

# **SHARP AGREEMENT**

## **2021**

*Signed on Thursday 13 May, 2021 at Kumul Conference Room, Holiday Inn*



## SHARP AGREEMENT

### *On the Dispensation of Constitutional Requirements Relating to the Process of Transfer of Functions and Powers*

An Agreement proposed at the Sharp Memorial Centre, Arawa, and made today at Port Moresby between the **Government of Papua New Guinea** and the **Autonomous Bougainville Government** to remove impediments to the constitutional process of transfer of functions and powers.

#### **Preamble**

Whereas Section 295 of the National Constitution provides for a process for the transfer of functions and powers from the National Government to the Bougainville Government by which a function or power may be requested by the Bougainville Government to be transferred to it; and

Whereas the pre-requisite steps for initiating the process for transfer of a function or power being for Bougainville to assess its needs and capacity in relation to the function and power; and, for the Bougainville Government to give to the National Government 12 months' notice of its intention to seek the transfer of the function or power; and, for Bougainville to then consult with the National Government concerning the transfer of that function or power; and

Whereas Section 295 of the National Constitution further provides that both Governments may however agree to waive or dispense with those requirements; and

Whereas the Prime Minister of Papua New Guinea has on the occasion of the declaration of the result of the Bougainville Referendum on the 13<sup>th</sup> of December 2019, and on other occasions, declared his Government's commitment to facilitate the transfer to Bougainville of all powers available to Bougainville under Section 290 of the National Constitution; and

Whereas both Governments understand the need also to remove other forms of economic and financial controls which hinder the ability of the Autonomous Bougainville Government to effectively perform its function:

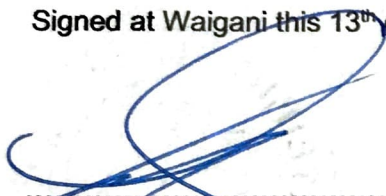
It is now hereby **AGREED** as follows:

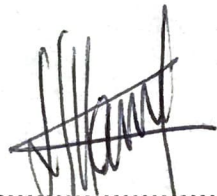
1. This Agreement abrogates the application of the *Memorandum of Understanding between the Government of Papua New Guinea and the Autonomous Bougainville Government on the Overarching Framework for the Transfer of Functions and Powers from the National Government to the Autonomous Bougainville Government Pursuant to the Bougainville Peace Agreement of 2017*;
2. The requirements under Section 295(a) and (b) of the National Constitution relating to the process of transfer of functions and powers available to Bougainville under Section 290 of the National Constitution, irrespective of whether a specific request was made or not by the Bougainville Government since the establishment of the Autonomous Bougainville Government, are dispensed with, effective as of the date of this agreement;
3. The Autonomous Bougainville Government shall, in consultation with the National Government, proceed to develop and continue to implement agreed plans for the transfer of functions and powers for which the Bougainville Government shall become


responsible in accordance with the Bougainville Peace Agreement and Section 3 of the *Organic Law on Peace-Building in Bougainville - Autonomous Bougainville Government and Bougainville Referendum, 2002*;

4. The Autonomous Bougainville Government shall as from this day be at liberty to legislate on any, or all, of those areas or matters under Section 290 in accordance with agreed plans;
5. All outstanding issues of the transfer of a function and power for which notice under Section 295(b) has been given, which includes the signing of inter-agency memorandum of understanding, will continue to be pursued to their completion.
6. All economic and financial controls by the National Government that continue to impede on the ability of the Autonomous Bougainville Government to effectively manage its own revenue collection – whether or not these controls have arisen under agreed plans by the implementing agencies as envisaged by Sections 4, 5, and 39 of the *Organic Law on Peace-Building on Bougainville – Autonomous Bougainville Government and Bougainville Referendum 2002* – shall be reassessed or reviewed by the relevant agencies and have them removed as soon as practicable.

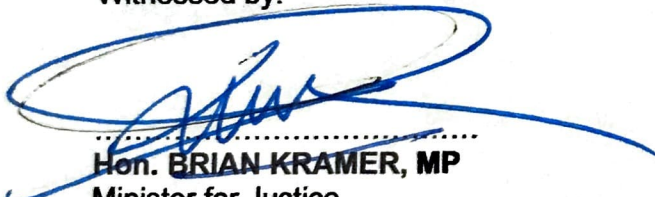
Signed at Waigani this 13<sup>th</sup> day of May 2021.

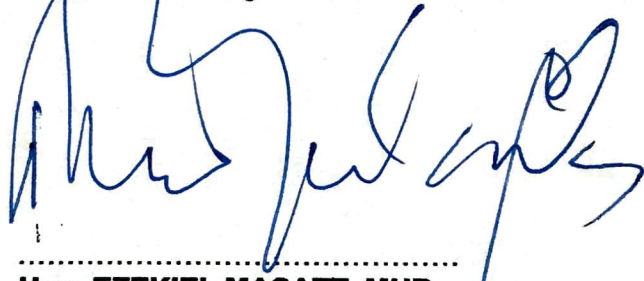
  
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**Hon. JAMES MARAPE, MP**  
Prime Minister  
Government of Papua New Guinea


  
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**Hon. ISHMAEL TOROAMA, MHR**  
President  
Autonomous Bougainville Government



Witnessed by:

  
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**Hon. BRIAN KRAMER, MP**  
Minister for Justice  
Government of Papua New Guinea

  
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**Hon. EZEKIEL MASATT, MHR**  
Attorney General & Minister for Bougainville  
Independence Mission Implementation  
Autonomous Bougainville Government

  
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Villivika  
Bougainville  
A.P.