

1 **Memorandum of Agreement**
2 **Outcomes of the 2006/07 CMCA Review**

3 Version: April 21, 2007

4 *Note: This document was reviewed and agreed to by the Working Group. Small editing and*
5 *formatting may still occur before the MOA is finalized. Immediately following the Working Group*
6 *meeting it will be taken to regional meetings and all villages prior to seeking final endorsement by*
7 *village leaders at regional meetings in early June 2007.*

8 **BACKGROUND**

9 In 2001, OTML and representatives of the mine impact villages, entered into Community Mine
10 Continuation Agreements to support the continued operation of the mine and establish agreed
11 payments to communities in compensation for loss and damage caused by the impacts of the
12 mine. These agreements were scheduled for review after five years.

13 This document records the outcomes of a Community Mine Continuation Agreement Review,
14 conducted during 2006 and early 2007. The review involves a number of parties including
15 representatives of the following organisations. Names and affiliations of the parties are provided
16 in Attachment 1.

- 17
- North Ok Tedi CMCA Region
 - Highway CMCA Region
 - Lower Ok Tedi CMCA Region
 - Middle Fly CMCA Region
 - Suki Fly Gogo CMCA Region
 - Dudi CMCA Region
 - Manawete CMCA Region
 - Kiwaba CMCA Region
 - Mine Villages
 - OTML
 - PNG Sustainable Development Program
 - PNG Environmental NGOs
 - Churches
 - Women and Children
 - Fly River Provincial Government
 - Department of Finance
 - Department of Mining
 - Department of Environment and Conservation
 - Department of Provincial and Local Level Government Affairs
 - Department of National Planning and Monitoring
 - State Solicitor

18
19 The parties recognised that some of the environmental predictions contained within the
20 schedules to the CMCAs were exceeded and that OTML and the communities should meet to
21 discuss revision of the payments as directed by the CMCAs. This discussion of the revision of
22 payments was combined with the mid-term “review of the operation of the agreement” to form the
23 CMCA Review.

24 In accordance with the obligations within the CMCAs, information on environmental impacts and
25 predictions has been shared by OTML with communities through village patrols. In the years prior
26 to the commencement of the CMCA review, communities had been provided with updated
27 information from OTML’s environmental regime that showed that sand build up and flooding
28 caused by the mine may last much longer than the 50 years or more predicted in the CMCAs.

29 During 2005 and 2006, communities were also provided with information on acid rock drainage
30 (ARD) impacts observed along the levees of the Fly River and the stress the increased copper
31 and other metals is causing to the river. OTML explained the studies it was doing to see what to
32 do about the ARD and copper impacts. OTML also provided detailed information on
33 environmental impacts and predictions at the first meeting of the Working Group and the
34 Independent Scientist provided a further presentation and perspective on environmental and
35 social issues at the third meeting of the Working Group (Attachment 2). The Working Group
36 acknowledges that there are significant social impacts that have resulted or are likely to result
37 from the environmental impacts. These include difficulties caused by increased flooding,
38 widespread changes in the availability of sago, loss of food protein, relocation of gardens and
39 reduction in garden produce, loss of traditional water supplies, probable increases in mosquito
40 populations and difficulties in establishing adequate and hygienic sanitation facilities.

41 To conduct the CMCA Review, OTML engaged independent facilitators (The Keystone Center
42 and Tanorama), independent observers (John Kawi and Beno Boeha), and independent fund
43 administrators (Deloitte) to ensure the review process was conducted in a fully fair and
44 independent manner. Meetings were held in villages throughout the Fly River impact area to
45 select Village Representatives. All villages within the Impact Area were provided with the
46 opportunity to participate and more than 90% of villages chose to provide Village
47 Representatives. In turn, Village Representatives met to select three representatives of their trust
48 regions to serve as delegates on the CMCA Review Working Group. In addition, three NGO
49 delegations were included in the Working Group: Women and Children, Churches and
50 Environmental. The delegates for these NGO seats were selected through interviews by the
51 Independent Facilitator team.

52 The Working Group met six times over 2006 and 2007. Further rounds of meetings within all
53 villages except those that declined meetings, as well as regional meetings were conducted
54 between Working Group meetings to keep communities informed of progress and bring their
55 issues and views to the Working Group table.

56 In response to requests from the Working Group delegates, a Special Legal Advisor (Sir Arnold
57 Amet) was also engaged, as well as an Independent Scientist (Dr. Alan Tingay). The Special
58 Legal Advisor provided advice to the delegates generally, as well as providing a legal perspective
59 to the community delegations.

60 Previously, an offer of a 10% increase in the annual value of the CMCA package for each region
61 was made to CMCA Trustees in 2005 to settle a mistake in the CMCA's where an incorrect
62 dieback figure (1,350 square km) was included. The prediction relating to dieback should have
63 said that the maximum area that could be affected by dieback down the river system to Everill
64 Junction is 3,000 square km. The offer of a 10% increase was accepted by the Trustees.

65 Under the terms of their CMCA's, Mine Villages are not entitled to an increased payment in
66 compensation for any exceedences of the environmental predictions.

67 OTML has proposed, and State has approved, a mine waste and tailings project to reduce the
68 amount of sulphide discharged to the river in the mine waste and therefore reduce the potential
69 impact of copper on the river ecosystem. This project involves a pipeline from the mine to a
70 suitable storage location.

71 On 30 November 2006, the Minister for Mining presented to the fourth meeting of the CMCA
72 Working Group a decision of the National Executive Council (NEC Decision 272/2006. See
73 attachment 9). Amongst other things, this decision re-affirmed the State's support for the CMCA
74 Review and presented a Regional Assistance Package from the National Government, PNGSDP,
75 Inmet Mining and OTML.

76

76 **DEFINITIONS OF TERMS**

77 Acid Rock Drainage (ARD) – is a process in which acid is generated in mine waste stockpiles
78 and waste deposits such as deposited tailings. The generation of acid leads to the release of
79 metals contained in the waste which have the potential to cause a range of negative
80 environmental impacts.

81 Beneficiaries – means the individuals, families, clans and villages within the impact area that are
82 entitled to receive direct (e.g. cash) or indirect (e.g. project) benefits through the CMCA.

83 Census – means a count of the population and collection of other information such as age, health
84 and social infrastructure, of each village within the Impact Area.

85 Children — means people less than 18 years of age.

86 CMCA Trust Funds – means the Development Fund and the Investment Fund of any Trust
87 formed under a CMCA.

88 CMCA Working Group – means the working group set up to review the CMCA, which included
89 three community delegates from each CMCA region, PNG National Government, Fly River
90 Provincial Government, OTML, church, environmental and women’s representatives.

91 Community Delegates – means the representatives of a CMCA region who participate in the
92 CMCA Working Group, who were elected by Village Representatives from their region.

93 CMCA – means Community Mine Continuation Agreement, which is an agreement between
94 OTML and a group of villages by which they consent to the continued operation of the mine.

95 CMCA Region – means the villages included within a CMCA as determined by schedule. Refer to
96 Attachment 3.

97 CMCA Review – means the mid-term legislatively mandated review of the CMCA Agreement
98 Operations. At the same time, there were environmental exceedences, and thus payments to the
99 CMCA needed to be revised. The combination of both the review of the CMCA operations, as
100 well as the negotiation of revised compensation came to be known as the 2006/07 CMCA
101 Review.

102 Current CMCA package – means the payments payable to CMCA communities prior to the
103 CMCA review, including the additional 10% payment made to compensate for the error relating to
104 dieback areas in the environmental predictions.

105 Funding body – means an organisation that contributes funds and/or projects

106 Impact area – means the area covered by the CMCA

107 Inmet Mining – means An OTML shareholder (18%).

108 Lower Ok Tedi (LOT) – means the CMCA trust region in the Lower Ok Tedi Region.

109 Memorandum of Agreement (MOA) – means this statement of agreements from the 2006/07
110 CMCA Review.

111 Mid-term review – means a review of the operation of the CMCA, as described in each CMCA.

112 NEC – means the National Executive Council of Papua New Guinea.

113 Ok Tedi Fly River Development Foundation – means a new organisation to be set up for the
114 purposes of providing communities to give a high level of ownership and decision-making power
115 over resources and programs within the CMCA regions.

116 Ninth Supplemental Agreement – means the *Mining (Ok Tedi Mine Continuation (Ninth*
117 *Supplemental) Agreement) Act 2001.*

118 OTDF – means the Ok Tedi Development Foundation which is the entity created for development
119 in the Western Province under the Ninth Supplemental Agreement.

120 OTML – means Ok Tedi Mining Ltd.

121 PNGSDP— means the Papua New Guinea Sustainable Development Program Ltd.

122 Regional Assistance Package – the package of benefits described in this MOU.

123 Restated Eighth Supplemental Agreement – means the *Mining (Ok Tedi Restated Eighth*
124 *Supplemental) Act 1995.*

125 State – means the Independent State of Papua New Guinea.

126 Transition Group – means the group designated to serve as the successor to the CMCA Review
127 Working Group for the purposes of establishing and implementing of the New CMCA Entity.

128 Village Representatives – means a representative of a village within the Impact Area who was
129 appointed through a democratic village meeting.

130 VPC – means a Village Planning Committee.

131 **MAJOR OUTCOMES FROM THE CMCA WORKING GROUP**

132 The following text records the major outcomes of the CMCA Review as conducted by the CMCA
133 Working Group:

134 **Ok Tedi Fly River Development Foundation**

135 OTML, with the support of the State and PNGSDP and the Transition Group, will help the
136 communities to set up a new CMCA entity to give communities within the CMCA regions (see
137 Attachment 3) a high level of ownership and decision-making power over resources, programs
138 and projects arising from this review. This may take two years or more to implement.

139 Eventually, the Ok Tedi Fly River Development Foundation will replace the role of the Ok Tedi
140 Development Foundation, which is currently operated by OTML to deliver sustainable
141 development programs in the Western Province and deliver on OTML’s commitments under the
142 CMCA’s. The new name will be “Ok Tedi Fly River Development Foundation.” From here forward
143 in this document the previously referred to “New Entity” will be referred to as the “Ok Tedi Fly
144 River Development Foundation.”

145 Until the Ok Tedi Fly River Development Foundation is set up, OTML will use the existing
146 structure provided through the Ok Tedi Development Foundation to progress the initiatives
147 agreed to by the Working Group.

148 The Ok Tedi Fly River Development Foundation’s Board of Directors will include at least three
149 women leaders –1 from the North, Middle, and South of the Impact Area. *Note: While there may*
150 *be more than three women appointed to the Board of Directors, these three places will be*
151 *reserved for women from the affected regions. Note 2: To the extent the consultant recommends*
152 *a structure void of a “Board of Directors,” the Ok Tedi Fly River Development Foundation’s*
153 *“highest level of governance” should include three women, as specified above.*

154 PNGSDP will fund a consultant to help set up this entity, based on a scope prepared by the
155 CMCA Review Working Group (draft terms of reference provided in Attachment 4).
156

156 **Money from OTML**

157 The attached letter (Attachment 5) from OTML records an agreement to increase payments to the
158 CMCA trusts and how these payments will be applied.

159 **Money from the State**

160 The attached letter from the Minister for Mining (Attachment 6) records that the State will direct
161 increased funding to the impact area communities from the 10% dividend currently being paid to
162 the Western Province People's 10% Dividend Trust.

163 **Money from PNGSDP**

164 The attached letter from PNGSDP (Attachment 7) records the commitments of PNGSDP towards
165 impact area communities.

166 **New census of impact area**

167 A census will be conducted in 2007 to provide an updated estimate of the population within each
168 village within the impact area. During the census design process, consideration will be given to
169 how census information could be updated each year to take into account changes in the village
170 population and how to account for those born within the CMCA region, not currently living within
171 the CMCA region but living within the Western Province.

172 **HOW THE MONEY CAN BE SPENT**

173 **Each funding source will have its own conditions**

174 The spending of money from each funding source will be guided by the particular rules applying
175 to those funds. The Ok Tedi Fly River Development Foundation will develop a more detailed
176 framework for access and coordination of funds from the State and PNGSDP.

177 **Expenditure of money from OTML**

178 Money paid into the CMCA's by OTML can be spent on projects, investments or cash. The
179 proportion that can be spent on each of these in a CMCA region is the same as in the current
180 CMCA unless this is changed by the Trustees, on the advice of the communities.

181 Mine Area Villages will continue to receive the same payments they are currently entitled to
182 receive from OTML in accordance with their CMCA's. Although not eligible for new CMCA funds,
183 mine villages are fully eligible to benefit from funds from the State and PNGSDP through the Ok
184 Tedi Fly River Development Foundation.

185 **Expenditure of money from the State**

186 Ok Tedi Fly River Development Foundation will be the primary organisation in charge of setting
187 planning and project priorities for the expenditure of funds.

188 The proposed rules affecting spending of money from the State are explained in the draft Deed of
189 Trust (Attachment 8).

190 **Expenditure of money from PNGSDP**

191 Money from the PNGSDP contribution will be held by PNGSDP and will be spent in consultation
192 with the communities through the Ok Tedi Fly River Development Foundation.

193 **Distribution and Allocation of Ok Tedi Fly River Development Foundation Funds**

194 All delegates recognise that the South Fly region receives proportionally less of the OTML
195 compensation package under the current provisions. In response, the delegates agree that the

196 Ok Tedi Fly River Development Foundation will provide more balance through allocation of funds
197 for projects without compromising the priorities and needs of other regions.

198 As such, 50% of the 2006 one-time allocation from the Western Province Peoples Trust fund will
199 be allocated specifically for projects for the South Fly region. The balance will be shared equally
200 amongst remaining regions.

201 From 2007 onwards Ok Tedi Fly River Development Foundation project funds will be seek to
202 share fairly, and on a needs basis, amongst regions.

203 **Allocation and use of funds within CMCA trusts**

204 A minimum of 10% of the monies payable from CMCA funds to CMCA communities will be
205 dedicated to projects and investments for women and children.

206 The Working Group acknowledges that the trust deeds may need to be amended to
207 accommodate and secure the 10% funds dedicated to Women and Children.

208 CMCA Trusts have flexibility on how to divide the outstanding 90% monies within their region
209 between cash, investment, and projects.

210 **Landowners and land-users**

211 The CMCA delegates acknowledge that both landowners and land-users are entitled to receive
212 benefits from the Regional Assistance Package. Each trust has the discretion to consider this
213 issue in a responsible manner.

214 **Procedures for accessing funds**

215 Procedures for accessing benefits from the Regional Assistance Package will be provided in the
216 *CMCA Wanbel I Stap Handbook*. This will include procedures for accessing funding from all
217 sources (CMCAs, PNGSDP, State, Tax Credit Scheme).

218 **NEW DEVELOPMENT ENTITY: OK TEDI FLY RIVER DEVELOPMENT FOUNDATION**

219 Communities to advise on Ok Tedi Fly River Development Foundation

220 The CMCA Working Group has nominated a Transition Group to work on developing the Ok Tedi
221 Fly River Development Foundation. The initial members of the Transition Group are listed in the
222 Terms of Reference for the Consultant to help design Ok Tedi Fly River Development Foundation
223 in Attachment 4.

224 Detailed planning of Ok Tedi Fly River Development Foundation

225 The detailed planning for the Ok Tedi Fly River Development Foundation, including purpose,
226 governance, activities, community participation, staffing and resources, will be undertaken during
227 2007. The planning process for developing the Ok Tedi Fly River Development Foundation must
228 be efficient and expeditious but will involve communities within the impact area.

229 PNGSDP will provide funding up to K100,000 (or more as needed) for a consultancy to advise on
230 the design of the Ok Tedi Fly River Development Foundation. A draft scope to guide this
231 consultancy has been developed by the CMCA Working Group and is provided in Attachment 4.

232 Ok Tedi Fly River Development Foundation to last beyond 2013

233 The Ok Tedi Fly River Development Foundation will be designed to last beyond the closure of the
234 mine.
235

235 Functions of the Ok Tedi Fly River Development Foundation

236 The Ok Tedi Fly River Development Foundation will be the main organisation responsible for
237 developing and managing the projects funded from the Regional Assistance Package.

238 The core functions of the Ok Tedi Fly River Development Foundation will be:

- 239 - Determining priorities for investments, projects and programs
- 240 - Prepare a development plan for impacted communities
- 241 - Facilitate the implementation and coordination of programs and projects through
242 contracted service providers
- 243 - Play a leading role in encouraging and monitoring the development of a coordinated and
244 comprehensive response to the environmental impacts and health issues
- 245 - Coordinate, monitor and report on project delivery against the development plan
- 246 - Manage funding and seek additional funds from development partners
- 247 - Provide administrative support to CMCA trusts and village planning committees
- 248 - Advocate for impacted communities in relation to proper development planning, mine
249 closure planning
- 250 - Gender audit programs and projects of the Ok Tedi Fly River Development Foundation

251 Charitable status

252 The Ok Tedi Fly River Development Foundation will be structured so that it maintains the
253 charitable status and favourable taxation treatment afforded to the CMCA Trusts.

254 Consultation with communities

255 The Ok Tedi Fly River Development Foundation will undertake its activities in close consultation
256 with communities, OTML, PNGSDP, National and Provincial Government, including LLGs,
257 development partners and other interested organisations.

258 Committees may be established to ensure communities from throughout the impact area are well
259 represented. These committees would be closely involved in the setting of priorities for project
260 funding.

261 **Recognition of specific interests of Women and Children**

262 The head of the Women and Children delegation organised a group of women from throughout
263 the impacted area to develop specific goals and recommendations regarding the needs of
264 Women and Children which the Working Group unanimously affirmed.

265 Men and women have important and diverse roles in our communities. Therefore, the Working
266 Group supports partnerships between men and women at all levels of decision-making and
267 implementation in order to benefit our families' sustainable future.

268 In order to create a sustainable future, the Working Group endorses and the Ok Tedi Fly River
269 Development Foundation will provide resources to support:

- 270 - Good access to quality information regarding the future of the Mine Affected Area, with a
271 special effort to reach women and children. For example: Radio programming designed
272 and delivered by women.
- 273 - Partnerships between men and women in decision-making about the future of the Mine-
274 Affected Area, particularly regarding future development. For example: Women leaders
275 will be represented at all regions at the Board, Trust, and VPC levels.

- 276 - Special training and education for women so they can effectively participate in decision-
277 making and implementation. For example: Empowerment training for women. Second
278 example: Women will comprise 50% of the Scholarship Selection Panel, and 50% of
279 scholarships should be awarded to women.
- 280 - Opportunities for women leaders to consult and organise their thoughts with additional
281 women from the affected region and other stakeholders. For example: Dedicated
282 briefing sessions for women and resources to women to aid in the dispersal of
283 information through existing networks. Note: There should be appropriate linkages to
284 established national and regional programs, networks, and plans.

285 Funds dedicated to Women and Children

- 286 - Under this Memorandum of Agreement, funds will come from three different sources:
287 CMCA trusts, PNGSDP and the State. From each of these sources a minimum of 10%
288 will be dedicated to projects and investment for Women and Children.
- 289 - All projects and proposals to be funded from the Women and Children allocation must
290 be approved by women leadership, centrally organised through the Ok Tedi Fly River
291 Development Foundation.
- 292 - The Ok Tedi Fly River Development Foundation will support the participation of women
293 at the village level in program and project development.
- 294 - Funds will be spent for the purposes of creating a better life for women and children of
295 the Mine Impact area.
- 296 - In the first 5 years, the vast majority of money will be used to invest and grow while
297 women/children prioritize and plan for the future and how they might use the Future
298 Fund most effectively.
- 299 - There will be total transparency in how the funds are used and invested.

300 Any future Reviews and Development Processes that involve community representatives will
301 include the selection of (at least) one woman delegate from each region. These women will
302 participate fully as part of the region's delegations.

303 The consultation arrangements for the Ok Tedi Fly River Development Foundation will specifically
304 recognise the need to engage women and youth in planning, decision-making and
305 implementation of projects.

306 **Recognition of the Special Role of Churches**

307 The Working Group recommends to each of the trusts that special allocations may be made to
308 Churches for development projects, recognizing their role as critical service providers.

309 **Ok Tedi Mining Ltd to support the Ok Tedi Fly River Development Foundation**

310 OTML will review its sustainable development activities to identify areas of potential overlap with
311 the Ok Tedi Fly River Development Foundation. Wherever practicable, OTML will work in
312 collaboration with the transition group to transfer activities, and associated resources, to the Ok
313 Tedi Fly River Development Foundation by 2009 or as soon as possible.

314 OTML will provide funding to support the establishment and operation of the Ok Tedi Fly River
315 Development Foundation. The amount of support will be determined once detailed planning has
316 been undertaken.

317 OTML support will take into account the need to put in place transitional arrangements to ensure
318 the viability of the Ok Tedi Fly River Development Foundation post-mine closure. This may
319 include a requirement for increasing self-funding (and decreasing OTML support) over time.

320 Until the Ok Tedi Fly River Development Foundation has been set up and is operational, OTML
321 will support the implementation of the Regional Assistance Package through the Ok Tedi
322 Development Foundation or from within existing OTML programs.

323 OTML will provide funding to support a series of meetings to bring together women of the
324 affected region to strengthen their networks and to prepare them to effectively participate in the
325 Ok Tedi Fly River Development Foundation.

326 Logistic support for project implementation

327 OTML will continue to provide logistic support for project implementation while the Ok Tedi Fly
328 River Development Foundation is being set up. Once the Ok Tedi Fly River Development
329 Foundation is operational, a transition arrangement will be put in place with the intention that by
330 the end of 2009, logistic costs for project implementation will be met by the Ok Tedi Fly River
331 Development Foundation.

332 **VILLAGES SEEKING TO PARTICIPATE IN THE CMCA**s

333 The following rules are provided to clarify the arrangements governing who can receive CMCA
334 benefits.

335 Villages included on CMCA schedules that have not yet signed

336 The following villages have not signed their CMCA:

- 337 - Madame (South Fly CMCA)
- 338 - Sepe/Auti (South Fly CMCA)
- 339 - U'uwo (South Fly CMCA)
- 340 - Digam (North Ok Tedi)

341 These villages may sign the CMCA at any time and CMCA benefits will start from the time of
342 signing. Upon signing, these villages will receive an equal share of the annual CMCA benefits as
343 the other villages in that region.

344 Villages within a CMCA region that the Court instructed OTML to invite to sign a CMCA

345 Three villages were not included in CMCA schedules even though they were within a CMCA
346 region. The Victorian Supreme Court, when dismissing the legal challenge by Rex Dagi and
347 Gabia Gagarimabu in 2004, ordered OTML to invite these villages to enter into a CMCA with
348 OTML if they wanted to. These villages are:

- 349 - logi (Lower Ok Tedi CMCA region)
- 350 - Komokpin (Lower Ok Tedi CMCA region)
- 351 - Kawok (Lower Ok Tedi CMCA region)

352 If these villages sign a CMCA, OTML will provide the same amount of money to each of these
353 villages that each village within the LOT CMCA is currently receiving. These CMCA funds will
354 start being paid from signing. logi has signed a Memorandum of Agreement and is now receiving
355 benefits.

356 CMCA villages that have divided

357 If a village that signed a CMCA has since divided, the new villages need to share the allocation
358 for the original village. The villages should work out between themselves how they will share
359 these CMCA benefits. No new money will be made available to the CMCA region because of a
360 division.
361

361 CMCA villages that move

362 If the whole of a CMCA village moves to a new site, their funding allocation moves with them. For
363 the purposes of the CMCA, the village will be referred to by the old name, with the new name in
364 brackets.

365 Villages with Individuals who are law suit supporters who are not receiving CMCA benefits

366 CMCA benefits are for all members of a village and should be shared between law-suit and non-
367 law-suit supporters. If villages want, OTML will provide a document for members of the village to
368 sign which records their willingness to all work together and put the law suit behind them so that
369 they can more easily share the benefits. Upon expressing willingness to participate in the CMCA,
370 these individuals will be eligible for CMCA benefits. There will be no back dating of payments or
371 benefits.

372 Villages from areas outside CMCA

373 Villages from areas outside the CMCA region as defined by the schedule of CMCA villages in
374 Attachment 3 are not eligible to sign CMCA. No new CMCA will be prepared except for those
375 referred to in this agreement.

376 If villages within a CMCA region want to share their benefits with villages outside the region, they
377 are allowed to do that. They could do this by all villages within the CMCA region advising the
378 CMCA Trustees that they wanted this done, or by one or more villages deciding to share their
379 benefits. The funds for any new villages will come from the existing allocation to that CMCA
380 region.

381 **ENVIRONMENT AND COMMUNITY HEALTH MONITORING AND HEALTH EDUCATION**

382 The Working Group recognises the importance of on-going and long-term monitoring of
383 environmentally linked community health matters in the impact area and the importance of and
384 need for health education at the village level. The Ok Tedi Fly River Development Foundation is
385 to provide encouragement to ensure appropriate community health monitoring and health
386 education is put in place as soon as possible and prior to mine-closure.

387 The Working Group is very concerned that:

- 388 - The environmental impacts of the Ok Tedi mine will continue long after mine closure and
389 are very likely to cause significant impacts on human nutrition and health in the future
390 unless there is a coordinated response;
- 391 - The long term social, economic, and health impacts are not fully known at this time and
392 a long term monitoring process needs to be established; and
- 393 - There are insufficient health services and facilities throughout most of the mine –
394 affected regions.

395 In order to begin to address these issues the Working Group has resolved that:

396 Increased Participation of Communities and NGOs on Mine Closure.

397 OTML will make further provisions for the involvement of mine-affected communities, the people
398 of Western Province and NGOs in the Mine Closure Planning process.

399 Long Term Monitoring of Health and Socio-Economic Impacts.

400 The Working Group acknowledges the extensive community relations and environmental
401 research programs of OTML but is concerned that there has been little social research. There is
402 an urgent need for the identification of key social and health issues, for research on, and long
403 term monitoring of, those issues. The Working Group therefore recommends that OTML as a

404 matter of priority should identify key social and health issues and should develop a strategy for
405 the long term monitoring and reporting of health, social and economic impacts. This strategy
406 should be incorporated into the Mine Closure Planning process.

407 Community representatives and NGOs should be closely involved in this process and if
408 necessary should be supported by independent scientific advice. The Working Group is of the
409 opinion that the following should be considered and reviewed as possible issues and research
410 priorities:

- 411 - Assessment of the demographic, social, and economic impacts of flooding on villages
- 412 - Assessment of changes in water sources at the village level and the development of
413 strategies for the provision of safe, adequate and permanent water supplies
- 414 - Studies to investigate the cause of reduced quality and production of sago palms
- 415 - Assessment of current fish availability in communities in the Fly River system.
- 416 - Studies aimed at understanding possible changes in the amount and quality of garden
417 produce
- 418 - Health surveys to determine priority health requirements (preventive measures, facilities,
419 etc)
- 420 - Strategies for effective mosquito control at the village level
- 421 - Assessments of the effects of metal pollution

422 These are meant to be examples. The emphasis on long term monitoring should be to identify
423 and measure the social and economic changes that may be taking place as a result of known
424 environmental changes in the river and the river corridor.

425 Role of the Ok Tedi Fly River Development Foundation

426 The Ok Tedi Fly River Development Foundation will be the long term successor of the CMCA
427 Working Group. While it will have many functions to perform, the Ok Tedi Fly River Development
428 Foundation should continually review the results of the long term monitoring program of health
429 and socio-economic impacts and, as one of its primary roles, should act as a key advocate for
430 improved health services. In particular, the Ok Tedi Fly River Development Foundation should
431 identify local and national government, international aid agencies, and others who may assist in
432 the provision of health research and associated services and should encourage these
433 organisations to be involved in a coordinated health initiative.

434 The Working Group is concerned that in the face of many competing development demands,
435 government may not adequately and fully carry out its responsibilities for monitoring the long-
436 term environmental impacts after mine closure. The Ok Tedi Fly River Development Foundation
437 must ensure that government performs its monitoring responsibilities and must take appropriate
438 intervention action if required to ensure that there is an adequate monitoring program.

439 Special Role of Women

440 Given women's unique role in communities, the Working Group asks the future members of the
441 Ok Tedi Fly River Development Foundation to ensure that women are included in the design and
442 implementation of long-term community health monitoring and health education programs and
443 that woman are trained to deliver basic health services.

444 Future Reporting.

445 A State of the Environment Report should be prepared and published as a priority. This report
446 should summarize and define the state of knowledge relating to environmental, social and health
447 issues and the responses that OTML is taking to those issues. This report should be updated
448 annually.

449 **MEASURES TO IMPROVE PROJECT DELIVERY**

450 CMCA Handbook

451 OTML will prepare, in consultation with the Transition Group, a CMCA *Wanbel / Stap* Handbook
452 summarising the outcomes of the CMCA Review and detailing improved operating procedures for
453 CMCA's based on the advice of the CMCA Working Group.

454 Village Planning Committees

455 Planning for the Ok Tedi Fly River Development Foundation will include providing Village
456 Planning Committees with increased decision-making authority for recommending village
457 projects.

458 Village Planning Committees must be nominated and elected by residents of a village in
459 accordance with Village Planning Committee Guidelines. New guidelines will be prepared during
460 the process of setting up the Ok Tedi Fly River Development Foundation.

461 There will be no more than 8 members of each Village Planning Committee. This will include:

- 462 - Two Women representative
- 463 - Youth representative
- 464 - Church representative
- 465 - Local level government representative
- 466 - Other members of the village, at least one of which is a woman

467 The community members will vote to decide who holds the posts of Chairperson, Vice
468 Chairperson, Secretary and Treasurer.

469 Terms of office for Village Planning Committees will be increased to three years.

470 Village Planning Committees will be trained to operate under the improved processes of the Ok
471 Tedi Fly River Development Foundation arrangements and will be subjected to rules and
472 regulations that ensure accountable and transparent participation in these processes.

473 The Working Group acknowledges each region may pay VPC members. For those regions that
474 choose to pay VPC members, these payments may be taken from CMCA cash payments or other
475 sources (e.g. LLG, contributions from community member, etc.), but not from program or project
476 funds. The Working Group agrees that a maximum of K50 will be paid for each meeting VPC
477 members attend to a maximum of 4 meetings per year.

478 CMCA Trusts

479 The operation of CMCA trusts and the powers and authorities of CMCA Trustees will continue to
480 be directed by the relevant Trust Deed. The deed also directs to what extent the Trustees can
481 vary the deed. The CMCA delegates recommend to the CMCA Trustees the following changes to
482 the CMCA Trust Deeds:

483 Selection of Trustees

484 The number of Trustees and their appointees to be changed to improve the efficiency of Trust
485 operations, as follows:

- 486 - 1 Trustee from OTML, to be appointed by OTML Managing Director
- 487 - Up to 4 local Trustees to be appointed by communities, at least one to be female.
488 Additional female candidates who meet the selection criteria should be considered and
489 nominated
- 490 - 1 Trustee from the Western Provincial Administration to be appointed by the Provincial
491 Administrator

- 492 - 1 Trustee from Churches, to be appointed by the Churches Fraternal Council
493 - 1 Trustee from Women in the Trust Region, to be appointed by the Provincial Women's
494 Council. Churches women's fellowship will appoint in the case of an absence of a
495 provincial women's council

496 Appointment of Local Trustees

497 The four local Trustees will be selected as follows:

- 498 - The VPC Chairpersons will meet at a Regional Meeting and will nominate a minimum of
499 6 candidates to the Ok Tedi Fly River Development Foundation for the four Trustee
500 positions.
501 - The Ok Tedi Fly River Development Foundation will select and appoint the four local
502 Trustees from the candidates after considering their suitability in accordance with a
503 defined set of selection criteria.
504 - Prior to the establishment of the Ok Tedi Fly River Development Foundation the Ok Tedi
505 Development Foundation (OTDF) will select and appoint the local trustees following the
506 same procedure.

507 Additional Guidelines for Trustees

- 508 - Wherever possible Trustees should be resident in the Western Province.
509 - Local trustees must reside in their region.
510 - The terms of office for Trustees should be a maximum of three years.
511 - Trust meetings should be limited to four each year.
512 - Administration of Trusts should progressively transfer to the Ok Tedi Fly River
513 Development Foundation.
514 - The appointment of Trustees in accordance with this process should occur as soon as
515 possible.
516 - To enable this to happen, and as a priority task, the Consultant to the Transition Group
517 should determine an appropriate set of selection criteria.
518 - Those responsible for the appointment of other trustees should also select those
519 trustees in accordance with the selection criteria.

520 **REVIEW OF THIS MEMORANDUM OF AGREEMENT**

521 A review of the operations of the CMCA's and this agreement will be conducted in 2011.

522 **ATTACHMENTS AND ADDITIONAL INFORMATION**

- 523 Attachment 1: Names of Working Group Delegates by delegation
524 Attachment 2: Conclusion Letter from Dr. Alan Tingay
525 Attachment 3: Schedule of CMCA Villages
526 Attachment 4: Terms of Reference for the Consultancy to help design and establish the Ok
527 Tedi Fly River Development Foundation
528 Attachment 5: OTML letter of offer
529 Attachment 6: Minister for Mining letter of offer
530 Attachment 7: PNGSDP letter of offer
531 Attachment 8: Deed of Trust for the Ok Tedi Fly River Development Foundation (In
532 preparation)

- 533 Attachment 9: NEC Decision 272/2006
- 534 Attachment 10: Conclusion Letter from Sir Arnold Amet
- 535 Attachment 12: Letter from Working Group delegates acknowledging Minister for Mining offer
536 (in preparation)
- 537 Attachment 13: Letter from Working Group acknowledging PNGSDP offer (in preparation)
- 538 Attachment 14: Names of Village Leaders