

CONSTITUTION AND RULES OF THE PORGERA ENVIRONMENTAL ADVISORY KOMITI ASSOCIATION

“Promoting a better future”

PEAK Association Inc is an independent association which seeks to ensure that long-term, sustainable development outcomes arise from the activities of the Porgera gold mine in Enga Province, PNG (the Mine), and that these outcomes are consistent with international best practice in social, economic and environmental terms.

Through providing advisory, information brokering and review services, PEAK adds value to the interests of the directly affected communities, the Porgera Joint Venture (PJV), which owns and manages the mine, other parties involved in sustainable development in the region, and other significant stakeholders.

1. NAME

The name of the Association is THE PORGERA ENVIRONMENTAL ADVISORY KOMITI ASSOCIATION and is hereinafter referred to as THE PEAK ASSOCIATION.

2. OBJECTS AND PURPOSES

The objects and purposes of the Association shall be to -

- a) Provide an independent review of the sustainability process, including the scope of recommendations and proposals arising from the Porgera Mine Closure and Sustainability Plan.
- b) Monitor implementation and compliance with any formalized or understood requirements arising from the above, in terms of the social, economic and environmental performance of PJV and other parties.
- c) Review Mine closure or sustainable development issues raised by external stakeholders for consideration by PJV and other parties.
- d) Identify key issues in each of the areas of social, economic and environmental programs and impact. Where appropriate commission studies using external experts and institutions.
- e) Provide advisory services to all major stakeholders – in particular to communities, PJV, and the Government. Advice will be drawn from the expertise of the PEAK membership, from material held in the knowledge bank, as well as from commissioned studies.
- f) Provide inputs into mine closure planning

- g) Compile a knowledge bank and serve as a clearing-house for information on topics relevant to sustainable development and environmental management in the target region as a service to a wide range of stakeholders and clients, locally, nationally and internationally. This could include maintenance of a website, a library of relevant documents, a register of expertise and aggregation of other relevant information (including case studies of good practice from elsewhere in PNG and internationally).
- h) Act as a conduit for communication of relevant information: i) to the target communities in Porgera, and from these communities to other stakeholders; and ii) to external national and international constituencies.
- i) Where appropriate, assist in facilitating effective partnerships, particularly in regard to assisting with linkages and networks between potential partners, brokering capacity building or support to community-level organizations engaged in partnerships, independent monitoring of partner contributions, and assessment of impact.

3. POWERS

The Association shall have the following powers in pursuance of its objects -

- a) To purchase, take on lease or exchange, hire or otherwise acquire and maintain any real or personal property and any rights or privileges in relation thereto.
- b) To erect, maintain and improve repair, pull down or rebuild any building or other structures.
- c) To sell, exchange, lease, hire, dispose of, turn to, account or otherwise deal with all or any part of the real and personal property of the Association.
- d) To borrow, raise or secure the payment of money in such manner as the Committee of the Association may deem fit with powers to issue debentures, grant mortgages charges, or any other class of security upon all or any of the property real or personal of the Association and to redeem or pay off any existing or future security.
- e) To invest and deal with the moneys of the Association not immediately required for the purposes of the Association in such manner as may from time to time be determined.
- f) To amalgamate, co-operate, affiliate or enter into reciprocal arrangement with any other body, institution or association having objects wholly or in part similar to those of the Association.
- g) To appoint, employ pay, dismiss, suspend, fine, expel or discipline any officer, member or employee of the Association.

- h) To do all such things as are necessary, incidental or conducive to the attainment of the objects of the Association.

4. INCOME AND PROPERTY

The income and property of the Association shall be applied solely to the promotion of its objects and purposes and no part thereof shall be paid or transferred directly or indirectly by way of dividend, bonus, or otherwise by way of profit to the members PROVIDED THAT remuneration ration may be paid in good faith for out of pocket expenses or services actually rendered to the Association or interest at a current bank rate on money lent or the repayment of reasonable and proper rent for premises demised or let to the Association.

5. MEMBERSHIP

- a) PEAK shall have a total membership not exceeding 16 comprising the following:
 - i) 1 Chairperson
 - ii) 6 members representing key institutions, including 3 PNG Government Representatives (Department of Mining, Department of Environment & Conservation and Department of National Planning)
 - iii) 1 PJV, 1 PDN
 - iv) 1 Porgera District Women's Association
 - v) Up to 9 members who bring to PEAK individual specialist expertise, knowledge or networks of relevance to its work, and which include:
 - vi) At least one member who comes from the Porgera communities
 - vii) At least two members with experience in NGOs or civil-society institutions
 - viii) Specialists from any organization with expertise relevant to sustainable development, and representing a balance of social, economic and environmental backgrounds
- b) In the case of the 5 members representing specific groups, the Chairperson will invite each of the member groups to nominate in writing an individual to represent them in PEAK.
- c) A member group may withdraw its nominee from PEAK at any time by written notification to the Chairperson; however, the member group shall be expected to nominate a replacement at the same time.

- d) A member group may also nominate, in writing to the Chairperson, an alternate to participate in PEAK activities should their primary nominee be unable to attend PEAK meetings.
- e) Remaining members selected in an individual capacity would be selected by consensus of the full current committee, following nomination and seconding by any current PEAK members, and respecting the balances outlined in 3.1 and 3.2.
- f) The Chairperson would be elected by a majority of the current committee. PEAK members representing PJV or PDN would not be eligible to stand as Chairperson.
- g) The position of Chairperson shall be a three-year appointment, which can be extended with the agreement of all PEAK members.
- h) The Chairperson may elect to stand down at any point during the term of his or her appointment.
- i) All other members of the Komiti shall hold office for a three year period, after which all members will retire from office and 50% of the members will seek a one term extension for the ensuing year.
- j) In the event that an individual or member group fails to participate without apologies to the Chairperson of PEAK for two consecutive meetings, the Chairperson, with the agreement of the remaining members, may terminate that members appointment to the Komiti and approach an alternate group seeking their nomination of an individual to join PEAK to replace the non-attending member.
- k) In addition to PEAK members, other parties may be invited to serve on PEAK on a temporary, non-voting basis to strengthen its response to particular issues.
- l) The PJV shall fund the involvement of all PEAK members (as required) covering travel and accommodation at PEAK meetings.

6. PEAK EXECUTIVE OFFICER

- a) PEAK will be supported by an Executive Officer with the role of:
 - i) Supporting PEAK meetings, including convening, preparing materials, reporting meeting outcomes, and, where mandated by PEAK, conducting relevant follow-up
 - ii) Supporting the commissioning and implementation of external reviews and studies

- iii) Developing and maintaining the knowledge bank
 - iv) Developing a wide program of communications – including the website, reports and ongoing networking with stakeholders.
- b) The position of the Executive Officer would, in the first instance, be a part-time position with office facilities. The Executive Officer will report to, rather than be a member of, the Komiti, and would attend the meetings of PEAK ex-officio. Between meetings of PEAK the Executive Officer would report to the PEAK Chairperson.
 - c) The PJV will fund the cost of the Executive Officer until such time as other external resources can be secured.

7. MEETINGS OF THE ASSOCIATION AND PROCEEDINGS

- a) There shall be a minimum of two (2) meetings in a year as per direction by the PEAK Executive Officer.
- b) The meetings shall convene to address issues relating to the Environment Management and Monitoring Program (EMMP) for the Porgera Operation, the Porgera Mine Closure and Sustainability Plan (MCP) and decisions of the Porgera Mine Closure Committee.
- c) The Association shall not in either its meetings or in any of its operations address any compensation issues associated with Porgera’s environmental impact or activities in general.
- d) Any issue to be raised by a PEAK member at a meeting is to be included on the agenda by advising the Chairperson in writing or may be raised under “Other Business” for consideration at the next meeting.
- e) In response to major issues raised at a meeting, PJV management may request through the Chairperson, an opportunity to prepare a detailed response for presentation at a subsequent meeting.
- f) PEAK may also agree that a particular issue requires external assessment and input, and request through the Chairperson, that the PJV consider the involvement of independent external parties selected by PEAK.
- g) Any information presented to or discussed within PEAK that is considered confidential will be identified and may not be disseminated without the permission of PEAK members.
- h) All business shall be deemed Extraordinary that is transacted at a meeting other than the ordinary meetings, and all that is transacted at an ordinary meeting, with the

exception of the consideration of the accounts, balance sheets, the ordinary report of the Committee and Auditor's, the, election of members of the Committee and other officers, and the fixing of fees, charges, gratuities, out of pocket expenses and remunerations

i) Decision-making process

- i) All members of PEAK shall have equal standing and shall be provided with equal opportunity to express their point of view or opinion.
- ii) PEAK does not have any powers to direct the PJV or its partners to undertake particular actions but shall have a mandate to request, respond and advise on issues associated with the operation and mine closure.
- iii) Decisions or positions shall be reached by PEAK through consensus and the agreement of all members present. Where it is difficult to reach consensus a majority decision will be accepted.
- iv) The content of all such decisions or positions shall be coordinated by the Chairperson and finalised for approval at the meeting.

j) External reporting

- i) The Chairperson shall be the only official spokesperson for PEAK.
- ii) In response to a particular issue, the Chairperson may express publicly a position previously approved by PEAK at a properly convened meeting, without consulting the members.
- iii) Where a particular issue arises publicly in the absence of an approved PEAK position, the Chairperson may respond to the issue after first consulting with and having the approval of all members.
- iv) PEAK shall report externally on its activities and general conclusions on an annual basis. This report may take the form of a short written document, which is prepared, each year by the Chairperson for review and approval of the PEAK members prior to public release.
- v) PEAK shall maintain a web site including minutes of meetings and any additional information considered relevant by the committee.

k) Review

- i) The function and terms of reference of PEAK may be reviewed THREE YEARS by its members.

- ii) Any changes to the function or terms of reference of PEAK shall be proposed by the Chairperson for approval by its members.
 - iii) When updated terms of reference are produced, they are to be dated and endorsed by all PEAK members.
- l) Administration
- i) The frequency of PEAK meetings shall be determined by its members.
 - ii) The location of PEAK meetings shall be determined by its members with all meetings to be held preferably at Porgera or in Port Moresby. Should the members decide to hold a meeting outside of Porgera or Port Moresby, such meetings must first be approved by PJV.
 - iii) PEAK members shall advise the Chairperson in writing of any items to be included on the agenda at least one month prior to the meeting, and provide any supporting information for inclusion in the agenda papers.
 - iv) An agenda for each meeting shall be developed by the Executive Officer [Secretariat] in consultation with PEAK members and distributed to all members with any supporting information prior to the meeting.
 - v) Any PEAK member unable to attend a scheduled meeting is to advise the Chairperson in writing as soon as possible and indicate whether an alternate shall be attending in his or her place.
 - vi) Where possible, PJV and Placer management personnel will attend PEAK meetings when requested by the Chairperson.
 - vii) Under special circumstances, and with the agreement of all members, other parties may be permitted to attend specific meetings. Requests for such attendance shall be made in writing to the Chairperson.
 - viii) The Executive Officer shall maintain a record of all meetings for endorsement by the Chairman and members. Draft minutes of each meeting shall be circulated to all members for comment and approval following each meeting.
 - ix) The final minutes of each meeting shall be included in the agenda papers for the next PEAK meeting and listed as an agenda item requiring members' approval.
 - x) Unless otherwise determined by the Chairperson, the duration of the formal component of each PEAK meeting shall not exceed one full day.

- xi) A schedule of meetings shall be developed by the Chairperson and the Executive Officer in consultation with all PEAK members.
- xii) At the request of individual members, and in consultation with PJV, the Chairperson may convene special meetings to address particular issues.

8. NOTICE OF MEETING

- a) At least fourteen (14) days notice in writing of every meeting shall be given to each and every member at his address appearing in the Register Book of Membership by post stating the Date, Time and Place of the Meeting and the nature of the business to be transacted. No business other than those set out in the notice of meeting shall be transacted at any general meeting or meeting. But, with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by shorter notice and in such manner as those members may deem fit.
- b) Any member desiring to bring forward any business may give notice thereof in writing to the Secretary who thereupon shall include the same in the notice calling the next meeting or general meeting to be called after the receipt of such notice from a member.
- c) The accidental or inadvertent omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any member shall not invalidate the proceedings at any meeting.

9. THE COMMITTEE

- a) The highest legislative and deliberating body in the Association shall be the Committee of the Association and the Committee shall consist of:-
 - (i) The President (Chairman of the Committee)
 - (ii) Vice President
 - (iii) The Secretary
 - (iv) The Treasurer

10. POWERS OF THE COMMITTEE

The Committee shall have power to do any or more or all of the following:-

- a) To appoint any official or employee of the Association to regulate their duties, powers and responsibilities and to remove them as occasion may require at their discretion.
- b) To regulate and control its own meetings, proceedings and the transaction of business thereof.

- c) To enter into and accept any lease or tenancy of the premises whereon or of any furniture, goods, chattels and effects where with the business of the Association may be carried on for such time or term in such conditions and at such rentals or charges as it may deem fit.
- d) To draw, make, accept, endorse and issue cheques, drafts, bills of exchange promissory notes, any negotiable securities instruments or documents of whatever kind or nature for and on behalf of the Association and to determine by what officers of the Association such securities ins instruments or documents shall be signed or endorsed.
- e) To take and defend all legal proceedings by or on behalf of the Association and to appoint all necessary attorneys for any such purpose.
- f) To borrow, raise or secure the payment of money and to sell and dispose of the assets of the Association.
- g) To do and perform any other acts, matters or things in connection with or relative to the management of the Association as shall not by these Rules, be required to be done by the Association in General Meeting.

11. COMMITTEE OF MANAGEMENT

- a) The powers and affairs of the Committee of the Association shall be managed and exercised by the Committee of Management which shall comprise:-
 - i) The Chairman of the Committee of the Association or his Deputy.
 - ii) The Secretary of the Committee tee of the Association, who shall also act as the Public Officer of the Association for the purpose of the Associations Incorporation Ordinance, 1966.
 - iii) The Treasurer
- b) If any one of the Committee tee of Management is unable or unwilling to act, any other member of the Committee of the Association duly appointed shall act in his or their place.
- c) The Direction in writing of the Chairman of the Committee of the Association or his Deputy, countersigned by the Secretary and the Treasurer and stamped with the seal of the Association, shall constitute sufficient authority justification or obligation upon the Association as to anything done or purported to be done by them in pursuance of such direction, notwithstanding that it my afterwards be discovered that there was some defect in the appointment of any such Committee of the Association or

Management or the person or persons acting as aforesaid or that any or all of them were disqualified.

- d) Rules or Regulations made by the Association in General Meeting shall invalidate any prior act of the Committee of the Association or the Committee of Management which would have been valid if that Rule or Regulation had not been made.
- e) The Committee of the Association or of Management my act notwithstanding any vacancy, provided that the vacancy shall not fall short of the required number or quorum.

12. VACATION OF OFFICE

- a) The office of any member of the Committee of the Association or the Committee of Management shall become vacant if the person holding that office:-
 - i) Dies
 - ii) Is certified insane or of unsound mind.
 - iii) Shall cease to be a member of the Association.
 - iv) Shall cease to ordinarily reside in Port Moresby.
 - v) Shall resign his office by writing under his hand addressed to the Committee of the Association.
 - vi) Is removed from that office.
 - vii) Is adjudicated a Bankrupt or applies to take or takes advantage of any law relating to bankrupt or insolvent debtors or compounds with his creditors or make any assignment of his estate for the benefit of his Creditors.
 - viii) Fails without reasonable cause or excuse, to attend any three (3) meetings or more of the Association in any one year.

13. SEAL OF THE ASSOCIATION

- a) The Secretary of the Association shall make provision for a Seal and Common Seal of the Association to be made. The Seal and Common Seal of the Association shall be the same pattern, design, shape and size and shall have inscribed thereon THE PEAK ASSOCIATION INC. - COMMON SEAL.
- b) The Seal of the Association shall be used in all cases or matters in which the Committee of the Association or the Committee of Management so directs. In the absence of such direction, it shall be used in all cases or matters in which the Committee of the Association or the Committee of Management exercises its powers, authority or obligations.
- c) The Seal and Common Seal of the Association shall be kept under lock and key and shall be under the safe custody of the Secretary of the Association.

14. ACCOUNTS, BOOKS AND DOCUMENTS

- a) The Committee of the Association shall cause proper books of Accounts to be prepared by the Treasurer and kept with respect to:-
 - i) All sums of money received and expended by the Association and the matter in respect of which the receipt and expenditure takes place.
 - ii) All sales and purchases by the Association.
 - iii) The Assets and Liabilities of the Association.
- b) The Books of Accounts and all Books, Documents and Securities of the Association shall be kept at the office of the Association under the custody and control of the Secretary of the Association, or at such manner as to the Committee may deem fit, and shall always be open to the inspection of any member of the Committee of the Association.
- c) The Committee of the Association may from time to time determine what conditions or regulations the Accounts and Books or other documents of the Association or any of them shall be open to inspection of members of the Association not being Committee members and no member (not being a Committee member) shall have the right of inspecting any account, book or document of the Association except as conferred by law or authorised by the Committee or by the Association in general meeting.
- d) The Committee shall cause to be prepared by the Treasurer and to be laid by him before the Association in each and every annual general meeting, such profit and loss accounts, balance sheets and reports as to the Treasurer, the Auditor or Committee may deem fit.
- e) A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Association in annual general meeting together with a copy of the Auditor's Report shall not less than fourteen (14) days before the date of such meeting be sent by the Treasurer to all persons entitled to receive notices of general meetings of the Association.

15. AUDIT

- a) The Committee of the Association shall appoint an Auditor who shall be a qualified Accountant and 'who shall examine audit and certify as to the correctness or otherwise of the Accounts, the Balance Sheets and the Profit & Loss Account, at least once in each and every year to be submitted to the Annual General Meeting. The Auditor shall not be a member of any Committee of the Association or the Public Officer' of the Association.

- b) The Committee of the Association may make rules and impose such terms and conditions as to the appointment, duties and responsibilities, power of and removal of the Auditor, and in default thereof, the relevant provisions of the Companies Ordinance, 1963-1969 shall apply.

16. ALTERATION OF CONSTITUTION AND RULES

No object, purpose, power, constitution or rule of the Association shall be rescinded, repealed, altered or amended AND no new object, purpose, power, constitution or rule shall be made EXCEPT upon the passing of a SPECIAL RESOLUTION carried out by a majority of not less than seventy-five per cent (75%) of members present and voting at a general meeting, the notice of which shall have set out in full the proposed rescission, repeal, alteration or amendment.

17. POSTAL BALLOT

Neither the Association nor the Committee nor the Sub-Committee of the Association may resolve any matter by Postal Ballot.

18. DISSOLUTION AND DISPOSITION OF ASSETS

- a) The Association may be dissolved or wound up by the passing of a Special resolution in like manner to rescission, repeal, alteration or amendment of the Constitution and Rules of the Association.
- b) In a dissolution or winding-up of the Association, the liability of the members is limited. But, however, every member of the Association, other than Honorary Members undertakes to contribute to the assets of the Association, in the event of same being wound up during the time he is a member, or within one year afterwards, for the payment of debts and liabilities of the Association contracted before the time at which he ceased to be a member and of the costs, charges and expenses of winding up same, and for the adjustment of the rights of the contributories amongst themselves such amount as may be required, but in no case shall each member's undertaking to contribute, exceed one hundred kina (K100).
- c) If upon the dissolution or winding-up of the Association there remains after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Association, but shall be given or transferred to some other institution or organisation having objects similar wholly or in part to the objects of the Association and which shall prohibit the distribution of its or their income and property among its or their members or to some charitable object or objects, such institution, organisation, charitable object or objects shall be determined by the members of the Association at or before the time of dissolution or

winding up or in default thereof then such payment contribution or transfer shall be determined by a Judge of the Supreme Court of Papua New Guinea.