

BOUGAINVILLE PLANNING AND DEVELOPMENT BILL 2023**ARRANGEMENT OF CLAUSES****PART 1 — PRELIMINARY**

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A BILL FOR AN ACT

entitled

BOUGAINVILLE PLANNING AND DEVELOPMENT ACT 2023

Being an Act to—

- (a) provide for the establishment of a Planning Assessment Commission, the making of development plans and the granting of planning permissions; and
- (b) repeal the *Physical Planning Act 2013*.

MADE by the House of Representatives, to come into operation as set out in Section 2.

PART 1 — PRELIMINARY**1 Short title**

This Act is the *Bougainville Planning and Development Act 2023*.

2 Commencement

This Act comes into operation on its certification under Section 66 of the Bougainville Constitution.

3 Aims of Act

This Act aims to provide for planning and development controls in urban community government areas and in other areas as the Bougainville Government considers appropriate.

4 Interpretation

(1) In this Act, unless the contrary intention appears—

Bougainville Government means the Autonomous Bougainville Government;

building or structure includes—

- (a) a temporary building or structure; and
- (b) a vehicle, trailer, caravan, vessel or pontoon that is permanently moored or affixed to land; and
- (c) an advertising hoarding; and
- (d) a fence that is more than 2 metres above the natural surface of the land; and
- (e) a sea wall, levee bank or other structure for the protection of land that is more than 2 metres above the natural surface of the land; and

- (f) other infrastructure on land for taking or draining water, managing sewerage, supplying electricity or for telecommunications;

complying development means development in a zone in a planning control area that—

- (a) is for an activity that is a preferred activity for the zone under the Development Plan for the area; and
- (b) meets the following design standards as specified in the Development Plan for the area:
- (i) minimum land size (if applicable);
 - (ii) land coverage and open space requirements;
 - (iii) building setbacks;
 - (iv) car parking and access standards;
 - (v) waste collection requirements;
 - (vi) toilet connection requirements;

complying use means a use of land in a zone in a planning control area that is for an activity that is a preferred activity for the zone under the Development Plan for the area;

development—

- (a) means any of the following:
- (i) building or erecting a building or structure on land;
 - (ii) enlarging or extending a building or structure on land;
 - (iii) demolishing a building or structure on land;
 - (iv) placing, moving or relocating a building or structure on land;
 - (v) excavating, or filling land (including a river or sea bed) with, a volume of material that exceeds 9m², other than excavating or filling that is incidental to—
 - agriculture or horticulture; or
 - mining authorised under a Bougainville law; or
 - the repair or maintenance of an existing road, track or underground service; and
- (b) includes anything declared to be development by the regulations; and
- (c) does not include anything declared to be excluded from the definition of development by the regulations;

general manager of PAC means the person holding or acting in the position of general manager of PAC under Section 25;

land includes—

- (a) a building or structure affixed to land; and
- (b) waters and airspace over land; and
- (c) the bed of any body of waters; and
- (d) subsoil and subterranean waters;

National law means a law made by the National Parliament and includes an Act and a subordinate legislative enactment made under a National law;

PAC means the Planning Assessment Commission established under Section 24;

planning control area means an area that is a planning control area under Section 5;

planning permission means a planning permission given by PAC under Part 4;

Secretary means—

- (a) in a reference to a Secretary responsible for a particular subject matter—a person holding or acting in the office of Departmental Head of the Department with responsibility for that subject matter; or
- (b) in a reference to the Secretary without reference to the Secretary being responsible for a particular subject matter—a person holding or acting in the office of Departmental Head of the Department that is, under the Minister, responsible for the administration of this Act.

(2) Notes in this Act do not form part of the Act.

(3) An example in this Act—

- (a) forms part of the Act; and
- (b) is not exhaustive; and
- (c) may extend, but does not limit, the meaning of the Act or the provision to which it relates.

PART 2 — PLANNING AND DEVELOPMENT CONTROLS

Division 1 — Planning control areas

5 Planning control areas

(1) Each urban community government area (within the meaning of the *Bougainville Community Government Act 2016*) is a planning control area.

- (2) The Bougainville Executive Council may, by notice in the Bougainville Gazette made on the recommendation of the Minister, establish other planning control areas.
- (3) The boundaries of a planning control area established under Subsection (2) must be clearly defined in the notice.
- (4) The Bougainville Executive Council may, by further notice in the Bougainville Gazette made on the recommendation of the Minister, vary or revoke a notice under Subsection (2).

Division 2 — Development plans

6 Development plans

- (1) There is to be a development plan for each planning control area.
- (2) A development plan must specify zones in the planning control area and, for each zone, specify the requirements for a complying development or complying use of land in the zone.
- (3) Without limiting the requirements that may be specified in a development plan, all or specified classes of development or land use may be prohibited in a specified zone.
- (4) There may be land in a planning control area that remains unzoned.
- (5) A development plan may identify trees on land in the planning control area that are required to be preserved.

7 Preparation of draft development plan and consultation

- (1) PAC must prepare a draft development plan for each planning control area.
- (2) If the boundaries of a planning control area are altered, PAC must prepare a draft development plan to be substituted for the development plan for the area.
- (3) PAC may prepare a draft amendment of a development plan or a draft development plan to be substituted for a development plan as it considers appropriate.
- (4) PAC must consult on a draft prepared under this section as follows:
 - (a) PAC must hold a public meeting in the area to which the development plan relates to provide information about the draft and to receive submissions on the draft; and
 - (b) PAC must consult with—
 - (i) the Minister; and

- (ii) the Secretary of each Department that is, in the opinion of PAC, likely to have a particular interest in the matter; and
 - (iii) each statutory body that is, in the opinion of PAC, likely to have a particular interest in the matter.
- (5) PAC may provide information about a draft and invite submissions by other means that it considers most likely to reach interested persons, including through use of radio, the Internet and newspapers.
- (6) An advertisement of a public meeting and any invitation to make submissions on a draft must specify—
 - (a) how a copy of the draft can be obtained or inspected; and
 - (b) how submissions on the draft may be made to PAC; and
 - (c) how a person can receive assistance to make submissions, including assistance to reduce oral submissions to writing; and
 - (d) the date by which submissions must be made.
- (7) A draft prepared under this section must be kept readily available to interested persons in the area to which the draft relates for the period during which submissions may be made.
- (8) After considering all matters raised as a result of consultation, PAC may—
 - (a) decide to approve the draft without modification; or
 - (b) modify the draft and decide to approved the draft as modified; or
 - (c) decide not to proceed with the draft.

8 Making of development plan or amendment

- (1) A draft approved by PAC becomes a development plan or an amendment of a development plan on publication of a notice of the approval in the Bougainville Gazette.
- (2) The notice of approval must—
 - (a) identify any development plan that is to be substituted or amended; and
 - (b) identify the development plan or amendment that is to come into operation or be accompanied by a copy of that development plan or amendment; and
 - (c) fix a day on which the development plan or amendment will come into operation and any substituted development plan will be revoked.

9 Availability and evidence of development plans

- (1) Copies of each development plan, and of any document referred to in a development plan, must be kept available for inspection and purchase by the public during ordinary office hours at an office determined by PAC.
- (2) The charge for copies must not exceed the reasonable administrative cost of producing the copies.
- (3) PAC may make a development plan available on the Internet or by other means as PAC considers appropriate.
- (4) In any legal proceedings, evidence of the contents of a development plan or of a document referred to in a development plan may be given by production of a document certified by the Secretary as a true copy of the development plan or document.
- (5) An apparently genuine document purporting to be a certificate of the Secretary will be accepted as such a certificate in the absence of proof to the contrary.

Division 3 — Complying development or use exemptions

10 Complying development or use exemptions

- (1) PAC may, by notice in the Bougainville Gazette, declare that a planning control area or part of a planning control area is an area in which a planning permission is not required for—
 - (a) a complying development; or
 - (b) a change of use to a complying use.

Note for Subsection (1): In all other cases a planning permission is required for all development and changes of use (whether or not they are complying developments or complying uses) in a planning control area.

- (2) PAC may, by further notice in the Bougainville Gazette vary or revoke a notice under Subsection (1).

PART 3 — OFFENCES

11 Offence—unauthorised development

- (1) A person commits an offence if—
 - (a) the person undertakes development, or causes development to be undertaken, in a planning control area; and

- (b) the development is undertaken other than in accordance with a planning permission.

Maximum penalty: K50,000.

- (2) Subsection (1) does not apply to a complying development in an area in which a planning permission is not required for a complying development.

Note—See Section 10.

12 Offence—unauthorised change of use

- (1) A person commits an offence if—

- (a) the person changes the use of land, or causes the use of land to be changed, in a planning control area; and
- (b) the change of use occurs other than in accordance with a planning permission.

Maximum penalty: K50,000.

- (2) Subsection (1) does not apply if the new use is a complying use in an area in which a planning permission is not required for a change of use to a complying use.

Note—See Section 10.

- (3) The following principles apply to determining whether there has been a **change of use** of land:

- (a) there is a change of use of land if a person starts to use land for a particular purpose;
- (b) Paragraph (a) applies—
 - (i) whether or not the land is already being used for a different particular purpose; and
 - (ii) whether or not the land is to continue to be used for that different particular purpose;
- (c) however—
 - (i) there is no change of use of land if the land was previously used for the same purpose within the previous 2 years; and
 - (ii) the use of land for a particular purpose is to be disregarded if the extent of the use is trifling or insignificant.

13 Offence—unauthorised subdivision or consolidation

- (1) A person commits an offence if—
- (a) the person subdivides or consolidates land in a planning control area; and
 - (b) the subdivision or consolidation occurs other than in accordance with a planning permission.

Maximum penalty: K50,000.

- (2) In this section—

consolidation of land means the consolidation of several lots into a single lot or into a lesser number of lots;

long term lease or other right of occupation means a lease or right that grants exclusive occupation of an area of land—

- (a) for a term longer than 3 years; or
- (b) for a term with a right of renewal such that the aggregate of all terms may be longer than 3 years;

lot means—

- (a) an area of land that is owned separately from other areas of land under custom or under a Bougainville law or a National law that applies in Bougainville; or
- (b) an area of land that is occupied separately from other areas of land under a long term lease or other right of occupation;

subdivision of land means the subdivision of a lot or lots into different lots.

14 Offence—unauthorised lopping or destruction of trees

- (1) A person commits an offence if—
- (a) the person cuts down, tops, lops or destroys trees on land in a planning control area; and
 - (b) the trees are identified as being required to be preserved under the Development Plan for the area; and
 - (c) the action occurs other than in accordance with a planning permission.

Maximum penalty: K50,000.

- (2) A court finding a person guilty of an offence against Subsection (1) may, in addition to or in substitution for a fine, direct the person to plant new trees and maintain the trees to a mature growth.

PART 4 — PLANNING PERMISSIONS

15 Application to PAC for planning permission

- (1) An application for a planning permission—
 - (a) must be made to PAC; and
 - (b) must be in the form required by PAC; and
 - (c) must comply with any requirements of the regulations; and
 - (d) must be accompanied by the fee fixed by the regulations.
- (2) An applicant for a planning permission must provide PAC with any information required by the general manager of PAC in connection with determination of the application.
- (3) If the general manager of PAC so requires, the information must be verified by statutory declaration.

16 Advertisement or referral of application and submissions

- (1) The general manager of PAC may—
 - (a) take action, or direct an applicant to take action, to advertise the details of an application for a planning permission and invite submissions on the application; or
 - (b) refer an application for a planning permission to a public authority or provider of utility services and invite submissions on the application.
- (2) An advertisement of an application for a planning permission must specify—
 - (a) how a copy of the application can be obtained or inspected; and
 - (b) how submissions on the application may be made to PAC; and
 - (c) how a person can receive assistance to make submissions, including assistance to reduce oral submissions to writing; and
 - (d) the date by which submissions must be made.
- (3) The general manager of PAC may, in the officer's discretion, hold a community meeting on or in the vicinity of the land to which an application relates to provide an opportunity for the applicant to explain the proposal and community members to make submissions on the proposal.
- (4) The general manager of PAC must inform PAC of submissions made under this section.
- (5) PAC must consider the submissions in making its decision on the application.

17 Conditions of planning permission

- (1) A planning permission is subject to any conditions specified by PAC in the permission.
- (2) The conditions of a planning permission may be varied by PAC on application.
- (3) The provisions of this Act applying to an application for planning permission apply with any necessary modifications to an application for variation of a condition of a planning permission.

18 Expiry of planning permission

- (1) A planning permission expires after 5 years if, within that time, the development has not commenced or the change of use or authorised activity has not occurred.
- (2) The regulations may specify requirements that must be met for a development to be regarded as having commenced.
- (3) The expiry of a planning permission may be postponed by PAC on application.
- (4) The provisions of this Act applying to an application for planning permission apply with any necessary modifications to an application for postponement of expiry of a planning permission.

19 Principles for determination of planning permission

In deciding whether to give planning permission, PAC must apply the requirements and principles set out in the relevant Development Plan.

20 Principles for certain planning permissions

- (1) This section applies to the following decisions of PAC:
 - (a) whether to give planning permission for a non-complying development;
 - (b) whether to give planning permission for a change to a non-complying use;
 - (c) whether to give planning permission for a subdivision or consolidation of land;
 - (d) the conditions to which a planning permission should be made subject.
- (2) In making a decision to which this section applies, PAC must take into account the following:
 - (a) the effect of the development or use on the environment and how the risk of environmental harm could be minimised;
 - (b) the effect of the development or use on traffic in the area and the capacity of road and public transport systems;

- (c) the effect of the development or use on the amenity of the area, including in terms of the character, location, bulk, scale, size, height and density of the development and in terms of landscaping (in particular compared to developments on adjoining land);
- (d) the requirements of the development or use in terms of water, sewerage, drainage, electricity and telecommunications and the capacity of utility services in the area;
- (e) whether adequate provision is proposed to be made for means of entrance to and exit from the land, loading and unloading and manoeuvring and parking of vehicles, as appropriate to the development or use;
- (f) the social, cultural and economic aspects of the development or use;
- (g) risks to the development or use from flooding, tidal inundation, subsidence, slip, bushfire, earthquake or volcanic eruption.

21 Principles for tree preservation requirements

In making a decision on an application for a planning permission to act contrary to tree preservation requirements specified in a Development Plan and in making a decision about the conditions of such a permission, PAC must consider the following:

- (a) the condition of the trees;
- (b) the nature of the proposal;
- (c) the purpose for seeking permission;
- (d) the extent to which a requirement to plant other trees may be appropriate.

22 Notification to applicant of decision

- (1) If PAC decides not to give planning permission, PAC must cause the applicant for the permission to be informed of—
 - (a) the decision; and
 - (b) the right to apply for review of the decision.
- (2) If PAC decides to give planning permission, PAC must cause the applicant—
 - (a) to be given a copy of the permission; and
 - (b) if the permission is subject to conditions—to be informed of the right to apply for review of the conditions.

23 Review of PAC decision

- (1) An applicant for planning permission has a right to apply to the Administrative Division of the Bougainville Court for review of a decision of PAC not to give planning permission or to give planning permission subject to conditions.

- (2) Subject to this section, an application for review must be lodged with the Bougainville Court within 1 month after the making of the decision to which the application relates.
- (3) PAC must, on application by a person who could apply for review of a decision of PAC, give the person a written statement of the reasons for PAC's decision.
- (4) The time for making an application for review runs from the time when the person receives the written statement of reasons if—
 - (a) a written statement of the reasons for a decision is not given by PAC at the time of making the decision; and
 - (b) the applicant, within 1 month after receiving written notice of the decision, applies to PAC for a written statement of reasons for the decision.

PART 5 — PLANNING ASSESSMENT COMMISSION

Division 1 — Establishment

24 Planning Assessment Commission

- (1) The *Planning Assessment Commission* is established.
- (2) PAC—
 - (a) is a body corporate; and
 - (b) has perpetual succession; and
 - (c) is capable of suing and being sued in its corporate name; and
 - (d) has all the powers of a natural person that are capable of being exercised by a body corporate; and
 - (e) has the functions and powers assigned or conferred by this Act.
- (3) PAC is an instrumentality of the Bougainville Government and holds its property on behalf of the Bougainville Government.

25 Staff—assignment of Public Service officers

- (1) Public Service officers must be assigned to assist PAC in the performance of its functions by the Secretary.
- (2) Before Public Service officers are assigned to assist PAC, the Chief Secretary and the Secretary responsible for the Public Service must be consulted.
- (3) An appointed PAC member has no direct authority over a Public Service officer assisting PAC with respect to the way in which the officer performs official functions or powers.

- (4) One of the Public Service officers assigned to assist PAC must be designated by the Secretary as holding the position of the general manager of PAC.
- (5) The Secretary may designate a person to act in the position of general manager of PAC as the need arises.

26 Compliance with Public Finance Act

- (1) For the *Bougainville Public Finance (Management and Administration) Act 2014*—
 - (a) PAC is a statutory body; and
 - (b) PAC members comprise the controlling body of the statutory body; and
 - (c) the person designated by the Secretary as the general manager of PAC is the general manager of the statutory body; and
 - (d) money appropriated for the purposes of PAC is public money.
- (2) PAC may not borrow or invest money except in accordance with the *Bougainville Public Finance (Management and Administration) Act 2014*.

Division 2 — Membership

27 PAC members

- (1) PAC consists of 6 members as follows:
 - (a) the Chief Secretary;
 - (b) the Secretary;
 - (c) the Secretary for public works;
 - (d) the Secretary for technical services;
 - (e) appointed members as follows:
 - (i) 1 with qualifications, knowledge and experience in economics, commerce or finance (for example in the private business sector);
 - (ii) 1 with qualifications, knowledge and experience in planning, urban design, architecture, building or construction (for example a professional engineer, architect, surveyor, valuer, town planner or lawyer).
- (2) There should be at least 3 female and 3 male members.
- (3) The appointed PAC members are to be appointed by the Minister by notice in the Bougainville Gazette with the consent of the Bougainville Executive Council.

- (4) Before the office of an appointed PAC member is filled, the Secretary must cause—
 - (a) a public invitation for written applications for appointment to the office (setting out the selection criteria) to be issued; and
 - (b) applications received within the time allowed in the invitation to be assessed against the selection criteria on the basis of merit; and
 - (c) a report of the assessment with recommendations for appointment to be prepared and provided to the Minister for submission to the Bougainville Executive Council.
- (5) When a PAC member is appointed, the notice of appointment in the Bougainville Gazette must include the following:
 - (a) a statement of the selection criteria; and
 - (b) a summary of the basis on which the member was selected for appointment; and
 - (c) if the appointment does not accord with the recommendations in the report prepared by the Secretary, an explanation of the reasons for departure from the recommendations.

28 Deputies of ex officio members

- (1) The Chief Secretary, the Secretary, the Secretary for public works and the Secretary for technical services may each appoint a Public Service officer to be a deputy.
- (2) A deputy is—
 - (a) to act in the office of the member in the absence of the member from official duties; and
 - (b) to perform other functions assigned to the deputy by the member (including attending meetings of PAC in the place of the member).
- (3) A deputy has all the functions and powers of the member but must act in accordance with the directions of the member.

29 Terms and conditions of appointment

- (1) Subject to this Act, appointed PAC members are appointed on terms and conditions determined by the Bougainville Executive Council.

- (2) The term of office of an appointed PAC member commences when, following appointment, the member makes, before the Minister, the following declaration of office:

“I [*name of member*] promise that I will well and truly serve the people of Bougainville as a member of the Planning Assessment Commission.”
- (3) An appointed PAC member is appointed for 3 years or such shorter term as is specified in the notice of appointment.
- (4) At the expiration of a term of appointment, an appointed PAC member is eligible for reappointment.
- (5) An appointed PAC member may resign by written notice to the Chief Secretary.
- (6) The Bougainville Executive Council may, by notice in the Bougainville Gazette, remove an appointed PAC member from office—
 - (a) for breach of a condition of appointment; or
 - (b) for misconduct; or
 - (c) for failure or incapacity to carry out official duties satisfactorily.

30 Validity of acts

An act or proceeding of PAC is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

Division 3 — Procedures

31 Procedures of PAC

Subject to this Act, PAC may determine its own procedures.

32 Meetings

- (1) The Chief Secretary is to preside at a meeting of PAC.
- (2) If the Chief Secretary is absent from a meeting, the Secretary is to preside and, if the Secretary is absent from the meeting, a member of PAC chosen by those present is to preside.
- (3) A conference by telephone or other electronic means between the members of PAC is a meeting of PAC at which the participating members are present if—
 - (a) notice of the conference is given to all members in the manner determined by PAC for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.

- (4) A quorum of PAC consists of 3 members.
- (5) No business may be transacted at a meeting unless a quorum is present.

33 Decisions

- (1) A decision carried by a majority of the votes cast by the members present at a meeting of PAC is a decision of PAC.
- (2) Each member present at a meeting of PAC has 1 vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting may exercise a casting vote.
- (3) A proposed resolution of PAC becomes a valid decision of PAC despite the fact that it is not voted on at a meeting of PAC if—
 - (a) notice of the proposed resolution is given to all PAC members in accordance with procedures determined by PAC; and
 - (b) at least 5 of the members express concurrence in the proposed resolution by e-mail or other written communication setting out the terms of the resolution.

34 Records of meetings and decisions

PAC must keep accurate records of its meetings and of each of its decisions.

35 Execution of documents

- (1) A document is duly executed by PAC if the document is signed on behalf of PAC by—
 - (a) the Chief Secretary, the Secretary or the Secretary for public works; and
 - (b) an appointed PAC member.
- (2) If a document appears to be signed as required by Subsection (1), it must be taken, in the absence of proof to the contrary, to have been duly executed by PAC.

36 Conflict of interest

- (1) This section applies if a PAC member—
 - (a) has a direct or indirect financial interest in a matter being considered, or about to be considered, by PAC; or

- (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about a matter being considered, or about to be considered, by PAC.
- (2) The member—
 - (a) must disclose the nature of the interest and how it relates to the matter to the other members; and
 - (b) must not take part in any deliberation or decision about the matter; and
 - (c) must be disregarded for the purpose of constituting a quorum for the deliberation or decision.
- (3) The member need not disclose an interest if—
 - (a) the interest is an interest shared in common with the public generally or a substantial section of the public; or
 - (b) the interest is of a kind exempted from the requirement for disclosure by the regulations.
- (4) The disclosure must be noted in the records of PAC meetings and decisions.
- (5) A failure by the member to disclose an interest in a matter does not, on its own, invalidate a decision of PAC about the matter.

Division 4 — Annual report

37 Annual report

- (1) PAC must, before 31 March in each year, prepare and give to the Minister a report on the performance of its functions during the previous calendar year.
- (2) The Minister must ensure that a copy of the report is tabled in the House of Representatives within 12 sitting days after it is received.

PART 6 — MISCELLANEOUS

38 Offence—false or misleading information

A person commits an offence if the person makes a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided, or records kept, under this Act.

Maximum penalty:

- (a) if the person made the statement knowing that it was false or

misleading—K10,000 and 3 months' imprisonment; or

(b) in any other case—K2000.

39 Delegation by Secretary

- (1) The Secretary may delegate to a Public Service officer a function or power under this Act (other than a function or power excluded from delegation by the regulations).
- (2) A function or power delegated by the Secretary may not be further delegated unless that is expressly allowed by the Secretary.

Note—Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

40 Delegation by General Manager

- (1) The General Manager may delegate to a Public Service officer a function or power under this Act (other than a function or power excluded from delegation by the regulations).
- (2) A function or power delegated by the General Manager may not be further delegated unless that is expressly allowed by the General Manager.

Note—Part II Division 10 of the Interpretation Act 2005 contains provisions relevant to delegations under Bougainville law.

41 Service of applications, notices and other documents

- (1) An application, notice or other document required or authorised to be served or given to PAC under this Act or another Bougainville law may be served or given—
 - (a) by leaving it at, or posting it to, the principal office of PAC; or
 - (b) by a means (such as email) indicated by PAC as being an available means of service (in which case, the application, notice or other document is to be taken to be served or given when it would be received by that means in usual circumstances); or
 - (c) by leaving it with a person who has authority to accept documents on behalf of PAC.
- (2) An order or other document required or authorised to be served on or given to a person by or on behalf of PAC under this Act or another Bougainville law may be served or given—
 - (a) personally; or

- (b) by leaving it with a person apparently over the age of 16 years at, or posting it to, the last residential or business address of the person known to PAC (including, in the case of a body corporate, the registered address of the body corporate); or
- (c) by a means (such as email) indicated by the person as being an available means of service (in which case, the order or other document is to be taken to be served or given when it would be received by that means in usual circumstances); or
- (d) by any means provided for service of the order or document by another Bougainville law or a National law.

42 Protection from civil liability

- (1) Subject to this section, no civil liability attaches to a member of PAC for an act or omission in the exercise or purported exercise of official functions or powers.
- (2) An action that would, but for Subsection (1), lie against a person lies instead against the Bougainville Government.
- (3) This section does not prejudice rights of action of the Bougainville Government in respect of an act or omission of a person not in good faith.

43 Human rights

For Section 180(3) of the Bougainville Constitution, in the opinion of the House of Representatives—

- (a) this is a law restricting human rights in a manner that is reasonably justifiable for the purpose in a democratic society that has a proper regard for the rights and dignity of mankind; and
- (b) the human rights that are restricted are as follows:
 - (i) the right to privacy;
 - (ii) the right to freedom of information;
 - (iii) protection from unjust deprivation of property; and
- (c) the restriction is necessary for the purpose of giving effect to the public interest in public safety, public order and public welfare, as referred to in Section 180(2)(o) of the Bougainville Constitution.

44 Act binds Bougainville Government

This Act binds the Bougainville Government.

45 Regulations

- (1) The Bougainville Executive Council may make such regulations as are contemplated by, or as are necessary or expedient for, this Act.
- (2) The regulations may make provisions of a saving or transitional nature consequent on the making of this Act or an Act that amends this Act.
- (3) A provision of regulations made under Subsection (2) may, if the regulations so provide, take effect from the date of certification of the Act concerned under Section 66 of the Bougainville Constitution or a later date.
- (4) To the extent that a provision takes effect under Subsection (3) from a date earlier than the date of notification of the regulations in the Bougainville Gazette under Section 68 of the *Interpretation Act 2005*, the provision does not operate to the disadvantage of a person by decreasing the person's rights or imposing liabilities on the person.

PART 7 — REPEAL AND TRANSITIONAL PROVISIONS

Division 1 — Repeal

46 Repeal of Physical Planning Act

The *Bougainville Physical Planning Act 2013* is repealed.

Division 2 — Transitional provisions

47 Development plans

- (1) This section applies to the development plans for Arawa and Buin prepared under the *Bougainville Physical Planning Act 2014*.
- (2) PAC may alter the development plans to achieve consistency with this Act.
- (3) The requirements of Part 2 Division 2 for consultation on draft development plans do not apply to the first approval of the development plans under this Act.
- (4) However, before publishing a notice of approval of a development plan for Arawa or Buin under Section 8, PAC must ensure that there has been a reasonable opportunity for public comment on the plan by people resident in the town.

48 Planning permissions

- (1) A planning permission in force immediately before the commencement of this Act continues to have effect as if it had been given under this Act.

- (2) This Act applies to a planning permission continued under Subsection (1) and to any variation of the conditions of the planning permission.

49 Appointed members of Bougainville Board to continue as PAC members

- (1) A person who held office, immediately before the commencement of this Act, as an appointed member of the Bougainville Physical Planning Board is taken to have been appointed as a member of PAC.
- (2) The person holds office as a member of PAC subject to this Act for the remainder of the term for which the person was appointed as a member of the Bougainville Physical Planning Board.