

AKR-PLC/196/25

14 March 2025

[REDACTED]
Officer-in-charge
Special Procedures Branch
Office of the High Commissioner for Human Rights

By EMAIL ONLY:

Ref: AL OTH 151/2024 JOINT COMMUNICATION FROM SPECIAL PROCEDURES

Dear [REDACTED]

Re: **Chatree Gold Mine, Thailand**

We refer to your letter dated 14 January 2025, which attached a United Nations Human Rights Special Procedures Joint Communication (**Joint Communication**) on alleged human rights concerns relating to the Chatree Gold Mine, Thailand (**CGM**).

This letter and the following response sections represent Akara Resources Public Company Limited's (**Akara**) reply to the Joint Communication. Akara takes any human rights allegations made against it very seriously. Therefore, Akara has devoted considerable time and resources to respectfully review and address the concerns raised in the Joint Communication. This reply of Akara demonstrates that the allegations are manifestly unfounded and ought not to have been raised in the manner that they have. It also reaffirms Akara's commitment to upholding the rights, well-being and livelihoods of its employees and the community surrounding the CGM. Closely connected to this commitment is Akara's care for the environment and promotion of sustainable development.

Our operations are constantly guided by international best practice and standards, and strict adherence to applicable rules and regulations. Being a group entity of Kingsgate Consolidated Limited (**Kingsgate**), a company listed on the Australian Securities Exchange, we adhere to excellence in corporate governance and are committed to upholding the highest standards of ethics, integrity, and accountability in every aspect of our business. A key component of our governance framework is our zero-tolerance policy towards any form of unethical conduct, reinforcing a culture where honesty, respect and transparency are paramount. This policy is a core underlying driver of our approach to human rights. Through our strict adherence to good corporate governance, we strive to not only drive success but also to do so in a manner that is responsible, ethical, and aligned with international human rights standards, as well as with the best interests of our stakeholders and the communities we serve.

Akara's responsibility to protect its employees, local communities and the environment are not a mere aspirational core value. Programs, plans and measurable targets have been implemented to carry out this responsibility. Additionally, the operation of the CGM is commercially incentivised to do so because

Akara's intention has always been to build a long-term and sustainable business that delivers substantial economic benefits to Thailand. In short, if Akara has no local community support and does not conduct its mining operations to high standards, Akara's business will be harmed. Accordingly, Akara has a strong interest in ensuring that its operations have no negative impacts on its own people, public health, society or the environment.

Consistent with the above, Akara embraces the UN Guiding Principles on Business and Human Rights and sincerely believes that its business practices align with those principles. As this letter will demonstrate, a key objective of Akara is to recognise and act on its responsibility to respect human rights. Furthermore, Akara not only relies on its own subjective judgment, it regularly submits to audits by independent third parties. The excellence in operational standards set by Akara has also been recognised through numerous awards acknowledging its exemplary treatment of employees, community care, and environmental management. **Annexure I** provides a sample of relevant recognitions received by both Akara and Kingsgate.

In the context of the seriousness of the allegations raised, we are disappointed that the Joint Communication presents them without any supporting data, evidence or scientific reports. The allegations are vague and lack detail. Without specific information, Akara has no reasonable opportunity to prepare a fully informed rebuttal of the allegations. Notwithstanding this deficiency, Akara can affirm with confidence that the allegations have no factual basis and originate from (and have often been repeated by) a small minority of individuals with personal grievances against Akara or from individuals or groups seeking to gain financial advantages from Akara and its gold mining operations in Thailand.

Akara would also like to place on the record its grave concern that the unfounded allegations against it have been widely circulated by the Special Procedures Branch to important stakeholders without first consulting Akara, Kingsgate, Thailand or other stakeholders. Even a cursory investigation of public sources would have highlighted facts and relevant circumstances that completely contradict and undermine the sweeping allegations made against Akara. Needless to say, the circulation of unmeritorious allegations is defamatory and risks causing harm to the reputation of Akara, its employees, its investors and also Thailand. It also may unnecessarily promote new protests against Akara based on unsubstantiated and untrue assertions.

Indirectly, the Joint Communication – by increasing the chances of new, unmeritorious protests against the CGM – also could cause harm to the very communities dependent on the economic and social contributions of Akara that the United Nations Special Procedures is seeking to protect. It is important to note in this respect that the region of Northern Thailand where the CGM is situated is a low socio-economic area and largely agrarian, with little industry and economy beyond the CGM. Many communities in its vicinity depend on the CGM for their livelihoods.

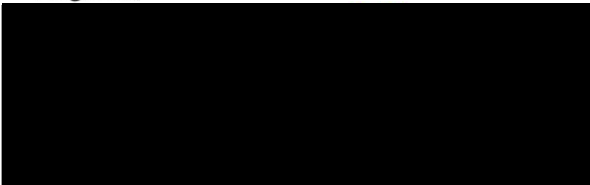
Notwithstanding the above, Akara is happy to co-operate with the Special Procedures Branch and any United Nations Working Group or Special Rapporteur. Akara is confident that these UN officials and the UN Human Rights Council (**UNHRC**) will perform the requisite due diligence on individuals making complaints and that they will also be careful not to repeat allegations in respect of which there is no evidence or scientific basis. Akara also understands that these officials and the UNHRC are committed to principles of transparency, fairness, justice and due process which mean that they will be unbiased, prudent and impartial in its presentation of materials relating to Akara's business in Thailand.

In complete contrast to the allegations made, this response demonstrates:

1. All relocations conducted by Akara have been voluntary and the price Akara has paid for the land has been significantly above market prices.
2. Several robust scientific studies by reputable experts have concluded that the tailings storage facilities at CGM do not leak.
3. The operations at CGM do not cause harm to the health of its employees or the local inhabitants.
4. The operations of CGM are heavily audited and constantly managed to prevent any health or environmental harm.
5. The CGM supports local communities in many different ways, including the provision of employment, health checks, social and educational support.
6. Information on the CGM is publicly available and public participation is encouraged.
7. Akara does not prevent the freedom of expression.
8. A right to an effective remedy is provided both through courts and also through Akara's internal grievance mechanisms.
9. The overwhelming majority of the complaints made against the CGM have been brought by a small group of protestors who have ulterior motives.

Akara trusts that this reply addresses any concerns relating to the CGM and we remain at the disposal of the Special Procedures Branch, the Special Rapporteurs, the Working Groups and the UNHRC to provide any further information that they may require.

Regards,



Mr. Cherdsak Utha-aroon
Lead General Manager
Akara Resources Public Company Limited

AKARA'S RESPONSE

Akara's response to the Joint Communication comprises two sections.

Section A will address the information that has been received by the Working Groups and Special Rapporteurs and set out in the Joint Communication. Akara considers that this information lacks sufficient detail and requires significant clarification and correction particularly in relation to raised issues that concern relocation of landowners, Akara's environmental stewardship and its contribution to the health, standards of living and economic livelihood of its employees and nearby residents. Additionally, Akara has considered it necessary to include a special comment on the motivation of some protestors who may have been the source of the often false and misleading information on which the Joint Communication is based.

Section B will respond to points 1-11 at pages 7-8 of the Joint Communication, in which the Working Groups and Special Rapporteurs have requested Akara's observations.

Akara has tried to answer all the allegations included in the Joint Communication. However, to the extent an allegation is not addressed, this should not be taken as an admission of liability or acceptance of the content of the allegations made.

A. Clarification and Correction of Information Set Out in Joint Communication

1. Relocation

Contrary to the information contained in the Joint Communication, persons living around CGM were not forcibly relocated. There is no evidence of forcible relocation, nor could there be as it did not occur.

In reality, opening CGM required extensive negotiations and consultations with local residents. Ultimately, approximately 200 households or around 700-800 people relocated over different periods of time. Akara stresses that all relocations were entirely voluntary and any landowners' refusal to relocate was respected. The main opposition to relocation came from a group of three persons, who withheld their agreement for an extended period of time. The leader of this group was an individual who had been the most active protestor against the CGM. In 2023, even this prominent protestor agreed to relocate (after selling their parcel of land to Akara) and currently only one person continues to refuse to relocate.

The reality is that, in acquiring the property of villagers, Akara offered and paid prices that were significantly above market price. Moreover, the proceeds from the sale of land provided many people with new housing, amenities and vehicles, and served to decrease rural poverty in the villages surrounding CGM. In any event, nobody was forced to relocate and every land owner was treated with respect for their private property and related human rights.

For these reasons, the comment in the Joint Communication on page 2, that Akara "*forced residents to move out of their homes and land*", is simply not true.

2. Environmental protection

This section deals with the allegation on page 5 of the Joint Communication that Akara has interfered with the right to an adequate standard of living, the right to food, right to safe drinking water, right to land, and right to a clean, healthy and sustainable environment that is free of toxic substances. This is strongly denied by Akara. However, Akara acknowledges that there have been various complaints regarding water pollution and contamination of local food or water supply by arsenic, heavy metals or dust. Akara has taken such complaints seriously and, as is detailed below, has conducted independent studies, tests and health checks to check, investigate and address these concerns on both a scientific and social level. Furthermore, Akara's commitment to clean water is reflected in this commitment comprising one of the four pillars of Akara's Corporate Social Responsibility policy (see Section 6 below). Akara's long-term commitment to the care of the environment is reflected in its Policy and Procedure Manual, which emphasises that the goal of Akara is to *"minimise the effect of mining operations on the environment and leave the Akara Resources area in a sustainable condition after mining activities have ceased"*, and which also values and respects the company's contribution *"to the on-going viability and integrity of environmental systems"*.

In short, there has been no conclusive evidence that the operations at the CGM have ever caused any damage to the health and environment of the local community. If there had been, Akara is confident that not only Akara, but also the Thai government, would have taken immediate and appropriate action. Furthermore, if the allegations had any substance to them, it is likely that the people most affected by the contamination would have been Akara's own staff who live and work at or in very close proximity to the CGM site. However, Akara's own staff have never experienced adverse effects and have been regularly tested in accordance with Akara's regular testing programs. Rather, the complaints made are speculative and based on data collected in an unrigorous and unverifiable manner. Whenever independent and properly qualified professionals have come into to investigate concerns, they have consistently found no causal link between any test data showing high levels of arsenic, mercury, manganese or cyanide and the operations at the CGM.

One long-running (and frequently rebutted) allegation made by a small but vociferous group of protestors (approximately 20 in all) is that the CGM's Tailings Storage Facility No 1 (**TSF1**) has been leaking and is therefore impacting the health of nearby residents and the environment (through water pollution)¹. The allegation has been repeated numerous times throughout the life of the CGM and in each instance independent expert assessments have shown it to be false. In reality, TSF1 was designed by a highly reputable global engineering and consulting firm widely engaged in the mining industry (Knight Piésold) and constructed with a soil liner throughout the basin area with an underdrainage system incorporating 60 kilometres of polyethylene drainage pipe. The design exceeded the Nevada Guidelines on seepage control because the CGM site is underlain by a natural low permeability clay layer, and an embankment cut-off trench was extended into the underlying clay to effectively form a secondary liner (i.e. a dual barrier to prevent water leakage). TSF1 has a full basin underdrainage to collect and recycle degraded water – the continuous recycling of tailings water made it a *"zero discharge"* facility such that no surface water was ever discharged from the site. Akara also maintains a sophisticated and comprehensive groundwater/seepage monitoring system which would identify any uncontrolled releases into the environment. No such events have been identified to date. To be clear, the allegation concerning a purported leak in TSF1 relates to cyanide because this chemical is used in gold processing. The allegations concerning arsenic, manganese and mercury are not related to TSF1 leak allegations.

¹ This incorrect allegation is reproduced at page 4 of the Joint Communication.

As to isolated readings of high arsenic or cyanide levels, not only is the integrity and traceability of this data questionable, there are several other more plausible explanations for the elevated (but unarmful) levels of cyanide and arsenic detected in humans residing close to CGM. For example, with respect to arsenic, it is crucial: (i) to note that inorganic arsenic naturally occurs alongside gold deposits and (ii) to distinguish between organic arsenic and inorganic arsenic. Organic arsenic levels can be elevated by the ingestion of seafood containing arsenic or naturally occurring arsenic in soil, and this is the most likely explanation for the slightly elevated arsenic level in some unverified and isolated test data. As to a particularly high reading of cyanide taken from a nearby paddy field, the possibility that cyanide was deliberately poured into one specific borehole in the vicinity of the CGM is the most likely explanation for this finding. This is because the relevant sample showed a cyanide level that was more than three times the cyanide level in the TSF1. There is no reliable evidence of elevated inorganic arsenic levels in the population surrounding the CGM

These other explanations are recognised in the Behre Dolbear Report mentioned below, which stated that *"natural sources and dietary practice may be the main contributors to elevated levels of the pollutants of concern measured in the ambient environment as well as in blood and urine"* and also observed that the concentration level of cyanide that was found in rice fields was higher than the concentration level of the cyanide in the TSF1, and that the chemical composition of water in the rice fields and the TSF1 were clearly different. The latter finding as to cyanide makes it impossible for leaking from TSF1 to have been the cause of the high levels of arsenic that was detected in the paddy fields.

Finally, as to the allegation on page 5 of the Joint Communication concerning mercury and the allegation that some farmers experienced crop failure, these are incorrect. As to the 2014 Rangsit University study referred to in the letter, this study was not made officially by that University but instead was made by a professor from the University in his personal capacity who does not have any medical qualifications and who has a history of making incorrect and politically motivated allegations against Akara and Thailand. This study lacks detail and supporting data, and it was not tested through any independent peer review process. It cannot be taken seriously.

a. Reports, studies and findings

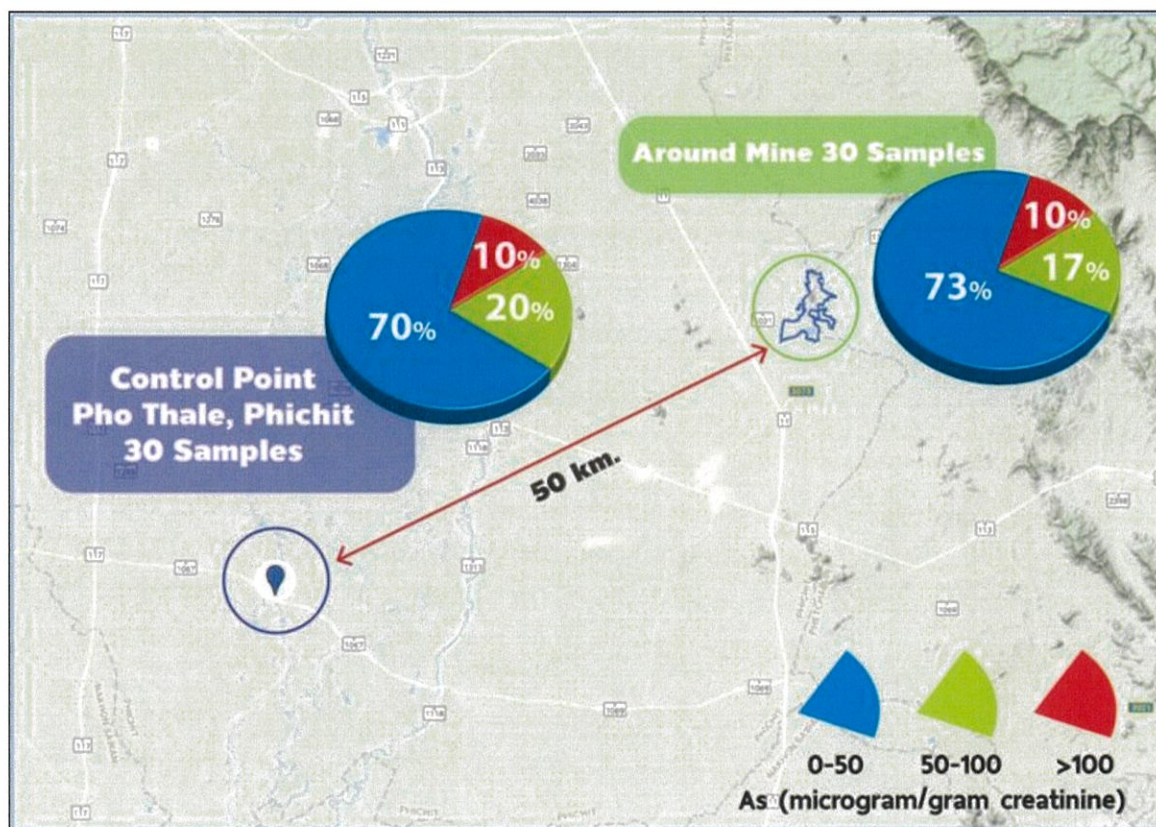
Key reports, studies and findings on the allegations as to contamination of the environment and water supply include (in reverse chronological order):

1. Most recently, a 2024 study by Thailand's King Mongkut's University of Technology Thonburi, which concluded that TSF1 shows no signs of leakage. This study was part of the work plan approved by the Department of Primary Industries and Mines of Thailand (**DPIM**) and representatives from relevant government agencies. The study's final report, dated 13 September 2024, was submitted by Akara to the DPIM on 18 September 2024. The DPIM has acknowledged the study and confirmed that it aligns with the work plan it and representatives from the relevant government agencies had approved.
2. In 2017, a protestor filed a complaint with Thailand's Ombudsperson alleging that Thai officials were negligent in investigating the gold mining operations by Akara. The Ombudsman's final recommendation to Thailand's Prime Minister stated that no study or information from responsible government departments *"can officially confirm that [...] heavy metals and environmental contaminants come from chemicals used in gold mining operations."*

3. A 2016 operational audit report of the CGM was conducted by Behre Dolbear International Limited, which is one of the world's oldest global mine inspection and evaluation firms, with over 100 years of experience. DPIM (and not Akara) selected Behre Dolbear to carry out this audit (but at Akara's expense). The report – spanning over 130 pages and also orally summarised to four Thai Ministers during a Behre Dolbear presentation in Thailand – concluded, among other things, that:
 - Akara employs modern technology ensuring safety for both human life and the environment, and that this technology is comparable to leading mines worldwide;
 - the CGM has a comprehensive water management system in place to protect against unintentional releases;
 - the site has no direct discharge of stormwater or process wastes to the environment;
 - the CGM has implemented a water management and monitoring system to manage seepage to protect ground water beneath and/or immediately down gradient of its operations;
 - Akara's operations are in line with international best practice with regard to management and monitoring systems for handling and use of cyanide;
 - based on the monitoring data reviewed, there is no evidence to suggest that any material concentrations of cyanide have leaked from the TSF1 into the surrounding groundwater system; and
 - arsenic and manganese levels in the soils in the vicinity of the CGM are not unduly elevated.
4. A 2016 report by a Thai government minister concluded that:
 - a. high levels of manganese, iron and arsenic in the CGM area were already present prior to commencement of mining operations in 2000;
 - b. arsenic contamination in agricultural soil is commonly found throughout Thailand;
 - c. heavy metals detected within vegetables and fruits in the vicinity of CGM were mostly within government standards and most were contaminated at a level that was not different from levels in vegetables and fruits in other areas; and
 - d. a study of contamination of manganese, arsenic and cyanide in people living around CGM had the same contamination level as individuals who live 20-50km away from the mine.
5. In 2015, an environmental audit of the CGM was conducted by ENVIRON Australia Pty Ltd (**Environ**). Its conclusions included:
 - cyanide concentrations in all monitoring bores are mainly below detection limits and well within applicable standards;
 - dust monitoring during 2014 yielded no exceedances of Thai standards;
 - no noise exceedances were identified by the noise monitoring program; and
 - operations are being carried out in accordance with the requirements of the Australian Minerals Industry Code for Environmental Management.
6. In 2010, after a protestor filed a complaint to the Phitsanulok Administrative Court, the Court appointed at its own expense independent experts from Naresuan University, Thailand (including Professors in Chemistry and Science, Civil Engineering, and Biology), and the Medical Department of Mahidol University, Thailand, to analyse the complaints. These experts presented a 90-page report to the Administrative Court. On the basis of this report the Administrative Court held in 2012 that:

- arsenic in the groundwater was at normal levels and not harmful for consumption;
- manganese in the water supply system was slightly higher than the maximum allowance, but Akara had rectified this by supplying drinking water to the local inhabitants and by cleaning or replacing a water filter;
- cyanide, arsenic and mercury in vegetables were not higher than the standard requirement for consumption;
- air quality was normal;
- noise quality was normal;
- the levels of cyanide, arsenic and manganese in natural water and groundwater were *"not up to the level that will severely cause harm to the human, as well as to animal and plant, or assets"*;
- cyanide in the blood of local residents tested was less than the minimal level; and
- in relation to a case in which the testing of a resident detected arsenic in urine that was above the normal level, the cause may have been seafood consumption rather than a direct result from the operations of the CGM.

The diagram below has been prepared by Akara based on data collected and assessed by experts from Naresuan University for the Phitsanulok Administrative Court proceedings. It indicates that arsenic in urine (creatinine) levels in persons living near the CGM were very similar to arsenic levels in persons from a control point 50 km away from the CGM.



The Joint Communication at page 4 also notes allegations relating to warnings in 2002 and 2010 about heavy metal contamination in water and investigations in 2010 and 2011 by the Pollution Control Department and Khon Kaen University that confirmed poor water quality. These allegations were put to the Phitsanulok Administrative Court, which evaluated these reports in detail and dismissed them in its 2012 judgment. The Phitsanulok Administrative Court's finding also undermines the 2009 Pollution Control Department finding that noise levels exceeded standard limits.

Another academic study referred to in the Joint Communication (at page 5), purportedly finding unsafe levels of heavy metals was a 2014 study by an academic from Rangsit University. Already mentioned, this academic is not medically qualified and has campaigned heavily with the protestors against Akara and Kingsgate.

Other studies referred to in the Joint Communication, and Akara's responses thereto, are set out below:

1. A 2022 study is said to confirm that *"mercury levels in chicken and duck eggs were above permissible limits"* and a 2022 study apparently *"found an elevated risk of cancer for villagers living near the mine, associated with lead and cadmium consumption, especially for those consuming eggs within 25 m of the mine"* (pp. 5-6 Joint Communication).
 - Akara is not aware of these 2022 studies and has never been approached in relation to the conduct or results of these studies. In any event, the CGM was not in operation from 2017 through to March 2023, and mercury, lead and cadmium are not generated by the operations of the CGM.
2. A 2019 comparison study is said to conclude that the suspension of the operation of the CGM caused a decrease in arsenic contamination levels in children and coincided with a drop in the number of children with learning disabilities (p. 5 Joint Communication).
 - This study was undertaken by a doctor at Mahidol University. However, the comparison made did not compare the same group of children over time. It instead compared a group of children tested in 2016 with a different group of children tested in 2019. The study contains insufficient details on the sample groups and did not assess important variables such as dietary habits, living conditions and quality of education for each group that was compared. The study therefore cannot be relied upon.
3. A 2019 study is said to demonstrate that a mine cyanide discharge limit of 20 mg/L *"set by the company"* is not safe (p. 5 Joint Communication).
 - a. Akara is not aware of this study. In fact, the 20 mg/L limit is the level prescribed by the Government, which is stricter than standard international limits of around 50 mg/L. Akara has installed equipment in its processing plant that reads discharge levels every 20 mins and, on average, Akara's cyanide discharge level readings have been 10 mg/L since the opening of the CGM in 2001.
4. A study in 2009 by Thailand's Pollution Control Department is said to have found that noise levels caused by the CGM exceeded the standard limits (p. 5 Joint Communication).
 - a. This study is problematic and unreliable because the measurements failed to properly consider background noise.

The Joint Communication also refers to allegations of water shortages for farming (p. 5 Joint Communication). Akara is not familiar with any studies on water shortage. However, it notes that water shortages around the CGM are caused by lack of rain and drought events, as well as the volcanic rock geological conditions of the area. The allegations also imply that Akara supplied water to villagers because of concerns that water sources had been contaminated by the CGM. This is false. At one stage Akara did provide water to 10 villages around the mine because of dry conditions.

The Joint Communication further notes a 2015 report of black-coloured surface water in rice paddy fields "*later confirmed to contain high cyanide levels, likely due to leakage from TSF1.*" Such a leak has repeatedly been dismissed in robust studies, for example, in the Behre Dolbear Report. Indeed, there are reports that local villagers saw sewage trucks at one of the locations where the black water was reported. The failure of any of the informants to refer to the Behre Dolbear Report or any of the other studies, decisions and reports mentioned above shows that they have been highly selective in what they wish to convey to the Working Groups and Special Rapporteurs. It also casts significant doubt on their assertions, as well as the trust that can be placed in them.

TSF1 leakage allegations have been put forward again by protestors following a 2018 DPIM order requiring Akara to address alleged leakage in TSF1 and to ensure that its water quality complied with applicable standards. Akara contested this order because it was vague, lacked actionable detail and relied on a purported resolution of a fact-finding committee ("purported" because it was not supported by the majority of the committee's members). The voting pattern that led to the purported resolution, as well as the committee's constitution is instructive. Officially, this committee comprises 52 members. At the meeting that led to the purported resolution, there was no quorum. Nonetheless, 7 members voted for the resolution (three of whom were protestors), and 6 members voted against it. Out of the 11 government members on the committee, 10 abstained from voting, with one voting for the resolution. Also to be noted is the fact that the expert sub-committee's report on the alleged leakage was submitted to the committee without a resolution of the sub-committee to do so (because there was disagreement in the sub-committee). Moreover, the committee's process did not comply with Minerals Act which requires that it should have been conducted by a provincial mining committee rather than a fact-finding committee. Akara is currently in the process of challenging this order.

Notwithstanding the above issues with the committee and Akara's challenge of the 2018 DPIM order, Akara and the DPIM have been actively working together to resolve ongoing issues in accordance with Thai mining laws and regulations. As a result, Akara has agreed to prepare baseline environmental and public health data, establish mining exclusion (or "buffer") zones, seek out risk insurance and increase funds for health monitoring. These initiatives ensure that Akara's operations continue to meet international standards and have no adverse impact on the environment or public health. Additionally, as instructed by the DPIM, Akara has developed plans to close and remediate TSF1 (despite all the evidence that it is not leaking, nor has it ever). Akara has consistently implemented these plans, with rigorous quarterly inspections and monitoring conducted by a multidisciplinary team, including representatives from DPIM; Bureau of Primary Industries and Mining Region 5 (Phitsanulok), Provincial Industry Offices (Phichit and Phetchabun), Regional Environmental and Pollution Control Office 4 (Nakhon Sawan), Provincial Natural Resources and Environment Offices (Phetchabun and Phichit), and local administrative organisations. These collaborative efforts led to the successful renewal of Akara's mining leases and metallurgical processing licence in 2021 and 2022, respectively.

Akara and the Government of Thailand would not allow operations to continue at the CGM site if there were reasonable grounds to suspect that TSF1 was compromised such that it posed an actual or potential threat to public health or the environment.

We note that the Joint Communication does not include any details or scientific evidence that would support an allegation that TSF1 is faulty or dangerous whereas there is overwhelming evidence pointing to the integrity of TSF1 and the safety of Akara's operations in Thailand.

Other allegations regarding increased arsenic levels or heavy metals are equally wrong and unsupported.

For the reasons above and as detailed further below, Akara has in no way violated or impinged upon the right to an adequate standard of living, the right to food, right to safe drinking water, right to land, and right to a clean, healthy and sustainable environment that is free of toxic substances.

b. Investigations and Environmental Audits

In addition, the CGM each year is subject to multiple and extensive investigations and inspections, which ensure that no TSF1 leak is occurring. The following examples show this continuous and detailed scrutiny of Akara's operations:

1. Each year since 2002 until 2015, Environ performed independent environmental audits of CGM. Environ assessed Akara's compliance against its Environmental Impact Assessment (**EIA**) commitments, the terms and conditions of its mining leases, compliance with Thai law as well as compliance with Akara's Environmental Policy. Environ also performed benchmarking against the highest international standards at the time. Additionally, Kingsgate and Akara required Environ to assess Akara's compliance with the Australian Minerals Industry Code for Environmental Management and Enduring Value (**AMI Code**). Compliance with the AMI Code was voluntary and undertaken by Akara to continually meet the highest level of environmental standards for CGM.
2. Each year since 2002 until 2019, Knight Piésold conducted audits of all tailings storage facilities at the CGM. The purpose of these annual audits was to determine if the tailings storage facilities were operating according to the design intent, the embankments were safe, and the overall performance of the facility continued to be appropriate. No issues with the TSFs were ever identified in these audits.
3. Each quarter, on-site inspections are carried out by 20-30 people, including village leaders, government representatives and representatives from local administrative bodies. For each inspection, inspectors are present on-site for approximately 4 days. If any issues are identified, Akara is given 30-60 days to resolve them, and compliance with such directions is compulsory.
4. Mining and Monitoring Committee meetings – established since 2023 and convened twice a year. This committee has met 3 times since the reopening of the CGM. Its discussions primarily focus on addressing concerns related to the environmental impacts of mining activities and complaints from local communities. The committee comprises 21 representatives from the following key organisations:
 - a. Phichit Provincial Industry Office;
 - b. Phetchabun Provincial Industry Office;
 - c. Phichit Provincial Natural Resources and Environment Office;
 - d. Phetchabun Provincial Natural Resources and Environment Office;
 - e. Phichit Provincial Public Health Office;
 - f. Phetchabun Provincial Public Health Office;

- g. Village Heads and Chief Executives of the Subdistrict Administrative Offices from the local communities in two provinces (Phichit and Phetchabun areas); and
 - h. Stakeholders from the local communities in two provinces (Phichit and Phetchabun).
5. The EIAs and Environmental and Health Impact Assessments (**EHIA**) required to be prepared by Akara are detailed and stringent. Since reopening, Akara has filed one EIA and is now preparing a second. Akara has also filed an EHIA after it reopened the CGM. The approval process for an EHIA is set out below as another example of how the CGM is subject to a constant and significant degree of review and investigation.
- a. For EIAs and EHIAs, an Expert Review Committee is appointed by the National Environment Board pursuant to the Thai Enhancement and Conservation of National Environmental Quality Act (No.2). The Expert Review Committee that reviews Akara's EIAs and EHIAs includes senior environmental scientists, engineers and environmental experts at the Ministry of Natural Resources and Environment; Chulalongkorn University, Mahidol University, Thammasat University, Kasetsart University and King Mongkut's University of Technology Thonburi;
 - b. Once the EIAs and EHIAs are reviewed by the Expert Review Committee, they must be approved by the Office of Natural Resources and Environmental Policy and Planning (**ONEP**); and
 - c. In the case of new mining applications or mining lease renewals, after the ONEP approval, EIAs require further approval from the DPIM. The committee that makes the final approval of the EIA comprises 25 high-level government officials, comprising the Permanent Secretary of the Ministry of Industry, 15 Director-Generals of different government departments, and eight other members, each with expertise in one of the following fields: mining and exploration, environment, health, or social sciences, along with two representatives from the private sector and two from community organisations.

c. Akara and Kingsgate's environmental management

Akara, and its parent, Kingsgate, are committed to sound management of the environment and have also voluntarily adopted regular reviews, including:

- 1. a semi-annual ISO 14001 Environment Management Systems certification audit by independent international certification auditors;
- 2. an annual Minerals Council of Australia audit by an independent environmental consultant on compliance with the Australian Mineral Industry's Enduring Value Code for sustainable development; and
- 3. a quarterly internal environmental audit on Akara's compliance with environmental management objectives and plans.

Respect for environmental sustainability is also an important criterion in Akara's performance management system that is in place for its staff. Benchmarks for staff in Akara's current Policy and Procedure Manual include "*Valuing and respecting the environmental context in which the company operates including contributing to the on-going viability and integrity of environmental systems*". The importance placed on the environment is not simply a new outlook for Akara. This approach has been ingrained in Akara's conduct over many years. In 2013, for example, Akara released a Sustainability/CSR Policy which declared that Akara commits to ensure "*that the safety, health and minimisation of*

environmental impacts are the first considerations in all decisions. This includes all decisions made in the design and operation of all exploration, mine development and mineral processing activities, from beginning to closure without compromising the needs of future generations."

The quality of Akara's environmental management and stewardship is often recognised. Over the years Akara has been:

1. selected as a finalist in the Australia Thailand Chamber of Commerce "Spirit of Australia Awards" in the category of CSR Corporate Champion Award (2024);
2. certified by the Thailand Department of Primary Industries and Mines for achieving the CSR-DPIM 2024 standard, which recognised Akara's commitment to responsible mining and sustainability (2024);
3. granted the Thailand Ministry of Industry Green Industry Certification Level 1: Green Commitment, which reinforces Akara's dedication to minimise environmental impact and use its resources in a manner that supports sustainable production and consumption (2024);
4. awarded the Green Industry Certificate for successful environmental impact management by the Thai Permanent Secretary of the Ministry of Industry (2011);
5. awarded an Environmental Governance Certificate for operating with good environmental governance principles by the Thai Permanent Secretary of the Ministry of Industry (2011) (see photo below);
6. received Thailand's "Outstanding Corporation – Mining Category" award, which was presented by the Thai Minister of Industry (2008); and
7. awarded the Environmental Excellence award and Business of the Year award at the AustCham Thailand Business Awards (2006) (awarded to Kingsgate as well).

The photo below shows Thailand's Permanent Secretary of the Ministry of Industry (Mr Witoon Simachokdee) presenting Akara with an Environmental Governance Certificate in 2011.



Additionally, Akara has installed noise and vibration monitoring devices in the seven villages nearest to the CGM. The information collected from these devices is assessed by an independent consultant on a semi-annual basis. All noise levels are within the limits set by the Thailand Ministry of Natural Resources and Environment and vibration levels accord with the requirements of the Ministry of Science Standards for Rock Crushing Plants.

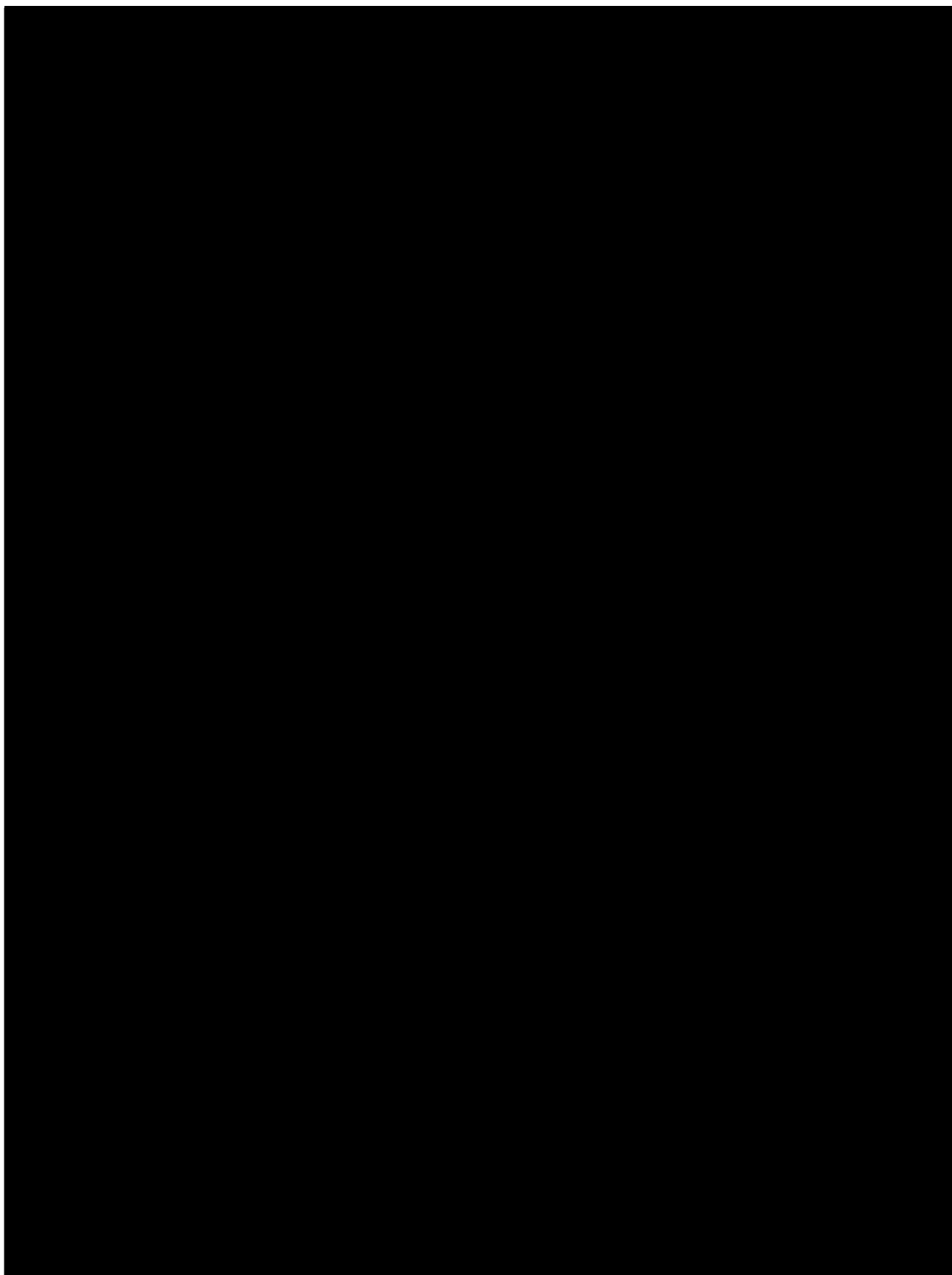
3. Health and safety

Health and safety are core values of Kingsgate and Akara. To this end, Akara and Kingsgate have adopted a comprehensive program of initiatives, including the following:

1. The Akara Annual Community Health Check-Up Project provides free health check-ups to residents within a 5-kilometre radius of the mine. In 2024, this Project assisted approximately 700 people from 28 villages across three districts in collaboration with local health promotion hospitals. Free health services offered through this Project include:
 - a. General Health Check-Ups: To assess weight and height; to provide testing for blood pressure, blood cell count, liver and kidney function, lung capacity, and urine; and to conduct chest X-rays. These tests are analysed by the certified Ramathibodi Hospital Lab.
 - b. Personalised Health Consultations: After gathering basic health data (including weight, height, and blood pressure), village health volunteers and occupational health experts provide tailored advice to villagers as needed.
 - c. Health Education: Participants also receive education on disease prevention, health monitoring, and maximising health-related benefits.

This Akara initiative significantly addresses inequities in healthcare access, particularly for remote and underserved communities. And through the collection of annual health data, Akara helps to build a community health system that promotes sustainable disease prevention and long-term health improvements. In the context of the allegations made against Akara, an important fact to note is that blood and urine tests conducted by the Ramathibodi Hospital as a part of the Annual Community Health Check-Up have not shown abnormalities or evidence of any mine contamination impacting the health of locals or the environment.

Images from Akara's 2024 Community Health Check-Up are provided below.



2. An International Cyanide Management Code audit by independent international certification auditors is carried out every three years to ensure compliance with nine standards for safe use, handling and storage of cyanide.
3. A semi-annual OHSAS 18001 (now ISO 45001) Safety Management System certification audit is carried out by independent international certification auditors.
4. An annual ISO 17025 audit of Akara's Analytical Laboratory Management System is carried out by independent international or Thai certification auditors.

In relation to cyanide, the Akara Policy and Procedure Manual provides that all Akara personnel must attend cyanide safety training. In the spirit of fostering good community relations, such training is also provided to community representatives.

Additional support for Akara's contribution to the health of the local communities is found in the Behre Dolbear Report, which concluded that the following:

1. *"Akara has gone above and beyond industry standard requirements in terms of collecting data relevant to the determination of exposure of people in the immediate vicinity of the mine. A very comprehensive database with a wealth of information including demographic information and health measurements exists as a result."*
2. *"Akara has been proactive in determining the exposure of both employees and the general public to pollutants that are perceived to be associated with mining activities."*
3. *"[Behre Dolbear] has found that natural sources and dietary practices may be the main contributors to elevated levels of the pollutants of concern measured in the ambient environment as well as in blood and urine."*

The high quality of safety standards Akara has adopted for its workers has also been publicly recognised in numerous awards that it has received. As a sample of these awards, several are listed (for the period 2003-2013) in **Annexure I**.

For the reasons above Akara has not violated or impinged upon the right to the highest attainable standard of health mentioned on page 5 of the Joint Communication.

4. Access to information and public participation

Akara agrees with the comment on page 7 of the Joint Communication that in order to safeguard human rights, access to information and transparency are essential. As is set out below, Akara is dedicated to ensuring transparency and to keeping its staff, local communities and other stakeholders informed about its operations. This practice is intended not only to share information, enable dialogue and remove suggestions of secrecy, it is also to create a culture of transparency in which Akara's employees and those impacted by Akara's operations have the confidence and tools to raise any complaint or grievance.

On page 3 of the Joint Communication, vague accusations are set out alleging that Akara undermines access to information and public participation in relation to the development of the mine. Examples provided include vague allegations of inaccurate reporting of villagers' concerns, of Akara providing only pro-mining villagers with transportation to attend public meetings on Akara's concession licence requests, and exclusion of villagers from a Community Development Fund meeting. No specifics are provided, which prevents Akara from commenting on or rebutting specific details. Persons protesting

against the CGM have ample opportunities to do so. For example, protestors have complained to relevant government departments or politicians, or instituted court or administrative actions. Any accusations that Akara limits participation or the voice of those who oppose the CGM are false. As mentioned above, Akara strives for stakeholders to have access to information. Without such a core objective, the operations of Akara, including its vital relationship with the local community, would be unsustainable.

Another allegation states that villagers were prevented from participating in a Community (or Village) Development Fund meeting. Even if this allegation were true (which is denied), Akara has no control over the Fund's activities (despite Akara providing the money that is utilised by the Fund). The Fund is overseen by committees that include heads of subdistricts, local leaders, and government representatives. Akara is entitled to appoint only two representatives to each of these committees, which does not give it any control. A further accusation is that supporters of the CGM allegedly routinely intimidate villagers who express their views at public meetings. While Akara cannot speak for third parties, such broad-brush allegations cannot be properly discussed and resolved without more detail, and in Akara's experience, the right to be heard is genuinely accorded to all who appear at public meetings relating to the CGM, and Akara is not aware of any intimidation.

The allegation that EIAs are not publicly available and that this therefore prevents the monitoring of health and environmental risks or impacts is plainly wrong. EIAs, as well as EHIAs, can be accessed by the public at <https://eia.onep.go.th/site/eia>. On the broader allegation that no data has been published on baseline environmental and health assessments, Akara has recently made an agreement with DPIM on preparing baseline health and environmental data.

The importance placed on access to information and also participation of the local community is enshrined in Akara's policies. Its 2013 Sustainability/CSR Policy provided that Akara commits to "[i]dentify and communicate with stakeholders on our activities and our decisions that may affect them. Stakeholders include shareholders, employees, communities, land holders, regulatory authorities and other interested parties ... Contribute to the quality of life of employees and local communities while respecting their cultural needs and priorities now and for future generations. ... Integrate our activities with the economic development objectives of local communities in which we operate."

To further transparency and access to information, Akara established a dedicated Community Relations Department in 2001 to ensure the proper dissemination of project information. As mentioned above, this Department has 16 individuals who work full-time and engage with the local community and their needs, including by providing information and answering questions posed by local residents.

Additionally, Akara's website contains a "Knowledge Blog" and a "Newsroom" which provide updates on recent developments. On these web pages, for example, Akara reported in 2023 on establishing a fund management committee that allows leaders and representatives from three surrounding provinces to participate in fund management to maximise benefits for the local population.

5. Freedom of expression and peaceful assembly

Akara fully respects the human right to express oneself freely and to assemble peacefully that is referred to at page 4 of the Joint Communication. Indeed, these rights are enshrined in the 2017 Constitution of Thailand, which provides:

"A person shall enjoy the liberty to express opinions, make speeches, write, print, publicise and express by other means. The restriction of such liberty shall not be imposed, except by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of the State, protecting the rights or liberties of other persons, maintaining public order or good morals, or protecting the health of the people."

"A person shall enjoy the liberty to assemble peacefully and without arms" and "The restriction of such liberty under paragraph one shall not be imposed except by virtue of a provision of law enacted for the purpose of maintaining security of the State, public safety, public order or good morals, or for protecting the rights or liberties of other persons."

The Joint Communication mentions at page 4 that villagers have reported repeated instances of threats and intimidation by Akara and its associates, including mining contractor LotusHall, which allegedly created a "climate of fear" that has hindered efforts to seek justice and express dissent, criticism or opposition to the activity of the CGM. Any allegation that Akara has threatened or intimidated individuals or human rights defenders (or used its associates to do so) is patently false. This is a very serious allegation that needs proper substantiation, in the absence of which it is defamatory and ought never to have been raised. No evidence of such conduct has been provided in the Joint Communication. There is none because it does not exist. The Joint Communication does mention a July 2016 instance in which Thai district police charged CGM protestors who were aiming to prevent Akara's trucks from transporting ore. But the example relates not to Akara's acts but alleged actions of police. While Akara cannot speak for the Thai police, Akara can comment that the protestors were protesting on or close to roads and were causing traffic safety concerns.

The allegations in the Joint Communication also imply that Akara stifles freedom of expression by commencing legal actions. In the case of trespassing brought against protests, this case was brought after protestors entered the mine at nighttime without any notice or permission. The protestors were aggressive and also created unwarranted accident risk given the heavy machinery and digging in the mine area. These are the circumstances that necessitated the trespass case. The defamation case brought by Akara, was due to an individual posting on Facebook that TSF1 was not built to a good standard and that it could collapse any day. This blatantly false allegation generated panic in the local community. The facts behind these cases brought by Akara show that they are not to prevent free speech but are the use of legitimate legal processes to prevent current and future aggressive and unauthorised behaviour that cause harm not just to Akara and its employees but also to the local community.

Akara notes that the Joint Communication refers to a division between villagers who support the mine and those "seeking reparations for the human rights impacts they have faced". Regardless of the ulterior motives of those opposing the mine, which is discussed in the section on Motives of Protestors below, the fact that there is a division is of itself a manifestation that there is freedom to either to support or oppose CGM.

The importance Akara places on freedom of expression is reflected in its Whistleblowing Policy. Under this Policy employees and contractors (including consultants) are encouraged to disclose questionable conduct and are to be provided a safe and protected environment for doing so. Types of conduct that are explicitly encouraged to be reported include:

1. dishonest, fraudulent, corrupt or unlawful conduct or practices;
2. a breach of the Akara's Code of Conduct, policies, procedures, or the applicable legal obligations;

3. conduct that may cause financial or non-financial loss to Akara or damage its reputation;
4. fraud or deliberate error in the preparation, evaluation, review, or audit of any financial statement of Akara;
5. health and safety concerns which have been reported but not addressed;
6. bullying, discrimination, and harassment of any kind regardless of age, race, ethnicity, nationality, gender (including gender identity and expression), religion, sexual orientation, disability as well as any other class protected by law; and
7. lack of reporting of actual incidents or breaches.

Akara is strongly committed to maintaining an environment in which individuals disclosing information feel free to voice concerns or report suspected misconduct without fear of dismissal, disciplinary action or retaliation of any kind. Akara explicitly prohibits any retaliatory action against anyone who in good faith reports suspected misconduct, or assists with any investigation. A process for investigating disclosures is set out in the Whistleblowing Policy (described in more detailed below in the Right to Effective Remedy Section).

Freedom of expression is further emphasised when Akara representatives attend monthly meetings of local villagers. At these meetings, any members of the local community are free to attend and to ask any questions to Akara and express any problems they may be encountering with the CGM.

Akara also has a physical feedback box available to anyone, which enables anonymous feedback to be made by any rightsholders. Akara's website also provides a "Contact Us" page that allows anonymous comments to be made to Akara.

Akara's Policy and Procedure Manual prohibits behaviour that intimidates, offends, degrades or humiliates at workplace or company facilities and requires treatment of all personnel with dignity and respect. This extends to persons who are not employees. Moreover, the Manual provides that all Akara employees, contractors and visitors have an obligation to report forthwith all harassment and discrimination to Akara and all such reports must be investigated promptly, confidentially and impartially.

As a further reflection of Akara's zero tolerance of threatening behaviour, Akara's External Communications and Social Media Policy contains a section on "*Respect for Rights, Liberties and Privacy*". Provisions in this section require that all employees must not make communications that cause harm to others and that employees must not engage in harassment, threats, or bullying on social media platforms, and must act to avoid escalating disputes.

6. Standard of living and economic livelihood

Akara, and its parent, Kingsgate, have always been and remain committed to improving the living standard and economic livelihood of local communities.

As part of this commitment:

1. Akara focuses on promoting and training local talent, for example:
 - a. in 2024, 98% of the CGM workforce was Thai and 80% were from the local area; and
 - b. in 2016, 53 Akara employees were sponsored to undertake higher education, including one for a doctoral degree and 35 for masters degrees.

2. Akara's dedicated Community Relations Department ensures maximum local content in operating the mine, and works to bring the project and local communities closer together through a better understanding of each other's needs.
3. Respect for the local community is also an important criterion in Akara's staff performance management system. Benchmarks for staff in Akara's Policy and Procedure Manual include *"Contributing to the ongoing viability of the community in which the organisation operates including capacity building, demonstrating social responsibility and involvement in local community activities"*.

From an economic perspective, the CGM has significantly improved the lives of the local community in many ways. For example, most farming plots near the CGM were insufficient to support a family and so, before the CGM, the majority of working people (particularly skilled people) were forced to leave the region to find work in Bangkok and other major Thai cities. They would often leave their families behind, leading to family dislocation and other social issues. When the CGM commenced construction and then operation, local people had the opportunity to move back to be with their families, now that there was a more sustainable economy in existence in the region.

To ensure social welfare standards are achieved and maintained, an SA 8000 Social Accountability certification by independent international certification auditors was undertaken twice a year (prior to the CGM's shutdown) to assess the CGM's and Akara's compliance with the labour, welfare and social accountability standards prescribed in SA 8000. Akara is currently reapplying to obtain this certification.

In recognition of its commitment to high standards in health and safety, Akara won the 2007 "Occupational Health, Safety and Work Environment Award" for Phichit province, which was presented by the Deputy Prime Minister of Thailand.

Also to be noted are the following findings in the Behre Dolbear Report:

"The average monthly salary of individual employees of Akara is well above the average national household income, and the breakdown of employment benefits compares favourably with industry norms."

"The long-standing commitment of Akara to social welfare and equal opportunity issues is evidenced by its commitment to maintaining its Social Accountability International Standard 8000 ("SA 8000") accreditation."

Akara has adopted a four-pillar policy to prioritise Corporate Social Responsibility. This is summarised in the table below.

Pillar	Initiatives
Health & Wellbeing	1. Health screening for individuals within a 5-kilometre radius (presumably of operations). 2. Provision of essential medical equipment to hospitals. 3. Training sessions for village volunteers. 4. Future plans to establish a community sporting centre.
Educational Opportunities	1. Food security project aimed at promoting physical, mental, and intellectual wellbeing. 2. Constructed an egg-laying chicken house and a mushroom cultivation greenhouse in collaboration with a school. Also provided resources such as hens, chicken feed, and mushroom culture. 3. An open-door policy for students to attend the Mine to learn about geology from its personnel.
Sustainable Community	1. Directly and indirectly employing locals. 2. Establishing agricultural and processing cooperatives and developing plans for a community product distribution centre. 3. A commitment to transforming the mine area and its surroundings into educational tourist attractions, promoting sustainable community-based tourism. 4. Facilitating the development of marketing skills to broaden the reach of community enterprises' products and services.
Clean Water	1. Regular inspections and maintenance of the village water systems surrounding the mine. 2. Provision of immediate assistance in the event the water systems are damaged or fail. 3. Partnerships with the Provincial Administrative Organizations and Subdistrict Administrative Organizations to enhance water resources for agricultural purposes, including utilisation of water from the mine pits to support local farmers (particularly during droughts).

As to educational opportunities, the Akara Scholarship Project, which was initiated in 2010, has provided dozens of scholarships for university educational opportunities to students who would not otherwise be able to afford university education.

Given the commitment and the benefits provided by Akara, the majority of the people around the CGM are supportive of it. One ONEP survey showed support from 88.5% of people living in the six communities around the mine.

Under the policy framework and strategic plan for mineral resource management issued by DPIM, Akara contributes to four funds. Between March 2023 and January 2025, Akara paid 207 million Thai baht (approx. USD 6.1 million) into these funds. Two of these funds are directly relevant to the Joint Communication: the Village Development Fund (which has received 49 million Thai baht from Akara) and the Health Monitoring Fund (which has received 29 million Thai baht from Akara).

The funds are overseen by committees that include heads of subdistricts, local leaders, and government representatives. Akara is entitled to appoint only two representatives to each of these committees, which means it has no control over the activities of the funds.

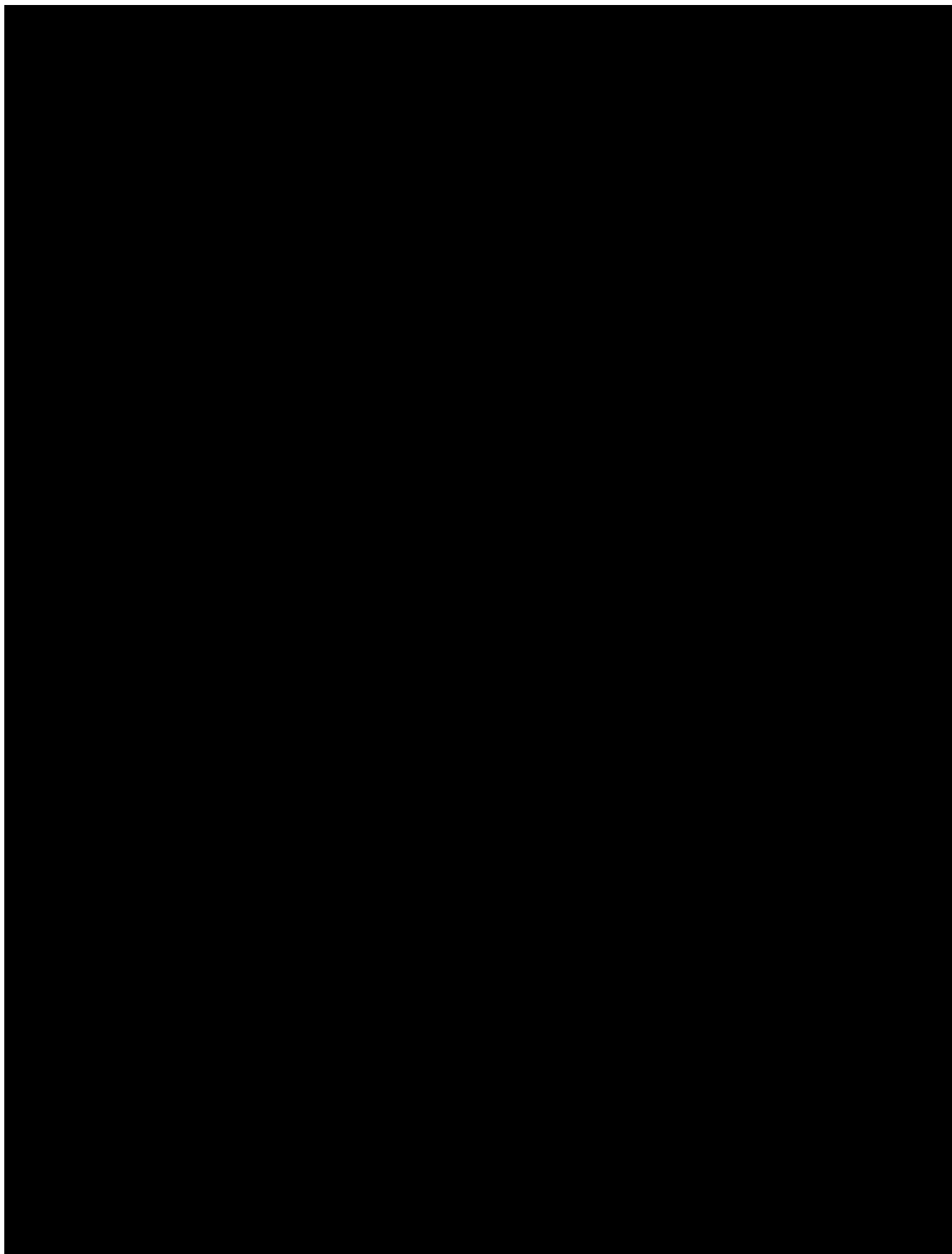
Examples of the Village Development Fund 's projects include providing the local community with solar power cells for water filtration and rice seed sorting machines, building roads, and establishing a fish farm.

As an example of the funding made available to local communities before the shutdown of the CGM in 2016, the Behre Dolbear Report published the following table outlining Akara's community contributions.

Akara Direct Community Contributions

Direct Community Contributions - Sector	THB Million
Infrastructure	28.9
Education	17.8
Drinking Water	16.6
Health	13.6
Religion	10.0
Culture	7.7
Sport	3.0
Donations	3.0
Total	100.6

Finally, Akara's care for the wellbeing of the surrounding community is illustrated in the photos below, which show Akara personnel (in yellow and blue clothing) assisting the local community after wind and flood damage affected nearby villages in April and August 2024.



7. Right to effective remedy

Akara recognises and embraces the right to an effective remedy as referred to at page 7 of the Joint Communication. Akara's Policy and Procedure Manual includes a grievance and investigation procedure to deal with workplace harassment and discrimination. Any reports of harassment or discrimination will be treated seriously and investigated promptly, confidentially and impartially.

Akara has also adopted a Whistleblower Policy which requires Akara to promptly investigate complaints or disclosures of misconduct internally and, where appropriate, with the assistance of external parties such as outside legal counsel. Each such investigation must be conducted fairly and objectively by qualified staff and must, where appropriate and to the extent permitted by law, provide any alleged wrongdoer with the right to challenge any allegations made against them. If a report has insufficient information to support an investigation, Akara must attempt to obtain more information about the alleged misconduct and, if there is still insufficient information, it may decide not to investigate the matter further. If such a decision is made the person who made the disclosure will be notified. If that discloser believes Akara has not investigated concerns raised in a report satisfactorily, they may file a report with the Company Secretary of Kingsgate to be considered by the Board of Kingsgate.

Grievances can also be aired by village heads or individuals in the many mining related governmental committees that entitle them to have representatives sitting on such committees (such as the Mining and Monitoring Committee or the disputed fact-finding committee both mentioned above).

Avenues for grievances in relation to any proposed funding out of the Village Development Fund or the Health Monitoring Fund are also present in a process whereby the projects require community endorsement and consultation. Any objections can be made by villagers during this consultation process. Akara notes that the individuals that protest against Akara have never proposed a project under these funds. Nor do they attend meetings or consultations that are part of the process to comment on a project.

More consultative grievance mechanisms are also in place. As mentioned above, Akara representatives attend village meetings and in the 2024 financial year, Akara representatives attended over 100 of these meetings and visited over 2,600 households. These meetings and visits provide villagers with information on the CGM's operations as well as the ability for them to air any concerns or ask questions, to which responses are provided. Feedback and questions are taken seriously, and mechanisms are implemented to respond to these concerns and questions where necessary. Moreover, a channel for anonymous comments is also allowed through the feedback box and Akara's website as referred to above. Community feedback is also gained through Facebook.

As to the reference to court actions on page 7 of the Joint Communication, Akara notes that it is not unusual for companies to be involved in some kind of litigation including in class actions. Furthermore, Akara is limited in what it can say publicly given the ongoing nature of the proceedings. On this issue, Akara must express its objection to the publication of confidential material on page 6 of the Joint Communication. Whoever has released this information to the UN has breached their confidentiality obligations in the mediation process. Akara reserves the right to raise this matter with the court to ensure strict adherence to the transparency and confidentiality of the mediation process.

Akara also notes that the Joint Communication is not clear as to how the existence of legal actions against Akara can in any way suggest a concern with respect to the right to an effective remedy. Indeed, the very existence of legal action against Akara and ongoing procedural phases is proof of the availability of an effective remedy to aggrieved individuals.

While Akara has always denied the allegations, Akara has nevertheless fully engaged in the court processes that are readily available to both Akara and complainants in Thailand. Akara further notes that there is no reason to expect that the Thai courts have any bias towards Akara – on the contrary, Thai courts have a track record of issuing judgments against corporate defendants.

As to the allegations that Akara has delayed the court hearings or obstructed the mediation process, those allegations are false and Akara cannot comment further given the ongoing nature of the proceedings, except to note that the case is unprecedented in Thailand's courts and has involved several highly complex legal and procedural issues. Further, as also recognised in the Joint Communication, Akara acknowledges that legal proceedings in Thailand suffered delays as a result of the COVID-19 pandemic, as they did all over the world.

8. Motives of some protestors

As noted above, the sources of the information underlying the allegations in the Joint Communication have not been included and so the origin of the allegations are unclear.

In these circumstances, Akara is compelled to emphasise to the UNHRC that there is clear evidence that many of the complaints against Akara have been generated by individuals with an interest in undermining Akara and its activities for personal gain. This includes former disgruntled employees, frustrated land speculators and competitor gold miners. The complaints have also been supported by persons who lack the necessary medical or environmental skills and qualifications required to give the opinions that have been publicised.

By way of illustration, in 2015 two protestors submitted a letter to the Thai National Council for Peace and Order calling for the termination of all gold mining projects in Thailand (not just the CGM), and calling all mine tailings facilities "toxic mountains". The letter claimed that "people surrounding the [Chatree] mine had become sick and die from the same symptoms without knowing the actual cause". Scientific investigations have repeatedly shown that this assertion is categorically untrue. Also, as part of its arguments, the letter asserted that a 2015 inspection of a rice paddy field near the CGM reported that it was contaminated with cyanide and that this was similar to the contamination in the TSF1. As explained above, this is a false and highly dubious claim in light of what the Behre Dolbear Report observed – the cyanide detected in this rice paddy field bore no resemblance to the chemical properties of TSF1 water and was possibly the result of "*deliberate contamination by third-parties*". This letter highlights two important aspects of the campaign waged against the CGM by protestors – the assertions made either ignore or are contrary to the findings of rigorous scientific studies, or in some extreme cases, the strategies adopted are, to say the least, deceptive and *mala fides*.

Assertions of deaths caused by contamination from the CGM are utterly baseless and highly irresponsible. Regrettably, the Joint Communication – without any substantive support – also recirculates this type of disinformation by stating at page 4 that exposure to the heavy metals such as cyanide, arsenic and manganese around CGM "*could lead to death*". We urge the UNHRC to specifically inform readers that the statement is not supported by any scientific evidence.

Other suspect activities of the protestors included acquiring land around CGM in order to profit from the high prices that were being offered by Akara. Another protestor filed competing SPLAs (applications for prospecting licences) over highly prospective land Akara had explored. The protestors developed a common strategy to obtain rights over land where they thought Akara would need to explore for gold in order to then extort Akara, seeking large, opportunistic payments. When those strategies did not work,

those protestors resorted to defaming Akara by making the allegations that have been wholesale adopted in the Joint Communication. These are not characteristics of *bona fide* protestors.

In raising these points, Akara is not diminishing the universal importance of the human right to express views and protest. The paramount concern Akara has here is for the negative impact and consequences of protests or campaigns that are conducted unfairly, non-transparently and for an ulterior purpose.

Akara assumes that the UNHRC will conduct proper due diligence on the background of the authors of any complaints it has received as well as checking carefully to see if there is any robust scientific evidence supporting the allegations made, ensuring that any such evidence has been presented by independent professionals with appropriate skills, qualifications and experience.

B. Responses to Joint Communication Requests

1. Provide any additional information and/or comment on the allegations

The additional information Akara would like to provide is set out above in Section A and in Section B below. However, we note that because many of the allegations are vague – for example, without any detail as to who made them, the date alleged reports were made or other actions (such as alleged intimidation) took place, and precisely who was involved – Akara has not been given a proper opportunity to provide a full and proper response or comment. Akara remains at the UNHRC's disposal to provide further information and comment if full details of the allegations are made available to it. In particular, Akara requests that it be provided with any supporting documentation or evidence that would support the serious allegations made. This information could be redacted if necessitated by privacy or confidentiality concerns. To date, Akara has not received from the UNHRC one document containing any evidence in support of the allegations. The current absence of supporting documentation or evidence considerably limits Akara's ability to respond to the allegations at this stage.

2. Highlight steps that Akara has taken, or is considering to take, to protect against negative human rights impacts of its business activities

The commitment of Akara to protect against its business activities causing negative human rights impacts is evidenced by the policies mentioned below:

1. No use or support of child labour – Akara hires employees over the age of 18 and makes every effort to provide for them to the best of our ability (for example, paying them a salary that is at least higher than the minimum wage required by labour laws, setting working hours that are appropriate and in accordance with labour laws).
2. Provision of a healthy and safe workplace – the Department of Protection and Welfare requires Akara to submit annual reports regarding labour law to ensure that Akara has adhered to the law. Akara also receives random site visits from the government's agencies to ensure adherence to the information we have provided. Further, we conduct pre-employment medical exams and annual health exams for all employees.
3. Respecting the right to form and join trade unions and bargain collectively – Akara has a welfare committee of employees that engages with the HR department to provide benefits and welfare

that are superior to all legal requirements imposed by labour laws. The committee is established through an election.

4. No discrimination based on race, national or social origin, caste, birth, religion, disability, gender, sexual orientation, union membership, political opinions and age – Akara assess individuals solely based on their knowledge, skills, and experience. Age, gender, sexual orientation, political beliefs, religion, races, or disabilities are irrelevant.
5. The prohibition of threatening, abusive, exploitative, coercive behaviour at workplace or company facilities – Akara's Policy and Procedure Manual provides a mechanism for employees to file complaints in the event of harassment or bad behaviour. The HR team is responsible for ensuring that all employees are treated equally and have the opportunity to voice their concerns.
6. Treatment of all personnel with dignity and respect – no discrimination is permitted on the basis of race, national or social origin, caste, birth, religion, disability, gender, sexual orientation, union membership, political opinions, or age. All employees are treated equally.
7. Zero tolerance of corporal punishment, mental or physical abuse of personnel – personnel are not subjected to corporal punishment, mental or physical maltreatment.
8. Compliance with laws and industry standards on working hours – employees' working hours are permitted solely in accordance with Thai labour law. We compensate our employees for overtime work.

A Whistleblowing Policy has also been established to enable complaints to be made in a manner in which the person making complaints is safe and protected.

Other aspects of Akara's commitment to preventing negative human rights impacts also exemplified in its efforts to protect the environment, ensure health and safety and improve the standard of living and economic livelihood of the community surrounding the CGM as detailed in Section A above.

3. Provide information on measures Akara is planning to take, if any, to ensure rights to safe drinking water, food, land and a clean, healthy and sustainable environment of affected populations, as well as their right to health and their access to healthcare services

Information relevant to this request is set out in Section A under the headings of Health and Safety and Standard of Living and Economic Livelihood. As mentioned above, the four pillars of Akara Corporate Social Responsibility Policy include: (i) Health & Wellbeing, (ii) Educational Opportunities, (iii) Sustainable Community and (iv) Clean Water. These pillars align not only with the core principles of ESG but also with the United Nations Sustainable Development Goals (SDGs). Together with operational systems implemented at the mine (including the zero-discharge policy) Akara's initiatives under these pillars of its CSR Policy are underpinned by measures Akara has taken and Akara plans to take further steps in future including:

1. Health & Wellbeing: Akara conducts a community health check every year and monitors the results. We also support the local hospitals by providing medical equipment and training the community health volunteers on first aid.

2. Educational Opportunities: Within a 5 km radius around the CGM there are 5 primary schools. We plan on continuing to develop these schools' buildings, train their teachers, provide educational equipment, and improve the quality of meals provided.
3. Sustainable Community Development: This development goal emphasises career promotion, local recruitment, and to establish a green area around the mine. For example, in 2025 we worked with the community forest group and government on a planting project in 3 provinces around the mine. As to career promotion and local recruitment, Akara's workforce comprises approximately 90 per cent of local employees, and we plan to recruit more local people in the next year.
4. Clean Water: We engage in water supply systems development to ensure that people around the mine can access good quality water. For example, we install water filtration systems that use solar power, which also reduces their electricity expenses. In the future, we plan to make a large pond to supply water for agriculture in the dry season.

4. Indicate steps Akara has taken to ensure the public's right to receive timely and accessible information on the health and environmental impacts of the mine

Akara agrees that access to information and transparency are essential for safeguarding human rights. Information relevant to this request is set out in Section A under the heading Access to Information and Public Participation. The steps taken by Akara (or, where necessary, the government) to ensure the right to receive timely and accessible information on health and environmental impacts of the mine include:

1. Akara's 2013 Environmental Policy declared that Akara shall aim "*to be recognised as a mining leader in environmental performance, environmental working practices and transparency of reporting ... [c]ommunicate openly about environmental risks ... [demonstrate] commitment to public reporting of environmental performance by adhering to the standards detailed in the Australian Minerals Industry Code for Environmental Management ... develop public awareness of the environmental standards and objectives of the Mine*".
2. Akara's establishment of a dedicated Community Relations Department in 2001 to ensure proper dissemination of project information, and providing information to requests by locals and answer questions posed by them. This Department is staffed by 16 full time employees.
3. The publication of Akara's EIAs and EHIAs on ONEP's website <https://eia.onep.go.th/site/eia>. Akara representatives attending numerous village meetings and household visits with an operational policy of being open to answering questions from villagers at those meetings and visits.
4. Akara updating its own website through its "Knowledge Blog" and "Newsroom".
5. Detailed information on Akara's operations in Kingsgate's Annual Report.
6. Akara-relevant information published by Kingsgate on its website and in Australian Stock Exchange announcements.

5. Indicate what measures have been taken by Akara to ensure the right to freedom of expression, including the right of access to information, and the right to participation of affected rightsholders

Akara fully respects the freedom to express oneself and the right to freely participate in matters that affect one's rights. Information relevant to this request is set out in Section A under the headings Access to Information and Public Participation, and Freedom of Expression and Peaceful Assembly. Key steps taken by Akara to ensure the right to freedom of expression and the right to participation are set out below. The steps taken on the right to access information is addressed in question 4 above.

1. Akara is fully committed to Thai laws, particularly the provision in Thailand's Constitution which provides that a person shall have the liberty to express opinions, make speeches, write, print, publicise and express by other means.
2. Akara respects protestors and has never threatened or intimidated individuals or human rights defenders in any way that is inappropriate or which creates a climate of fear. Indeed, Akara's Policy and Procedure Manual and its Social Media Policy includes a zero tolerance position on intimidating behaviour.
3. Akara respects the views of landholders who refuse to sell their landholdings to Akara and does not force them to relocate.
4. Akara has adopted a Whistleblower Policy which permits individuals to express their views on questionable conduct and at the same time protects those individuals from any backlash from expressing their views.
5. Akara listens to villagers' views and allows them to freely express themselves at village meetings, in government committee meetings and through their use of social media (under Akara's Social Media Policy) and through feedback given through Akara's feedback box and internet website.
6. Akara embraces the local community's participation through its Community Relations Department facility that has 16 full-time employees dedicated to assisting local inhabitants.

6. Indicate what measures Akara has taken to ensure that individuals and human rights defenders are able to exercise their rights to freedom of expression and freedom of peaceful assembly, to access effective remedies and to expose abuses and voice concerns, without fear of threats or acts of intimidation and harassment of any sort

Information relevant to this request is set out in Section A under the headings Access to Information and Public Participation, Freedom of Expression and Peaceful Assembly, and Right to Effective Remedy. The specific measures taken to ensure the freedom of expression is dealt with in question 5 above. The measures Akara has taken to ensure freedom of peaceful assembly and access to effective remedies and expose abuses and voice concerns, include

1. Akara's full commitment to Thai laws, particularly the provision in its Constitution which provides that a person is entitled to enjoy the liberty to assemble peacefully without arms.
2. Akara's establishment of a grievance and investigation procedure in its Policy and Procedure Manual as well as in its Whistleblower Policy to deal with workplace harassment and discrimination. This procedure is designed to be prompt, confidential and impartial.
3. Under the Whistleblower Policy, if Akara has not investigated a disclosure of misconduct to the reporter's satisfaction, the report may be taken to the Board of Kingsgate for determination.
4. Akara takes seriously any person's right to an effective remedy in a court and this is reflected in Akara's full engagement in the current class action, which is proof of the availability of government grievance mechanisms. Other avenues of effective remedies made available by the government are through complaints to Thailand's Ombudsperson (which in Akara's matter in 2017, ruled against the allegations of a complaining protestor) and also the Thai Administrative Court procedures, which were used by protestors in 2010 to file a complaint against Akara.
5. Akara's feedback box and its website allows grievances to be made informally and, where necessary, anonymously.
6. Akara's participation in over 100 village meetings per year and visits to thousands of households allows for any grievances to be aired and addressed informally.

7. Provide details on any measures Akara has taken to respect the right to adequate standard of living and right to land

Information relevant to this request is set out in Section A under the headings of Relocation, and Standard of Living and Economic Livelihood. The measures taken by Akara to respect an adequate standard of living and the right to land include:

1. Maintaining the average monthly salaries of its employees well above the Thai national household income.
2. Akara's prioritisation of Corporate Social Responsibility in its four-pillar policy.
3. The provision by Akara of assistance to local villagers through its Community Relations Department.
4. Akara's contributions to the Village Development Fund and the Health Monitoring Fund.
5. Akara's provision of educational scholarships to its employees.
6. Akara's payment to landholders of land prices that are significantly higher than the market price.

8. Provide information regarding the measures Akara has taken, or is considering taking, to ensure that villagers living in the vicinity of CGM, who were victims of serious human rights abuses, have access to effective non-State-based non-judicial remedies in line with the UNGPs

Akara strongly contests the wording of this request. It implies that there are villagers who have been victims of serious human rights abuses carried out by Akara. That is, without any doubt, a false and defamatory allegation and/or implication. Akara's actions cannot in any way be classed as serious human rights abuses. This grave allegation has no shred of evidence to support it.

Information relevant to grievance mechanisms is set out in Section A above on the Right to Effective Remedy, and also in the answers to question 6 above.

In particular, Akara has enabled effective non-judicial remedies to landowners by engaging in genuine consultations with them as to what would be acceptable settlement terms.

9. Describe the guidance, if any, that the Government of Thailand has provided to Akara, or to which Akara has access, on how to respect human rights throughout Akara's operations, in line with the UNGPs

While Akara has not received direct guidance from the Government of Thailand on how to respect human rights through its operations, the Government does provide guidance through the incorporation of international human rights standards in its laws, such as the labour law which prohibits child labour. Akara is also aware of Thailand's First (2019-2022) and Second (2023-2027) National Action Plan on Business and Human Rights which focus on improving and addressing human rights issues in the context of business activities.

10. Provide information on the role that Kingsgate plays in relation to policy and decision making of Akara relevant to this incident and more generally to human rights-related issues

Akara is unsure what is meant by "this incident" and therefore cannot provide any specific response thereto. Akara is willing to provide such a response if further details are furnished as to the alleged incident. Pending that information and for the time being, Akara notes that in relation to more general human rights and environment issues, the graver the allegation, the greater the role Kingsgate will play.

In reference to the general policy in place on Kingsgate's role in the policy and decision making of Akara, 2024 Corporate Governance Statement, provides:

"The Board of Kingsgate Consolidated Limited ("Company") is responsible for the overall corporate governance of the Company and its subsidiaries ("Group"). The Board believes that good corporate governance helps ensure the future success of the Company, the Group and adds value to stakeholders and enhances investor confidence."

As a group entity of Kingsgate Consolidated Limited, Akara also notes that its operations are within the scope of Kingsgate's annual modern slavery statement, in which Kingsgate reports its effort to assess and mitigate risk of modern slavery in its global operation and supply chain pursuant to the *Modern Slavery Act 2018* (Cth).

11. Provide information regarding measures that Akara has taken to implement the recommendations to business contained in the report of the Working Group on human rights and transnational corporations and other business enterprises on its visit to Thailand in 2018, in particular "to establish effective grievance mechanisms to provide remedies to affected individuals and communities at an early stage"

Akara has established grievance procedures under its Policy and Procedure Manual as well as under its Whistleblower Policy. As to further development of its grievance mechanisms, Akara is open to considering any recommendations that the UNHRC may make to it.

ANNEXURE I

RECOGNITIONS RECEIVED BY KINGSGATE AND AKARA (2003-2013)

No.	Award	Issuer	Year
1.	The certificate in health promotion in the corporate sector	Social Security Office, Ministry of Labour	2003
2.	The outstanding award for labour welfare in production and construction industry	Ministry of Labour	2003
3.	The outstanding small corporate in labour welfare	Department of Labour Protection and Welfare, Ministry of Labour	2004
4.	The honourable mention in labour relation	Ministry of Labour	2004
5.	The honourable mention in female labour	Ministry of Labour	2004
6.	The province certificate for outstanding corporate in prevention and correction about drug following to White factory Campaign	Department of labour Protection and Welfare	2004
7.	The province award for outstanding corporate in occupational safety, health and working environment	The committee of safety in workplace week	2004 to 2005
8.	The outstanding corporate award in labour relations and welfare	Department of Labour Protection and Welfare, Ministry of labour	2004 to 2007
9.	The outstanding corporate award in Mining	Department of Primary Industry and Mines	2005
10.	The outstanding corporate award in Metallurgy Factory	Department of Primary Industry and Mines	2005
11.	National award for outstanding corporate in occupational safety, health and working environment.	The committee of 20 th national safety in workplace week.	2006
12.	To be number one award at province	Her Royal Highness Princess Ubol Ratana	2006
13.	Award for an establishment that has not had an accident that resulted in lost work time	Ministry of Labor	2006
14.	Environmental excellence	AusCham Thailand Business Award	2006
15.	Best Business of the year 2006	AusCham Thailand Business Award	2006
16.	Drug Preventive and Corrective Learning Centre	Department of Labor Protection and Welfare, together with the Narcotics Control Board	2006

17.	The company support Non-formal education office year 2006	Center of Non formal Education Amphur Thapklor, Phichit	2006
18.	The company support safety occupational and work environment	Director General of Welfare and Labour Protection Department	2006
19.	The outstanding corporate in drug preventive	Drug Against Center By Welfare and Labour Protection of Phichit and Phichit Governor	2007
20.	TLS certificate	Labour Department	2007
21.	Zero Accident year 2007	Labour Department	2007
22.	The province award for outstanding corporate in occupational safety, health and working environment	Deputy Prime Minister	2007
23.	Labour Relations	Australian Sustainability Awards	2007
24.	Jim Torlach Health and Safety Award	AUSIMM Award	2007
25.	Human Resource Excellence Award	Asia Mining Sustainability Awards 2008	2008
26.	The national award for outstanding corporate in occupational safety, health and working environment	The committee of 22th national safety in workplace week	2008
27.	Well Management in Business	Nareasuan University	2008
28.	Best Employer	AusCham Thailand	2008
29.	Zero Accident year 2008	Labour Department	2008
30.	The outstanding corporate award in Mine	Department of Primary Industry and Mines	2008
31.	The national award for outstanding corporate in occupational safety, health and working environment	Director General of Welfare and Labour Protection	2009
32.	Zero Accident year 2010	Labour Department	2009
33.	The outstanding corporate award in labour relations and welfare	Department of Labour Protection and Welfare, Ministry of labour	2009
34.	AustCham Business Award 2009	Australian-Thai Chamber of Commerce	2009
35.	The national award for outstanding corporate in occupational safety, health and working environment – Receive a confirmation letter to award us. Time to be announced.	Director General of Welfare and Labour Protection	2010
36.	ERT Team award - Phoenix Team	Prime Minister	2010

37.	The outstanding corporate award in labour relations and welfare	Department of Labour Protection and Welfare, Ministry of labour	2010
38.	Zero Accident year 2010	Labour Department	2010
39.	Aon Hewitt Best Employer in Thailand	Aon Hewitt and Sasin Graduate Institute of Business Administration of Chulalongkorn U.	2011
40.	ERT Team award - Second prize	Prime Minister	2011
41.	Zero Accident Award	Labour Department	2011
42.	Certificate of Environmental Good Governance	Ministry of Industrial	2011
43.	The outstanding corporate award in labour relations and welfare	Department of Labour Protection and Welfare, Ministry of labour	2011
44.	Certificate of Green Industry Level 2 (Green Activity)	Industrial Ministry	2011
45.	The outstanding corporate award in labour relations and welfare	Department of Labour Protection and Welfare, Ministry of labour	2012
46.	Zero Accident Award	Labour Department	2012
47.	The national award for outstanding corporate in occupational safety, health and working environment	Director General of Welfare and Labour Protection	2012
48.	The national award for outstanding corporate in occupational safety, health and working environment	Director General of Welfare and Labour Protection	2013
49.	Outstanding corporate in Skill Development Promotion 2013	Director General of Skill Development	2013
50.	Zero Accident Award	Labour Department	2013
51.	Certificate of Environmental Good Governance	Ministry of Industrial	2013