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Porgera Joint Venture (PJV) off-lease resettlement pilot

Independent Panel of Observers second annual monitoring report

Monitoring period: March 2017 – May 2018



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The Centre for Social Responsibility in Mining (CSR) is a leading research centre, committed to improving the social performance of the resources industry globally.

We are part of the Sustainable Minerals Institute (SMI) at the University of Queensland, one of Australia's premier universities. SMI has a long track record of working to understand and apply the principles of sustainable development within the global resources industry.

At CSR, our focus is on the social, economic and political challenges that occur when change is brought about by resource extraction and development. We work with companies, communities and governments in mining regions all over the world to improve social performance and deliver better outcomes for companies and communities. Since 2001, we have contributed to industry change through our research, teaching and consulting.

Key terms

Displacement	Physical displacement occurs when there is loss of residence or assets resulting from project-related land acquisition and/or land use that require affected persons to move to another location. Economic displacement occurs where there is a loss of assets or access to assets that leads to loss of income sources or other means of a livelihood as a result of project-related land acquisition or land use.
Host community	People living in or around the destination sites that physically displaced persons will be resettled to.
Relocation	Relocation is a process through which physically displaced households are assisted to move from their place of origin to an alternative place of residence. Households may receive compensation for loss of assets or may be provided with replacement land or housing structures at the destination site.
Resettlement	Resettlement is the comprehensive process of planning, displacement, relocation, livelihood restoration and support for social integration. Involuntary resettlement occurs without the informed consent of the displaced persons or if they give their consent without having the power to refuse resettlement
Vacant possession	Vacant possession will result in a company being the exclusive occupant of a lease area. This will require residents and visitors to leave the lease area, and not return until either the mine has closed, or areas of the lease have been relinquished.
Vulnerable person	An individual who is at risk of abuse or harm. A person's vulnerability status may relate to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other social status as it relates to the local context being considered. Factors such as gender, age, ethnicity, culture, literacy, illness, physical or mental disability, poverty or economic disadvantage and dependence on unique natural resources must also be taken into account.

Key terms adapted from the IFC's "Handbook for Preparing a Resettlement Action Plan, Environment and Social Development Department". See: <http://www.ifc.org/wps/wcm/connect/22ad720048855b25880cda6a6515bb18/ResettlementHandbook.PDF?MOD=AJPERES>

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Introduction

This is the second annual monitoring report of the Independent Panel of Observers (the “Panel”) of the Porgera Joint Venture (the “PJV”) off-lease resettlement pilot project, in Papua New Guinea (“PNG”) following 14 months of engagement from March 2017 to May 2018.² The Panel’s annual reports build on a Third Party Review of relocation and resettlement at the Porgera mine, conducted by The University of Queensland’s Centre for Social Responsibility in Mining (“CSRM”) in 2015.³ Readers of this report are encouraged to read the two preceding reports.⁴ The off-lease resettlement pilot project and its operating context are characterised by a high degree of complexity. Previous reports provide background context to support readers in understanding the events, activities and issues described within this monitoring report.

The previous monitoring period ended as the PJV pilot project team and the Local Resettlement Committee (“LRC”) were embarking on a household survey. This survey was commissioned to capture important details about the resident population in the two pilot settlements of Panandaka Ridge and Pakien. During the monitoring period, the pilot project team designed, planned and executed a household survey with an external contractor selected through competitive tender. This exercise was supported by leaders within the community who serve on the LRC, and the Community Resettlement Committees (“CRC”) for the two pilot settlements.

This monitoring period ends as the PJV and the two levels of local committees – the LRC and CRCs – are processing the data collected during the household survey. The PJV’s pilot project team has concluded that the data does not provide the site with the clarity of information it requires to proceed with its planning process because it contains errors. The PJV team’s preliminary assessment of the data indicated that the data set contains false information, and a number of “phantom” entries. These entries inflate the size of the eligible population, which is consequential for determining matters relating to carrying capacity of destination land, livelihood programming and resettlement planning. Errors relate to persons who have self-identified as landowners, when *prima face* evidence suggests that they are not, and persons who have falsely claimed to be heads of households.

² The extended monitoring period allows for the disruption experienced by the PJV and local communities following the earthquake in April 2018, which was declared a state emergency. The mine lost power during this period and at the time of writing, the processing plant was operating at 50 per cent capacity.

³ See: Kemp, D. and J.R. Owen (2015) *Third Party Review of the Barrick/Porgera Joint Venture Off-lease Resettlement Pilot: Operating context and opinion on suitability*. Centre for Social Responsibility in Mining (CSRM), The University of Queensland: Brisbane. See <https://www.csrq.uq.edu.au/publications/a-third-party-review-of-the-barrick-porgera-joint-venture-off-lease-resettlement-pilot-operating-context-and-opinion-on-suitability>

⁴ See: <https://www.csrq.uq.edu.au/publications/porgera-joint-venture-pjv-off-lease-resettlement-pilot-independent-panel-of-observers-annual-monitoring-report-march-2016-2017>. Appendices 1 and 2 of this report provide a brief introduction to the pilot project and the Panel, extracted from the 2017 report.

These and other critical issues relating to the clarity and useability of the data are outlined in this report.

In the context of the above, the PJV pilot project team has embarked on a process of “cleaning” the data set. This process involves the PJV making decisions about how to correct entries contained within the dataset. Any adjustments to the data will have material consequences for the people involved and the pilot project. There are concerns in the pilot settlement areas, and in the settlements directly adjoining these areas, that families will be separated as a result of the pilot, and that some people will miss out on being resettled if households are classified as “ineligible”. After a process of internal data cleaning, and several rounds of engagement with the LRC and the CRCs to correct entries, the dataset remains largely unchanged. Through this process of engagement, the pilot project team indicate that they have a better understanding of the information available to them. Nonetheless, issues associated with the household survey data have slowed the progress of other aspects of the pilot project.

While the PJV, the LRC and CRCs are in the process of cleaning the data, the PJV’s pilot project team has commenced discussions with these committees about identifying potential destination sites for off-lease resettlement. As with other components of the pilot project, progressing some issues brings other issues into play. The prospect of moving away from the current settlements surfaces not only new questions about living off the mining lease areas, but also activates legacy issues relating to compensation payments, agreements and unfulfilled commitments. Most of these issues are beyond the scope of the pilot project to resolve. These legacy issues are contributing to an already hostile environment within which the pilot project team and other stakeholders are currently working.

During this monitoring period the Panel sighted reports and spoke to pilot project staff about threats made toward members of the team by members of the local community. Several community-based information sessions were reported as coming to an abrupt end after company representatives were threatened with bush knives and other implements. Meetings held inside company-controlled areas have also been disrupted due to confrontation between members of the committee and threats against the PJV pilot project team. These acts disrupt the PJV’s process of planned engagement, and prevent progress from being made.

Panel activities

The Panel’s monitoring activities were consistent with the previous period and included:

- observations at four LRC meetings on-site at the Porgera mine
- observations at five CRC meetings convened at the PJV’s Suyan mine camp area
- observations at several Porgera National Resettlement Committee (“NRC”) meetings chaired by the Mineral Resources Authority (“MRA”) in Port Moresby
- visits to Panandaka Ridge and Pakien settlement areas to observe family cluster meetings

- interviews with PJV staff, members of the LRC, and local stakeholders in Porgera
- interviews, meetings and telephone calls with representatives from the Porgera NRC, Barrick Niugini Limited (“BNL”), Barrick corporate, and Zijin Mining Group (“Zijin”)
- review of agendas, papers, minutes and action logs arising from CRC, LRC and Porgera NRC meetings, PowerPoint presentations, and other documents developed and presented to committees (e.g. Committee Charters)
- review of reports and incident logs from the pilot project team and the provider of the household survey to the project team
- review of project documentation, such as task lists, schedules, internal action logs, maps and survey instruments.

Members of the LRC and the Porgera NRC, including the PJV, were provided with an opportunity to review this report and to provide feedback to the Panel before its public release. Editorial control over the report sits exclusively with the Panel.

Brief context

The Porgera mine is located in the Enga Province of Papua New Guinea (“PNG”), one of the most complex, remote and undeveloped regions in the country. Since the Special Mining Lease (“SML”) was granted in 1989, the Porgera mine has operated under a shared occupancy arrangement where both the mine and the local population actively use mining lease areas. Porgera is a combined open pit-underground gold and silver mine owned by the PJV and operated by BNL. Between 2008 and September 2015, BNL was a wholly-owned subsidiary of Canada’s Barrick Gold Corporation (“Barrick”), one of the world’s largest gold producers. In September 2015, Zijin Mining acquired a 50 percent share from Barrick, and joint control of BNL.⁵ State-owned Zijin is headquartered in Xiamen, China. Mineral Resources Enga, a company jointly owned by the Enga Provincial Government and the landowners of Porgera, maintains a five percent share in the PJV.⁶

According to Barrick’s website, non-operated joint ventures, such as the PJV, are not required to comply with Barrick’s international policy commitments.⁷ Management of BNL, however, indicate that Barrick’s international policy commitments continue to remain in effect and that BNL is guided by Barrick’s prior commitment to, and membership of, the Voluntary Principles on Security and Human Rights (“VPSHR”). As a non-member, BNL is not required to publicly report against the VPSHR. In 2018, Barrick’s human rights policy, specifically excluded application to the PJV.⁸ BNL has not made a public commitment to the United Nations (“UN”) Guiding Principles on Business and Human Rights and does not have a human rights policy.

⁵ Zijin is the 13th largest mining company in the world by market capitalisation.

⁶ Mineral Resources Enga and the landowners of the mine’s Special Mining Lease (“SML”) each own a two-and-a-half percent share of the PJV.

⁷ <https://www.barrick.com/sustainability/approach/non-managed-operations/default.aspx>

⁸ <https://barrick.g4cdn.com/788666289/files/governance/Barrick-Human-Rights-Policy.pdf>

Barrick's Community Relations Management System ("CRMS") requires alignment with the International Finance Corporation's ("IFC") Social and Environmental Performance Standards ("PS") 5 on Land Acquisition and Involuntary Resettlement. The PJV continues to reference IFC PS5 in its Resettlement Framework, and its internal and external planning processes. Adherence to the IFC Performance Standards is not mandatory for the PJV because the project is not subject to an IFC finance agreement. Application of the IFC standards under PJV's existing circumstances is voluntary.

In lieu of reading the Third Party Review (2015) and the Panel's previous monitoring report (2017) cited above, readers should be aware that:

- Living conditions on the mining lease areas are a continuing pressure for the PJV and LRC members. Settlements such as Yarik, Timorope and Kulapi, consider themselves a priority for resettlement. Land slips, over-crowding and proximity to mining operations are cited by community representatives as a basis for being included in the pilot.
- The pilot project involves significant risks for all parties. The continuing presence of tribal conflict in the Porgera Valley makes the proposition of relocating people off-lease areas particularly high risk from a safety and security perspective. Law and order issues in the PNG Highlands, and in particular in the Enga Province, have been widely documented. While the presence of local police around the mine site is contentious, once people move off the lease area, the company has no formal authority.
- Transacting in customary land is a difficult exercise in any country. A large percentage of PNG's total land area is held under customary tenure, and the legal instruments for purchasing (i.e. alienating) or leasing land from customary owners are uncertain and difficult to implement. State based mechanisms for leasing or permanently acquiring land are also challenging.
- The pilot resettlement at Porgera is being attempted against the backdrop of 30 years of company incentivised relocation, and in a context where some relocation agreements (from many years ago) are yet to be completed, and where emergency compensation for houses affected by landslides and slump areas on other parts of the lease are being struck. These activities are conducted in parallel with the pilot project.
- PNG suffers from endemic corruption and ranks poorly on international corruption indices.⁹ The government's failure to leave a discernible positive impact from a 20-year mining and extractive industries boom has been linked to corruption and mismanagement of national revenues. Future projections on the state of the national budget are concerning, particularly if the viability of the pilot will be determined by the government's ability to finance components of the project.

⁹ See: http://www.transparency.org/news/feature/corruption_perceptions_index_2016.

Key events within the monitoring period

The following events occurred during the monitoring period. These events have a direct bearing on the pilot project, and add to the complex environment within which the pilot resettlement project is taking place.

- In April 2018, Philip Samar's term as PNG's MRA Managing Director expired. This change in leadership had implications for the Porgera NRC as Mr Samar was Chair of this committee. At the end of the Panel's monitoring period, the Committee was convened by an interim Chair, and was waiting for the incoming Managing Director to confirm their participation in the NRC process.
- In February 2018, a powerful earthquake struck PNG's Southern Highlands and Hela provinces, causing multiple fatalities and devastating the region. A national state of emergency was declared. The Porgera mine has been in partial shutdown since this time. This shutdown resulted in temporary reductions to the local workforce and the suspension of a large number of local business contracts.
- In November 2017, the PJV announced that the site's Executive Managing Director, Mr Richmond Fenn, appointed 15 months prior, would be transferred from the PJV to another Barrick operation. In March, 2018, the BNL Board announced that Mr Tony Esplin, formerly of Newmont Mining, would take up the role.
- In August 2017, a spate of tribal fighting occurred on the SML. The razing of housing structures and gardens at Apalaka was referred to numerous times during the Panel's on-site meetings. While this incident was not directly related to the resettlement project, it weighs on people's minds as they consider leaving the mine area and surrounding settlements.
- In April 2017, two local women who had accused the company of complicity in rape and sexual assault travelled to Toronto to voice their concerns at Barrick's annual general meeting. In media interviews, the women are quoted as describing their living conditions as "slum-like", and that the lack of gardening land had made panning for gold in the dumps essential to their survival. Panning in dump sites brings vulnerable women into contact with security personnel.

General Panel observations

This section outlines the Panel's general observations on the pilot resettlement project. The following two sections describe project resourcing and activities. The Panel makes several broad observations before covering more specific issues.

First, the PJV and local committee members have made progress on several key aspects of the pilot. The Panel recognises the efforts made to establish and stabilise the Porgera NRC, the LRC and the two CRCs. During the past year, the pilot project team has maintained a disciplined approach in their engagements with households at the family cluster level, and more recently with women's groups. There are, generally speaking, high levels of interest

and participation from the community. The documentation associated with these engagements, and the various decisions made by the project team and the resettlement committees, has improved since the Panel's last annual report.

Second, despite strong procedural efforts by the project team, legacy issues are proving difficult to overcome. For 30 years, the PJV's approach to land management has operated on a short-term planning horizon, and has resulted in a series of long-term legacies. Recognising that the present mine owners were not party to earlier relocation agreements, land take and relocation efforts, they are responsible nonetheless for managing these issues. There are a number of outstanding grievances relating to unfulfilled agreements that surface in interactions between the affected community and the project team. If successful, off-lease resettlement may reduce the impact of congestion issues within the lease areas that drive these sorts of interactions, but it is not within the scope of a resettlement project to resolve long-term operationally-generated grievances. Frustrations over unresolved issues are a frequent part of discussions about the pilot project.

Third, there is the ongoing operational impact of the mine on the two pilot settlements. The best case planning horizon for moving people away from the lease is 2021. While all parties agree that the current living conditions on the lease are unacceptable, it will be at least three years before the first group of families can begin settling in the off-lease destination sites. Household representatives are putting pressure on the company to resettle them quickly and, and at the same time are asking for resources to assist them in weathering mining-induced impacts. Women and men are, in separate forums, asking for food rations to relieve issues of food insecurity, and inconvenience payments to supplement the cost of living while the project team conducts its resettlement planning.

Observations of project resourcing

The level of complexity involved in the pilot project means that the PJV needs an internal team with the capacity to design, plan, implement, and oversee the project. This includes overseeing those project components where external consultants are contracted as subject matter experts, based on a scope of work developed by the pilot project team. During the monitoring period, the PJV augmented the pilot project team by recruiting:

- a Lands Officer
- a Data Specialist (with an environment background)
- an Administration Officer

Additional time was budgeted for an external Livelihoods Adviser.

In addition to appointing a Lands Officer, the pilot project team had engaged with the Department of Lands and Physical Planning ("DLPP") about resourcing and process requirements for land investigation and future acquisition procedures. At the close of the Panel's monitoring period in May 2018, discussions between PJV and DLPP about posting a Senior Lands Officer from the DLPP at Porgera had advanced.

The PJV has been looking to recruit a back-to-back Resettlement Manager since 2015. A number of candidates progressed to the final stage of the process, and withdrew. An appointable candidate was identified in the fourth quarter of 2017, and an offer was made, but the candidate withdrew their application. Recruitment for this position has since been put on hold. The Project Director explained to the Panel that the PJV was reconsidering the scope and expertise required for that role.

The Resettlement Manager and the three dedicated Community Relations Officers continue in their roles. All three Community Relations Officers are male. Early in the 2017 monitoring period, the PJV stated its intent to recruit a female Community Relations Officer to encourage participation from women in the CRCs and family cluster engagement processes. In March 2018, a female representative from the LRC convened a women's meeting as a means for addressing this gap. The PJV is actively supporting the women's meetings, but the pilot project team continues to operate without a female Community Relations Officer. It has been noted by the Panel that the Data Specialist and the outgoing expatriate Livelihoods Adviser are both female.

In March 2018, the pilot's Project Director was promoted to a corporate role with Barrick in the company's Toronto headquarters in Canada. He continues to support both the pilot project, and the mine lease extension process. The former Livelihoods Adviser was appointed internally as the Project Lead for the resettlement pilot.

The pilot project team reports to a sub-committee of the BNL Board which requires regular reports on the planning and budgeting for the pilot. During the monitoring period, the Project Director had primary carriage for engaging the sub-committee. The Project Lead assumed this responsibility from May 2018.

Resourcing for the pilot currently extends to 2021. At this point, responsibility for implementation of vacant possession, livelihood programming, and community relations transitions to existing site-level functions, such as security, community development and grievance management. Funds for managing ongoing resettlement-related activities shift from approved project expenditure to annual operating expenditure. These arrangements are not final. The PJV has stated an intent to revise the timeframes, budgeting and resource requirements as new information comes to light, including when and how responsibility for implementation moves to existing functions.

Observations of project activities

Part of the Panel's role is to observe and report on project activities, and efforts made by the various parties to progress the pilot. This section describes the pilot project activities that the Panel observed during the monitoring period.

Household survey

During Q3 and Q4 of 2017, the PJV contracted a consulting firm to execute the household survey, with logistical support provided by the PJV. This support included a planned program

of household cluster and community-level information sessions by the project's Community Relations Officers prior to undertaking the survey. It also included a local team of people who resided in the project area and worked with enumerators in the identification of household heads and residents. The local team were nominated by representatives of the LRC.

The consulting firm mobilised on the 28 August 2017, and demobilised on the 10 November 2017. Fieldwork for the household survey was scheduled to begin two months earlier, but was delayed firstly due to National Elections, and then again due to the tribal violence in Apalaka in August 2017. Once tensions on the lease had subsided, the process of data collection proceeded relatively smoothly. The Panel sighted weekly reports provided by the consulting firm to the pilot project team. Many of the disruptions noted in the consulting firm's weekly reports were related to land ownership, and concerns about an earlier assets survey commissioned by the PJV in 2011.

Data for the household survey was collected within the defined project boundary. An amendment to the original project boundary was the inclusion of "Area 1" on the southern side of the road near Yoko. The PJV has engaged the various committees about the issue of conducting the pilot project on the basis of a geographic versus clan boundary (see also: previous Panel reports). The PJV has maintained that the pilot project would be conducted on the basis of the geographic boundary of the two settlement areas, and this decision is reflected in the survey scope for data collection.

In March 2018, the pilot project team received the final data set from the consulting firm. The survey recorded 367 households from across the two settlement areas, with a total population of 2,344 persons.¹⁰ The project team purchased a license for a commercial information management system and began the process of uploading survey records. Following a preliminary review, the pilot project team said that it became clear to them that many of the entries were incomplete, inaccurate and/or that members of the community had provided false or misleading information to enumerators. Several records may contain phantom entries. It has since come to light that non-residents had been transported into the survey area by landowners and photographed as household heads to increase the overall number of resident households.

A "clean" data set is required for establishing an eligible population, and from that information, to understand the level of resourcing and funding required to successfully undertake the resettlement. Basic aspects of planning and budgeting hinge on the project team having an accurate set of demographic data to operate from. Until there is a functional data set, the pilot project finds itself at an impasse.

The project team presented its first set of suggestions for data cleaning to the LRC on the 30 November 2017, following a preliminary review by PJV of the dataset.¹¹ Committee

¹⁰ An estimate based on the average of 6.5 people per household.

¹¹ The Panel were present for this meeting.

members agreed to engage an independent facilitator to review of the data, first with members of the LRC and then with members of the two CRCs. This process did not yield any significant progress and the issue was brought back to the LRC for further discussion. It was suggested that the Resettlement Manager should use photos of the household heads in question, and meet with CRC representatives to verify the identity and status of the households in question. Meeting with local landowners to verify the identity and status of relatives, neighbours and visitors is common practice in the PNG context.

This process was unsuccessful. It became apparent from these meetings that committee members were not prepared to identify individuals due to concerns about reprisals. The pilot project team explained to the Panel that they discussed the situation with the LRC and that LRC members suggested that the project team hold private meetings with household heads to confirm the status of individuals claiming to reside in their immediate area. While this approach provided clarity about the status of some households, people were nervous about participating, and this approach was discontinued.

Several avenues for cleaning the data have been tested by the project team including:

- examining data collected during the household survey, such as photos, GPS locations, and individual entries
- attempting to triangulate sections of the data using secondary sources, including electoral rolls, land investigations reports and the SML royalty and land use payments lists
- reviewing the company's local supplier list and employment data to confirm name, date of birth and point of hire.

These sources did not contain the level of detail needed to clarify records within the data set. The matter was brought back to the LRC for discussion. At this point, it was recommended that the PJV should consult with some of the principal landowners. In May 2018, the pilot project team met with a small group of principal landowners. At the end of the monitoring period, the project team was still left without an operable data set.

Stakeholder engagement

Engagement with the three Committees – the Porgera NRC, the LRC and the two CRCs – occurred on a regular basis during the monitoring period.

Committee engagement

The PJV continued to initiate and participate in Porgera NRC meetings in Port Moresby, chaired by the MRA. The PJV initiates the meetings and takes carriage of minutes and action logs. Principal landowners who are members of the LRC are attending the NRC meetings on a regular basis. Feedback about NRC meetings is provided at LRC meetings. Presently, CRC members do not receive formal feedback on decisions or discussion held at the NRC level.

The Panel continued to attend LRC meetings on a quarterly basis during the monitoring period. Discussions continue to be formally minuted, which are sighted by the Panel. In its

present form, the LRC is largely functioning as per its agreed Charter. LRC members are actively troubleshooting issues relating to data cleaning, land identification and engagement with the national government. Due to ongoing court hearings in Port Moresby between principal landowners, several members of the LRC have been absent from Porgera. In Quarter 1, 2018, the LRC struggled to reach a quorum in its monthly meetings. The idea of Committee members nominating alternatives was raised for discussion.

The issue of sitting fees has taken several forms over the life of the LRC and reflects the engagement culture that has developed during the life of mine. Initially, the landowner representatives requested an increase in the fees. In response, the PJV proposed an increase in sitting fees based on the resettlement project reaching stage gates (or milestones). At the November 2017 meeting, an end-of-project bonus was raised for discussion.

Three CRC meetings for Panandaka and two CRC meetings for Pakien were observed by the Panel during the monitoring period. The Panel has sighted minutes for all of the CRC meetings. Membership of the CRCs is, for the most part, stable. Non-members attempting to attend or disrupt meetings is a persistent challenge for the CRC and the project team. Disruptions are occurring either as a way to contest membership, or as a means for drawing attention to individual grievances – some of which are unrelated to the resettlement pilot project.

Since the CRCs were formed there has been significant work required of members to support the project and to work with the project team to troubleshoot issues. In the first instance, while the committee was still in the process of determining its membership, the CRC committee was engaged to support the roll out of the household survey. More recently, there were requests for CRC members to come forward and verify the status of households and household heads as part of the data cleaning process. This comes at a time when many of the CRC members are forming an initial understanding about the basic design elements of the off-lease resettlement pilot project, and what the implications might be for them and their families.

Other observations

The pilot project team has a detailed Stakeholder Engagement Plan. As part of this plan, the team develops key messages or “message tracks” that Community Relations Officers use to guide their community-level engagement. This approach is designed to ensure that information is provided in a consistent manner for those who need to understand the project parameters, and participate in the process. The Panel has observed the message tracks evolve as the pilot project proceeds. For example, during the Q4, 2017, the family cluster meetings focused on explaining the process of the household survey. By Q1 2018, the emphasis had shifted to identifying destination land.

The Panel observes that all three Community Relations Officers approach their tasks methodically, professionally, and display a high level of capacity for close, respectful community engagement work under difficult circumstances. Community Relations Officers

are available to meet with people to answer queries, and make themselves available if people need to speak with them about the pilot project. The Panel observed that some engagement processes may benefit from the use of aides such as maps, photos, and other tangible communication devices.

In the early parts of the monitoring period, the Livelihoods Adviser and one of the Community Relations Officers initiated preliminary discussions with local stakeholders to better understand how the pilot might approach the issue of livelihoods and vulnerability in the context of the Porgera Valley. While the project team is using a high-level vulnerability framework as an initial point of reference, the team is seeking to understand the situation on the ground before operationalising the framework in the context of the pilot. The Project Lead indicated that this ground-truthing will be cross-referenced with the survey data once it has been cleaned and prepared for analysis.

Resettlement planning

In March 2018, the project team submitted a Pilot Resettlement Framework to the Government of PNG's Department of the Prime Minister and National Executive Council ("NEC") via the Department of Mineral Policy and Geohazards Management. The pilot project team is operating on the basis that the national government expects that the PJV will produce a Resettlement Action Plan ("RAP") in 2019, which includes more detailed information about the project and the type of support being sought from the government. The project team has set an internal deadline of January 2019 for completion of the RAP.

At the March Porgera NRC meeting, government representatives identified a potential pathway for securing government support for the project. A high-level briefing paper has been drafted by the PJV with the intent of submitting the paper to the NEC, again via the Department of Mineral Policy and Geohazards Management. The briefing paper outlines the need for government support to implement the off-lease resettlement pilot, including access roads, social services infrastructure, and resourcing for the infrastructure.

A vacant land management strategy has been drafted and sighted by the Panel. The Project Director presented the project's high-level thinking at the March 2018 Porgera NRC meeting. The strategy has six streams of activity, including understanding the legal framework; pursuing a strategy of boundary demarcation; ensuring livelihood restoration and improvement; ensuring that agreements are in place; defining the resources required to manage vacant land; and considering operational use of vacated land.

As part of its planning process, the pilot project team commissioned a human rights assessment of the resettlement pilot project during the monitoring period. The appointed consultants are familiar with the operational setting having conducted audits against the Voluntary Principles on Security and Human Rights at the site, over several years. The PJV commissioned the study as a desktop exercise, with key informant interviews conducted by the consultants remotely, in English, via telephone. On-site interviews were also conducted by PJV personnel, who provided data to the consultants. An advanced draft of the study

output was sighted by the Panel. The human rights context is presented in narrative form, with approximately 15 broad risk categories identified and ranked by likelihood and severity. A number of “salient” risks are identified, including the increased potential for the pilot project to cause violence and conflict among residents within the lease, and in the Porgera Valley more generally. This potential is most acute within households, between clan groups, and for the receiving community. Gender-based violence was identified as a salient risk. The consultants proposed a series of measures to mitigate and monitor the human rights risk profile of the project. The PJV project team stated its intent to present these risks to the LRC for comment prior to incorporation into the RAP, and to conduct a supplementary study once destination land is identified.

Observations of issues and challenges

This section canvasses the Panel’s observations of a range of specific issues and challenges, including: the planning process; issues relating to data verification; eligibility criteria and entitlement; vacant possession; the location of destination land; livelihoods and vulnerability; gender and vulnerability; law, order and human rights; the challenge of shared responsibility; the relative timing of the PJV’s lease extension in 2019; and the resettlement planning process.

Data verification

In this monitoring period, the Panel observed the pilot project team working through the many complex issues associated with the household survey data. These issues relate to:

- the verification (i.e. “cleaning”) of data
- the use of data to categorise households as being either eligible or ineligible for resettlement packages
- testing the eligibility criteria in terms of specific sets of rights and entitlements.

The challenge of verifying the household survey data and entries must be understood in the context of an environment where none of the parties – the company, the government or the affected communities – have a set of formal records to draw upon. Efforts to verify data are taking place in the context of a historical data vacuum. The Panel’s previous reports have described the various issues attached to the fact that the operation has not maintained an accurate, and active, set of demographic records associated with the lease. While there is a great deal of knowledge held between the parties involved in the pilot project, there are no formal census records, no genealogy, and no agreed household asset data for the pilot project team to use in triangulating their current data set. This has immediate consequences for planning and costing of the pilot resettlement.

Cleaning the data has become a more time consuming and extended process than was previously anticipated by the PJV, LRC and CRC members. Foremost among the challenges is the issue of identifying a verification method that does not expose the project team, or members of the community, to reprisal if the process eliminates or reduces entitlements for some parties. This situation is a product of entrenched patterns of engagement, where

members of the community are seeking to maximise their entitlements, at the same time that the company is looking to limit its cost exposure and manage expectations. The government plays no role in supporting the parties through this process.

The pilot project team faces a difficult set of decisions in terms of how to proceed. The pilot cannot move ahead without reliable data to confirm the eligible population and the extent of their entitlements. These decisions are set in a context where contestations over eligibility and entitlements have an established history of becoming violent. For these same reasons, neither the company nor the community can simply release the current household survey data and information and expect the landowners to resolve the issues. At this stage in the process there are risks for all parties involved. As a result, the pilot project team finds itself at difficult juncture, working to discover the best next step.

Eligibility criteria and entitlement

The project team has applied a long standing eligibility criteria to the current dataset as a “first pass”. This eligibility criteria has been applied to relocation over the history of the operation. Of the total number of households, approximately 20 percent fall outside of the four existing eligibility categories. This is a function of how the team has applied the eligibility criteria in analysing the household survey data. For instance, the criteria specifies that individuals must be married in order to qualify as eligible. There is no explicit allowance for widowed or divorced heads of households. If the existing criteria is applied to the resettlement pilot project, the following groups would not be categorised:

- a divorced or widowed landowner household head
- a direct descendant of a landowner who is not presently of age (or married) but who will be of age, and likely married, at the time of resettlement
- adult descendants of a landowner or *epo arene* residing within a female headed non-land owner household

Strict adherence to the current eligibility criteria could result in people with equivalent ownership and use rights being treated inconsistently.

Outside of the landowning and *epo arene* group, other cases also fall outside of the current categorisation. The current criteria does not account for resident non-landowners, who do not own the structure in which they reside, but may have assets (other structures or crops) that should be considered for improvements compensation.

The pilot project team acknowledges that the eligibility criteria needs adjustment in order to better reflect local customary rights or where there are material consequences of using “residence” and “ownership” that are misaligned with the objectives of the pilot project. The project team are considering where modifications to the eligibility criteria are warranted, and have stated their intention to discuss these issues with the sub-committee of the BNL Board, the various other committees, and the target population.

Vacant possession

One of the main objectives of the pilot resettlement project is for the PJV to secure vacant possession over the existing settlement areas. After households have moved away from Panandaka Ridge and Pakien, securing vacant possession will be necessary to avoid families from other areas of the lease, or indeed from outside the lease, taking up residence in the former settlement areas, or the same families returning to the area. The PJV has made it clear from the outset of the pilot project that the company will need the cooperation of other parties in order to achieve its objective of vacant possession over the existing settlement areas. At this point, the company has formulated a series of principles for vacant land management, with the pilot project team liaising with mine security and mine planning to establish a common understanding, before proceeding to develop a plan.

Securing vacant possession will depend on a number of key factors that the Panel has noted in previous reports. Landowners have, over the course of the current monitoring period, expressed concerns about the state of law and order in the Porgera Valley. This concern has also been expressed by the PJV, and reflected in its considerable security presence to protect the mining operation and its activities. In the event that the two resettled communities are exposed to threats or conflict off the lease areas, there is a high likelihood that households will want to return to the mine lease areas – either former settlement areas or other areas of the lease where they have clan ties. In this sense, vacant possession of lease areas is inextricably linked to establishing destination sites that are equally as secure.

The decision to proceed with Panandaka Ridge and Pakien on a geographic rather than clan demarcation has implications for vacant land management. This boundary, for the most part, starts from the lower end of the Panandaka settlement areas, some small distance from the community relations office at Yoko, runs along the road following the ridgeline and towards the settlement at Mungalep (Figure 1). Households to the east of the road, nearest to the Anawe North dump, are included within the boundary for the pilot. Households to the west of the road sit outside of the boundary and are not part of the pilot.¹² In order for the PJV to maintain exclusive use of the vacated area, it is the Panel's opinion that the PJV would eventually need to apply strong physical deterrents to prevent households living across the road from moving into the vacated area.

¹² The rationale for this decision is described in the Panel's 2017 annual monitoring report.

Figure 1: Porgera pilot settlements relative to proposed boundary cut off.



One challenge associated with this approach is that a number of ineligible households residing on the western side of the road have legitimate customary rights over the vacated areas to the east of the road. If the PJV does not take immediate possession of vacated land, it is likely that those landowners will exert their rights to avoid others laying claims. A further challenge is the length, and elevation of the boundary. At more than two kilometres in length, and with heights ranging from 2,200 to 2,300 metres on the high side, and an exposed dump site frequented by illegal miners on the low side, this will be a challenging perimeter for the parties to secure and regulate.

A recurring point of discussion is the importance of resettled households seeing a marked improvement in their livelihood. This will be difficult to achieve in the short-term, but without it, the risk of households seeking to return to the “economy of the lease” will be high. To minimise this risk, livelihood programming will need to start well ahead of any physical displacement, with a view to delivering results quickly. The issue of livelihood programming is discussed in more detail below.

Destination land

The purpose of securing safe and productive replacement land is worth re-stating. Replacement land in this context is required to: provide a location in which people can reside safely, and support household livelihood activities.

The PJV's pilot project team is clear about the role that replacement land will need to play in the resettlement process, and is actively working with LRC and CRC members to identify potential areas of land. An initial set of criteria was developed by the PJV to support decision-making about potential land areas. As at May 2018, eight areas of land had been identified by members of the LRC and the CRCs, based on their assessment of suitable land, and presented to the PJV as initial options. On first screening, two options were immediately disqualified by the PJV due to their proximity either within, or near, mining lease areas.

From the remaining six areas, two options were considered unsuitable due to the risk of landslips. This leaves four areas for the company and the landowners to investigate as viable options. Of these four options, three are in sufficiently close proximity to existing amenity, with good access to roads. One of the four options is located some distance from the town centres of Porgera Station and Paiam and would require a significant investment in road infrastructure. For each of the four areas, the PJV's current working assumption is that the landowners from Panandaka Ridge have strong clan ties with the landowners in those locations. Landowners from Pakien have yet to provide the PJV with a set of options for consideration.

The four land options currently identified for Panandaka Ridge have the following basic characteristics:

- the land areas vary significantly – the smallest parcel is approximately 40 hectares in area, the largest is greater than 1,500 hectares
- each of the four areas are presently managed under customary tenure
- low levels of observable activity (e.g. settlements or cultivation) in the proposed areas
- the elevation ranges between 2,150 to 2,700 meters – areas in the lower ranges are in closer proximity to existing settlements.

Land identification is in its early stages, and consists mostly of basic desktop mapping and discussion with LRC and CRC members. Additional desktop work is expected before the team begins to ground-truth the areas for suitability. The pilot project team recognise the need to identify and gain permission from landowners of the destination sites prior to any site based surveying or land assessment work.

Given that the PJV has stated its intent to align with the IFC PS5, it will be important for the company to articulate a clear position on its approach to replacement land. While it is accepted that the company is constrained by: (a) the availability of suitable and suitably located land within the Porgera Valley; and (b) the difficulties associated with not yet knowing the number of eligible households, it is nonetheless incumbent upon the PJV to continue to engage with the community about land acquisition and, in doing so, to state in plain terms the basis on which households will be allocated land.

It is unclear to the Panel which part of PJV's intended approach will align with IFC PS5, and how that alignment will be demonstrated. If the PJV were to proceed with "like-for-like"

land replacement at this stage of mine life, this could result in resettled households receiving land parcels similar to the allotments they presently reside on. Basing replacement sizes on current allotments would be difficult to defend given that land constraints in the two pilot areas are mine-induced. At the same time, neither the company nor the landowners have sufficient records that would allow either party to show land allocations prior to these areas being disturbed by mining. Discussions with PJV personnel suggest that the company is looking to support a process of land acquisition over a sufficiently large area of land in order to provide households with enough land for subsistence cultivation. Specific details relating to the land allocation per household, or the extent to which households could expect to meet subsistence food requirements, or produce a surplus for market, were yet to be finalised.

Livelihoods programming, costs and resourcing

During the monitoring period, Panel members had an opportunity to visit the two settlement areas, largely for the purposes of observing the family level information sessions facilitated by the pilot project's Community Relations Officers. Poor living conditions, the high occurrence of disability, limited availability of land to support basic subsistence, and the unsanitary and unsafe living conditions are readily observable. The level of vulnerability amongst women and children warrants particular mention. All of these conditions have been documented in previous studies. What is not readily observable, but entirely predictable, is the material effect that current levels of vulnerability will have on future livelihood programming for the pilot project.

Prior to initiating the data cleaning activities, the Livelihoods Advisor had commenced a process of assessing potential partner organisations for livelihoods programming work. This work was focused on defining a vision for the livelihoods component of the pilot and strategising about the approach to programming. To support this work, the pilot project team have been progressing their data analysis on food security, health, education, livelihood activities and household income. The commissioning of further specialist studies (e.g. food security and market agriculture) depends on this work. Transitioning the project's dedicated Livelihoods Adviser to the more senior position of Project Lead with oversight of the pilot project itself introduces new constraints in terms of workload.

The pilot project team is aware that livelihood restoration is one of the elements that differentiates "resettlement" from "relocation". Research confirms that the costs and resources required to support livelihood restoration in a mining-induced resettlement are routinely underestimated and subsequently under-resourced.¹³ In light of the complex livelihood arrangements that exist for people living on the lease areas, the PJV's 30 year history of relocation practice – which has not included a livelihood restoration component –

¹³ See Kemp, D., Owen, J., and N. Collins (2017) [Global perspectives on the state of resettlement practice in mining](#). Impact Assessment and Project Appraisal. 35 (1), pp22-33.

and the degree to which livelihood restoration is linked to the pilot project's key objective of achieving "vacant possession", livelihood analysis will need to be prioritised going forward.

The Panel has continued to seek clarification from the pilot project team about the baseline that will be used to determine whether livelihood "restoration" or "improvement" has been achieved. This is a material consideration for the resettled community. It is also important from the perspective of the "defensibility" of the pilot project itself. From the Panel's perspective, setting a restoration baseline to current on-lease conditions without taking account of historic changes would not be defensible because of the operation's impact on land, including gardening and foraging areas, water, and other livelihood resources. Using the present on-lease conditions in the pilot settlement areas to establish a baseline would set the benchmark for "success" at a high level of mine-induced impact.

Household survey data collected in 2017 will provide the PJV and other stakeholders with a basis for understanding current livelihood conditions. This information, however, cannot be used to measure the effect of mining activities on livelihood outcomes in the settlement areas over the last three decades. Using the 2017 household dataset to account for livelihood impacts will result in historic losses not being taken into consideration in either the compensation or livelihood programming aspects of the pilot. The project team is currently considering how it will approach performance benchmarking in this area, including metrics to monitor livelihood programming activities and performance.

Gender and vulnerability

To align with international standards, such as IFC PS5, the PJV must focus on processes that safeguard people who are most vulnerable to the disruptive effects of resettlement. A key consideration relates to representation and participation in planning and decision-making processes. The pilot project team have continued to uphold the principles of diversity and inclusion in the forming of the various resettlement committees. The team has faced difficulties in maintaining the agreed composition of these groups, particularly within the two CRCs. The Panel notes that the pilot project team has continued to support the inclusion of women, youth, and people with disabilities and encourages all parties to focus on ensuring that these groups have a voice in committee processes, and are not merely "present".

There continue to be opportunities for the PJV to support gender inclusion through the appointment of a female Community Relations Officer. A dedicated position could support the engagement activities at the community level, women's participation in the committees and women's groups. The Panel attended the second convening of a women's group in May 2018.¹⁴ This process is currently being facilitated by female members of the LRC and would benefit from additional support and awareness raising about the pilot project.

¹⁴ The group was originally convened as a Panandaka and Pakien women's group. Women from Pakien did not attend these initial meetings due to difficulties associated with community level politics..

In the previous monitoring period, the project team developed a vulnerability framework to underpin project activities. This framework was referenced in the design of the household survey. The survey included questions to assist in the future identification of vulnerable people and households. The project team has stated its intention to further develop the framework elements to support planning for livelihood restoration and improvement. These elements have not been elaborated due to the workload generated by other project components, primarily the need to secure a clean household survey dataset.

The vulnerability framework must eventually account for eligible households with vulnerable household members. The PJV will also need to consider vulnerable people who are not eligible for resettlement, but who may be made more vulnerable as a result of their eligible family members being resettled off the lease area. A working dataset from the household survey should assist the PJV in understanding how prevalent different types of vulnerabilities are within the settlement areas. Analysis of the survey data may surface alternative types of vulnerability that the PJV or other stakeholders had not previously considered. Vulnerability will need to be assessed within the host community as destination lands are identified.

How the pilot accounts for landowners' sense of family and safety continues to be an important consideration. LRC members have expressed concern at the possibility of moving away from close kin; breaking up household networks has implications for those families that remain on the lease, and for those resettled under the pilot project. The arrangements under which people in the pilot settlements move off the lease areas will have a determining effect on the types of vulnerability that they will experience. Site selection will likewise influence the types of vulnerability that households could potentially face. A critical issue in the Porgera Valley is that exposure to sexual violence and tribal conflict has been acute for women and vulnerable groups. All parties need to thoroughly understand how decisions about eligibility will affect conditions of vulnerability.

Law and order

Issues relating to law and order were prominent during the monitoring period. There was a sense among community leaders and the PJV that there had been a decline in law and order in the Porgera Valley during the past 12 months. In this period there had been a spate of tribal violence on and off the lease area, and in January 2018, the PJV's security department encountered a spike in the number of "illegal" miners operating in the pit area. A confluence of unresolved legacy issues, an earthquake, a state of emergency and police call out, and the partial shutdown of the processing plant, was said to have precipitated a more volatile environment than what the Panel had observed in the previous monitoring period. These issues are of concern to all parties. The pilot project team has mentioned on numerous occasions that if the risk to people – all stakeholders, including PJV employees – becomes too high, the pilot project will not move forward.

For the first time since the project's inception, external and project-related factors spilled over into engagements about the pilot project, and the pilot project's Community Relations

Officers became the target of unanticipated violent threats. The Project Lead indicated to the LRC that if the threat to PJV staff continues, and they are prevented from working in the community, the PJV will suspend work on the pilot until it is safe to re-engage. These recent incidents triggered a more intensive risk assessment process by the pilot project team prior to undertaking community engagements. The team expect the risk to amplify as firmer decisions about household eligibility draw closer, which may result in people who consider themselves to be eligible missing out on entitlements.

The geographic boundary has been a present factor in discussions with community members since the Panel was appointed. In many instances, community members refer to the Panandaka Ridge settlement by using the clan name of “Mamai”, even though the pilot project includes only those Mamais residing on the Anawe dump side of the Panandaka settlement area. Members of the Mamai clan residing on the other side of the ridge road are not part of the pilot. This same geographic demarcation also applies to the Pakien settlement area. In the current monitoring period, household representatives residing outside of the pilot boundary disrupted committee processes and community information sessions in the two settlement areas.

Law and order issues affect other aspects of the project. In almost all of the Panel’s local-level engagements, people raised concerns about new forms of vulnerability once families leave the lease. People explained that tribal violence was often fuelled by jealousy, and if the resettlement community was seen to have benefitted, this could become a basis for conflict. People expressed concern about the risk of being attacked once they moved off the lease, and their desire for the PJV to have a contingency plan should resettlement houses and other assets be razed. The pilot project team is similarly concerned about the prospect of disputes unrelated to the project having a negative impact on the resettlement process, and have noted the difficulty associated with managing law and order risks that are considered as being out of the PJV’s control.

The pilot project team has expressed an interest in exploring collaborative approaches to managing safety and security issues on the basis that community-level responsibility should be taken for some risks. Suggestions from community representatives include monetising a greater proportion of the resettlement package so that affected households have a safety net that they can easily draw upon in the event that fighting breaks out and their property is lost. Under the shared responsibility model, the PJV maintains that safety and security will need to be a collaborative effort among key stakeholders.

Concerns about the safety and security of destination land is underpinned by the law and order situation across the Porgera Valley. The suggestion of Port Moresby as a resettlement destination has continued to surface. This suggestion was made after the PJV asked the two pilot communities to identify three locations for destination land – one in the Porgera Valley, one inside Enga Province, and one outside of the Province. The pilot project team did not anticipate the strong level of interest shown by households in resettling to Port Moresby. Port Moresby, the national capital, was perceived to be a “safe” destination,

including by people who have not travelled there previously. The Panel observed the pilot project team explaining to the LRC and the CRC the reasons why the PJV does not support resettlement to Port Moresby. The Panel also sighted a letter to the Porgera NRC outlining the PJV's position on the matter. The Panel concurs that from a security and a livelihood perspective, Port Moresby would be a difficult option to defend on the basis that the PJV would not be in a position to exercise and demonstrate duty of care.

While the Panel accepts that Port Moresby may be a sub-optimal resettlement destination for these communities, greater attention must be given to understanding how the PJV will overcome the law and order constraints associated with resettling households off the lease and within the Porgera Valley. The PJV's initial ideas include:

- agreements with the host community
- establishment of a police post in close proximity to the resettled community
- establishing resettlement sites on clan or clan-affiliated land
- increased support for community-based law and order initiatives.

On the current pilot project schedule, physical resettlement may be several years away. Nonetheless, law and order is a concern for people in the present day as they think through their options. The potential for violence and conflict was identified as a "salient" issue for the pilot project within the recently commissioned human rights assessment. The Panel encourages all parties to prioritise this issue to ensure that it is properly considered.

Shared responsibility

Shared responsibility is a design principle of the pilot project. The LRC is one forum where the principle is being practised. Representatives from the company, the community and government agencies are interacting on a regular basis, on issues that are material to the success of the project. There are, however, a number of areas where the principle of shared responsibility is not being practised.

The level of responsibility that the Government of PNG is able to accept, and financially support, is a significant challenge for the project. There is a general acknowledgement that the government does not have the financial resources or human resource capability to share the infrastructure and service provision costs associated with the pilot project. The PJV has responded by suggesting that the company could take a greater share over the financial aspects of the project with government input into key areas such as planning, and the provision of education and health personnel.

Another challenge of shared responsibility applies to the issue of law and order off the mining lease areas. The PJV rightfully states that it has no statutory authority over law and order outside of its operations. The challenge here is that the mine is initiating an off-lease resettlement project, where the intent is to move people into the Porgera Valley, an area of known tribal conflict, without a commitment from the government to service law and order issues. As the parties develop a clearer sense of where the resettlement sites will be located, the PJV has stated its intent to evaluate potential risks and the possible mitigation

strategies at those sites. The PJV has also stated its intent to strengthen off-lease security for the resettled and host communities, and share responsibility with government, but has not progressed beyond mapping out some preliminary ideas.

There are other areas where the Panel is concerned about the practical distribution of shared responsibilities. CRC members were initially engaged to further verify information about household heads. This process was not successful, in part due to concerns about informants being targeted by clan members and non-landowners, and was not continued. Both the PJV and community members are aware of the risks associated with these processes. The underlying challenge with these issues is that parties should not be allocated responsibilities that they cannot service.

Lease extension

The PJV's SML is due for extension in 2019. Most stakeholders familiar with the history of relocation at Porgera agree that living conditions on the lease area, and progress on the pilot, will have a direct bearing on lease negotiations. While there is no statutory requirement in place, there are views from within the pilot communities suggesting that PJV is proceeding with the pilot project on the basis that progress towards off-lease resettlement will be expected by the Government of PNG and other stakeholders as a condition of lease extension. The most common question that stakeholders pose to the Panel is whether the PJV is fully committed to progressing the pilot, or will only be committed until the lease has been extended.

Community leaders and other individuals living in the pilot settlement areas asked for the Panel's view about whether the company is genuine about the pilot project. Stakeholders frame this question against longstanding grievances and unfulfilled commitments by the PJV. For members of the Pakien settlement, reference is made to the status of the outstanding Pakien lease for mining purposes ("LMP"). Despite the area being impacted by mine activities, an LMP has not been formalised.¹⁵ Pakien does not fall within the SML and landowners do not receive royalty and other payments that the other SML communities are entitled to. Members of the Panandaka community frame their questions in the context of agreeing to move off the lower and more productive part of their land holding almost 20 years ago on the understanding that company would resettle them within six months of the PJV establishing the Anawe dumps. The PJV maintains that a formal commitment to resettle these communities was not made at the time that the dumps were established. These historical issues structure present day engagements between the parties, and re-inforce the undercurrent of mistrust.

From the Panel's perspective, it is reasonably foreseeable that lease extension will occur prior to the physical resettlement of households from these two settlements. It is therefore also foreseeable that the community could conclude that the company used the

¹⁵ The PJV indicated that the lease establishment process commenced on 18 December 2017.

resettlement pilot project as a means to secure lease extension. The pilot project will continue to face a complex set of issues that may slow the progress of the pilot to the extent that the community could take this as evidence of PJV de-prioritising the resettlement. The parties should discuss this possibility early.

The Panel anticipates that the lease extension process will have a material effect on the pilot project, which could in turn increase the likelihood that the community reaches the conclusion noted above. The lease extension process will involve a series of public Warden's hearings in the Porgera Valley. These hearings will conjure up grief, frustration, and anger about impacts and unmet obligations over the mine's 30 year history. Lease extension will be seen as a priority for both the PJV and the community, and could draw resources and attention away from the pilot as community leaders, members of the LRC and CRCs, and members of the community prepare for, attend meetings, and deal with subsequent fallout.

Resettlement planning

The Panel observes the pilot project team responding to a complex set of internal and external expectations. PJV management and the BNL Board has requested that the project team articulate a budget for the pilot. Budget parameters are being considered in a context of high levels of uncertainty and with partial information. The project team is working without a reliable set of demographic data, final destination sites, or an analysis of the level of livelihood support required to incentivise settlers to remain off the lease area. During the monitoring period, the Panel observed the pilot project team working to define these parameters and test their current working assumptions.

While the Panel accepts that defensible budget parameters need to be established, and unnecessary costs need to be avoided, from the Panel's perspective, analysing data and proceeding to plan through too narrow a prism of cost containment will result in key risks being missed. Examples of where prioritising "cost" over upholding the pilot project's "design principles" have the potential to become problematic are:

- strictly holding to a geographic boundary that disconnects closely tied households
- not recognising landownership rights on the basis of non-residency
- treating second and third generation landowners differently based on which household they reside in.

The RAP scheduled for lodgement in January 2019 will be a preliminary plan. There are still important preparatory steps that must be completed before the project and the various stakeholders can finalise the outstanding design elements and proceed to the planning phase of the pilot exercise.

The PJV has indicated in LRC meetings that the resettlement of Pakien and Panandaka Ridge is contingent on the continued progress of the pilot project. LRC members, while supportive of the pilot, maintain that all of the other settlements on mining lease areas should be resettled, regardless of the pilot's success. LRC members are seeking a commitment from the company to ensure that all mine-affected communities will be resettled off the lease.

Panel opinion on suitability

This section of the report outlines the Panel's summary views on suitability of the pilot itself. In contemplating suitability, the Third Party Review from 2015 established "do-ability" and "defensibility" as key concepts. These concepts were then used by the Panel in its 2017 report as the basis for providing an opinion on the pilot project's design principles and actions taken over the course of the monitoring period. For the purpose of this report, the Panel understands "do-ability" as the overall likelihood that an activity can be completed as anticipated, and "defensibility" as the acceptability of principles and actions from the perspective of the company's stated commitments.

In forming its opinion on these concepts, the Panel has taken into account both the national context, and the operating context in which the pilot project and its activities are being formulated and enacted. The extent to which do-ability and defensibility of the pilot project can be considered is largely determined by how the PJV interprets and responds to factors arising out of this context. The PJV's efforts in surfacing and assessing potential resettlement risks, structuring mitigation measures, and designing safeguards, must account for the material conditions and challenges that the pilot project faces in this context.

Elements of the project design are proving to be do-able. The committees have been established with a relatively diverse membership, and are demonstrating a level of functionality in terms of engaging material issues. PJV has submitted a resettlement framework for national government review that contains all of the main project design elements, including the geographically defined project boundary. The degree to which these elements are defensible is a matter taken up below.

There are elements of the pilot's design that the Panel considers to be do-able subject to support from other parties. For example, the provision of education and health services for the resettled community will require inputs from the government. The PJV is in the process of securing support through the government process for funding for access roads, social services infrastructure, and resourcing for the infrastructure. On the current proposal, the company would finance the building of physical infrastructure with the government mobilising personnel by sector once infrastructure is in place. This arrangement could be workable, but do-ability is contingent on an uncertain financial contribution from government for the funding of public servants.

A range of other project contingencies affect do-ability. Vacant possession, for instance, is contingent on other elements. All parties agree that there must be incentives for the resident landowning and *epo arene* community to leave the lease area, and to remain off the lease area in the new location. As landowners have social ties on other areas of the lease, they may choose to sell or rent their resettlement assets, and move to back to the lease area. Staying in the new location is, in turn, dependant on a successful livelihood program. At the same time, the new location must be safe enough for people to re-establish their lives without undue threat to persons or property.

Achieving vacant possession is further dependent on how the PJV accounts for people who are attached to landowning and *epo arene* families who fall outside of the PJV's eligibility framework. One assumption is that these families will attach themselves to eligible households. Absorbing these persons into eligible households will dilute the value of the entitlements provided eligible households under the compensation framework. The greater the dilution effect, the less attractive and less sustainable the resettlement project is likely to become. In the short term, households may agree to these arrangements, but the risk of households returning to the mine lease area over time is significant. Vacant possession may be achieved over the pilot area, but with an increase in population numbers in other areas of the lease. This challenge comes in the form of a trade-off, where do-ability in the short term may come at the expense of defensibility in the long term

Trade-offs also exist where do-ability in the long term may come at the expense of defensibility in the short term. One such issue that concerns the Panel is impact management. All parties agree that conditions on the lease areas are not acceptable. Poor living conditions have been positioned by the PJV and the on-lease population as a key driver for the off-lease resettlement pilot project. The currently planning trajectory puts physical movement of the pilot project settlements at 2021 – four years from the present day. There is a genuine and pressing need to alleviate stress among the settlements on the lease.

The PJV's Corporate Social Responsibility ("CSR") and Community Development department has a number of projects that aim to manage or off-set mine-induced impacts. These projects include, for example, agricultural training, water security projects and small business support programs. The PJV describes these projects as aligned with the UN Sustainable Development Goals ("SDGs") of poverty alleviation, and the cornerstone of the company's "social license".¹⁶ While these projects are ongoing, the pilot project team is conscious of over-investing in the pilot settlements, since this could incentivise further in-migration, and undermine landowner interest in moving off the lease. During the Panel's last monitoring visit, several people attributed the poor health of residents in the settlement areas, and some recent deaths, to conditions on the lease areas. Focusing on the pilot project, and leaving acknowledged operational impacts unmitigated for a further four years is indefensible in the Panel's view.

The resettlement community is likewise starting to calculate its own trade-offs. With the prospect of moving to an area where they may face tribal violence and the loss of assets, individuals within the settlement communities expressed to the Panel a preference for taking a greater proportion of the resettlement package in cash. How the PJV responds to this suggestion will affect the Panel's reading of do-ability and defensibility. The prospect of trading secure shelter for cash does not align with the IFC performance standards where there is a strong preference for "like-for-like" on fixed assets, such as housing and land. In

¹⁶ See: <http://www.porgerajv.com/Community-Environment/Corporate-Social-Responsibility>

the context of the Porgera Valley, where people are seeking a future safeguard, this may be a defensible proposition if other conditions were applied to ensure that these funds were used for their stated purpose, and that households were not left homeless and landless as a result of the bargain.

One area where the Panel is not yet able to provide a clear opinion on either do-ability of defensibility is security. All parties agree that the Porgera Valley's law and order situation is volatile, and that the PJV would be acting beyond its jurisdiction if it were to take responsibility for off-lease security at the current juncture. The pilot project team demonstrates an awareness that the prospect of knowingly putting people in "harm's way" by exposing them to tribal violence is not defensible. The PJV has stated its intent to assure itself that the security situation is defensible before proceeding to move people from the contained context on the lease. If people are being asked to identify "safe" land in the Porgera Valley, it is the Panel's view that security must then form part of their decision-making process. Without agreed parameters around responsibility for off-lease security, it is difficult for community members, and the company to determine what is "safe land". Until these parameters are defined, it is difficult for the Panel to reach a position on defensibility.

As the Panel has noted throughout this report, the pilot project team is presently focusing its efforts on validating the data collected through the 2017 household survey. The intention, as the Panel understands it, is to incorporate the final data set into the PJV's understanding of baseline conditions. These baseline conditions will be used to inform planning decisions as they relate to eligibility, land acquisition, compensation, livelihood programming, the provision of social and physical infrastructure, and ultimately budgets. Importantly, the baseline will also be used as the basis from which to measure outcomes and the "success" of the resettlement project using indicators established around themes such as income, food security, housing, education and health.

In the context of a 30-year mining operation and cumulative impacts on land and livelihoods, the Panel is concerned about taking current conditions as the only baseline for future restoration or improvement. The challenge in this case is that PJV does not have a defined pre-impact baseline. While the 2017 household survey will provide PJV with the baseline conditions prior to the impact of the future resettlement project, this baseline does not account for historical mining-induced impacts on lands and livelihoods in the two settlement areas. Unless previous impacts are accounted for in establishing a set of baseline conditions, the project could be setting its restoration and improvement parameters to "mine impact" levels. For this approach to be defensible, the Panel would be seeking a more comprehensive approach to assessing "success".

Finally, the absence of a formal policy on human rights is not defensible, either in the context of the project's history, or in considering the range of potential human rights risks associated with the resettlement pilot project. Without a clear public commitment, the PJV is not in a position to demonstrate "respect" under the UN Guiding Principles for Business and Human Rights.

APPENDICES 1 – 4

Appendix 1

Background to the Porgera mine and the pilot resettlement project

Shared occupancy

Since the Special Mining Lease (“SML”) was granted in 1989, the Porgera mine has operated under a shared occupancy arrangement where both the mine and the local population actively use mining lease areas. The size of the SML has not changed since the project was permitted 28 years ago, however the total land area of the mining complex has almost doubled – largely through the use of Leases for Mining Purposes (LMPs).¹⁷ In establishing the mine, and with each successive development, the PJV negotiated relocation packages with landowners and their representative “agents”. Given the risks associated with moving away from kin groups, and in order to access economic opportunities from the mine and stay on, or close to, their traditional lands, the vast majority of landowners opted to relocate within the lease area. As the Porgera area is prone to landslides and earthquakes, the mine has also conducted “emergency relocations” of households impacted by unstable land within the lease area. Destination sites for these households have largely been based on existing customary land within the lease area. More recent relocation agreements have encouraged households to relocate off the lease area.

Over the life of mine, there has been an exponential increase in the on-lease population through in-migration and natural population increase. The current level of congestion is a result of the inherent topographic and climatic conditions of the Porgera Valley, the mine’s expanding footprint and the practice of on-lease relocation. On-lease relocation has contributed to a difficult and precarious set of living conditions for the resident population, where the local population and the mine compete for land and access to resources. This situation can impact the mine’s ability to operate in a safe manner. A range of parties, including some landowners and international non-government organisations (“NGOs”) advocate for off-lease resettlement as the solution to the population pressures and problems on the lease area.

The operation has in the past attempted to incentivise off-lease relocation. This has been largely ineffectual as the majority of people who were incentivised to settle elsewhere eventually returned to the lease to reside with relatives. While there is no site-based longitudinal monitoring data available to track off-lease relocation outcomes, a recent PJV review of relocation houses constructed off the lease between 2013-2015 found that of the 39 houses surveyed, 33 had been on sold by the house owners before the completion of construction and 31 of the 39 house owners continue to reside in the SML and LMP areas.

¹⁷ In this report, the term “lease area” is an encompassing term that includes the SML and LMPs. LMPs are areas where mine-related impacts have occurred, or may occur in the future, and a lease for mining purpose is granted by the State. No mining can occur on an LMP.

The review demonstrates both the importance of maintaining records and the difficulties with managing ad-hoc, household level settlement projects outside the lease.

In 2007, while under the management of Placer Dome, the PJV embarked on a major mine expansion feasibility study known as 'Stage Six' and in doing so assessed the feasibility of a whole-of-lease resettlement project. At that time, the proposal was to resettle the entire on-lease population to land off the SML and LMPs. In 2008, the expansion study was considered unfeasible and was subsequently abandoned, along with full SML resettlement. Barrick continued to explore options for addressing issues affecting the on-lease population, and in May 2011 began negotiations with landowners from Panandaka Ridge about off-lease relocation.¹⁸ In 2013, following an internal review of relocation, the PJV commissioned an external resettlement consultant to assist in developing a framework for off-lease resettlement with a view to achieving broad alignment with the International Finance Corporation's ("IFC") Performance Standard 5 on Involuntary Land Acquisition and Resettlement.¹⁹ The framework identified Pakien and Panandaka Ridge settlements as the two pilot settlements.

The pilot off-lease resettlement project

There are several stated drivers of off-lease resettlement. First, the PJV is seeking vacant possession of its lease area. The PJV is working on the understanding that maintaining vacant possession over land will be the shared responsibility of government, PJV and landowners. The company's expectation is that vacant possession involves residents and visitors leaving the lease, and not returning until either the mine has closed, or areas of the lease are relinquished. Second, the living conditions on the lease area are extremely poor. There are problems associated with chronic overcrowding, and access to basic infrastructure and services, such as health, education, water and sanitation is extremely limited. Residents do not have access to an adequate supply of potable water, and land for gardening has been made increasingly scarce by in-migration, landslips and project activities. Food security for the on-lease population has been identified as a pressing and long standing issue. While the mine has been the principal cause of the displacement over the life of the operation, the Panel notes that the company's decision to proceed with an off-lease resettlement pilot project is driven by ongoing demands from local communities to be resettled away from mining impacts.

The pilot concept has two features that differentiate it from the PJV's current practice of relocation. First, the pilot proposes to support communities in moving out of their existing settlements and resettling permanently on an agreed area of land away from the lease (i.e. it will not include on-lease relocation). To support resettlement, the PJV has proposed to:

¹⁸ The Panel sighted the document titled: Initial Steering Meeting, Panandaka Relocation, Suyan Haus Win 10am, Friday 6 May, 2011.

¹⁹ Gerrits, R. (2013) Resettlement Framework for Progressive Off-SML Resettlement, PJV/Barrick. Unpublished consultancy report for Barrick PJV.

- support households to identify and move into a settlement off the lease area
- share responsibility between government, company and landowners
- replace land with residential plots and areas for small-scale agriculture
- provide a livelihood restoration and improvement component
- provide provisions for housing, physical infrastructure and social services
- move households as a group rather than on an individual basis
- include household heads in the negotiation process, as well as agents ²⁰
- conduct broad-based engagement that includes a diverse group of stakeholders
- develop a comprehensive social monitoring program
- improve knowledge management systems
- identify and support vulnerable persons.²¹

The second main feature that differentiates the pilot from the PJV's practice of relocation is that the project aims to broadly align with IFC Performance Standard 5. This involves a departure from relocation compensation as a one off "transaction", to an approach that will require PJV to facilitate a process that secures land tenure, minimises harms, and restores the livelihoods of resettled people. This latter approach will mean that in addition to completing its basic due diligence studies and developing a Resettlement Action Plan ("RAP"), the PJV will need to develop and resource the implementation of a Livelihood Restoration Plan ("LRP").

The project is referred to as a "pilot" because the PJV is looking to test the "do-ability" of off-lease resettlement at Porgera. The term is also being used to differentiate the current project from the previous whole-of-lease resettlement initiative from 2007. In the context of draft mining law and a draft resettlement policy that aligns more closely with the IFC Performance Standards, Porgera's off-lease resettlement pilot project also represents a "test case" for the country and the sector as a whole. While the number of households that will be involved in the pilot has not yet been confirmed, it is safe to say that a resettlement project involving the Pakien and Panandaka Ridge settlements will represent the largest mining-induced resettlement project ever attempted in PNG.

²⁰ As the process evolves, the PJV intends for the Community Resettlement Committee (CRC) to play a more central role in the negotiations process. The CRC will be comprised for household heads, women and agents from the two settlement communities.

²¹ Gerrits, R. (2013) Resettlement Framework for Progressive Off-SML Resettlement, PJV/Barrick. Unpublished consultancy report for Barrick PJV.

Appendix 2

Independent Panel of Observers

In March 2015, Barrick PJV approached the Centre for Social Responsibility (“CSR”), part of the Sustainable Minerals Institute (“SMI”) at The University of Queensland in Australia, about the possibility of partnering with a PNG-based entity to serve as an independent observer for the pilot project. The company stated that it was cognisant of the difficulties involved in moving people off the lease area, and wanted to document lessons drawn from the pilot’s activities.

As a preliminary step towards appointing independent observers, Barrick PJV agreed to fund CSR to conduct a rapid review of relocation at Porgera, and to understand the parameters of the off-lease resettlement pilot framework. The agreed scope of work for this review required CSR to (i) provide a brief history of relocation at Porgera and (ii) offer an opinion on the ‘suitability’ of the off-lease resettlement pilot framework. In the interests of transparency, Barrick PJV and CSR agreed, from the outset, to make the report available in the public domain.²²

After conducting the initial review, an Independent Panel of Observers (“the Panel”) was formed in March 2016, chaired by CSR. The Panel’s primary function is to observe project activities, engage with project stakeholders, and to report on key developments as the company, government and landowner stakeholders attempt to progress the pilot project. Panel members are not involved in planning or implementation of activities, and do not hold decision-making power.

The three Panel members include: Professor Deanna Kemp, CSR, Centre Director (Chair); Professor John Owen, CSR and resettlement specialist; and Rhonda Gwale, Senior Lecturer, PNG University of Technology.²³ Ms Gwale’s role focuses on observing meetings in the national capital, and peer reviewing report drafts.

The Panel primarily reports to the Local Resettlement Committee (“LRC”). Observer reports are due quarterly and are tabled at LRC meetings. The Panel has agreed to produce an annual public report. These reports are intended to document where progress is being made and to identify critical issues that arise throughout the process. In each annual report, the Panel is required to reflect and comment on the opinions provided in the 2015 Third Party Review report, which should be read in conjunction with this annual report. The PJV is responsible for covering the full costs associated with the Panel’s engagement.

²² Kemp, D. and J.R. Owen (2015) *Third Party Review of the Barrick/Porgera Joint Venture Off-lease Resettlement Pilot: Operating context and opinion on suitability*. Centre for Social Responsibility in Mining (CSR), The University of Queensland: Brisbane. See <https://www.csr.uq.edu.au/publications/a-third-party-review-of-the-barrick-porgera-joint-venture-off-lease-resettlement-pilot-operating-context-and-opinion-on-suitability>.

²³ Following an extensive search for a national representative, Ms Gwale was appointed in February 2017.

Appendix 3

Panel opinion on design elements

This table lists the design elements as defined by the pilot project's resettlement framework and Panel observations about progress made against those parameters. The Panel accepts that the design parameters for this pilot are highly complex and are genuinely difficult for all of the stakeholders involved.

Panel observations of pilot project design elements

<i>Design elements</i>	<i>Panel observation</i>
Supporting households to identify and move into a settlement off the lease area.	The basis on which PJV will be able to offer support is still being determined. Numbers of eligible households have not yet been confirmed. While the land identification has commenced, the process for acquiring land has not been clarified.
Shared responsibility between government, company and landowners.	While some progress has been made towards agreeing the roles, resources and responsibilities between these parties, this has not been formally agreed between the parties.
Replacement land with residential plots and areas for small-scale agriculture.	Parties agree that replacement land is critical. Discussions within the LRC and CRCs have progressed. Several potential areas had been identified, and at the time of writing were being examined for suitability. The parties understand that replacement land must be suitable for small-scale agriculture but have not, calculated the land area required to support this activity.
A livelihood restoration and improvement component.	Discussions about livelihoods have not progressed since the last monitoring period. It was expected that livelihood studies would commence following the analysis of the household survey data. Challenges with the household survey data set have delayed progress in other areas of the project.
Provisions for housing, physical infrastructure and social services.	The PJV has identified a potential pathway for seeking financial and other support from the government for social infrastructure and related resources. The PJV submitted documentation to the government to gain clarity on this matter.

Moving households as a group rather than on an individual basis.	PJV has developed their framework based on this principle. It is a principle that is of high importance to LRC and CRC members. The pilot has identified impacted households by geographic area, rather than by clan or family connection. This continues to be raised in LRC and CRC meetings as a practical concern.
Including household heads in the negotiation process, as well as agents.	The PJV's project team has continued to negotiate with the LRC about the pilot. Progress has been made in this monitoring period to establish and begin negotiations with the two CRCs. The PJV maintains that, as the project progresses, it will engage through with household heads. The PJV has stated a preference for household level agreements as a means to ensuring households receive their entitlements.
Broad-based engagement that includes a diverse group of stakeholders.	The project team has established a strong and disciplined practice around community-level awareness. This awareness takes place at LRC and CRC meetings, and at regular family cluster meetings. These activities are supported by a Resettlement Stakeholder Engagement and Communication Plan.
Developing a comprehensive social monitoring program.	The PJV has purchased a commercial software package that it maintains will allow it to better integrate its existing records with its GIS systems. The software package is now in active use. How the package will be used for monitoring of the pilot program is in the process of being determined.
Improvements to systems and knowledge management systems.	Continued improvements to systems during this monitoring period. Studies are gradually being stored, and improvements in record-keeping were observed.
Support for vulnerable persons.	A vulnerability framework has been drafted. One of the objectives of the household survey was to identify numbers and types of vulnerable persons. This analysis has not been completed due to challenges with the household survey data.

As with the previous monitoring period, the Panel notes that the PJV pilot project team is actively tracking progress against defined tasks in a detailed project Gantt chart. As so many components are dependent on progress in other areas, the ordering of tasks is not straightforward, and it is therefore difficult to determine levels of progress overall.

Appendix 4

Panel opinion on progress

In each annual monitoring report, the Panel is required to offer an opinion on progress based on do-ability and defensibility. The table below contains the initial set of opinions provided by CSRM in the 2015 report with commentary from the Panel in 2017. The right column offers commentary for the current reporting period.

Panel opinion: 2015, 2017 and 2018

<i>Opinion from Third Party Review (2015)</i>	<i>Additional Panel commentary (2017)</i>	<i>Further Panel commentary (2018)</i>
<p>1. The progressive off-lease resettlement pilot at Porgera is being planned in a context of weak governance, low resourcing and limited capacity. Resourcing and capacity issues are present among all stakeholders. Many stakeholders expect progress to occur immediately and for the project to move at a rapid pace thereafter. The challenges associated with proceeding under these circumstances, where critical dependencies are yet to be defined, should not be under-estimated by the PJV, the government or the community.</p>	<p>The complexities identified by the Panel in 2015 are still present.</p> <p>Critical dependencies are being identified by PJV as they develop their internal project management records. The Panel has not been in a position to establish what critical dependencies exist for landowners, LRC committee members or the key government departments. This will need to be prioritised by the PJV if the government and other stakeholders are expected to assume 'shared responsibility' for the pilot's success and failures.</p>	<p>No change to this opinion – the complexities identified by the Panel are still present.</p> <p>Critical dependencies relating to government budgeting cycles have been clarified through the Porgera NRC process. The limitations associated with not achieving clarity and agreement on the survey data – and the effect this has had on the pilot's progress – has been discussed across the various committees.</p>

2. Under this proposal, responsibility for off-lease resettlement will be shared between the government, company and community. What that means for each of the stakeholders involved in this process is not yet clear. What is clear is that once people are no longer residing on the lease area, the balance of responsibility will shift from the company to other parties. Under these circumstances, the shared responsibility model must acknowledge that not all responsibilities can be shared. Responsibilities that are particular to specific actors, agencies and specific stages of the planning and implementation process need to be defined. For shared responsibility model to be considered suitable, parties must:

- a. clarify the nature and timing of responsibilities that are to be shared between the state and the developer as the two primary duty bearers
- b. clarify the resources required for the life of the resettlement project,

No change on this opinion.

As above, more detailed information about the basic design elements need to be confirmed and presented by the PJV before it can expect other parties to explore areas of shared responsibility.

No change to this opinion – what shared responsibility means for each of the stakeholders involved is not yet clear.

The PJV has made efforts to clarify shared responsibilities in the areas of land identification and project infrastructure.

including how these resources will be secured following mine closure

c. develop an engagement plan to incorporate landowning communities and other directly affected parties into the shared responsibility model.

3. For the shared responsibility approach to achieve its stated intent and be accepted by all parties, there must be an element of joint decision making. Parties should commit to a joint decision-making process where no single party has ultimate power of veto; that is, no party can decide unilaterally whether to proceed or abandon the pilot. If there are limitations that must be taken into account (e.g. budget and timing constraints etc.), these must be disclosed in good faith so that parties are able to make decisions with complete information.

Decision-making on key design criteria is evolving.

Information gaps (i.e. eligibility, vulnerability, government budget planning cycles, etc.) in the design phase, and the capability of the team to fill these information gaps are the main limiting factors.

No change to this opinion – decision-making on key design criteria continues to evolve.

The project team has made efforts to close information gaps.

4. There is a consensus on the need to relieve pressure on the mining lease. At this stage, however, there appears to be limited understanding at the community-

Progress has been made during the monitoring period to build a working understanding with LRC members about

No change to this opinion – progress has been made in explaining the project rationale across the committees. That said, it is important that the team revisit

level of what off-lease resettlement will involve. One concern is that local demand for resettlement is being driven by the perception of 'benefit' (i.e. a resettlement package) rather than an understanding of the resettlement in its entirety. Assessing community-level understanding and testing the demand for off-lease resettlement is a suitable objective for this pilot. This includes:

- d. discussion that moves beyond the drivers for resettlement, to a discussion that examines the full scope of the pilot project
- e. discussion on key elements:
 - i. proposed resettlement package (including how second generation landowners and short-term non-land owners will be treated under the eligibility criteria)
 - ii. identification of destination lands and land tenure options
 - iii. the physical relocation process itself

the difference between relocation and resettlement.

In the context of a 30 year pattern of on-lease relocation, and continuing emergency on-lease relocations, it will be important to revisit key concepts on a regular basis. It is also necessary to extend the discussion to other key concepts, such as 'vulnerability'. Before the PJV can reliably test local commitment and willingness to resettle off the lease area, all of the design components must be explored in a comprehensive manner.

key concepts with committee members on a regular basis.

-
- iv. approach to livelihood restoration
 - v. securing vacant possession of the lease areas
 - vi. associated security considerations.
-

5. For the pilot to be considered suitable, Barrick PJV would need to further invest in preparatory and planning work. To move the pilot from concept stage to a draft plan that stakeholders can consider and engage with, several key elements will need clarification and development. These are:

- a. A due diligence process on replacement land. Securing land is a critical challenge for all parties involved. Without destination land, the pilot cannot proceed. In terms of suitability, a due diligence process would need to consider the full spectrum of social risks and benefits that would accrue to both resettlement and receiving communities.

Following a year of observation, the Panel has refined its opinion on this point.

The Panel takes the view that the pilot is in the design phase. The parties are not in a position to develop an implementation plan. The Panel maintains that PJV needs to invest in further preparatory work to better define the key design parameters. These are the parameters that project affected people are expected to agree upon.

No change to this opinion – the pilot team is in the process of formulating a RAP. The team is also in the process of defining the parameters of key design elements.

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- b. A detailed livelihood restoration strategy. Before developing the strategy, PJV will need to understand what level of income is generated by current household livelihood activities. If households agree to resettle, livelihood activities and income levels in the resettlement location must be attractive enough to prevent settlers from moving back on to the lease. Moreover, the suitability of the resettlement pilot will be contingent on ensuring that resettled families are food secure, throughout the physical relocation and post-relocation phases of the resettlement.
 - c. Conflict and security assessment. Violent conflict and tribal warfare are a real and present danger for people living within the Porgera Valley. The degree to which different dimensions of resettlement have potential to incite conflict has not yet been explored.
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<p>6. Given that the pilot is at a concept stage, the analysis of risks and potential harms associated with the resettlement proposition have not been fully examined. Until the social risks of planning and implementation are better understood, the ‘suitability’ in terms of social and human rights risk cannot be determined. Over and above the risk areas noted above, the project must also consider:</p> <ul style="list-style-type: none">a. The impacts and opportunities of the project from a gender perspective. As it stands, the pilot framework does not consider how resettlement activities will intersect with gender issues in the community. Barrick PJV should incorporate lessons from the recent Remedy Framework process, the women’s empowerment stream of the Community Development Unit, and prior studies that have documented the gender dimensions of mine-related impacts.b. How vulnerable persons will be identified and supported through	<p>Some progress has been made during the monitoring period to identify resettlement risks.</p> <p>This includes understanding what some of the resettlement risks look like from the perspective of members of the LRC. The Panel regards these efforts as positive and expects PJV to invest in additional workshops so that these risks can be examined in further detail. The development of a vulnerability framework is a priority area, and in the context of the Remedy Framework, greater attention will need to be given to the gender dimensions of the resettlement pilot, including risks to women and girls.</p>	<p>No change to this opinion – progress has been made in some areas (e.g. human right risks). Other risk types are yet to be examined.</p>
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the planning, implementation, and post-relocation phases of the pilot. There are vulnerable people residing within and outside of the SML. These people will require special consideration from Barrick PJV and the government to ensure that they are not further disadvantaged by the resettlement process. A vulnerability framework would need to be defined for the pilot to be considered suitable.

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7. It is estimated that more than half of the population residing in the pilot communities are 'short-term non-landowners'. Under the current pilot framework, short-term non-landowners are not eligible for a resettlement package. It is our opinion that:
- a. This position is not defensible from the vantage point of the international standards. The eligibility criteria and entitlements package needs to reflect the duration of time residents have lived

No change to this opinion.

The Panel continues to see the approach to short-term, non-landowners as an important consideration in ensuring that the pilot project is defensible.

No change to this opinion insofar as the Panel continues to see the approach to short-term, non-landowners as an important consideration.

The pilot project team has, however, made some progress in terms of defining the proportion of non-landowners residing on the lease. Based on initial findings from the household survey data, the proportion appears to be less than first anticipated.

in the area, the extent to which their livelihoods are tied to their place of residence, and whether other social and economic entitlements will be disrupted by relocation.

- b. The framework needs to further explain how Barrick PJV will manage the displacement of short-term non-landowners if they are not considered as eligible persons. Without strong social and economic incentives, there is a risk that short-term non-landowners will return to the lease area. Defining the risk of return is an essential element of the project.

8. The knowledge and information systems are inadequate and do not form a suitable basis for the pilot project. Genealogy and census data held by the company are out of date and incomplete. This presents a major barrier in terms of determining how many people will need to be resettled, and ensuring that resettlement packages are allocated to the right people. Without accurate information about how many

Efforts have been made during the monitoring period to improve knowledge and information systems.

New social management software will be installed at the site with the intent of linking community relations records with the site's cadastral software package. At the end of the next monitoring period, the Panel will be in a position to report

No change to this opinion – the project team has continued their efforts to improve knowledge and information systems.

	<p>households will be eligible for resettlement, neither PJV or the government will be in a position to effectively determine program and servicing costs.</p>	<p>on systems for data collection, recording and analysis, and the extent to which these are being actively utilised by the pilot.</p>
<p>9. Resettlement requires specialist skill sets, with dedicated teams and resources. Brownfield resettlements are known to be both more expensive and difficult than greenfield cases. This is without taking into consideration the complex myriad of factors that are present in Porgera. There is a need to significantly extend the level of resourcing at the operational level even if the pilot is constructed in the most commitment-minimal way – such that the first task is to ‘test’ whether stakeholders are prepared to accept both the risks and benefits of the proposed resettlement.</p>	<p>No change to this opinion.</p> <p>While the size of pilot project team has increased since the 2015 report, in the Panel’s view, the current level of skills and resourcing available to the project are incommensurate with the complexity of the task and the level of risk.</p>	<p>No change to this opinion – the current level of resourcing available to the project is incommensurate with the complexity of the task and the level of risk involved.</p> <p>The Panel is seeking clarity from the PJV as to the resourcing available to support the resettlement process, after people move off the lease area.</p>
<p>10. While the pilot is being planned and implemented, the remaining communities on the lease will still be exposed to the current set of issues and risks associated with living on the lease. These issues should not be deferred or made</p>	<p>No change to this opinion.</p> <p>Issues surrounding the Yarik emergency relocation are documented in this report, and the Panel has noted that these emergencies will continue to put</p>	<p>No change to this opinion – issues surrounding the Yarik emergency relocation are still present.</p>

contingent on the success of the pilot. For the pilot to be suitable in this context, Barrick PJV would need to demonstrate that remaining settlements would not be de-prioritised as a function of a major project coming on stream.

pressure on the pilot project to make progress.

11. The proposal is for a brownfield resettlement with 27 years of accumulated legacy. Part of this legacy is that PJV has continued to relocate individual households with few controls over the final destination of families or monitoring to track or learn from the exercise. The PJV has indicated that it will only proceed with future resettlements if the pilot activities prove to be successful. For the pilot project to be considered suitable, the PJV will need to lead the establishment of a world-class monitoring, evaluation and review process with regular and transparent reporting on progress, including against agreed 'success' indicators.

No change to this opinion.

No change to this opinion – legacy issues continue to challenge the pilot project team.

The Panel notes that as part of the development of the RAP document, the project team have drafted a set of 'success' indicators. The PJV has stated its intent to track these indicators over time. The project team is yet to formulate a monitoring program (e.g. with methods to support the collection of comparable data over time).
