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HORSES FOR COURSES: SPECIAL PURPOSE AUTHORITIES AND LOCAL-LEVEL GOVERNANCE IN PAPUA NEW GUINEA

It is generally agreed that local government has been the weakest of the three main tiers of government in Papua New Guinea since it gained independence in 1975. The reasons for this have been documented in the literature on the decentralisation that was brought into effect by the *Organic Law on Provincial Government* 1977 (Ghai and Regan 1993; Peasah 1994; May and Regan 1997; May 1999). Although this law gave provincial governments the power to create forms of local government more appropriate to local social circumstances than the model previously advocated by the Australian colonial administration, few took advantage of this opportunity. Whatever the standing of individual councillors within their own communities, the councils themselves generally lacked the financial and human resources required for them to function effectively as organisations engaged in the delivery of public goods and services. This problem is still apparent in most parts of the country.

I do not propose to discuss here what could have been done, or should now be done, to improve the performance of this third level of government. Instead, I wish to discuss an institutional arrangement, known as a Special Purposes Authority (SPA), which has been used to perform some of the functions of local government in specific local circumstances.

My interest in this subject arose from my recent experience as a consultant engaged in the production of a sustainable development policy for the mining sector that would seek to improve the management of project benefits disbursed to local communities and mine-affected areas (PNG Department of Mining 2003). While one of my aims is to document the potential significance of SPAs for this particular policy framework, I also wish to consider the broader question of how such exceptional institutional arrangements might be an instrument of national policy outside of the mining sector.

THE LEGACY OF THE NEW ORGANIC LAW

The *Organic Law on Provincial Governments and Local-Level Governments* 1995 established a whole new set of relationships between the three levels of government in PNG. In setting a new standard for the way in which these relationships ought to be constructed, it also removed those elements of regional variation and local flexibility which had developed under the Organic Law of 1977. The new Organic Law removed the power of provincial governments to make laws about local government, it increased the

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legislative powers of Local-Level Governments (LLGs) themselves, but it also placed their plans and budgets under the control of the national Members of Parliament (MPs) representing each open electorate.

Section 44 of the new Organic Law allows LLGs to make laws about: (a) labour and employment (but not industrial relations); (b) labour or community industries; (c) self-help and *tokples* schools, but not curriculum; (d) cemeteries; (e) provision of water supply; (f) provision of electricity; (g) improvement of villages, towns, cities and communities; (h) maintaining peace, good order and law through consultation, mediation, arbitration and community forums; (i) dispute settlement; (j) town, city, village and community planning; (k) cottage industries; (l) social services; (m) bride and groom wealth; (n) general licensing; (o) community sport, recreation, cultural and industrial shows; (p) local environment; (q) local tourist facilities and services; (r) housing; (s) domestic animals, flora and fauna; (t) human settlements; (u) census and village or community records; (v) traditional barter system; (w) control on consumption and use of alcohol, betel nuts, and betel nut related products or any other marketable items; (x) hygiene and sanitation; (y) local trading (not mobile); (z) the protection of traditional sacred sites; (aa) community day work or service programmes; (ab) the imposition of fines for breaches of any of its laws; (ac) village communities; (ad) local aid posts and clinics; (ae) traditional and customary copyrights. However, these law-making powers have no organic connection with the planning and budgeting process that determines the allocation of financial resources.

Section 33A of the new law establishes Joint District Planning and Budget Priorities Committees (JDPBPCs) which comprise: the MP representing the open electorate who shall be the chairman of the committee; the heads of LLGs in the district or their nominees; and up to three other members appointed by the MP in consultation with the heads of the LLGs. The functions of the JDPBPC are: to oversee, coordinate and make recommendations as to the overall district planning, including budget priorities, for consideration by the provincial and national governments; to determine and control the budget allocation priorities for the LLGs in the district; to approve the LLG budgets for presentation to the LLG and make recommendations concerning them; to draw up a rolling five-year development plan and annual estimates for the district; and to conduct annual reviews of the rolling five-year development plan.

Section 98 of the 1995 Organic Law, which is concerned with 'benefits derived from natural resources', appears to provide a way for LLGs to finance their operations outside of this planning and budgeting process. It says that the developer of a natural resource shall pay 'development levies' at its own expense to the Provincial Government(s) and LLG(s) of the province or area in which the development is situated, as well as 'land owners benefits' which are payable to all three levels of government for redistribution to the 'owners of the land from which the natural resources were obtained'. It then goes on to say that the development levies 'shall be controlled through a trust fund which shall be managed and administered in accordance with an Act of the Parliament'; that resource developers shall provide to all three levels of government 'expertise and professional support as to the use of the development levies'; and that other laws 'shall make provision for the rates, management, sharing arrangement, and application of the development levies'. If this part of the new law was intended to ruffle the feathers of extractive industry (Filer 1997), it also had the effect of creating a space in which policy makers were obliged to think of ways to incorporate these strange new forms of taxation into the laws regulating each industrial sector.

THE PRESERVATION OF SPECIAL PURPOSES AUTHORITIES

Those aspects of the new Organic Law which pertained to the operation of LLGs were brought into effect by the passage and gazettal of the *Local-level Governments Administration Act 1997*.² Section 38 of this act sets out the key administrative functions of LLGs as follows:

- preparing corporate plans and estimates;
- preparing a rolling five-year development plan taking into account rolling five year development plans for the wards as prepared by the elected ward members;
- preparing an annual plan taking into account the rolling five-year development plan;
- preparing annual budgets based on the annual plans;
- keeping proper accounts and records of its transactions and affairs;
- ensuring necessary arrangements and participation at forums on renewable natural resources;
- constructing and maintaining infrastructure and facilities that are the responsibility of an LLG; and

- initiating and implementing programmes for youth and women.

Part VII of the Local-level Governments Administration Act allows the Head of State, acting on advice from the National Executive Council, and following a recommendation from the Minister for Inter-Governmental Affairs, to 'establish a Local-level Government Special Purposes Authority in and for an area of one or more Local-level Governments' to assist in the implementation of one or more local-level government functions. The Minister's recommendation is to specify the purpose, management, funding and staffing arrangements of the SPA, and does not necessarily require any consultation with the relevant LLGs. SPAs are corporate bodies whose powers are determined by their constitutions rather than the laws and regulations which normally govern the operations of government agencies. Section 45 of the Act says that the affairs of an SPA shall be conducted by a 'managing body' which is not to include the members of an LLG, and that its operations shall be 'at arms length' from an LLG. On the other hand, Section 48 says that the powers vested in an SPA should not have the effect of divesting an LLG of that same power.

The option to create an SPA had also existed under the previous Organic Law, and was apparently created by the Australian colonial administration under the *Local Government (Authorities) Act 1970*. Four such entities were already in existence in 1976: the Higaturu-Oro Bay Services Authority, the South Bougainville Roads Authority, the Finschhafen-Kabwum Planning and Development Authority, and the Southern Highlands Development Authority. The South Bougainville Roads Authority outlasted the dissolution of three local government councils which had originally agreed to its establishment because it was seen as 'an important vehicle for local development' in the context of the Panguna copper mine (Peasah 1994: 22). By 1988, the Finschhafen-Kabwum Planning and Development Authority (in Morobe Province) was the only one of these four SPAs that was still operating (ibid.: 78).

In 1989, however, the Porgera Development Authority (PDA) was established under the agreements that led to development of the Porgera gold mine in Enga Province. The PDA's constitution specified its functions as being to:

- control, manage and administer the Porgera District;
- ensure the welfare of its residents;
- assist the local government councils in carrying out functions within the district;

- maintain the Kairik airstrip;
- receive and distribute royalties from the provincial government;
- administer the spending of monies under the mining company's Community Facilities Grant;
- advise on liquor licensing matters in Porgera District; and
- assist the Provincial Town Planning Board in planning any township in Porgera District (Bonnell 1999: 76).

In 1994, the New Ireland Provincial Government passed a bill to transform the Nimamar Community Government into the Nimamar Development Authority in the context of negotiations to develop another large-scale gold mine on the island of Lihir.³ In this case, the constitution specified the functions as being to:

- receive and disburse grants such as monies paid from the Special Support Grant associated with development of the mine;
- organise, finance, engage in or assist any business or enterprise;
- carry out any works;
- provide or finance the provision of services and facilities for the benefit of people in the local area;
- provide advice to the provincial and national governments on matters affecting local people;
- encourage local participation in development programmes; and
- act as an agent for other public bodies or institutions on agreed terms and conditions.

When the new Organic Law was passed in 1995, bureaucrats in Port Moresby were inclined to think that it spelt the end of SPAs, primarily because it removed the power of provincial governments to legislate for the performance of local government functions.⁴ The Nimamar Development Authority was duly reconstituted as an LLG, even though local people continued to refer to it by its previous name. In Porgera, however, local people were so attached to the Porgera Development Authority as an entity discrete from the two local-level governments that they threatened to close down the mining operation if the national government saw fit to abolish it.

The potential value of this mechanism has since been recognised in the actual or proposed establishment of additional SPAs, including a proposal to reconstitute the Nimamar Development Authority as an entity distinct from the Nimamar LLG (Table 1). The most important advantages of this type of arrangement are to be found in the 'arms-length' relationship

Table 1: Special Purposes Authorities recognised by the Department of Provincial and Local Government Affairs (DPLGA), August 2002.

SPA TITLE	PROJECT TYPE	PROCLAIMED	DEPARTMENTAL COMMENTS
Porgera-Paiela LLG SPA (Porgera Development Authority)	Mining resource	November 1998	MOA and constitution completed 1998; annual reports received for 1999-2001; organisation fully operational, with 25 employees in place.
Anga LLG SPA (Anga Development Authority)	Pooling of financial cooperation	April 2001	Letter to be written for Secretary's signature to working committee to complete Memorandum of Agreement (MOA), constitution, organisational structure, etc.
Nimamar LLG SPA (Nimamar Development Authority)	Mining resource	May 2001	MOA, constitution and organisational structure drawn up and awaiting comments by DPLGA, Department of Personnel Management (DPM), etc.
Koiari LLG SPA (Koiari Development Authority)	Water resource	February 2002	MOA, constitution and organisational structure drawn up and awaiting comments by DPLGA, DPM, etc.
Western Regional Training Authority	Pooling of financial cooperation	mid-2002	
Kokoda Track LLG SPA (Kokoda Track Authority)	Historic and/or eco-tourism		MOA, constitution and organisational structure drawn up and awaiting comments by DPLGA, DPM, etc.
Kikori SPA	Gas pipeline		Proposal twice submitted to Minister with MOA, constitution and management committee; Ministerial endorsement pending Departmental investigation of authenticity of current operations.
Kutubu LLG SPA (Kutubu Development Authority)	Gas and/or petroleum resource		NEC approvals dated June 2001 and May 2002; constitution yet to be drawn up.
Hides LLG SPA	Gas resource		NEC returned draft submission to DPLGA for further study and consultation with all stakeholders.

Source: PNG Department of Provincial & Local Government Affairs internal records.

with provincial and local-level governments, and in the capacity of SPAs to hire and fire personnel without reference to public service regulations. But there have also been some attempts (notably in the oil and gas sector) to use such bodies as 'fronts' for the misappropriation of government funds. Before considering the circumstances in which this kind of arrangement might or might not be justified, I shall first provide an account of the way that the Porgera Development Authority has recently been functioning, because it is the prototype of an SPA functioning under the new Organic Law.

THE PORGERA DEVELOPMENT AUTHORITY

In 1998, the Porgera Development Authority (PDA) was officially transformed into the 'Porgera-Paiela Local-level Government Special Purposes Authority', but the people of Porgera District have continued to refer to it by its former title, and I shall do the same. The Memorandum of Agreement which served to change the status of the PDA says that its functions are to:

- implement the construction of infrastructure on behalf of the National Government, Provincial Government and LLGs within the Porgera District;
- assist the Porgera and Paiela-Hewa LLGs in the implementation of their administrative functions;
- manage the construction of facilities in Paiam, Porgera and Kairik towns and manage their operations;
- manage the payment of royalties and other mine related income in the Porgera District;
- manage and operate the Porgera District Hospital;
- advise the landowners and the LLGs on natural resource project agreements;

- implement the functions of the Tenders Board, Building Board, Physical planning Board and other functions delegated to it by the National Government, Provincial Government or LLGs; and

- receive funds on behalf of the Porgera and Paiela-Hewa Rural LLGs and to make payments as directed by them.

The Board of the reconstituted PDA was to include two community members nominated by each of the two LLGs, two persons appointed by the customary owners of the Special Mining Lease, the Porgera District Administrator, one official from each of the national government departments responsible for finance and mining, a representative of the Porgera Joint Venture (the mining company), and two people appointed for their 'technical skills'. By 2002, the number of landowner representatives had been increased from two to four.

The original mining development agreements provided for the PDA to receive and manage several revenue streams on behalf of what were then the two local government councils in the mine-affected area. Some additional revenues have since been derived from the introduction of the Infrastructure Tax Credit Scheme in 1992.⁵ Table 2 shows the actual and projected value of these revenue streams in 2002. Actual receipts are almost certainly understated because the early financial records of the PDA are unavailable or incomplete. In the four years from 1998 to 2001, the revenues of the PDA averaged more than K6 million per annum.

The performance of the PDA was evaluated by consultants engaged in the production of a Sustainable Development Policy and a Sustainability Planning Framework for the Department of Mining in 2002. The PDA was found to be doing a better job of planning and managing the delivery of public infrastructure and services than other government institutions

Table 2: Cash income of the Porgera Development Authority since 1989 (K million at 2001 values).

Income Type	Actual Receipts (1989-2001)	Forecast Receipts (2002-2011)	Total
Royalties	4	5	9
Dividends (Mineral Resources Enga)	0.3	10	10.3
Special Support Grant	5	16	21
Mining & Infrastructure Grants	11	0	11
Tax Credit Scheme	3	5	8
Infrastructure Grants from Porgera Joint Venture	5	0	5
Total	28.3	36	64.3

Source: Simpson (2002).

in Enga Province, primarily because it was able to employ professional technical and administrative staff on better terms and conditions. However, interviews with senior management highlighted problems which show how difficult it is for an organisation of this kind to operate within the wider framework of governance in PNG.⁶

Accumulation of new responsibilities

When the PDA was first established in 1989, its primary functions were understood to be the construction and maintenance of infrastructure on behalf of the three tiers of government. By 1998 it had acquired additional responsibilities, and the order in which it acquired them is reflected in the list of functions assigned to the new SPA in the Memorandum of Agreement. By 2002 it had taken on other functions which are not included in this list. For example, some Porgerans had paid Telikom for phone connections. Telikom had bought the necessary equipment, and should have installed it under the terms of the original mining development agreements, but said that it could not pay the extra cost of installation. The PDA therefore decided to foot the bill. Likewise, when Elcom (now PNG Power) cut off power supplies to Paiam town and the Porgera hospital, and local people began to chop down the power lines in protest, the PDA had to buy a transformer to maintain the power supply to the hospital, thus enlarging the scope of its responsibility for that institution. By 2002, the PDA was also covering the entire cost of police operations in Porgera District apart from the salaries and uniforms of the policemen.

While the PDA had no legal mandate for the performance of functions not listed in the Memorandum of Agreement, the managers were acting to address the demands of the local community in order to take the heat off the mining company, which might otherwise be held responsible for the failure of other government agencies to meet their obligations. It is therefore interesting to note that the company and community representatives on the PDA Board were inclined to support a further extension of its responsibilities, while the government representatives stood out for their regular absence from board meetings. This might help to explain why the PDA had not been able to connect its local projects to sectoral development strategies which ought to have been the responsibility of other government agencies, or to devise its own strategic planning framework.

Relationship with district administration

Prior to the passage of the new Organic Law in 1995, Porgera District was the area covered by the two local government councils whose functions were partly transferred to the PDA in 1989. By aligning 'district' boundaries with those of open electorates, the new Organic Law incorporated the old Porgera District into a new Porgera-Lagaip District which had a considerably larger population. This point seems to have escaped the notice of the people who drafted the Memorandum of Agreement which established the new SPA in 1998, but it almost certainly set the PDA on a collision course with the national MP and the administrator of the new district. In fact, the first administrator of the Porgera-Lagaip District previously had been the administrator of the old Porgera District, and was quite supportive of the PDA, but the MP engineered his removal in 2000. The MP was keen to use the PDA as a vehicle to implement his own projects in those parts of his electorate where his political supporters were concentrated, but the community representatives on the PDA Board were able to protect the organisation from this kind of political interference by insisting on the geographical limits of its original mandate.

According to the Organic Law, the PDA should still have exercised its functions in a manner consistent with the priorities established by the Joint District Planning and Budget Priorities Committee. However, in the first five years of its existence, the only priority established by the Porgera-Lagaip JDPBPC consisted of a 1999 declaration that 60 percent of district revenues should be spent on roads. In the absence of a District Development Plan, the PDA set its own priorities through an annual process of consultation with local communities in the old Porgera District.

Although the MP and the new District Administrator resented the relative autonomy of the PDA, and were opposed to any further extension of its mandate, the PDA Board still agreed to allocate one-third of the PDA's budget to the district administration. This was justified by their unwillingness to take responsibility for the welfare of people in the Lagaip section of the Porgera-Lagaip District, whose population is still larger than that of the old Porgera District. By 2002, however, the PDA Board was demanding an end to this subsidy because of growing evidence of its abuse by the staff of the district administration.

Uncertain cash flows from national government

By 2002 the PDA was facing an imminent cash flow crisis because of a combination of factors beyond the control of its managers:

- The funding commitments contained in the original mining development agreements failed to take account of the high rate of inflation which followed the devaluation of the national currency in the second half of the 1990s. This meant, for example, that the PDA was saddled with a commitment to build the same number of houses each year, even though the cost of each house had more than doubled.

- The national government had reneged on some of its own commitments under the original mining development agreements because it had to deal with its own cash flow crisis. For example, it had ceased funding the salaries of the PDA's manager, accountant and engineer as a separate budget item, and there was an annual shortfall of K700,000 in its contribution to the cost of running the Porgera District Hospital.

- Under the terms of the Organic Law, the funding which was still allocated to the PDA in the national budget had to pass through the Provincial Treasury on its way from the National Treasury. PDA management was convinced that some of this money was being diverted in the process. Provincial government staff had generally been less than helpful in pressing the PDA's claims on the national budget because they felt (with some reason) that Porgera was already far better off than the rest of Enga Province.

Aside from these problems, the PDA's revenue base was set to shrink with the approaching closure of the mine. The mine's annual output and profits were already beginning to decline, and nearly all of the PDA's income was dependent on one or other of these two variables. It was therefore doubtful whether the PDA would be able to keep performing its mandated functions through to the point of mine closure, let alone beyond that point.

Management of the Tax Credit Scheme

The PDA had assumed responsibility for the planning, design and implementation of some of the infrastructure projects for which the mining company was claiming a tax credit from the Internal Revenue Commission. This was consistent with the PDA's mandate to implement infrastructure projects on behalf of the government because money spent under the Infrastructure Tax Credit Scheme was really government money. It could also be explained by the desire of community representatives on the

PDA Board to exercise some control over the way the money was spent, rather than rely on the national government to assess the merit of project proposals submitted by the company.

Nevertheless, PDA managers felt that they were losing out on this arrangement. This was partly because the mining company was still charging (and hence retaining) the full value of the management fees included in the project costings, and partly because it was liable to delay reimbursement of the balance until it had provided evidence of project completion to the Internal Revenue Commission. In effect, this meant that the PDA was obliged to make the initial project investment without any guarantee of cost recovery. Furthermore, it was difficult for the PDA to plan for its own involvement in the implementation of tax credit projects, because the future value of tax credits would be a function of the company's operating profit, and the company was adopting a fairly conservative approach to its own profit forecasts.

Demonstration of financial transparency

The PDA was hampered in its efforts to secure funding from sources other than the government by the Auditor-General's insistence on his own power to determine who should audit the books of any government agency. According to PDA management, the then Auditor-General (who has since been relieved of his position) had required that a substantial advance be paid to his own office before being passed on to a local firm of business consultants with whom he had a close working relationship. Unfortunately, this did not have the effect of producing an audit, and the PDA was left to petition the Auditor-General for return of the down payment.

In the meantime, the lack of audited accounts was jeopardising the PDA's application to the Australian Agency for International Development (AusAID) Incentive Fund, and was no doubt becoming a matter of concern for other donor agencies. However, the PDA's managers may have been wrong to assume that the Auditor-General would be able to invalidate an audit undertaken by a reputable company which had not been appointed at his own discretion.⁷

Management of landowner benefits

Although the landowner representatives on the PDA's Board had proven to be ardent defenders of the organisation's independence, and generally supported the appointment of expatriates to manage its affairs, this did nothing to simplify the task of managing the actual distribution of landowner benefits.

For example, there had been a steady increase in the number of ‘landowners’ claiming a share of the royalties allocated to them under the mining development agreements. Each of the 23 ‘clan agents’ who represented the landowning community had a good deal of discretion to add extra spouses, relatives and dependants to the list of ‘clan members’. This meant that the landowners were continually grumbling about the decline in the value of their royalty cheques, and they were sometimes inclined to suspect that part of their entitlement had been misappropriated.

If the PDA management therefore had to manage complaints about the distribution of royalties, it is not surprising that they sought to avoid any further engagement in debate about that portion of the royalty (about one-third of the total allocated to the landowners) which had been placed in trust for future generations since the start of mining operations.⁸ Some landowners had been using the money in the so-called ‘Children Trust’ to pay for their children to attend international schools in Port Moresby, or even in Australia. As the number of eligible children continued to grow, this practice threatened to exhaust the trust fund before the point of mine closure. The trustees had to persuade the landowners to limit the payment of primary school fees to the cost of attending the Porgera International School, which was then upgraded to accommodate the expanded roll. Although an SPA could in theory assume responsibility for the establishment and management of trust funds, the PDA did not have a mandate to deal with the future effects of mine closure, and there was no guarantee that it would still exist once the mine closed.

TURNING ANOMALIES INTO POLICY

Whatever its powers, responsibilities, capacities or deficiencies, the PDA was still an exceptional institution, and Part VII of the Local-level Governments Administration Act was still a legal anomaly within the framework of the Organic Law. On the other hand, the terms of reference set for myself and the other consultants engaged to produce a sustainable development policy for the PNG mining sector made it clear that this policy would have to specify an institutional mechanism for the effective management of benefits allocated to landowners and project area communities as a result of mining development agreements (PNG Department of Mining, 2003). Furthermore, this mechanism would have to last throughout and

beyond the life of a large-scale mining operation in order to produce sustainable development outcomes for these local beneficiaries.

In our view, there was no way that LLGs could be expected to perform this function. This was partly because of the legal restrictions placed on their capacity to recruit and reward the staff required to manage a budget far in excess of that normally available to an LLG, and partly because the current structures of governance could not protect a budget of this size from political manipulation and misappropriation, even if the local staff were competent and honest. Our view was shared by most of the other stakeholders in the mining sector – not least by the people of Porgera – but was initially resisted by staff of the Department of National Planning and Rural Development (DNPRD). Their resistance was based on three considerations:

- they had a vested interest in the creation of a uniform system of planning and budgeting within the framework of the Organic Law;
- they resented the size of the benefit packages which local landowners were able to extract from the government by way of ‘compensation’ for the process of development; and
- they thought that ‘sustainable development’ was their business, and not that of the Department of Mining.

One of the key points at issue here was the Tax Credit Scheme. The Department of Mining had formerly been the national government agency responsible for the approval of tax credit projects proposed by mining companies, but the DNPRD had managed to take this responsibility away from them on the grounds that tax credit projects should be consistent with the provincial and district plans approved by the national planning agency. On the other hand, DNPRD staff were not happy with the Tax Credit Scheme itself, because they thought it was an institution invented by the mining industry, aided and abetted by the Department of Mining, which had the effect of making mining companies responsible for some of the functions of local and provincial governments. If mining companies were only going to perform these functions for as long as their mines were operational, the scheme was an obstacle to the ‘sustainable development’ of provincial and local government capacity.

We could not defeat this argument by citing the PDA as an example of the role which a local government institution could play in the design and management of tax credit projects. In this respect, the PDA was simply acting as one of the mining company’s engineering contractors; the PDA was not building local government

capacity but substituting for its absence, and the PDA's own capacities did not appear to be sustainable beyond the point of mine closure. In any case, the Porgera Joint Venture had been the mining company which persuaded the national government to introduce the Tax Credit Scheme in the first place. Even the staff of the Department of Mining would agree that this scheme currently made no provision for the maintenance of local infrastructure after mine closure, and its role in the formulation of a mine closure policy or sustainable development policy was therefore problematic.

Our problem, in essence, was to connect the Tax Credit Scheme with SPAs and LLGs in a way that would be equally acceptable to both national government departments, as well as to the other stakeholders in the mining sector. This meant showing how the new connection would serve to reduce the dependency of local communities and institutions on mining company expertise over the course of the mining project cycle, and how it would help them to survive the social and economic impact of mine closure. At the same time, we had to minimise, and if possible eliminate, the need for any further amendments to the Organic Law, even though some of its provisions – especially those in Section 98 – had been a major bone of contention in the mining sector for several years.

The way in which we solved this problem was to propose a 'Tax Credit Conversion Scheme' through which:

- tax credit expenditures by a mining company within its immediate area of impact should from the outset be made in accordance with a Community Sustainable Development Plan, and should normally be managed under a contractual relationship between the company and an SPA; but
- this kind of expenditure should be progressively converted into tax-creditable 'development levies' during the operational life of the mine, which should then constitute an increasing proportion of the Project Area Development Fund which the SPA itself spends on the implementation of the same plan.

We then went on to suggest that the conversion of tax credits into development levies should be accompanied by a parallel transfer of responsibility from the company to the SPA for building the capacity of other local institutions (including LLGs) to manage the continued implementation of the Community Sustainable Development Plan beyond the point of mine closure, when the SPA's own responsibilities should be confined to the management of a trust

fund established to maintain the public goods and services already financed by mineral revenues.

The mining industry had initially opposed Section 98 of the Organic Law because it appeared to foreshadow the imposition of 'development levies' as a new form of tax on new mining projects. The trouble is that Section 98 requires a resource developer to pay development levies to one or more provincial and local-level governments 'out of its own cost', and the amendment of this phrase would seem to be the one and only amendment required by our proposal for a Tax Credit Conversion Scheme. Our proposal was designed to take advantage of the fact that Section 98 allows for development levies to be paid directly to LLGs or their instrumentalities, without first passing through the national or provincial treasury. Section 98 also says two more things about development levies which could be taken to deal with issues raised either by the Porgera Development Authority or by the National Planning Department: it provides for the establishment of trust funds (under separate legislation) in order to protect these revenues from political manipulation; and it places an obligation on developers to provide professional advice to the recipients on the manner of their use.

It would have been foolish to build an entire policy and planning framework on a single minor amendment to the Organic Law when there is no guarantee that this will find its way through the national parliament. Nor was there any reason for us to assume that the Internal Revenue Commission would see the sense of the Tax Credit Conversion Scheme, especially when the Department of Mining had generally failed in its attempts to modify the existing scheme. But this specific proposal was not essential to the process of institutionalising the role of SPAs within a new policy and planning framework for the mining sector, because the planning and management functions associated with a Project Area Development Fund are not entirely dependent on its actual sources of revenue. What is primarily required for the purpose of achieving sustainable development outcomes for local communities is a revenue stream of predictable size, and for which there is some promise of continuity past the point of mine closure.⁹

A more problematic issue for a policy which sets out a preference for one way of managing a Project Area Development Fund is the variety of institutional arrangements which have already been adopted for different mining projects. Such arrangements might continue to be justified by the variety of local circumstances in which such projects are established. Even if it is agreed that

the Porgera Development Authority represents the best deal for Porgera, why should we assume that this kind of institution is necessary or desirable in other contexts? And what case could be made for the establishment of an SPA in areas affected by existing mines which are already operating under agreements that do not countenance the need for such an institution?

In the case of the Misima mine, it is certainly too late to establish an SPA because the mine is about to close and the Louisiade LLG is not due to receive any mine-related revenues after this happens. In the Lihir case, on the other hand, the Nimamar LLG is due to receive revenues for several decades. Furthermore, as we have seen, this LLG was actually born out of a Development Authority established under the previous Organic Law at the insistence of the local community. Although the Lihirians failed to follow the Porgeran example by insisting on its transformation into an SPA as soon as the new Organic Law came into effect, they have since realised that the LLG does not have the capacity to manage the revenues from the mining development agreements.

The Ok Tedi case is rather more complex. In this case, the 'mine-affected area' is now understood to include all or part of four different districts in two different provinces,¹⁰ and the mining company has taken on more of the normal functions of provincial and local-level governments than any other private company in PNG. It might therefore be argued that there is no space or no need for the creation of another

institution to perform these functions or, if there is a space and a need, that the area in question is too large to be covered by a single SPA.

In 2001, Ok Tedi Mining Ltd (OTML) established the Ok Tedi Development Foundation as a vehicle for the delivery of a range of public goods and services which are not unlike those delivered by the Porgera Development Authority (Table 3). In 2002, BHP-Billiton transferred its 52 percent share of OTML to PNG Sustainable Development Ltd (more commonly known as the 'Sustainable Development Program Company'), which is committed to invest all its revenues from the mining operation in the creation of a perpetual trust fund that will be used to finance sustainable development projects in Western Province and the rest of PNG. However, neither of these entities is a recipient of any government revenues apart from those withheld under the Tax Credit Scheme, and neither of them has any legal control over the revenues which the national government transfers to provincial and local-level governments under the mining development agreements.

The misappropriation and mismanagement of mine-related revenues by the Fly River Provincial Government (FRPG) has been a matter of growing concern since the mine became operational in 1984 (Little and Regan 1987; Burton 1998; Finlayson 2002). Although the agreements covering the distribution of these revenues require that a certain proportion be spent on public goods and services in the mine-affected area, they do not actually stipulate

Table 3: Goal, purpose and component objectives of the Ok Tedi Development Foundation.

Goal	To promote equitable and sustainable social and economic development in the Western Province.
Purpose	To provide targeted support for livelihood development, community and government expenditure planning and priority infrastructure development.
Component 1:	<i>Development Planning:</i> To support community and government planning initiatives for sustainable and equitable social and economic development.
Component 2:	<i>Rural and Economic Development:</i> To improve food security and increase economic independence of communities through growth of the non-mine related economy.
Component 3:	<i>Infrastructure Development:</i> To facilitate the construction and maintenance of priority government and community infrastructure.
Component 4:	<i>Administration:</i> To establish procedures, systems and plans for the organisation and management of the Foundation.

Source: Simpson (2002).

any transfers to the relevant LLGs, and this tier of government would almost certainly have withered away if it had not been subsidised and supported directly by the mining company.

In 2000, when the FRPG was in one if its periodic states of suspension, the mining company was able to persuade the national government to establish a 'Western Province Capacity Building Project' (WPCBP) whose staff would be directly accountable to a committee comprising representatives of several national government agencies, as well as OTML and the FRPG. This institution was to be funded through direct transfers of a 25 percent share of the mining royalties and Special Support Grant that would otherwise have been subsumed in the provincial budget, while its management and technical support costs were also meant to be covered by the government. By 2002, it was already evident that the national government could not or would not meet its own commitments, so the project's funding was limited to the royalty stream which came directly from OTML. The mining company was also covering the project's management and technical support, but was threatening to end this subsidy unless the national government abandoned the practice of placing all of its own contributions in the black hole otherwise known as the Provincial Operating Account (Simpson 2002).

Insofar as the Western Province Capacity Building Project had a remit to build local, as well as provincial, government capacity, and even to carry out some of the LLG functions set down in the Organic Law, it is an institution which could partly be substituted by an SPA, or by several SPAs covering different parts of the mine-affected area, if the distribution and disbursement of government revenues could be subjected to a modicum of common sense. From a strictly legal point of view, the WPCBP is even more of an anomaly than the Porgera Development Authority, and this might explain why the national government has treated it as another tentacle of OTML. But the PDA has also fallen foul of Treasury's insistence that all public funding of LLG functions must pass through provincial government accounts which are more or less unaccountable. In this respect, Western Province is the nation's basket case, but if nothing is done to create a viable form of local government in that province, it is hard to see how the Sustainable Development Program Company will get value for the very large amount of money which it has to spend there.

Even if a new mineral policy framework were to facilitate the establishment of SPAs in parts of Western Province, it should still recognise cases in which this would not be an appropriate

way of dealing with the management of mineral revenues at a local scale.

- An SPA would not be warranted without an agreement to spend a certain proportion of the government's mineral revenues on the population of a mine-affected area for a certain period of time – say ten, fifteen, or even twenty years. This means that the scale and duration of a mining project have to be taken into account in the development planning process.

- Even where a large-scale mining project is set to generate substantial revenues for a lengthy period, there might already be an agreement to establish an institution which has functions, powers or responsibilities like those of an SPA without actually being one. In the case of the Ramu nickel-cobalt mine, which has yet to be developed, there is already an agreement to set up a 'Ramu Foundation' which (unlike the Ok Tedi Development Foundation) is an institution of this type.

- It is hard to see how an SPA could be created against the wishes of the local-level government(s) or the population it is meant to serve. As we have seen, the relative success of the PDA has partly been a function of the level of community support which it enjoys.

- Finally, it is possible that the district administration(s) and LLG(s) responsible for the mine-affected area have already demonstrated a capacity to manage the benefits derived from mining projects, even if their scale and duration might otherwise appear to warrant to creation of an SPA.

The capacity of an SPA to perform the functions of an LLG would clearly be enhanced by the establishment of a policy framework which establishes the conditions in which this substitution is warranted. But the policy which sets out these conditions also needs to be accompanied by the development of guidelines for the operation and management of SPAs which go beyond the legal requirements of the Local-level Governments Administration Act. In the case of the mining sector, these guidelines would need to deal specifically with the role of SPAs in implementation of the Tax Credit Scheme and in the management of any trust funds established as forms of insurance against the negative impacts of mine closure.

INTER-SECTORAL POLICY TRANSFER

To the best of my knowledge, no serious consideration has yet been given to the possible incorporation of SPAs into any sectoral policy

Box 1: The Kutubu Special Purposes Authorities controversy.**K1 MILLION IN "ILLEGAL" ACCOUNT**

'A senior politician from the Southern Highlands province is under investigations for the depositing of more than K1 million in Kutubu funds into an "illegal" account. Koroba/Kopiago MP Petrus Thomas revealed this in Parliament yesterday, saying such practice has deprived the province of development, and left its capital Mendi looking like a ghost town.

'Mr Thomas alleged during Question Time that two cheques worth more than K1 million for the Kutubu Special Project [sic] Authority (KSPA) were deposited into an illegal account and withdrawn the same day for unknown reasons. He said that a first secretary to a senior MP from the province collected and deposited cheque number 774991 for the sum of K592,200 from the Finance Department. The money intended for the KSPA was then deposited into an illegal account with ANZ on April 1 and cleared the same day. He also said another cheque, number 1482 for the sum of K500,000 from Mineral Resource Development Company for KSPA, was also collected by the said leader and deposited into the same ANZ account on April 8 and drawn down the same day...

'The first-term MP asked what the government would do regarding the leader involved in such practises. In response, Inter Government Affairs Minister Sir Peter Barter admitted that he was made aware that the money was collected by a member of the government and paid into the illegal account ... He said he has ordered an investigation into the two cheques totalling K1,092,200 for the KSPA that was deposited into an ANZ account bank and not the legal account held with BSP... He said they would wait for an explanation from the bank before taking any further action' (*The National*, 13 May 2004).

YAWARI DENIES K1 MILLION CLAIM

'SOUTHERN Highlands Governor Hami Yawari denied claims that more than K1 million belonging to the Kutubu Special Purpose Authority was deposited into an illegal account. He said this in response to a front page article in *The National* Newspaper yesterday in which Koroba Kopiago MP Petrus Thomas said two cheques were deposited into an illegal account with the ANZ bank rather the legal KSPA account with Bank South Pacific.

'He said there was no illegal account with ANZ bank as claimed. The account belongs to KSPA, which is held by Thomas Kapi. Mr Yawari explained that under his government, he recognises Mr Kapi as the legitimate KSPA chairman and he deposited the two cheques into the ANZ account. He also said the reports indicating that money came out the same day was wrong because Moses Kosi, who claims to be chairman of KSPA, holds another account with BSP. He said the provincial government does not recognise Mr Kosi as chairman because his election was not properly scrutinised.

'"We (provincial government) release 30% of Special Support Grant (SSG) to KSPA. The member for Koroba-Kopiago should have come to me and cross-check the facts before going public. He (Mr Thomas) also got his information wrong. No money came from the Finance and Treasury Department or MRDC, the money came from the provincial government," said Mr Yawari.

'He also said the money was not withdrawn on the same day as claimed because there was a court order restraining withdrawal of the money. Mr Yawari said there would be a court hearing today (Friday) to determine the legal chairman of KSPA. He said the provincial government would not release any money into the two accounts until the court determines the legitimate chairman and accounts. Mr Yawari said he does not want to interfere in the case until the court determines the outcome.

'Meanwhile, Member for Nipa Kutubu Robert Kopaol, whose electorate covers the Kutubu Special Purpose Authority, said last night that his concern was over the legitimacy of the appointments and accountability of the funds. "I, as the custodian of the electorate, will do everything to get to the bottom of this," he said' (*The National*, 14 May 2004).

framework outside of the mining sector. Even in the oil and gas sector, proposals for their establishment have been viewed with indifference or suspicion by the Department of Petroleum and Energy, despite the fact that the *Oil and Gas Act 1998* makes detailed provision for revenues to be shared with local-level governments. The Department of Provincial and Local Government Affairs has also found fault with these proposals (Table 1), and a recent newspaper story suggests that it had good cause for concern (see Box 1). If it is generally agreed that LLGs or other local-level institutions do not have the capacity to prevent this kind of misappropriation, the answer may be to improve the process through which the proposals are formulated in the first place and then to embed the institutions in a policy framework which imposes further controls on their operation.

These two sectors are themselves exceptional in the value of the benefit packages which large-scale mining and petroleum projects are expected, or obliged, to bestow on local communities. Yet there are two other sectors which have the capacity to generate the sort of income streams which might warrant the establishment of an SPA in some circumstances: the forestry and conservation sectors. The forestry sector resembles the mining and petroleum sectors by virtue of the fact that large-scale logging projects are also expected to 'compensate' local communities for the extraction of a natural resource over a fixed period of time. The conservation sector, on the other hand, is one in which local communities could be granted a substantial benefit package in return for their agreement to *refuse* the form of 'development' offered by extractive industry for a much longer period of time. It can even be argued that SPAs are potentially more useful as instruments for the management of protected areas under customary ownership than they are as instruments for the management of revenues derived from the extraction of natural resources.

The *Forestry Act 1992* foreshadowed the introduction of a new forest revenue system, but this was only finalised in 1996, one year after the new Organic Law had come into effect. In order to comply with Section 98, the new revenue system required the developer of a new logging operation to pay a Project Development Levy at a rate that varied with the log export price but tended to average K13 per cubic metre. Forty percent of this levy was to be paid in cash to all the customary landowners in a timber concession, while the remainder was to be paid into a Project Area Development Fund for the purpose of providing social and economic infrastructure to local communities. The intention was to spread the benefits of logging beyond the

area actually being logged in any particular year, because the customary owners of that area would already be receiving a royalty of at least K10 per cubic metre for the timber harvested from their land (Filer 1998: 211).

At no time does anyone seem to have considered placing each Project Area Development Fund under the management of an SPA. It was simply envisaged that each would be controlled by a 'Project Development Committee' comprising representatives of the logging company, the landowning communities, the relevant provincial government, and the PNG Forest Authority.¹¹ It is hard to see how this kind of body could fulfil its stated purpose in the absence of any executive capacity, but the question has not been put to the test of practice, primarily because the World Bank has contrived to prevent the national government from granting new timber concessions. Even without this restriction, there are presently few areas with commercial forestry potential where a single concession is likely to yield a sufficient volume of timber for a sufficient period of time to warrant the management costs of an SPA set up to manage the Project Area Development Fund. And even where the revenue stream might be adequate for this purpose, the Forestry Act does not currently provide for a process of consultation with local communities and local-level governments which is likely to lead to an agreement on the need to establish such a body.¹²

The Forestry Act prescribes a process of 'resource acquisition' by which the PNG Forest Authority must enter into a Forest Management Agreement with incorporated groups of customary landowners before it can grant a timber concession to a logging company. The legal and bureaucratic complexities of this process have created the political space for conservation organisations to go even further than the World Bank in challenging the government's capacity and authority to create new 'forest production areas'. From time to time, they have also considered using this same process as a vehicle for the creation of 'forest protection areas' by offering to compensate the government and the landowners for the opportunity costs of conservation (McCallum and Sekhran 1997). But this does not seem to be a viable method of creating protected areas, firstly because of the same legal and bureaucratic complexities which the conservationists can otherwise use to achieve conservation by default, and secondly because the Forestry Act assumes that timber concessions will only be granted for a limited period of time.

There would have been no need for conservationists to consider this option if the *Conservation Areas Act 1978* had been brought

into effect. But the Department of Environment and Conservation has not yet been able to mobilise the financial and institutional resources for this to happen, and the new Organic Law has only complicated the matter by devolving some of the Department's powers and responsibilities to lower levels of government. In the meantime, the only other legal instrument available for the creation of protected areas on customary land is the *Fauna (Protection and Control) Act 1966*, which enables landowning communities to establish Wildlife Management Areas and form Wildlife Management Committees to make rules about the hunting of birds and animals within these areas (Eaton 1997). Most of the areas protected in this way are very small in size, and the Fauna Act does nothing to prevent their customary owners from choosing to 'develop' the land or to have it 'developed' by a third party.

There are some third parties in the conservation industry who would be willing to pay large amounts of money for the establishment and maintenance of larger protected areas on customary land if there were legal guarantees against their subsequent conversion. Transnational NGOs like Conservation International and The Nature Conservancy are able to purchase protected areas from the governments of developing countries when the areas in question are legally defined as state property. But this cannot be done in a country where more than 98 percent of the land and most of the inshore marine resources are under customary ownership. Conservationists have therefore thought long and hard about how to create an enduring contract or covenant between government and the customary owners of a protected area, and how to persuade adjacent communities to participate in this arrangement. However, for all the talk of integrating conservation with development, or of exchanging offers of development for promises of conservation, they have largely neglected the question of how to deliver *public* goods and services to the landowners in return for their cooperation. The reason why local landowners will commonly express a preference for the kind of 'development' offered by extractive industry is that this *does* involve the promise of roads, schools and health facilities – which are not the sort of thing that conservation organisations are able to deliver on their own account.

Conservation organisations are aware that Section 44 of the Organic Law allows LLGs to pass laws about the 'local environment', subject to the approval of the Minister for Intergovernmental Affairs. The Nature Conservancy has even helped some LLGs in Madang Province to draft this

kind of legislation (*Post Courier*, 28 May 2003). However, no one seems to have considered using SPAs as a mechanism for the implementation of such laws, for the management of protected areas, or for the delivery of public goods and services to landowners who agree to their establishment.

The Kokoda Track Authority (KTA) is the only SPA under consideration by the Department of Provincial and Local Government Affairs which appears to have an environmental protection function (see Table 1). The proposal to establish this body was primarily motivated by the interest of local tour operators after the landowners threatened to close the track to foreign tourists in the wake of the Olympic torch relay in 2000. The idea was supported by the Australian High Commission, which paid for a lawyer to produce a draft constitution, and the Head of State finally proclaimed its establishment in June 2003. However, the KTA is not yet operational because of debates about the composition of its managing body, and especially about the best way to secure genuine landowner representation and participation. In the meantime, tour guides have been charging K200 for each of the tourists who hike across the track with a view to placing this money (now totalling almost K100,000) at the disposal of the KTA once it is proclaimed (Paul Chatterton, personal communication, May 2004).

The creation of an SPA in the conservation sector cannot serve to modify the ownership of land or other natural resources any more than the creation of an SPA in the mining sector can serve to change the nature of a Special Mining Lease. However, once we recognise the distinction between institutions which deliver benefits to local landowners and institutions which deliver transformation in the ownership of land, we might be able to adopt a more creative approach to the business of combining these institutions within the existing legal and policy framework. For example, the oil palm industry – which is not normally treated as a source of inspiration by the conservation industry – has been using the so-called 'lease-leaseback' provisions of the *Land Act* to create miniature oil palm estates on customary land in partnership with the local landowners, and the same mechanism has been proposed as a way of creating and managing forest plantations on customary land (Oliver 2002). Commercial plantations can provide material benefits for their customary owners which are sufficient to compensate for the limitations thus imposed on the use of their land, without the need to make special arrangements for the delivery of public goods and services as well. Experience suggests that the type of 'eco-enterprise' promoted by

conservation organisations will often, if not always, fail to yield a reliable flow of material rewards for a lengthy period of time. If there is a way to cover this risk by funding an increased flow of public goods and services, then this avenue needs to be explored. And since the government has to be involved in any form of tenure conversion, because of the nature of PNG's landed property regime, the proponents of protected areas should take advantage of all existing legal instruments which can assist their cause.

CONCLUSION

I do not wish to suggest that a Special Purposes Authority is a 'magic bullet' to be fired at any situation where local communities stand to receive an unusually large package of public goods and services from agreements to exploit, manage or conserve their natural resources. Anyone who has recently visited the Department of Provincial and Local Government Affairs in PNG will know that it is a mere shadow of the once mighty Department of District Administration, and that its capacity to manage the establishment of more SPAs must certainly be questioned. The story of the Kutubu SPA (Box 1) brings into question its capacity to prevent the abuse of such institutional arrangements. Of course, the search for a hole-proof institution in PNG is a task best left to a knight in shining armour. However, if problems are still appearing when the Minister for Inter-Governmental Affairs is a man widely respected for his personal integrity and dedication to the principles of good governance, one wonders what might happen if he were to be succeeded by a minister without these qualities. Part VII of the Local-level Governments Administration Act appears to grant a rather alarming degree of discretion to the occupant of this position.

I suggest that the best way to defend such institutional arrangements is to specify the conditions of their use within specific sectoral policy frameworks. This could still be problematic because some central government agencies – most notably the Department of National Planning and Rural Development – are suspicious of any arrangements which might seem to bypass the standard provisions of the new Organic Law. The best way to get around this problem is to show that there are some policy domains in which SPAs may be promoted and supported, and not merely tolerated, as instruments for the achievement of sustainable development outcomes, and that this can be done without violating the spirit or letter of the Organic Law.

AUTHOR NOTE

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ENDNOTES

¹ The author would like to thank Paul Chatterton, Ron May and Kathy Whimp for their comments on an earlier draft of this paper.

² Elections for membership of 284 rural and urban LLGs constituted under the new law were held after the 1997 national elections.

³ New Ireland was one of six provincial governments to legislate for the replacement of some or all of the old local government councils by smaller 'community governments', and it did so primarily to appease the Lihirian community after the feasibility of a large-scale mining operation was established during the 1980s. Five provincial governments (North Solomons, Milne Bay, East New Britain, Morobe and Manus) passed and implemented their Community Government Acts between 1978 and 1982, whereas New Ireland did not do so until 1988 (Ghai and Regan 1992: 417-424).

⁴ Under the old Organic Law, local government was treated as a subject of 'primary provincial competence', which meant that any 'exhaustive' provincial legislation relating to this subject would take precedence over any previous national legislation relating to the same subject. This meant that provincial governments also had the power to legislate for the creation of an SPA with all the powers and functions of a local or community government. The new Organic Law does not allow for an SPA to assume this full range of powers and functions.

⁵ In its current form, the Tax Credit Scheme allows the developers of large-scale mining and petroleum projects to spend up to 0.75 percent of their gross revenues on the construction of social and economic infrastructure, and to have this counted as corporate income tax already paid to the government.

⁶ Given that this discussion is primarily based on interviews with PDA management, it should be taken to illustrate the problems which SPA managers are liable to encounter in their dealings with the rest of the government system, rather than the problems which other government personnel might encounter in their dealings with an SPA.

⁷ It is not clear how SPAs are subject to the financial accountability framework established for provincial and local-level governments by the *Public Finance Administration Act*.

⁸ Under the original agreements, 23 percent of the mining royalties collected by the national government were to be repatriated to the local community – eight percent to the SML landowners, five percent to the PDA, and ten percent to the 'Porgera SML Landowners' Children's Investment Fund' (Banks 1999: 105).

⁹ Where these revenues are tied to those of a specific mining operation, they are bound to fluctuate from year to year because of variations in the mineral export price and the profits of the operating company, but it should still be possible to adopt a conservative approach to revenue forecasting which allows for periodic windfalls to be set aside for future needs.

¹⁰ The original Ok Tedi Agreement of 1976 gave first preference in project employment and local business development to 'the landowners in and other people originating from the Kiunga and Telefomin sub-provinces', which are now the North Fly District of Western Province and the adjoining Telefomin District of West Sepik Province. The *Mining (Ok Tedi Mine Continuation [Ninth Supplemental] Agreement) Act 2001* defines recognises six 'geographical areas impacted by the Project', and these are distributed between the three districts of Western Province.

¹¹ A report to the PNG Forest Authority on 'representative resource owner bodies for forestry projects' had recommended that these bodies should preferably be local-level governments, or else landowner associations established under the *Associations Incorporation Act* (Whimp 1995: 28). However, this report was completed before the introduction of the new revenue system.

¹² The institution known as the 'Development Forum' was originally invented in 1988 to facilitate the development of the Porgera mine, and was then incorporated into Section 3 of the *Mining Act* as a process of consultation which the Minister is now obliged to undertake before the issue of a Special Mining Lease. This institution reappears in Section 116 of the new Organic Law as a process of consultation required for the large-scale development of any natural resources, but the Forestry Act has not yet been amended to meet this requirement.

REFERENCES

- Banks, G., 1999. 'The Economic Impact of the Mine.' In C. Filer, ed., *Dilemmas of Development: The Social and Economic Impact of the Porgera Gold Mine, 1989-1994*. Canberra: Asia Pacific Press; Boroko: National Research Institute, 88-127.
- Bonnell, S., 1999. 'Social Change in the Porgera Valley.' In C. Filer, ed., *Dilemmas of Development: The Social and Economic Impact of the Porgera Gold Mine, 1989-1994*. Canberra: Asia Pacific Press; Boroko: National Research Institute, 19-87.
- Burton, J.E., 1998. 'Mining and Maladministration in Papua New Guinea.' In P. Larmour, ed., *Governance and Reform in the South Pacific*. Canberra: Australian National University, National Centre for Development Studies (Pacific Policy Paper 23), 154-182.
- Eaton, P., 1997. 'Reinforcing Traditional Tenure: Wildlife Management Areas in Papua New Guinea.' In S. Stevens, ed., *Conservation through Cultural Survival: Indigenous Peoples and Protected Areas*. Washington (DC): Island Press, 225-236.
- Filer, C., 1997. 'Resource Rents: Distribution and Sustainability.' In I. Temu, ed., *Papua New Guinea: A 20/20 Vision*. Canberra: National Centre for Development Studies, Australian National University; Boroko: National Research Institute, 220-260.
- 1998. *Loggers, Donors and Resource Owners*. London: International Institute for Environment and Development in association with the PNG National Research Institute.
- Finlayson, M., 2002. 'Sustainable Development Policy and Sustainability Planning Framework for the Mining Sector in Papua New Guinea — Working Paper 2: Benefit Stream Analysis.' Port Moresby: PNG Department of Mining.
- Ghai, Y.P. and A.J. Regan, 1993. *The Law, Politics and Administration of Decentralisation in Papua New Guinea*. Boroko: National Research Institute.
- Little, F.M. and A.J. Regan, 1987. 'The Use of Mineral Royalties in Western Province: A Report Prepared for the Fly River Provincial Government.' Boroko: Institute for Applied Social and Economic Research.
- May, R.J., 1999. 'Decentralization in Papua New Guinea: Two Steps Forward, One Step Back.' In M. Turner, ed., *Central-Local Relations in Asia-Pacific: Convergence or Divergence?* London: Macmillan, 123-148.
- May, R.J. and A.J. Regan, ed., 1997. *Political Decentralisation in a New State: The Experience of Provincial Government in Papua New Guinea*. Bathurst: Crawford House Publishing.
- McCallum, R. and N. Sekhran, 1997. *Race for the Rainforest: Evaluating Lessons from an Integrated Conservation and Development 'Experiment' in New Ireland, Papua New Guinea*. Port Moresby: PNG Biodiversity Conservation and Resource Management Programme.
- Oliver, N., 2002. 'Lease, Lease-Back -- an Instrument for Forestry?' In C. Hunt, ed., *Production, Privatisation and Preservation in Papua New Guinea Forestry*. London: International Institute for Environment and Development, 59-74.
- Peasah, J.A., 1994. *Local-Level Government in Papua New Guinea: A Study in Change and Continuity in the Development of Liberal-Democratic Self-Determination at the Local Level*. Boroko: National Research Institute.
- PNG Department of Mining, 2003. Sustainable Development Policy and Sustainability Planning Framework for the Mining Sector in Papua New Guinea: Green Paper. Port Moresby: PNG Department of Mining.
- Simpson, G., 2002. 'Sustainable Development Policy and Sustainability Planning Framework for the Mining Sector in Papua New Guinea -- Working Paper 6: Institutional Analysis.' Port Moresby: PNG Department of Mining.
- Whimp, K., 1995. 'Representative Resource Owner Bodies for Forestry Projects.' Boroko: PNG Forest Management and Planning Project.