

# The legal drafting process in Fiji

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The process of drafting Fiji's National DSM law

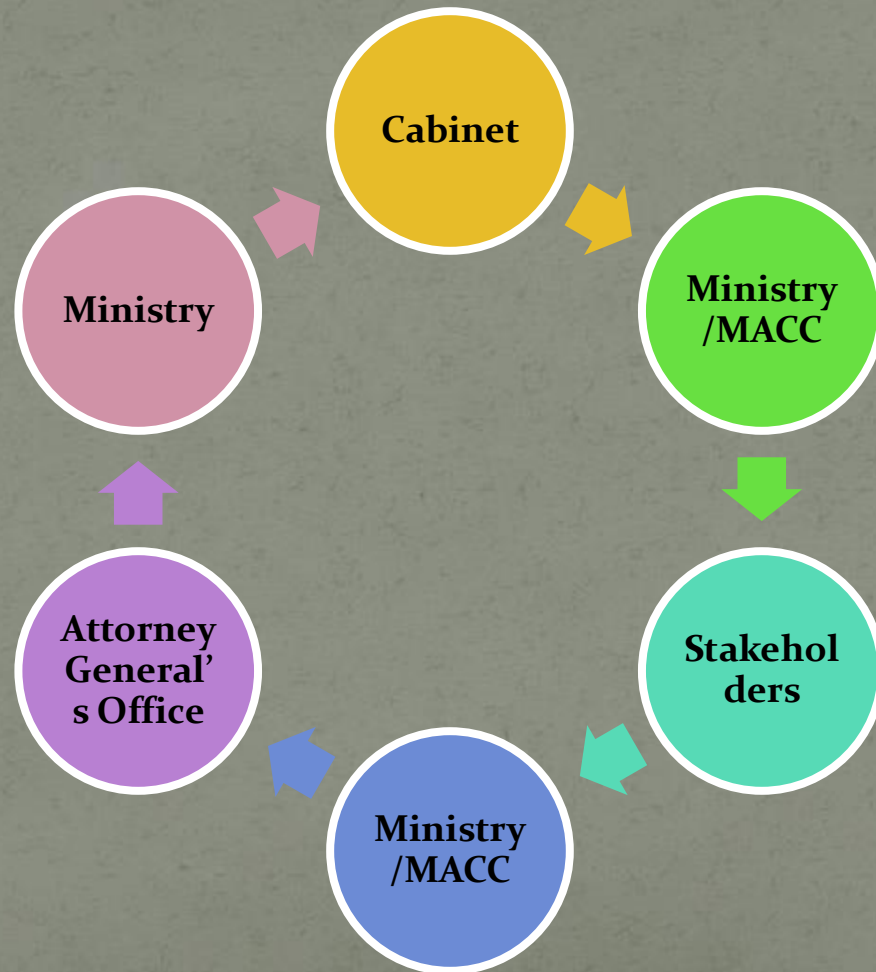
# Overview

- Drafting process of Fiji's DSM law
- SOPAC's role
- Working Groups
- Timelines
- Finalisation procedures for DSM law

# SOPAC's Role

- Advisory roles
- Technical and legal assistance
- Assists leading Ministry with negotiations and liaison with Mining Company

# Fiji's procedures



# Relevant laws and policies already in place

## Laws

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- Environment Management Act 2005
- Offshore Fisheries Management Decree 2012
- Mining Act (1978)
- Marine Spaces Act (Cap.158)
- Continental Shelf Act (Cap.149)

## Policies

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- Mineral Exploration and Exploitation Bill 2005
- Fiji's Offshore Mineral Policy
- Pillar 5 People's Charter – high economic growth alongside environmental protection

# Existing policies and leading Ministry's

- The initiative to review or amend a law stems from the Ministry's prerogative to change certain aspects of law depending on their resource capabilities, technical expertise and developments in terms of socio-economic developments and meeting international and regional obligations.
- Other influencing factors–Fiji's active involvement in the ISA, membership within the Council and the Legal and Technical Commission
- Economic development - However Fiji employees precautionary approach to Deep Sea Mining

# Maritime Affairs Coordinating Committee/National Offshore Minerals Committee

Existing Committee on Fiji's maritime boundaries and Deep Sea Mining potential

- Members include –
  - Mineral Resources Department
  - SOPAC
  - Ministry of Foreign Affairs
  - Department of Lands
  - Department of Environment
  - Navy ( under Ministry of Defence) – Maritime
- National Offshore Mineral Committee – established to work with DSM projects

# Cabinet submission and approval for review or drafting of laws

- Leading Ministry submits proposal to Cabinet to draft or review a law
- Cabinet may approve or refuse to endorse a submission by the leading Ministry
- Cabinet may set conditions and a timeline for the review of a particular law
- Ministry provides quarterly updates to Cabinet on the implementation of its decisions



# Timeline

- Stringent timelines set from initial meeting of MACC
- Timelines are set for the purposes of efficiency

# Leading Ministry's facilitation

- Leading Ministry set timelines, organises consultations, liaises with the interested Company, accountable to Government

# Consultation

- Greenpeace Fiji
- PIANGO ( Pacific Islands Association of NGO's)
- Fiji Environmental Law Association
- WWF
- IUCN ( International Union on the Conservation of Nature)
- All relevant Government Stakeholders

# Finalisation and confirmation by leading Ministry

- After consultations and the leading Ministry endorses a final of the draft Decree which is presented to the Attorney General's Office for vetting

# Submission to Attorney General's Office

- Vetting
- Consistency with other laws
- Alignment with Government policies and international/regional obligations

# Further consultation

- Further consultation with the leading Ministry
- Further clarification
- Consideration of concerns raised
- The Ministry seeking to hold further consultation may take the draft law back for consultation

# Endorsement by the Attorney-General

- Final endorsement is via a hierarchy of check and balances within of the Office-
- Officers specialised in Marine Law
- Head of drafting department
- Solicitor -General

# Submission to Cabinet

- Submission of the final draft of a law to Cabinet by Ministry with Attorney General's Office endorsement
- Ministry provides a Cabinet Paper – brief and background of the law being tabled in Cabinet
- Ministry states enforcement date



# Cabinet deliberation

- May issue directives
- issue a final approval
- President's assent
- proceed to publication

# Other matters

- Current status of DSM law
- Judicial Review in Fiji
- Our reservations on liability issues, monitoring capabilities and uncertain environmental impacts

# The End

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VINAKA