

LEGAL ANALYSIS MATRIX
for Papua New Guinea Country Safeguard Systems

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Environmental Safeguards Objectives: To ensure the environmental soundness and sustainability of projects and to support the integration of environmental considerations into the project decision-making process</p>			
<p>Key Element³ (1): Ensure the environmental soundness and sustainability of projects</p>	<p>Constitution 1975 [Fourth Directive Principle] 4. Natural resources and environment. <i>We declare our fourth goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.</i> WE ACCORDINGLY CALL FOR— (1) wise use to be made of our natural resources and the environment in and on the land or seabed, in the sea, under the land, and in the air, in the interests of our development and in trust for future generations; and (2) the conservation and replenishment, for the benefit of ourselves and posterity , of the environment and its sacred, scenic, and historical qualities; and (3) all necessary steps to be taken to give adequate protection to our valued birds, animals, fish, insects, plants and trees. Basic Social Obligations.</p>	<p>Full equivalence. At the policy level and at the level of the Environment Act 2000. The Environment Act 2000 provides for EIA in Articles 50-59, but there is no comprehensive implementing EIA Regulation. The Environment (Prescribed Activities) Regulation 2002 specifies and categorizes the activities that are subject to EIA, but does not establish a procedure for EIA to implement EA articles 50-59.</p>	

¹ All text is direct citation from the official versions of the policy documents and legal instruments except where otherwise indicated by annotation. Highlighted text is used to indicate key terms that demonstrate extent of equivalence. Legally-binding provisions are cited first, followed by citations to non-legally-binding policies and guidelines.

² "Full Equivalence" denotes that the national policy documents and legal instruments are in complete harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element thereof. "Partial Equivalence" denotes that the national policy documents and legal instruments are in partial harmony with the corresponding ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element; and "No Equivalence" denotes that no policy provision or legal requirement can be found that corresponds to the particular ADB Safeguard Objective, Scope and Trigger, Policy Principle or Key Element. It is intended that the referenced text of the national policy documents and legal instruments be sufficiently clear to demonstrate the findings of Full Equivalence or No Equivalence without further explanation, except in those instances where an explanation would appear necessary and is given. A finding of Partial Equivalence normally requires the explanation provided. In some cases, there may be full equivalence for one issue, but only partial equivalence or no equivalence for one or more of the other issues governed by a particular legal instrument. In such cases, the degree of equivalence for each issue is indicated.

³ The SPS sets forth Objectives, Scope and Triggers, and Policy Principles for each ADB Safeguard (Environment, Involuntary Resettlement and Indigenous Peoples). In this matrix, some of the Policy Principles are further subdivided into "key elements" to facilitate the analysis where a particular Policy Principle is compound in nature. Distinctive aspects of each element may be highlighted in **bold** font.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>WE HEREBY DECLARE that all persons in our country have the following basic obligations to themselves and their descendants, to each other, and to the Nation:— ... (d) to protect Papua New Guinea and to safeguard the national wealth, resources and environment in the interests not only of the present generation but also of future generations;...</p> <p>Organic Law on Provincial Governments and Local-level Governments 1998 (OLPGLLG) Art. 117. NATIONAL ECONOMIC AND FISCAL COMMISSION. (8) In addition to the functions as defined by Section 187H(1) of the Constitution, the Commission shall perform the following functions:— (a) in relation to economic and fiscal matters, shall—... (v) carry out cost and benefit analysis on the development of all natural resources and the impact of such development on the national development and make such analysis available to the National Executive Council;...</p> <p>Environment Act No. 64 of 2000 (EA) Preamble Being an Act to provide for and give effect to the National Goals and Directive Principles and in particular – (a) to provide for protection of the environment in accordance with the Fourth National Goal and Directive Principle (National Resources and Environment) of the Constitution; and (b) to regulate the environment impacts of development activities in order to promote sustainable development of the environment and the economic, social and physical well-being of people by safeguarding the life-supporting capacity of air, water, soil and ecosystems for present and future generations and avoiding, remedying and mitigating any adverse effects of activities on the environment;...</p> <p>EA Art. 4 OBJECTS. The objects of this Act are – ... (e) to avoid, remedy or mitigate any adverse effects of activities on the environment by regulating in an integrated, cost-effective and systematic manner, activities, products, substances and services that cause environmental harm; and (f) to require persons engaged in activities which have a harmful effect on the environment progressively to reduce or mitigate the impact of those effects as such reductions and mitigation become practicable through technology and economic developments;...</p>	<p>DEC reports that its internal Operational Manual does establish a procedure to implement EA articles 50-59, but this document was not available for review.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>EA Art 5. MATTERS OF NATIONAL IMPORTANCE. All persons exercising powers and functions under this Act shall recognise and provide for the following matters of national importance:- (a) the preservation of Papua New Guinea traditional social structures; and (b) the maintenance of sources of clean water and subsistence food sources to enable those Papua New Guineans who depend upon them to maintain their traditional lifestyles; and (c) the protection of areas of significant biological diversity and the habitats of rare, unique or endangered species; and (d) the recognition of the role of land-owners in decision-making about the development of the resources on their land; and (e) responsible and sustainable economic development.</p> <p>EA Art 7. GENERAL ENVIRONMENT DUTY. (1) A person shall not carry out an activity that causes or is likely to cause an environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the environmental harm.</p> <p>Investment Promotion Act 1992 consolidated to No 3 of 2004 Article 1. Purposes of Act. The purposes of this Act are:— ... (ea)[sic] to monitor the impact of investment and the activities of enterprises;...</p> <p>Article 3. Interpretation. "investment" means every kind of asset subject to the laws of Papua New Guinea and includes— ... (e) business and analogous concessions conferred by law, including concessions to search for, cultivate, extract or exploit natural resources;...</p> <p><u>Policy Documents and Guidelines – Not legally binding</u> The National Strategic Plan 2010-2050 (NSP) 3.8.6 The National Strategic Plan expects the <i>Government to achieve by 2015</i> the following outcomes if “<i>our environmental management systems and practices are sustainable and world’s best</i>”:</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments ¹	(C) Extent of Equivalence ² Review comments	(D) Recommendations
	<p>3.8.6.1 Sound policy and legal framework for sustainable management of natural resources;</p> <p>3.8.6.2 Sound institutional framework for sustainable management of natural resources;</p> <p>3.8.6.3 World class education, research and training framework for sustainable management of natural resources.</p> <p>Papua New Guinea Development Strategic Plan 2010-2030 (PNG DSP) 1.1. The broad objectives of the PNG DSP, 2010-2030 vi. Environment and climate change The PNG DSP will be pursued with consideration to environmental issues such that the health of the environment will not be compromised. Strategies under the extractive sectors as well as energy sectors are designed to be pursued with clear consideration for environment sustainability as well as addressing the issues of climate change in ways that best suit PNG's developmental needs.</p> <p>PNG DSP section 9.4 Monitoring and evaluation framework Impact assessments and ex post evaluations Ongoing impact assessments, with beneficiary participation, and ex post evaluations of specific projects and programmes will supplement monitoring of the PNG DSP. Evaluations will strive to identify a traceable "results chain" from inputs through to impacts...and also clearly identify external and internal factors that contribute to the success or failure of a project or programme, and make recommendations for improvement.</p> <p>Papua New Guinea Medium Term Development Plan 2011-2015 (PNG MTDP) Section 8.3 Monitoring and evaluation within DNPM Periodic impact assessments, with various stakeholders, and post completion reviews of specific projects and programmes will be carried out to identify a traceable "result chain" from inputs through to impacts of each project and programme.</p> <p>Electricity Management Committee (EMC) Guideline, July 2008 Section 8.3 Strategic orientation ...(e) Environmentally sound projects: It should be the objective of the government to keep the environment intact in all operations in the electricity industry. Projects that are friendly to both the human and natural environment enable the government to achieve this objective. The health and well being of the human environment should never ever</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments ¹	(C) Extent of Equivalence ² Review comments	(D) Recommendations
	<p>be compromised or traded-off for any other gains. Projects and operations that feature control measures on disturbances or damages to the natural environment may enable the government to reach a better trade-off between keeping the health of the natural environment and advancing economic gains or achieving other objectives of the government for the industry. These will be assessed rigorously by the government.</p>		
<p>Key Element (2): Support the integration of environmental considerations into the project decision-making process</p>	<p>EA Art. 4. OBJECTS. The objects of this Act are – ...(d) to ensure that proper weight is given to both long-term and short-term social, economic, environmental and equity considerations in deciding all matters relating to environmental management, protection, restoration and enhancement;...</p> <p>EA Art. 6. HOW THE OBJECT OF THIS ACT IS TO BE ACHIEVED. (1) The protection of Papua New Guinea’s environment is to be achieved by a process of setting environmental objectives and providing the means to encourage and ensure their observance. (2) The process described in Subsection (1) is to be achieved by – ...(d) requiring proposed activities involving matters of national importance to undergo a process of public and detailed consideration of environmental implications through a process of environmental impact assessment;...</p> <p>Policy Documents – Not legally binding EIP Section 4.2.1 Environment and Safety Regulation The technical regulator will enforce environmental and safety regulation in the electricity industry as an added component to its technical regulatory functions. This function will be carried out in close consultation with the Department responsible for general environmental regulation – the Department of Environment and Conservation (DEC).</p> <p>National Biodiversity Strategy and Action Plan 2007 (NBSAP) Section 6. In situ and Ex situ Biodiversity Conservation Objectives ...• Linking development activities and EIA (application of EIA for resource management) Activities ...• Strengthening the EIA process through training</p>	<p>Full equivalence. At the policy level, the NBSAP specifically promotes linking and integrating impact assessment and other environmental safeguards into decision-making.</p> <p>At the level of legislation/regulations, reading EA articles 5(b)-(e) and 6(2)(d) together, activities that involve water resources, land and the natural resources found on land, biodiversity, and responsible and sustainable economic development (all matters of national importance) must go through EIA, including public consultation.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<ul style="list-style-type: none"> • Strengthen EIA through the implementation of the Environment Act 2000 <p>Section 7. Measures of sustainability in Biodiversity use and incentives and alternatives</p> <p>Objectives</p> <ul style="list-style-type: none"> • Develop mechanisms to incorporate biodiversity values into National Accounting and decision making at different levels of government... • Create an integrated system of incentives and disincentives at the National and local level to encourage the conservation and sustainable use of biodiversity... <p>Activities</p> <ul style="list-style-type: none"> • Develop, document, and adopt standardised criteria and methodologies for economic valuation of biodiversity, tailored to the requirements of individual decision-making agencies... <p>Section 8. Education and Public Awareness</p> <p>Objectives</p> <ul style="list-style-type: none"> ...• Ensure that development personnel, land-use planners, aid agencies and the national and provincial planning authorities have access to information about biodiversity.... 		
Scope and Triggers: Environmental safeguards are triggered if a project is likely to have potential environmental risks and impacts.			
	<p>EA 46. RESTRAINT ON APPROVAL BY OTHER AUTHORITIES.</p> <p>(1) Other governmental authorities shall be restrained from issuing permits or licenses for level 2 or level 3 activities (other than existing activities) which would authorize the holder to carry out an activity which would cause environmental harm where to do so would be a breach of this Act until an environment permit in relation to the activity has been granted in accordance with this Act....</p> <p>(3) Where a person applies for another kind of approval in respect of a level 2 or 3 activity, under the provisions of other legislation, the other governmental authority shall refer the application to the Director.</p> <p>EA Art. 50. NOTICE TO UNDERTAKE ENVIRONMENTAL IMPACT ASSESSMENT.</p> <p>(1) Where the Director receives a notification of intention to carry out preparatory work in relation to a proposed level 3 activity, he shall serve</p>	Full equivalence.	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>a notice on the proponent named in the notification requiring the proponent to undertake an environmental impact assessment in relation to the proposed activity.</p> <p>(2) Where a proposed level 2 activity –</p> <p>(a) involves an industrial or manufacturing process which has not previously been used in Papua New Guinea; or</p> <p>(b) is specifically the subject of obligations under any international treaty, convention or instrument to which Papua New Guinea has ratified; or</p> <p>(c) which poses a threat of serious environmental harm, the Minister may, on recommendation of the Council, determine that the activity relates to matters of national importance and require the Director to serve a notice on the proponent requiring him to undertake environmental impact assessment in relation to the proposed activity.</p> <p>Environment (Prescribed Activities) Regulation 2002 (EPAR) Schedule 1 lists Level 2 activities Schedule 2 lists Level 3 activities</p> <p>Notification of Preparatory Work on Level-2 and Level-3 Activities (NPW) W2004 The entire Notification deals with identifying potential environmental risks and impacts.</p> <p>Policy Document – Not legally binding ion May 2010 (EIP) Appendix B Institutional Roles in Policy Implementation Conducting Environment Impact Assessment Electrification projects and activities that will entail a significant environment impact will require an Environment Impact Assessment (EIA). All electrification activities that will require an EIA will seek approval of the Department of Environment and Conservation (DEC).</p>		
Policy Principle 1:	Use a screening process for each proposed project, as early as possible, to determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.		
Key element (1): Screen as early as possible	EA Art. 48. REGISTRATION OF INTENTION TO CARRY OUT PREPARATORY WORK. (1) A person who – (a) proposes to carry out a level 2 or level 3 activity; or (b) proposes to change the nature of a level 2 activity such that it	Full equivalence. Assuming that registration of intent to carry out preparatory work is intended to be the screening phase of EIA, the EA does require screening a specified	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>becomes a level 3 activity, shall, in writing, register that intention with the Director at least one month prior to commencing any preparatory work in relation to the proposed activity.</p> <p>NPW The entire Notification deals with screening to identify the level of potential environmental risks and impacts.</p> <p>Guideline – Not legally binding EMC Guideline Section 10.7 Stage 2. Project Vetting, Appraisal and Feasibility Assessment for Verification (a) The Secretariat immediately begins to check and verify the submission in terms of its relevance and coherence to a checklist of district and provincial plans, industry relevance, sustainability and impacts, etc. Where there is insufficient information, the Manager of the EMC Secretariat communicates with the proponent to fill the required information;...</p>	<p>period in advance of beginning an activity.</p>	
<p>Key element (2):</p> <p>Determine the appropriate extent and type of environmental assessment so that appropriate studies are undertaken commensurate with the significance of potential impacts and risks.</p>	<p>EA Art. 52. INCEPTION REPORT. (1) Prior to submitting an environmental impact statement, a proponent must submit an inception report listing the issues to be covered by the environmental impact statement.</p> <p>Policy Document – Not legally binding PNG MTDP Section 5.6 Environment The formulation of an environmentally sustainable economic growth policy is thus essential to ensure appropriate levels of impact assessment are conducted.</p>	<p>Full equivalence. At the policy level, the need for two different levels of environmental assessment is recognized.</p> <p>In what has become the international standard for EIA practice, “initial environmental examination” follows screening.</p> <p>Assuming that the “inception report” required under EA Art. 52 is equivalent to “initial environmental examination” in the standard EIA process, these two levels of environmental assessment are provided for in the EA.</p>	
<p>Policy Principle 2: Conduct an environmental assessment for each proposed project to identify potential direct, indirect, cumulative, and induced impacts and risks to physical, biological, socioeconomic (including impacts on livelihood through environmental media, health and safety, vulnerable groups, and gender issues), and physical cultural resources in the context of the project’s area of influence. Assess potential trans-boundary and global impacts, including climate change. Use strategic environmental assessment where appropriate.</p>			

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Key element (1):</p> <p>Identify indirect as well as direct impacts</p>	<p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT</p> <p>Social Environment</p> <p>...Issues that may arise within and outside of the project area should be identified including whether this is a direct or indirect outcome of the physical, biological or socio-economic effects of the proposed development activity.</p>	<p>Partial equivalence.</p> <p>The EA does not refer to indirect impacts.</p> <p>The EIA/EIS refers to indirect outcomes of effects of the proposed activity.</p>	<p>To achieve full equivalence:</p> <p>Amend EA Art. 51(1)(b) to specifically require identification of indirect impacts:</p> <p>(b) submission of an environmental impact statement in accordance with Section 53 that sets out the following with respect to the proposed activity in the project's area of influence:</p> <p>(i) the physical and biological environmental impacts;</p> <p>(ii) the indirect, induced and cumulative environmental impacts;</p> <p>(iii) the social and socio-economic impacts;</p> <p>(iv) the impacts on physical cultural resources;</p> <p>(v) an assessment of potential trans-boundary impacts;</p> <p>(vi) an assessment of potential global impacts, including climate change;</p> <p>(vii) alternatives, including the no-project alternative, to the project's location, design, technology and components and their potential environmental and social impacts, and provide the rationale for</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			each alternative proposed;...
<p>Key element (2):</p> <p>Identify cumulative impacts</p>	<p>EPAR Art. 5. AMALGAMATION OF PERMIT APPLICATIONS. Where an activity involves two or more categories of Level 2 or Level 3 activity or both, an application for a permit in relation to that activity shall identify all the categories of Level 2 or Level 3 activity that are relevant to the application.</p> <p>Environment (Permits) Regulation 2002 (EPR) Art. 17. SINGLE APPLICATIONS The Director may accept a single application for a permit from an applicant for – (a) different activities carried out by the applicant; or (b) activities carried out by the applicant at different places.</p> <p>Policy Document – Not legally binding Climate-compatible development for Papua New Guinea, 2nd draft, March 2010 (CCD PNG) Section 3d. Capturing the opportunities: Priorities and next steps ...The impact of decisions taken now on land use, energy mix, transport and LNG infrastructure are cumulative, so starting abatement activities early would increase their overall impact.</p>	<p>Partial equivalence. EPAR regulates permit applications and provides for consolidating permit applications, but does not regulate the EIA process.</p> <p>For Level 3 activities, permit applications can only be submitted once the EIA has been completed and accepted (see EA Art. 62), which means that it possible that separate EIAs may be done without taking cumulative impacts into account.</p> <p>Under EPR Art. 17, the Director has discretion to accept a single permit application for two or more activities, but there is no reference to cumulative impacts. There is no mechanism in the EA or the regulations for identifying, for example, Level 1 activities that might have a cumulative effect equivalent to or even greater than a Level 2 or 3 activity.</p> <p>Because registration of preparatory work does not apply to a Level 1 activity and because the inception report phase of the EIA process is not regulated (see Policy Principle 1, Key Elements 1 and 2), there is potential that cumulative impacts will not be captured by the EIA process.</p>	<p>To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).</p>
Key element (3)	No corresponding policy provision or legal requirement.	No equivalence.	To achieve full

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Identify induced impacts			equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).
Key element (4) Identify physical impacts	<p>EA Art. 51. ENVIRONMENTAL IMPACT ASSESSMENT. (1) An environmental impact assessment shall involve the following:-... (b) submission of an environmental impact statement in accordance with Section 53 setting out the physical and social environmental impacts which are likely to result from the carrying out of the activity</p> <p>EA Art. 61. ACCEPTANCE OF APPLICATIONS. Subject to Section 62, where the Director is satisfied that an application for a permit contains an adequate description of the nature and extent of physical and social environmental impacts which are likely to result from the carrying out of the proposed activity, he may accept the application.</p> <p>Guideline for Preparation of Environmental Inception Report, DEC Publication: GL-Env/01/2004, 1st January 2004 (EIR) CONTENT OF THE ENVIRONMENTAL INCEPTION REPORT The applicant should provide detail answers to all areas below that are relevant to the particular proposal. 1. Introduction. ...Provide description of the activity and anticipated bio-physical and socioeconomic impacts as well as potential benefits to be derived from the project... 6. Bio-physical Environmental Issues. Provide details of both on and off-site bio-physical environmental issues relating to the proposed activity and the mitigatory measures. For physical environment, cover -</p> <ul style="list-style-type: none"> ▪ Air emission, ▪ Water extraction and wastewater discharge, ▪ Land contamination, solid waste disposal, etc., ▪ Noise emission.... <p>Guideline for Conduct of Environmental Impact Assessment & Preparation of Environmental Impact Statement, DEC Publication: GL-Env/02/2004, 1st January 2004 (EIA/EIS)</p>	Full equivalence.	See the Recommendation for Policy Principle 2, Key element (1), above.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT ...Physical Environment Provide details on the existing physical environment including data on ambient environmental quality of various segments of the environment. Information provided in this sub-section shall include but not limited to the following -</p> <ul style="list-style-type: none"> ▪ geomorphological, topographical and geological characteristics, ▪ any natural or induced hazard in the area (e.g. flood, earthquake, volcanic zone, etc.), ▪ climatic regime (e.g. rainfall, temperature, etc.), ▪ air quality and meteorological data set for air dispersion modeling, etc., ▪ seasonal surface water quality and hydrological information, ▪ seasonal ground water quality and flow regime, ▪ noise levels. 		
<p>Key element (5) Identify biological impacts</p>	<p>EIR CONTENT OF THE ENVIRONMENTAL INCEPTION REPORT The applicant should provide detail answers to all areas below that are relevant to the particular proposal. 1. Introduction. ...Provide description of the activity and anticipated bio-physical and socioeconomic impacts as well as potential benefits to be derived from the project.... 6. Bio-physical Environmental Issues. Provide details of both on and off-site bio-physical environmental issues relating to the proposed activity and the mitigatory measures.... For biological environment cover -</p> <ul style="list-style-type: none"> ▪ Flora (vegetation clearance), ▪ Fauna (displacement of fauna, impacts, etc.) <p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT ...Biological Environment Detail information should be provided on the existing biological environment and shall include but not limited to the following details -</p> <ul style="list-style-type: none"> ▪ presence of a protected area (Conservation Area or Wildlife Management Area), if any, ▪ details of any special purpose areas (e.g., wetland area, etc.), ▪ aquatic and terrestrial ecology of the area, ▪ information on vulnerable (endangered) species, 	<p>Full equivalence.</p>	<p>See recommended amendment to EA Art. 51(1)(b), Policy Principle 2, Key element (1).</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<ul style="list-style-type: none"> ▪ other relevant biological information. <p>International Trade (Fauna and Flora) Act 2003 Section 13B. Importation. (74) (1) A person shall not import a living exotic specimen without the written approval of the Management Authority. (2) The Management Authority shall not give written approval in respect of a living exotic specimen unless— (a) where the specimen is imported for use as a biological control agent—the Management Authority has assessed the likely impact of the importation of the specimen on other species of fauna or flora that are naturally occurring in Papua New Guinea and is satisfied that in all the circumstances the importation of the specimen is justified; or (b) in any other case—the Management Authority has assessed the risks associated with the proposed importation of the specimen and considers that the importation of the specimen will not be detrimental to the survival of other native species.</p> <p>International Trade (Fauna and Flora) Regulation 2008 Section 6. Refusal to issue authorizations. (1) The Management Authority may refuse to issue an authorization— ... (f) where the Management Authority considers that the issue of the Authorization would be detrimental to the conservation of the natural environment of Papua New Guinea or the survival of any species of fauna or flora in Papua New Guinea;...</p>		
<p>Key element (6)</p> <p>Identify socioeconomic impacts (including on livelihood through environmental health and safety, vulnerable groups, and gender issues)</p>	<p>EA Art. 4. OBJECTS. The objects of this Act are —... (d) to ensure that proper weight is given to both long-term and short-term social, economic, environmental and equity considerations in deciding all matters relating to environmental management, protection, restoration and enhancement; ...</p> <p>EA Art. 51. ENVIRONMENTAL IMPACT ASSESSMENT. (1) An environmental impact assessment shall involve the following:- (a) submission of an inception report in accordance with Section 52 setting out the issues to be covered in the environmental impact statement; (b) submission of an environmental impact statement in accordance with Section 53 setting out the physical and social environmental impacts which are likely to result from the carrying out of the activity</p>	<p>Full equivalence.</p>	<p>See the Recommendation for Policy Principle 2, Key element (1), above.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>EA Art. 61. ACCEPTANCE OF APPLICATIONS. Subject to Section 62, where the Director is satisfied that an application for a permit contains an adequate description of the nature and extent of physical and social environmental impacts which are likely to result from the carrying out of the proposed activity, he may accept the application.</p> <p>EIR CONTENT OF THE ENVIRONMENTAL INCEPTION REPORT The applicant should provide detail answers to all areas below that are relevant to the particular proposal.</p> <p>1. Introduction. ...Provide description of the activity and anticipated bio-physical and socioeconomic impacts as well as potential benefits to be derived from the project.</p> <p>Section 7. Socio-Economic Issues. Provide details of all socio-economic issues and their mitigatory measures. At this planning stage of the proposed activity, certain aspects that need to be identified now and then covered more fully in the Environmental Impact Assessment process and documented in the subsequent Environmental Impact Statement are –</p> <ul style="list-style-type: none"> ▪ delineation of project impact area, ▪ distinguish differing levels of impact within the project area, ▪ define the different “local community” groups that may be affected by the project and should be included in the consultation/negotiation process (e.g., “land/resource owners” versus “downstream” communities). <p>For ease of differentiation, these socio-economic impacts should be separated into two distinct groups (Group A & Group B) to make it clear which impacts will occur as a direct or indirect result of the project. This also assists in the delineation of what mitigative measures can be reasonably addressed under a DEC approval and what areas are the responsibilities of other levels of Government (i.e., National, Provincial and Local Level Governments).</p> <p>Group (A) Impacts Group (A) impacts are those that can be identified and addressed by the DEC approval process. They arise directly from adverse impacts upon the biophysical environment as caused by the development.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>Some of these issues include but not limited to -</p> <ul style="list-style-type: none"> ▪ degradation in air or water quality, ▪ increased noise levels, ▪ land contamination, ▪ loss of food sources, ▪ habitat loss, etc. <p>Group (B) Impacts <i>Group (B)</i> impacts are secondary socio-economic effects that are reasonably expected to manifest themselves and are normally best handled by the responsible National, Provincial or Local Level Government agencies.</p> <p>Examples of these issues are -</p> <ul style="list-style-type: none"> ▪ social structure ▪ law and order, ▪ migration and population issues, ▪ inadequate infrastructure concerns, ▪ historical and cultural issues, etc. <p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT ...Social Environment This sub-section deals with the existing social structure and socio-economic data on the resource/land owners, Local Level Government, the Province and PNG as a whole. Issues that may arise within and outside of the project area should be identified including whether this is a direct or indirect outcome of the physical, biological or socio-economic effects of the proposed development activity. The outcome of the Social Impact Assessment process is the Social Impact Statement, which is included in this section of the Environmental Impact Statement that is submitted to DEC for assessment. Information provided in this sub-section shall include but not limited to the following details -</p> <ul style="list-style-type: none"> ▪ demographic information, ▪ information on existing infrastructure, ▪ information on public health issues (if applicable), ▪ information on present economic status of the project area, ▪ description of existing social services, ▪ details of archaeological, historical, cultural or religious features 		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	of the project area under consideration, etc.		
<p>Key element (7)</p> <p>Identify impacts on physical cultural resources</p>	<p>Constitution 1975 [Fourth Directive Principle] 4. Natural resources and environment. ...WE ACCORDINGLY CALL FOR—... ...(2) the conservation and replenishment, for the benefit of ourselves and posterity, of the environment and its sacred, scenic, and historical qualities;...</p> <p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT Social Environment This sub-section deals with the existing social structure and socio-economic data on the resource/land owners, Local Level Government, the Province and PNG as a whole.... Information provided in this sub-section shall include but not limited to the following details -... <ul style="list-style-type: none"> ▪ details of archaeological, historical, cultural or religious features of the project area under consideration, etc. </p> <p>Natural Cultural Property (Preservation) Act 1965 Art. 7. COMPULSORY ACQUISITION OF IMMOVABLES. The purpose of this Act and of the preservation of and protection of national cultural property generally is a public purpose within the meaning of the Land Act 1996. Art. 9. DESTROYING NATIONAL CULTURAL PROPERTY. (1) A person who, without lawful and reasonable excuse (proof of which is on him) wilfully destroys, damages or defaces any national cultural property, is guilty of an offence. (2) A person who, by force, threats, fraud, misrepresentation, undue influence or in any other manner, obtains the destruction, damaging, defacing, confiscation or yielding up of any national cultural property is guilty of an offence.</p>	<p>Full equivalence.</p>	<p>Also see the recommendation for Policy Principle 2, Key element (1).</p>
<p>Key element (8)</p> <p>Identify impacts in the context of the project's area of influence</p>	<p>EIA/EIS Section 6. CHARACTERISTICS OF THE RECEIVING ENVIRONMENT Social Environment ...Issues that may arise within and outside of the project area should be identified including whether this is a direct or indirect outcome of the physical, biological or socio-economic effects of the proposed</p>	<p>Partial equivalence. The EA does not refer to impacts in a project's area of influence. The EIA/EIS calls for identifying social issues that may arise outside of the project area.</p>	<p>To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	development activity.		
Key element (9) Assess potential trans-boundary impacts	No corresponding policy provision or legal requirement.	No equivalence.	To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).
Key element (10) Assess potential global impacts, including climate change	No corresponding policy provision or legal requirement.	No equivalence.	To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).
Key element (11) Use strategic environmental assessment where appropriate	No corresponding legal requirement. Policy Document – Not legally binding PNG DSP 2010-2030 Section 1.1. The broad objectives of the PNG DSP, 2010-2030 vi. Environment and climate change The <i>PNG DSP</i> will be pursued with consideration to environmental issues such that the health of the environment will not be compromised. Strategies under the extractive sectors as well as energy sectors are designed to be pursued with clear consideration for environment sustainability as well as addressing the issues of climate change in ways that best suit PNG's developmental needs.	No equivalence. At the policy level, the PNG DSP provides the basis for adopting strategic environmental assessment, but there is no legal requirement for its use.	To achieve full equivalence, amend the EA to define SEA and to require its use, specifying what it applies to, responsibilities for carrying it out, minimum requirements, and procedures for review and approval.
Policy Principle 3. Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts and document the rationale for selecting the particular alternative proposed. Also consider the no project alternative.			

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Key element (1):</p> <p>Examine alternatives to the project's location, design, technology, and components and their potential environmental and social impacts</p>	<p>EA Art 7. GENERAL ENVIRONMENT DUTY. ... (2) In determining what measures are required under Subsection (1) regard shall be given to the following matters:-... <i>(d) the likelihood of successful application of the different measures that might be taken;</i> and <i>(e) the financial implications of the different measures as they would relate to the type of activity.</i></p> <p>EIR Section 9. Site Selection. Provide details if alternative sites were considered and why and how the proposed site was chosen.</p> <p>EIA/EIS Section 7. WASTE MINIMISATION, CLEANER PRODUCTION AND ENERGY BALANCE Information detailed in this section should include consideration of options associated with waste minimisation, cleaner production and energy balance and the ability of the proponent to employ these strategies in its proposed activity. Detail information to be covered in this section shall include but not limited to -</p> <ul style="list-style-type: none"> ▪ details of other alternative “cleaner production” technologies or processes that has been considered, ▪ information on the basis for choosing the proposed technology or process, ▪ available technical background on the process chosen, ▪ details of the Waste Minimisation Strategy developed for the proposal, ▪ details of an “energy balance” for the proposal. 	<p>Partial equivalence. Examining alternatives is required at the level of a general obligation, but is not further regulated in the EA, in particular with respect to location, technology, or other project alternatives.</p> <p>Under the EIR, consideration of alternatives for project sites is discretionary. The EIA/EIS requires details of alternative technologies. Neither guideline specifically requires consideration of alternatives to individual project components.</p>	<p>To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).</p>
<p>Key element (2):</p> <p>Document the rationale for selecting the particular alternative proposed</p>	<p>EA Art. 59. MINISTER MAY GRANT APPROVAL IN PRINCIPLE. ... (2) A decision of the Minister under Subsection (1)(a) or (b) <i>shall be in writing and shall give reasons for the decision.</i></p>	<p>Partial equivalence. EA Art. 59(2) read together with EA Art. 7(2)(d)-(e) can be interpreted to require decisions of the Minister to provide written justification for selecting a particular alternative in approving an EIA.</p> <p>It would be preferable for the EA to specifically require identification of alternatives as part of the EIA process and to require documentation of</p>	<p>To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
		selection of alternatives in approving an EIA.	
<p>Key element (3):</p> <p>Also consider the no project alternative</p>	<p>EA Art. 59. MINISTER MAY GRANT APPROVAL IN PRINCIPLE. (1) Subject to this section, where the Minister has received a recommendation from the Council under Section 58 in relation to the proposed activity, he shall within 28 days of such receipt, either – (a) issue an approval in principle for the activity; or (b) in any other circumstance - refuse to approve the activity....</p> <p>Conservation Areas Act 1978 (CAA) Art. 34. APPROVAL MAY BE GRANTED. (1) The Minister may, after considering– (a) the application [for development approval] together with all material lodged under Section 32; and... (d) the impact or likely impact of the proposed development or alteration on the environment of the conservation area or of the area in respect of which a notice of recommendation under Section 12(1) has been given;... approve the application, or approve the application subject to conditions, or refuse to approve the application.</p>	<p>Partial equivalence. The EA does not identify the no-project alternative as an option of the EIA process. Under EA Art. 59(3), the Minister's refusal to approve an activity – which could be interpreted as a “no-project alternative” – immediately triggers EA Art. 24 and a Working Committee of the Environment Council is created to provide advice. The EPR does not specify a procedure to be followed once the Working Committee provides its advice. . DEC confirms that it has an internal administrative procedure that is followed once the Working Committee provides its advice.</p> <p>The CAA is similar to the EA in that it does not provide for a no-project alternative, nor does it provide for review or appeal of a decision by the Minister.</p>	<p>To achieve full equivalence, amend EA Art. 51(1)(b) as recommended for Policy Principle 2, Key element (1).</p>
<p>Operational Principle 4: Avoid, and where avoidance is not possible, minimize, mitigate, and/or offset adverse impacts and enhance positive impacts by means of environmental planning and management. Prepare an environmental management plan (EMP) that includes the proposed mitigation measures, environmental monitoring and reporting requirements, related institutional or organizational arrangements, capacity development and training measures, implementation schedule, cost estimates, and performance indicators. Key considerations for EMP preparation include mitigation of potential adverse impacts to the level of no significant harm to third parties, and the polluter pays principle.</p>			
<p>Key element (1):</p> <p>Avoid adverse impacts where possible</p>	<p>EA Art. 4 OBJECTS. The objects of this Act are – ...(e) to avoid, remedy or mitigate any adverse effects of activities on the environment by regulating in an integrated, cost-effective and systematic manner, activities, products, substances and services that cause environmental harm;</p> <p>EA Art. 7. GENERAL ENVIRONMENT DUTY.</p>	<p>Full equivalence.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	(1) A person shall not carry out an activity that causes or is likely to cause an environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the environmental harm.		
<p>Key element (2):</p> <p>Where avoidance is not possible, minimize and/or, mitigate adverse impacts to the level of no significant harm to third parties</p>	<p>EA Art. 1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS. ... (3) For the purpose of Section 53(1) of the Constitution – (a) purposes and the reason for which this Act permits – (i) protection of the environment from environmental harm; and (ii) control, prevention and minimisation of the contamination of the environment; and (b) the purposes specified in Section 85(1), are hereby declared to be public purposes and further required for a reason that is reasonably justified in a democratic society that has a proper regard for the rights and dignity of mankind, that is so declared and so described for the purposes of Section 53 of the Constitution. EA Art. 85. ACQUISITION OF LAND. (1) The following are declared to be public purposes for purposes of Section 53(1)(protection from unjust deprivation of property) of the Constitution and of the Land Act –... (c) construction of works for the generation of hydro-electric power; and (d) conveyance of water or electricity;... EA Art. 4 OBJECTS. The objects of this Act are – ... (e) to avoid, remedy or mitigate any adverse effects of activities on the environment by regulating in an integrated, cost-effective and systematic manner, activities, products, substances and services that cause environmental harm; EA Art. 65. CRITERIA FOR GRANT AND CONDITIONS OF PERMIT. (1) Subject to this section and Section 66, the Director may grant a permit where he is satisfied that – (a) the activity which is the subject of the permit will be carried out in a manner which is consistent with all relevant Environmental Policies and the Regulations; and (b) all reasonable steps will be taken to minimise any risk of environmental harm as a result of the activity; and (c) the activity will not contravene any relevant environmental obligation under any international treaty, convention or instrument to which Papua New Guinea is a party and which has been ratified by the Parliament or</p>	<p>Full equivalence. The definition of “permit” in EA Art. 1, read together with EA Art. 65, EA Art. 78, and EA Art. 82(d)(i), includes permits for works to generate and distribute hydro-electric power.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>any law of Papua New Guinea; and (d) the applicant will abide by the conditions of the permit.</p> <p>EA Art. 78. INTERPRETATION. In this Part, unless the contrary intention appears, “permit” means a permit containing conditions that authorize the permit holder to – (a) dam a river or stream; or (b) divert water; or... (f) take or use water; ...</p> <p>EA Art. 82. RIGHTS CONFERRED BY PERMIT RELATING TO WATER USE. Subject to any prescribed conditions or conditions endorsed on it, a permit confers on the holder for the purposes for which it was granted and in the area of land specified in the permit –... (a) subject to the Electricity Industry Act (Ch 78) the right to operate and maintain the works constructed in pursuance of Paragraph (b) for – (i) the generation and distribution of hydro electric power;...</p> <p><u>Policy Document – Not legally binding</u> PNG MTDP Section 5.6 Environment DSP 2030 deliverables, 2011-2015 Impact assessment conducted and sustainable development approach taken to minimise long term environmental damages</p>		
<p>Key element (3):</p> <p>Offset adverse impacts</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>To achieve full equivalence:</p> <ol style="list-style-type: none"> Amend EA Art.65(1)(b) as follows: (b) all reasonable steps will be taken to minimise any risk of environmental harm as a result of the activity, including offsetting adverse impacts and enhancing positive impacts; and... Amend EA Art. 66 to specify that certain conditions are required

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			<p>for all permits while other conditions may be imposed on a case-by-case basis.</p> <p>Non-negotiable conditions that should be required for all permits are:</p> <ol style="list-style-type: none"> 1. the taking of certain action to avoid adverse impacts where possible, minimise and/or mitigate adverse impacts that cannot be avoided, offset adverse impacts, and enhance positive impacts; 2. preparation and carrying out of an environmental management programme; 3. provision of reports on any matter specified by the Director; 4. undertaking a monitoring programme and an environmental audit or investigation at periodic intervals and developing and implementing the indicated corrective actions; 5. provision of information reasonably required by the Director for the administration and enforcement of the Act. <p>These are adapted from</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			<p>EA Art. 66(1)(b)(d)(g)(h)(i).</p> <p>Conditions that may be required on a case-by-case basis are:</p> <ol style="list-style-type: none"> 1. installation and operation of certain plant or equipment within a certain time; 2. at the cost of the permit holder, installation of monitoring equipment, carrying out a specified monitoring programme and reporting on its progress; 3. submission for approval and carrying out of an Environmental Improvement Plan; 4. preparation and lodgement of a plan for emergency response in relation to accidental release of contaminants or risk of other emergency; 5. lodgement of an environmental bond consistent with requirements established under Section 103; 6. conducting baseline studies or surveys and reporting the results prior to commencing operations; 7. rehabilitation of the affected area.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			<p>These are the provisions in EA Art. 66(1)(a)(c)(f)(h)(j)(k)(l).</p> <p>If the recommendation for Scope and Triggers is accepted, the EMP will be an environmental and social management plan (ESMP).</p>
<p>Key element (4)</p> <p>Enhance positive impacts</p>	<p>No corresponding policy provision or legal requirement.</p>	<p>No equivalence.</p>	<p>To achieve full equivalence, amend EA Art. 65(1)(b) and Art. 66(1) as recommended for Operational Principle 4, Key element (3).</p>
<p>Key element (5):</p> <p>Prepare an environmental management plan (EMP) that includes the proposed mitigation measures</p>	<p>EA Art. 6. HOW THE OBJECT OF THIS ACT IS TO BE ACHIEVED.</p> <p>(1) The protection of Papua New Guinea’s environment is to be achieved by a process of setting environmental objectives and providing the means to encourage and ensure their observance.</p> <p>(2) The process described in Subsection (1) is to be achieved by – ... (c) applying the environmental objectives to level 2 and level 3 activities by means of conditions in environment permits, and the negotiation of environmental improvement plans and environmental management programmes; ...</p> <p>EA Art. 4. NOTICE OF REQUIREMENT TO APPLY FOR PERMIT.</p> <p>(1) A person who is required to apply for a permit pursuant to a notice issued or served under Section 45(1) or (2) of the Act, shall where required by the Director, lodge an environmental improvement plan in accordance with Section 75 of the Act.</p> <p>(2) The Director upon requiring a person to lodge an environmental improvement plan under Subsection (1), shall not accept the person’s application for a permit unless the person lodges an environmental improvement plan required of him.</p> <p>EA Art. 66. CONDITIONS OF PERMITS.</p> <p>(1) A permit may be issued subject to such conditions the Director</p>	<p>Partial equivalence.</p> <p>There is a fundamental inconsistency in the EA with respect to environmental management programmes and environmental improvement plans.</p> <p>According to the definition in EA Art. 2, an “environmental management programme” (EMP) is equivalent to the “environmental management plan” generally required as part of the EIA process.</p> <p>“Environmental improvement plans” (EIP) as defined in EA Art. 2 are transitional, for activities that were saved under the transitional provisions of the EA.</p> <p>EA Art. 66 differentiates between EMPs [clause (d)] and EIPs [clause</p>	<p>To achieve full equivalence:</p> <ol style="list-style-type: none"> 1. Review all references in the EA and the EPR to EIPs and EMPs and rationalize the use of the terms with respect to the purpose of EMPs and EIPs and the use of the terms in the text of the EA and the EPR. 2. Amend EA Art. 66 to as recommended for Operational Principle 4, Key element (3).

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>conditions necessary or desirable, including but not limited to conditions containing requirements to do all or any of the following –</p> <p>... (d) preparation and carrying out an environmental management programme;</p> <p>... (2) In issuing a permit and fixing conditions, the Director shall ensure that the permit will require compliance with all relevant Environment Policies except where –...</p> <p>(d) compliance with the approved environmental improvement plan is a condition of the permit.</p> <p>EA Art. 75. ENVIRONMENTAL IMPROVEMENT PLANS.</p> <p>(1) The Director may require a person to submit an environmental improvement plan setting out the steps by which it is proposed that an activity carried out by that person will achieve compliance with an Environment Policy, the Regulations or a standard or requirement imposed under this Act.</p> <p>EPR Art. 4. NOTICE OF REQUIREMENT TO APPLY FOR PERMIT.</p> <p>(1) A person who is required to apply for a permit pursuant to a notice issued or served under Section 45(1) or (2) of the Act, shall where required by the Director, lodge an environmental improvement plan in accordance with Section 75 of the Act.</p> <p>(2) The Director upon requiring a person to lodge an environmental improvement plan under Subsection (1), shall not accept the person's application for a permit unless the person lodges an <i>environmental improvement plan</i> required of him.</p> <p>EIA/EIS Section 8. ENVIRONMENTAL MANAGEMENT, MONITORING AND REPORTING</p> <p>Sufficient information on this section of the Environmental Impact Statement should be provided to enable DEC to anticipate possible environmental management, monitoring and reporting requirements for an Environment Permit.</p> <p>Information listed should reflect the proponent's environmental policy (environment management system) and the translation of that policy to meet the requirements under this Section and Section 7 (POTENTIAL IMPACTS OF PROPOSAL) during different stages in the project life, from construction to decommissioning and closure.</p> <p>Information detailed in this section shall include but not limited to the following -</p> <ul style="list-style-type: none"> ▪ details of information on plant operating conditions, including 	<p>(f)], but there is no article in the EA requiring submission of EMPs, while Art. 75 sets out detailed requirements for submission of EIPs.</p> <p>The EA sets out requirements for EIPs, but not for EMPs which, by definition, are more comprehensive. The EA contains more than 30 references to EIPs and only 3 references to EMPs.</p> <p>To be consistent with international best practice, EMPs should be prepared before a new project can receive a permit or, at the latest, before it begins implementation.</p> <p>DEC confirms that the preparation of an EMP is the subject of an ongoing dialogue between the proponent and DEC, during which DEC advises the proponent on what is required and when and how long it will take to assess the EMP before it is approved. The time frame for submission of an EMP varies depending on the nature of the project, keeping in mind the potential environmental harm associated with the project. This is briefly dealt with in the Operational Manual, which was not available for review.</p> <p>According to the EA definition, EIPs should have been prepared for projects that were ongoing at the time the EA came into force and should be prepared whenever there is a transition to a new environmental policy. There could also be a</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<ul style="list-style-type: none"> management and monitoring strategy, ▪ information on socio-economic management and monitoring strategy, ▪ mechanism and frequency for reporting monitoring results to DEC and other stakeholders, especially to directly affected stakeholder groups, ▪ availability of contingency and/or emergency plans drawn up for the proposal, ▪ details of Environment Improvement Plan, ▪ details of Waste Minimisation and/or Management Plans, ▪ information on potential rehabilitation issues and its strategies including Rehabilitation Plan. 	<p>requirement to prepare EIPs on the basis of recommendations in the reports of environmental audits or investigations.</p> <p>The EIA/EIS specifically refers only to the environment improvement plan, but not to the environment management programme.</p>	
<p>Key element (6):</p> <p>Prepare an environmental management plan (EMP) that includes the proposed monitoring requirements</p>	<p>EA Art. 66. CONDITIONS OF PERMITS. (1) A permit may be issued subject to such conditions the Director considers are necessary or desirable, including but not limited to conditions containing requirements to do all or any of the following – ... (g) undertaking an audit at periodic intervals;...</p> <p>EA Art. 74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS. (1) The Director may – (a) engage a person to conduct; or (b) direct a person to commission in relation to an activity the person is carrying out, an environmental audit or investigation and report on it to the Director within a specified time.</p> <p><u>Policy Document – Not legally binding</u> DSP 2010-2030 9.4 Monitoring and evaluation framework <i>Impact assessments and ex post evaluations</i> Ongoing impact assessments, with beneficiary participation, and <i>ex post</i> evaluations of specific projects and programmes will supplement monitoring of the <i>PNG DSP</i>. Evaluations will strive to identify a traceable “results chain” from inputs through to impacts as shown in figure 9B, and also clearly identify external and internal factors that contribute to the success or failure of a project or programme, and make recommendations for improvement.</p>	<p>Partial equivalence. Under the EA, environmental audits are at the discretion of the Director. The EA does not explicitly require monitoring as part of an EMP or EIP.</p> <p>DEC confirms that although it is not required in the EA or specified in the Operational Manual, in practice monitoring of the EMP is always a condition of the Environment Permit.</p>	<p>See Operational Principle 4, Key element (5).</p> <p>To achieve full equivalence, amend EA Art. 74 to make environmental audits and investigations mandatory: 74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS. (1) The Director shall– (a) engage a person to conduct; or (b) direct a person to commission in relation to an activity the person is carrying out, environmental audits or investigations and report on them to the Director within a specified time....</p>
<p>Key element (7):</p>	<p>EA Art. 66. CONDITIONS OF PERMITS. (1) A permit may be issued subject to such conditions the Director</p>	<p>Partial equivalence. The EA makes reporting requirements</p>	<p>See Operational Principle 4, Key element (5).</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Prepare an environmental management plan (EMP) that includes the proposed reporting requirements	considered are necessary or desirable, including but not limited to conditions containing requirements to do all or any of the following – ... <i>(k)</i> conducting baseline studies or surveys and <i>reporting</i> the results prior to commencing operations;... (3) Operational Procedures may specify the manner and form of any information or <i>report</i> required to be submitted under a condition fixed in accordance with this section.	discretionary, and does not explicitly require that reporting requirements are to be included in the EMP/environmental improvement plan. The EPR does not specify minimum requirements for an EMP/ environmental improvement plan. DEC confirms that although reporting is not mandatory under the EA, nor specified in the Operational Manual, in actual practice it is always a condition of an Environment Permit.	
Key element (8): Prepare an environmental management plan (EMP) that includes related institutional or organizational arrangements	No corresponding policy provision or legal requirement.	No equivalence.	See Operational Principle 4, Key Element (5).
Key element (9): Prepare an environmental management plan (EMP) that includes related capacity development and training measures	No corresponding policy provision or legal requirement.	No equivalence.	See Operational Principle 4, Key Element (5).
Key element	No corresponding policy provision or legal requirement.	No equivalence.	See Operational Principle

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
(10): Prepare an environmental management plan (EMP) that includes an implementation schedule .			4, Key Element (5).
Key element (11): Prepare an environmental management plan (EMP) that includes cost estimates .	No corresponding policy provision or legal requirement.	No equivalence.	See Operational Principle 4, Key Element (5).
Key element (12): Prepare an environmental management plan (EMP) that includes performance indicators	No corresponding policy provision or legal requirement.	No equivalence.	See Operational Principle 4, Key Element (5).
Key element (13): Consider the polluter pays principle in environmental management planning	EA Art. 9. RESPONSIBILITY FOR ENVIRONMENTAL HARM. (1) Subject to Subsection (2), a person who causes environmental harm is responsible for the environmental harm. (2) Where environmental harm is caused or threatened at any place used in connection with an industrial or commercial activity, the occupier or person who is in effective control of activities carried out at that place shall be responsible for the environmental harm or threatened environmental harm except where – (a) the environmental harm or threatened environmental harm occurs as	Full equivalence.	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	a result of force majeure or accident; and (b) the occupier or person in effective control of activities at the place took all reasonable and practicable measures to prevent or minimise the harm.		
<p>Policy Principle 5: Carry out meaningful consultation with affected people and facilitate their informed participation. Ensure women's participation in consultation. Involve stakeholders, including affected people and concerned nongovernment organizations, early in the project preparation process and ensure that their views and concerns are made known to and understood by decision makers and taken into account. Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment. Establish a grievance redress mechanism to receive and facilitate resolution of the affected people's concerns and grievances regarding the project's environmental performance.</p>			
<p>Key element (1):</p> <p>Carry out meaningful consultation with affected people and facilitate their informed participation.</p>	<p>Constitution 1975 [Second National Goal and Directive Principles] Equality and participation <i>We declare our second goal to be for all citizens to have an equal opportunity to participate in, and benefit from, the development of our country.</i> WE ACCORDINGLY CALL FOR— ...(6) the maximization of the number of citizens participating in every aspect of development; ...</p> <p>[Fifth National Goal and Directive Principles] Papua New Guinean ways <i>We declare our fifth goal to be to achieve development primarily through the use of Papua New Guinean forms of social, political and economic organization.</i> WE ACCORDINGLY CALL FOR— (1) a fundamental re-orientation of our attitudes and the institutions of government, commerce, education and religion towards Papua New Guinean forms of participation, consultation, and consensus, and a continuous renewal of the responsiveness of these institutions to the needs and attitudes of the People; ...</p> <p>EA Art. 4. OBJECTS. The objects of this Act are – ...<i>(i)</i> to regulate activities which may have a harmful effect on the environment in an open and transparent manner and ensure that consultation occurs in relation to decisions under this Act with persons and bodies who are likely to be affected by them;...</p>	<p>Full equivalence.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>EA Art. 55. PUBLIC REVIEW AND SUBMISSIONS. (1) The Director shall cause – (a) any information provided in compliance with a requirement under Section 54(2)(a) to (d) inclusive; or (b) any environmental impact statement submitted under this Division, to be made available for public review and shall determine the period within which, the extent to which and the manner in which governmental authorities or persons may make submissions to the Director or the Council in respect of that information or report.</p> <p>EPR Art. 11. CONFERENCE OF INTERESTED PARTIES. (1) The Director – (a) upon receiving an objection in relation to an application for a permit which is not a frivolous, vexatious or irrelevant objection; and (b) is of the opinion that there is a real risk that serious environmental harm may result from the carrying out of the proposed activity, may convene a conference within 21 days of the expiry of the period for making written representations under Section 10(1) and require the applicant to make a presentation regarding its application at that conference and invite any person who has submitted a representation to discuss the application. (2) A conference convened under Subsection (1) shall be held at a location convenient to the site where the proposed activity is planned to be carried out unless the Director approves an alternative location.</p> <p><u>Policy Documents – Not legally binding</u> NSP 2010-2050 Section 3.5.6 “Population, Citizen Participation, Total GDP, Total GDP Per Capita, GDP’s for Agriculture, Forestry, Fisheries and Eco-Tourism” will be the indicators used to monitor and evaluate the progress of the National Strategic Plan regionally and nationally (Table 2).</p> <p>EIP Section 4.4.5 Participation by Landowners Electricity service providers have the scope to establish arrangements that seek participation from the landowners. The Government will facilitate all arrangements that are aimed at involving participation from the landowners in ventures with IPPs. Such participation can harness and draw the benefits from the industry to the landowners, and ascertain appropriate level of their involvement in business partnerships for enhanced security and reliability of electricity services in the industry.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Key element (2): facilitate [the] informed participation [of affected people]</p>	<p>Constitution 1975 [Second National Goal and Directive Principles] Equality and participation (9) every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community; EA Art. 4. OBJECTS. The objects of this Act are –... (i) to regulate activities which may have a harmful effect on the environment in an open and transparent manner and ensure that consultation occurs in relation to decisions under this Act with persons and bodies who are likely to be affected by them; ...</p> <p>EA Art. 18. OBJECTS OF THE COUNCIL. In carrying out its powers and functions under this Act, the Council shall pursue the following objectives:-... (c) maximising Papua New Guinean participation in the wise use and development of the environment.</p> <p>EA Art. 51. ENVIRONMENTAL IMPACT ASSESSMENT. (1) An environmental impact assessment shall involve the following:-... (c) assessment and public review of the environmental impact statement in accordance with Sections 54 and 55;...</p> <p>EA Art. 54. ASSESSMENT. (4) The Director may for the purposes of assessing a proposed activity under this section –... (b) call a conference of interested persons to discuss the application; or... (d) appoint a committee to conduct a public inquiry and report its findings to the Director; or (e) take any or all of the courses of action set out in Paragraphs (a), (b), (c) and (d) inclusive or take such other investigations and inquiries as he thinks fit.</p> <p>EA Art 55. PUBLIC REVIEW AND SUBMISSIONS. (1) The Director shall cause – (a) any information provided in compliance with a requirement under Section 54(2)(a) to (d) inclusive; or (b) any environmental impact statement submitted under this Division,</p>	<p>Full equivalence.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>to be made available for public review and shall determine the period within which, the extent to which and the manner in which governmental authorities or persons may make submissions to the Director or the Council in respect of that information or report.</p> <p>(2) The Director may give directions to the proponent requiring the proponent to –</p> <p>(a) at his expense and to the satisfaction of the Director, make copies of any information or statement and advertise its availability for public review; and</p> <p>(b) provide copies of that information or statement to such public authorities and persons and members of the public as the Director determines, at such price (if any) as the Director determines; and</p> <p>(c) make a public presentation to persons who are likely to be affected by the carrying out of the activity.</p> <p>(3) For the purposes of complying with this section, the Director may require the proponent to submit a proposed programme of public review for approval by him.</p> <p>(4) The proponent may meet the cost of persons (including persons representing the Director) attending a public presentation in relation to the proposed activity, but the fact that a proponent has met such costs shall not place any obligation on a person to form a particular view of the proposal.</p> <p>(5) Where any information relating to a manufacturing or industrial process or trade secret used in carrying on or operating any particular undertaking or equipment or information of a business or financial nature in relation to the proposed activity which is confidential to the applicant (in this section called “the confidential information”) is contained in any statement or report which is to be made available for public review under this section, the Director shall, before causing the statement or report to be made available for public review under Subsection (1), exclude the confidential information from that statement or report.</p> <p>(6) The Director may, at any time prior to accepting the environmental impact statement, refer any issues raised during the assessment and public review of the environmental impact statement back to the proponent and require the statement to be amended to address those issues.</p> <p>EPR Art. 10. NOTIFICATION OF APPLICATIONS.</p> <p>(1) Subject to Subsection (2) and (3), the Director shall upon acceptance of an application for a permit pursuant to Section 61 of the Act, within 28 days, publish a notice in a newspaper circulating nationally and a radio –</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>broadcasting service (if any) which serves the province where the proposed activity is planned to be carried out, advising that any interested person may –</p> <p>(a) make written representations to the Director and furnish a copy of them to both the Director and the applicant within 21 days of the date of publication of the notice; and</p> <p>(b) view the application at such nominated places on payment of a prescribed fee.</p>		
<p>Key element (3):</p> <p>Ensure women's participation in consultation.</p>	<p>Constitution 1975 [Second National Goal and Directive Principles] Equality and participation (5) equal participation by women citizens in all political, economic, social and religious activities;...</p> <p>EA Art. 4. OBJECTS. The objects of this Act are –...</p> <p>(d) to ensure that proper weight is given to both long-term and short-term social, economic, environmental and equity considerations in deciding all matters relating to environmental management, protection, restoration and enhancement; and...</p> <p>(g) to allocate the costs of environmental protection and restoration equitably and in a manner that encourages responsible use of, and reduced harm to, the environment;...</p>	<p>Full equivalence. At the constitutional level.</p> <p>Partial equivalence. At the level of the EA. The objectives of the EA include equity, but there is no explicit requirement to ensure women's participation in consultation.</p>	<p>To achieve full equivalence, amend EA Art. 55 as follows: 55. PUBLIC REVIEW AND SUBMISSIONS. (1) The Director shall cause – ... (b) any environmental impact statement submitted under this Division, <i>together with the corresponding environmental management programme to be submitted under Division 4</i>, to be made available for public review at a place accessible to all stakeholders and in a form and language understandable to all stakeholders, and shall determine, in a manner which is consistent with all relevant Environment Policies and the Regulation, the period within which, the extent to which and the manner in which governmental</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			<p>authorities and persons may make submissions to the Director or the Council in respect of that information or <i>environmental impact statement and environmental management programme. The Director shall facilitate the participation of all affected persons, including in particular women and members of vulnerable groups, in public review of environmental impact statements.</i></p> <p>This recommendation includes the provisions that need to be amended to achieve full equivalence with Policy Principle 6, Key element (1).</p>
<p>Key element (4):</p> <p>Involve stakeholders, including affected people and concerned nongovernment organizations</p>	<p>Constitution 1975 [Second National Goal and Directive Principles] Equality and participation</p> <p>(7) active steps to be taken to facilitate the organization and legal recognition of all groups engaging in development activities;</p>	<p>Partial equivalence.</p> <p>EA Art. 55 on Public Review requires the participation of “persons”. EA Art. 2. INTERPRETATION, defines “person” to mean an individual or a corporation. If NGOs are registered in PNG as cooperative societies under the Co-operative Societies Act 1982, then under the definition of “person” in that Act – “person” includes a society and corporation not being a society when that corporation is approved by the Registrar’ – it is possible that some NGOs are “persons” for the</p>	<p>See the Recommendation for Policy Principle 5, Key element (3).</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
		purposes of the EA.	
Key element (5): Involve stakeholders early in the project preparation process	EA Art. 50. NOTICE TO UNDERTAKE ENVIRONMENTAL IMPACT ASSESSMENT. ... (3) A notice under Subsections (1) and (2) must be served within the time fixed by the Director in the Operational Procedures.	Partial equivalence. The time at which stakeholders are involved in the project preparation process is at the discretion of the Director.	The Operational Procedures were not available for review.
Key element (6): Ensure that stakeholder views and concerns are made known to and understood by decision makers and taken into account.	EA Art. 57. REFERRAL TO COUNCIL. Where the Director has accepted an environmental impact statement, he shall within 14 days of the date of acceptance refer the environmental impact statement to the Council together with –... (b) any public submissions and other information, in relation to the proposed activity. EA Art. 58. COUNCIL'S RECOMMENDATION. (1) Subject to this section, where the Council has received a referral under Section 57, it shall consider the statement, assessment report and any public submissions , reports and other information on the proposed activity and shall within 90 days –... accept the environmental impact statement and make a recommendation to the Minister to approve the proposed activity in principle and specify the conditions to which the proposed activity should be subject if it is approved; or (b) refuse to accept the environmental impact statement and advise the proponent to amend the statement and resubmit it to the Director. (2) In making a recommendation to the Minister, the Council shall have regard to –... (k) any public submission made, and views expressed at a presentation, hearing or conference; and... (o) public interest in the proposed activity.	Full equivalence.	
Key element (7):	EA Art. 2. INTERPRETATION. ...“environmental audit or investigation” means a periodic documented	Partial equivalence. The EA provides for environmental	To achieve full equivalence, amend the

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Continue consultations with stakeholders throughout project implementation as necessary to address issues related to environmental assessment</p>	<p>evaluation of an activity which provides information on compliance and determines ways in which the carrying out of the activity may be improved to protect the environment;...</p> <p>EA Art. 74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS. (1) The Director may – (a) engage a person to conduct; or (b) direct a person to commission in relation to an activity the person is carrying out, an environmental audit or investigation and report on it to the Director within a specified time.... (5) The Regulations may prescribe – (a) the circumstance in which the public should have access to the results of an audit or investigation;...</p>	<p>audits during project implementation at the discretion of the Director, but does not require stakeholder consultation during the audits – only that stakeholders have access to the results.</p>	<p>definition of “environmental audit or investigation” in EA Art. 2 as follows: ...“environmental audit or investigation” means a periodic documented evaluation of an activity, which <i>includes consultation with stakeholders</i> and provides information on compliance and determines ways in which the carrying out of the activity may be improved to protect the environment;...</p>
<p>Key element (8):</p> <p>Establish a grievance redress mechanism to receive and facilitate resolution of the affected people’s concerns and grievances regarding the project’s environmental performance.</p>	<p>EA Art. 68. REVIEW OF DIRECTOR’S DECISIONS. (1) A person who is dissatisfied with a decision of the Director under this Act in relation to an application made by that person or in relation to an activity carried on by that person may apply for a review of the decision by the Council.... (4) Where a person who was a party to a review before the Council is dissatisfied with a decision of the Council in relation to the review, he may appeal to the National Court on a question of law within 28 days of the Council’s decision.</p> <p>Environment (Council's Procedure) Regulation 2002 Art. 10. APPLICATION FOR REVIEW OF DIRECTOR’S DECISION. An application for the review of a decision of the Director under Section 68 of the Act shall be in Form 1 of the Schedule.</p> <p>Art. 11. PROCEDURE FOR DETERMINING APPLICATION. (1) The Director shall, as soon as practicable after receiving an application for the review of a decision of the Director under Section 68(2) of the Act– (a) give a copy each of the application referred to in Subsection (1) to each member of the Council; and (b) place a copy of the application referred to in Subsection (1) on the</p>	<p>No equivalence. EA Art. 68 provides for review of decisions to approve projects, but not for redress of grievances concerning environmental performance once a project has started.</p> <p>The EAA does not repeal EA Art. 68, but EAA Art. 69A, 69B, and 87A-87D remove all possibility of judicial review of decisions concerning authorizations and exemptions.</p>	<p>To achieve full equivalence, repeal the EAA and amend EA Art. 74 to add a new clause (8) as follows: EA Art. 74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS. ...; (8) The Director shall establish a mechanism to redress grievances arising from the environmental and social performance of activities being carried out under a valid permit, regardless of whether such grievances are identified during the course of an environmental audit or</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>register.</p> <p>(2) The Council shall, at its next meeting after the Director has received an application for review referred to under Subsection (1), proceed to determine the application.</p> <p>(3) The Director may make representations in writing or in person to the Council as to the basis on which the Directors decision was made, but shall not otherwise take part in the determination of the application.</p> <p>(4) Where the Council is of the opinion that the applicant should be given an opportunity to make representations to the Council in person, it shall adjourn the determination of the application and notify the applicant of a time and place where the applicant may make representations to the Council.</p> <p>(5) A determination by the Council under Section 68 of the Act shall be in Form 2 of the Schedule and shall be registered on the register.</p> <p>Environment (Amendment) Act 2010 (EAA) Art. 69A. DIRECTOR MAY AUTHORIZE ASSOCIATED ACTS ... (3) The Director's decision to grant an authorization is final and may not be challenged or reviewed in any court or tribunal.</p> <p>EAA Art. 69B. ACTIVITY DOES NOT CONSTITUTE A CIVIL CAUSE OF ACTION OR AN OFFENCE. If the Director grants an authorization under Section 69A, the holder of the permit for the associated activity is entitles to carry out that act, or work and the carrying out of that act, work or activity does not constitute a civil cause of action, whether in torts or otherwise, or an offence and is not unlawful.</p> <p>Art. 87A. DIRECTOR MAY GRANT EXEMPTION CERTIFICATE ... (3)...an Exemption Certificate is conclusive evidence in any proceeding that an Exempt Operation was authorized by the Authorisation Instrument at the time at which it occurred. (4) The Director's decision to issue the Exemption Certificate is final and may not be challenged or reviewed in any court or tribunal.</p> <p>Art. 87B. DIRECTOR MAY ISSUE BEST PRACTICE CERTIFICATE ... (3)...a Best Practice Certificate issued in accordance with this section shall be conclusive evidence that the conduct or methodology specified in the Best Practice Certificate meets or would meet that standard or requirement in relation to the Autorisation Instrument specified in the Best Practice Certificate.</p>		<p>investigation.</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>(4) The Director's decision to issue the Best Practice Certificate is final and may not be challenged or reviewed in any court or tribunal, except at the instigation of any aggrieved holder of an Authorisation Instrument.</p> <p>DIRECTOR MAY ISSUE A CERTIFICATE OF NECESSARY CONSEQUENCE ... (3) a Certificate of Necessary Consequence issued in accordance with this section shall be considered evidence that: (a) the undertaking of the conduct or proposed project referred to in the certificate is, was or will be necessary or inevitable in order to carry out the work or activity that is authorized by the Authorisation Instrument; and (b) the consequences referred to in the certificate in the respect of that conduct, proposed conduct, work or activity are, were or will be necessary or inevitable consequences of carrying out that conduct, proposed conduct, work or activity.</p> <p>(4) The Director's decision to issue the Certificate of Necessary Consequence is final and may not be challenged or reviewed or [sic] any court or tribunal, except all [sic] the instigation of an aggrieved holder of an Authorisation Instrument.</p> <p>(5) The carrying out of a conduct or proposed conduct, or the occurring of consequences, referred to in a Certificate of Necessary Consequence do not constitute wholly or partly a civil cause of action, whether in torts or otherwise, or an offence and are not unlawful.</p> <p>Art. 87D. A DIRECTOR MAY ISSUE A CERTIFICATE OF COMPLIANCE ... (3) A Certificate of Compliance issued in accordance with this section shall be conclusive evidence that the act, work or activity has been conducted in compliance with the related Authorisation Instrument or Supplementary Approval or an environment permit and no civil or other action may be brought or maintained in relation to that conduct.</p> <p>(4) The Director's decision to issue a Certificate of Compliance is final any [sic] may not to [sic] challenged or reviewed in any court or tribunal, except at the instigation of an aggrieved holder of an Authorisation Instrument.</p> <p>(5) The carrying out of any act, work or activity that is the subject of a Certificate of Compliance does not constitute wholly or partly a civil cause of action, whether in torts or otherwise, an offence and is not unlawful.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Policy Principle 6: Disclose a draft environmental assessment (including the EMP) in a timely manner, before project appraisal, in an accessible place and in a form and language(s) understandable to affected people and other stakeholders. Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders.			
Key element (1): Disclose a draft environmental assessment including the EMP	<p>EA Art. 55. PUBLIC REVIEW AND SUBMISSIONS. (1) The Director shall cause – ... (b) any environmental impact statement submitted under this Division, to be made available for public review and shall determine the period within which, the extent to which and the manner in which governmental authorities or persons may make submissions to the Director or the Council in respect of that information or report.</p> <p>EIA/EIS Section 8. ENVIRONMENTAL MANAGEMENT, MONITORING AND REPORTING Sufficient information on this section of the Environmental Impact Statement should be provided to enable DEC to anticipate possible environmental management, monitoring and reporting requirements for an Environment Permit. Information listed should reflect the proponent’s environmental policy (environment management system) and the translation of that policy to meet the requirements under this Section and Section 7 (POTENTIAL IMPACTS OF PROPOSAL) during different stages in the project life, from construction to decommissioning and closure. Information detailed in this section shall include but not limited to the following -</p> <ul style="list-style-type: none"> ▪ details of information on plant operating conditions, including management and monitoring strategy, ▪ information on socio-economic management and monitoring strategy, ▪ mechanism and frequency for reporting monitoring results to DEC and other stakeholders, especially to directly affected stakeholder groups, ▪ availability of contingency and/or emergency plans drawn up for the proposal, ▪ details of Environment Improvement Plan, ▪ details of Waste Minimisation and/or Management Plans, ▪ information on potential rehabilitation issues and its strategies including Rehabilitation Plan. 	Full equivalence.	See the recommendation for Policy Principle 5, Key element (3).
Key element (2):	EA Art. 55. PUBLIC REVIEW AND SUBMISSIONS.	Partial equivalence.	See the recommendation

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
Disclose a draft environmental assessment in a timely manner prior to appraisal.	(1) The Director shall cause – ... (b) any environmental impact statement submitted under this Division, to be made available for public review and shall determine the period within which , the extent to which and the manner in which governmental authorities or persons may make submissions to the Director or the Council in respect of that information or report.	The timing of disclosure of an environmental impact statement is at the discretion of the Director. The EIA/EIS does not specify the period for the public to make submissions.	for Policy Principle 5, Key element (3).
Key element (3): Disclose a draft environmental assessment in an accessible place	<p>EA Art. 53. ENVIRONMENTAL IMPACT STATEMENT. (1) An environmental impact statement must cover the issues set out in the approved inception report.</p> <p>EPR Art. 5. INFORMATION TO ACCOMPANY PERMIT APPLICATION. (1) Information required under Section 63 of the Act to accompany an application for a permit made under Section 60 of the Act, shall include – (a) comprehensive details of the processes involved in carrying out the proposed activity; and (b) a statement of the risks of environmental harm associated with the proposed activity; and (c) a description of the sources and nature of any contamination which is likely to result from the carrying out of the proposed activity; and (d) the steps which the applicant proposed to take to minimize or prevent any environmental harm as a result of the proposed activity; and (e) a map of the site; and (f) such other information as the Director may require.</p> <p>EPR Art. 10. NOTIFICATION OF APPLICATIONS. (1) Subject to Subsection (2) and (3), the Director shall upon acceptance of an application for a permit pursuant to Section 61 of the Act, within 28 days, publish a notice in a newspaper circulating nationally and a radio – broadcasting service (if any) which serves the province where the proposed activity is planned to be carried out, advising that any interested person may – ...(b) view the application at such nominated places on payment of a prescribed fee.</p>	<p>Partial equivalence. EA Art. 55 does not specify how a draft environmental impact statement is to be disclosed.</p> <p>The entire EIA/EIS guideline specifies the contents of an EIS but does not specify how it is to be disclosed.</p> <p>EPR Art. 10 requires publishing notice of an application for a permit in newspapers and broadcasting it by radio, but does not specifically require disclosure of the accompanying information/draft environmental impact statement.</p> <p>DEC confirms that its Operational Manual, which was not available for review, requires that the draft EIA be made available for review in an accessible place.</p>	See the recommendation for Policy Principle 5, Key element (3).

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Key element (4):</p> <p>Disclose a draft environmental assessment in a form and language(s) understandable to affected people and other stakeholders</p>	<p>EIA/EIS Section 1. EXECUTIVE SUMMARY OR OVERVIEW OF PROPOSAL ...NOTE: The summary should not be more than five pages in length and be written in English, Tok Pisin and the relevant Local Dialect...</p>	<p>Full equivalence.</p>	<p>See the recommendation for Policy Principle 5, Key element (3).</p>
<p>Key element (5):</p> <p>Disclose the final environmental assessment, and its updates if any, to affected people and other stakeholders</p>	<p>EA Art. 59. MINISTER MAY GRANT APPROVAL IN PRINCIPLE. ...(4) The Regulations may prescribe the form in which the Minister's decision shall be recorded and the process for making the decision available to the public.</p> <p>EPR Art. 5. INFORMATION TO ACCOMPANY PERMIT APPLICATION. (1) Information required under Section 63 of the Act to accompany an application for a permit made under Section 60 of the Act, shall include – (a) comprehensive details of the processes involved in carrying out the proposed activity; and (b) a statement of the risks of environmental harm associated with the proposed activity; and (c) a description of the sources and nature of any contamination which is likely to result from the carrying out of the proposed activity; and (d) the steps which the applicant proposed to take to minimize or prevent any environmental harm as a result of the proposed activity; and (e) a map of the site; and (f) such other information as the Director may require.</p> <p>EPR Art. 10. NOTIFICATION OF APPLICATIONS. (1) Subject to Subsection (2) and (3), the Director shall upon acceptance of an application for a permit pursuant to Section 61 of the Act, within 28 days, publish a notice in a newspaper circulating nationally and a radio – broadcasting service (if any) which serves the province where the proposed activity is planned to be carried out, advising that any interested person may – ...(b) view the application at such nominated places on payment of a prescribed fee.</p>	<p>Partial equivalence. The EA provides for making public the final decision, but not the final EIS.</p> <p>The EPR indirectly requires disclosure of the EIS in stipulating the information that must accompany a permit application and providing that the public may review permit applications on payment of a fee.</p>	<p>To achieve full equivalence, amend EA Art. 59 as follows: 59. MINISTER MAY GRANT APPROVAL IN PRINCIPLE. ...(4) The Regulations <i>shall</i> prescribe the form in which the Minister's decision shall be recorded and the process for making the decision, <i>the final environmental assessment, and the final environmental management programme</i> available to the public.</p> <p>Amend EPR Art. 5 as follows: Art. 5. INFORMATION TO ACCOMPANY PERMIT APPLICATION. (1) Information required under Section 63 of the Act to accompany an application for a permit made under Section 60</p>

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
			of the Act, shall include – (a) the final environmental impact assessment; (b) the final environmental management programme; (c) a map of the site; and (d) such other information as the Director may require.
Policy Principle 7: Implement the EMP and monitor its effectiveness. Document monitoring results, including the development and implementation of corrective actions, and disclose monitoring reports.			
Key element (1): Implement the EMP	EA Art. 75. ENVIRONMENTAL IMPROVEMENT PLANS. ... (2) Where the Director is satisfied that – ... (b) the person submitting the plan will carry out the plan, he may approve the plan, subject to any conditions.	Partial equivalence. The EA requires that the Director be satisfied that the person submitting the environmental improvement plan will actually implement it, but does not explicitly impose an obligation on the person submitting the plan to carry it out.	See Operational Principle 4, Key element (5) which recommends amending EA Art. 66(1) to stipulate that preparing and implementing an EMP is a mandatory permit condition.
Key element (2): Monitor effectiveness of EMP	EA Art. 66. CONDITIONS OF PERMITS. (1) A permit may be issued subject to such conditions the Director considers are necessary or desirable, including but not limited to conditions containing requirements to do all or any of the following – ... (c) at the cost of the permit holder, installation of monitoring equipment, carrying out a specified monitoring programme and reporting on its progress; ... EA Art. 74. ENVIRONMENTAL AUDITS AND INVESTIGATIONS. ... (2) Without limiting the generality of Subsection (1), an audit or investigation may include – ... (b) a review of the design and conduct of an environmental monitoring programme ; ...	Full equivalence.	Also see Operational Principle 4, Key element (5) which recommends amending EA Art. 66(1) to stipulate that carrying out a monitoring programme is a mandatory permit condition.

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>EIA/EIS Section 8. ENVIRONMENTAL MANAGEMENT, MONITORING AND REPORTING Sufficient information on this section of the Environmental Impact Statement should be provided to enable DEC to anticipate possible environmental management, monitoring and reporting requirements for an Environment Permit. Information listed should reflect the proponent's environmental policy (environment management system) and the translation of that policy to meet the requirements under this Section and Section 7 (POTENTIAL IMPACTS OF PROPOSAL) during different stages in the project life, from construction to decommissioning and closure. Information detailed in this section shall include but not limited to the following -</p> <ul style="list-style-type: none"> ▪ details of information on plant operating conditions, including management and monitoring strategy, ▪ information on socio-economic management and monitoring strategy, ▪ mechanism and frequency for reporting monitoring results to DEC and other stakeholders, especially to directly affected stakeholder groups,... <p><u>Policy Documents and Guidelines – Not legally binding</u> PNG DSP Section 6.6 Environment Strategies for sustaining the environment Ongoing efforts are required to improve the legislative framework, together with monitoring and evaluation mechanisms in order to protect the environment.</p> <p>PNG DSP Section 6.9 Public Sector Management Raising the standards of public sector management will also require: · developing monitoring and evaluation mechanisms to ensure that public institutions become accountable;...</p> <p>EMC Guideline Section 12.2 Performance Monitoring and Reporting (a) Site Inspections and Monitoring ...The EMC Secretariat must ensure that there is a periodic site inspection with the relevant Government agencies, particularly the members of the EMC Technical Screening Committee which assess and provide briefs and reports on project implementation to the EMC.</p>		

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
<p>Key element (3):</p> <p>Document monitoring results, including the development and implementation of corrective actions</p>	<p>EA Art. 66. CONDITIONS OF PERMITS.</p> <p>(1) A permit may be issued subject to such conditions the Director considers are necessary or desirable, including but not limited to conditions containing requirements to do all or any of the following –...</p> <p>(c) at the cost of the permit holder, installation of monitoring equipment, carrying out a specified monitoring programme and reporting on its progress;...</p> <p>(g) undertaking an audit at periodic intervals;...</p> <p>EIA/EIS Section 8. ENVIRONMENTAL MANAGEMENT, MONITORING AND REPORTING</p> <p>Sufficient information on this section of the Environmental Impact Statement should be provided to enable DEC to anticipate possible environmental management, monitoring and reporting requirements for an Environment Permit.</p> <p>Information listed should reflect the proponent’s environmental policy (environment management system) and the translation of that policy to meet the requirements under this Section and Section 7 (POTENTIAL IMPACTS OF PROPOSAL) during different stages in the project life, from construction to decommissioning and closure.</p> <p>Information detailed in this section shall include but not limited to the following -</p> <ul style="list-style-type: none"> ▪ details of information on plant operating conditions, including management and monitoring strategy, ▪ information on socio-economic management and monitoring strategy, ▪ mechanism and frequency for reporting monitoring results to DEC and other stakeholders, especially to directly affected stakeholder groups,... <p>Policy Documents – Not legally binding</p> <p>PNG MTDP 2011-2015</p> <p>PNG DSP 2030 Deliverable 2.2: Streamline Environment Protection Authority monitoring and compliance and build capacity</p>	<p>Partial equivalence.</p> <p>Documenting monitoring results is a permit condition that is discretionary with the Director. EA Art. 66 is not clear on whether reporting on the progress of a monitoring programme includes developing and implementing corrective actions.</p> <p>The EIA/EIS requires a monitoring strategy and a mechanism for reporting results, but does not specify that reporting includes developing and implementing corrective actions.</p> <p>DEC confirms that this is not provided in its internal Operational Manual, either, but that is the working practice.</p>	<p>See Operational Principle 4, Key element (5) which recommends amending EA Art. 66(1) to stipulate that carrying out an environmental audit or investigation and developing and implementing the indicated corrective actions is a mandatory permit condition.</p>
<p>Key element (4):</p> <p>Disclose monitoring reports.</p>	<p>EA Art. 131. REGISTER.</p> <p>(1) The Director shall keep a register containing a copy of all notifications, applications, decisions and approvals taken under this Act including but not limited to –...</p> <p>(p) each monitoring and management report submitted by a permit holder under the conditions of a permit; ...</p>	<p>Full equivalence.</p> <p>Access to monitoring reports is subject to payment of fees.</p>	

(A) ADB Safeguard Policy Statement	(B) Corresponding Provisions in National Policy and Legal Instruments¹	(C) Extent of Equivalence² Review comments	(D) Recommendations
	<p>(2) The register shall be made available for inspection by any person at all reasonable times.</p> <p>(3) Any person may be entitled to search for, request and obtain copies of any entry in the register subject to payment of fees fixed by the Director under Section 100.</p>		

DRAFT