sector regulation and economic diversification. This National Minerals Policy (NMP) provides a vision and objectives for the mineral sector and additionally outlines the steps that can be taken to achieve this vision.

This document is a long time arriving. The NMP builds on work that is the result of an intensive year-long collaborative effort, spearheaded by my Ministry with the assistance of other Government departments, Provincial Governments, and civil society. This NMP sets out an ambitious agenda. Our work is cut out for us, but by working hard together, I believe that our emerging mineral industry can flourish in a way that is mutually beneficial to both investors and the people of our country. We will continue to learn from our mistakes and successes, and it is intended that this NMP will continue to evolve overtime.

A handwritten signature in dark ink, featuring a large, stylized loop at the top and a long, sweeping underline that extends to the left.

**Honourable David Day Pacha**

Minister

Ministry of Mines, Energy and Rural Electrification

## PERMANENT SECRETARY'S OVERVIEW



I join the Honourable Minister in presenting to you this National Minerals Policy (NMP) for the Solomon Islands. Twenty years have gone by without a guiding vision and a national minerals policy. My firm believe is that the mining sector is now so crucial like in no other time that we as a nation must harness the sector through well thought through policies and legislations; learning from the lessons that we may be able to get from other countries. It is therefore, my wish that policy and legislative development will continue to be supported under my administration.

The Corporate Plan 2016-2018 sets out clearly the vision, mission and strategic directions of the Ministry of Mines, Energy and Rural Electrification (MMERE), articulating the long term objective(s) of our National Development Strategy 2016-2035 as well as advancing the Democratic Coalition for Change Government policy directions. It is therefore not a mistake that this policy document is given utmost priority in its development and may I add its implementation into the future. This I am confident will enable my ministry to deliver on the key mandates, including that of the mining areas expected of the ministry.

The MMERE as you may be aware is mandated as both a technical and resource sector of the government and is responsible for areas such as Geological Science and Knowledge, Minerals Prospecting and Explorations, Water Resources, Petroleum and Energy Resources, Rural Electrification and Mitigation of Geological and Hydrological Hazards. The Ministry through the relevant divisions and with support from other stakeholders, will ensure the implementation, coordination and monitoring of this National Minerals Policy is carried out.

The National Minerals Policy formulation had been a collaborative effort from a wide stakeholder consultative process. It is thus fitting that I as the administrative head thank all those who have participated and contributed to the whole process. I acknowledged the lead Division and the Taskforce spearheading the coordination and oversight role. I also acknowledged the World Bank for the Technical Assistance inputs and all others who may have been involved. Thank you all.

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Jeffrey Sade Deve.

Jeffrey Sade Deve  
Permanent Secretary  
Ministry of Mines, Energy and Rural Electrification

## EXECUTIVE SUMMARY

Solomon Islands is highly prospective for a wide range of minerals including base and precious metals. Its mineral resources are found both on land and offshore. Since it was heralded by Spanish explorers in the 16th century as having gold there has been a steady stream of explorers seeking a modern equivalent of “King Solomon’s mines”. Exploration companies are active in many parts of the country, experience has been gained with gold mining (at Gold Ridge), and the mineral sector shows a promising future in contributing to sustainable development of the Solomon Islands.

Mining in itself is clearly not sustainable, as it depletes a finite national asset. However, mineral extraction can indirectly become sustainable in so far as it stimulates sustainable development in other sectors. The Solomon Islands National Government is committed to achieving sustainable development outcomes and seeks to balance environmental and social requirements with a competitive tax system and fair and level playing field for investors.

A National Minerals Policy that guides strategies and reform processes is particularly relevant today. Exploration activity is at record high and bauxite mining has exploded and show no sign of waning, placing significant social and environmental strain on the country. The balancing of private sector, national, provincial, landowner and impacted community interests and concerns is a delicate task and one that the country has little experience of. Past experiences and lessons learned from our neighbours inform improved locally relevant approaches to mining.

This policy document gives a clear signal to the investment community, landowners and the public of a competitive mineral sector regime that is informed by international best practice but is grounded in local conditions. At the heart of this policy is the need to balance the different interests affecting mining to ensure long-term sustainability. Further, this policy describes planned legal, regulatory and institutional reforms that will facilitate the development of mineral resources in an optimal way that maximises the economic linkages for sustainable local and national growth and development.

This document sets the policy agenda for the mineral sector.

## ACKNOWLEDGEMENTS

The Government team responsible for framing this Policy would like to thank the many participants in government, the private sector, landowners and communities, NGOs and the public for their input, especially those that took the time to provide feedback through the consultation process. Special thanks are offered to Mr Akuila Tawake and Ms Marie Bourrel from the Secretariat of the Pacific Community (SPC) for their contributions to the Deep Sea Mining (DSM) section of this policy, Katie Heller, Bryan Land, Jeremy Weate and Melanie Phillips of the World Bank, whose technical assistance to this policy was funded by the Australian Government through the Department of Foreign Affairs and Trade, Willie Atu and Robyn James of The Nature Conservancy, Professor Glenn Banks, and Dr Matthew Allen for their co-operation in providing technical assistance and for supporting stakeholder engagement activities.



## VISION STATEMENT

*The mineral resources of Solomon Islands will be developed for the benefit of all the people of our country in a way that causes minimal environmental impact and respects the different cultures, interests, and relationships that make up this diverse community, both now and for future generations.*

## INTRODUCTION TO THE POLICY

For the past twenty years the development of mineral resources has been discussed as a source of economic growth and opportunity for Solomon Islands. Yet in this period there has been no guiding vision and national policy on how we achieve this goal. Successive governments have launched reviews of national mining policy but in each case the process has lost momentum. The Mines and Minerals Act is now two decades old and has failed to keep up to date with advancements in other sectors. The need for a mining policy (and updated legislation) is more urgent than ever. This National Minerals Policy consists of an overall vision for the sector, a set of governance principles that underlie the policy, and objectives articulating the way that key aspects of mineral development will be approached.

This policy sets out an ambitious agenda. This was a deliberate decision by the Taskforce. It is designed to be a comprehensive guide to the mining sector as a whole and combines many different areas that would normally in other jurisdictions be broken down into separate policies. This policy does not preclude the development of other content specific policies, but instead attempts to create an umbrella document, under which other more specific policies can sit. This policy will be implemented through a series of structured amendments to the current laws, the development of more detailed regulations and the exercise of regulatory mandates by the Ministry of Mines, Energy, and Rural Electrification (MMERE) and other relevant public agencies at national and sub-national level. It also provides guidance to other stakeholders engaged in and affected by mineral development on their roles, responsibilities and protection of their interests.

## HOW THIS POLICY WAS DEVELOPED

Following on from the priority recommendation of the 2015 National Minerals Forum, the MMERE approved a Terms of Reference for an Inter-Ministerial Taskforce, made up of representatives from different sector Ministries and supported by the Mines Division, to review the previous draft National Minerals Policy. A wider multi-stakeholder working group recommended by an earlier National Minerals Forum to implement its recommendations was halted to allow the Inter-Ministerial Taskforce to carry out its work. Members of the working group were, however, invaluable in providing inputs to this policy, especially in those areas relating to community engagement and environmental safeguards.

Early on, the Taskforce realised that much had changed in Solomon Islands since the last policy was drafted in 2013. The so-called “commodity super cycle” – the era of high commodity prices – had ended. Meanwhile, recent court cases and experiences in Rennell and Gold Ridge have shed light on some of the key issues facing the sector. This led to the Taskforce deciding that the most appropriate way forward would be to carry out a wholesale review of the previous draft policy, pulling together recent lessons, experiences and work to create a truly fit-for-purpose document, able to provide practical and strategic guidance to all involved in the sector, as well as to substantively inform amendments to the law.

Over ten Taskforce meetings from February through June 2016, the bones of this policy were developed. Several months of consultation has refined this further. The final product is something that the Ministry believes balances the interests of the Government, the people, and the investors promoting responsible investment in the mining sector for the long term development of the country.

## **PRINCIPLES UNDERPINNING THIS POLICY**

This policy is underpinned by several key principles:

- ❖ **RELEVANCE.** Too often policies have failed to address the immediate needs and issues of the Solomon Islands context. This policy was developed by the Ministry, in conjunction with other partner Ministries, drawing on several rounds of stakeholder consultations, to address issues relevant to our country.
- ❖ **RESPONSIBILITY.** While it is common to hear talk of rights in relation to minerals, it is less common to hear reference to responsibilities. For every person that professes a right to take benefit from minerals, they must also understand their reciprocal responsibility to manage resources in an equitable and respectful way.
- ❖ **COMMUNITY.** Previous mining laws have tended to create factions within landowners, promoting the rights of a few. This policy re-balances this equation by ensuring that impacted communities as a whole, not just a few individuals or “trustees”, are involved in decision making and oversight of mining activities. This includes the views of women and the young and their perspectives on sustainable development from mining.
- ❖ **COORDINATION.** Mining activities - done well - can play a significant role in supporting development ambitions. Connections across Ministries, as well as vertically to provincial governments, communities, churches, and other community actors are essential to ensure that the different interests and rights of parties are considered and balanced.
- ❖ **TRANSPARENCY & ACCOUNTABILITY.** Secretive, opaque and discretionary transactions have plagued the mining industry in Solomon Islands to date. Future dealings, whether in relation to mineral rights, revenues or other benefits will be made transparently, while those making decisions that affect the public interest will be held to account.
- ❖ **BALANCING THE PLAYING FIELD.** All participants in mineral sector development should have the opportunity to participate on a level playing field that treats all as equal participants. Free, prior, and informed consent is fundamental to good decision making. This is most obviously lacking at the community level, where vulnerable people can be preyed upon by people seeking to exploit this information gap. To address this imbalance, impacted communities must be empowered to make good decisions that align with their long-term interests.

- ❖ **SUSTAINABILITY.** Natural resources are finite and, for this reason, must be managed in a way that ensures both the resources, and outcomes from exploitation of these resources, are managed sustainably. Mitigation and, where possible, avoidance of mining impacts is promoted to maximise sustainability.

## OVERVIEW OF THE KEY IMPROVEMENTS RESULTING FROM THE POLICY

This policy document addresses a significant number of issues, which have led to negative outcomes in the mining sector. The result will deliver benefits to all three core stakeholder groups.

### Government

Improvements for Government are:

- Refined and clarified functions and powers of the Minerals Board, with an independent Chair, for more efficient and less discretionary decision making.
- Increased role for provincial government, including in landowner identification, quarrying and artisanal mining licensing.
- Greater inter-ministerial coordination to avoid duplication of efforts or contradictions of powers and processes.
- Greater revenue transparency and accountability, including the flow of all mineral revenue into one fund (the Minerals Special Fund), under the supervision of a multi-stakeholder Oversight Committee.
- Focusing regulatory authority in the statutory position of Director of Mines, who manages a fully capacitated and fit for purpose Mines Division.

### Landowners, Communities and Project Impacted Persons

Improvements for landowners, communities and project impacted persons are:

- Inclusion of landowners, communities and other project impacted persons in the negotiation of land access and community development benefits, to ensure fair and equal representation for all.
- Strengthening access to legal advice, awareness training, financial management support and other services to enable effective participation by landowners, communities and other project impacted persons, through an independent advisory centre designed for this purpose.
- Openness and transparency about all agreements made that impact on landowners, communities and other project impacted persons with multiple opportunities for monitoring and verification, bringing dealings in mineral resources into the daylight. All key agreements (as well as Environmental Impact Assessments) will be publicly available documents.
- Heavier reliance on custom-appropriate land identification using traditional authority systems, facilitated by the government, to avoid capture by select interested parties.
- Introduction of a multi-party Community Development Agreement framework for each mining project prior to mining development, to spell out the rights and obligations of each of the parties.
- Adoption of representative community structures to ensure fair and equal representation and benefits in mining revenue and development projects, guided by the Community Development Agreement.

- Standardisation of model agreements, fees, and compensation rates to strengthen communities' ability to negotiate with companies.
- Providing more safeguards to ensure that community decision making is inclusive and represents the views of men, women, and youth, to facilitate equitable development outcomes.

## Companies

Improvements for companies are:

- Removal of several of the sources of risk to security of tenure through greater clarity, standardisation and efficiency of mineral rights licensing and management.
- Increase in number, size and duration of prospecting licences during the exploration period, raising the upper limit of the licence area from 600km<sup>2</sup> to 5000km<sup>2</sup> for deep-sea tenements, increasing the licence period from 3+2+2 years to 4+3+3 years, and allowing for two additional licences provided certain criteria are met.
- Companies will no longer be responsible for, or involved in, landowner identification – this will be a government led activity, with participation from custom bodies
- Standardised Land Access Agreements, Mining Agreements, Community Development Agreements, forms, fees, creating an even playing field for all companies who can have confidence in their landowner and community dealings.
- An even playing field for all companies with comprehensive new transparency provisions and reporting requirements.
- Greater scrutiny of applications with prescribed due diligence checks to encourage reputable operators.

## SPECIFIC MINERAL POLICY MEASURES:

### THE GOVERNMENT

#### Governance

At present, the country struggles under a mining governance regime that is limiting and exclusive rather than open and inclusive. Decision-making is concentrated in the hands of a few: A new regime, more inclusive of the different parties impacted by mining is necessary for both social cohesion and investor confidence. While some mining companies include communities and other local actors in decision making, this tends to be on an ad hoc basis. Provincial Governments have typically been excluded from sector decision making and information sharing. Bringing Provincial Governments into the fold is critical not only for investor confidence but also for identifying culturally appropriate ways of responding to issues and managing grievances arising from mining activities. Sharing responsibility for the sector is not, however, enough. Capacity at all levels needs developing. The Government envisages this policy as being the starting point for a significant capacity support programme, encompassing not just the National Government but all stakeholders affected by mining activities.

**Objective 1:** *To create inclusive mineral sector governance arrangements that provide for efficient, transparent, affordable and culturally appropriate decision-making processes at all steps of the mining lifecycle for the long-term interests of all stakeholders.*

#### Specific policy measures:

1. The Ministry of Mines, Energy and Rural Electrification (MMERE) as the primary regulator of the mining sector, will fulfil its regulatory responsibilities in close coordination with other Ministries whose regulatory decisions are required for effective governance of a mineral sector that benefits landowners, communities, provinces and the nation. To facilitate this, the Ministry will require applicants to demonstrate compliance with other regulatory requirements in order to be issued a licence or lease under the Mines and Minerals Act, and will develop operational practices that encourage inter-ministry learning and cooperation at all stages of the mining lifecycle.
2. In addition to working across National Government Ministries, the Ministry commits to working with those organisations and bodies operating 'on the ground', creating an inclusive environment that recognises the impact of mining activities on all persons, bodies, and organisations affected by mining, not just primary landowners. The involvement and cooperation of all - landowners, communities, churches, chiefs, traditional leaders, and others - are needed to ensure that the effects of island situated mining are carefully managed. The creation of community corporates, mandatory development agreements and development plans, and community inspectors represent some of the thinking on this point.

The preamble to the Constitution which vests “the natural resources of our country [in] the people and Government of Solomon Islands”. This statement is echoed in section 2 of the MMA which, in turn, vests minerals, regardless of their tenure, in the people and Government of Solomon Islands. In practice, this has been difficult to understand and reconcile with the ability to exploit, especially given the Government’s reduced regulatory presence. While there can be no disagreement that the people of Solomon Islands have a vested interest and right to the benefits of mineral extraction, given the highly technical nature of mining and the amounts of money involved, minerals should only be exploited under the strict control of the Government. The Government is responsible for ensuring that all those affected by mining, not just those in the immediate area, are protected.

**A note on the ‘six feet rule’:** there exists throughout much of the country a mistaken belief that minerals within the top 6 feet of land belong to the people, with everything below 6 feet the property of the State. This appears to carry over from old common law traditions or a misunderstanding of the artisanal mining rule - intended to ensure mining safety - that a person is not allowed to dig more than 2 meters deep. In any event, this policy reaffirms the position that all land, regardless of depth, are vested in the people and the government, and all minerals, regardless of depth, come under the regulatory control of the Government.

**Objective 2:** *To define mineral resource administration in a way that recognises the exclusive authority of the State to manage mineral resources development but also its responsibility to ensure that such development is for the betterment of the whole country.*

1. Mineral management, and right of access to minerals, is and will continue to be defined as in the existing Mines and Minerals Act:

*“All minerals existing on, in or below the surface of any lands of whatsoever ownership or tenure or in whatsoever possession or enjoyment they may be, are and shall be deemed always to have been managed by the State, on behalf of the Government and people of Solomon Islands, for the development of country and benefit of its citizens.*

*Subject to the provisions of the mining law, the Government shall have the exclusive right to deal with and develop the mineral resources in such manner as it deems to be in the national and public interest*

*No person shall, except in accordance with the provisions of the mining law and any associated regulations:*

- (a) explore for, or develop, mineral resources;*
- (b) carry out reconnaissance, prospecting or mining operations in respect of minerals; or*
- (c) acquire any right, title or estate in any minerals.”*

## Mining Sector Masterplan

**Objective 3:** *To develop a mining sector masterplan to guide the Ministry specifically, and the Government more broadly, in managing the sector for the long-term interests of the Solomon Islands.*

### Specific policy measures:

1. The Ministry will take a proactive approach to managing the mining sector. To this end, it will identify what mineral deposits exist in country - via the production of a regularly updated mineral resources map and a Strategic Environmental and Social Assessment (SESA) - what areas are suitable for mining, and when this mining should happen. The SESA will include a consideration of the viability of deep sea mining (see Objective 32) and artisanal mining (see Objective 36). The Ministry will be guided by the view that simply because minerals are present, it does not entail that the opportunity for exploitation is immediate. For those Provinces that have significant mineral deposits and show commercial potential, the Ministry will, in conjunction with the Provincial Governments, look to developing also a provincial level masterplan that will inform the creation of the Provincial Development Plan. For the production of the mining sector masterplan the Ministry is also guided the National Development Strategy (2016-2035) and the protected areas processes.

## Ministry Organisation and Operations

The MMERE has a challenging role, regulating the sector while at the same time straddling landowner and community relations as well as company interests. The Minerals Board, the body responsible for overall compliance of the Mines and Minerals Act, epitomises this struggle, with current responsibilities ranging from representation of companies to ensuring landowners obtain a fair deal. With the Director of Mines also being the Chief Geologist, there is an uncomfortable tension between the Mines Division and Geological Survey Division, with overlapping and often contradictory functions. Turnover at MMERE is high. The revolving nature of appointments to the Directorship have exposed some of the challenges in this role and the significant pressures that often influence and impact on decision making. Officers struggle under a variety of pressures, both political and personal, that makes staff retention difficult, especially in an environment where salaries are chronically low compared the more lucrative offerings in private business. A clear vision for the sector and an attractive operating environment are key to providing a strong regulatory base to the sector.

**Objective 4:** *To consolidate the primary responsibilities for implementing mineral sector regulation in an effective and appropriately resourced Mines Division.*

### Specific policy measures:

1. The primary responsibilities for implementing mineral sector regulation cover those of legal and regulatory oversight, mineral tenements management, monitoring and evaluation of exploration activities, inspection of mines and, in order to play a more effective role in promoting stakeholder engagement, community relations. The Mines Division is responsible for sector regulation and the



Director of Mines, a head of that Division, will have clearly defined functions and powers to ensure effective sector management.

2. In light of this Policy, the Ministry will review the organisational review carried out by Secretariat of the Pacific Community (SPC) in 2013 and, subject to any changes and the agreement of the Ministry of Public Service, begin the process of implementing the new structure. The Ministry will identify and prioritise training and secondment opportunities, both locally and international, for staff to ensure that they are equipped with the knowledge and experience required to effectively regulate the sector. The Ministry will also identify means, such as through the establishment of scheme of service, to ensure that staff are retained and receive commensurate reward for their expertise.
3. Through Ministry of Development Planning and Aid Coordination (MDPAC), the Mines Division will implement a Mines Sector Institutional Strengthening Programme to support the implementation of this new structure and the policy more broadly. Each unit of the Mines Division will develop manuals on core operations which will provide detailed guidance to staff.
4. Assisted by the introduction of prescribed fees and rates (Objectives 7 & 20), the Mines Division will develop a costing of both core services and the training and equipment needed for effective regulation, to be incorporated as part of the Mines Sector Strengthening Programme. Using these costings, the Mines Division will agree with Ministry of Finance and Treasury (MoFT) means to streamline payments for key services, such as through the development of pro forma documents, and work with them to provide training or develop systems that ensure the Mines Division has the support it requires to carry out its core functions well.
5. The Mines Division will develop information sharing protocols with other Ministries, in particular, the Ministry of Environment, Climate Change and Disaster Management (MECDM) and MoFT, about timely sharing of confidential and public information relevant to the functions of each Ministry.
6. Given the highly provincial nature of mining, the Ministry will set up extension offices in Provinces where there is active mining or advanced exploration, staffed by an Inspections Officer and a Community Relations Officer. In accordance with an agreement between the Ministry and respective Province, officers will report jointly to the Ministry and the Provincial Government on activities in the area and will agree ways to ensure that the officer(s) can work safely and protect sensitive information under the control of these officers. Officers will be responsible for ensuring that landowners and government officials in the Province have good information about mining activities and that exploration and mining activities are carried in a lawful, safe manner.

### **The Role of the Minister and the Minerals Board**

The role and powers of the Minister and the Minerals Board, as currently envisaged in the Mines and Minerals Act, have exposed some of the challenges of modern decision making and the pressures that afflict both parties. The ability to implement the regulatory framework provided by the Act has been an issue for the Minerals Board, while Ministerial discretion has been a source of concern on the other side, leading to distrust by each in the other. The Act gives the Minerals Board a central role in making information and advice available to stakeholders, including companies, landowners and other mining affected persons. The way the latter functions have been conducted at times, has led to a perception that there are damaging conflicts of interest in Board deliberations. Another widely felt need is to strengthen the composition of the



Board to enable it to operate in a more efficient, informed and consistent manner in order that they are better equipped to advise the Minister. This situation calls for a re-definition of the roles of the Minister and the Minerals Board.

**Objective 5:** *To vest the Minerals Board with effective oversight of licensing, tenement management and mining development, ensuring a transparent and accountable approach that reduces discretionary decision-making*

**Specific policy measures:**

1. The Minerals Board will henceforward be the principal decision making body for management of the minerals sector based on powers defined in the Mines and Minerals Act.
2. To protect the integrity of Minerals Board decision-making, the Minister must follow the Board's recommendation unless the Minister is of the view that the Board's decision can be queried. Examples of Ministerial Query could include (i) breach of the Board's statutory powers, or (ii) incompatibility with Government policy. Legislation will provide for the timeframe and process to be followed in the event of a Ministerial Query.
3. The functions of the Minerals Board will no longer include those in Section 11 (b) to (f) of the Mines and Minerals Act wherein the Board has duties to provide information to and assist stakeholders (including mineral right holders and surface right holders), since this is more properly conducted by public and non-governmental bodies that are not at the same time responsible for the allocation of mineral rights and assuring compliance.
4. The Minerals Board will consist of:
  - a. statutory office holders from a range of public institutions that perform regulatory functions connected with mineral operations;
  - b. an independent Chair, not holding public office and meeting strict eligibility criteria to assure competence for the role and an absence of conflicts of interest; and
  - c. representatives of Provincial Governments, landowners and impacted communities, to deliberate only on matters directly affecting them.
5. The Minerals Board will have the power to allow ex officio or non-voting members into meetings under such conditions as the Board considers fit. The Minerals Board also has the power to request independent advice from any person or organisation regarding any matter under the consideration of the Board.
6. The Minerals Board will be served by a Secretariat composed of the Director of the Mines Division and such technical staff of the Mines Division as are necessary to ensure that the Minerals Board has available to it the information and technical guidance needed to conduct its business effectively.
7. The Minerals Board will identify means, such as through the creation of a separate budget line or funding source, to ensure that it has the appropriate resources available for it to carry out its statutory functions in a timely, efficient, and effective manner.
8. The Provincial Secretary is responsible for representing the views of the Provincial Government to the Minerals Board. On any matter affecting that Province, notice of meeting must be sufficient to

enable the Provincial Secretary to gain the opinions and direction of the Provincial Executive prior to the Minerals Board meeting. The Minerals Board will be highly persuaded by the views of the Provincial Executive as to the suitability of mining activities in the Province.

9. A Provincial Government can, following the passing of a resolution by the Provincial Assembly to that effect, apply to the Minister to have an area declared as reserved or protected area under the MMA. Legislation will describe the notification and objection period in the event such an application is made, and the process by which the application is considered.
10. Additional technical and procedural information on the Minerals Board is set out in **Appendix A** to this Policy.

## Financial Management and Fiscal Regime

As is the case with its regional neighbours, the history of royalties and other mining related payments in Solomon Islands is not a good one. A lack of transparency and tendency for payments to go missing has dominated the discussion about how mining derived revenue can contribute to the broader wellbeing of the country and its people. Revenue disclosures are limited, although the Government's willingness for Solomon Islands to join the Extractive Industries Transparency Initiative (EITI) offered some grounds for optimism. The fiscal terms for mining have lacked uniformity, with deals struck on a case by case basis. Recent changes to the fiscal framework for mining, which promised greater standardization, have been somewhat ad hoc and in some cases has increased rather than decreased confusion about controls and management of revenues.

All these things add to the risks faced by mining companies in Solomon Islands, especially among more reputable investors. The country is currently in the bottom ten globally in international rankings of investor perceptions<sup>1</sup>. Instead, smaller, less-reputable investors have targeted Solomon Islands as a place for exploitative enterprise, negotiating their own fiscal deal that has resulted in the country losing significant monetary and mineral resources. The Ministry is committed to turning this around by creating certainty for investors – that all companies must meet certain minimum standards and, when it comes to determining their fiscal contribution, will be treated in the same way.

**Objective 6:** *To protect mining revenue for the long term interests of all the people of Solomon Islands.*

### Specific policy measures:

1. The Ministry commits to working together with its other Government counterparts to ensure that mining revenue is used for the development of Solomon Islands and the benefit of its citizens. It will discuss with National and Provincial counterparts' means and strategies of ensuring all people, especially those in project-impacted areas, receive tangible long term benefits through the provision of community resources and services.
2. The Ministry recognises that commodity booms elsewhere have led to increased recurrent expenditure and government bloating. The focus will be on mining for development by ensuring that mining revenue is channelled into meeting the country's sustainable development needs, which

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<sup>1</sup>Fraser Institute Report 2015

could include (i) capital spending, (ii) economic stabilisation to build a buffer against highly volatile revenue flows (iii) savings for future generations (permanent income hypothesis), or (iv) earmarking for high priority domestic programmes or capital works.

3. The policy goals of fiscal reforms are to establish a mining fiscal regime which:
  - a. optimises the inherent value of the mineral resources;
  - b. is efficient (it encourages optimal extraction and avoids selective mining of high grade ore);
  - c. garners an equitable sharing of the resource rents for the nation and developer;
  - d. captures additional revenue for government from exceptionally profitable operations;
  - e. allows for reasonable stabilisation of specific taxes for defined periods;
  - f. uses internationally tried and tested best-practice instruments;
  - g. is transparent and competitive;
  - h. is coherent and simple to administer;
  - i. eliminates non-standard incentives for specific rights holders; and
  - j. provides mechanisms to encourage:
    - i. local processing (value addition),
    - ii. the development of local supplier industries,
    - iii. increased training and employment of locals,
    - iv. the integration of mining with other economic sectors, and
    - v. investment in affected communities and in public infrastructure.

**Objective 7:** *To provide a clear, predictable and stable fiscal regime for mining investors.*

**Specific policy measures:**

1. The Government is committed to providing a clear and competitive fiscal environment that ensures equitable benefits to government and affected communities. Companies carrying out mining operations in Solomon Islands can expect to contribute the following:

National Government

- a. A mineral royalty or equivalent charge on the gross value of minerals set at common rates rather than negotiated case-by-case (collected centrally and apportioned in accordance with Objective 9).
- b. Company income tax at prevailing rates under general tax legislation
- c. An excess profits tax to capture profits in excess of a defined profitability threshold
- d. Withholding on dividends and other payment under general tax legislation
- e. Import and sales taxes under general tax legislation
- f. Environment Bond
- g. Licence fees and minor levies

Provincial Government

- a. Business licence fee (variable between provinces)
- b. Property tax (variable between provinces)

- c. Basic rates (variable between provinces)

#### Landowners and communities

- a. a percentage of gross sales proceeds to fund Community Development Agreement (to be prescribed by the Minister for Mines, on the advice of the Minister for Finance, with allowance made for the type and impact of the mine)
  - b. Land access fees (to be prescribed)
  - c. Land rental (to be prescribed, dependant on ownership regime)
  - d. Compensation payments (to be prescribed)
  - e. Royalties for building materials (to be prescribed)
- 2. Companies are entitled to tax allowances and credits, loss carry forward, special depreciation provisions and any other benefits set out in the Income Tax Act, as amended from time to time.
  - 3. A common ad valorem royalty rate will apply to major minerals and otherwise be fixed for specific minerals by regulation. Royalty rates will not be varied by negotiation on a case-by-case basis, to ensure clarity and predictability. Royalty rates will be periodically reviewed and fixed by the Ministry in consultation with MoFT. In reviewing mineral royalties, the Government will take into account different kinds of mining, including deep sea mining, and the different fiscal considerations that this might entail. The basis for valuing mineral royalties will be the gross value of minerals determined by reference to arm's length principles with the Ministry empowered to determine a fair market value for royalty valuation purposes where minerals are not traded at arm's length.
  - 4. Provincial Governments have their own powers to tax, levy, and charge fees. Mining companies are often unaware of these additional costs and the variations between Provinces. The Ministry will work with Provincial Governments to encourage investment in the Provinces by: (i) ensuring investors are aware upfront of these additional costs, (ii) discussing options for standardising business licence fees for prospecting and mining across Provinces, and (iii) clarifying at what stage of the National Government application process a provincial business licence is required.
  - 5. Payments made to landowners and communities by companies outside of the formal arrangements described above cannot be offset against the above payments.

**Objective 8:** *To ensure there is a clear, effective, and transparent means for collecting and managing mining revenue.*

#### **Specific policy measures:**

- 1. A Minerals Special Fund shall be the principal depository for all revenue sourced from mineral exploitation, creating one central means for tracking mining revenue, allowing the Government to better understand and manage mining revenue. The Minerals Special Fund, held at CBSI and managed in accordance with purpose-specific regulations, will be the primary depository for:
  - a. Mining royalties;
  - b. Excess profit tax;
  - c. Penalties;

- d. Landowner access fees and land rental payments for land held by the Commissioner of Lands;
  - e. Application fees and annual rentals; and
  - f. Any other amount that may be prescribed from time to time.
2. An Oversight Committee, consisting of the following members, will manage the Fund:
  - a. the Permanent Secretary of the Ministry of Finance and Treasury,
  - b. the Permanent Secretary of the Ministry of Mines, Energy, and Rural Electrification,
  - c. the Permanent Secretary of the Ministry of Provincial Government and Institutional Strengthening, representing the Provincial Governments,
  - d. the Permanent Secretary of the Ministry of Development Planning and Aid Coordination,
  - e. a senior representative from the Natural Resources Independent Advisory Centre (NRIAC) representing impacted community interests.
3. The Committee will be chaired by the Permanent Secretary for MDPAC.
4. The Committee may invite observers to attend committee meetings, as and when it sees fit.
5. The role of the Oversight Committee will be to:
  - a. oversee the disbursement of funds as prescribed by regulations;
  - b. receive and review quarterly requests from Provincial Governments, Landowner and Community Corporates, and landowners for disbursement of funds from the Minerals Special Fund;
  - c. ensuring that disbursements are made in accordance with:
    - i. in the case of Provincial Governments, their Provincial Development Plan;
    - ii. in the case of landowners and communities to their Community Development Agreement, Land Access Agreement, or any other agreement relating to mining revenue;
  - d. reporting on and, overall, encouraging transparency in respect of mineral sector revenue.
6. Money may be dispersed from the Minerals Special Fund to:
  - a. in the case of National Government, the Consolidated Fund or an account at the Central Bank for the purposes of managing future investments (see Objective 8.9);
  - b. in the case of Provincial Government, a Special Fund established under the Province's Financial Management Ordinance for the purposes of receiving and managing mining revenue.
  - c. in the case of communities and landowners, an account established by the community corporate for the purpose of receiving mining revenue, in accordance with the Community Development Agreement, Land Access Agreement, or other agreement.
7. Disbursements are made by the Accountant General on the advice of the Oversight Committee.
8. Regulations, developed jointly by MoFT and MMERE, will control access, use, reporting of the Minerals Special Fund, and Provincial Government will be responsible for ensuring regulations are in place to control their respective Special Funds. Regulations will also ensure controls are in place to protect the confidentiality of information under the purview of the Committee.
9. The MMERE and MoFT will develop financial modelling capacity to help better understand and manage the impacts of mining revenue, and to predict and prepare against the adverse effects of this, with a view to this being a mandatory aspect of the mining lease application process

10. The Government will explore options regarding the establishment of a Sovereign Wealth Fund.

**Objective 9:** *To ensure that mining revenue is shared equitably between the National Government, Provincial Government, Landowners and Communities.*

**Specific policy measures:**

1. As part of the negotiations leading to the granting of a mining lease, the National Government, Provincial Government, and project-impacted communities will agree the percentage share of each from the royalties collected. The starting point for negotiations is:
  - a. 50% National Government
  - b. 10% Provincial Government
  - c. 40% Landowners
2. Factors that may influence changes to the royalty split include:
  - a. whether any people are residing on alienated land in a customary manner in a way that is unchanged by the sheer fact of registration;
  - b. the size, position, and impact of the mine;
  - c. whether the mine significantly impacts another province or is part of an integrated mining network located in more than one province;
  - d. any other aspect of particular significance to that mining project.
3. The failure of parties to agree an alternative split within the time period allotted for these negotiations will not prejudice or prevent the mining lease from being issued. Royalties will be held in trust until agreement can be reached.
4. The split will be negotiated at a Development Forum, the process, representation, and timing for which will be prescribed in updated legislation.

**Objective 10:** *To require that companies' liabilities to protect the environment and to close and rehabilitate mine sites are backed by suitable financial security so that this does not become a burden on public finances.*

**Specific policy measures:**

1. An Environment Bond, lodged in Solomon Islands with a financial institution approved by the CBSI after the grant of a Mining Lease and prior to the signing of a Mining Agreement, will be mandatory. The Ministry will work with the MECDM to determine the appropriate rate of the Environment Bond informed by tools and processes already in existence in other jurisdictions to ensure cross-jurisdiction parity. Consideration will be given to:
  - a. size of mine
  - b. type of mine
  - c. riskiness of venture (including whether new technology is being used)
  - d. location of mine, including proximity to any areas of particular environmental or social importance

- e. any other matter of particular importance or relevance.
- 2. An investor is required to lodge an irrevocable Letter of Credit, sufficient to cover the estimated cost of the mine rehabilitation, as agreed in the Reclamation and Rehabilitation Plan. The irrevocable Letter of Credit must be maintained at all times and be varied if there is an increase in the estimated costs of rehabilitation. Companies that undertake progressive rehabilitation can expect to provide lower level of cover.
- 3. An irrevocable Letter of Credit must be obtained before a Mining Agreement is signed and kept up to date, with copies provided as part of the Company's annual reporting. The lapse of any irrevocable Letter of Credit will result in the automatic suspension of the Company's mining lease. The MMERE will work with CBSI to approve a list of lending institutions from which a Letter of Credit is acceptable.

### Infrastructure, Roothing and Public Utilities

In a scattered archipelago such as Solomon Islands, infrastructure is a difficult and expensive exercise. Road networks are slowly increasing but this expansion remains slow in relation to demand. Formal infrastructure for public utilities, such as water and electricity, are very limited outside of Honiara. While mining can place significant pressures on existing services, many mining companies also bring with them skills and resources crucial to improving infrastructure and, in particular, transport. In a country where the number and capacity of companies able to carry out large scale infrastructure activities is low, mining companies should expect to work closely with the National and Provincial Governments to find ways they can link in with existing services to support to enhance broader public utility efficiencies.

**Objective 11:** *To ensure that public works activities within a mineral licence area comply with national and international standards and are linked to a broader national development and public utility framework.*

#### Specific policy measures:

- 1. Mining infrastructure must be planned and developed in a way that both maximises linkages to the broader public utility network, but does not place too much of a burden on these networks. Companies are required to consult with that relevant Ministry Departments and Provincial Governments in the planning stages of their operations to identify and agree ways on aligning and supporting work programmes.
- 2. Mining infrastructure must comply with standards and meet guidelines set by the Ministry of Infrastructure Development (MID) and Water Resources Division and Energy Division from time to time. Where local standards and guidelines are absent, investors should expect to meet good international industry practice.
- 3. A Company's mining plan must include a detailed roading plan.
  - a. For roads inside the mining lease area, the Company must have the approval of MID to their roading proposal;
  - b. For roads outside the mining lease area, the Company must:
    - i. negotiate a Land Access agreement with landowners of that area; and

- ii. liaise with the MID about the technical requirements and the possibility of linking the road to a broader transport network; before applying for a Road Access Permit from the Director of Mines.
  - c. The MID may require changes to the roading plan if they think that, with relatively minimal effort, improved transport efficiencies can result. Examples of changes could include the addition of a side road connecting the road to a wharf or secondary road, or a small extension to the road so that it reaches additional communities who can benefit from the increased access.
  - d. The MID may also consider whether they any of the roads built by the Company should be public roads. If the MID declares that any of the roads should be public roads, they may make an agreement with the Company restricting public use during mine operating hours, or discuss cost sharing arrangements for construction and ongoing maintenance.
4. Companies are permitted to mine within their tenement area for aggregates for the construction of roads without paying a royalty.
  5. Throughout the life of the mine, MID will facilitate the disposal of old and decommissioned equipment. As the life of the mine nears an end, the MMERE will ensure that the Company, in coordination with MID, the Ministry of Health and Medical Services (MHMS) and MECDM, fully complies with its pre-approved Rehabilitation Plan. And changes to this plan must be fully consulted on and approved by the relevant Ministries before being implemented. The full cost of rehabilitation activities shall be borne by the Company.

**Objective 12:** *To provide for reasonable public access to roads within and around a mining lease.*

**Specific policy measure:**

1. Where a tenement area is large and where there are pre-existing roads intersecting the tenement area, the Company is expected to provide for reasonable public access. Roads that are exclusively built and maintained for mining operations and which the public would benefit little from using may, with the permission of the Director of Mines, be restricted for exclusive use by the Company.

## State Participation in Mining

In some countries, the State takes an active role in mining, commonly through the establishment of a State Mining Company. Given Solomon Islands' lack of experience in mining -and learning lessons from other countries -the Government is cautious about involving itself in mining operations, preferring instead to leave this as a matter of commercial risk on the part of the Company. Companies looking to invest in Solomon Islands can expect to operate free from Government demands in respect of their commercial arrangements and, in return, should not expect Government subsidization.

**Objective 13:** *Because of the risky nature of mining and other priorities for the use of public funds, the private sector will be encouraged to undertake mineral development projects and, accordingly there will be*



*no mandatory financial participation by the State nor will the State provide finances directly to or underwrite the financing of participation by locally-based companies or individuals in mineral development projects.*

**Specific policy measures:**

1. With evidence suggesting that States can best raise revenue through a good, stable fiscal regime:
  - a. No mineral tenement will be granted on the condition that the holder make available equity or other form of financial participation to the State or to a nominee.
  - b. No mineral tenement will be granted on condition that the holder make available equity or other form of financial participation to a private entity designated by the State.
  - c. If the State wishes to participate financially in a mining project it may do so by negotiating its acquisition of an interest on terms no more favorable than to any other bonafide intending investor.
  - d. The State will not provide public finance or help to arrange access to finances or offer any form of financial guarantee or assurance for the benefit of any third party that acquires an interest in a mineral development project (other than through a statutorily established credit scheme set up to promote investment in mining by eligible national entities).

**Mining in the National Interest**

In most jurisdictions mining is a matter of national interest. Such is the case under the country's current laws. While this is logical in many respects, it has operationally, been difficult to apply, with national interest being used as an exemption to the normal good public policy decision making. To ensure the integrity of decision making, there is need to define what is of national interest and in what circumstances it is appropriate to be applied and who is allowed to exercise power.

**Objective 14:** *To clarify under what conditions mining activities will be considered 'in the national interest'.*

**Specific policy measures:**

1. Mining is not automatically deemed to be in the national interest. On a case-by-case basis (but also guided by the mining masterplan), the Ministry will determine the viability of any potential mining activity and assess whether it would be in the best interests of the country to proceed with the activity. Where an activity is deemed to be in the national interest, certain statutory exemptions may be allowed. As a general rule, mining is only in the national interest if it is:
  - a. carried out and managed in accordance with the laws and policies of the Government of Solomon Islands.; and
  - b. there are identifiable long-term economic and/or social benefits to the people of Solomon Islands.
2. When determining whether a mine is in the long-term interests of the country, the Government will give equal weight to commercial, social, and environmental interests. Legislation will provide for the means by which such a determination is made.
3. A mine that is considered to be in the national interest is deemed also to be in the public interest for the purposes of compulsory land acquisition.

4. The Government shall proactively identify areas of national interest and consider tendering these areas for international commercial competition (refer also Objective 31).

### Legal & Regulatory Framework

The current legal and regulatory framework for mining is in dire need of updating. The Mines and Minerals Act 1990 is now 20 years old and other laws, international practices and policies have changed the mining landscape in that time. Various amendments intended to clarify have instead added confusion. While overall responsibility for the sector falls to the Mines Division, its impact is felt on many different levels and by many different agencies. The Ministry recognises that inter-agency cooperation is fundamental to sector strengthening, ensuring the mining sector does not stand-alone but is fully integrated into the government system.

**Objective 15:** *To create a clear and coherent legal framework to promote the effective regulation of the mining sector and provide investment certainty for companies.*

**Specific policy measures:**

1. The Ministry will implement this policy in a series of prioritised amendments, addressing areas in urgent need of attention. These amendments will be supported by a set of regulations and prescribed documents, as set out in the implementation section of this policy, guiding the more technical components of new law and transitional provisions for pre-existing interests and activities.
2. Following on from this, the Ministry will work towards developing a new Mines and Minerals Act to address the issues of the sector in a holistic way.

**A note about landowners and communities:** landowners and communities are not mutually exclusive; in many ways they are indivisible from the other. In this policy, **landowner** means any person who has a right in or over land. **Community** means any group of people that lives on that land. A community will almost always include landowners. **Impacted communities** means any community that may experience some effect from the mine. Examples of impacted communities are communities that live downstream from a mine, or those that live by the side of a road built to facilitate mining activities. Social mapping is the means by which companies determine who is and who is not an impacted person or community.

### Rights, Representation and Inclusion

The people of Solomon Islands are its most valuable resource. Restrictive and selective involvement with landowners and communities is a risk to a company's social licence to operate. It can cause anger and lead to insecurity at a community level, particularly where one party perceives another to be taking a benefit more appropriately afforded to another or a wider representative group. The Ministry strives for an inclusive sector that recognises different groups and the varied ways that these groups are impacted by mining activities, especially those in vulnerable bargaining positions or often denied a voice, such as women and youth. Mining companies are expected to invest in communities and provide them with opportunities to participate in the activities of the mine, either directly through employment and training, or indirectly through scholarships and supply chain opportunities. Community investment must be on the community's terms with investments driven by local development aspirations and plans, designed to meet locally defined needs and forms of development.

**Objective 16:** *To create strong, constructive, and responsive engagements whereby all men, women and youth in affected communities are consulted at all steps of the mining process, informed about the decisions they make, are involved in the sector, and have equal access to mining generated benefits.*

#### General principle:

All landowners and impacted communities have the right to culturally appropriate free, prior, and informed consent about whether mining takes place on their land. Landowners have the power of veto over exploration activities. To protect investor confidence, however, this consent cannot be revoked after it has been given at exploration stage, provided the Company has complied with all their legal obligations in respect of the community.

#### Specific Policy measures:

1. Companies seeking to operate in Solomon Islands are advised to use IFC Performance Standards 1, 7 & 8 as a means to ensuring stakeholder engagements are 'strong, constructive, and responsive'.
2. Regardless of whether a society is matrilineal or patrilineal, women must be substantively included in all negotiations and decision-making regarding mining activities. Awareness and consultation activities must include sessions for men only and women only and, if required, be carried out over

several meetings to ensure that all community members are able to actively participate in these activities.

3. Women must be included as signatories to all mining related agreements, including Land Access Agreements, development plans, and other documentation. The decision about who the female representative(s) is shall be a decision for the women of that community, following the convening of a women's only caucus.
4. Men and women will, as far as possible, have equal access to the benefits of mining, including training, scholarships, and employment.
5. Companies are expected to enact policies that provide safe work places for all employees, including accommodation and transport (if provided), and ensure that women and men receive equal pay for equal work and are afforded the same opportunities for promotion.
6. Landowner or community meetings must be held in the place or community affected by the decision. Evidence of these meetings, and their inclusionary nature, will be required by the Minerals Board or Oversight Committee before approval is given in respect of any decision that impacts a community, or which purports to be made on behalf of a group of people, and which requires Minerals Board approval for it to proceed. Provincial Governments, Community Relations Officers, Church representatives, or other community bodies are strongly encouraged to provide oversight at these meetings and take action where they believe that proper inclusive processes are not being followed.
7. In order to adequately represent the interests of the community, community representatives should live in the community subject to the tenement.
8. The Ministry will scope the establishment of a Natural Resources Independent Advisory Centre (NRIAC). The scoping will look at how the Centre can support landowners and communities by providing training, consultation and awareness activities and facilitating the provision of independent advice at all stages of the mining lifecycle. In scoping the establishment of the Centre, the Ministry will identify ways that the Centre can link to existing Government structures to share information and experiences (while maintaining independence) and can have a permanent or semi-permanent presence in Provinces and communities where mining is taking place.

## Land

Land is a source of great social and economic wealth for people in Solomon Islands. Mining, particularly on a large scale, can substantially change the outlook and future viability of this land. The current practice of companies leading the landowner identification process has raised a number of issues. Allegations of companies paying inducements to landowners and 'cherry picking' landowners sympathetic to their cause is an issue. Likewise, companies facing threats from people claiming land rights and being led astray by middle men falsely claiming to represent a group of landowners is damaging to Solomon Islands' reputation as an investor destination. Recent experiences have led to claims of land being registered without a communities' knowledge and incorrect trustees being entered on the land register. Whichever way this issue is looked at, good land management at an early stage is key to building long term relationships that last the life of the mine and beyond.

**Objective 17:** *To ensure custom appropriate practices are used to identify all landowners potentially affected by mining related activities.*

**Specific policy measures:**

*Exploration phase – customary land*

1. Lodging an application for a prospecting licence triggers the landowner identification process that precedes any negotiation for land access rights.
2. Landowner identification will be coordinated at a provincial level and be carried out in accordance with the following principles:
  - a. identification must be custom appropriate, recognise the role of chiefs and traditional leaders and involve them in decision making.
  - b. identification should, if appropriate, allow for the holding of different rights in relation to land.
  - c. identification must be timely, effective, and fair.
  - d. identification meetings must be held in the affected community and open to the public.
  - e. public notice of meetings must be sufficient to allow interested or affected parties to attend.
  - f. identification must allow for grievance and appeals to be raised and heard locally.
3. To the extent that they are not already involved, local organisations and representatives – such as the Church, Tripod, Lauru Land Conference, and Community Officers - are encouraged to observe the identification process.
4. Applicants and their agents are prohibited from either directly or indirectly influencing the identification process. Legislation will provide for a procedure to be followed in the event the Director has reason to believe that a company has influenced the identification process.
5. If the Minerals Board is satisfied that the identification process has been carried out in accordance with the above principles, the applicant will be issued with a Letter of Intent allowing them to negotiate for land access rights with those approved landowners.
6. Landowner identification should take no longer than three months. Standard forms and rates will guide the identification process.

*Exploration phase – registered land*

7. Where land is registered, the Director, in consultation with the Provincial Secretary for that area or the Commission of Lands, may exempt all or part of the above process.

*Mining phase*

8. When a company has made commercial discovery, the landowner identification and registration processes in the Lands and Titles Act are triggered (refer Objective 19).

**Objective 18:** *To ensure that land access rights are negotiated in a transparent and accountable way and, where customary landowners are fully informed and aware of their rights before consenting to grant land access rights.*

### Specific policy measures:

1. Landowners must give consent for companies to carry out exploration activities on their land. Consent requires all landowners to understand the implications of granting land access rights, through the signing of a Land Access Agreement (LAA), to a company. Because of this, landowners must be aware of their rights (including their right to say 'no') and land access negotiations must be carried out in the presence of a NRIAC representative who is able to independently advise landowners and communities on mining, and provide independent legal advice.
2. Negotiations for land access rights must be in public and in the affected community, open to observation by all members of the community.
3. Negotiations should take no longer than six months.
4. If the Director has reasonable belief that a company has consulted with landowners without independent advice and/or has paid any form of inducement to a landowner to sign a Land Access Agreement, except in the form of custom feasts and ceremonies, he must, subject to natural justice, decline the Company's application. If information about improper practices is received after the application has been granted the Director can elect to institute a show cause forfeiture process.
5. Where land is subject to a pre-existing interest, such a logging concession, the permission of the holder of that interest is required before the Board will approve the LAA.
6. The form and content of Land Access Agreements will be standardised and prescribed in law. Land Access Agreements will, among other things, describe how all landowners are to receive their benefits in an equitable and transparent manner, and make allowance for structured relinquishment and the effect that this relinquishment will have on who receives what benefits and how much they receive.
7. Land Access Agreements apply across the whole of the prospecting period, subject to any amendments or reviews as advised from time to time by the parties, in accordance with the LAA.
8. Land Access Agreements must be signed in an open ceremony, convened in the tenement area and witnessed by any other bodies or persons that the Province or community thinks appropriate. Examples include a provincial government representative, a church representative, a Mines Division representative, a community officer, a representative from any other community governance body.
9. Land Access Agreements are not required for alienated land where no subsequent right or interest has been granted over that land. In the event of land registered:
  - a. in the name of the Commissioner of Land, the written permission of the Commissioner after first consulting the Lands Board; and
  - b. in the name of the Provincial Assembly, the written permission of the Premier after first consulting the Provincial Assembly;shall be sufficient to grant land access rights to the land, provided there is no pre-existing interest registered over that land.
10. Where land has been registered and a lease or interest granted over the land, no exploration or mining is permitted except with the dual permission of both the holder of that right or interest *and* the Commission of Land or the Provincial Assembly, whichever is relevant.

Where people are living on registered land in a customary manner, they shall be treated as landowners for the purpose of receiving compensation and access fees for entrance onto and

disruption to the land. In a customary manner means living in a way that has predated any registration of land and where the mere fact of registration makes little or no impact on the way that those people live their lives.

**Objective 19:** *To ensure that land is registered in a way that provides both security for the company and protection for landowner interests.*

**Specific policy measures:**

1. Where at all possible, land shall not be registered until after the Company has made commercial discovery and applied for a mining lease.
2. Land potentially subject to a mining lease shall be registered under either:
  - a. the Commissioner of Lands; or
  - b. the Provincial Government;in accordance with section 60 of the Lands and Titles Act. The land shall be subject to a restrictive covenant in the beneficial interest of the landowners or community corporate entity (see also Objective 22). At the end of the life of the mine, the Government will return land to the landowners.
3. For identified projects of national interest and public interest, land may be compulsorily acquired in accordance with section 71 of the Lands and Titles Act.
4. The Ministry will work with the Ministry of Lands, Housing and Survey (MLHS) to develop a comprehensive resettlement policy, informed by and in accordance with the Equator Principles, to ensure that persons displaced as a result of mining activities are treated in a humane manner and are compensated for any loss in accordance with international best-practice guidelines.

**Objective 20:** *To create consistency in land access negotiations through agreed rates that ensure landowners receive fair compensation for loss and disruption to their land, familial and tribal connections and sacred places.*

**Specific policy measures:**

1. In relation to land access, the Ministry shall prescribe standardised rates for:
  - a. at prospecting stage:
    - i. area-based access fees;
    - ii. compensation for damage, disturbance, or alteration to the physical or social environment;
  - b. at mining stage:
    - i. land rent (dependent on registration status of land)
    - ii. compensation for damage, disturbance, or alteration to the physical or social environment.
2. The Ministry will review the above rates periodically to take into account inflation and any changes in circumstance.

Formal agreement making in relation to the mining sector is something of a rarity in Solomon Islands. History has shown it to be sporadic in practice and inconsistent in content enabling mining companies to set the agenda and draft their own agreements, and in some cases negotiate their own fiscal deal and insert terms beneficial to their own interests. Those agreements, where they exist, are not a matter of public record. Secrecy breeds discontent and lessons from both Solomon Islands and its neighbours has shown the importance of have a public platform for negotiating and agreeing mining benefits. Broad based support at all levels is fundamental, especially for longer-term projects. To ensure that all parties are operating on an even playing field, the basic content of agreements will be prescribed in law creating a mandatory minimum standard. Agreements – and the periodic review of these agreements – will form the basis for mine ‘health checks’.

**Objective 21:** *To create a clear process by which agreements are made in an informed and coordinated manner at all key stages of the mining life cycle.*

**Specific policy objectives:**

1. Mining revenue should be planned and spent in accordance with the National Development Strategy. A variety of plans and agreements, as set out below, will govern the means by which these ambitions are achieved.
2. All agreements and plans are public documents.

**Specific policy measures:**

3. When a company applies for a mining lease, it triggers a series of steps, one of which is the requirement to develop, negotiate, finalise and/or agree:
  - a. An Environmental Baseline Study;
  - b. an Environmental Impact Assessment (including, as part of that EIA, an Environmental Management Plan);
  - c. a Provincial Development Plan;
  - d. a Community Development Agreement;
  - e. a Landowner Development Plan;
  - f. the royalty split;
  - g. any other agreements that may be required from time to time, as instructed by the Director of Mines or Minerals Board.
4. Communities, and landowners must receive independent advice – facilitated through the NRIAC - before they sign any agreement or plan, and all community members and landowners should be consulted in the development of these agreements and plans.<sup>2</sup> All impacted persons should have an opportunity to independently feed into the agreement making processes.

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<sup>2</sup>Refer Objective 16 for further information on social inclusion.



5. Prior to the signing of the Mining Agreement and in order to develop, negotiate and finalise the studies, plans and royalty split in paragraph 3 above, the Minister will convene a Development Forum process, through which all stakeholders to the mine will gather to discuss and/or sign those matters listed in paragraph 3. Legislation will guide the process by which the Development Forum is convened and operated, including means for public involvement and participation.
6. All agreements and plans must provide for a review period. This review meeting will again take the form of a Development Forum process and is an opportunity for the National Government, Provincial Government, communities, landowners, company, and other actors to assess their current situation and renegotiate their development ambitions. This is also an opportunity to discuss the development in the community and province, and find ways to improve not only the quantity, but quality of development projects.

#### *Provincial Development Plans*

7. The Provincial Government will be required to commit to a Provincial Development Plan that sets out how the Provincial Government's mining related benefits are appropriated and allocated, taking into account the particular stresses of mining on islands and the important of ensuring Province-wide benefits.
8. Provincial Development Plans will form the overarching framework for mining related development on in the Province and/or on the island. Community Development and Landowner Development ambitions should be aligned with the Provincial Development Plan.

#### *Community Development Agreements*

9. The Company must agree a Community Development Agreements (CDA) with mining impacted persons (identified through social mapping). The CDA must, among other things, set out the rights and responsibilities of each party, the community's development ambitions- as defined by the community - and how mining benefits can help achieve these goals including, for example:
  - a. employment and training opportunities;
  - b. provision of infrastructure for community benefit;
  - c. education and scholarship opportunities;
  - d. information about the governance arrangements of the communities and grievance management processes;
  - e. community inspectorate (both environmental and occupational health and safety(OHS)) roles and access rights;
  - f. business development opportunities;
  - g. health;
  - h. any other benefits and matters of particular interest to the parties.
10. Community Development Agreements must be signed between the landowners, community representatives, provincial government, national government and the Company at the Development Forum and witnessed by Church leaders, Chiefs, and community leaders and organisations.

11. Communities will be encouraged to negotiate for community facilities and benefits. Where household payments are made, they should be made through means and mechanisms that ensure money is prioritised for family and household items such as food, school fees, uniforms, and health care. Communities should consider establishing cooperative stores, owned by the community, managed and staffed by local people as a means for channelling these payments.

#### *Landowner Development Plans*

12. Landowners are required to agree a Landowner Development Plan. This plan should, as with the Community Development Agreement and Provincial Development Plan, set the development agenda for the group with a focus on long-term benefits. The Plan must provide for the equitable sharing of mining benefits and the active participation of all landowners in determining the development outlook for the group.

#### *Environmental Plans*

13. As part of the Environmental Impact Assessment process, the Company is expected to carry out an environmental baseline study and develop an Environmental Management Plan. These activities are regulated by the Environment Act, which provides further guidance on the content and form of these activities. As a general rule however, means and ways of mitigating and managing environmental impacts should be identified, as well as roles for landowners and community members assisting with management of these activities. The role of landowners and community members should be negotiated as part of their respective agreements.

#### *Mining agreements*

14. At the conclusion of the Development Forum process, the Company and the Government will sign a Mining Agreement. The Mining Agreement will be mandatory and include, as annexures, those documents described in Objective 21.3 of this Policy. There will be a model mining agreement, the content of which will be prescribed in law, preventing either the Government or a Company from negotiating their own deal. Once signed, the agreement forms a binding legal contract between the parties.

### **Community and Landowner Corporates**

The “trustee system” currently used to channel mining revenue to landowners is fraught with problems. The number of trustees allowed under the Lands and Titles Act is restricted, and recent history has shown trust accounts to be vulnerable to manipulation. Moving control of mining revenue from the hands of a few to the hands of the many is necessary to provide accountability not only in terms of financial management but for the achievement of sustainable development ambitions. Few projects to date have successfully linked mining revenue with broader development outcomes. Still fewer projects have linked these development

outcomes with a collective decision making model. The MMERE supports inclusive decision making, provided through a model that gives all impacted persons a voice and an opportunity to make decisions about activities which impact their lives.

**Objective 22:** *To enable the creation of corporate structures that are designed to protect the interests of all members of that landowner or community group through transparent business practices and accountable decision making.*

**Specific policy measures:**

1. Mining companies are expected to work with community and landowner corporates to continuously and consistently build capacity and improve opportunities for both types of corporates to bid for mine-related contracts, with a view to enabling them to build capacity needed to compete provincially and nationally for contracts. This should be negotiated and confirmed through the Community Development Agreement process (see Objective 21).

*Community corporates*

2. In order to access Community Development Agreement benefits, landowners and impacted communities must form a corporate structure. Examples of corporate entities include a charitable trust, public company, community company, or co-operative society. The governance structure of the corporate entity must provide for transparent and inclusive decision making, representation for the different groups within society, and protections against domination by one or more persons.
3. The corporate governance structure must give clear roles, responsibilities, and powers to men, women, and youth. It is required that women will be strongly represented and have clear voting rights, decision making roles, and responsibilities for financial management. Women are preferred as signatories to accounts.
4. The corporate entity may make provision for the separate rights and voting powers of different landowners, tribes and other impacted communities in and around the mining lease area but must agree an overall governance structure that is inclusive of all mining impacted persons.

*Landowner corporates*

5. In order to access their agreed share of royalties, landowners must agree a corporate structure that, as with the community corporate, provides for fair representation and inclusive decision making. The landowner corporate may be structured in such a way that provides for the different representational quality of the various tribal groupings in that landowner bloc, but all landowners must agree an overall governance structure that respects the different rights and interests of the different parties.
6. All communities and landowners shall have access to independent advice at all stages of the process to ensure that their rights are protected and the corporate entity is structured so as to provide for immediate needs as well as protecting their long-term interests.
7. Through their corporate entity, both Landowner and Community Corporates are expected to produce fully auditable records. The failure to properly account for mining revenue may result in the

Oversight Committee halting disbursements. To assist corporates, the Ministry and NRIAC will prioritise assistance to communities to ensure they have adequate support throughout the life of the mine to manage their corporate entities. Companies are also expected to factor in assistance through their CSR commitments.

**Note:** *At the time of writing, the MLHS was in the process of finalising their policy regarding the acquisition of customary land, which included detailed consideration of the trustee model and the extent to which this is still, or should be applicable, and the use of corporate entities as an alternate form of registration. The Ministry has used the background reports to that MLHS policy as the basis for the NMP. As much as possible, this policy attempts to align with that policy however, for detailed consideration of customary land acquisition, the Ministry defers to the MLHS background reports.*

## Environment

The physical environment of Solomon Islands is indivisible from the people and communities. Any imbalance on one side – physical or social – can place significant strain on the country. Mining is inherently a risk to the environment and therefore its effects need to be very carefully managed, with clear procedures in place to prevent, mitigate, and prevent damage where at all possible. Primary responsibility for this rests with the MECMD however, close cooperation between the MMERE and MECMD is essential to ensure that actual and potential environmental risks are identified and monitored. To do this, this policy proposes implementing a community inspectorate model that utilises the knowledge and insight of the communities who have direct engagement with the environment.

**Objective 23:** *To protect the environment where possible and to manage and mitigate the environmental effects of mining.*

### Specific policy measures:

1. Mining places a number of particular, long-term stresses on the environment. Because of this, and recognising the intertwined relationship of the environment and people of Solomon Islands, these environmental stresses must be carefully managed. To this end:
  - a. the “precautionary principle” is upheld;
  - b. the Ministry will work with the MECMD to ensure that the peculiar demands of mining are addressed with a view, if necessary, to creating mining specific environmental regulations to avoid, manage and/or mitigate these stresses. Matters to be addressed in regulations should include:
    - i. tailings management;
    - ii. pre-closure, post-closure operation;
    - iii. ongoing environmental rehabilitation;
    - iv. quarrying and dredging;
    - v. deep sea mining generally and, in specific, the requirement to have an environmental control region to assess impacts;
    - vi. minimum amounts for civil liability insurance;

- vii. minimum amounts for environmental security bond following for different types, impacts, and sizes of mining activities;
  - viii. compensation for environmental breaches;
  - ix. resettlement of persons and associated environmental impacts;
  - x. the form and manner of an environmental audit for companies taking over a mining lease;
  - xi. management of waste and pollution, including discharge of mining waste into waterways due to dam failure and acid drainage;
  - xii. biodiversity management for mining projects near environmentally vulnerable areas, such as protected areas of World Heritage sites;
  - xiii. deforestation and soil erosion mitigation;
  - xiv. form and content of the environmental management plan.
2. As an input to the mining masterplan, the MMERE – with the input and participation of the MECDM - will commission a Strategic Environmental and Social Assessment (SESA)
  3. The mine Reclamation and Rehabilitation Plan must be consulted on with all relevant stakeholders to ensure that their wishes are taken into account and that they can, in turn, plan accordingly to support post-mining activities.
  4. Under a new regime, the stop-notice powers under the Environment Act 1998 shall be explicitly linked to the Mining Lease. If an Inspector issues a stop-notice under section 45 of the Environment Act 1998, a copy is required to be served on the Director for Mines, the Provincial Environment Officer, and the community or landowner representative. If the defect is not remedied by the Company within the time frame specified by the Inspector in the letter, the Director of Mines shall take steps to suspend the Company's mining lease until such time as the Inspector is satisfied that the breach has been remedied.
  5. The Director of Mines shall work with the Director for Environment to identify types of environment breaches that are so serious that the normal stop-notice period would not normally apply and immediate cessation of operations would be required until satisfactory remediation's were completed. They shall also, in conjunction with MoFT, discuss having an additional penalty charge for environmental breaches. This could take the form of a one-off fine, an additional penalty percentage increase to royalty payments, temporary suspension of operations, or other penalty appropriate in the circumstances.
  6. Environmental obligations incurred during the tenure of one company will transfer in the event of any sale. The approval of the Minerals Board is required for any transfer and will be held subject to paying an environment bond and any other action deemed appropriate by the Board such as, for example, and environmental audit.
  7. National, provincial, and community representatives shall work together to proactively identify areas not suitable for mining, and ensure that the appropriate legal steps are taking to protect these areas from interference. These areas should be identified in Provincial Development Plans, noted in the mining masterplan and funds allocated to ensure their protection.
  8. The Government has developed its environmental guidelines in accordance with international standards. There exist, however, a number of different environmental and social safeguards, including those used as conditions on the borrowing and lending of money to mining companies.

Where borrowing or lending has been denied because of concerns about environmental breaches by a company, the lending company is encouraged to notify the MECDM about these concerns.

9. Damage to the environment, while difficult to quantify, must be compensated based on remediation/replacement costs, time lost for ecosystem services, and social costs collectively in full. Damage, deemed to be negative impacts over and beyond those defined as acceptable as part of the EIA process, should be reported to the Directors of Mines and Environment who shall be responsible for working with the Company and affected parties to reach a settlement that is complete, fair, and holistic. In the absence of standard guidelines for ecosystem services, previous practice and international standards such as IFC Performance Standard 6, should provide guidance on the appropriate quantum for damages.
10. For deep sea mining, the Government will work with the Company to ensure that sufficient controls are in place to ensure that any potential effects to the environment are closely monitored and the appropriate action is taken to prevent, manage and/or mitigate these effects. The Government may require companies wanting to carry out deep sea mining (DSM) to take additional precautionary steps over and above those normally required for a development consent. These steps may be prescribed in regulations and may also include the requirement that (i) companies wanting to carry out DSM must have a strong environmental record, and (ii) the Company must allocate an environmental control area matching the tenement mining area so that the environmental effects can be better monitored. Independent experts will be mandatory for DSM related monitoring activities, and will be contracted by the Government, paid for by the Company.

**Objective 24:** *To involve communities in environmental monitoring of mining activities and to create an integrated and inclusive monitoring scheme to ensure issues are raised at Provincial and National level and proactively addressed.*

**Specific policy measures:**

1. The Environmental Management Plan to which the Company is a party must include and clearly set out a role for landowners, impacted community members, and the provincial government in monitoring the environmental impacts of mining. As part of their social compact with communities and the government, the Company is expected to pay for the training necessary to equip community and provincial environment officers with the skills needed to do this work. Training must be through accredited providers and may include on-the-job experience in the Company, paid at a fair wage. Community inspectors should negotiate for employment opportunities, either as officers or agents of the Provincial or National Government and paid accordingly, or employees or contractors of the community corporate. Community members shall be encouraged to become community inspectors, and be authorised persons for the purposes of the Environment Act 1998, to share information and contribute to the broader dialogue on environmental protection and management.
2. Communities and, in particular, community inspectors, are encouraged to form, as part of their corporate entity, environmental management companies through which they can explore broader commercial opportunities.

3. Information collected by community inspectors should be proactively shared with provincial and Ministry representatives. Issues identified through these networks should be brought to the Environmental Advisory Committee for attention, copied to the Chief Mines Inspector. These parties should be, likewise, proactive in ensuring that any issues identified by community inspectors are addressed and that the work of the inspectors complements and does not overlap or interfere with other activities in and around the mine.
4. The Ministry will proactively work with other ministries, provincial governments, communities, landowners, civil society and other parties to ensure that information about the environmental impacts of mining are shared widely and form the basis for a comprehensive dialogue on prevention, mitigation, and management of environmental impacts. In addition, community inspectors are encouraged to form broad networks, using pre-existing support networks such as those provided by The Nature Conservancy and the Solomon Islands Rangers Association, through the Solomon Island Community Conservation Partnership.

**Objective 25:** *To ensure a clear and coordinated pathway for obtaining environmental consents for exploration and mining activities.*

**Specific policy measures:**

1. The Mines Division will work with the MECDM to ensure there is a coordinated and clear approach to obtaining consent for exploration and mining projects, including through establishing information sharing MOUs (refer Objective 29.2).
2. Any renewal of a prospecting licence must be accompanied by summary of the activities carried out to date and what activities they intend to carry out. The Director of Mines will forward this to the Director of Environment who will determine whether an additional environment report is required. The Director of Environment will issue either a 'no objection' to the renewal, or he/she will advise the applicant that, because the scope of work under the renewal is substantially different from the original plan, the Public Environment Report must be updated and additional certification obtained. The Public Environment Report shall form a baseline for the purposes of the Environmental Impact Statement and the Environment Management Plan. Where relevant, maximum limits and stresses should be clearly identified so that they can be incorporated into the community inspectorate programme.
3. Because of this addition step in the consent process, companies are advised to lodge their renewal application well in advance of expiry of their original prospecting licence and should allow, as an indicative time frame, at least 6 weeks for the process to be completed (provided no additional permissions are required from the Director).
4. Any transfer of a mining lease or substantial change in the beneficial ownership of the Company will require the Company to carry out an environmental assessment. On the basis of the audit, the Director of Environment will advise whether any additional actions are required on the part of the Company. The audit must be carried out and permission obtained before the Minerals Board will approve any transfer.

## Landowner Equity in Mining Projects

**Objective 26:** *To clarify the position in respect of landowner equity in mining projects.*

**Specific policy measures:**

1. Landowners seeking to take equity in mining companies are advised to do so with a high level of caution. Any company for which landowners have an equity partnership must demonstrate to the Mineral Board's satisfaction that all landowners to which the equity purports to represent have received independent legal advice from the NRIAC on all aspects of the deal.
2. It is strictly prohibited for any company to take an equity share in land.

## Grievance Management and Dispute Resolution

Disputes and issues about mining activities are inevitable. The frequency, volatility, and type of grievance are what the Government hopes to minimise through this policy. Clear processes, transparent decision making, and inclusive processes that recognise pre-existing decision making structures can help head off some of these problems in advance. Grievances arise between communities, companies, and the Government. No matter the grievance and the party, there must be a clear approach and process for resolving disputes, preferably in an informal manner first. Failure of these informal processes may lead to a party seeking formal redress but given the divisiveness, length and cost of this exercise, there is a strong preference for communities, companies and the Government to negotiate a satisfactory outcome.

**Objective 27:** *To provide a clear, easy to access way to manage and resolve disputes and grievances.*

**Specific policy measures:**

*Grievances between the community and company:*

1. All Land Access Agreements, Community Development Agreements, and Mining Agreements must include clear procedures for managing and resolving disputes before they escalate. The specific procedures for negotiating disputes will need to be agreed by the Company and the community or landowner corporate during the Development Forum, but should in any event adhere to the following expectations:
  - a. That, in the first instance, the Company and the community representatives will attempt to resolve the issue(s) informally and in a custom-appropriate manner through meetings and negotiations.
  - b. Where the issue(s) cannot be resolved locally, the provincial government maybe invited to assist with negotiations.
  - c. Failing local and provincial level resolution, disputes should be referred to the appropriate decision making authority (e.g. if the complaint relates to an issues of compliance with a term and condition of a company's mining lease, the complaint should be referred to the Minerals Board);



- d. Only after these steps (together with any other as provided for in the relevant agreement) have been exhausted may a community proceed with legal action.
2. Where fault on the part of the Company is established, the Minister, in consultation with the Attorney General, may require that the Company reimburse the reasonable costs associated with that grievance.

#### *Grievances against the Government:*

3. Grievances about operational or administrative decisions made under the MMA shall be referred to the Minerals Board in the first instance.
4. Grievance about the exercise of statutory authority by the Minister or the Board should be referred to the Ombudsman or other relevant Government authority for investigation before the complainant proceeds with legal action.
5. Grievance about environmental matters should be referred to the Environmental Advisory Committee.
6. In addition to the above processes, a Development Forum will be convened when appropriate (see Objective 21(6)), forming a platform to renegotiate development objectives and address any outstanding grievances.

#### *Grievances within communities*

7. Communities and landowner groups should agree at the beginning of the process, through their respective agreements, appropriate methods for resolving internal complaints and disputes, ensuring that women, youth and those who may for whatever reason be disadvantaged, have safe recourse to justice.

## **MINERALS & MINING**

### **Reconnaissance Permits**

With the most recent comprehensive geological surveys carried out in the 1950s and 1960s, interest from investors in Reconnaissance Permits is low, preferring instead to go straight to prospecting. Regardless, some applicants have sought to test the boundaries of the reconnaissance regime and, for this reason, additional controls are needed to ensure that there are adequate controls and prescription around the reconnaissance regime, to assist all stakeholders.

**Objective 28:** *To update the reconnaissance permit regime to ensure it is fit for purpose.*

#### **Specific policy measures:**

1. While reconnaissance permits do not require written consent to enter onto land, as in the case of prospecting, a company must still have permission to enter onto land. This permission may be

gained through awareness activities such as community hall meetings, and meetings with chiefs and elders of a community and be facilitated by the Ministry with the assistance of approved independent persons or bodies.

2. The time frame for reconnaissance activities is one year and the maximum size of a reconnaissance permit set at not more than twice the size of a prospecting licence tenement.
3. The Ministry will develop a standard set of terms and conditions that will be issued with each reconnaissance permit detailing with additional matters such as reporting, information sharing, and other matters pertinent to the reconnaissance regime. At an operation level, the Ministry will focus on building the capacity of Ministry officers to monitor licence conditions and, in partnership with the NRIAC, build understanding in communities about the mining lifecycle and what a reconnaissance permit does and does not allow a company to do.
4. Legislation will provide for the means by which permits are suspended, cancelled, and revoked and circumstances warranting such an action.

## Prospecting Licences

At the time of writing, 33 Prospecting Licences had been issued by the Ministry and more are being received by the day. With logging companies now turning to mining, ever more applications are being received from relatively inexperienced miners looking for new opportunities to make a profit. Bauxite has proved particularly attractive, being a mineral that is easily accessible, requiring relatively little capital to begin the process of extraction, and still able to fetch a relatively high price on the commodity markets. This places a considerable strain on the country's social and environmental resources highlighting the need for careful regulation of the prospecting regime. A comparatively short prospecting timeframe and lack of regulatory control (in addition to other factors) has proved unattractive to reputable investors, deterred from operating in Solomon Islands because of the high risk involved. Attracting reputable investors is essential for the mining to become a viable industry.

**Objective 29:** *To encourage reputable investors to prospect by imposing minimum standards on investors and expanding the prospecting regime to allow for larger tenements over a longer period of time thus creating a more attractive prospecting regime.*

### Specific policy measures:

#### *Applying for a PL*

1. Applicants will be required to provide basic information sufficient to satisfy the Director of the credibility of the applicant. Satisfactory provision of this information will, provided the National and Provincial Government is minded to allow prospecting in that area, trigger the landowner identification process (see Objective 17) and, subsequently, the LAA process following the issue of a Letter of Intent to the applicant. Applicants unable to provide this information to the satisfaction of the Director will have their applications returned to them.

2. Development Consent is required under the Environment Act for 'mineral extraction'. All PLs are issued subject to the Company obtaining the necessary permissions from the Director of Environment at the appropriate time. The Company's exploration plan should clearly set out when such consent is envisaged. Quarterly reports will be closely monitored and shared with MECDM, through an information sharing MOU, to ensure that companies have obtained the necessary permits and licences at each stage of the process. Any company that does not obtain the necessary permissions under the Environment Act will be prohibited from holding a prospecting licence.
3. Basic information includes all those matters currently listed in section 20(1)(a)-(h) of the MMA, in addition to:
  - a. a website containing that information listed in Objective 42.3;
  - b. a declaration that the applicant – in its current or any former capacity - has not been convicted of a criminal offence relating to the extractives sector or had any exploration or mining authorisation cancelled or revoked in any other jurisdiction;
4. For the purposes of section 20(1)(c) of the MMA, 'information' includes evidence sufficient to satisfy the Director of those matters listed. Evidence may include bank statements, CVs, references, and/or other documentation.
5. Applications are considered on a strictly first come first served basis. Applications must be addressed to the Director of Mines who upon receipt will time stamp the application.
6. Upon receipt of an application, the Director will issue a public notice, to be distributed and displayed at National, Provincial levels as well as in the relevant community. The notice will include the name of the applicant company, the area over which they seek a tenement, and provide a time period within which objections are invited.
7. A company may hold a maximum of 5 prospecting licences. Only 3 PLs will be issued at any one time, however a company may apply to the Minerals Board for up to two additional prospecting licences provided they have completed full feasibility studies and EIAs in their current three tenements. In considering the application, the Minerals Board will determine whether the activity is, among other things, in the country's national interest.
8. Where a proposed tenement area overlaps with a logging concession area, the applicant will need to obtain the written permission of the concession holder to enter onto land prior to the Minerals Board granting any PL.
9. The Ministry shall develop a set of standard terms and conditions to be issued for all prospecting licences, such as setting minimum work levels, the minimum direct expenditure commitment required by the Company, and limits as to the size and weight of core samples. Failure to meet these requirements will prohibit the Company from renewing their Prospecting Licence for that tenement.
10. Companies must provide quarterly reports in quadruplicate: two reports to the Director of Mines, one report to the Provincial Secretary of the respective Province, and one report to the Natural Resources Independent Advisory Centre. The failure to provide such reports in a timely manner may lead to suspension of a company's licence. Failure to provide two consecutive reports shall result in the automatic cancellation of that Company's licence. Legislation will prescribe the content of reports.
11. No Prospecting Licence may be transferred without the approval of the Minerals Board. Any transfer that purports to take effect without this prior approval is null and void.

### *The tenement*

12. The size of a prospecting licence tenement shall be a maximum of 600km<sup>2</sup> for terrestrial applications and 5000km<sup>2</sup> for deep-sea applications and shall be expressed in quadrilateral/rectilinear blocks.
13. The length of a prospecting licence shall be extended to four years, plus two extensions of three years each (4+3+3=10 years maximum).
14. The Company shall relinquish half their tenement area at each renewal unless they can prove, to the Mineral Board's satisfaction, that there are commercially feasible mineral deposits in the remaining tenement area.
15. Newly introduced rules and guidelines will direct the process for excising part of a tenement area.

### **Terrestrial Mining**

Solomon Islands has little experience with mining. Gold Ridge, the only previous operational mine, has a stop-start history and, for the last few years of its life, ran at a loss. The recent explosion of bauxite mining has exposed the country to a new form of mining – highly mobile strip mining. This history, and the perceived difficulty of operating in Solomon Islands, has deterred reputable investors from our shores. To ensure that the resources of this country are managed for the long-term sustainability of our community, the MMERE recognises that the current mining practices must change.

**Objective 30:** *To create a clear mining lease application process.*

#### **Specific policy measures:**

1. Following commercial discovery, a company is entitled to apply for a mining lease. Their application must include evidence of commercial discovery, a feasibility study, and other such information as may be requested by the Director or Minerals Board. The Director will determine whether there genuinely has been commercial discovery, in order to avoid pre-emptive media releases. The Minerals Board reserves the right to enter into discussions about certain aspects of the proposed project, such as in-country processing or the Direct Shipping of Ore (DSO).
2. Because of capacity constraints, the Director may require companies to obtain an independent third party review of technical documents, such as the Mining Plan. The Director will develop protocols for when reviews are required, including prescribing approved persons for the purposes of this review, the reasonable costs of which shall be met by the Company.
3. Provided the Company complies with the application requirements, the Minister will approve the application, authorising the relevant parties to:
  - a. finalise social mapping (if required and not already completed);
  - b. negotiate, agree, and sign the agreements and plans listed under Objective 23;
  - c. begin the process of registering the land subject to the mining lease, in conjunction with the MLHS.
4. If the Company has not completed the above activities within two years, they can request an additional one-year extension. If no agreement is forthcoming at the end of three years, then the

Minister, acting on the advice of the Minerals Board, will consider what further action, if any, might be appropriate.

5. Lodging with the Minerals Board evidence of completion of the above activities, will ensue a recommendation to the Minister for approval of the Mining Lease application. Upon granting the Mining Lease, the Company and Government, represented by the Minister for Mines, will sign the Mining Agreement, the final step before the Company is able to commence mining operations.
6. As with prospecting licences, no mining lease may be transferred without the prior approval of the Minerals Board. Any transfer purporting to take place without this approval is null and void. Likewise, Mining Agreements are not transferable. Each new company is required to sign a new Mining Agreement confirming their understanding and acceptance of the conditions of mining in Solomon Islands. Sub-contractors are likewise bound by the requirements of the Mining Lease and Mining Agreement.
7. Any changes in the beneficial ownership of the Company in excess of 10% must be notified to the Minerals Board. If the Minerals Board has concerns about the changes in beneficial ownership, it may require further information from the Company to satisfy itself that the Company can still meet the requirements of their Mining Lease and associated agreements. If the Company fails to satisfy the Board of these matters, the Minerals Board may initiate a 'show cause' procedure<sup>3</sup>.

## Tendering

The recent Court of Appeal decision in the case of *SMM Solomon Ltd v Axiom KB Ltd* (Civil Appeal 34 of 2014) exposed the current tendering regime as inadequate to deal with the competitive demands of an international tender – an increasingly attractive option as the Government begins to take control of the mining sector. Tendering is currently slotted into the Mines and Minerals Act through a series of exemptions from the normal application criteria, with detail provided in regulations. These exemptions have made interpreting the law difficult at times and supported the need for a clear and comprehensive tendering regime within the Mines and Minerals Act.

**Objective 31:** *To clarify and expand on the current tendering regime to encourage fair and open competitive bidding for commercial deposits.*

### Specific policy measures:

1. The Ministry will review the tendering procedures currently provided for in the Mines and Minerals Act and associated regulations to ensure that they are fit for purpose and in line with international standards. Technical aspects, such as the form and content of the tender and bidding processes, may be further described in regulations, as well as the possibility of requiring an upfront signature bonus. In the event that a signature bonus is required it will be one of a number but not a priority criterion for the purposes of selecting a winning bidder.

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<sup>3</sup>See also Objective 43.9.

2. Informed by the Masterplan, the Ministry will be proactive in identifying mineral deposits of commercial value and place reservations over these areas to allow for and encourage competition by reputable international mining companies.

## Deep Sea Mining

At the time of writing, no deep-sea mine is currently in operation. The technology needed to carry out deep-sea mining in a cost effective and efficient manner is still being developed and many in the scientific community still have concerns about the level and extent of the environmental impact, especially on fish stocks. Many countries are looking to Solomon Islands as one of the next viable opportunities for Deep Sea Mining (DSM), and the Solwara1 project in neighbouring Papua New Guinea is in line to be the first deep-sea mine. Given the dependency of Solomon Islands on fish stocks and the as yet unknown environmental effects of DSM, a precautionary approach is needed to ensure that the country gets the best possible deal out of deep-sea mining, both economically and environmentally.

**Objective 32:** *To consult with communities and stakeholders on the appropriateness of deep-sea mining for Solomon Islands.*

### Specific policy measures:

1. Before issuing any mining lease for a deep sea mine, the Ministry will carry out nationwide consultations on the appropriateness and environmental safety of deep sea mining in Solomon Islands. The Ministry will closely monitor the upcoming PNG Solwara1 project (and other DSM projects) and learn lessons before issuing any DSM leases in Solomon Islands.
2. The Ministry shall form an advisory committee made up of representatives from the Ministry, Ministry of Fisheries, Ministry of Finance and Treasury, civil society, and other key stakeholders to explore the impacts of DSM in the Solomon Islands context and to ensure that any future regulatory controls contain appropriate checks and balances to monitor, protect, mitigate, and manage the effects of deep sea mining. This committee will be informed by the Strategic Environmental and Social Assessment that will include a deep sea component.

**Objective 33:** *In anticipation that deep sea mining may one day be proven to be both economically viable and environmentally safe, to ensure that the appropriate regulatory controls for deep sea mining are in place, guided by international conventions and other relevant international legal instruments.*

### Specific policy measures:

1. Deep sea mining means any mining that occurs on or in the Continental Shelf, Exclusive Economic Zone, and Extended Economic Zone, outside of the Provincial boundaries as provided for in section 3(3)-(4) of the Provincial Government Act 1997.
2. The MMA will be amended to provide for two regimes: one for terrestrial mining and one for DSM. They will be substantially the same in terms of process however the deep sea regime will provide for

larger tenement sizes, additional restrictions in terms of monitoring the particular, as yet unknown, environmental impacts of deep sea mining (refer also to Objective 26(8) for further information) and overlaps with the petroleum licensing regime.

3. In creating a regime to cater for DSM, the Ministry will be guided by the following international obligations and duties:
  - a. the protection and preservation of the marine environment and rare or fragile ecosystems and habitats;
  - b. the prevention, reducing and controlling of pollution from deep sea mining activities, or caused by ships, or the dumping of waste and other matter at sea;
  - c. the prevention of trans-boundary harm;
  - d. the conservation of biodiversity;
  - e. the applying of the precautionary approach;
  - f. employing best environmental practice;
  - g. conducting prior environmental impact assessment of activities likely to cause significant harm;
  - h. taking measures for ensuring safety at sea;
  - i. the non-interference with the rights and freedom of other States, such as freedom of navigation, the freedom to install submarine pipelines and cables, and to conduct Marine Scientific Research (MSR).
4. The Ministry will ensure that the legal and regulatory framework appropriately addresses due diligence, licensing, registration and inspection of seabed exploration and mining operations, and the gathering and retention of geo-science data. Where there is suspected non-compliance by a licensed company, or the risks or impacts of the seabed mining activities appear too great, the Ministry will have enforcement powers, including (after reasonable notice) the imposition of sanctions against the Company, such as: an order requiring certain action, amendment or suspension to the work programme, fines, or referral for prosecution for offences.
5. The Ministry will encourage and incentivise local processing of minerals extracted from the seabed. Where there is no local processing, the legal and regulatory framework shall consider and make provision for methods by which companies can contribute to the broader local economy. This may be through an additional fiscal contribution, supporting national and provincial education and skills training (e.g. through shipboard training with the Company, scholarships, or a fund allocated for that purpose when direct training is not possible), and local services.
6. The government will encourage mining companies to pursue local recruitment, requiring 100% of unskilled labour to be sourced locally. More broadly, the government will support and encourage policies that safeguard these business opportunities for Solomon Island nationals.
7. In regulating DSM, the Ministry shall take into account Marine Scientific Research (MSR) and ensure that DSM activities do not obstruct MSR and promotes industry-research cooperation where possible. A DSM company that carries out Marine Scientific Research (MSR) is required to share any data gathered with the Ministry.
8. DSM companies shall be required to provide a public engagement and information plan. If marine or coastal users likely to be adversely affected by the proposed projects are identified at any time, including through the environmental and social impact assessment process, the Company will be

required to obtain informed consent from those persons, including by way of compensation, prior to those activities.

## Geothermal

Savo Island in Central Islands Province has been identified as a possible site for a geothermal energy project. At the moment, geothermal is squeezed in under the MMA's ambit however, this is not a natural fit and the MMA has been stretched in places to accommodate this new kind of resource extraction. For geothermal activities to go ahead, changes will need to be made to the current regulatory framework.

**Objective 34:** *To create a separate regulatory framework for the harnessing and exploitation of geothermal energy.*

### Specific policy measures:

1. The Ministry will work towards developing a separate Act of Parliament to deal with geothermal energy. As a transitional arrangement, geothermal energy will continue to be dealt with under the Mines and Minerals Act.

## Quarrying

The quarrying of low value materials, such as sand and gravel, is dealt with under the Building Materials Permit regime. Commonly called 'quarrying', this activity can be carried out in conjunction to, or independent of, mining. While the regime works reasonably well – when it is used - compliance is low and recent difficulties have emerged in regards to the kind and form of consent obtained for a BMP, and the type and level of remuneration owed to landowners. Attention is needed to ensure that landowners fully consent to activities on their land, are fairly remunerated for these activities, and the activities themselves are regulated to ensure they do not pose a risk to the people living on or near the quarrying site.

**Objective 35:** *To encourage the mining of building materials in a controlled and regulated manner.*

### Specific policy measures:

1. Inclusive of Objective 11.4, all quarrying for low value minerals - such as stone, sand, and gravel - requires a Building Materials Permit (BMP), issued by the Director of Mines. A BMP is required regardless of whether the materials are obtained on-shore or off-shore.
2. Building materials for building or road construction for the personal use of the landowner or occupier, or for sale not exceeding a prescribed amount, may be mined without a building materials permit.
3. The new time frame for a BMP will be (1) one year for first time applicants and five (5) years for renewals, provided the applicant has complied with the terms and conditions of their BMP, including the timely and accurate disbursement of royalty payments. Development consent must be obtained from the Director for Environment before an application for a BMP will be approved. Any renewal of the BMP will be subject to further approval from the Director of Environment.



4. The Ministry shall, in conjunction with the Ministry of Infrastructure Development (MID), prescribe:
  - a. the procedure for identifying landowners for the purpose of obtaining a BMP;
  - b. the land access agreement for building materials;
  - c. the terms and conditions of the BMP including limits on the amount of materials able to be extracted, monitoring and inspections of these activities, and what happens if there is any breach;
  - d. access fees payable to landowners;
  - e. the rate of royalties for sale of building materials;
  - f. testing methods and requirements for building materials;
  - g. methods for fast-track consideration for projects of national importance
  - h. methods for controlling the use of, and access to, explosives used in quarrying;
  - i. rehabilitation and stabilisation of quarries and surrounding areas more broadly.
5. Where building materials are obtained by a private company on government land specifically and solely for the purpose of carrying out a government contract, the Company may apply to the Minerals Board for an exemption from the requirement to pay royalties.
6. The Ministry may, in conjunction with MECDM, prescribe the requirements for obtaining a development consent for building materials.
7. The Ministry will consider devolving the BMP regime, either in part or whole, down to Provincial Governments.
8. The Ministry will implement the aggregates guidelines prepared by SPC/SOPAC in 2013.

## Artisanal Mining

Currently, the MMA allows for alluvial mining but not more generally artisanal mining. Recent experiences in Gold Ridge, with the proliferation of alluvial mining in the old mine site, have exposed some of the flaws in the current system. Artisanal mining is often seen by people as being something more fitted to communities than companies, with significant economic opportunities flowing from these small-scale highly local activities. These opportunities need to be addressed by the Ministry, while at the same time ensuring that regulatory oversight is maintained. New initiatives such as 'Green Gold' provide opportunities to communities for relatively cheap gold extraction with low environmental impact and could be easily utilised through the new community mining initiatives.

**Objective 36:** *To properly regulate artisanal mining through a separate and more comprehensive regulatory regime.*

### Specific policy measures:

1. The Ministry shall introduce a new, more comprehensive, regime for artisanal mining operations. The new regime will replace the current alluvial mining licence regime by providing for a Community Mining Licence (CML), that includes both alluvial and non-alluvial mining.

2. Under the new regime, communities will be able to apply to their Provincial Secretary for a declaration that an area is a Community Reserved Area (CRA). A CRA:
  - a. is available only for areas where no commercially viable large-scale geological deposit exists;
  - b. can only be issued where no reconnaissance permit, prospecting licence or mining lease has been issued over that land;
  - c. prevents a reconnaissance permit, prospecting licence or mining lease being issued over that land; and
  - d. enables a community to apply for a CML in that area.
3. Communities seeking this protection will need to apply to their Provincial Secretary and provide him or her with:
  - a. details of the area upon which the reservation is being sought;
  - b. proof that they are or represent the landowners and communities of that area;
  - c. approval from the local Council of Chiefs or other traditional authority for that area;
  - d. a statement to the effect that, to the best of the community's knowledge:
    - i. there will be no adverse environmental concerns; and
    - ii. there are no commercially viable large-scale geological deposits in the area.

Upon receiving the application, the Provincial Secretary will send a copy of the application to the Director of Mines who shall table the application with the Minerals Board. The Minerals Board will consider the application and advise the Provincial Secretary who shall approve or decline the application subject to the advice of the Minerals Board.

4. Within a reserved area, landowner and communities will be encouraged to form co-operatives and apply for a CML to mine less economically significant deposits and small low-grade deposits. The application and licensing requirements currently in place for alluvial mining will be rolled over to the Community Mining Licence regime.
5. The Ministry, Provincial Government, and communities will be encouraged to work together to develop mineral potential in a reserved area. To this end, the Ministry may look at piloting this in a province or community first to test the regulatory framework and look at ways of encouraging community development, including through training schemes and educational activities for communities to encourage in-Province add-on benefits. The Ministry in discussion with the pilot Provincial Government will also look at whether a Provincial Minerals Board should be introduced to regulate provincially based artisanal mining.
6. The Ministry will develop regulations prescribing the conditions for community mining to happen, including, for example:
  - a. The Ministry shall prescribe limits on the distance mining activities are able to take place away from a river
  - b. The use of chemicals, explosives and mechanised equipment
  - c. Contested claims to alluvial mining (e.g. communities that share a river boundary)
7. The SESA shall include research into artisanal mining to better understand its social, economic, and environmental effects, particularly insofar as it relates to women and children.
8. An artisanal miner is required to: backfill all excavations and not leave any part of the area covered by the permit in an unsafe condition, not pollute or interrupt or adversely affect the flow of water, not dispose of any gold obtained other than to a licensed gold or gemstone dealer.

9. Artisanal mining is managed at a provincial level through the granting of community mining licences. Provincial Governments may prescribe the appropriate fee to be charged for community mining licence, which should be a nominal amount so as not to detract community investment or incentivise illegal/informal mining.
10. The Ministry will work with the relevant provincial government to provide technical and operational support to build and promote provincial artisanal activities and to ensure that good health and safety practices are followed.

## Gemstones

Of all the Provinces, Malaita has the highest potential for gemstone mining, thanks to several studies carried out in past years pointing to the presence of a kimberlite pipe. There is no regime at present regulating gemstone exploitation. Gemstones are one of the key potential areas to build community and provincial level economic opportunities from mining and to identify opportunities for the creation of local value chains.

**Objective 37:** *To regulate the mining and sale of gemstones.*

**Specific policy measures:**

1. The Ministry will regulate gemstone mining under its new Community Mining Licence regime. To support commercial exploitation of gemstones, the Ministry will amend the MMA to provide for a Gemstone Dealers Licensing regime, similar to the Gold Dealers Licensing regime.

## Gold Dealers

With the explosion in unregulated alluvial gold mining in the Gold Ridge area, the Gold Dealer's Licensing regime has come under scrutiny. While the regime exists, there are compliance processes in place at Ministry level to ensure that gold is being properly regulated in accordance with the current laws. Compliance needs to be effectively monitored if people want to exploit domestic and international markets.

**Objective 38:** *To better support and regulate Gold Dealers.*

**Specific policy measures:**

1. The Ministry will build capacity to monitor gold dealer's licences to ensure that those selling gold are doing so in compliance with the law. For those working legally, the Ministry will support them by developing additional marketing opportunities and creating commercial linkages, and encourages dealers to form an Association that can collectively represent dealers and encourage good industry standards.
2. The Ministry will place limits to the number of licences issued. To prevent 'banking' of licences, those dealers who are not active will be required to relinquish their licence.

3. Through the development of a central processing laboratory, the Ministry will regulate the type and quality of gold being processed and provide guidance on pricing for gold source through alluvial mining. Off-site processing will require a licence issued by the Ministry, under strict requirements.
4. The Ministry will work with Customs to control gold leaving the country and agree a method for marking gold bars so that they are clearly identifiable as being legal and are, as such, able to be sent out of the country.

## THE COMPANY

### Health and Safety

Generally, occupational health and safety compliance has a poor record in Solomon Islands. Those standards that have been in place at mines have been principally as a result of the Company self-regulating, not because of any national standard or compliance requirement. The rise in small-scale mining, quarrying, and other activities have also thrown light on the particular risks that exist from these types of mining, often more significant than large mines because of the low ability or incentive for these smaller companies to meet stringent requirements. Health and safety in a mine is more than just occupational – it includes social and environmental conditions that can impact the health and safety of workers. Violence and criminal activity in or near a mine can have a direct impact on the health and safety of workers. Prevention, mitigation, and management of these risks is fundamental.

**Objective 39:** *To ensure that appropriate health and safety standards and procedures exist to protect workers and that the Government is empowered to regulate this sector.*

#### **Specific Policy measures:**

1. All involved with prospecting and mining operations have a duty of care to comply with the Safety at Work Act. Every person and organisation involved in a mining operation has joint responsibility to co-operate in the management and control of risk and to ensure that persons and property are not exposed to unacceptable levels of risk.
2. The operator of the mine is advised to:
  - a. Develop its own code of conduct for occupational health and safety
  - b. To use the International Labour Organisation Convention 176 (Convention Concerning the Safety and Health in Mines) and the ILO Recommendation 183 (recommendation concerning Safety and Health in Mines) or an equivalent standard as guidelines for health and safety standards.
3. Companies are expected to have Risk Management System in place, and be based on industry and international standards and best practice. Such a system shall also address the issues of liability, accountability and responsibility in the work place as applied to occupational health and safety principles.
4. The Ministry will, in conjunction with the Ministry of Commerce, Industries, Labour and Immigration and the Ministry of Health and Medical Services, develop mining specific health and safety regulations, incorporating those matters dealt with in the ILO Convention and recommendation.
5. In addition to occupational health and safety policies, all Companies must have:
  - a. a comprehensive policy dealing with Gender Based Violence, which should make provision for at a minimum counselling services, training for police and medical officers on victim sensitive responses (negotiated through the CDA process), reporting arrangements, and protection of vulnerable employees.
  - b. a Code of Conduct for all employees setting out the minimum standards of behaviour acceptable in and around the mine site. This Code of Conduct must include controls on the use of, and access to, drugs, alcohol, and other physically and socially harmful substances.

6. Each policy must include disciplinary procedures to be followed in the event of a breach of the above.

### Corporate Profile/Business Climate

Increasingly, less reputable companies are seeing Solomon Islands as a soft target. Evidence of this can be seen in the marked increase in bauxite companies arriving on our shores, as well as the transition from logging to mining. Many of these companies are new to mining or come from countries with low emphasis on regulatory practices and environmental protection. The encouragement of less reputable companies has led to the reputable companies shying away. For Solomon Islands to have a viable mining future, reputable companies must be encouraged and less reputable companies discouraged.

**Objective 40:** *To attract and incentivise reputable companies to operate in Solomon Islands by ensuring minimum levels of information are available and by requiring potential investors to, likewise, disclose basic information about their operations and business practices.*

**Specific policy measures:**

1. The Ministry is committed to attracting good, reputable companies to Solomon Islands. To ensure that focus is given to reputable investors, the Ministry will work with the Foreign Investment Division to develop marketing materials and a full prospectus summarising mineral sector opportunities in Solomon Islands.
2. The Ministry will develop a website that has, as a first step, basic information about the Solomon Islands mining context including:
  - a. up to date legislation;
  - b. up to date tenements map and index;
  - c. geological information (medium resolution maps);
  - d. licensing processes;
  - e. organizational chart; and
  - f. contact information for Ministry staff and other Government bodies;
3. The Ministry will require all prospecting companies wishing to operate in Solomon Islands to have and maintain a website containing:
  - a. corporate profile/structure;
  - b. executive bios;
  - c. contact information;
  - d. company policies;
  - e. CSR commitments; and
  - f. tenement and licence information.
4. In addition to those items above, companies wishing to mine must have in place and available to the public policies and practices addressing, at a minimum and in no particular order:
  - a. ethical business practices, including fraud and anti-corruption;
  - b. workplace safety;

- c. childcare facilities;
  - d. human and sexual trafficking;
  - e. health, including sexually transmitted diseases;
  - f. equal employment opportunities; and
  - g. foreign security personnel.
5. All policies should be in accordance with good international industry practice.

## Transparency and Accountability

Mining in Solomon Islands can have the appearance of happening in the shadows. Information is hard to get hold of and decisions can be opaque to those on the outside. The Ministry is committed to bringing the sector into the light – both in terms of the Ministry’s own practices but also the information required from companies and the availability of the information to the public. A clear statement of reporting requirements for investors as well as notification of the kind of documents that are considered public documents is essential for the country to become a reputable mining destination.

**Objective 41:** *To create a framework for transparency and accountability by mandating a set of reporting requirements for companies with a reconnaissance or prospecting licence or a mining lease in Solomon Islands, in line with international transparency standards.*

### Specific Policy measures:

1. There should be public access to information on the mining sector (licences, reports, geological maps and reserves information) by default. Where specified, the Minister can decide to offer this information on a transactional basis (e.g. selling detailed geological data).
2. All prospecting and mining applications shall be publicly notified upon verification, and the public invited to lodge any comments in advance of the Minerals Board’s consideration of the application.
3. The Ministry must set up and maintain a website for the mining sector.
4. All environmental impact assessments, mining agreements, land access agreements and community development agreements should be publicly available documents, available in full for download on the Ministry website.
5. Mining agreements, land access agreements, and community development agreements must also be available for inspection in hard copy in the relevant provincial government office
6. Companies must, in their quarterly reports, provide fully disaggregated information on their payments or donations in kind – including ‘goodwill’ or ‘bonus’ payments - (for community projects planned and implemented under Community Development Agreements) to landowners, other community members, provincial government and national government and politicians, including all taxes, licence payments, royalties and infrastructure provisions. This information must also be provided in their audited annual reports.
7. Quarterly reports shall remain confidential until the tenement is relinquished.
8. Company quarterly reports must also include full details of the quantity of ore extracted, processed

and disaggregated production volumes per licence and per mineral type.

9. Company quarterly reports (in triplicate hard copy and also as an electronic copy) must be submitted no later than 30 days after the relevant quarter has ended.
10. Companies that bid for, operate or invest in extractives assets in Solomon Islands must disclose the natural persons who are the beneficial owners, including the identity(ies) of their beneficial owners(s), the level of ownership and details about how ownership or control is exerted.
11. Companies that operate (whether prospecting or mining) in Solomon Islands must disclose the total number of persons employed in their company, disaggregated by local and expatriate positions, and provide a breakdown of roles (including how many locals engage in technical work).
12. Registered community bodies that receive royalty payments through Community Development Agreements must submit audited annual reports to the Ministry.
13. The Ministry must publish and maintain on its website an online registry licence, providing details of each licence (whether reconnaissance, prospecting or mining) in Solomon Islands.
14. The Ministry must publish an annual report, which provides fully disaggregated and (where possible) audited information on all company payments (whether financial or in kind) to national government, provincial government or communities, as well as full production, export and sales data for the previous fiscal year (disaggregated by commodity and by licence). The report will also provide full details on financial flows (from royalties and other payments) from the ministry to national government accounts. This report must be available for download online no later than nine months after the previous fiscal year has ended.
15. The Minister may specify, in writing, the way in which payments are to be organised or broken down in the annual and quarterly reports, including on a project basis and the form and manner in which a report is to be submitted. Failure to comply with this request is an offence that will be subject to a fine or term of imprisonment.
16. The Minister has the power to order an audit of reports submitted by companies with a prospecting or mining licence in Solomon Islands. This audit will be in line with International Auditing Standards.
17. The Ministry commits to developing an online mining cadastre application which as far as possible automates the licensing process, with the aim of introducing a cashless licensing system at the appropriate time.

### Employment, Training, and Local Economic Linkages

Companies cannot be here solely for their own benefit. Mining must be of benefit to the people of Solomon Islands. Recent trends have seen highly mobile mining companies importing their own foreign labour, struggling to build local connections, and not committing to training programmes or educational opportunities for local people. Companies that employ such practices will be discouraged from entering Solomon Islands and are required to sign agreements committing to certain minimum levels, monitored regularly and linked to the security of their licence or lease.



**Objective 42:** *To protect the role of local workers in mining companies by requiring mining companies to commit to progressive employment and training opportunities for local people and to publicly report on these commitments.*

**Specific policy measures:**

1. Companies are required to source 100% of unskilled labour locally. Where companies are not able to do so, they are expected to provide a good reason for this. The fact that cheaper unskilled labour is available overseas is not considered a good reason. Skills assessments carried out by the Company should inform the appointment process. Provincial Governments and Communities are encouraged to negotiate these matters as part of their respective development agreements, ensuring that both men and women have opportunities to be involved.
2. As part of their quarterly reporting, companies must provide information on:
  - a. Number of employees, disaggregated by:
    - i. Local skilled
    - ii. Local semi-skilled
    - iii. Local unskilled
    - iv. Expatriate skilled
    - v. Expatriate semi-skilled
    - vi. Expatriate unskilled
  - b. Pay levels of all local employees and the equivalent comparison rates for expatriate employees;
  - c. Tax Identification Numbers (TIN) of local employees, and confirmation from the appropriate authority that tax, NPF, and other contributions are being deducted at the appropriate level and paid to the relevant authority.
  - d. The tax requirements of expatriate workers including:
    - i. their place of residence for tax purposes;
    - ii. any income-tax exemption, if applicable;
    - iii. evidence of a Double Taxation Relief Agreement, if applicable;
    - iv. the TIN number of the expatriate employee, if applicable, and the same information as required at para (c) above.
  - e. Training currently being funded, scholarships provided, and evidence of continued community engagement over these issues and more.
3. Where there are no or limited skilled or semi-skilled local workers, companies must provide evidence that they have committed to training local people in these positions. Companies are expected to commit to mandatory minimum numbers of trained locals in skilled and semi-skilled positions, increasing in agreed increments over the life of the mine. For example, locals must fill 5% of all skilled positions by the end of the first five years of the mine, increasing to 10% in the next 5 years, and so on.
4. For the purposes of reporting, 'local' means a Solomon Island citizen. The Director of Mines may also require a company to disaggregate this further by:
  - a. employees sourced from within the affected communities;

- b. employees sourced from within the Province (excluding the community employees); and
  - c. employees sourced from outside the Province.
- 5. Communities are strongly encouraged to agree minimum numbers of local employees as part of the Community Development Agreement negotiations.
- 6. If there is no MOU in place governing information sharing between MoFT and Ministry in respect of the above matters, the Company should excise those matters under the purview of MoFT and submit these to MoFT directly.

## Corporate Social Responsibility

For reputable companies, corporate social responsibility is a given. For less reputable companies, corporate social responsibility can be a struggle. Even for reputable companies, there can be a risk of companies over-committing, raising communities' hopes and expectations, causing problems further down the track. It is important for the Government and the people that a company has a clear statement of their approach to CSR and the way they interact with the people.

**Objective 43:** *To encourage companies that are able to demonstrate a commitment to corporate social responsibility that goes over and above minimum acceptable standards, and focuses on creating genuine long-term sustainable livelihoods for the people of Solomon Islands.*

### Specific policy measures:

1. Companies are required to demonstrate a culturally sensitive and relevant CSR policy, publicly available on their website. The CSR policy should include commitments relating to, at a minimum, health, education, women, the environment, and financial literacy, financial management and training. In addition to a CSR policy, companies must provide evidence of actual activities undertaken and commitment made to achieving their CSR goals in each tenement area. A robust CSR policy is a determining factor in the issuing of any prospecting licence or mining lease.
2. Communities will be encouraged to hold companies to account for their CSR commitments, through things such as Community Score Cards.

## IMPLEMENTATION OF THE POLICY

The scope of work envisaged by this policy is vast. Changes will need to be carefully managed so as not to place too onerous a burden on the Ministry. The Mines Sector Institutional Strengthening Programme will be the principal means by which this policy is implemented.

Through a series of amendments, legislation will be amended and/or developed to include:

- a. changes to attendance, functions, and powers of Minerals Board;
- b. the comprehensive process for identifying landowners for mining activities and a simplified landowner identification process for mining related activities, such as quarrying and roading;
- c. the information and checks that need to happen at each application point and how these link to the permit regimes under other bodies;
- d. mandatory Community Development Agreements and a review period thereof;
- e. mandatory Provincial Development Plans and review period thereof;
- f. revised definition of minerals;
- g. the Development Forum process
- h. the requirement to form a community corporate structure;
- i. a separate regime for deep sea mining;
- j. a separate regime for geothermal energy
- k. the power to make regulations controlling royalties;
- l. a clear registration process for land and removal of the presumption of compulsory acquisition;
- m. the creation of a Minerals Special Fund;
- n. the removal of Chief Geologist/Director of Mines link – Director's position to be a stand-alone role;
- o. the creation of NRIAC and their role at key stages of the application process;
- p. the removal of alluvial mining, replaced by artisanal mining administered provincially through the CRA/CML process;
- q. revised tendering provisions.

It is envisaged that, as a result of the above, there will be a series of consequential amendments to other legislation, including:

- a. The Environment Act 1998, to link the stop-notice and inspection requirements to the MMA
- b. The Income Tax Act, to correct small terminological issues;
- c. The Provincial Government Act 1997, to include mining within the legislative functions and services of the Provincial Government.

An MOU should also be developed with the MECDM to define information sharing requirements and joint participation, as set out in this policy.

Regulations are required to address the following:

### *National Government*

- a. Tailings Storage Facility
- b. Reclamation and Rehabilitation Plan

- c. Tendering
- d. Minerals Special Fund
  - ii. Establishment of oversight committee
  - iii. Reporting and transparency requirements
  - iv. Linkages to licensing requirements under the MMA
- e. Environment Bond:
  - i. minimum mandatory levels
  - ii. conditions of access/use of bond
  - iii. management of bond
  - iv. account closure/return of bond

#### Provincial Government

- f. control of Special Funds

There will also be a series of prescribed and other operational documents:

- a. Model Mining Agreement
- b. Model Community Development Agreement
- c. Model Land Access Agreement (and standardised penalties/fines)
- d. Application for a Reconnaissance Permit
- e. Application for a Prospecting Licence
- f. Application for a Mining Lease
- g. Standard T&Cs for RPs
- h. Standard T&Cs for PLs
- i. Standard T&Cs for GDLs
- j. Standard T&Cs for BMPs
- k. Process map (internal for Mines Division)
- l. Process map (integrated for SIG/Investors)

In addition to legislative amendments, the MMERE will endeavour to work closely with those Provinces likely to have mining activities in the near future to ensure that they have the support needed to manage the effects of mining. Where required, the MMERE will agree an Agency Agreement with each Provincial Government under section 29 of the Provincial Government Act 1997, to allow for the transfer of a grant to support activities expected of Provincial Governments under the new mining regime.

### IMPLEMENTATION PRIORITIES

The priority areas for implementation are:

1. Capacity building for Ministry staff
2. Drafting of the first Amendment Act, focussing on the key regulatory controls of Minister and Director powers, and the prospecting and mining regime, including landowner processes.
3. Development of the Model Mining Agreement

4. Costing/budgeting of key regulatory services and agreement with MoFT and MDPAC of minimum support levels
5. Scoping and establishment of a Natural Resources Independent Advisory Centre

## **EXPECTED OUTCOMES**

The overall goals of this Policy can be expressed in terms of broad-based development, growth and poverty reduction and significant improvement in the governance culture of the country. In the end, the performance of government has to be measured by reference to its contribution to these broad goals.

The impact of the minerals sector on the broad national development goals will be assessed in terms of its contribution to:

1. national revenue and foreign exchange earnings,
2. the creation of inclusive sustainable employment,
3. the improvement in social and physical infrastructure,
4. industrial development (up-, side- & down-stream linkages) and the stimulation of new economic activity through the provision of the requisite infrastructure,
5. positive impacts on the environment,
6. positive impact on local communities,
7. positive impact on landowners,
8. the improvement in human infrastructure (skills formation & knowledge creation), and
9. technology transfer and development.

## **MONITORING, EVALUATION AND REVISION**

For this policy to remain relevant requires periodic revision to reflect evolving circumstances. It is anticipated that this policy will be updated on a periodic five-year basis, and based on any of the following occurrences: -

- (1) a change of Government, or
- (2) a change in the national development strategy, or
- (3) a change in the perception of mining sector stakeholders, or
- (4) failure to achieve an expected outcome.

*END*

## APPENDIX A

### *Addition technical and operational information on the Minerals Board*

1. The new composition of the Minerals Board is:
  - a. An independent Chair who meets certain eligibility criteria such as, for example, (i) having demonstrable knowledge and experience of the minerals sector, (ii) being familiar with public service processes, and (iii) not having any connection to a mining company. Appointment will take place in a way that assures fairness in the selection among eligible candidates.
  - b. The Director of Mines
  - c. The Chair of Lands Board
  - d. The Director of Environment
  - e. Chairman of the Exemptions Committee
  - f. Director of the Foreign Investment Division
  - g. Chief Manager (Economic), CBSI
  - h. The Solicitor General
  - i. If a matter before the Board relates to mineral development in a particular Province, the Premier of the province will be invited to send their appointed officer to serve as a member.
  - j. If a matter relates to a tenement that concerns a particular landowner group or affected community, a member of that group will be invited to serve as a member as well as a representative from the Council of Chiefs or customary authority responsible for the tenement area(s).
2. Members may nominate an agreed alternate to attend the meeting in their place.
3. All standing members will have one vote, with the Chair having the casting vote. Members appointed under paragraph (ix) or (x) will be temporary voting members for the purposes of that meeting and only in relation to the matters affecting their province or affected group.
4. The Mines Division will act as secretariat to the Board and shall be present at Board meetings to provide technical advice as required.
5. The Minerals Board will meet quarterly
  - a. The Chair and three other members are a quorum. However, if the meeting concerns an issue related to a specific province, at least one member from either b (vi) or (vii) must be in attendance
  - b. Board papers must be sent out at least two weeks in advance of board meetings. Information and applications not received by that time will be deferred to the next meeting.
6. The Minerals Board functions shall be re-defined to include:
  - a. To assess applications for tenements and dealings in tenements and make the appropriate recommendation to the Minister to approve, not to approve or to defer the determination of an application until such time as a specific requirement is met.
  - b. To assess applications to reserve areas for artisanal mining and provide advice to the relevant Provincial Secretary accordingly.
  - c. To advise the Minister on the cessation, suspension, or curtailment of production in respect of mining leases;

- d. To review and approve proposed reconnaissance work plans and prospecting work plans.
  - e. To approve proposed mining plans submitted pursuant to the application for a tenement.
  - f. To approve transfers of mining leases and review changes to shareholding agreements.
  - g. To assess land identification and land registration reports in respect of prospecting licence and mining lease applications.
  - h. To assess community development agreements and other agreements and plans prepared in accordance with the mining lease application process.
  - i. To coordinate with other Ministries about work relevant to mining operations.
  - j. To receive information about potential breaches of licence conditions and make decisions as appropriate.
  - k. The granting of exemptions for companies quarrying on Crown land.
  - l. To consider complaints and hear appeals about decisions made under the Mines and Minerals Act.
  - m. Review of quarterly reports provided by companies in respect of their tenements.
7. The Minerals Board shall have the power to regulate its conduct as it sees fit, including the power to appoint sub-committee that may meet as and when required.
  8. In respect of (c), meeting times should align with the receipt of Company quarterly reports to ensure timely attention is given.
  9. The Minerals Board will issue public notices before each meeting, requiring at least 7 days notice period between the public notice and the meeting. Agendas will be publicly available.