

# Australian mining giant leaves environmental disaster in Papua New Guinea

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Australian-British mining giant BHP-Billiton announced at the end of January that it was severing all ties with the Ok Tedi copper mine in Papua New Guinea. Facing the possibility of legal liabilities amounting to billions of dollars due to environmental damage, BHP-Billiton secured a deal from the PNG government that indemnifies the company against all future compensation claims.

BHP-Billiton originally intended to close down the mine to avoid further litigation but was opposed by its minority partners, Inmet and the PNG government, which have retained their 18 and 30 percent stakes in the mining project. Mining is now expected to continue for the next 10 years. The cash-strapped government of Prime Minister Mekere Morauta was determined to extend the mine's life in order to retain its share of the mine's profits, plus \$A30 million in royalties and taxes each year.

The PNG parliament passed legislation last December to rubberstamp an agreement to “discharge the Company, BHP, the Company's Shareholders... from all and any demands and claims arising directly or indirectly from the operation of the Mine”. This cleared the way for the company, formerly the Australian-owned BHP, to hand over its 52 percent shareholding to a new entity, PNG Sustainable Development Program (PSDP), which the PNG government will effectively control.

BHP dumped 80,000 tons of tailings (rock waste) containing copper, zinc, cadmium and lead directly into the Fly and Ok Tedi Rivers every day for two decades. This has ruined the lands of thousands of subsistence farmers, poisoned some 2,000 square kilometres of forest, polluted the Ok Tedi River and contaminated a section of the Fly River, PNG's second biggest river system, severely depleting fishing stocks.

According to a number of experts, the damage will continue for lifetimes. Royal Melbourne Institute of Technology Professor Doug Holdway said: “We're going to see a lot more damage in the future, not less. If you put 400 million tonnes of tailings down a river system, there should be no surprises that you're going to have significant and biological impacts that will last for decades, possibly even centuries”.

The mine's operating company, Ok Tedi Mining Limited (OTML), admitted that compensation claims for acid rock drainage—caused when micro-organisms act on rock waste to create acids—could run as high as \$7.01 billion each year for 50 years.

The Mine Continuation Agreement Act passed last December incorporates agreements with some local landowners. In effect, the company has handpicked some representatives to sign away the rights of the entire local population and all future generations. Under the agreements, “each existing and future member of that person's Community or clan, including, without limitation children and persons who are subsequently born into, or who subsequently join, that Community or clan” are bound not to make any future claims.

Non-government organisations have accused the government and the company of hoodwinking local people. PNG Environmental Law Centre spokesperson Almah Tararia said: “Based on my conversations with the local people, it is quite clear that in my opinion the people who are signing this agreement do not know what they are signing”.

An Australian group, the Mineral Policy Institute, commented: “The new law will leave Ok Tedi's environmental and social problems for local people and an impoverished Papua New Guinea government to fix up, while BHP-Billiton—the world's largest mining

corporation—will walk away”.

Apart from its immediate revenue needs, Morauta’s government is desperate to attract new investment by proving that it will protect mining interests. The PNG economy is heavily dependent on mineral projects, which contribute about 70 percent of total exports and 26 percent of the Gross Domestic Product. Since the 1989 shutdown of the Rio Tinto mine on Bougainville, the Ok Tedi mine has been a virtual national economic linchpin, accounting for 20 percent of exports and 10 percent of the GDP.

Across PNG, existing oil and gold fields are exhausting their reserves at such a rapid rate that by 2010, total government revenue is expected to decline by one-quarter. Mining exploration investment has dropped from \$87 million in 1988 to less than \$10 million in 2001, largely due to fears of economic decline and political instability.

The Australian government’s Export Finance and Insurance Corporation warned in December that with the depletion of resources and revenue streams likely to cause recurrent cash flow and foreign exchange difficulties, the country could become “ungovernable and insolvent”. It referred to escalating political risk due to a breakdown in law and order and extra-parliamentary challenges to the government’s authority, notably the March 2001 military mutiny in protest at defence budget cuts. It warned that Morauta, whom it regards as the only PNG leader capable of carrying through the economic measures required by global investors, was likely to be ousted at July’s election.

In order to push through the BHP-Billiton exit deal, Morauta claimed that it would assist local people. “This is a unique initiative, and one that will provide an extremely high level of benefits,” he said. “It will also finance environmental mitigation.”

Notably though, local landowners have no representation on the PSDP board and no say in the allocation of the mine’s proceeds. Six directors nominated by BHP and the PNG government will control PSDP, while Inmet, the other part-owner, emphasised that the new company would operate by clearly defined corporate rules in making decisions and distributing funds.

For many years, successive PNG governments have colluded with BHP to cover up the mine’s

environmental damage and suppress compensation claims. In 1995, BHP secretly drafted the government’s Compensation (Prohibition of Foreign Legal Proceedings) Act to block a \$4 billion class action by local people in the Australian courts. The legislation imposes fines of K100,000 (\$50,975) plus K10,000 per day for pursuing a compensation claim in foreign courts or challenging the constitutionality of the legislation itself.

BHP unsuccessfully offered the landowners \$110 million to withdraw the case. Facing the threat of prosecution, the landholders eventually agreed to a \$150 million out-of-court settlement in 1996. But landowners claim that BHP-Billiton and OTML have broken the settlement because tailings are still polluting the river system. Their breach of contract case is due to proceed later this year.

After merging with Billiton last year, the company is globally offloading what it terms are the dysfunctional aspects of its portfolio. Having created an environmental and social disaster in PNG, it has now wiped its hands of the damage, with the help of the Morauta government.



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