The Parliament of the
Autonomous Bougainville Government

REPORT ON
THE BRDC INQUIRY

The Devui Committee

December 2008

House of Representatives Parliamentary Sectoral and Advisory Committee on Economic Development and Public Services Affairs
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Foreword

I am pleased to present the report of the Committee’s inquiry into BRDC to the Minister for Trade and Industry, Hon. Joseph Watawi.

This has been a challenging inquiry.

Prior to my Committee being engaged in this Inquiry, there was considerable publicity in the media about the issues of BRDC and the Invincible Resource Company.

Public opinion were seen in the PNG print media, the internet forums, and also heard on Radio Bougainville. A public forum was also held in the Capital Buka, by a concerned NGO organization where the issue of BRDC was also publicly debated.

Such concerns were also heard as from far afield as Australia. These have been non-Bougainvilleans who obviously have had continuous interest in our Autonomous Region.

The BRDC team also undertook awareness campaigns in the Buka and Tinputz Districts of the North Region and the Eivo/Torau of the Central Region to explain the Kabui Model. And in fact went on a round the world trip ‘road show’, in June 2008. This was to talk to Capital Managers of the World; in America, Great Britain and other interesting destinations.

During the July Sitting of the House of Representatives the Minister for Trade and Industry tabled a ‘Notice of Motion’, in regards to the BRDC matter. This was to allow for “the drafting of appropriate policies, legislative framework and regulatory instruments to fully realize the ‘BRDC Model’ and concept”. During the vote on the 18th of July, the motion received unanimous support from Members of the House of Representatives.
The views of our concerned citizens both in the Autonomous Region and also from our ‘expatriates” (Bougainvilleans) in other centres of Papua New Guinea, have been of enormous interest to my committee. This, in itself has been an important step in addressing these concerns. And I take this opportunity to thank the inquiry participants, and our wider general public.

Although I must say that as the Chairman, I was not very much impressed about the lack of attendance shown by Heads of Divisions to the enquiry. They indeed missed opportunities to input into the Kabui Model; and provide advice to the Executive Government accordingly.

The inquiry revealed an encouraging consensus among Committee members and inquiry witnesses, for a way forward. That concerned stakeholders and our government moved in a way that was transparent with no hidden motives and agendas. They must also continue to exercise good governance practices; and view ‘public enterprise’ as one of the ‘engines’ that drive economies.

The Government, the Administration, outside interest, the Private Sector, Non-Government Organizations, Private Citizens and the Resource Owners of Bougainville, are bound to be impacted upon either positively or negatively. Some gave their views in the following genre; as Bougainvilleans and resource owners according to Section 23 of the Bougainville Constitution, as Chiefs and Leaders of the Autonomous Region of Bougainville and as recipients on how the BRDC concept would affect them.

The Committee through the inquiry has heard from Stakeholders that according to Section 23 of the Bougainville Constitution, as resource owners, they felt they have not contributed or took part at injecting ideas on developing the BRDC. This is seen to be the main reason as to why Stakeholders have relentlessly questioned the nature of the BRDC as an
economic platform of all resources development, exploration, fisheries, and forestry, to name but are few in the Region.

Without this ‘big picture’ view of the bigger schemes of things in the Autonomous Region of Bougainville, we would be taking steps back and not forward.

It is imperative that our legislators, business moguls, and allied private enterprise sector professionals actively participate in the development of ‘this bigger picture’ or a bigger picture as a way forward.

The disengagement of public views in the governance of our Autonomous Region would be a move in the wrong direction. We must become a “self-policing” state; where we must also squarely carry on our shoulders our dreams to move forward and not be stagnant.

A culture of misinformation and harassment exists in significant parts of our Autonomous Region. It is also indisputable that inappropriate behavior has been allowed to thrive to misinform the general public. This could have devastating impact on our genuine desires to move on.

This report will assist the Minister responsible to set clear direction on the controversial BRDC concept and proposes a series of recommendations. That will strengthen Government policy in support of similar models for the future of the Autonomous Region of Bougainville.

We look forward to a progress report on this matter when we receive the Government response to the recommendations in our report in six months’ time.

No one disagrees that the Autonomous Region of Bougainville is at least twenty to thirty years behind the rest of Papua New Guinea.
We call on the Papua New Guinea Government, to become a genuine partner with the leaders of Bougainville to fast-track urgent developments. And we encourage a speedy transition of “drawdown” of powers to the ABG; as these are the tools of development that Bougainville urgently needs. The “right to development” is one of the pivotal rights in the United Nations Declaration of Human Rights.

I would like to thank all of the participants in this inquiry: members of the Bougainville Administration, Members of the NGO/CSO Organizations, Women’s Organizations, C.O.E Chiefs, ABG Ministers, BRDC Principals and members of the general public, for sharing your knowledge and expertise. I am grateful to my committee colleagues for the work they have undertaken on this inquiry and the constructive approach they have taken throughout.

On their behalf I acknowledge the efforts of the Parliamentary Committee Secretariat and Staff – Moses Havini, Director, Donald Misang, Research Officer and Ignatius Hamal, Personal Assistant to the Clerk, House of Representatives.

I commend this report to the Government.

Hon. Aloys Tony Devui, MHR,

Committee Chairman
Membership of the Committee

Chair
Mr. Aloys Tony Devui MP

Deputy Members
Mr. Thomas Lugabai MP
Mr. Lawrence Belleh MP
Mr. Alfred Bakate MP
Mr. Michael Komoiki MP

Committee Secretariat

The Director
Mr. Moses Havini

Assistant Research Officer
Mr. Donald Misang

Personal Assistant to the Clerk
Mr. Ignatius Hamal
(Assisting the Inquiry from Clerk’s Office)
Terms of reference


On 15 October 2008 the Minister for Trade and Industry, Port Services, Customs, Quarantine and Micro Finance gave the Bogenvil Resource Development Corporation (AROB) Ltd. (Kabui Model) Authorization Bill 2008, to the Chairman of the Parliamentary Sectoral and Advisory Committee for Economic Development and Public Services Affairs.

The Chairman received the proposed Bill with a letter from the Minister explaining:

1. That the Parliamentary Sectoral and Advisory Committee for Economic Development and Public Services Affairs inquire into and report on the Draft Legislation of ABG; in particular;

   - Referral of proposed legislation letter on BRDC from the Minister for Trade and Industry

• ABG and Bogenvil Resources Development Corporation (AROB) Ltd – Master Exploration and Development Agreement

2. That the Committee consults with the Minister and key stakeholders on Tuesday 14th, Thursday 16th, Friday 17th and Thursday 23rd of October 2008

3. That the Committee report to the Minister by November 2008 during a Special BEC Sitting

**Acronyms**

<table>
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<tr>
<th>Acronym</th>
<th>Definition</th>
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<tr>
<td>ABG</td>
<td>Autonomous Bougainville Government</td>
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<td>ABS</td>
<td>Access Benefit Sharing.</td>
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<td>ACA</td>
<td>Acting Chief Administrator</td>
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<td>A.R.O.B</td>
<td>Autonomous Region of Bougainville</td>
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<td>BCL</td>
<td>Bougainville Copper Limited</td>
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<td>BDC</td>
<td>Bougainville Development Corporation</td>
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<td>BEC</td>
<td>Bougainville Executive Council</td>
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<td>Abbreviation</td>
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<td>BPA</td>
<td>Bougainville Peace Agreement</td>
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<td>BPCL</td>
<td>Bougainville Pioneers Corporation Limited</td>
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<td>BRA</td>
<td>Bougainville Revolutionary Army</td>
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<td>BRDC</td>
<td>Bougainville Resources Development Corporation</td>
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<td>BTG</td>
<td>Bougainville Transitional Government</td>
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<td>BVHL</td>
<td>Bougainville Veterans Holdings Limited</td>
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<td>CEO</td>
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<td>C of ABG</td>
<td>Covenants of ABG</td>
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<td>C.O.C</td>
<td>Council of Chiefs</td>
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<td>Department</td>
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<td>DIV</td>
<td>Division</td>
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<td>EA</td>
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<td>FPIC</td>
<td>Free Prior and Informed Consent.</td>
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<td>GOV’T</td>
<td>Government</td>
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<td>GERALC</td>
<td>Grant of Exclusive Right to enter into Agreements with Landowner Companies</td>
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<td>GR</td>
<td>Genetic Resources.</td>
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<td>HOR</td>
<td>House of Representatives</td>
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<td>HWC-BWPF</td>
<td>Hako Women Collective-Bougainville Women for Peace and Freedom</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<td>IPA</td>
<td>Investment Promotion Authority</td>
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<td>IRC</td>
<td>Invincible Resources Corporation</td>
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<td>IR</td>
<td>International Regime.</td>
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<td>JSB</td>
<td>Joint Supervisory Body</td>
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<td>LA</td>
<td>Landowner Agreement</td>
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<td>LC</td>
<td>Landowner Company</td>
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<td>Local Level Government</td>
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<td>Mineral Resources Authority</td>
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<td>Net Smelter Return</td>
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<td>PNG</td>
<td>Papua New Guinea</td>
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<td>POI</td>
<td>Protection of Interest</td>
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<td>PPP</td>
<td>Public Private Partnership</td>
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List of recommendations

3. The Autonomous Bougainville Government

**Recommendation 1**

The Committee recommends that the Autonomous Region of Bougainville through ABG should not close its doors to potential investors but should encourage competition according to international best business practices.

**Recommendation 2**

The Committee recommends that any issue of starting new mines through BRDC or other potential companies and investors on Bougainville should be regarded as Bougainville issue that should involve not only the resource owners but all Bougainvilleans as
stated in the Bougainville Constitution and the Bougainville Peace Agreement.

**Recommendation 3**

The Committee recommends that ABG involvement as partners in BRDC is the best way for our leaders to be aware of what is happening at all times in the operations of BRDC as it realizes that this brings transparency to Bougainville public and creates revenue for ABG government to function.

**Recommendation 4**

The Committee recommends that 2.1 and 2.2 of the *Outline of Key Principles of Proposed ABG Mining Policy, and of Steps Proposed for Applications for Exploration Licenses under Future ABG Mining Legislation*, be seriously considered and explained by ABG to the resource owners why this is so.

**Recommendation 5**

The Committee recommends that the Administration as advisors to the BEC on planning, legal, constitutional, social, economic and other implications should be given opportunity to look at any policy submissions before BEC deliberates on it.

**Recommendation 6**

The Committee recommends that the ABG comes up with clear guidelines to how Mineral Resources should be developed, by whom and how many resource developers taking into consideration that Bougainville is a small island and it is not known as to how many mineral resource deposits are in the ground.
Recommendation 7
The Committee recommends that no legislation is passed or no part of the BRDC policy should be implemented in any way as yet, until the proposal goes back to the drawing board so that with due respect all resource owners views have been represented.

4. The Bogenvil Resources Development Corporation

Recommendation 8
The Committee recommends that the 3 Regions of the Autonomous Region of Bougainville be fairly represented on the Board of BRDC.

Recommendation 9
The Committee recommends that BRDC should identify stakeholders and assess their potential impacts through consultations prior to enacting laws and policies that should not compromise the Legitimate Government and the private company.

Recommendation 10
The Committee recommends that BRDC should engage in wider consultation in order to allow impacted parties to have maximum participation and be heard in respect of their concerns, fears and suggestions that will constitute part of the set up of the entity.

Recommendation 11
The Committee recommends that 70/30 breakup between Invincible Resources Corporation and the Bougainville Resources Development Corporation (AROB) Ltd showing the foreign owned company getting the maximum benefit should be revisited and fairly distributed so resources owners get maximum benefit which according to the Agreement is 70%.
Recommendation 12
The Committee recommends that the concept of “Public Private Partnership entity” has to be clarified by BRDC to Bougainvilleans during awareness programs and consultations.

Recommendation 13
The Committee recommends that BRDC as a private company should commit the Legitimate Government to any development deals made herein only after proper consultations with the Landowners or parties concerned.

Recommendation 14
The Committee recommends that BRDC as a proposed economic arm of the government has been formed to fully comply with the ABG Constitution that fully protects land and resources to belong to our indigenous peoples through clan membership and association.

Recommendation 15
The Committee recommends that BRDC as an alternative, to a way forward for the economic recovery of Bougainville; maintain and safeguard landowner’s rights, in the development of their very own mining leases.

Recommendation 16
The Committee recommends that the concept of BRDC as seen as a “revolutionary arrangement that challenges colonial mineral policy triumph in PNG which its agent is the MRA”; must be revisited to provide detail clarifications on the percentage break-up to Bougainville stakeholders.

Recommendation 17
The Committee recommends that the Awareness on the BRDC concept should be conducted in every part of the Autonomous Region; and not only in areas where mineral resource deposits prospects are expected to be found.

**Recommendation 18**

The Committee recommends that “Exclusive Rights” must be opened up and not be restricted only to *BRDC and developers linked with it. And that other developers just like BRDC must also be licensed to operate in the AROB.*

5. The Traditional Resource Owners (The Landowners).

**Recommendation 19**

The Committee recommends and agrees that traditional landowners as resource owners should be partners of development; together with the Autonomous Bougainville Government and any other developers/investors including the Bougainville Resources Development Corporations. They must however be licensed and *comply with all the laws of the Autonomous Region of Bougainville.*

**Recommendation 20**

Free, Prior and Informed Consent: The Committee recommends that ABG addresses and recognises that; where mineral resources will be found on Landowner’s land; that *Free, Prior and Informed Consent* be obtained first, before any decisions to enter and/or proposed resource extraction is undertaken by BRDC and/or by a chosen developer.
6. The Environment.

**Recommendation 21**

On Access and Benefit sharing: Thus any propose Agreements and/or Contracts must comply with any proposed International Regime on Access and Benefit Sharing; which must follow the minimum standards set out in the UN Declaration on the Rights of Indigenous Peoples (Landowners).

This means that any Regime or ABG for that matter, must recognize, *inter alia*, that Indigenous Peoples (traditional landowners) have rights over their *traditional knowledge, land* associated with their existing genetic resources, etc., etc., within that traditional domain.

That prior to exploration and resource extraction that *a complete auditing of all traditional knowledge*, associated with a targeted land area, including flora and fauna, undertaken and compiled for that landowner grouping(s), and for all their future generations to come.

**Recommendation 22**

*Sui Generis* and the Protection of Traditional Knowledge: Also in this respect therefore, it is highly recommended that the State (ABG) and all stakeholders must enter into a “Community Agreement” with the Traditional owners; for the preservation and protection of their Sui Generis, which is traditional knowledge only known by that traditional and cultural grouping – facing imminent loss through the destruction of their environment through mining. This must be undertaken before any major exploration and resource exploitation are undertaken on their traditional land and environment – that might lead to the complete destruction of their land.
Recommendation 23

Gender balance and Matrilineal System: With Bougainville’s traditional land tenure system deeply rooted in our matrilineal system, where the women are the custodians of our traditional knowledge; make up 50% of our population; it is highly recommended that the women of Bougainville be a part and parcel of any agreements by ABG, BRDC and its Developers.

Recommendation 24

It is highly recommended and seriously advised that prior to any exploration undertaken, and carried forward to mining stages; that an ENVIRONMENTAL IMPACT ASSESSMENT (IEA), or ENVIRONMENTAL IMPACT ASSESSMENTS studies be carried out by BRDC or its Developer.

That NO EXPLORATION OR MINING takes place until such an EIA has been completed and given its stamp of approval by the HOUSE OF REPRESENTATIVES of the Parliament of Bougainville.

Recommendation 25

Environmental Policy(s): Learning from our past experiences with Bougainville Copper Limited where:

(a), no Environmental Impact Assessment Study was ever undertaken, before exploration and mining commenced,
(b), an absence of clear environment policies, and,
(c), leading to gross degradation of our flora and fauna, environment, poisoning of the Java river and nearby water systems right to the sea at Empress Augusta Bay;
It is highly and strongly recommended that, prior to any major mining taking place that the Autonomous Bougainville Government puts in place its “Environmental Policy Guidelines”. This is for the protection and minimisation of negative impacts on the environment, from when any exploration and mining activities begin.

**Recommendation 26**

Best Practice Environment Policy(s): It is highly recommended that prior to any mining company issued with a License for a mining lease or leases in Bougainville; that it must first of all fulfil the criteria set by ABG in its “Environmental Polices, of what it considers “best practice” for the best protection of the environment.
Chapter 1

Introduction

This chapter provides an overview of the inquiry establishment, the methods used to invite public participation and a summary of the report contents. It also describes the events precipitating the initiation of the inquiry.

Establishment of the Committee and the inquiry

1.1 The Sectoral and Advisory Committee on Economic Development and Public Services Affairs was established soon after the inauguration of the Autonomous Bougainville Government in June 2005, by late President Hon Joseph Kabui and the Speaker Hon. Nick Peniai, MHR. This was following normal procedures of the Standing Orders of the House and the Constitution of the Autonomous Bougainville Government.

1.2 On 17 July 2008, Hon Joseph Watawi MHR presented a Motion in the House of Representatives during the July Sitting of the House of Representatives. The Minister for Trade and Industry tabled a ‘Notice of Motion’, in regards to the BRDC matter and generally also known as the “Kabui Model”. This was to allow for “the drafting of appropriate policies, legislative framework and regulatory instruments to fully realize the ‘BRDC Model’ and concept”.

1.3 The House of Representatives voted on the 18th of July, and the Motion received unanimous support of 29/5 from Members of the House of Representatives.

1.4 On 15 October 2008, upon receiving a referral letter from the Minister responsible, the Devui Committee agreed to conduct an inquiry into the

1.5 The terms of reference called for the Committee to inquire into and report on:

1. The Draft Legislation of ABG; in particular;
   - Referral of proposed legislation letter on BRDC from the Minister for Trade and Industry;
   - ABG and Bogenvil Resources Development Corporation (AROB) Ltd – Master Exploration and Development Agreement;

2. That the Committee consults with the Minister and key stakeholders on Tuesday 14th, Thursday 16th, Friday 17th and Thursday 23rd of October 2008; and

3. That the Committee report to the Minister by November 2008 during a Special BEC Sitting.

1.6 According to the Standing Orders of the Bougainville House of Representatives Section 161-162 (1) pertaining Powers of Committees, correspondences were sent inviting all the Chief Executive Officers from each Division and Departments from the Administration of the Autonomous Bougainville Government to appear before the inquiry and contribute towards the examination of the proposed BRDC Bill.
Conduct of the inquiry Submissions and public hearings

1.7 The inquiry took 2 weeks with a pre additional week of preparations for the Committee from 8-14 October and the actual hearings from 16-23 October 2008.

1.8 The Committee received total of 12 submissions. The Committee called for submissions through advertisements (…Service Program…..or….Toktok Save Sessions…) on Radio Bougainville; and also by writing to the individual ‘Stakeholders’, the Bougainville Administration and others concerned. The committee also placed notices on all the notice boards on the shop fronts of all the shopping outlets of the Bukatown Shopping Centre. It also released a Media Statement regarding the inquiry to The National and The Post Courier. Submissions were received from the Bougainville Administration, Stakeholders such as Chairman of BRDC, ABG Ministers, women’s groups and C.O.E/C.O.C leaders.

1.9 A total of four public hearings were conducted at Parliament House involving 14 Witnesses. A list of witnesses is provided at Appendix B and transcripts of the hearings are available from the Committee on request.

1.10 The Committee would like to thank all who participated in the inquiry, whether by making a submission, giving evidence or attending a public hearing. We recognize that many people, had very strong views about the “Kabui Model”, for and against, and we do recognize and understand these divergent views and sentiments. We are grateful for your contribution.
Background to the inquiry

1.11 This inquiry has its genesis in the apparent dreams of late President Hon Joseph Canisius Kabui. The First President of the newly created Autonomous Region of Bougainville had a dream; a dream for economic recovery and an ‘economic utopia’, for his people, created within the shortest possible time.

1.12 The late President was also mindful of the fact that the race was now on. To prepare the people of Bougainville, socially, politically and more importantly economically independent before a vote in a referendum for the people’s “right to self-determination”, would be taken in ten to fifteen years time.

1.13 The late President was also mindful of the fact that the people had endured and had just come out of a ten year war that had devastated their lives. He was now looking for a “peace dividend” in which the people could be rewarded for having lost everything in the war.

1.14 The late President had also strongly based his leadership on Section 23 of the Bougainville Constitution.

That, “the people owned their land and mineral resources”, with ABG having custodial rights. As the regulator, ABG therefore needed to pass a relevant piece of legislation “to sustainably manage the resources owner’s mineral rights and ownership as the steward for future generations”

1.15 In the late President letter (…June 6, 2008…) to Prime Minister Sir Michael Somare; he argued further that ABG already had mining powers pursuant to sections 288, and 290 of the National Constitution,

Concerns from other Stakeholders/Leaders in Bougainville about BRDC

1.16. Besides questions raised by the National Government, there have also been issues raised within Bougainville. These have been from some leaders in parliament, individuals, groups, some resource owners (landowners) and one CSO/NGO organization.

1.17. Questions have been asked as to whether the activities/practices prior to the formation of BRDC and its representatives were ethical or not? Has there been any untoward and questionable involvement from Invincible? Could they (BRDC) also profess to ‘best practice’ as required within the corporate world? Were there any ‘out of norm’ deals between the ABG and the principle partner in BRDC, the Invincible Resources Company, otherwise also known as invincible.

1.18. The equity shareholdings with Invincible, ABG and other shareholders have also been a contentious issue raised by some Bougainville leaders.

1.19. Questions have been asked as to why Invincible, was the majority shareholder with Seventy Percent (70%)? This had led critics to assert that Bougainville resources had been mortgaged to a foreign company.

1.20. The financial arrangement between ABG and Invincible of K20 million (for capacity building) had also come under scrutiny with demand for further explanation. And whether ABG was also under pressure to repay the money and at what rate of interest? Was this some kind of a favour from this company to have first preference to the mineral resources of Bougainville?
1.21. They warned that entertaining “investors” without prior consultation with concerned stakeholders including leaders at the grassroots level could well bring us to another ‘Bougainville Crisis’.

1.22. Examples, of politically driven investments and leading to corruption causing the downfall of many countries, were also highlighted by the critics. Not venturing very far from here they referred to our nearest neighbour, PNG; where it had often been rumoured of gross corruption at the highest echelon of government, once again driven by politicians.

1.23. Yet in another take; other leaders had also expressed a support for the concept of BRDC. But, were not so sure of Invincible as a major shareholder with seventy percent. The rather demure position of Invincible, in the whole scheme of things, had also made them very suspicious. If there could only be a clearer explanation of this “position”, then this confusion could be permanently put at bay.

1.24. But the leaders also recognised; that it had been three years since inauguration and nothing of substance in terms of real development had taken place. They said the people would like to see Bougainville prosper and one way was through some “concerted efforts” through new innovative economic ideas for urgent for economic development.

1.25. The leaders in ABG believed that the concept of BRDC was the right vehicle - and the way forward. This should be supported by the people and their leaders; who wanted to see Bougainville move forward and not be stagnant.

1.26. The Executive Government through their Ministers has argued that proper procedures had been followed. They have followed this, by first of all creating policy development for BRDC. And thus have performed their constitutional obligation, according to the Bougainville Constitution.
1.27. The Ministers warned that unsubstantiated allegations such as “lack of consultation”; must not be used by some members of parliament, just to strengthen their opposition to BRDC. They said this had only come from a lack of understanding of the mandate and role of the government (in power). And that was to make life changing policy directions for and on behalf of the people. This was their fundamental role and duty to safeguard the people’s democratic institutions.

1.28. They questioned why some members of parliament were the ‘critics’ instead of leading. That these leaders should lead as they were already given this mandate to lead, by their people during the inaugural 2005 election of the Autonomous Bougainville Government. The ministers said they needed to steer clear from becoming a weak government (state); by not succumbing to these cheap criticisms. This could render their leadership weak; and thus not effectively play their role of leading their people to move forward. The role of the elected leaders was to lead, and not be led by the people instead.

1.29. The Ministers again argued that the Constitution obligated ABG to act on behalf of the people. This is in the application of its provisions such as Section 23:- Land and Natural Resources. That the government was obliged to protect its people’s resources and develop them meaningfully.

1.30. The ABG was further obligated to developing the Region as stipulated under Section 24 of the Constitution. And tasked with wider consultation in terms of the kind of development, that that would permeate right through to the rural citizens.

1.31. In order to inject development, ABG would give priority to enacting the necessary legislation to establish measures to protect; and to enhance
the quality of opportunity for all citizens to equal opportunities and development.

1.32. The government was tasked with developing procedures; that must protect its people from being adversely affected by any kinds of developments undertaken by a developer. The Ministers asserted that, this was exactly what they were undertaking in terms of the passage of the BRDC and the draft bill (The Kabui Model).

1.33. They further stated that the Executive Government was at all times tasked with the protection of the integrity of the autonomous arrangement with the Papua New Guinea Government. The sovereignty of PNG was also fully respected in this regard. The BRDC Concept was about protecting both the sovereignty of PNG and the Autonomous Region of Bougainville.

1.34. The highly contentious issue of the 70% shareholdings by Invincible (1.19) was explained by the Ministers in the following manner:-

1. That the 70% shareholding by Invincible was **highly dilutable**.
2. Simply explained; this seventy percent shares would gradually be bought out by Bougainville companies; and/or, by any other interests outside of Bougainville.
3. Invincible Resource Company, was the only company that was prepared to sit through this so-called “risky environment”; and therefore in one sense, hold in trust the 70% shares,
4. And this; purely on the economic premise risk analysis; that in the absence of a safe environment for investment in Bougainville, no businesses would risk coming to invest because of no **insurance policy cover**.
5. This “state of things” had also been of much discussion in PNG and abroad; which was now also probably putting breaks on business houses, from making plans to invest in the autonomous Region of Bougainville.

6. It is now a challenge for the ABG to reverse this situation and assure investors that it is safe enough to come to Bougainville.

7. The Executive Government plan’s for BRDC to be such an economic platform is one such avenue, to encourage and attract investors.

1.35. The Ministers also emphasised the point that the people of Bougainville are the resource owners. In Papua New Guinea mineral resources ownership belongs to the National Government. The GoPNG is therefore the regulator through its statutory body, the Mineral Resources Authority (MRA).

1.36. They said there was a real fear of careful manipulation by the GoPNG of mineral resources ownership in Bougainville, empowered through MRA as the regulator. This can always be carefully crafted through negotiations of the drawdown powers of “mining and energy”. In the ARoB, ABG is the regulator and BRDC was only the platform by which together with the resource owners (The landowners), impact projects would be developed.

1.37. Restoring confidence of the other sectors in Bougainville in this “way forward” is going to be a major challenge according to ABG. Notwithstanding the fact that, the GoPNG and all its laws, is also the major partner in the decision-making of such powers ultimately coming to ABG.
1.38. There is also a certain race amongst other resources owners (landowners) to be the first to initiate mining development in their own districts. This according to ABG, now emphasises the need for the Executive Government to establish polices as soon as possible, to regulate mining and/or other impact projects development.

1.39. The people are adamant that the “experiences” (1962 – 1989) suffered under Bougainville Copper and the GoPNG should never be repeated. This is where the landowners did not even have one single equity share in BCL. The shares registry showed that, 20% was owned by the GoPNG, 53% by CRA, with the remaining shares owned by private shareholders in PNG, Australia and other pacific countries.

1.40. Bougainville Copper Limited at that time was also the sole holder of 'mining leases' in Bougainville. This covered more than 80% of the land mass area of the island of Bougainville where minerals were found to exist.

1.41. There is a fear from the critics of BRDC that the past experiences under the BCL/GoPNG regime could be again repeated under the current BRDC arrangement. With Invincible being the major shareholder; they are concerned that the entire mineral resources of Bougainville could be mortgaged to a foreign company. They are also unsure as to whether the seventy percent shares (70%) held by Invincible would lead to an imbalance in terms of voting rights power within the BRDC Board.

1.42. The fears that have been expressed here are out of genuine concerns for protection of land and resources, above and under. This was indeed the situation under the BCL/Government of Papua New Guinea Regime; where the state owned all mineral resources from one meter above the land, either on customary or on government land. These
people must be assured that the *Kabui (BRDC) Model* is not going to pose a re-surfacing of these same issues.

**Structure of the report**

1.43 The inquiry covered a range of issues including the challenges facing the Autonomous Region of Bougainville as a whole, the structure of the Bogenvil Resources Development Corporation (BRDC), impacts and benefits of legislating the BRDC and the future of our Region.

1.44 The general overview of BRDC is set out in Chapter 2. This chapter outlines the historical development of the concept and the challenges facing the Autonomous Region of Bougainville and BRDC as a whole. The impacts of this concept, positive and negative are also examined.

1.45 Chapter 3 focuses on the implications on the draft legislation of the BRDC concept. It examines the views of the Stakeholders on why this concept has so many questions to be answered and explained.

1.46 Chapter 4 on the other hand discusses the benefits on legislating for the BRDC concept which represents the views of the Stakeholders on how this commercial entity could be made to comply with all the existing laws, Bougainville and PNG.

1.47 Chapter 5 considers the future of the Autonomous Region of Bougainville with the BRDC.

1.48 Chapter 6 which is the final Chapter generally sets out the conclusion of the discussions made about the BRDC concept as it focuses on the legislative process involving the Economic Recovery Model at hand.
which includes Committee opinions and what the future holds for this infant state.
Chapter 2

The historical development of the BRDC concept

2.1 From an economic perspective the late President’s vision and interpretation has been translated into the creation of BRDC as the business platform to launch the Autonomous Region’s economic recovery within the shortest possible timeframe (7-8 years). And make autonomy practical in preparation for a referendum on independence for Bougainville as per the BPA.1

2.2 BRDC came about as a perceived ‘modern vehicle’, through which ABG would assist the people of the Autonomous Region of Bougainville, mobilize their resources for development purposes. The BRDC then, through this agreement is charged with the responsibility to coordinate investment and resources and impact developments in the region.

Vision of late President Joseph C. Kabui

2.3 The late President saw that many Bougainvilleans blood was spilt and lives were lost during the conflict. This was for a worthy cause, their right for self-determination and emancipation from foreign dominance in Bougainville.

2.4 His vision would contribute to meaningful benefits such as a lasting peace and prosperity, for all Bougainvilleans, in accordance with the Bougainville Peace Agreement and the Bougainville Constitution.

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2.5 It was then apparent that an appropriate Public/Private Partnership framework and an aggressive economic environment was urgently needed in place before 2010. Again this was to ensure that the Region’s quick economic recovery within the timeframe to the referendum would be achieved.

2.6 Another factor considered with any Public/Private Partnership business endeavour, was the serious component of foreign partners and capital input into the Bougainville economy. Which should ensure that wealth created truly benefits all Bougainvilleans in terms of sustainable economic development and better quality of life.

2.7 Mining was seen as an immediate necessity and need, to jump start the economy for quick recovery of the economy. However, mining being a highly sensitive issue, a totally new approach had to be found, and also consistent with Section 23 of the Bougainville Constitution on resource ownership and mineral rights.

2.8 Further to Section 23, the architects of the BRDC had also weighed out that ABG has custodial rights to all minerals and must therefore pass relevant legislation to sustainably manage the resources owner’s mineral rights and ownership (as the steward for future generations).

Master Exploration and Development Agreement (MEDA)

2.9 The architects of the BRDC have agreed that MEDA would ensure stability in exploration and re-assure potential investor partners to put their money where it would be used for the developments.

The phase with which this agreement was negotiated and formally entered into appeared to be reasonable.
2.10 MEDA then accepted and has taken into account the agreed JSB arrangements for transfer of mining, oil and gas functions and powers. MEDA however does not include the Panguna Tenements and therefore respects the Bougainville Copper Agreement as a signal to maintaining investor confidence in Bougainville and PNG.

Collapsing of BRDC (Bahamas) into BRDC (AROB) Ltd and current shareholding

2.11 Originally registered in the Bahamas to meet international capital markets (London, Toronto, New York Stock Exchanges) minimum requirements in the absence of appropriate investment and mining policies and legislations respectively in AROB.

2.12 Upon signing of the ABG-BRDC Master Agreement, it was decided by BRDC Board of Directors that BRDC (Bahamas) be collapsed into BRDC (AROB) upon the arrangement that Bougainville will have an initial ownership of 30%: the ARoB Equities Ltd with a 15%; Bougainville Veterans Holding Limited having 9% while the remaining 6 years would be given 6%.

2.13 Landowners will have 1-10% share in a given joint venture impact project and can also have shares in BRDC either indirectly through BPCL or directly through a listed BRDC vehicle.

Bougainvilleans Options to take up shares in BRDC

2.14 First option: Indirectly through Bougainville Pioneers Corporation Limited.

2.15 Second option: Directly in BRDC at either the London or New York Stock Exchanges.
2.16 Third option: Directly at the Port Moresby Stock Exchange when BRDC lists.

2.17 Fourth option: Landowner companies will hold shares directly in different projects through BRDC subsidiary or joint venture companies.

Potential Shareholders of BRDC on 70%

- European and North American Fund Managers and Financiers.
- In PNG, Nambawan Super and Nasfund have been approached to take up some shares.
- According to the BRDC architects, Invincible Resources Corp will eventually fade out of the equation as shares are taken up by others; both domestic and foreign investors.
- Aim is to have Bougainvillean majority (52-60%) ownership of BRDC given availability of investment funds over time.

BRDC (Kabui Model) Authorization Act 2008

2.18 As stipulated in the Act, BRDC was created for the purpose of legally raising foreign and domestic capital for investment in Bougainville with the emphasis to injecting development to least developed areas, and in Bougainville generally.

2.19 Mr. Philip Rali and Mr. Lindsay Semple are two BRDC directors with vast experiences in exploration, as well as with international contacts with foreign investors in emerging markets. They also have their own standing, both in PNG and with international investors.

2.20 The BRDC is a signal from ABG that Section 23 of the Constitution is being implemented more systematically and that appropriate legislation will be passed to further protect the resource owners. Whilst at the
same time create sound economic management of their resources, especially where foreign direct investment capital will be required.

2.21 According to the BRDC Directors it is a “revolutionary arrangement that challenges colonial mineral policy triumph in PNG, whose agent is the MRA”. MRA is also trying to claw its control over Bougainville resources, but this effectively is in contravention against the Bougainville Constitution.

2.22 BRDC also provides the ideal framework under present circumstances to the people of Bougainville to have control over their mineral wealth and to reap the maximum benefit from its exploitation.

Chapter 3

Implications on legislating the BRDC concept

Why the BRDC concept has been questioned

3.1 Understanding the context and factors towards implementing this concept remains, and still will be a major challenge for many blurred reasons.

During the Inquiry, the Administration gave its views according to the roles and functions that it displays as the machinery that implements government policies.

Although it recognizes in full that BRDC is a Private Company but one with a commercial perspective; the Administration denied having involved in the creation of the BRDC (Kabui Model) policy submission.
And this is the reason why it has been vocal about the concept; as according to it, they argue that proper channels and procedures were not followed.

The officers had also verified that the Legal Advisor in the Administration was never consulted by the architects of the BRDC concept during the pre-initial stages of development.

3.2  BRDC as a private company partnered with a foreign company is not part of the Administrative Structure of the Autonomous Bougainville Government. And therefore the Bougainville Administration has no part to play in it. But if the Bougainville Executive Council saw it as necessary and important to the Autonomous Region of Bougainville, then it would be happy to see new directives accordingly.

3.3  The impacts that will result from implementing the BRDC concept are yet to materialize. However, the BRDC Awareness Committee through its past awareness campaigns have promised massive benefits to the people of Bougainville.

3.4  The Autonomous Region of Bougainville has faced tremendous challenges since forming its own Government; whilst at the same time in search of ways on how it can economically recover and clear uncertainties that now hangs over the Region.

With the concept in place, they are looking at increasing Bougainville’s internal revenue; which means more money in the region that will result from impact projects and employment opportunities.

3.5  Even though it appears to be a controversial concept, it does not limit the Autonomous Bougainville Government from developing it as the model for economic development in the Region. In this respect
therefore, the Bougainville Administration would have to be involved at some stage in the future.

3.6 The other general issue that most Bougainvilleans are still not convinced about is the percentage breakup. Unless a much clearer explanation is put out (with due respect to Section 23 of the Bougainville Constitution and in terms of the equity distribution of resources between the landowners); the critics will continue to be unsure about the 70% IRC owned and only 30% Bougainville owned share breakups.

3.7 Except that it is in “good judgment” and in-line with Bougainville’s dream for a new way forward. This is instead of being continued to be shackled to the ‘past colonial model’ that have been incompatible with our traditional practices and customs, according to the Inquiry Statement from the Hako Women’s Collective in support of the BRDC concept

3.8 Another general concern put to the Committee was the need for the entire Region to be reached about the BRDC Concept, before any part of the BRDC policy may be implemented.

3.9 Whilst it is seen as a new ‘engine’ to accelerate economic recovery, investment and employment opportunities; the Chiefs from Southern Region argued during the Inquiry that not enough debate ensued in Parliament (and therefore not honouring our Constitution). Whilst it may be seen as the business arm of the government, parliament is the proper channel by which such ideas could be communicated to the people of Bougainville.

3.10 If the Government goes ahead and legislates the BRDC concept without any proper awareness (about the Kabui Model); then there is a likelihood of the people rebelling against the concept and the
Government. This issue is very critical in the sense that people’s trust, hearts and minds must be won in order to secure their support for the BRDC concept.

3.11 Section 23 of the Constitution clearly states that the people of Bougainville own their land and resources. It is a concern that the people of Bougainville could be in name only in the Constitution, but exploited by everyone including ABG, BRDC and other investors. And especially by those who could manipulate the system to serve their own ends.

3.12 According to the BRDC principals, Ex-combatants have greatly supported the idea. This approach of upholding the late President’s vision and the Autonomous Bougainville Government in appreciating and embracing the concept is indeed a way forward. On the other hand, the sensitivity of involving this group should be taken into consideration that they still have the defector power besides the ABG.

3.13 The Committee was told during the inquiry that BRDC was originally never created to be a mining company, but a vehicle for exploration, a broad based economic entity. However, this process of getting an exploration license by November of this year, according to the 15 steps Agreement, created and signed by the Somare and the Kabui Governments during the JSB at Alotau, has now lapsed.

The Committee understands that with no transfers of the ‘mining powers’ no explorations would be undertaken, even if the Autonomous Bougainville Government passes the BRDC Bill as an Act of Parliament.

This is simply because it should be in compliance with the ABG Laws as well as the PNG Laws. Through the transfer of the Mining Powers
and Functions, an assurance would be given for the BRDC to start its explorations as its first step to mining.

It must be understood however, that starting up new mines or re-opening the Panguna mine may not only be a concern for those directly affected, but a concern for the region as a whole. Mining carries a controversial history, as this was one of the contributing factors to the Bougainville Crisis.

3.14 BRDC told the inquiry that it is not their policy to stop anyone from coming and investing in the Autonomous Region of Bougainville. It is however, a prerequisite that investors wishing to enter into any deals that is of benefit to the People of the Autonomous Region of Bougainville must, comply with the ABG Laws and Agreements.

3.15 BRDC will not go into areas where there are no resources to develop. These areas will have to understand that BRDC won’t be able go into all the areas of the Region.

3.16 Another possibility is the fact that options for investment opportunities between the Traditional Landowners and potential developers within the agreed period of 3-5 years would be limited. After this period opportunities should open up for any other investors willing to come into Bougainville.

3.17 Landowners who wish not to apply jointly with BRDC from the start of its operations will have to wait till the 3 to 5 years term expires, in which case may lodge their applications jointly with other new developers. The Committee carefully examined this statement to be thought provoking and it remains to be seen whether BRDC would continue onto this road to economic recovery.
3.18 The fact that the BRDC in one sense fully complies with the Company Act of PNG, has led some critics to put forward the theory that there was no need for an Act to be legislated for the Kabui Model. And the fact that powers and functions still remain with the National Government, *(including some parts of the IPA, and the Law of Central Bank in terms of currency)*, has further drawn criticisms into its legality.

**The challenging phase of the BRDC concept**

3.19 The people now understand that there were Agreements reached between ABG and BRDC. The Administration was required to analyze two agreements – the **MOU** and the **Master Exploration and Development Agreement** as it was revealed during the inquiry.

3.20 As advisor to the Autonomous Bougainville Government, the Administration has strongly opposed to signing any unconstitutional deals that would compromise the Autonomous Region of Bougainville in the future. As the sole reason, the issue of the BRDC at some stage had continued to affect relationship with the National Government, the Bougainville Executive Government and in particular, the Bougainville Administration.

3.21 On the one hand, the involvement of the Administration as principal advisor *(but not necessarily in drafting of the legal document)*, has been denied by the BRDC principals; who claimed that the initial draft was given to the Legal Services Unit for their advice. It was also one of the main BEC agendas during one of their meetings at Arawa this year. And it was there that the CEO for Autonomy and Implementation was given a copy of the **Master Exploration and Development Agreement** to examine and advice the BEC- and of which he did and was thereafter, signed by the late President.
3.22 The fact that BRDC would operate for 3-5 years as a monopoly in the Autonomous Region of Bougainville will certainly be challenged by the International and National Investors who have vested interests in the Autonomous Region of Bougainville.

3.23 The majority of the People fear that the Section 23 of the Constitution pertaining to the rights of landowners; also the centerpiece to the creation of the BRDC concept could be misinterpreted by few self-interested individuals and groups. They would be seen by many Bougainvilleans as becoming too negative and unnecessarily critical as revealed during the inquiry. The Committee believes that unless the Government of the day steps in with a clear message through elaborate programs to explain the BRDC concept, then there is bound to be clashes between different parties with vested interests.

3.24 To meet the challenges of change, and in order to realize the Vision of our late President, the BRDC has the ultimate role in fulfilling this dream. It was our late President’s dream that all enjoy this resourced rich land, regardless of whether they were sitting on top of a gold mine or not.

3.25 The biggest challenge confronting the principals of the BRDC and ABG (in terms of the Private Public Partnership deal) is how the people could be involved through the bottom-up-approach, and through the BRDC concept.

3.26 It is a concern that any public unhelpful debates on the BRDC concept could actually be a negative factor towards preparations for economic self-reliant and in preparation towards our referendum, now in 7 to 12 years time. The ABG is concerned that the Region is not turned into a place where investors may not come to invest. This would not be any conducive environment for the Region’s economic prosperity.
3.27 The Committee received a respond from the BRDC principals that if only there was an investment policy in place for the Autonomous Region of Bougainville, investors would be invited. BRDC would enter into private/public partnership with such enterprises. In PNG these private/public partnership has been in place now for more than 22 years of which both the government and the private sector have greatly benefited.

3.28 In Bougainville we need to create investor/confidence so that investors could be attracted to our Region to invest. No investors would come to Bougainville if the right environment did not exist. We need their ‘dollar’ just as much as they need to do business in our region. To assist us on our way to economic recovery we need investors to plough their dollar, yen, euro, pounds, etc, into Bougainville.

3.29 There have been threats by some candidates who are opposed to the BRDC concept, in this current *Presidential By-election* that this concept could be scraped if they won the seat.

3.30 The BRDC principals have however argued that the BRDC concept has the popular support of the House of Representatives as was shown during their vote (29/5) in support of BRDC, during the July Sitting of Parliament. The challenge is now there to protect the Kabui Model through legislation, according to the submission by BRDC during the inquiry.

3.31 The BRDC principals have again confirmed that they have also been conducting preliminary and feasibility studies on the Limestone and the Biodiesel Fuel, which are possible impact projects, besides others.

3.32 Stability was identified as very crucial for the Autonomous Region of Bougainville to create better competition and spin-off benefits. So that
BRDC’s focus is more on the purposes of stability, more than monopoly, to bring investors into the Region.

3.33 And whether the private/public partnership reached between the joint partnership of the BRDC, IRC and the ABG, would indeed be a reality. The resource owners would play an important role in this equation and as major stakeholders in this great enterprise.
Benefits on legislating the BRDC concept

The way forward for the Autonomous Region of Bougainville

4.1 In a broader context in terms of the dire need to collect revenue, the BRDC is one of the mechanisms by which this may be possible. ABG will therefore have more say in decision making on the use of its internal revenue in the name of self-reliance to run its own affairs.

4.2 This should also contribute enormously towards the ABG and the Bougainville Administration budget. And therefore should meet the restoration and delivery of government services, other developments and creation of job employment to strengthen the economy.

ABG only brings in K2.3m in internal revenue at this stage towards ABG’s annual budget. With this new entity (BRDC) in place, it is hoped that paramount issues such as reconciliations and weapons disposal would be adequately budgeted for.

4.3 The Committee sees that the BRDC concept as an economic platform or any similar concept would attract investor confidence in Bougainville. The strength in raising internal revenue would be built up, speeding up also the developmental processes at the Administrative Levels throughout our Region.

4.4 For some resource owners who had appeared before the Committee, have continued to strongly argue that the benefits of the structure in terms of the percentage break-up were still not clear. It is thus incumbent upon the BRDC Board to do more work in clarifying the
break-up of the percentages to landowners. This is so that they can clearly see where they will fit into the whole zigzaw puzzle.

4.5 The BRDC principals have also confirmed that it is a jurisdiction of the Government and the Bougainville Peace Agreement Sec 1.4 (b) which states that under the Bougainville Peace Agreement (BPA) “Autonomy is intended to enable Bougainville to determine its own solutions to its own problems and needs”. Under the authority of this Clause, the Autonomous Bougainville Government has the obligation to look for investment opportunities for the Region as a whole.

4.6 ABG sees the BRDC Structure as a way forward for Bougainville’s economy. This is also what the principals of the Boge nvil Resources Development Corporation believe it to be.

In terms of the argument that “Bougainville’s resources could be mortgaged to a foreign company (Invincible)”because of the 70/30 arrangement; the principals of BRDC do indeed point out that Bougainville Copper Limited was the single mining lease holder covering 80% of the Bougainville’s total land area mass. And this is also the same arrangement with other mining companies in Papua New Guinea today.

4.7 The Autonomous Bougainville Government is a policy-friendly government. This is for instance, is seen in how it had put in place a policy where 1/10 of its annual budget is tithed to all the Churches of the Region. This is a good principle as a modern vehicle for development. The 15% share that ABG holds in BRDC would assist the government to further and generously extend its budget to other government social services in the Region.
Chapter 5

Driving on the BRDC Vehicle into the future of the ARoB

The BRDC Vehicle in compliance with Constitutional requirements

5.1 Similar to all emerging economies the fate of any sovereign state lays wholly on its economic foundation. ABG and BRDC believe that the future of the Autonomous Region of Bougainville depends exclusively on this determination. And the will power to manage its institutions in contributing towards the creation of economic growth to boost and increase its internal revenue power sources.

5.2 One of the opportunities that ABG sees BRDC is, in attracting and raising foreign and domestic capital for investment and development in Bougainville. This should then assist in the creation of industries that should benefit the Region and its people.

5.3 The Committee can see that the BRDC vehicle or, something similar is in compliance with Constitutional requirements as identified herein in the *Bogenvil Resources Development Corporation (AROB) Ltd. (Kabui Model) Authorization Bill 2008* and the *Master Exploration and Development Agreement*. With further specific references to the Bougainville Constitution sections 7 (1), 23, 24, 41, 221; the National Constitution subdivision III.3.C (qualified rights), Section 53; the Companies Act 1997 of the Independent State of Papua New Guinea; Public Finances (Management) Act 1995; Public Business Corporation of Papua New Guinea Act 2002; Audit Act 1989; and the applications to
the BRDC Company of Landowner Agreements hereunder including other Bougainville and Papua New Guinea Laws.

5.4 The Committee during its deliberations and analysis of the BRDC concept, in addition, noted section 14 (1) of the Bougainville Constitution. This recognizes that, the Government of Bougainville shall be based and structured on democratic principles which empower and encourage the active participation of all Bougainvilleans at all levels in their own governance both formal and customary.

5.5 It is however of concern to the Committee to-date, as to whether subsection 5 of the Bougainville Constitution has been fully implemented. This notes that the Autonomous Bougainville Government must develop procedures to enable consultation with all people in Bougainville, as far as is practicable, in relation to proposed major new Bougainville Laws. The draft bill on BRDC (The Kabui Model) a case in point.

5.6 The Committee on the other hand also needs to be satisfied that BRDC is the vehicle for economic growth for the Region. And whether as a mechanism for growth meets the provisions of the Bougainville Constitution to assist ABG comply with Section 43 subsection (1) which states that the ABG shall:

(k) Consider the need to achieve full fiscal self-reliance as soon as possible;
and,
(l) Consider the need to promote economic development so as to accelerate the achievement of fiscal self-reliance and promote the well-being of the People of Bougainville and,
Section 49 subsection 4 (b):
Stating that the principles of fiscal self-reliance shall apply to all levels of formal government; and (c) Reveals that, revenue-raising powers shall be given to all levels of formal government, to be truly and wholly realized.

5.7 The Committee seeks to establish adequately also, as to whether BRDC is indeed the platform by which economic growth in the Region will be fully realized, or not. Is it in fully compliance with all the laws of ABG and PNG? And if so, can it be so allowed to kick start Bougainville’s economy, which is lagging behind the PNG economy by ten to twenty years? Or, is there another better way? This is the question that also needs to be answered and quickly.
Chapter 6

Conclusion

6.1 This inquiry has come about at an important time when the Autonomous Bougainville Government is faced with the significant global and local challenges in terms of its economic recovery.

6.2 Locally, there are changes and challenges to be met in developing our infant economy through innovative ideologies involving the full participation of our people. And to quickly understand that there is a need for faster economic growth; and also in accordance with the ABG Five Year Economic Recovery Strategic Action Plans.

6.3 There are also other requirements as stipulated in the Bougainville Peace Agreement, the PNG Constitution, Bougainville Constitution and other relevant Public Acts to be met.

6.2 Given these challenges, the Committee wanted to ensure that the inquiry tackled these issues head-on and did not duck from criticism of the general public, the National Government, Government policy and/or possible investors.

6.3 The report strongly endorses that the shares allocation be revisited; whilst at the same time urges BRDC concept to be fully explained in all areas of the Region, with no stones unturned. This is prior to its draft bill passed by the House of Representatives.

6.4 There were some minor setbacks faced by the Committee during its inquiry. Firstly, there was a general lack of interest from important stakeholders despite the opportunity given them. The Committee has expressed its concerns regarding the lack of responses from CEOs of
the Bougainville Administration to this inquiry. And to those CEOs that
nevertheless responded, we thank you for the discharging of your
duties faithfully.

6.5 The Administration is the implementer of decisions by ABG (including
any matters involving BRDC). Those decisions that carry financial,
economic, political, planning and legal implications for the future of
Bougainville. And that also have direct impact on key
sectors/divisions/departments.

6.6 This report makes a series of strong recommendations advising ABG
and the BRDC Principals on how the Kabui Model can be made to work
not only for our Region; but also as an export to other countries, in
similar situations. This now remains a challenge for the BRDC
Principals to face and deal with.

6.7 Whilst the Executive Government is the main proponent of the Kabui
Model, much remains with BRDC to counter negative stereotyping. And
to prove to itself that it is the key to economic recovery for Bougainville.

6.8 The Executive Government is duly congratulated for being progressive
in its thinking for a way forward for the Region. This “way forward” must
fully comply with National, Regional and International “best practice”
Does the BRDC Concept fully comply with these criterias?

6.9 The Committee has not in any way tried to influence how BRDC should
set its plans. The company itself is the specialist in this area and it
knows best its strengths, capabilities and available opportunities.
However, this concept still carries criticisms from the media and its
critics. BRDC now has the challenge to put such fears at rest; and carry
on with its tasks as according to its business and mission statement.
6.10 Consequently, the Committee sees a need for BRDC, the Government and the resource owners to communicate the shared Kabui Vision more effectively to our communities. The Committee believes that the Vision should identify the priority issues for change and strategies for a way forward, and for an effective economic-base model.

6.11 To this end, the Committee congratulates architects of the Bogenvil Resources Development Corporation for an innovative concept; or, for one Economic Concept that now exists amongst us. The Committee also invites any other Economic Models, as long as they fully comply with the ABG and PNG laws – and must deliver to the people.

6.12 It is now up to the Principals of the BRDC Concept to convince the people that it is the answer to the economic woe that is facing our Region. And whether it can confidently lead the way to “economic recovery”; which is now the greatest need in the Autonomous Region of Bougainville, at this most critical time.

Aloys Tony Devui MP
Chair
10 December 2008
Appendix A – List of submissions

1. Mr. Robert Atsir
2. Mr. Raymond Masono
3. Hon Mathias Salas
4. Hako Women’s Collective
5. Mr. Joe Pais
Appendix B – List of hearings and witnesses

Tuesday, 14 October 2008 – BEC Conference Room

Legal Services Unit
Mr. Chris Siriosi, Chief Executive Officer

Thursday, 16 October 2008 – BEC Conference Room

Administration Office
Mr. Raymond Masono, Acting Chief Administrator

Regional Commissioners Office
Mr. Joe Lera, Regional Commissioner for South

Friday, 17 October 2008 – BEC Conference Room

Members of House of Representatives
Hon Ezekiel Massatt; Minister for Police Services, Correctional Services, Justice, Courts, Liquor Licensing, Labor and Employment

Hon Mathias Roman Salas; Minister for Finance and Treasury, Minerals, Petroleum and Gas Exploration and Land

Hon Joseph Watawi; Minister for Trade and Industry, Port Services, Customs, Quarantine and Micro Finance

Bogenvil Resources Development Corporation
Mr. Robert Atsir, Chairman
Mr. Ben Rasin, Chief Executive Officer

Commerce, Trade and Industry Division
Mr. Albert Kinani, Chief Executive Officer
Office of the President

Mr. John Siau, Special Duties Officer to the President and Advisor to BEC.

Thursday, 23 October 2008 – BEC Conference Room

**Hako Women Collective**
Mrs Catherine Behis, Assistant Programme Coordinator
Mrs Marilyn Havini, Programme Coordinator

**Makis Constituency**
Mr Steven Tavaisi, Chief of Makis

**Taunita/Teop Constituency**
Mr. Joe Pais, Chief and former politician of Tinputz.
Appendix C – List of BRDC inquiry questions

1. What is your views/standings/position/understanding of the BRDC concept?

2. As the advisor to the Executive Government, what and when and how the administration machinery has an influence on the BRDC concept?

3. Do you know any information about the Invincible Company or not?

4. Where does the BRDC appear in the Administration Structure? What division will be involved in implementing this policy directive? How soon do you think this policy will be implemented?

5. What benefits can you identify in your organization that BRDC can contribute to?

6. What are the likely impacts of BRDC on your existing administrative programs in terms of Education, Health, Finance, Planning, Mining, Tourism, Lands, Works, etc?

7. If the BRDC concept has not included any of the programs in the divisions, what do you think can be done to fully accommodate other divisions within the administrations?

8. You no bin lukim actual copy blong contract?

9. The initial concept of a regulatory body or contractor seems confusing between the ABG and the National Government. Who is the regulator or contractor? Is it going to be the BRDC or the Mining Division?

10. Inap yupela itok klia long Committee husat em Lindsay Semple?
11. Who are the authors of the two documents; the Master Exploration and Development Agreement and the BRDC Authorization Bill?

12. Why was the Administration as principle advisor and also responsible for drafting of legislations not involved in drafting the legal document?

13. Can you confirm or deny the involvement of the administration?

14. Planti clause long BRDC em stap long Company State blong PNG. Will we go ahead and implement, or if we go through the IPA do we still need to legislate?

15. What will be your responds if there is an investment policy for the Autonomous Region of Bougainville?

16. About the Exclusive Rights, if we pass the bill now and it becomes law, it will give the company certain rights as agreed between the parties involved. Will other investors be blocked out or should we say BRDC will be a monopoly?

17. Ikam inap nau yupela bin informing PNG long BRDC or nogat?

18. Can the Committee be updated on the progress of the awareness programs of BRDC?

19. Why do we involve Excombatants since it’s a policy matter for the Government? You are telling the Committee that BRDC is a Private Company so why do we have to associate Excombatants?

20. What is the present stage of Smelter in Arawa? What is the terminology of stakeholder and what percentage do they own? What percentage is
owned by the Invincible in the shares? Explain the 20 million that went to ABG as capacity building.

21. Why government is insisting on legislating the framework prior to mining powers given to the ABG according to BPA on draw down of powers?

22. The government had vehemently insisted during the initial introduction and subsequent ratification of the contract by Parliament 29/5 that the BRDC is not a mining company. Why does the contract consist of Clauses which specifically refers to Mining e.g. under Claus E, H, I, L (i) (ii)?

23. Do you agree that the Executive Arm of Government that you are the Member of had infact taken a dual role by restricting the legislature as indicated under Clause (K) Protection of Interest; to only legislate future development issues by protecting the interest of BRDC in any deal?

24. Can you confirm or deny that the behavior of this government in the way the deal had been executed has been tailored by a selected group in government and outside to use government powers and the people’s resources by capitalizing on the ignorance of our leaders to get rich with their foreign cohorts?

25. Alert Bougainvilleans are wondering why would the government use the late President’s name on a company which have partners with questionable background like Invincible Resources Corporation moreover its establishment criteria had been somehow secretive as shown by the way the government had gone about in its legislative processes moreover the public had not been prior consulted. Would it be true to say that the President’s name was used with view to get wider support? How about if the company fails the people of Bougainville?

26. Is Invincible Corporation has some involvement with Sandline?
27. What is the likely outcome if the new President with new policies in place resumes office? Will it affect or dissolve such an agreement for Bougainville?

28. Can the Committee be informed whether BRDC has done any feasibility on Limestone and Biodiesel fuel?

29. As advisor to cabinet, in your role, the two draft documents sort falls, despite those, you are saying you support whether they are flaws in the two models; can you advise the Committee if you have actually gone through the document and is in total compliance with the Constitutions of the National Government and that of Bougainville?

30. The BRDC contract also contain provisions where the 70% of total shares earmarked for Invincible and one of the arguments that come from the Ministers in the Government is that they don’t have the evidence of the mining. However, my understanding is that Invincible have 70% in the Stock Exchange to secure development funding for Bougainville. Why not BRDC use 30% and the Government 70%? Because after all they will use people’s resources.

31. It seems to us as a Committee that you and Kinani are working together apart from the rest of the Officials in the Administration. As Advisor to BEC, can you clarify to the Committee why?

32. I have been very worried about those who are actually involved in this concept. The BRDC concept with its subsidiaries Bougainville Veterans Holdings Limited, Bougainville Pioneers Corporation Limited, etc., what I am worried about is those who will lead the companies. Awareness has been conducted by Excombatants, those ones who are observing the perspective; will these people look after these? Nogut ol Advisor i kaikaim yumi. What guarantee do the people have?
33. BRDC is a Private Company and MRA is a Statutory Body. How can it be compared?

34. Many are in there, including the directorship of the BRDC. During decision making, how will this be done?

35. Do you like the percentage breakup between the Invincible and the BRDC on the 70% to 30%?

36. Did the responsible stakeholders conducting the BRDC awareness also fully explained to you who is invincible? Who are the Shareholders? If there are any Ministers who have their Shares in the BRDC? Who is Sam Kaona and who is Lindsay Semple?

37. Sapos yupela bin harim last night long Radio Bougainville, A/Chief Administrator ibin wokim strong statement wan is the contract BRDC signed in Arawa, Authorization Bill, and release of K20m to Gov’t by Invincible. He said that the way they were introduced to the Government were not transparent. The documents did not follow the normal process. Meaning they were not signed by them. I would like to ask is it good practice?

38. During those two meetings were you introduced to the Kabui Model and the MRA?

39. The Acting Chief Administrator when interviewed said that BRDC is even worse than BCL. If it is true, how?

40. Has the BRDC Awareness Committee come to Makis?
41. Now you are not happy with this Foreign Company. Tell us, from your position as Chief, what do you think we should do with any Foreign Company that would like to come and invest in Bougainville?

42. Sapos oli bin givim awareness pastaim bipo oli bin sainim this paper, sapos ol pipol ibin orait wantaim this Kabui Model, na sapos oli bin toktok long dispela bipo, (yu do not agree with this), igat sampela alternative long kisim ples blong BRDC....igat sampela tingting blong ol Chiefs long ples long dispela % share?

43. Thank you for representing the people and Chiefs from Makis in the Southern Region. When you saw Gov’t not doing awareness before with this issue, when Gov’t not following this process, what is your input on how Gov’t is handling this issue?

44. In south, the people of south did not have time to get full content of this agreement between ABG and invincible, have you sighted it yourself anywhere?

45. What is your view of the percentage breakup?

46. When the Chiefs in your area see the above, what is the view of the Chiefs on how best they can benefit?

47. Are you suggesting to the Committee that this whole Agreement between Invincible and ABG be revisited? Do you think the Executive Government used its wisdom and judgment in mishandling of this issue?

48. As you are former Member and Politician, how do you see this concept affecting the Bougainville Peace Agreement and others?
49. If the Gov’t goes ahead with this contract and says Parliament has endorsed this act, from your view as Chief, Resource Owner, Leader, what is your view if Gov’t going ahead and legislating this?

50. Have you seen the Kabui Model and the Colonial Model, how can you comment?
Appendix D – Exhibit B

“Exhibit B”, the document that gives legal binding between the Landowners and the BRDC has not been signed but an agreement was reached. The template is yet to be finalized and be publicized.
### Appendix E – Options of Economic Recovery Models

<table>
<thead>
<tr>
<th>No</th>
<th><strong>KABUI MODEL</strong></th>
<th>No</th>
<th><strong>COLONIAL PNG MODEL</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ABG Constitution Sect 23 as Foundation</td>
<td>1</td>
<td>PNG/Crown Law on Mineral Rights</td>
</tr>
<tr>
<td></td>
<td>- ABG custodian/regulator of mineral rights</td>
<td></td>
<td>- State ownership of mineral rights</td>
</tr>
<tr>
<td></td>
<td>- Customary ownership of resources promotion</td>
<td></td>
<td>- Foreign companies promotion in mineral exploitation</td>
</tr>
<tr>
<td>2</td>
<td>Mineral Resources owned and Control by Resource owners</td>
<td>2</td>
<td>Mineral Resource owned and Control by the Crown/State</td>
</tr>
<tr>
<td>3</td>
<td>ABG Custodian/regulator of Resources</td>
<td>3</td>
<td>MRA/World Bank dominion of Resources</td>
</tr>
<tr>
<td>4</td>
<td>Promotion of resource owners company (Bvillean-sect 15) as foundation for resource exploitation.</td>
<td>4</td>
<td>Promotion of foreign companies as mediums of resource exploitation.</td>
</tr>
<tr>
<td>5</td>
<td>License for Resource Exploitation own by Resource owners</td>
<td>5</td>
<td>License for Resources Exploitation own by Foreigners / Investors.</td>
</tr>
<tr>
<td>6</td>
<td>By pass World Bank with her conditions</td>
<td>6</td>
<td>World Bank Control</td>
</tr>
<tr>
<td>7</td>
<td>Direct link with Capital Managers</td>
<td>7</td>
<td>No direct link. Too many middle entities between the Resource owners and Capital Managers.</td>
</tr>
<tr>
<td>8</td>
<td>Bougainville Equity participation and contribution in all stages of business development</td>
<td>8</td>
<td>Bville/PNG minimal equity if non and become only observers in the economic growth</td>
</tr>
<tr>
<td>9</td>
<td>Direct and full participation in Stock market Trading</td>
<td>9</td>
<td>No access to stock market Trading</td>
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<tr>
<td>10</td>
<td>Increase job opportunity at all levels of Government and private sector</td>
<td>10</td>
<td>Selective job creation controlled by foreigners.</td>
</tr>
<tr>
<td>11</td>
<td>Mass employment creation at all levels of Government and private sector</td>
<td>11</td>
<td>Increase of unemployment which results to law and order problem in the country.</td>
</tr>
<tr>
<td>12</td>
<td>Contribute to the reduction of World Poverty</td>
<td>12</td>
<td>Increases the poverty in the third World nations</td>
</tr>
<tr>
<td></td>
<td>In direct agreement with the UN declaration that in 2015 world poverty would have been halved.</td>
<td></td>
<td>PNG been a signatory to the declaration is blind. By accepting MRA PNG rides the road to poverty crisis.</td>
</tr>
</tbody>
</table>
ECONOMIC INDEPENDENCE FOR BOUGAINVILLE

COUNTRY ECONOMIC BASKET

ECONOMIC CONTROL & SOVEREIGNTY PROTECTION.

MRA CUSTODIAN
MRA CONTROLS
MINERAL OIL GAS
IN PNG.

UNDER MRA
FOREIGN CONTROL
OF
PNG ECONOMY

MRA DELIVERS:
• FOREIGN
CONTROL OF
PNG ECONOMY,
• SOVEREIGNTY
SURENDERED,
• FOREVER
RECEPIENCE OF
AUSAID, ETC

ABG CUSTODIAN
BRDC WILL PROTECT &
CONTROL MINERAL OIL
GAS IN BOUGAINVILLE

UNDER BRDC
LOCAL CONTROL OF
B/VILLE ECONOMY

BRDC DELIVERS:
• ECONOMIC
INDEPENDENCE,
• SOVEREIGNTY
PROTECTED,
• CAPITAL
FUNDING SUPT TO
OTHER COUNTRIES.

LOAN

AID

INTERNAL REVENUE

MINERAL / OIL GAS

FORESTRY

FISHERIES

AG./OTHER

94 %

6 %

PNG / Foreign Control of Bougainville Economy
No Economic Independence for Bougainville