PAPUA NEW GUINEA

MINISTER FOR PETROLEUM

MINISTERIAL STATEMENT

LEGACY ISSUES AND STATE COMMITMENTS TO LANDOWNERS OF THE PNG LNG PROJECT

This ministerial statement serves to inform the PNG LNG Project affected beneficiary groups; namely the provincial governments, local level governments, landowners and landowner entities regarding the status of various state commitments made under the Umbrella Benefits Sharing Agreement **(UBSA)** and License Based Benefits Sharing Agreements **(LBBSA)**.

Pursuant to the terms of the UBSA and LBBSAs, certain state commitments were to be paid to the beneficiary groups. These commitments were the Capped Memorandum of Agreement (capped MOA), Infrastructure Development Grants (IDG), High Impact Infrastructure Grants (HIIP) and Business Development Grants (BDG), among other benefits.

This Statement is also intended to clear any misunderstanding and misconceptions by Petroleum Project landowners and landowner entities on the bureaucratic processes involved in the management, control and disbursement of these funds under these State Commitments and the mandated roles the Department of Petroleum and Energy plays in relation to these Commitments. There have been misunderstandings on the government processes in place on the handling of these State Commitments and which has resulted in uncertainty and frustrations over years by the petroleum project beneficiaries.

Summary of funding of commitments

Funding of the commitments commenced immediately after the execution of the UBSA and LBBSAs in 2009. To date, the State provided funding for each commitment as agreed and corresponding payments made at different times for each commitment as shown in Table 1:

Table 1: Budgetary funding plan

					Proposed Payment Schedule		
	Commitment	**Amount**	**Paid**	**Unpaid**	**2021**	**2022**	**2023**
1	Capped MOA	K235m	K115m	K120m	*K60m	K60m	0
2	IDG	K1200m	K1060m	K140m	K120m	K20m	0
3	HIIP	K460m	K378m	K82m	K35m	K47m	0
4	BDG	K120m	K107m	K13m	-	K13m	0
	Total	**K2015m**	**K1660m**	**K355m**	**K215m**	**K140m**	

Note: *K60m requested through NEC pending approval

The State budgeted for and disbursed funding regularly for these commitments, however landowners are alleging non-payment of the commitments. They have on many occasions threatened to disrupt the PNGLNG Project and continue to issue threats as recently as last week at the DPE office premises.

Such threats could have ensued as a result of misunderstandings due to insufficient information being disseminated to the affected landowners by the Departments responsible for the administration of these commitments.

Landowner misconceptions and doubts over payments or the processes applied to make payments must be clarified to mitigate such threats but more importantly to maintain landowners trust and confidence in the State.

Upon my appointment as Minister for Petroleum & Energy in 2019, I was confronted by many landowners from across the PNGLNG project, demanding payment of outstanding commitments.

I then directed my Department to conduct a review to establish the status of implementation of each commitment, including processes applied in the disbursement of funds and actual implementation thereof.

The outcomes of the review of six major commitments are as follows;

1. Capped MOA commitment

In the process of negotiating the PNG LNG Project in 2008 and 2009, the landowners of the oil projects, which would become licenses in the PNG LNG Project, stated their frustrations that outstanding State commitments, under the current oil Memoranda of Agreements (MOA), should be settled first before negotiating a new project, which will derive new benefits.

Therefore, the State committed K235 million as final payment in lieu of all outstanding infrastructure commitments for existing oil and gas projects areas of Kutubu, Gobe, Moran and Hides Gas to Electricity project prior to the PNG LNG project.

The Capped amount was then reaffirmed by NEC through Decision No.86/2011 and since then to date, a total of Kl 15 million was paid and a balance of K120 million remains outstanding as detailed in Table 2. The continued delay in making any payments is a concern as such can easily frustrate landowners who usually seek unlawful means to get paid as experienced in the past.

Table 2: Payment status of Capped MOA.

	Approved	**Paid**	**Outstanding**
License	(K' million)	(K' million)	(K' million)
PDL 1 - Hides GTE	55	28	27
PDL 2 - Kutubu	80	53	27
PDL 5 - Moran	50	18	27
PDL 3 & 4 - Gobe	50	16	34
Total	**K235**	**K115**	**K120**

Proposed funding of K120 million outstanding

Budgetary appropriations over the years for Capped MOA had been inconsistent since the signing of the UBSA and LBBSAs, resulting in a large amount still outstanding. The 2021 National Budget also did not appropriate any funding for the Capped MOA.

As a result, a new strategy had to be considered to source immediate funding for the outstanding as undertaken by Prime Minister in his meetings with project area landowners at Sir John Guise Stadium and at Hilton Hotel in 2020.

Thus, my Department held discussions with the Department of National Planning and Monitoring, following which a NEC Submission was prepared. This Submission is currently before the NEC for approval to source K60 million from within the 2021 National Budget. The remaining balance of K60 million will be procured from the 2022 National Budget to phase out the MOA commitment as indicated in Table 3.

Table 3: Schedule for budgetary appropriations from 2021 - 2022.

Year	**Amount (million)**	**Comments**
2021	K60	• Propose drawn down of K60 million from 2021 National Budgets
		• Justification: - Very high landowner expectations;
2022	K60	Procure K60 million in 2022 National Budget appropriation to phase out the capped MOA
Total	**K120**	

Approval and implementation processes

The approval and implementation of funded capped MOA projects will follow the established EIC process as per Section 178 of the *Oil and Gas Act 1998.*

Establishment of Expenditure Implementation Committee (EIC)

EIC was established to manage, implement and account for all project grants. The Minister for Petroleum is mandated by the same Law to appoint EIC members for each PDL area with members comprising of Secretaries for .D NPM (Chair) and DOP (Deputy Chair). Other members include Secretaries for Provincial and Local Government Affairs, Departments of Works **(DOW)**, Treasury, Finance and Administrators of affected provincial governments.

Powers of the EIC

The EIC approves or rejects project proposals from landowner entities which are vetted and recommended by the EIC Secretariat and EIC Technical Screening Committee. The EIC executes Procurement Contracts with successful projects proponents.

EIC Secretariat

The EIC Secretariat undertakes the following tasks to assist the EIC;

- Vet and conduct due diligence on project proposals;
- Recommend to EIC legitimate proposals for funding approval;
- Undertake site inspections to monitor and supervise ongoing projects implementation;
- Provide regular updates to the EIC; and
- Inspect and certify completed projects through the Works Department.

Criteria for approving projects

The EIC Secretariat applies NEC approved Criteria as per *NEC Decision No. 96/2010 (Attachment B)*, to vet and select eligible infrastructure projects agreed under the respective MOAs and DA.

Project proposals submitted by landowners

A total of 1048 project proposals were received by the DPE for years 2020 and 2021 for funding as shown in **Table 3**, which is an indication of the high level of expectations by landowners.

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The proposals will be vetted in accordance with NEC approved criteria and the eligible projects will be recommended to EIC for funding considerations either from the K60 million currently being sought through the NEC or from the 2022 National Budget. The funding will be apportioned according to agreed percentages for each license as per NEC Decision No. 86/2011.

2. Infrastructure Development Grants (IDG)

The State committed a total of K1.20 billion to be paid at K120 million annually, starting in 2010 over a ten-year period, for the implementation of the nominated infrastructure projects, in their respective license areas as shown in Table 4.

Table 4: Allocation of IDGs by Licenses and status of payments to 2020.

License	Annual Allocation per PDL (in millions)	Ten-year Totals (in millions)	Total paid since 2013 until 2021 (in millions)	Outstanding balance to be allocated in the 2022 Budget (in millions)
Hides PDL 1	20	200		
Kutubu PDL 2	10	100		
GOBE PDL 4	8.2	82		
Moran PDL 5	6	60		
NW Moran PDL 6	4	40		
Hides PDL 7	15	150		
Angore PDL 8	12	120		
Juha PDL 9	11	110		
Pipeline 4	16.128	1 74		
LNG Plant	17.472	174		
Total	**120**	**1,200**	**1,180**	**20**

As indicated in Table 4, between 2013 and 2021, a total of Kl.18 billion was disbursed, leaving a balance of K20 million outstanding, which will be allocated in the 2022 National Budget. This includes K120 m appropriated for 2021.

EIC Functions

Section 178 of Oil and Gas Act 1998 established the Expenditure Implementation Committee (EIC), of which the Secretary for National Planning is the Chairman. The EIC Secretariat is housed under the DPE under current public services structure.

The EIC Secretariat used to play a significant role in the implementation, monitoring and evaluation of infrastructure projects in the petroleum sector. However, these functions are now being performed under the Shared Responsibility Model (SRM) per NEC Decision No. 346/2013. This effectively means that the projects affected Provincial Governments and Department of National Planning and Monitoring are now involved in the process of managing and disbursing IDG funding to the provinces.

This further means that Department of Petroleum & Energy (DPE) and the EIC Secretariat which is located within the DPE no longer play any active roles in the funding and implementation of infrastructure projects under IDG or even MOAs.

However, it seems that many landowners and the concerned State Agencies are not fully aware of the change that were made to the EIC functions and continue to submit or refer landowner submissions to DPE.

The DPE will continue to play a minor role. We will facilitate the batching of those projects area landowner submissions that we continue to received and refer them to the Department of National Planning for further action, in consultation with the Provincial Governments, in accordance with the Shared Responsibility Model per NEC Decision 94/2014.

The DPE does not manage IDG and MOA funding from its budgetary votes and does not pay projects, as this function ceased since 2008.

Current IDG Payment and Implementation processes.

EIC paid the first K120 million from the Trust Accounts to landowners in 2012. However, it was reported there was gross abuse of funds and that no tangible outcomes were achieved resulting in the removal of EIC's role of administering the IDG funds via NEC Decision No. 49/2012 and transferred to the affected provincial governments.

Subsequent NEC Decisions No. 346/2013 and 92/2014 established the Shared Responsibility Model (SRM) for implementation of IDG.

Under the Shared Responsibility Model, the Identification, Prioritization and Approval of disbursing IDGs is done by the following agencies.

1. JDC & BPC AND JPP & BPC
2. Provincial Administrations
3. Infrastructure Delivery Units of affected Provincial governments which scope projects and draws up proposal documents
4. Department of National Planning and Monitoring who administer the IDGs
5. EIC to provide oversight to infrastructure projects. - Note that EIC has no direct control on the vetting but plays a lesser role in oversight of the vetting functions done by the above agencies.

This is the current and existing arrangement under which the IDG funds are currently being administered. The 2021 Appropriation of K120 million will also be administered under the SRM.

I want to again make it precisely clear that the DPE does not manage IDGs funds and does not facilitate payments for infrastructure projects. Neither do we carry out due diligence on infrastructure project submissions nor endorse projects to be funded under the Infrastructure Development Grants.

3. High-Impact Infrastructure Projects (HIIP)

The State promised under Clause 6.1 (f) of the UBSA to provide K460 million for high impact infrastructures as listed in Table 5. These infrastructures were to be implemented by the Hela Provincial Government as endorsed by NEC Decision No. 92/2014 which established the National Project Management Unit within the Hela Province to implement HIIP.

A total of K378 million would have been paid to Hela Provincial Government by end of 2021. The balance outstanding is K47 million which will be appropriated in the 2022 Budget.

Table 5. High-impact infrastructure projects.

No.	Infrastructure project	Amount
1	Kikori-Kutubu-Tari-Kopiago	K100m
2	Komo to Tari road sealing	K90m
3	Hela City Development	K100m
4	Tari International airport	K90m
5	Komo Township	K15m
6	Maqarima Township	K15m
7	Kutubu Township	K15m
8	Koroba Township	K20m
9	Noqoli Growth Centre	K15m
	Total	**K460m**

4. Tax Credit Projects

A total of K789,526,570 was expended on tax credit infrastructure projects from 1997 to 2019 of which Southern Highlands Province received K524.22 million worth of projects, Gulf received K66.16 million and Hela received K149.11 million while K50.02 million was spent in other provinces.

A total of K245.01 million out of the K789,526,570 was expended on projects identified under various MOAs and UBSA as detailed on *Table 6.*

Table 6: MOA & UBSA projects funded under Tax Credit Scheme.

	Project	MOA	Amount
a	Gobe - Samberigi -	Gabe MOA/UBSA	K172,320,754.80
b	Sisibia Primary School	Moran MOA	K1,984,646.80
c	Erave High School	Gobe MOA	K3,598,691.30
d	Homa - Tari Road	Moran MOA	K37,653,838.50
e	Kikori High School	Kutubu(Gulf) MOA	K9,781,059.13
f	Kikori Health Centre	Kutubu (Gulf) MOA	K18,051,098. 70
g	Kikori Roads Upgrade	Kutubu (Gulf) MOA	K1,620,197.70
	Total		**K245,010,286**

Process for selection of tax credit projects

All provinces are required to consult the respective developers in funding their priority projects under Infrastructure Tax Credit Scheme (ITCS). The developers will then submit the project proposals to the DNPM for vetting and approval.

5. Business Development Grants (BDG)

The NEC approved payment of K120 million BDG under NEC Decision No. 122/2009 and it further approved the Department of Commerce and Industry **(DCI)** to disburse BDGs to landowner companies under NEC Decision No. 25/2010. All BDGs were therefore successfully disbursed between 2009 and 2010 except for Angore PDL 8.

Angore PDL 8 - K12 million

The BDG for Angore was withheld by DCI due to ongoing court cases at the National Court over landownership disputes. The National Court directed Alternative Dispute Resolution (ADR) process to resolve the dispute.

The successful completion of ADR will trigger payment of the PDL 8 Angore BDG. I have written to the Minister for Justice for an update on the outcome of the ADR findings which will assist me to make the Ministerial Determination pursuant to the Oil & Gas Act for benefits to be disbursed, including the BDG.

6. Ministerial Commitments

Between 2002 and 2010 certain Ministerial Commitments were made in relation to specific project threats or demands. Many of the landowner demands relate to outstanding State commitments that were unfilled in a particular oil/gas project or license area. During the UBSA and LBBSA negotiations in 2009, certain commitments were also made by Ministers engaged to negotiate benefits sharing with affected provincial & local level governments and landowners.

The recent four blockades of the DPE office, in the last two weeks by so-called landowners and service providers, amongst other things mentioned above, included this demand as well.

Legality of Ministerial Commitments

In two separate letters of Advice dated 2nd May 2017 and 9th March 2018, the State Solicitor wrote to the (then) Chief Secretary confirming that Ministers do not have any legal mandate to commit the State to large sums of money for landowner payouts.

This legal position has been taken into consideration by the DPE since then and therefore the DPE has been informing interested stakeholders that all Ministerial Commitments were unlawful. State Ministers do not have any powers to commit the State to any payments in excess of K10 million without NEC approval. This mandate is vested in the NEC which has the ultimate powers to approve funding for all State expenditures. Hence, no further consideration will be accorded by the state to honour any Ministerial Commitments.

7. Conclusion

In conclusion, the review by the DPE has established, as reflected in Table1 above, that the State is on schedule to honour its commitments on Capped MOA, IDG, HIIP and BDG totalling K2.015 billion. A total of Kl.66 billion have been paid and another K215 million is expected to be paid in 2021. The remaining balance of K127 million will be procured in the 2022 National Budget and paid to fully extinguish these commitment over a period of planned disbursements.

This Ministerial Statement aims to clearly explain any misunderstanding and misconceptions, that interested and concerned beneficiary groups may have, over the various state commitments, their status and the processes involved in the management and implementations of these commitments.

Furthermore, I hope the beneficiary groups appreciate and understand the different roles and functions of the Department of Petroleum and Energy and other relevant state agencies in the management and disbursement of State commitments related to PNG LNG Project and other projects.

Approved for release. Date:............../May 2021

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HON. KERENGA KUA, MP
MINISTER FOR PETROLEUM