



Australian National Contact Point  
for the OECD Guidelines for Multinational Enterprises

# Update July 2021

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Complaint by Human Rights Law Centre (on behalf of  
affected individuals) regarding Rio Tinto

Published 21 July 2021

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# UPDATE STATEMENT JULY 2021

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1. In September 2020, the Australian National Contact Point (**AusNCP**) received a complaint (**Complaint**) from the Human Rights Law Centre (on behalf of 156 villagers near the Panguna mine in Bougainville, Papua New Guinea) (**Notifiers**) regarding the mining company **Rio Tinto**. The Complaint concerns the OECD Guidelines and alleges serious, ongoing environmental and human rights impacts arising from previous mining operations at the Panguna mine site, which Bougainville Copper Limited, a company that was majority owned by Rio Tinto, used to operate.
2. Since November 2020, the parties have been engaging, through the AusNCP's good offices conciliation processes, and have agreed a public statement reporting on that process. The AusNCP is pleased to contribute to publication of the parties' statement, by providing a copy annexed to this document (**Annex A**).
3. The AusNCP welcomes the progress made by the parties to date under the good offices process.
4. The good offices process is continuing, facilitated by the AusNCP's Independent Examiner. The AusNCP notes the following developments at this stage.
  - 4.1 The parties, through their representatives, have engaged constructively throughout the good offices process. They formally agreed to engage in good faith and in confidence, and have done so.
  - 4.2 The Notifiers provided considerable detail in their Complaint about the alleged environmental and human rights impacts and the communities' concerns regarding the Panguna mine, and the relationship to the OECD Guidelines around responsible business conduct.<sup>1</sup> Rio Tinto made a public statement in November 2020, committing to the AusNCP good offices engagement, acknowledging the deteriorating mining infrastructure and the importance of the OECD Guidelines.<sup>2</sup>
  - 4.3 The parties, and the AusNCP, understand the complexities of resolving the Complaint. The Panguna mine ceased operating in 1989, and there are many important stakeholders involved in decisions and management of the land and resources around Panguna: land-users and owners, communities, governments (including the Autonomous Bougainville Government and the Government of Papua New Guinea), and private sector companies.
  - 4.4 The parties have established preliminary processes and a plan for a committee to progress work on the impacts concerning the Panguna mine, in an accountable and transparent way, and involving other stakeholders. This is explained in the parties' statement.

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<sup>1</sup> Available <https://www.hrlc.org.au/news/2020/9/28/bougainville-communities-file-human-rights-complaint-rio-tinto> (accessed 5 July 2021).

<sup>2</sup> Available <https://www.riotinto.com/en/news/panguna-mine> (accessed 5 July 2021).

- 4.5 The parties' statement demonstrates the agreement and processes for a roadmap to engage with those many issues and stakeholders towards an assessment of the legacy impacts caused by the Panguna mine.
  - 4.6 The parties have undertaken over 13 conciliation meetings, through the AusNCP, from December 2020. The AusNCP meetings have been hosted online, involving representatives in Australia, Bougainville, Canada and the United Kingdom. This engagement has been able to continue despite the impact of the COVID pandemic and its responses. The AusNCP and the parties acknowledge the ongoing impact of the COVID pandemic in Bougainville, including the tragic loss of stakeholder lives. All parties in this process, and the AusNCP, express their sympathy for the family and friends.
  - 4.7 The parties' processes and progress are consistent with the expectations of the OECD Guidelines, and the AusNCP is pleased to continue its good offices process in this matter.
5. This content of this statement was agreed with the parties and the AusNCP Independent Examiner. The statement is available on the [AusNCP website](#).
  6. Enquiries regarding the parties' statement at Annex A should be directed to the parties' respective media contacts.

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Enquiries regarding AusNCP's Update Statement should be directed to the AusNCP Secretariat: Secretariat@ausncp.gov.au; telephone: +61 2 6263 2224.

John Southalan

**Independent Examiner**

**Australian National Contact Point for the OECD Guidelines for Multinational Enterprises**

## ANNEX A: PARTIES' JOINT STATEMENT

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## **Joint Statement by Parties**

*21 July 2021*

Following several months of constructive discussions facilitated by the Australian OECD National Contact Point (AusNCP), Rio Tinto and 156 Bougainville community residents, represented by the Human Rights Law Centre (together, the Parties), have reached an agreement to identify and assess legacy impacts of the Panguna mine on Bougainville.

The Bougainville residents, who come from a number of communities living downstream of the mine, filed a complaint against Rio Tinto with the AusNCP in September 2020, alleging serious adverse environmental and human rights impacts linked to ongoing pollution from the mine, which was formerly operated by Bougainville Copper Limited (BCL), then majority-owned by Rio Tinto.

The Panguna Mine Legacy Impact Assessment (Assessment) will identify and assess actual and potential environmental and human rights impacts and develop recommendations for what needs to be done to address them.

The Assessment will be carried out by an independent third-party company (or consortium), unrelated to Rio Tinto or BCL, with strong environmental and human rights expertise and will involve local and international experts.

The Assessment will be overseen by a multi-stakeholder committee, to be established by the Autonomous Bougainville Government (ABG) and the Parties (Committee). In order to ensure all relevant stakeholders are involved, representatives will be invited to join the Committee from the Independent State of Papua New Guinea (PNG), and BCL, as well as several other landowner and community representatives from the mine-affected areas. The Committee will be chaired by an independent facilitator.

A draft scope for the Assessment and Terms of Reference for the Committee has been prepared by the Parties.

The Assessment will be predominantly funded by Rio Tinto with BCL separately contributing, provided that: broader stakeholders on the Committee endorse the process and proposed methodology of the Assessment; the Assessment can be safely completed; and an appropriate funding mechanism can be agreed. The ABG has confirmed its support for the process.

The Assessment is one of three commitments from Rio Tinto sought by the communities under the complaint to the AusNCP. The complaint also seeks commitments from Rio Tinto to:

- Engage with Panguna mine-affected communities to help find solutions and undertake formal reconciliation as per Bougainvillean custom;
- Contribute to a substantial, independently managed fund, to help address the harms caused by the mine and assist long-term rehabilitation efforts.

Following the conclusion of the Assessment, the Parties and other stakeholders will engage in further discussions in relation to the recommendations made by the Assessment and the remaining commitments sought by the communities.

By independently identifying and assessing environmental and human rights impacts of the Panguna mine, the Parties hope the Assessment will lay the foundation for long-term solutions and would like to express their appreciation to the AusNCP for facilitating the discussions that led to this agreement.