

Resettlement Framework

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Vanuatu: Port Vila Urban Development Project

Prepared by the Ministry of Infrastructure and Public Utilities (MIPU) of the Government of Vanuatu for the Asian Development Bank.

RESETTLEMENT FRAMEWORK

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ABBREVIATIONS

ADB	-	Asian Development Bank
AP	-	affected persons
CoP	-	code of practice
DP	-	displaced person
IOL	-	inventory of losses
MFEM	-	Ministry of Finance and Economic Management
MIPU	-	Ministry of Infrastructure and Public Utilities
MLNR	-	Ministry of Lands and Natural Resources
NGO	-	nongovernment organization
PPTA	-	project preparatory technical assistance
RF	-	Resettlement Framework
RP	-	resettlement plan
SPS	-	Safeguards Policy Statement
TOR	-	terms of reference
VPMU	-	Vanuatu Project Management Unit

GLOSSARY

Compensation	payment in cash or kind for an asset to be acquired or affected by a project at replacement cost at current market value.
Cut-off date	the date after which people will NOT be considered eligible for compensation, i.e., they are not included in the list of DPs as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey.
Displaced Persons	also known as affected persons (APs); all the people affected by the project through land acquisition, relocation, or loss of incomes, including any person, household (sometimes referred to as project-affected family), firms, or public or private institutions. APs/DPs therefore include i) persons affected directly by the safety corridor, right-of-way, tower or pole foundations, or construction work area; (ii) persons whose agricultural land or other productive assets such as trees or crops are affected; (iii) persons whose businesses are affected and who might experience loss of income due to the project impact; (iv) persons who lose work/employment as a result of project impact; and (v) people who lose access to community resources/property as a result of the project.
Detailed measurement survey	the detailed inventory of losses that is completed after detailed design and marking of project boundaries on the ground.
Encroachers	those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.
Entitlement	the range of measures comprising cash or in-kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, relocation assistance, and/or business restoration assistance that are due to DPs, depending on the type and degree nature of their losses, to restore their social and economic base.
Inventory of losses	the preappraisal inventory of assets as a preliminary record of affected or lost assets.
Land acquisition	the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns or possesses to the ownership and possession of that agency, for public purposes, in return for fair compensation.
Nontitled	those who have no recognizable rights or claims to the land that they are occupying, including people using private or state land without permission, permit, or grant, i.e., those people without legal title to land and/or structures occupied or used by them. ADB's policy explicitly states that such people cannot be denied compensation for nonland assets and resettlement assistance.
Poor	those falling below the official national poverty line.
Replacement cost	the method of valuing assets to replace the loss at current market value, or its nearest equivalent; it is the amount in cash or in-kind needed to replace an asset in its existing condition, without deduction of transaction costs or for any material salvaged.
Sharecropper	the same as tenant cultivator or tenant farmer; a person who cultivates land they do not own for an agreed proportion of the crop or harvest.
Significant impact	200 people or more will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).
Vulnerable	any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement, including (i) female-headed households with dependents, (ii) disabled household heads, (iii) poor households (within the meaning given previously), (iv) landless, (v) elderly households with no means of support, (vi) households without security of tenure, (vii) ethnic minorities, and (viii) marginal farmers (with landholdings of 2 hectares acres or less).

I. INTRODUCTION

A. Background

1. Port Vila is situated on the south coast of the Efate Island in Shefa Province, Vanuatu. With an area of about 5 km², Port Vila city serves as home to a multicultural population, and is the economic and commercial center of Vanuatu. Port Vila municipality has already outgrown its original urban boundaries due to the substantial population growth, along with urban migration and rapid development of squatter and informal settlements, increasing the extent of the commercial and infrastructural requirement. Poor urban planning and ineffective implementation of urban development in Vanuatu are also attributed to the institutional responsibilities that are not clearly delineated among the relevant agencies. Hence, a Master Plan for Port Vila's Urban Development was prepared, focusing on drainage and sanitation; followed by a feasibility study for investment in the Master Plan's first phase implementation, taking into consideration the technical, socioeconomic, environmental, and institutional issues.

2. The Government of Vanuatu has requested the Asian Development Bank (ADB), Australian Agency for International Development, and other cofinancing institutions for funding of the Port Vila Urban Development Project for the implementation of the first stage of the Sanitation and Drainage Master Plan.¹ The aim of the project is to assist the Government of Vanuatu to improve drainage, roads, and sanitation systems within Port Vila municipality and adjacent urban and periurban areas in Shefa Province. Five outputs, or project components, have been selected for the loan: (i) improved road network and drainage systems, (ii) improved sanitation system, (iii) improved hygiene facilities, (iv) improved capacity of government and community organizations, and (v) efficient project management services. Output 2 requires acquisition of land, for which the location has been identified and a resettlement plan (RP) prepared. While other outputs involving civil works (outputs 1 and 3) are not expected to require permanent acquisition of land, their exact footprints and any land acquisition requirements (e.g., temporary use of land) can be confirmed only after the detailed design. Therefore, this Resettlement Framework (RF) has been prepared to address any unforeseen potential land acquisition and resettlement impacts due to improvement of roads and drainage networks under the project.

B. Description of Project and Scope of Land Acquisition and Resettlement

3. The Port Vila Urban Development Project investment will encompass 5 outputs. These include:

- *Output 1:* Improved road network and drainage systems in greater Port Vila
- *Output 2:* Improved sanitation system in greater Port Vila
- *Output 3:* Improved hygiene facilities in the central area and settlement communities
- *Output 4:* Improved and strengthened capacity of government agencies and community and user organizations to effectively and efficiently manage sanitation and drainage systems
- *Output 5:* Efficient project management services rendered

4. The location (6.5 hectares) has been identified and an RP prepared for output 2

¹ The Sanitation and Drainage Master Plan, or the Port Vila Urban Development Master Plan, was prepared during the first phase of the Port Vila Urban Development Project project preparatory technical assistance completed in November 2010.

(sanitation system). This RF refers to interventions to be implemented particularly under output 1, whose exact footprints and any land acquisition requirements (e.g., temporary use of land) can be confirmed only after their detailed design.²

5. Thirty-nine catchments have been identified and packaged into nine components plus rehabilitation and maintenance of roads and the drainage network, which may be implemented as one or each separately. Several options were recommended in the Port Vila Urban Development Master Plan ranging from “do nothing” to minimal action and “drainage in all urban and periurban areas of the priority catchments of Port Vila.” The recommendation in the Master Plan comes with a suggested network of drainage in these nine areas: Tebakor, Municipal-Fres Wota, Central business district, Lini Highway North, Seven Stars (Ohlen), Seven Stars (Anabrou), Independence Park, Nambatu, and Seaside. In addition to the drainage systems, further interventions have been identified to be included in the project: (i) repair and upgrading of existing roads and drainage systems, which may involve the private sector in asset management, drain clearing, and street-sweeping services; and (ii) surfacing/reconstruction of roads and construction of new storm water drainage systems in the highest priority flood-prone areas together with new channels, curbs, footpaths, and road feature, consistent with the urban road renewal project preliminary design study prepared by the Ministry of Infrastructure and Public Utilities (MIPU). In addition a “Code of Practice” (CoP), is proposed for implementation during this first stage investment. The CoP recommends that all drainage be restricted as much as possible to the “road reserves” that are outlined in the government’s cadastral surveys for Port Vila, so that land acquisition and resettlement can be avoided completely or reduced to a minimum. The project implementation detailed design will determine more precisely the extent of the road and drainage network that may be implemented; the exact location of the infrastructure; and the locations that may be impacted, triggering land acquisition and resettlement safeguards. Figure 1 indicates the general locations of the road and drainage networks.

² Output 3 is not expected to involve land acquisition, as communities are expected to arrange for unused communal land for the location of hygiene facilities.

Figure 1: –Drainage Network Subproject Sites in Port Vila



6. Social assessment and scoping undertaken during the project preparatory technical assistance (PPTA) indicate that the road and drainage network may well have Category C (nil) or Category B³ (limited) impacts, as defined by the ADB Safeguards Policy Statement (SPS), 2009. Although land acquisition and resettlement are not expected, or will not be fully known until more detailed design and planning can be carried out, there may be some small temporary acquisition and small structures (walls, etc.) and crop/garden damage that may result in compensation liabilities.

C. Objectives of the Resettlement Framework

7. This RF is intended to provide an effective, practical guideline to prepare and implement

³ Category B – refers to limited, or not significant resettlement impacts. Significant impacts, according to ADB safeguards policy, are if 200 or more persons experience major impacts defined as (i) physically displaced from housing, or (ii) losing 10% or more of productive (income-generating) assets.

land acquisition, resettlement and compensation planning, and implementation processes with sound planning principles and requirements of the prevailing legal norms and practices of Vanuatu and in compliance with current ADB policies. This RF particularly applies to road and drainage network component interventions in case they trigger resettlement safeguard policies of ADB and/or the legal instruments of the Government of Vanuatu. The objectives of the RF are to avoid involuntary resettlement wherever possible; to minimize resettlement impacts by exploring project design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons (DPs) relative to preproject levels; and to improve living standards of the poor, DPs, and other vulnerable groups.

8. This RF has been prepared in accordance with the provisions set out by the ADB safeguard requirement on involuntary resettlement as stated in the SPS, and the laws of Vanuatu. If land acquisition/resettlement impacts are identified at the detailed design or at any stage during project implementation, for any part of this road and drainage network or any other activities, then MIPU through the Public Works Department as one of the key implementing agencies, will follow the policies and procedures spelled out in this RF in compliance with the applicable laws and regulations of the Vanuatu government and in compliance with the ADB safeguard policy requirements on involuntary resettlement.

D. Measures to Minimize Resettlement and Land Acquisition

9. To fit ADB requirements, efforts will be made to avoid/minimize negative impacts as much as possible. The following measures will be adopted in order to minimize or avoid impacts:

- Built-up areas and housing compounds, including ornamental plants, are to be avoided where possible;
- As many productive trees and plants as possible are to be avoided;
- Non-agricultural, government-owned land will be identified for subproject use wherever required, and as much as possible;
- As per the “Drainage Code of Practice,” drainage networks as much as possible will use existing easements, keep within the road reserves, and stay out of private properties.

II. LEGAL AND POLICY FRAMEWORK

A. Policy and Legal Framework for Land Acquisition and Resettlement

10. The policy and legal framework for the project is based on ADB's safeguard requirements on involuntary resettlement as embedded in the SPS (2009), and the Constitution and the laws of Vanuatu. Where differences exist between the local laws and ADB requirements, the resettlement policy will be resolved in favor of the latter.

B. Legal Instruments in Land Acquisition and Resettlement in Vanuatu

11. Land acquisition, resettlement, and associated land issues are recognized, in legal terms in Vanuatu, by the Constitution and more than 10 laws (or acts). This section presents a brief overview of the salient national legal instruments pertaining to land acquisition and resettlement.

1. Constitution of Vanuatu

12. The Constitution of the Republic of Vanuatu came into being on 30 July 1980. The Constitution, "as the supreme Law of Vanuatu," contains two relevant sections that have relation to land acquisition and resettlement.

13. Chapter 5, Articles 29-32, of the Constitution refers to the "National Council of Chiefs." Of relevance is Article 30, which recognizes the National Council of Chiefs membership having the competence to discuss, and may be consulted on any issue related to customs, culture, and its preservation in any matter, as required by the national government. When described under the constitution, the council is not a decision-making body but rather a high-level advisory group.

14. Chapter 12 of the Constitution is devoted to land. Most discussions related to land have centered on Articles 30 (Chapter 5) and Articles 73, 74, 75 and 76 of Chapter 12. However, of relevance to land acquisition and resettlement are Articles 73-81. These state that all land is owned by its traditional, customary owners; parliament prescribes the criteria for compensation payment for land; the government may own and acquire land for State interest and may redistribute land away from traditional owners, in such cases as informal settlements and relocating of residents from other islands; and disputes in land ownership.

2. Legal Acts Pertaining to Land Acquisition and Resettlement

15. As previously mentioned, there are more than 10 acts related to land acquisition and resettlement, the main ones are as follows:

a. **The Land Acquisition Act No. 5 of 1992 (Amendment Act No. 34 of 2000)**

16. This is the key law directly related to land acquisition and resettlement. It gives the MLNR full discretionary powers to acquire land on behalf of the government.. It covers to an extent that which will be compensated under the Act, compensation for damage done made in the process of land valuation, compensation entitlements for land and for rents and business losses, basic rights for grievance and appeals, and notice periods. This Act does recognize

market value compensation for land but is very vague in compensation entitlements for rents and businesses, making it very open to misinterpretation. There is well-documented evidence as to how compensation is determined for land acquisition and structures. However, there is no published compensation method that could be identified indicating how compensation is determined for losses in income to business and for vulnerable (female-headed households, poor, elderly, and landless) affected persons (APs).

b. Land Reform Act No. 35 (1980 and updated 1981, 1983, 1985, 1992, and 2000)

17. This Act specifies that all land titles will be customary or transferred to the traditional owners, whose heritage can be traced back locally for 200 years. It specifically discusses indigenous owners and the non-indigenous land users. This Act, like the Land Acquisition Act is an important one to understand when preparing an RP for involuntary land acquisition and resettlement.

c. Customary Land Tribunal Act No. 7 (2001)

18. As per the title, this Act details the setup of the Customary Land Tribunal at the village, island; its basic terms of reference, especially for dispute resolution; and the process for APs to appeal the tribunal's decisions.

d. Valuation of Land Act No. 22 (2002)

19. This law relates to the organization of the Valuer General's Office and its role. The Act does not stipulate a minimum approach to valuation of the land, which is more directly specified in the Land Acquisition Act. Further, this Act is unclear about the role of the Valuer General's Office in terms of relocation/involuntary resettlement of households as well as valuation of structures, incomes, and businesses.

e. Land Surveyors Act No. 11 (1984)

20. This is basically a code of conduct, or a terms of reference for registered land surveyors, who must be registered through the Land Surveyors Board.

C. Current Practices in Resettlement and Land Acquisition for Government Purposes in Vanuatu

1. Identification of Areas for Acquisition

21. A majority of government land acquisition in Vanuatu has been for smaller social services projects such as for village health facilities and educational institutions. Apart from Tanna airport in Port Vila, the government has acquired land along the river at Freswota in order to maintain a level of river protection and reduce urban encroachment. In Port Vila however, the land acquisition legislation and process have not been utilized for urban development infrastructure projects.

22. In the year prior to an infrastructure development project, each ministry and other government agencies develop work plans for the following fiscal year. This is inclusive of the other feasibility study requirements such as budgeting, environmental, engineering, etc. At this

time proposals for projects where land acquisition is involved should be submitted. This is subject to the approval of the Council of Ministers. There is no minimum standard that requires the projects to minimize land acquisition and impact on the community.

23. Interestingly, the Council of Chiefs, which is the peak body representing customary issues, including land in Vanuatu at a national level, does not necessarily have an input at this or any other stage of the process. At the same time, the MLNR is in the process of developing “Customary Lands Tribunals” in each province of the country, especially to assist in settling customary land disputes. Since 1980, customary lands identification is still an ongoing process given that there are limited records to prove the ties of people to certain plot(s) of land.

2. The Process for Relocation or Acquiring of Land

24. On an annual basis, the government allocates in its national budget Vatu 200 million for government land acquisition projects. According to MLNR, if the budget is not spent, the remaining amount accrues on top of the normal annual Vatu 200 million budget. In the event that the budget is used up, with finances still required, the government and ministry executing a project are responsible to find further finances to cover the necessary land acquisition budget requirement.

25. Once an area of land is selected by the government for the government project, a notice signed by the Minister of MLNR is provided to the customary owners/title holders and a public notice is erected in full public view. The notice is made for a minimum of 30 days.

26. After this period, the land is assessed and valued. The land valuation is stipulated by Law, but generally involves valuing the following:

- Lease type – residential/agricultural/commercial/special industrial
- Location of property from the central business district, aesthetic view, amenities, waterfront, type of neighborhood
- Marketability – number of properties marketed nearby in recent times and price range of those transactions
- Physical characteristics – terrain, vegetation, soil type, improvements made, size
- Intangibles – interest, customary and other resource rights attached

27. According to MLNR, valuations include both land and structures affected and may include value of income produced from land. However, this does not include “nonland producing” incomes such as income from shops, businesses, etc.

28. Any damage to the land, caused by valuation investigations is by law liable for compensation to the existing owners. Once the valuation has been made and signed by the minister, the owners have 30 days to file objections. At the same time, MLNR must disclose information on the valuation and proposed land acquisition over a 30-day period by radio at least three times on separate occasions, in one national newspaper each week, on the main notice boards, and on the land itself. Objections must be lodged within this 30-day period, and on decision by the Minister, the objector, if dissatisfied, may appeal the minister’s decision through the Supreme Court of Vanuatu. However, if the issues are related to tradition and custom, then the National Council of Chiefs may be consulted if necessary, although this is not compulsory.

3. Carrying out the acquisition of land/structures

29. After a 30-day notice period, and as long as all conflicting claims and complaints are resolved, the physical compensation processes can then commence. MLNR is responsible for this process, monitored by the MFEM. However, problems in moving through this stage may include complaints about the process of valuation to compensation itself, and process of assessment of disputes. This is generally supposed to be settled through the Customary Lands Tribunal or, if unresolved, through the Supreme Court system.

D. ADB's Policy on Involuntary Resettlement

30. The ADB SPS (2009) requires ADB-assisted projects to (i) avoid resettlement impacts wherever possible; (ii) minimize impacts by exploring project design alternatives; (iii) enhance, or at least restore, the livelihoods of all DPs in real terms relative to pre-project levels; and (iv) improve the standards of living of the affected poor and other vulnerable groups. The policy covers both economic and physical displacement.

31. The key principles of the ADB safeguards policy on resettlement are as follows:

- Screen the projects resettlement impacts and risks early.
- Carry out meaningful consultations with the participation of DPs. Inform all DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups.
- Establish a grievance mechanism.
- Improve or at least restore the livelihoods of all APs/ DPs⁴ through (i) land-based resettlement or cash compensation at replacement value, as relevant; (ii) prompt replacement of assets; (iii) prompt compensation at full replacement cost; and (iv) additional revenues and services through benefit-sharing schemes where possible.
- Provide DPs with needed assistance including (i) if there is relocation, secured tenure to relocation and better housing; (ii) transitional support and development assistance; and (iii) civic infrastructure and community services, as required.
- Improve the standards of living of the displaced poor and vulnerable groups to at least national minimum standards.
- Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement.
- Ensure that DPs without titles are eligible for resettlement assistance and compensation for loss of nonland assets.
- Prepare an RP elaborating on DPs' entitlements, income, livelihood restoration strategy.
- Disclose an RP in an accessible place and in a form and languages understandable to the DPs and other stakeholders.
- Conceive and execute resettlement as part of a development project or program.
- Provide compensation and other entitlements before physical or economic displacement.
- Monitor and assess resettlement outcomes and their impacts on the standard of living of DPs.

E. Policy Differences and Reconciliation

⁴ The terms of AP and DP are used interchangeably throughout this document.

32. A comparison between ADB policies and the laws and practices on land acquisition and resettlement used by the Government of Vanuatu has been conducted, and a summary has been prepared (Table 1). Any differences between the laws and practices of the Government of Vanuatu and ADB's SPS (2009) will be resolved in favor of the latter.

Table 1: Comparison of Land Acquisition and Resettlement in Vanuatu and ADB's SPS, 2009

SN	ADB SPS (2009) Safeguards	Comparisons to Vanuatu Law	Reconciliation Provisions
1	Avoid resettlement impacts wherever possible.	There is no minimum standard that requires projects to avoid resettlement impacts.	ADB's SPS (2009) will be enforced. The project will ensure that all resettlement and land acquisition and impacts on community and business/productive interests are avoided, wherever possible.
2	Minimize impacts by exploring project design alternatives.	There is no minimum standard that requires projects to minimize land acquisition and impact on the community.	ADB's SPS (2009) will be enforced. The Project will ensure that all resettlement and land acquisition and impacts on community and business/productive interests are minimized wherever possible.
3	Enhance, or at least restore, the livelihoods of all DPs in real terms relative to pre-project levels.	Compensation is determined based on issues including land type, crops etc. However, this does not include "nonland producing" incomes such as income from shops, businesses, etc. It also does not necessarily require that compensation be provided and that conditions of the affected people be at the same level or better than the pre-project situation.	For this project, compensation for losses by businesses and for employees' salaries will be considered in the entitlement. Land, assets and income losses are generally valued by Valuer General (VG) in MLNR. The VG will be used (refer to SN 6 below) to assist in compensation valuation and RP implementation, as per Vanuatu law.
4	Improve the standards of living of the affected poor and other vulnerable groups. This covers both economic and physical displacement.	Laws and practices in Vanuatu do not recognize the standards of living of the poor and vulnerable in determining compensation for land acquisition and resettlement per se.	ADB's SPS (2009) will be enforced in that assistance will be provided to vulnerable DPs, if any, identified in the social analysis stage of the RP preparation, to ensure that living standards are the same as, or wherever possible better than, pre-project levels.
5	Screen the project's resettlement impacts	Laws and practices in Vanuatu relating to government capital works projects,	ADB's SPS (2009) will be enforced to screen the

SN	ADB SPS (2009) Safeguards	Comparisons to Vanuatu Law	Reconciliation Provisions
	and risks early.	require that the project budget consider and include associated resettlement and land acquisition costs. However, there are no other assessments of resettlement impacts required prior to budget approval, hence before capital works commence.	subproject sites at the time of detailed design, hence to recognize resettlement impacts and risks, including triggering the preparation and implementation of an RP.
6	Carry out meaningful consultations with participation of DPs. Inform all DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups.	The law and current practices require the land acquisition and relocation orders to be disclosed several times over radio and in the printed media over a 1-month period, as well as displaying on-site. However, there is no recognition of vulnerable groups, nor consultation with or participation of DPs at any part of the process, except in the case of people given the opportunity to make objections.	ADB's SPS (2009) will be enforced in that the prepared RP and its implementation will require a level of participation and consultation, as set out in the Consultation and disclosure section of this RF.
7	Establish a grievance mechanism.	Vanuatu already has a grievance redress system for general village matters, followed by the Chief. MLNR has also recently been set up at the provincial level, through the Customary Land Tribunal.	ADB's SPS (2009) will be enforced to ensure an appropriate multiple-level grievance redress system that allows DP participation, relatively rapid action and results, as well as encompassing existing grievance procedures in Vanuatu.
8	Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement or cash compensation at replacement value, as relevant; (ii) prompt replacement of assets; (iii) prompt compensation at full replacement cost; and (iv) additional revenues and services through benefit-sharing schemes where possible.	<p>In Vanuatu valuation of land is stipulated by law and is conducted based on several factors regarding that specific plot of affected land such as lease and ownership type, location of property, amenities, market price of nearby properties, physical land characteristics, and intangibles.</p> <p>The law specifically points out times for disclosure prior to valuation, time for objection to valuation and acquisition of lands and assets. However, the law does not provide any clauses for compensation, income restoration, and entitlements to be provided to the DP in "prompt" manner.</p>	<p>Land and assets are valued by the VG in MLNR. The VG will be used to determine compensation requirements relating to land and land-based income losses. Other compensation, such as non-agricultural businesses and employee entitlements, will be at the existing market rates in consultation with MLNR.</p> <p>At the end of the disclosure period, as soon as practicable, as per ADB's SPS (2009), compensation will be provided promptly.</p>

SN	ADB SPS (2009) Safeguards	Comparisons to Vanuatu Law	Reconciliation Provisions
9	Provide DPs with needed assistance including (i) if there is relocation, secured tenure to relocation and better housing; (ii) transitional support and development assistance; and (iii) civic infrastructure and community services, as required.	In Vanuatu, land acquisition, resettlement, and compensation for land-based losses are included under the law. However, impacts on businesses and their employees are less clear, and there is no recognizable transitional support mechanism under the law.	ADB's SPS (2009) will be enforced in supplementing the laws of Vanuatu in order to cover transition assistance requirements, businesses and employees impacted, as required.
10	Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement	As a project under the Government of Vanuatu, all lands by law must be acquired for capital works, based on the orders of the Minister for MLNR.	This aspect of the SPS (2009) relating to "negotiated land acquisition" is not applicable. Therefore, Vanuatu laws and practices will be adopted for this purpose.
11	Ensure that DPs without titles are eligible for resettlement assistance and compensation for loss of nonland assets.	Laws have no clauses that recognize encroachers in any way to be entitled or NOT entitled to compensation or rehabilitation.	ADB's SPS (2009) will be enforced to recognize encroachers who are legitimately affected at the time of the census/detailed measurement survey conducted.
12	Prepare an RP elaborating on DPs' entitlements, income, livelihood restoration strategy, and so on.	Under Vanuatu law, land acquisition and resettlement and compensation are carried out focusing on households affected and the values of the land and structures affected. However, an RP per se is not necessarily required.	ADB's SPS (2009) will be enforced to ensure that an RP is prepared and is updated at the time of detailed design.
13	Disclose a RP in an accessible place and in a form and languages understandable to the DPs and other stakeholders.	Although the law does not require an actual RP to be prepared, its clauses do necessitate notices and official valuations by MLNR to be prepared. The law and current practices also require that land acquisition and relocation orders for a specific site be disclosed several times over radio and in the printed media over a 1-month period, as well as being displayed on-site. However, only the radio would be useful for the illiterate to become	This practice will be maintained in addition to the RP being disclosed on the ADB website. If DPs are found to have low literacy, a further disclosure through public meeting may be held.

SN	ADB SPS (2009) Safeguards	Comparisons to Vanuatu Law	Reconciliation Provisions
		informed of any pending land acquisition and resettlement activity on a specific site.	
14	Conceive and execute resettlement as part of a development project or program.	MLNR does have a Vatu 200 Million budget for land acquisition and resettlement for capital works projects allocated on an annual basis. The year prior to an infrastructure development project, government agencies develop their work plans for the following fiscal year. At this time proposals for projects where land acquisition is involved should be submitted. This is subject to the approval of the Council of Ministers.	Laws and practices in Vanuatu, relating to government capital works projects, require that the project budget consider, and include, associated resettlement and land acquisition costs. No supplementary measure is required.
15	Provide compensation and other entitlements before physical or economic displacement.	Compensation is to be provided after a period of disclosure and a period for objection has finished. However, legislation does not clearly state that compensation will be provided prior to commencement of construction, which would force physical/economic displacement impacts to occur.	ADB's SPS (2009) will be enforced to ensure that land acquisition, resettlement and/or compensation measures are completed prior to commencement of construction.
16	Monitor and assess resettlement outcomes and their impacts on the standards of living of DPs.	There is no specific clause in the law of practice in Vanuatu that required monitoring and assessment of DPs during or after land acquisition and resettlement commences.	ADB's SPS (2009) will be enforced to ensure that an internal monitoring and evaluation program is set up for this subproject. Although not expected under the current project design conditions, an independent monitoring program may be required if land acquisition and resettlement impacts become significant, based on SPS (2009) policy definitions.

F. Principles and Policies for the Project

33. Given the assessment of the Vanuatu laws and practices and the ADB policy differences referred to above, some additions have been made to the provisions set out under the Vanuatu laws in order to ensure consistency with the resettlement principles of the ADB's SPS (2009), especially safeguards on land acquisition and compensation. For the reference of MIPU/PWD in preparing and subsequent implementation of RPs, the following project principles and policies will apply:

- (i) Involuntary resettlement and loss of land, structures, and other assets and incomes will be avoided and minimized by exploring all viable options.

- (ii) DPs will be provided with compensation for their lost assets, incomes, and businesses, and provided with rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project living standards, income levels, and productive capacity.
- (iii) Lack of legal rights to the assets lost will not preclude APs receiving entitlement in form of compensation for nonland assets and/or rehabilitation measures.
- (iv) Affected land assets will be replaced at their current market values, based on the Valuer General's approval.
- (v) Preparation of resettlement plans and their implementation will be carried out with the participation and consultation of AP and the Vanuatu government and MLNR.
- (vi) The budget for resettlement planning and implementation must be incorporated into MFEM's phase-by-phase implementation budgetary cycle as required at the time of financing. This will require close consultation with MIPU's master plan and MLNR, and approvals by the Council of Ministers of Vanuatu.
- (vii) Payment of compensation or replacement of affected assets and any resettlement to new locations must be completed prior to civil works implementation.
- (viii) Rehabilitation measures must also be in place, but not necessarily completed by the start of civil works, as these may be ongoing activities. There must be no perceived negative impact on both AP and the host community; otherwise mitigation measures should be introduced.
- (ix) Compensation and rehabilitation assistance for socially disadvantaged such as households headed by women, the disabled, and the elderly will be carried out with respect for their cultural values and specific needs.
- (x) Where significantly large or entire landholdings are affected by a project, the general mechanism for compensation for affected agriculture, residential, or commercial land will be through provision of "land-for-land" arrangements of equivalent size and productivity and at locations acceptable to the APs, if possible.
- (xi) If a house or other structure is only partly affected by the project and the remaining structure is rendered unviable for continued use or in area less than the minimum relevant structure size under the prevailing standards, the AP will be entitled to surrender the entire structure and to compensation for the entire structure at full replacement cost without depreciation or deductions for salvaged material.
- (xii) DPs whose land or assets are temporarily taken by the works under the project will be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The contractor will also ensure that all temporarily acquired land and structures are returned in their pre-project state.
- (xiii) Compensation of affected populations dependent on agricultural-, land-, and natural resource- based activities will be land based or access based⁵ wherever possible.
- (xiv) Affected populations that stand to lose only part of their physical assets will not be left with a proportion that will be inadequate to sustain their current standard and convenience of living, such a minimum size being identified and agreed upon during the resettlement planning process.

⁵ This is to ensure coverage of affected communities who rely on traditional accessibility to marine-based livelihoods.

- (xv) Affected populations will be systematically informed and consulted about the project, the rights and options available to them, and proposed mitigating measures.
- (xvi) Adequate budget support by MFEM, will be fully committed and made available to cover the compensation and resettlement within the agreed upon implementation period. Clear budget commitments are required for critical activities such as formal detailed physical surveys and administrative functions associated with compensation and resettlement.
- (xvii) Community facilities and infrastructure damaged due to the project will be restored or repaired, as the case may be, at no cost to the community.
- (xviii) Where local communities or individuals elect to make voluntary contributions of affected land without compensation, or in accordance with traditional practices, this will be acceptable only if the following safeguards are in place:
 - full consultation with landowners and any nontitled affected people on site selection;
 - voluntary donations should not severely affect the living standards of affected people;
 - any voluntary donation will be confirmed through written record and verified by an independent third party such as a nongovernment organization (NGO) or legal authority; and
 - adequate grievance redress mechanism should be in place.

III. SOCIOECONOMIC INFORMATION AND PREPARATION OF RESETTLEMENT PLAN

A. Subproject Screening

34. There are nine areas, plus maintenance of existing systems, selected under the drainage component, also with incorporated road upgrade and maintenance activity, where required. Each of the nine areas will require screening for land acquisition and resettlement impacts, considering the impacts from drainage construction/operations and that caused by road maintenance. A format of screening form (Annex 1)⁶ should be used at the time of detailed design in each of the nine areas after site visit and initial consultations with potentially affected communities and businesses. This screening form will reflect if there are any land acquisition and resettlement impacts that will need to be considered in engineering design to avoid or minimize impacts, and to determine if resettlement planning processes are triggered⁷ in the case that land acquisition and resettlement impact cannot be avoided. Where screening identifies that a subproject will require land/acquisition and resettlement, a socioeconomic assessment will need to be conducted as part of the RP preparation process, as explained in more detail below.

B. Socioeconomic Assessment and Preparation of Resettlement Plan

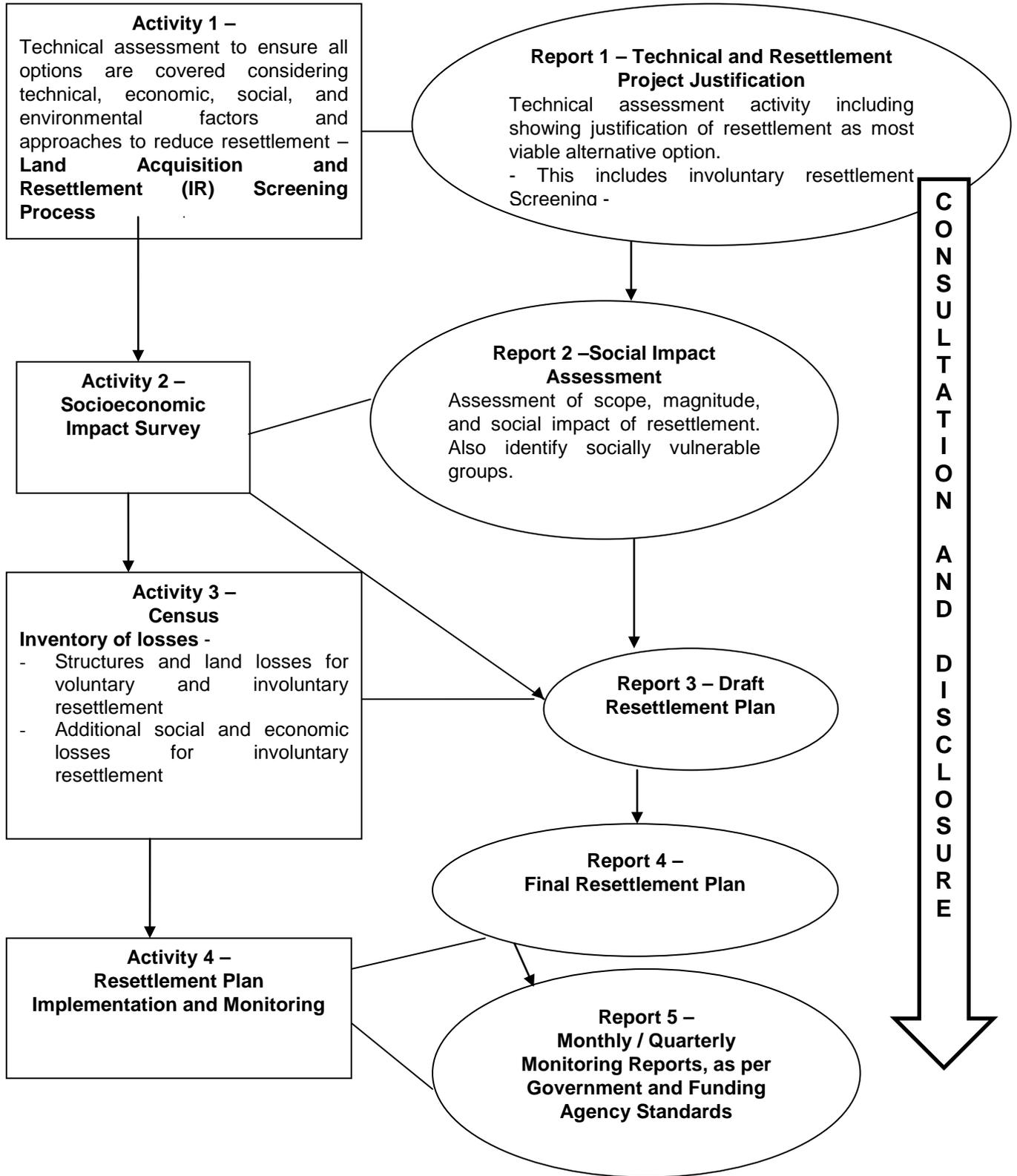
35. MIPU/PWD will be responsible for preparing the RP, in consultation with MLNR and other stakeholders. In compliance with ADB's safeguard policies on involuntary resettlement, the degree of impact severity will determine the level of RP required. Impacts are deemed "severe" if more than 200 people are physically displaced or suffer 10% or more income loss, while "less severe" is defined as covering impacts where fewer than 200 people are resettled or suffer less than 10% income losses. Annex 2 provides a sample outline of an RP document consistent with ADB requirements.

36. For the scope, magnitude, and budget of potential impacts of resettlement and land acquisition in relation to the road and drainage component interventions to be calculated, the processes outlined in this section will be followed (refer also to Figure 2), along with all conditions set out under this RF. The key elements in preparing RP are determined through the following key activities, in compliance with ADB's safeguard policies.

⁶ The screening checklist reflects ADB's involuntary resettlement checklist.

⁷ All resettlement and land acquisition impacts will generally necessitate a resettlement plan to be prepared in compliance with ADB's SPS (2009) and Vanuatu laws.

Figure 2: Resettlement Planning Procedure and Documents



1. Socioeconomic Survey

37. A socioeconomic survey of the DPs is required in areas where land acquisition and/or resettlement are likely. The percentage sample will vary depending upon the number of DPs, especially in cases where the total number of DPs is low, but generally in the case of 200 or fewer DPs (or up to 50 households), 100% of affected households will be covered by the survey. The data collected will assist in identifying the social impacts from land acquisition on the DPs by documenting the poverty and social conditions of DPs affected by the project, hence identify vulnerable groups needing additional assistance to the standard compensations at replacement values. The information will be used for determining rehabilitation measures necessary for the restoration of DPs' living conditions and livelihoods to the same or better condition than before the project. ADB's Involuntary Resettlement Sourcebook provides several best practice examples and tools that may be used where relevant for socioeconomic analyses.

2. Census and Inventory of Losses

38. A census of DPs, including inventory of losses (IOL) and basic socioeconomic information,⁸ covering 100% of DPs at the affected households is required. These data are used in preparing the RPs. The IOL will cover and value loss of land, structures, businesses/livelihoods, and assets (IOL summary sheet in Annex 3), which can then be used to determine losses and scope for entitlement as well as the magnitude of social impact on the DPs/households. This then determines the compensation entitlements that will be presented in the entitlement matrix. Affected areas will be known by this time, so a list of DPs including an inventory of losses will be formulated and budget prepared. The cut-off date for the RP will be the date when the IOL of displaced people is completed on the subproject site and will be clearly set out in the RP. Any encroachers after that cut-off date will not be included in the compensation process unless there has been a clear change in scope of design of the project leading to the requirement for an updated RP to be prepared.

3. Resettlement Plan Preparation

39. Using the above information, an RP will be drawn up according to the policies and principles put forth in this RF along with any additional funding agency requirements or updates. The RP's main objective is to provide the framework for compensation for lost assets and resettlement of DPs. The RP identifies several aspects, including (i) the extent of losses, (ii) the policy and legal framework for compensation and resettlement, (iii) institutional framework for participation and implementation, (iv) provisions for minimizing resettlement impact, (v) income restoration activities, and (vi) responsibilities for monitoring the implementation measures. The detailed RP outline is in Annex 2.

40. The final budget for compensation must be based on consultation with the DPs (or their representatives) and by the land authority, which in Vanuatu is MLNR, as well as the executing agency, which is expected to secure funding for RP implementation from its own sources or from MFEM via national budgetary procedures. Therefore, during preparation of the valuation of losses, MFEM will coordinate with the Valuer General Office of MLNR, in order that valuations and preparation of the RP may be fully coordinated within the government's formal land acquisition procedures, according to the laws of Vanuatu.

⁸ Social data such as demographics of affected households/businesses (age and gender), education levels, income, land tenure and land holding, other livelihood activities, etc.

4. Consultation and Disclosure

41. Consultation with both the community and the government is an essential part of resettlement scoping, planning, and implementation process. RPs should be developed in consultation with the DPs, the host area community (if relocation is required), and concerned government agencies. Records of all consultations with affected communities and people, host communities, NGOs, mass organizations, and relevant government agencies should be documented. A record of agencies, communities, and DPs consulted and issues discussed should be kept and included in the RP.

5. Approval and endorsement of RP

42. The RP must be endorsed by MIPU through the Public Works Department, as one of the key implementing agencies to MFEM, and then submitted to the ADB for review and approval. A “no objection” for the RP will be provided to MFEM by ADB prior to RP implementation.

6. Database and ID

43. All information concerning resettlement issues related to land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual DPs, compensation and entitlements, payments and relocation will be entered into a computer database by the Vanuatu Project Management Unit (VPMU).⁹ This database will form the basis of information for implementation, monitoring and reporting purposes and will facilitate efficient management and monitoring of compensation distribution. The AP will be required to sign (a fingerprint will also suffice) the inventory of losses form prepared and a payments ID form at the time of compensation distribution. The payments ID form will contain particulars of the census of losses and the agreed upon compensation amount to be provided to the particular AP.

⁹ The government will establish the VPMU as a dedicated unit for managing large and nationally significant projects with allocation of budget and core staff.

IV. COMPENSATION, INCOME RESTORATION, AND RELOCATION

A. General Description of Potential Impacts

44. A proposed road and drainage network has been planned for a selection of areas around Port Vila, although the exact layout at each location of drainage intervention will be known only when the detailed design is complete. Detailed design of the project is to be carried out only at the beginning of subproject implementation. Therefore, an IOL/census, socioeconomic study, and consultations with the APs, in order to determine the magnitude of impacts, cannot be conducted at present.

45. Land acquisition or resettlement is expected to be minimal or have no impact as a result of the subproject, given that the drainage CoP stipulates that drainage should be kept within the road reserves, along existing roads and pathways as much as possible. Any impacts that may occur are expected to be brief and temporary in nature, with the contractor required to rectify any damage that may occur. However, observations of the communities surrounding where the drainage networks are proposed were conducted during March 2011, and some initial observations on potential impacts were made. These observations regarding temporary impacts are described below, along with the compensation and rehabilitation policy (entitlements) proposed.

46. All attempts have, and will be made, to reduce impacts along the roads and drainage alignments. Relocation and impacts on existing structures ascribed to the project are to be avoided, given that the drainage lines are expected to run mostly in existing road reserves.

B. Types of Losses/Impacts

47. The following impacts may potentially occur as a result of this project, due primarily to space required for construction (including laying and burying storm water drainage pipes). However, these will need to be confirmed during detailed design.

1. Land Use

48. Temporary use of land areas may occur during construction, which will necessitate compensation for land use and any damage done. After construction, rehabilitation of the land area will be required to the standard similar or better than pre-project conditions. Furthermore, Vanuatu recognizes kastom law, which refers to all land being owned by customary owners, as long as proof of attachment to lands for more than 200 years can be shown. If customary owners have not made a land claim, then the government holds the profits of leases and sales in a trust fund, which will be handed over to the customary owners when and if the land is claimed. In the case of community land through which drainage will traverse, except for existing road reserves and easements, community lands will be liable for temporary compensation.

2. Loss of Household Gardens

49. Temporary damage to or loss of gardens in a household area may occur during construction. Machines may damage or may require removing plants in order to install drainage in a location. Although this should be avoided, as much as possible, it may be unavoidable in locations where space is restricted.

3. Loss of Small Structures such as Fences and Walls

50. For the purposes of work space during construction, small structures, especially boundary fences and walls, may need to be removed temporarily and then replaced after construction.

4. Loss of Shops and Industry Accesses and Income Losses

51. Income loss during the construction period is a potential temporary impact. This might involve the blocking of accessibility to a business, hence reduction in business income. Income restoration measures will be implemented to ensure that businesses remain in operation and employees continue their jobs.

5. Loss of Small Cropped Areas

52. Parts of Port Vila remains semirural, and therefore some small cropped areas may exist in areas where the drainage networks traverse. Crop losses may occur during installation of drainage pipes. However, this will only be temporary. As well as the land being temporarily occupied, any crop losses will also be compensated. Actual compensation will be dependent upon that which is planted at the time of construction.

6. Public and Community Structures and Community Lands

53. Many community structures, inclusive of churches, meeting areas, etc., exist on community lands, on which drainage interventions might traverse. Community structures temporarily impacted or that are damaged as a result of the project will be replaced at cost, and the cost of any cultural or ceremonial requirements will be covered.

54. All measures will be taken to design the final alignments to avoid productive land and structures as much as possible and to coordinate timing with residents to minimize impacts on crops, gardens, and busy times for shops, businesses, and industries. This will include, but not be limited to, the implementation contractors, with the MIPU PIU consulting with communities and others, making them aware of the construction program and compensation program, in order to minimize impacts.

C. Compensation and Rehabilitation Eligibility

55. DPs entitled to compensation or at least rehabilitation provisions under the project are:

- all DPs losing land, gardens, structures (property, fences, etc.), crops or income with or without title, formal land use rights, or traditional land use rights as a result of the project intervention; and
- tenants, whether registered or not.

D. Compensation and Rehabilitation Entitlement

56. Entitlement provisions will refer to DPs temporarily losing land, gardens, or crops; loss of business income; and relevant interest as a result of construction of drainage, including accessibility to the site if needed. Budget calculations will be prepared in consultation with an MLNR-registered land valuer working with the Valuer General's Office and with the Ministry of Agriculture. The entitlements are detailed below:

- **Land temporarily occupied and garden or crop impacts for workspace area.** A one-time lump-sum crop compensation for the crops, at current market value, will be paid to the affected household. The value will be based on the crops grown on the area to be acquired. The contractor will be required to restore the area to the same or better than pre-project standard.¹⁰ Compensation will be paid by default regardless of whether the land user is able to harvest and/or plant the crops. Rates will be determined in consultation with the DP and Ministry of Agriculture.
- **Loss of trees.** Cash compensation will be based on the value of wood volume multiplied by the market value of the wood. Fruit-bearing trees: Compensation at Ministry of Agriculture-published rate plus 5 year yield. Young trees will be compensated at replacement cost for trees lost at a rate of 2 saplings for each young tree lost.
- **Temporary loss or damage of community property.** Compensation will include physical replacement, a temporary facilities allowance if an economic facility is affected, and assistance for religious and cultural rights.
- **Temporarily occupied land use.** Compensation for rental value of the land and loss of income by the leaseholder will be paid as one lump sum compatible with the time that the land is to be occupied.
- **Structure impacts (temporarily damaged).** These will be replaced at no cost to the AP.
- **Loss of income.** Temporary loss of business will be compensated by a lump sum equal to the value of the income for the period of loss, based on previous yearly income.

E. Entitlement Matrix

57. The entitlement matrix (Table 2) provides for compensation and entitlements as described in the likely impacts of the project, which are foreseen only as temporary, and in case permanent impacts occur. However, the magnitude and type of impacts will be fully realized only once the detailed design for the drainage component, with any associated road maintenance, is carried out. This matrix will need to be adapted more specifically to the losses recorded when the RP is prepared.

Table 2: Entitlement Matrix

Type of Losses	Entitled Person	Entitlement
1. a) Loss of land – Commercial or residential	Title holder (landowner)	1. Current market value of affected land in cash compensation to be provided to the landowner or through government trustee for future landowner claimant. 2. Loss of potential rent income value. 3. Changing of title to reflect land transferred

¹⁰The contractor may need to strip off the fertile top soil and return it when construction is completed. If necessary, the contractor may need to supplement this by purchasing additional topsoil through commercial means.

Type of Losses	Entitled Person	Entitlement
		to government, and to reflect appropriate land use type (agricultural, residential, etc.), without cost to the land holder's account.
1.b) Loss of land -- Agricultural	Legal owner(s) of land	<ol style="list-style-type: none"> 1.Current market value of affected land in cash compensation to be provided to the landowner or through government trustee for future landowner claimant. 2. Loss of potential rent income value. 3.Changing of title to reflect land transferred to government, and to reflect appropriate land use type (agricultural, residential etc), without cost to the landholder's account.
1.c) Agricultural and commercial land (loss of land use) - Leaseholder	The leaseholder – earning income through land use for agriculture or business (eg., storage, vehicle parking, etc.) purposes	<ol style="list-style-type: none"> 1.Cash payment for the interest on the loss of the profit from land use over the years remaining on the lease. 2.Change in the lease removing land area from the leasehold, including government administrative fees, at no cost to the leaseholder.
2. a) Loss of structures – Titleholders	Titleholder	Replacement at market cost
2. b) Loss of structures – Tenant	Tenant	Replacement at cost – rebuilding assistance
2. c) Loss of structures – Informal settlement	Nontitle holder and nontenant – squatting or informal settlement	<p>Structure replacement value away from area required and land entitlement assistance.</p> <p>Social assistance if falling below poverty line.</p>
3. a) Loss of community or common property	Structure owners or users and cultural / religious structures and land	<ul style="list-style-type: none"> - Physical replacement of structure - Temporary facilities will be provided between time of demolishing and rebuilding of replacement structure - Assistance for religious and cultural rights will be provided for new structures.
4. Temporary loss	Land /structures owners/users	<ul style="list-style-type: none"> - Compensation for necessary losses during project period or period of loss. - Make good damaged land or structure caused by the subproject, immediately after installation of drainage/road maintenance in the said area (within 5 days)
5. a) Livelihood losses – Crops (non-pasture)	Owners of crops and trees	Tenants/landowners/communities compensated with replacement or equal value to temporary loss distributed in same proportions as leasing agreements
5. b) Livelihood losses – Tenants	Agricultural tenants losing income – including livestock,	- Compensation for income loss during acquisition and resettlement process

Type of Losses	Entitled Person	Entitlement
	grass, fodder and other agricultural income	equal to replacement value of income, based on average from previous year. - Distribution will be in same proportions as leasing agreements.
5. c) Livelihood losses – Businesses	Business owners losing income	- Temporary loss of business – lump sum equal to value of income for period of loss, based on previous yearly income. - Permanent loss of business – replacement of structure and land.
6. Trees	The landuser who is charged to develop the land as per instructions on the lease.	1. Wood trees – cash compensation based on volume multiplied by the market value of the wood. 2. Fruit-bearing trees: Compensation at Ministry of Agriculture rate plus 5-year yield 3. Young trees, not yet at economically productive stage, will be compensated at 2x sapling replacement cost (i.e., for one tree lost, two trees replaced).
7. Vulnerable households	Affected poor/elderly/ disabled/ female-headed households and those whose impacts will induce them to fall on or below the poverty line.	One additional cash allowance equal to market value of gross income.
8. Loss of gardens	All DPs including holders of land use certificates, customary rights holders, tenants, and squatters (informal settlers)	Compensation in cash at full market value for one annual harvest by default for impacts caused by use of additional area foreseen to be damaged due to making space for construction work, replacement cost of gardens or small structures damaged. Tenants, use rights holders will share compensation based on their contract.
9. Other identified loss, impact asset loss, or livelihood impact	In line with the RF's policy principles and ADB's safeguard policy requirements.	

V. CONSULTATION, PARTICIPATION, AND DISCLOSURE

58. During project implementation, DP consultation and awareness will be ensured through regular consultation meetings. These will be used to ensure that the community (both residents and businesses) is aware of the construction implementation plans, detailed design, and RP implementation. They will also identify with the DPs any RP implementation problems and undertake timely remedial actions in consultation with DPs and their representatives.

59. The RP will be prepared at the end of the detailed design stage of project implementation, at which time resettlement impacts and DP consultation/information awareness will be conducted to ensure that full stakeholder participation occurs in RP preparation. This task will be carried out by a specialist engaged for updating the resettlement safeguards on the Port Vila Urban Development Project, with the VPMU and MLNR Valuer General's Office, who are in charge of the land acquisition and compensation processes under the laws of Vanuatu.

60. The RF will be endorsed by MIPU to MFEM and posted on the ADB website. Any RPs prepared or updated will also be endorsed by MIPU to MFEM and submitted to ADB for webposting. The executive summary of the RP will be translated and disclosed to all affected parties in the local language(s), including Bislama, French, and English, as needed. Copies of the RF and RP will be made available at the MFEM, MIPU office and MLNR office.

61. Furthermore, disclosure will be a condition prior to RP implementation, and will follow the requirements under the laws of Vanuatu and ADB requirements:

- A notice of intent on land inquiry will be disclosed on the site for 30 days prior to RP completion and approval by MIPU and MLNR.
- The RP will be provided to the DPs and to the customary landholders (if any identified and have legal claim to the land) or the trustee.
- After the RP is endorsed by MIPU to MFEM and approved by ADB, the land acquisition notice will be published in the newspaper, on radio, and a notice placed on the site in order to comply with Vanuatu disclosure laws in full.
- The RP will similarly be disclosed on the ADB website.
- Monitoring reports on RP implementation will also be disclosed locally and posted on the ADB website.

VI. GRIEVANCE REDRESS

62. Grievance and complaints procedures are set up to:

- provide support to APs on problems arising from land acquisition and associated impacts; and
- provide a means by which the various conflicting stakeholders may be consulted, and a negotiated agreement reached.

63. The following levels of Grievance redress are adopted. The RP for relevant components/subprojects will specify further details on the grievance redress mechanism.

- I. **Community level.** A community committee made up of DP representatives, community representatives, and representatives of the customary owners will be set up and will meet in the case a complaint is lodged.¹¹ A decision should be made within 7 days of the complaint being lodged. The committee will be chaired by the village chief. In the event that the village chief is a customary owner, the chair of the committee may be represented by the community's religious leader.
- II. **Project level.** If not satisfied with the decision, the complainant has the option to appeal to the project level, represented by VPMU with the advice of MLNR. A decision must be made within 14 days of receipt of the appeal.
- III. **Customary Land Tribunal.** If not satisfied with the project-level decision, the complainant may choose to appeal to the Customary Land Tribunal and MLNR, as per the current land acquisition law. Under the law and current procedures in Vanuatu, the complaints procedure can last up to 30 days. The decision of the tribunal is generally final, unless the tribunal procedures are challenged
- IV. **Legal procedures.** Further appeal may be made through the Supreme Court of Vanuatu, only in cases when the Customary Land Tribunal procedures were faulty in a specific case.

¹¹ A complaint may be lodged with the MIPU PIU if the complaint is to be lodged prior to a committee being set up, in which case the PIU will be obligated to set up the community level committee to hear the grievance. The PIU will set up the community level committee within 5 days of complaint submission.

VII. INSTITUTIONAL ARRANGEMENTS

A. Institutional Arrangements

64. MFEM will be the executing agency responsible for overall guidance and project implementation. A VPMU headed by a Director will implement the project and will be responsible for overall planning, management, coordination, supervision, and progress monitoring of the project including RP preparation, update, and implementation. The VPMU will be supported by a team of international and national project management consultants. The VPMU will ensure compliance with assurances, including safeguards and preparing and submitting the RP update, reports, and RP monitoring reports. More specifically, the VPMU will:

- prepare/update the RP, once the magnitude of impact can be determined, meeting the requirements of ADB's SPS (2009) and the laws of Vanuatu;
- undertake adequate consultations and information dissemination to DPs, inclusive of public disclosure in accordance with this RF;
- ensure that the detailed design takes into account safeguard issues, especially by avoiding, or at least minimizing, impacts;
- address project related grievances from DPs and facilitate DPs in submitting grievances for resolution;
- monitor and facilitate effective and timely grievance resolution;
- conduct consultation with civil works contractors to ensure that communities, especially DPs, are aware of the construction program and any land acquisition and resettlement activities;
- ensure that contractors are aware of safeguard requirements;
- conduct regular monitoring and reporting on the progress of resettlement plan implementation; and
- implement relevant community development and income generation activities to restore and improve living standards of DPs, if required.

65. To ensure RP preparation and effective implementation of the land acquisition and resettlement aspects, one international resettlement specialist and one national resettlement specialist will be recruited for 2 months and 4 months,¹² respectively, to assist the VPMU in this regard. The resettlement specialists will also provide community development and social safeguard inputs in addition to preparing and implementing the RPs.

66. The VPMU/MFEM will submit reports on a quarterly basis to ADB. Corrective actions will be taken when necessary based on close monitoring and results of the grievance redress process. MFEM/VPMU will cooperate with the MIPU/PWD and the MLNR at the time of actual handing over of compensation.

¹² This input recommendation is indicative, but will be dependent on the magnitude of impacts affecting the time required for RP preparation and implementation, hence the necessary internal monitoring requirements.

B. Implementation Arrangements

67. The resettlement specialists will be recruited (Annex 4 provides a generic terms of reference) to:

- (i) prepare the resettlement plan, based on the detailed design of the project component, which may involve land acquisition and resettlement impacts, prior to construction commencement;
- (ii) coordinate with the MLNR Valuer General's Office regarding land ownerships, titles, and compensations; and
- (iii) assist the VPMU in RP implementation and preparing an internal monitoring report to be submitted to ADB confirming compliance with the RP.

68. When the RP is prepared through identification of specific impacts and compensation costs, the DPs will sign a document signifying their satisfaction with the compensation arrangement. The resettlement specialists will prepare a pro-forma document to be used for the settlement of obligations in land acquisition and compensation.

69. Disbursement of cash will follow the approval of budgets for cash compensation. The VPMU, with the resettlement specialists, will inform the DPs of the schedule of funds release. They will also advise the DPs to produce acceptable legal documents pertaining to their identification for claiming the compensation. It is the main responsibility of the VPMU to ensure that all the compensations and entitlements have been paid to and settled with DPs prior to clearing the construction sites. MFEM/VPMU will arrange with MLNR and MIPU, as per the law of Vanuatu, for the compensation to be dispensed directly to DPs on presentation of identification. DPs will sign a document indicating the receipt of their compensation and entitlements.

C. Post-Resettlement Plan Implementation

70. Monitoring of compliance of the project policies is the main agenda in this phase. Internal monitoring is the responsibility of the VPMU, but will be conducted with the assistance of the resettlement specialists as part of the much wider project requirement. Internal monitoring reports will be submitted to ADB with the quarterly progress reports. After submission of a final internal monitoring report, ADB will give its no objection to the MFEM/VPMU, which will then signify for the contractor to commence civil works in the affected area. External monitoring will be triggered only if a significant number of DPs are affected by the subproject. The details of monitoring and evaluation are discussed in Section IX below. ADB's midterm review will also ensure that there are no other adverse involuntary resettlement effects.

VIII. BUDGET

71. The total compensation rate will be calculated for the value of temporary and permanent losses as a result of construction and loss of area due to work space requirements. The executing agency (MFEM) will be responsible for obtaining financing for all the costs of the compensation/rehabilitation program for the impacts caused by the project through its own budgetary sources. This includes compensating land, small structures, gardens, crop, trees, income restoration requirements, and relevant administration costs. The executing agency (MFEM) will set aside and provide the funds for RP implementation in an efficient and timely manner during the course of the project.

72. Valuations will be determined for budgeting, based on the entitlement matrix, as follows:

- MLNR, as per the law, will provide valuations of land areas, structures, and land-based income (such as pasture and livestock income) losses. Buildings will be at replacement cost plus relocation expenses. Walls and small structures will be replaced, rather than financially compensated wherever possible.
- Compensation for removal of trees and ornamental plants (gardens) will be based on Ministry of Agriculture published rates.
- Income restoration for nonland based incomes will be determined by the resettlement specialists, in consultation with the DPs, MLNR, and MIPU, based upon the IOL records and entitlement matrix.

73. Although the magnitude of resettlement impacts, hence compensation, is unknown for the road and drainage network, the following is an indicative budget for personnel and administration costs for the resettlement planning under the road and drainage component (Table 3).¹³ The budget for any land acquisition and compensation for this component will be updated while preparing the RP during implementation.

Table 3: Budget for Resettlement Personnel and Administration

Budget for Personnel and Administration Only				
Details	Unit	Total Amount	Unit Rate (in Vatu)	Total Amount (in Vatu)
Personnel (A)				
International	Person-month	2	1,440,000.00	2,880,000.00
National	Person-month	4	480,000.00	1,920,000.00
Subtotal (A)				4,800,000.00
Administrative (B)^a				1,000,000.00
Total (C = A+B)				5,800,000.00
Contingency (20%) (D)				580,000.00
Grant Total (C+D)				6,380,000.00
Grant Total (US\$)				67,157.89

^a - This nominal figure is inserted for internal monitoring and survey requirements.

¹³ The budget for component 2 (sludge treatment plant) is available in the RP.

IX. MONITORING, EVALUATION, AND REPORTING

74. As the land acquisition and resettlement impacts are expected to be small and with limited impacts, only internal monitoring is envisaged. In the case that land acquisition and resettlement impacts do become significant, for any unforeseen reason, as per the definitions outlined in ADB's SPS (2009), then verification of monitoring information by an external expert will also be considered.

A. Internal Monitoring

75. Internal monitoring will be conducted by the VPMU. The executing agency will design and establish an internal monitoring system for land acquisition and resettlement by submitting the monitoring plan with the RP to ADB at the time of the detailed design. The objectives of a monitoring program are: (i) to ensure that the standard of living of DPs is restored or improved; (ii) to monitor whether the time lines are being met; (iii) to assess if compensation, rehabilitation measures, and income restoration support programs are sufficient; (iv) to identify problems or potential problems; and (v) to identify methods of responding urgently to mitigate problems.

76. The range of activities and issues recorded and checked might include, but not limited to:

- staffing – adequacy, resources, and competence;
- land acquisition, resettlement, and transfer procedures;
- income restoration calculations and compensation procedures;
- public participation – arrangements and efficiency;
- compensation payments, including timeliness of payments, coordination, and valuations;
- relocation sites (if involved)– identification, consultation with DPs;
- construction of replacement houses by displaced households (if any affected);
- reestablishment of displaced households and business enterprises;
- replacement of common facilities;
- response of severely affected households, in particular, to resettlement and compensation packages;
- reestablishment of income levels;
- grievance redress committees – establishment and functioning; and
- monitoring DPs' rehabilitation status to ensure that they are not made worse-off by the resettlement activity.

77. Monitoring will be carried out on a baseline, midterm, and end of land acquisition and compensation period; and monitoring reports will be submitted to ADB accordingly. The VPMU in coordination with MIPU/PWD and MLNR will be responsible for determining if any follow-up actions are necessary and ensuring that these actions are undertaken.

78. Prior to distribution of compensation to the APs, the VPMU will announce the compensation schedule dates to each AP. No construction in the affected area will commence until the compensation has been fully completed.

79. VPMU will prepare and submit to ADB semi annual monitoring reports on implementation of the RP. The monitoring reports will be locally disclosed to concerned stakeholders as well as posted on the ADB website. Regular review missions and the mid term

review mission of ADB and MFEM will also review the progress of implementation of resettlement activities and recommend necessary corrective measures to ensure the project's compliance with the RF and ADB's SPS.

B. External Monitoring

80. In case any project activity unexpectedly involves significant land acquisition and resettlement impacts, an external monitor or external monitoring agency (EMA), approved by ADB, may be engaged and its detail arrangements will be included in the RP for the respective project component. The EMA must be independent and can be a consultant, an NGO, or an academic institution. It is recommended that the monitor be sourced locally to carry out this activity. A budget item for the EMA will be included in the RP for the specific subproject on an intermittent input basis.

81. The EMA's role will be to monitor the land acquisition and resettlement process and verify that compensation, resettlement, and rehabilitation have been implemented in accordance with the agreed upon RP. At the end of the implementation of the RP, the EMA will prepare a compliance report. If found acceptable, based on this document and the specific RP, ADB will provide to the executing agency a letter of no-objection for the initiation of civil works in areas with impacts. The EMA will also be involved in the complaints and grievance procedures to ensure that concerns, if any, raised by AP are addressed satisfactorily. The detailed terms of reference for the external monitoring will be included in the RP of the respective project component/subproject to be approved by ADB.

ANNEX 1: SCREENING FORM FOR INVOLUNTARY RESETTLEMENT

<u>Subproject Title:</u> _____					
Location and Impact area:		Date:			
Type of intervention:	Drainage only <input type="checkbox"/>	Road upgrade and drainage <input type="checkbox"/>			
Planned	Road maintenance and drainage <input type="checkbox"/>				
Probable Involuntary Resettlement Effects		Yes	No	Not Known	Remarks
Acquisition of Land					
1. Will there be land acquisition?					
2. Is the site for land acquisition known?					
3. Is the ownership status and current usage of land to be acquired known?					
4. Will easement be utilized within an existing Right of Way (ROW)?					
5. Will there be loss of shelter and residential land due to land acquisition?					
6. Will there be loss of agricultural and other productive assets due to land acquisition?					
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?					
8. Will there be loss of businesses or enterprises due to land acquisition?					
9. Will there be loss of income sources and means of livelihood due to land acquisition?					
Involuntary restrictions on land use or on access to legally designated parks and protected areas					
10. Will people lose access to natural resources, communal facilities and services?					
11. If land use is changed, will it have an adverse impact on social and economic activities?					
12. Will access to land and resources owned communally or by the state be restricted?					
Information on Displaced Persons:					
Any estimate of the likely number of persons that will be displaced by the Project? [] No [] Yes If yes, approximately how many? _____					
Are any of them poor, female-heads of households, or vulnerable to poverty risks? [] No [] Yes					
Are any displaced persons from indigenous or ethnic minority groups? [] No [] Yes					

(Source: Adapted from ADB website)

Note: Please attach additional information on the project, such as Maps and consultation records.

ANNEX 2: SAMPLE RESETTLEMENT PLAN OUTLINE

A resettlement plan is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

- A. **Executive Summary:** This section provides a concise statement of project scope, key survey findings, entitlements, and recommended actions.
- B. **Project Description:** This section provides a general description of the project; discusses project components that will require land acquisition, involuntary resettlement, or both; and identifies the project area. It also describes the alternatives considered to avoid or minimize resettlement. It will include a table with quantified data and provide a rationale for the final decision.
- C. **Scope of Land Acquisition and Resettlement :** This section
 - i. discusses the project's potential impacts, and includes maps of the areas or zone of the impact of the project components or activities;
 - ii. describes the scope of land acquisition (including maps) and explains why it is necessary for the main investment project;
 - iii. summarizes the key effects in terms of assets acquired and displaced persons; and
 - iv. provides details of any common property resources that will be acquired.
- D. **Socioeconomic Information and Profile:** The section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:
 - i. defining, identifying, and enumerating the people and communities to be affected;
 - ii. describing the likely impacts of the land and asset acquisition on the people and communities affected, taking social, cultural, and economic parameters into account;
 - iii. discussing the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
 - iv. identifying gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.
- E. **Information Disclosure, Consultations, and Participation:** This section
 - i. identifies project stakeholders, especially primary stakeholders;
 - ii. describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
 - iii. describes the activities undertaken to disseminate project and resettlement information during the project design, and preparation for engaging stakeholders;
 - iv. summarizes the results of consultations with displaced persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;

- v. confirms disclosure of the draft resettlement plan to displaced persons and includes arrangements to disclose any subsequent plans; and
 - vi. describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with displaced persons during project implementation.
- F. **Grievance Redress Mechanisms:** This section describes mechanisms to receive and facilitate the resolution of displaced persons' concerns and grievances. It explains how the procedures are accessible to displaced persons and are gender sensitive.
- G. **Legal Framework:** This section
- i. describes national and local laws and regulations that apply to the project and identifies gaps between local laws and ADB's policy requirement; and discusses how any gaps will be addressed;
 - ii. describes the legal and policy commitments from the executing agency for all types of displaced person;
 - iii. outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost of assets, incomes, and livelihoods; and sets out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided; and
 - iv. describes the land acquisition process and prepares a schedule for meeting key procedural requirements.
- H. **Entitlements, Assistance, and Benefits:** This section
- i. defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
 - ii. specifies all assistance to vulnerable groups, including women, and other special groups; and
 - iii. outlines opportunities for displaced persons to derive appropriate development benefits from project.
- I. **Relocation of Housing and Settlement:** This section
- i. describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
 - ii. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
 - iii. provides timetables for site preparation and transfer;
 - iv. describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
 - v. outlines measures to assist displaced persons with their transfer and establishment at new sites;
 - vi. describes plans to provide civic infrastructure; and
 - vii. explains how integration with host populations will be carried out.

- J. **Income Restoration and Rehabilitation:** This section
- i. identifies livelihood risks and prepares disaggregated tables based on demographic data and livelihood sources;
 - ii. describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land; discuss sustainability and safety nets);
 - iii. outlines measures to provide a social safety net through social insurance and/or project special funds;
 - iv. describes special measures to support vulnerable groups; and
 - v. describes training programs.
- K. **Resettlement Budget and Financial Plan:** This section
- i. provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, and loan implementation;
 - ii. describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items);
 - iii. includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs; and
 - iv. includes information about the source of funding for the resettlement plan budget.
- L. **Institutional Arrangements:** This section
- i. describes institutional arrangements, responsibilities, and mechanisms for carrying out the provisions of the resettlement plan;
 - ii. includes an institutional capacity development program, including technical assistance, if required;
 - iii. describes roles of nongovernment organizations, if involved, and organizations of affected persons in resettlement planning and management; and
 - iv. describes how women's groups will be involved in resettlement planning and management.
- M. **Implementation Schedule:** This section includes a detailed, time-bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.
- N. **Monitoring and Reporting:** This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of displaced persons in the monitoring process. This section will also describe reporting procedures.

ANNEX 3: INVENTORY OF LOSSES FORMAT RECOMMENDATION

No. of Persons (HH)	Land				Trees and Crops				Structures (Fence, buildings, etc.)					Assistance		US \$	Comments
	Category	Area (sqm)	Unit Rate	Sub-total	Categories (indicate unit)	Quantity	Unit Rate	Sub-total	Items	Unit	Quantity	Unit Rate	Sub total	Type of Assistance	Amount in Vatu		

Source: Asian development Bank, 2004

ANNEX 4: GENERIC TERMS OF REFERENCE FOR RESETTLEMENT SPECIALISTS

A. Introduction

1. This TOR has been prepared for resettlement specialists to assist the project in preparing/updating and implementing the Resettlement Plan during implementation of the project.
2. Following ADB and Government of Vanuatu policies on recruitment of consultants, the resettlement specialists will be recruited with the implementation consultants bidding and will be made up of qualified international and national specialists.

B. Scope of Works

3. The main responsibility of the consultants will be to ensure that the project is implemented in accordance with the Resettlement Framework/Plan prepared during the project preparatory technical assistance (PPTA) and relevant safeguard policies, handbooks, and guidelines of ADB and the government. The consultants' scope of works includes, but is not limited to the following tasks:

- Review previous loan and PPTA documentation with the view of improving methodology for preparing social safeguards of the project.
- Coordinate with engineers and other team members on-site to identify land and household areas that will be impacted by the project activities, requiring temporary and permanent resettlement or land acquisition. The significance of impact on affected persons (APs) will be categorized as per ADB's safeguard policy on involuntary resettlement.
- Undertake a socioeconomic survey of 10% displaced persons (DPs), and 20% of DPs with major impacts due to resettlement and/or land acquisition by the project.
- Conduct a census/detailed measurement survey of 100% of APs, recording all losses of land and structures and livelihood as a result of the project.
- Prepare a Resettlement Plan and updates, as per ADB's safeguard policies on involuntary resettlement; the Project Resettlement Framework; and government laws.
- Prepare a budget for resettlement and land acquisition, as per the entitlement matrix and update the entitlement matrix to suit the subproject situation. Salvage materials should not be included in the costing.

C. Staffing Inputs and reporting

4. The resettlement team will consist of one international and one national specialist with demonstrated experience in resettlement following ADB safeguard policies. A registered valuer from the Ministry of Lands and Natural Resources will also be involved in order to ensure that all compensations are calculated and approved within the laws of Vanuatu. Furthermore, the RP and any updates, and its implementation compensation completion will be approved by ADB at the completion of each of these stages.

5. The following reports will be required for submission:

- a) Inception report of the detailed design
- b) Resettlement Plan and any necessary budget updates
- c) Full details of persons consulted
- d) Awareness materials
- e) Internal evaluation reports and completion report