Land Acquisition and Resettlement Framework

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Solomon Islands: Land and Maritime Connectivity Project


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CURRENCY EQUIVALENTS
(as of May 2020)
Solomon Island Dollar – (SBD)
SBD 1.00 = USD 0.466
USD = SBD 2.19

ABBREVIATIONS

ADB - Asian Development Bank
AH - affected household
AP - affected person/people/party
COL - Commissioner of Lands
DDR - due diligence report
FTE - fixed-term estate
GRM - grievance redress mechanism
IR - Involuntary Resettlement
LAO - Land Acquisition Officer
LARP - Land Acquisition and Resettlement Plan
LMCP - Land and Maritime Connectivity Project
LTA - Land and Titles Act
MID - Ministry of Infrastructure Development
MLHS - Ministry of Land, Housing and Survey
NGO - nongovernment organization
PE - Perpetual Estate
PLO - Provincial Lands Officer
RF - Resettlement Framework
ROW - Right-of-Way
RP - Resettlement Plan
SIA - Social Impact Assessment
SIG - Solomon Islands Government
TA - technical assistance
TOL - Temporary Occupancy License
TOR - terms of reference
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 APs as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey.

**Displaced Persons (AP)**
also known as Affected Person/s (AP) mean all the people affected by the project through land acquisition, relocation, or loss of incomes and include any person, household (sometimes referred to as project affected family), firms, or public or private institutions. APs 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 kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to business restoration which is due to APs, depending on the type and degree nature of their losses, to restore their social and economic base.

**Inventory of losses**
the pre-appraisal 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.

**Non-titled**
those who have no recognizable rights or claims to the land that they are occupying and includes people using private or state land without permission, permit or grant, i.e., those people without legal title to land and structures occupied or used by them. ADB's policy explicitly states that such people cannot be denied compensation for non-land assets and resettlement assistance.

**Poor**
those falling below the official national poverty line.
<table>
<thead>
<tr>
<th>Replacement cost</th>
<th>the method of valuing assets to replace the loss at the current market value or its nearest equivalent and is the amount of cash or kind needed to replace an asset in its existing condition, without deduction of transaction costs or for any material salvaged.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Significant impact</td>
<td>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).</td>
</tr>
<tr>
<td>Vulnerable</td>
<td>any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and includes; (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 five acres or less).</td>
</tr>
</tbody>
</table>
I. INTRODUCTION

A. Background

1. This Land Acquisition and Resettlement Framework (RF) was prepared to address potential involuntary resettlement (IR) impacts of the proposed Solomon Islands Land and Maritime Connectivity Project (LMCP). The RF outlines the resettlement policy principles, guidelines, procedures and institutional arrangements for identification and management of resettlement impacts in the design, and implementation of LMCP subprojects. Where subprojects require involuntary land acquisition and resettlement, LMCP will conduct a Social Impact Assessment (SIA) and prepare a Resettlement Plan (RP) to ensure that resettlement impacts are avoided, mitigated, or minimized as far as possible. The scope and level of detail of each SIA and RP will vary depending on the magnitude and complexity of land acquisition and resettlement issues.

2. The project will undertake project readiness by supporting the government in preparing feasibility studies (including environmental and social safeguards assessments, resettlements plans, and economic analysis) and detailed design and procurement activities including bid preparation, evaluation, and contract negotiations. The project has also been designed to support technical capacity building for the key implementing agency; the Ministry of Infrastructure Development (MID) and its Central Project Implementation Unit.

3. This section provides a general description of the project and its proposed components. It outlines any anticipated involuntary resettlement resulting from the components to be financed under the proposed project; and explains why the resettlement framework is required.

B. General Project Description

4. The LMCP will support the rehabilitation and upgradation of 35.85 kilometres (km) of roads in and around the capital, Honiara, reconstruction of two provincial wharves in Kirakira and Ahanga, strengthening and reconstruction of the old wharf in Honiara International Port, and maintenance of 93 km of priority road sections in Guadalcanal and Makira. The impact of the project is aligned with government development strategies to improve access to essential services and productive resources and markets provided to all Solomon Islanders. The investment will also have the following outcomes of improved connectivity, efficiency, and disaster resilience of transportation network in Solomon Islands improved.

5. The project has the following outputs:

(i) **Output 1: Road transport infrastructure rehabilitated and climate proofed.** The project will finance civil works to rehabilitate and upgrade 35.85km of national priority roads in and around the capital, Honiara. The civil works will include: (i) upgrading the existing Town Ground to White River 3.1km road section from two-lane to four-lane, with asphalt concrete wearing course, improving road safety through intersection treatments, provision of refuge islands, and footpaths, and improve traffic flows through provision of bus bays (Figure 1); (ii) rehabilitating the Henderson to Mberande 31km road section with double bituminous surface treatment, and inclusion of road safety furniture including guardrails, and traffic calming measures and speed signages at villages (Figure 2); and (iii) rehabilitating the Mendana Avenue 1.75km road section from Honiara City Council to Town Ground with asphalt concrete wearing course, and improvement of road safety through provision of bus bays, parking, and footpaths (Figure 3).
Figure 1: Town Ground to White River (Urban Road) Honiara, Guadalcanal

Figure 2: Henderson to Mberande (Rural Road), East Guadalcanal
Output 2: Maritime transport infrastructure rehabilitated and made resilient to disaster risks. The project will finance civil works to reconstruct two national priority provincial wharves in Kirakira (Figure 4) and Ahanga provinces (Figure 5). Extreme waves are the main threat to these wharves. In both locations, the wharves will be reconstructed, thereby allowing vessels to berth even in rough sea conditions. Cargo can then be directly transferred from the vessels to the wharves. More specifically, the civil works will include: (i) construction of new piled reinforced concrete wharves and integrated small boat jetties to facilitate efficient movement of passengers and freight on maritime transport; (ii) construction of new access roads to improve intermodal linkages to maritime transport at target provinces; and (iii) construction of sheltered waiting areas, areas for women to market products and separate ablution blocks for men and women.
The project will also finance the reconstruction of the current old wharf structure in Honiara International Port for the principal reason of making the wharf more resilient to earthquakes (Figure 6). The existing wharf could be strengthened at a lesser cost to marginally improve seismic resilience. However, the in-situ geotechnical conditions would limit the additional seismic resilience that strengthening works could achieve. On this basis, it was determined that reconstructing the wharf using modern seismic codes is a better option. The reconstructed port will also be able to receive more vessels, reduce ship waiting times, and increase annual freight throughput. Ultimately, the project will contribute to reduce the cost of international trade.

**Figure 5: New Ahanga Wharf, Bellona Island, Renbell**

![New Ahanga Wharf](image)

**Figure 6: Honiara International Port, Honiara, Guadalcanal**

![Honiara International Port](image)
(iii) **Output 3: Sustainable maintenance arrangements continued.** Road maintenance contracts for 93 km of priority road sections in Guadalcanal and Makira provinces will be financed, covering routine and periodic maintenance activities. These will ensure that the life of assets that have been rehabilitated or improved through previous and ongoing projects by Solomon Islands government and the development partners will be sustained over the life of the project. It will increase the probability that MID’s prioritized road assets will meet their total design economic life, and not prematurely deteriorate.

(iv) **Output 4: Institutional capacity strengthened.** The project will provide support to improve the transport infrastructure maintenance practices. The project will support reviewing the MID structure and provide advisory services to strengthen institutional arrangements for maintenance, conducting further capacity strengthening to the MID in terms of planning, project preparation and works supervision, and further developing its asset management system. Specific capacity strengthening for women will be provided. The project will also provide support for strengthening capacity to meet the relevant international standards and procedures in the maritime sector.

6. In summary, the project will benefit both urban and rural peoples in three provinces and the capital of the Solomon Islands, Honiara City. All these civil works will also include climate proofing and gender responsive measures.

C. **Potential involuntary resettlement impacts**

7. The LMCP is expected to trigger involuntary resettlement safeguards and as such two resettlement plans (RP) have been prepared. There are also risks of unanticipated impacts that may arise during project implementation of the LMCP thus this RF has been developed to guide how any land acquisition or resettlement issues are to be addressed. If any such issues arise, the implementing agency will prepare a RP in compliance with Solomon Islands land laws, the Solomon Islands safeguards procedure manual (SPM) and ADB’s Safeguard Policy Statement (SPS, 2009).

8. Screening procedures have confirmed that three main components of the LMCP will trigger involuntary resettlement safeguards as defined by the SPS 2009 comprising (i) road repair and upgrading; (ii) new wharves construction and (iii) port rehabilitation. The findings are summarized as follows:

9. **SP-R1: Town Ground to White River subproject.** The proposed scope of works for the road expansion will require fixed term estate (FTE) land and a RP has been prepared to facilitate:

   (i) road upgrading from a two-lane to a four-lane highway with asphalt road pavement; construction of concrete footpaths,
   (ii) surface water drainage, and
   (iii) the design and installation of replacement utilities; and intersection improvements through construction of two new proposed roundabouts at Rove and Rifle Range to improve management of traffic flow particularly during peak hours.

10. **SP-R7: Mendana Avenue subproject.** The proposed works for the main road in Honiara City includes:

    (i) road upgrade/rehabilitation; and
    (ii) drainage rehabilitation.
11. The road repair and upgrading will be confined to the existing road reserve and current drainage location thus will not require acquisition of private leasehold lands. A due diligence report (DDR) has been prepared confirming no land acquisition or resettlement impacts.

12. **SP-R5: Henderson to Mberande subproject.** The scope of works for the Henderson to Mberande road improvement include:
   (i) road alignment review and road safety improvements and improving public transport and village amenity;
   (ii) rehabilitation and repair of existing pavement;
   (iii) intersection treatments including inclusion of line marking, signage, pavement widening; and,
   (iv) drainage improvements will be implemented to achieve these outcomes.

13. The road improvement will be confined within the existing right-of-way (ROW) thus will not require acquisition of customary land along this road section. A DDR has been prepared.

14. **SP-W6/W7- New Ahanga & Kirakira Wharf subprojects.** The proposed works for the wharf subproject sites include:
   (i) construction of a new wharf and a small boat jetty for Kirakira (provincial land) and Ahanga (family land);
   (ii) construction of an ablution block and covered waiting area (both sites); and
   (iii) construction of an access road (only for Kirakira wharf).

15. The two sites will not require acquisition but instead will utilize government land for Kirakira and will use a customary land belonging to a family for Ahanga, Bellona Island. Instead a memorandum of understanding will be signed by MID and the customary landowners to allow for the construction of a new wharf as per current practice for building domestic wharves. A RP has been prepared to document this process as well as facilitate compensation for crops and trees on the sites.

16. **SP-P1: Honiara Port subproject.** The subproject is focused on the rehabilitation of the old international wharf at the Honiara International Port. The scope of works includes the following:
   (i) strengthen and rehabilitate the “Old International Wharf” to ensure it is capable of supporting ongoing port operations and design wharf loadings;
   (ii) extend the ‘Old International Wharf’ to provide additional wharf apron area to facilitate load/unload cargo without the need to ‘warp/move’ vessels; and
   (iii) strengthen the ‘Old International Wharf’ to provide adequate resistance against a significant seismic event without substantial damage and that the wharf would be able to support post-disaster functions.

17. The land belongs to the Solomon Islands Ports Authority on an FTE under existing lease arrangement with the government thus will not require customary or private land. A DDR has been prepared for this subproject.

D. **Purpose of the Resettlement Framework**

18. This RF is prepared by MID to describe the mechanisms, procedures, and compensation entitlements for planning and implementing land acquisition and voluntary resettlement tasks for relevant subprojects under the Project. The RF has three objectives:
(i) guide the preparation of the safeguards' documents for the road, wharves and port subprojects;
(ii) guide the preparation of safeguards documents if there are any unanticipated additional components to be included in the project scope during implementation; and
(iii) guide further updates of the RPs prepared for all the subprojects, as required.

19. RP (or due diligence report [DDR], where applicable) preparation will be an integral part of the preparation of each subproject, starting with poverty and social analysis, and impact screening tasks and ending with a readily implementable RP based on detailed design. RP preparation and/or updates entails the execution of (i) detailed measurement survey of all land and non-land impacts; (ii) census of all affected households (AHs) and affected persons (APs); (iii) valuation of all affected assets and RP budget allocation; (iv) socioeconomic survey (SES) of all the AHs or a sample (20 to 30% statistical sample) if there is large number of APs; and consultation with all APs and disclosure of the draft/updated RP among others. The RF will be posted on the Asian Development Bank (ADB) and the Ministry of Finance and Treasury (MOFT) websites, respectively.

II. OBJECTIVES, POLICY FRAMEWORK, AND ENTITLEMENTS

A. Overview

20. This RF is the primary document for the LMCP which provides the basis for screening of resettlement impacts and preparation of a RP for each subproject and further updates of existing RPs and preparation of new RPs for any unanticipated impacts or components where necessary. It identifies the broad scope of the project and outlines the policy, procedures, and institutional requirements for formulating RPs during project implementation. It sets out the policies and procedures to be adopted by the executing agency in the preparation of an RP and safeguards APs by ensuring that potentially disruptive impacts of the project are identified, mitigated and compensated, in accordance with the acts and policies of the Solomon Island Government (SIG) and ADB. In instances where there is no impact from the subproject, a DDR will be developed (e.g., in cases where the subproject goes through unoccupied government land and does not create IR impacts).

B. LMCP Resettlement Plan Policy Framework

21. The policy framework and entitlements for land acquisition/resettlement for the project are based on the laws, regulations, and policies of SIG including the Solomon Islands SPM, and the ADB SPS 2009. Where differences exist between SIG legislation and ADB policy, the latter will prevail. The current legislation on land acquisition in SIG is outlined below:
   (i) Land and Titles Act (LTA) 1970;
   (ii) Constitution of the Solomon Islands (1978); and

C. Laws of the Solomon Islands Government

22. SIG does not have any specific policies at the national, provincial, or local level for relocating and resettling people. SIG has policies however related to the acquisition of land and assets by the state for public purposes on an agreement or compulsory acquisition basis.
1. The 1978 Constitution

23. The Constitution allows for Parliament to provide for the “criteria to be adopted in regard to the assessment and payment of compensation for compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).” Notwithstanding this power, Parliament has not provided express criteria. The LTA provides that the Commission of Lands (COL) may offer such “amount of compensation as he may think proper.”1 Where an offer of compensation is appealed, the High Court may award such compensation as “in its absolute discretion thinks just” with regard to the condition of the land on the date of acquisition and such other matters and circumstances the Court may consider relevant.2

24. Under the Constitution, the Acts of the United Kingdom Parliament of general application and in force on 1 January 1961 continue to apply in Solomon Islands where not inconsistent with national laws.3 The relevant UK laws include the Land Clauses Consolidation Act and The Acquisition of Land (Assessment of Compensation) Act 1919.

2. Land and Titles Act

25. This section discusses provisions under the LTA on purchase or lease of customary land through negotiation, compulsory acquisition of customary land, and purchase of government land.

26. Land Acquisition. Part X of the LTA deals with Crown or State Land. The process for purchasing or leasing customary land is set out in Division 1 of Part V of the LTA:

(i) COL must appoint a Land Acquisition Officer (LAO) to act as the Commissioner’s agent.

(ii) The LAO marks out the boundaries of the relevant land on the ground or on a map in such manner as to bring them to the notice of the persons affected.

(iii) The LAO prepares a written agreement for the purchase or lease of the land with the people who claim to be the owners.

(iv) The LAO gives public notice of the written agreement and organizes a public meeting to determine whether the persons named in the agreement are the correct customary landowners.

(v) If there is no dispute at the meeting, and no other claimants, the LAO records this fact and sends a copy of the determination to the COL.

(vi) If there are rival claimants, the LAO must determine the rightful owners of the land and send a copy of his determination to the COL and bring it to the attention of the originally identified parties and any claimants.

(vii) An appeal of the LAO’s determination can be made to the Magistrates Court within 3 months;

(viii) The decision of the Magistrates Court can be appealed to the High Court on a question of law only.

(ix) Once any appeals have been determined, or the period for appealing has expired, the agreement for sale or lease of the land in question can be implemented.

(x) Where the land is being leased, the COL makes an order vesting Perpetual Estate (PE) in the persons named as lessors—commonly representatives of the customary

1 Section 79(2) of the LTA.
2 Section 83 of the LTA.
3 Section 76, Schedule 3, Para 1 of the Constitution.
land group found to own the land.

27. **Compulsory Acquisition.** SIG’s powers of involuntary land acquisition are set out in Division 2 of Part V of the Land and Titles Act. Division 2 gives the Minister of Lands the power to compulsorily acquire any customary or registered land where it is ‘required for any public purpose’. However, this broad power is circumscribed by protections provided in the Constitution: Section 8(1) of the Constitution allows an involuntary land acquisition to occur only where:

(i) the acquisition is “necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit;”

(ii) there is reasonable justification for causing any hardship to the interest holders;

(iii) the acquisition is done under a law which provides for reasonable compensation (including lump sum or instalments, and by cash or other form) in a reasonable time; and

(iv) the acquisition is done under a law which provides interest holders with the option of appealing to the High Court with respect to their ownership, the legality of the acquisition, or the compensation payable.

28. The Constitution also requires Parliament to provide the following additional safeguards where customary land is compulsorily acquired (section 112):

(i) prior negotiations must take place with the owners;

(ii) the owners shall have a right to access independent legal advice; and

(iii) as far as practicable, the interest acquired shall be limited to a fixed-term interest.

29. Although Parliament has not provided for these safeguards in the LTA, the Minister of Lands and (COL) can take these into account in conducting land acquisition.

30. As for land under FTEs, the agreements provide that COL can resume the land for public purposes. This is triggered by a request by the concerned Minister to the COL.

31. Temporary occupation of land for up to 3 years is possible under a similar process. Rent is paid and loss in value and damage are compensated.

32. **Procedures for Involuntary Land Acquisition.** The involuntary land acquisition process is set out in Division 2 of Part V of the LTA, taking account of the additional protections afforded in the Constitution. The legal process is as follows:

(i) **Landowner identification.** While not a legal step, landowner identification is necessary to identify the owners of any customary land in order to conduct the prior negotiations required in the Constitution;

(ii) **Prior negotiation.** Negotiations must be conducted with the owners of customary land before the land is acquired;

(iii) **Declaration.** The Minister of Lands declares that land is required for a public purpose. The declaration specifies the boundaries and extent of land required and the nature of the purpose for which the land is required;

(iv) **Publication.** The declaration must be published in such manner as the Minister thinks fit. It is common practice to publish the declaration in the Government Gazette. It is

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4 Section 71(1) of the LTA.
5 Section 112(a) of the Solomon Islands Constitution.
6 Section 71 of the LTA.
upon publication that the land is legally acquired.\textsuperscript{7} At this point owners have six months to appeal to the High Court to have the declaration quashed;\textsuperscript{8}

(v) \textbf{Public notification.} Following the declaration the Commissioner of Lands (COL) posts notices describing the declaration, its effect and the right to compensation;

(vi) \textbf{Notification of owners.} The COL serves written notice of the declaration to each owner or landowning group, or each person who appears to own, or to claim to own, the land. The identification of landowners above will also assist in this step;

(vii) \textbf{Assistance to prepare claims.} The Provincial Secretary for each Province assists claimants to prepare claims.\textsuperscript{9}

(viii) \textbf{Access to legal advice.} The timing of access to the independent legal advice that must be provided to customary landowners is not specified in the Constitution but would be relevant to the preparation of compensation claims.\textsuperscript{10}

(ix) \textbf{Submission of claims.} By persons or groups wishing to claim compensation for their rights and interests taken in the acquisition of the land. Claims must be submitted within 3 months of the acquisition (date of publication in gazette). For customary land these claims in effect should include some evidence of customary ownership as well as any evidence as to value;\textsuperscript{11}

(x) \textbf{Valuation and payment of compensation.} The COL considers the claims, accepts or rejects them, and makes an offer of compensation. Offers and rejections are to be issued within 3 months of receipt of the claim. While not a specified legal step, it is at this stage that the COL may seek advice from the Valuer General, or other valuer, to inform the amounts of compensation payable.

(xi) \textbf{Compensation by land.} Where the land that is acquired is customary land, the COL may make an offer of land in lieu of cash, with the approval of the Land Board and the endorsement of Cabinet. Landowners may choose to accept either the land or the cash equivalent.\textsuperscript{12}

(xii) \textbf{Acceptance or appeal.} Claimants have 3 months from the COL’s decision to appeal any rejection, or the amount of compensation offered, to the High Court. Where no appeal is lodged landowners are taken to have accepted an offer.

(xiii) Provided there are no appeals in respect of the compensation amount and the offer is accepted, the COL shall cause payment to be made within 3 months of acceptance;\textsuperscript{13}

(xiv) \textbf{Notice to vacate.} Persons with an interest in the acquired land may continue to use and occupy the land until the COL gives them a notice in writing requiring them to vacate, but cannot develop the land without the COL’s consent;\textsuperscript{14}

(xv) \textbf{Alteration of the land register.} If there are no appeals and the declaration has not been quashed, the land may be registered to the COL on behalf of the government;

(xvi) An amount considered just having regard to the condition of the land and other relevant “matters and circumstances”, including loss in value of land retained by the owner;

(xvii) Valuation is determined as of the date of the declaration; and

(xviii) In the case of customary land, other land can be provided in lieu of monetary compensation.

\textsuperscript{7} Section 75 of the LTA.
\textsuperscript{8} Section 76 of the LTA.
\textsuperscript{9} Section 74 of the LTA.
\textsuperscript{10} Section 112(b) of the Solomon Islands Constitution.
\textsuperscript{11} Section 79(1) of the LTA.
\textsuperscript{12} Section 84 of the LTA (as amended in 2014).
\textsuperscript{13} Section 79(2) of the LTA.
\textsuperscript{14} Section 78 of the LTA.
33. **Crown or state land.** This is alienated land held by COL on behalf of the government. This part provides for the purchase of government land by Individuals or companies through the process of COL granting, transferring, subleasing, or providing temporary occupation of government land.

34. There are four types of private title ownership as follows:
   (i) **PE Title.** PE Title is equivalent to freehold.
   (ii) **FTE Title.** COL as holder of PE title grants FTE title to individuals or companies. This is for a certain term of years with certain conditions to abide. These conditions are stipulated in the grant instrument executed by the title holder and COL. Most terms are 50 years and currently 75 years. FTE title is acquired through direct allocation from COL or through the transfer of FTE by an FTE title holder.
   (iii) **Sublease Title.** The FTE title holder leases the Land to an individual or company for a period less than the FTE term with conditions agreed by both parties.
   (iv) **Temporary Occupation License.** This refers to occupation of land under license conditions for up to 3 years, renewable.

35. For FTE title holders there is a provision in the grant instrument that provides for resumption of the land by COL for public purposes. Compensation, as stated in the grant instrument, will be paid in the event the land is developed.


36. The Customary Land Records Act is an act to (i) provide for the recording of customary land holdings; and (ii) empower land holding groups to appoint representatives to deal with recorded customary land holdings, the establishment of an office of an Office of National Recorder of Customary Land, and Record Offices in the provinces and for other relevant matters in this area.

4. **MID Safeguards Procedures Manual**

37. The Safeguards Procedure Manual (SPM) was prepared by the Ministry of Infrastructure Development (MID) under the Asian Development Bank (ADB) Technical Assistance for Preparing the Sustainable Transport Infrastructure Improvement Program (STIIP). The purpose of the SPM is to guide MID in managing the environmental and social impacts and risks which could arise while implementing the Solomon Islands National Transport Plan (NTP) priority activities. The Central Project Implementation Unit (CPIU) of the MID categorizes these priority activities into three tiers:
   (i) **Tier 1.** Community-based routine and preventive maintenance through Labor-based equipment supported (LBES) contracts, mainly for roads;
   (ii) **Tier 2.** Machine-based maintenance contracts (MBMC) for roads, wharves, and airfields; and
   (iii) **Tier 3.** Major rehabilitation, reconstruction and/or new construction contracts for roads, wharves, and airfields.

38. Across the different tiers, there are common steps taken such as scoping, information disclosure, consultation, establishment of a community advisory committee (CAC), grievance redress, contract enforcement, and monitoring and assessment. Since Tiers 1 and 2 deal with existing infrastructure whose right of way (ROW) is defined and established (though not by any means uncontested), the project cycle is shortened. They do not undergo feasibility studies and
appraisal since the benefits of maintenance are not in dispute and the scope of works are relatively straightforward and defined.

39. New works however that fall in Tier 3 will require land acquisition and it is not a question of possibility but of magnitude or severity. For land acquisition the MID/CPIU has the option of entering into a Memorandum of Agreement (MOA) with the landowners. The MOA has almost the same terms and conditions as the MOU which the MID/CPIU enters with customary landowners for non-NTP MBMC projects. It grants Tier 3 activities voluntary access, i.e., with no cash compensation to land outside the road reserve or the ROW for expansion, staging area, and the conduct of works. Unlike the MOU, the MOA requires payment of compensation for any non-land assets affected by the works. More importantly, it is legally binding, as it goes through review and approval of the Attorney General’s Office (AGO) before taking effect.

40. If a MOA is refused by the landowners, the MID/CPIU will have to coordinate with the Commissioner of Lands for land acquisition under Part V of the Land and Titles Act. A RP is prepared, approved by the MID, and disclosed for Tier 3 activities.

D. ADB Policy on Social Safeguards

41. Safeguard Policy Statement (June 2009). The Safeguard Policy Statement (SPS) became effective and applicable in January 2010. The SPS was formulated to address the emerging challenges of development, respond to lessons learned from its experience with its old safeguard policies, and adapt to its new lending modalities and financing instruments.

42. Principles. The key principles of the ADB safeguard policy on resettlement are as follows: (i) screen early and assess resettlement impacts; (ii) carry out consultations with displaced persons (DPs) and develop a grievance redress mechanism (GRM); (iii) improve/restore livelihoods of DPs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate; (iv) provide appropriate assistance to physically displaced DPs; (v) Improve living standards of poor DPs and other vulnerable groups; (vi) develop transparent procedures for negotiations; (vii) provide assistance and compensation to non-titled DPs for loss of non-land assets; (viii) prepare RPs; (ix) disclose RPs to DPs and other stakeholders and document the consultation process; (x) conceive and execute resettlement as part of the project; (xi) deliver entitlements to DPs before their physical or economic displacement; and (xii) monitor and assess resettlement outcomes.

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

44. Full and Partial Displacement. Displacement can be full or partial, permanent, or temporary (which includes relocation, loss of residential land, or loss of shelter etc.). Many ADB projects, such as linear projects (roads and pipelines) can affect only a part of land holdings and result in partial economic displacement. On the other hand, a substation often fully affects a given area and displaces the APs both physically and economically. Whether involuntary acquisition of land affects a full parcel of land or only a part of it, ADB IR requirements apply and resettlement entitlements are commensurate with the severity of actual impact on livelihoods of DPs.
45. **Permanent and Temporary Displacement.** Displacement affecting people permanently or temporarily is also considered within the scope of the SPS. Temporary displacement generally occurs in linear projects involving communications networks, electricity transmission lines, gas pipelines, and transport systems. For example, roadside shops are sometimes forced to move a safe distance during earth moving, heavy machinery activity, and other construction operations before returning once work is complete.

46. **Involuntary Resettlement.** The SPS considers resettlement involuntary when the displaced persons have no right to refuse the land acquisition by the state that result in their displacement. This occurs when “when displaced individuals or communities do not have the right to refuse land acquisition that results in displacement.” This applies in cases where: (i) lands are acquired through expropriation based on eminent domain; and (ii) lands are acquired through expropriation when negotiated settlement processes have failed (SPS, Appendix 2, paras. 4-5).

47. **Voluntary Resettlement.** Voluntary resettlement, on the other hand, refers to any resettlement not attributable to eminent domain or other forms of land acquisition backed by powers of the state. For example, the route for the transmission line through the RoW may be changed to minimize displacement. Small deviations in the location of power transmission towers within the existing ROW to avoid IR.

48. **Negotiated Land Acquisition.** Negotiated land acquisition or negotiated settlement is normally achieved by providing fair and appropriate compensation and other incentives to the willing seller, negotiated through meaningful and well documented consultations.

49. **Types of Displaced Persons.** The Policy identifies the following three types of displaced persons who are affected by partial or total land loss: i) persons with formal legal rights to land and/or structures lost entirely or in part; ii) persons who lost the land and have no formal legal rights to such land, but who have claims to such land that are recognized or recognizable under national laws, and (iii) persons who lost the land they occupy and have neither formal legal rights nor recognized or recognizable claims to such land. According to the Policy, all three types of displaced persons fall under the protections of the IR safeguard provisions (SPS, Appendix 2, para. 7). These groups can be further defined as follows:

   (i) **Type 1: Displaced persons with formal legal rights,** who are generally defined by the possession of individual freehold titles duly recorded in title registries and cadastral records in most countries.

   (ii) **Type 2: Displaced persons whose rights are not formal or legal but whose claims are recognized under national laws,** such as customary landowners, tenants (or block holders) or community owned land, structures or cultural resources (including community-operated schools, bathing and washing places, community centers, fishponds, wells, monuments, burial grounds, and places of cultural or religious importance).

   (iii) **Type 3: Displaced persons without formal legal rights.** This category includes encroachers, squatters, tenants, sharecroppers, and wage laborers who depend upon the land acquired. They have neither legal rights to the land nor recognizable ownership claims to the land but because land acquisition destroys their livelihoods, they are considered displaced persons and are entitled to receive resettlement assistance.

50. **Resettlement strategies.** The policy ties the trigger for compensation and protections under the resettlement safeguard requirements to physical and economic displacement that is caused by land acquisition. In cases of physical displacement, the Policy stipulates that
compensation should preferably be land-based (rather than cash). The replacement land must have at least the same characteristics in terms of productive potential and advantageous location (e.g., access to markets) as the land taken (SPS, Appendix 2, para. 9).

51. **Assistance for physical displacement.** The assistance required by SPS for physical displacement includes relocation assistance, secured tenure to relocation land, better housing with accessibility to employment and production opportunities, transitional support and development assistance, and opportunities to derive development benefits. Relocation assistance may include support for transportation of people, belongings, livestock, equipment, and other movable property to the new settlement site. Resettlement assistance is broader in scope and includes relocation as well as transitional/subsistence allowances of food, fodder, and fuel that may be needed until new production systems are working well.

52. **Assistance for economic displacement.** Economically displaced persons can encompass those with title or recognizable title to land and those who are without title to land or landless. Assistance to economically displaced persons includes compensation at full replacement cost for the loss of income or livelihood sources—often called income restoration or livelihood support measures. These people depend directly on the land and are often the poorest and most vulnerable of a DMC’s citizens. They can include sharecroppers, renters, tenants, and wage laborers, as well as artisans, shopkeepers, and small businesses occupying land they do not own. They are entitled to compensation for the loss of their income or livelihood sources at full replacement cost. Their lost assets may be crops, irrigation facilities, trees, livestock pens, fences, shops, and vendor stalls, among other things.

53. Resettlement assistance for such persons may include a subsistence allowance for food, fodder, and fuel until incomes are restored, and programmatic access to credit, training, and employment opportunities. For land acquisition affecting commercial structures, the resettlement assistance for the owners will include the cost of re-establishing the activities, net income lost during the period of inactivity, and the moving cost of materials. Shop owners who have a title to land or have recognizable title to land are also entitled to land or cash compensation at full replacement cost for the land where they carry out their commercial activities.

54. **Compensation.** In cases of cash compensation for acquired housing, land and/or other assets, the compensation rate must be the full replacement cost, which includes: (i) fair market value; (ii) transaction cost; (iii) interest accrued; (iv) transitional and restoration costs; and (v) other applicable payments, if any. In cases of economic displacement, the borrower/client is required to provide compensation for loss of income or livelihood sources at full replacement cost. This applies even if affected people have not been physically displaced.

55. **Negotiated land acquisition.** The policy encourages the borrower/client to reach a negotiated agreement with people affected by IR, and this specifically applies to customary landowners in Solomon Islands. If such an agreement is reached, the policy states that the safeguard requirements on IR no longer apply. In effect this means that a negotiated outcome and all agreements under it replace the ADB safeguard requirements.

56. **Indigenous peoples.** The ADB’s SPS also states that where there are indigenous peoples (IPs), their identity, dignity, human rights, livelihood systems, and cultural uniqueness must be safeguarded so they can receive culturally appropriate social and economic benefits. In the project area, all APs whether they are customary landowners or settlers are indigenous citizens of SIG even though the settlers have originated from other regions of SIG. Hence, they
will be accorded equal compensation and also to be able to access electricity as a benefit of the project.

57. **Gender equity.** The other policy of relevance to this project is the ADB’s Policy on Gender and Development, which requires that all ADB-financed projects ensure, where possible and practicable, special design features and strategies will be built into projects to facilitate and encourage women’s involvement and ensure tangible benefits for women.

E. **Gaps between ADB Policy and SIG Law and Gap-filling Measures**

58. There are significant gaps between ADB and Solomon Islands law, although in some respects the practice may mitigate the effect of the gaps. In particular, acquiring ministries, such as MID, carry out prior consultation with APs and groups prior to publishing the declaration that starts compulsory acquisition process.

59. Table 1 provides the comparison of SIG laws and ADB SPS 2009 requirements for land acquisition and resettlement, the assessment of gaps between ADB SPS 2009 and SIG laws, and gap-filling measures included in the RF. When any component of the project requires land acquisition and resettlement, measures adopted in the RF will apply wherever a gap exists between SIG laws and ADB SPS. While there are frequently challenges on timely completion of negotiated agreements on land use, and in the registration and alienation of customary land, Land Acquisition and Resettlement Plans (LARPs) will be frequently updated and measures to resolve any land issues will be pro-actively implemented.

60. Table 1 sets out the gaps and gap-filling measures.

<table>
<thead>
<tr>
<th>ADB Requirements</th>
<th>Solomon Islands Law</th>
<th>Gap-Filling Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Avoid IR wherever possible. Minimize involuntary settlement by exploring project and design alternatives.</td>
<td>No provision.</td>
<td>The RPF includes measures on avoiding or minimizing resettlement and its impacts. Subprojects identify specific measures to achieve this.</td>
</tr>
<tr>
<td>Enhance or at least restore the livelihoods of DPs. Improve the living standards of the displaced poor and other vulnerable groups.</td>
<td>Only asset losses are compensated without regard to livelihoods. No special attention to poor and vulnerable groups.</td>
<td>The RPF includes measures on compensation at replacement cost for affected land/assets and to restore/improve living standard of DPs.</td>
</tr>
<tr>
<td>Screen the project early on to identify resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons.</td>
<td>No provision.</td>
<td>The RPF includes measures on survey/census, cut-off-date, assessment of impacts and resettlement planning.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>ADB Requirements</th>
<th>Solomon Islands Law</th>
<th>Gap-Filling Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carry out meaningful consultations with and participation of DPs, inform all DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups.</td>
<td>Constitution requires consultations re customary land. No reference in Land and Title Act.</td>
<td>The RPF includes measures on consultations with DPs, including vulnerable groups, during preparation and implementation of RPs.</td>
</tr>
<tr>
<td>Establish a GRM to receive and facilitate resolution of DPs' concerns.</td>
<td>Formal hearing and court proceedings only.</td>
<td>The RPF includes measures on project-specific grievance redress mechanism.</td>
</tr>
<tr>
<td>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.</td>
<td>Depreciation applied in valuation of structures. No requirement for benefit sharing. Land-based resettlement possible in case of customary land and FTEs.</td>
<td>The RPF includes measures on site relocation, replacement of affected structures, compensation at full replacement cost. (The project is not amenable to benefit-sharing schemes.)</td>
</tr>
<tr>
<td>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.</td>
<td>No provision.</td>
<td>The RPF includes measures for site relocation of affected structures, transitional allowances, and restoration of civic infrastructure.</td>
</tr>
<tr>
<td>Improve the standards of living of the displaced poor and other vulnerable groups to at least national minimum standards.</td>
<td>No provision.</td>
<td>The RPF includes measures on restoration/improvement of livelihoods of DPs, including the poor and vulnerable groups.</td>
</tr>
<tr>
<td>Develop procedures in a transparent, consistent, and equitable manner, if land acquisition is through negotiated settlement.</td>
<td>Consistent with SPS, except third-party verification of negotiated agreement is not required.</td>
<td>The RPF describes procedures for the negotiation with DPs, with agreements to be verified by a Third-Party Validator.</td>
</tr>
<tr>
<td>Ensure that DPs without titles are eligible for resettlement assistance and compensation for loss of non-land assets.</td>
<td>No provision.</td>
<td>The entitlement matrix provides for resettlement assistance and compensation for loss of non-land assets to DPs without titles.</td>
</tr>
<tr>
<td>Prepare an RP elaborating on DPs' entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and</td>
<td>No provision.</td>
<td>The RPF requires RPs to be prepared where subprojects involve involuntary physical or economic resettlement.</td>
</tr>
<tr>
<td>ADB Requirements</td>
<td>Solomon Islands Law</td>
<td>Gap-Filling Measures</td>
</tr>
<tr>
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<tr>
<td>time-bound implementation schedule.</td>
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<tr>
<td>Disclose an RP in an accessible place and a form and language(s) understandable to DPs and other stakeholders.</td>
<td>No provision.</td>
<td>The RPF requires disclosure of RPs.</td>
</tr>
<tr>
<td>Conceive and execute IR as part of a development project or program. Include the full costs of resettlement in the presentation of project’s costs and benefits.</td>
<td>No provision.</td>
<td>Land acquisition/resettlement costs will be included and financed by the project.</td>
</tr>
<tr>
<td>Provide compensation and other entitlements before physical or economic displacement.</td>
<td>Not required.</td>
<td>To be provided.</td>
</tr>
<tr>
<td>Monitor and assess resettlement outcomes, their impacts on the standards of living of DPs.</td>
<td>Not required.</td>
<td>The RPF includes monitoring measures, including semi-annual safeguard monitoring reports.</td>
</tr>
</tbody>
</table>

DP = displaced person/s; FTE = fixed-term estate; GRM = grievance redress mechanism; IR – involuntary resettlement; RP = Resettlement Plan; RPF = Resettlement Plan Framework.

### III. SUBPROJECT SELECTION CRITERIA AND SCREENING

61. One of the main strategies for selecting subprojects is to avoid and minimize IR impacts. A key factor in site selection and facility design for the project will be the avoidance of land acquisition and physical displacement wherever possible. The IR impacts of an ADB-supported project are considered significant if 200 or more persons will be physically displaced from home or lose 10% or more of their productive or income-generating assets. In undertaking the due diligence work it was determined that no AH or business may be significantly impacted by the subproject components (roads, wharves, or port).

62. The PMU will screen each subproject to identify potential land acquisition and resettlement impacts, and enable the Project to adopt measures to avoid, mitigate or minimize the impacts.\textsuperscript{16} Annex 1

63.

64. IN Voluntary Resettlement Screening Checklist

65. will be completed after site visits, and, as relevant, in consultations with potential APs to understand land use/ownership arrangements. Where the screening identifies that a subproject will require land acquisition and resettlement, an SIA will be undertaken for the purposes of preparing an RP.

\textsuperscript{16} Preliminary subproject designs must indicate the type and extent of works.
IV. SOCIAL IMPACT ASSESSMENT AND RESETTLEMENT PLAN PREPARATION AND IMPLEMENTATION

66. Subprojects that involve involuntary land acquisition and resettlement will conduct a SIA (including census of APs/DPs, inventory of losses (IOL), and SES) and to inform the preparation of an RP. The scope and level of detail of each SIA and RP will vary depending on the magnitude and complexity of land acquisition and resettlement issues.

67. In order to minimize the incidence of encroachment on to land required for the subprojects, the identification of APs and affected assets, and negotiation of entitlements to compensation and/or rehabilitation assistance, will occur following detailed engineering design (DED), and prior to the initial civil works. There will be full consultation and disclosure of requirements for land. Once the community has been consulted, and assets assessed, there will be a cut-off date for eligibility for compensation and rehabilitation assistance. Landowners and users that have documented claims to affected land, crops, trees, or structures at the cut-off date will be eligible for compensation. Others who occupy or use land, after the cut-off date, will not be eligible for any compensation or assistance, and they will be required to vacate the land, as per the provisions of the land act. In case there is no physical or economic displacement, a DDR needs to be prepared.

68. RPs will be prepared by MID with assistance from the Project Preparatory Team’s Social Safeguards consultants. RP implementation will be overseen by the supervision consultants and the Project Management Unit (PMU). An outline of preparing an RP is given in Annex 2.

69.

70. OUTLINE OF A RESETTLEMENT PLAN

71. RP preparation and implementation will follow the process detailed below:

(i) **RP preparation**: This phase will be carried out if the project will impact private properties along the subproject roads, wharves, and port. The draft RP will be presented to APs and other stakeholders in a public meeting. APs will be encouraged to express concerns and make suggestions about compensation and land acquisition activities. Copies of the draft RP and/or summary brochures will be available during these consultations.

(ii) **RP review and finalization**: This phase will be carried out during detailed design preparation and will include eventual updates of impacts (AP data) and revision of compensation rates and consultation with APs. Contracted construction activities will be initiated after review and final RP approval.

(iii) **RP implementation**: This phase will start after the final RP is approved and will be concluded with the provision of due compensation to all APs.

(iv) **Civil works implementation**: Civil works will start only after all APs are compensated and a compensation completion report has been submitted and cleared by ADB. However, if there are subprojects without impacts and with sufficient length to economically justify construction, civil works for these sections may be initiated immediately after the beginning of the construction phase of the contract. In these cases, the absence of impacts will have to be demonstrated by a due-diligence report, and community agreement must be obtained.

V. ESTIMATES OF THE NUMBER OF AFFECTED PERSONS AND CATEGORIES
72. As the subprojects are either at feasibility study (FS) stage or detailed design phase, the overall impacts and number of APs are still not fully confirmed particularly for those subprojects under FS phase. However, the consultations, field visits and surveys undertaken to date have indicated that a small number of people will be affected (physically or economically) by the subproject activities.

73. Of the APs, there are no APs/DPs that will be physically displaced as all the subprojects e.g., roads will utilize existing ROW for the proposed scope of works while the port subproject will be on a state-enterprise land. In addition, the two new wharves will not require acquisition of the land by the government but instead an MOU will be signed by the government with the customary landowners to facilitate construction. The other wharf will be on a provincial government land. However, on the road expansion subproject, there will be some leaseholders who may be affected including those who lose small strips of land to the project because their legal boundaries are within the road reserve, and other leaseholders who have built their fences outside their legal boundaries on to the ROW.

74. During implementation, the PMU will conduct an SES, census survey and carry out inventory of losses to identify all persons who will be affected under physical implementation of the project.

6. ELIGIBILITY CRITERIA OF AFFECTED PERSONS

75. Eligibility of an individual’s entitlements under the LMCP will be guided by the following:
   (i) Loss of land, whether an owner, lessee, or informal occupant:
   (ii) APs/DPs with formal legal rights are generally the customary owners of lands or those with PE or FTE titles recorded in the land register. This category may also include any leaseholders with formal legal rights as tenants.
   (iii) Persons whose rights are not formal or legal, but whose claims on land or assets are recognized under national or customary laws, such as those having usufruct rights or informal leases on customary land. Where land records do not exist, documentation and testimony from community leaders would determine eligibility for compensation, replacement land, or other resettlement assistance.
   (iv) Persons with no legal rights to land or assets at the time of assessment or census. This may include internally displaced persons, squatters, or persons who depend upon the land they occupy for their livelihoods. They have neither legal rights nor recognizable ownership claims, but if the project land acquisition destroys their livelihoods, they are considered APs and are entitled to receive resettlement assistance.
      (a) Loss of trees or other plants, whether on owned, leased or informally accessed land.
      (b) Loss of land-based improvements—fences, car parks, houses, shelters, business buildings, also irrespective of the ownership status of the land.
      (c) Loss of access to commons and reserves, e.g., road reserves, whether or not legally encroached, and restricted areas.

76. Eligibility for loss of non-land assets, whether temporary or permanent, will be recognized for project-induced impacts on
   (i) an individual’s business or income;
   (ii) an individual’s residence;
   (iii) access to resources due to quarrying operations; and

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17 Physical displacement refers to relocation arising from loss of residential land or shelter.
(iv) any other assets or elements of livelihoods recognized in the Solomon Islands law that may be discovered during disclosure and consultation.
VIII. ENTITLEMENTS

77. Persons demonstrating that they will suffer losses from any of these causes as at the cut-off date for entitlements will be regarded as eligible for resettlement assistance. Losses from encroachments or activities commenced after the cut-off date for the respective projects will not be eligible. Table 2 presents the entitlement matrix.

Table 2: Entitlement Matrix

<table>
<thead>
<tr>
<th>Impact/Type of Loss</th>
<th>Application</th>
<th>Entitled DPs</th>
<th>Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PERMANENT/TEMPORARY LOSS OF LAND</strong></td>
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<td></td>
</tr>
<tr>
<td>Permanent loss of residential or business land</td>
<td>Alienated land required for project construction.</td>
<td>Registered owner (PE, FTE)</td>
<td>Cash compensation as agreed between MID and owner. Transaction costs. Transitional assistance where required.</td>
</tr>
<tr>
<td>Loss of use of land through temporary occupation by the project</td>
<td>Alienated land (FTE, etc.) required during repair/rehabilitation activities</td>
<td>Leaseholders, tenants, and users of land</td>
<td>Cash compensation at replacement cost as agreed between MID and landowner group. Replacement land of equivalent size and quality, if possible. Transaction costs. Transitional assistance where required.</td>
</tr>
<tr>
<td><strong>LOSS OF STRUCTURE</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Permanent loss of residential or business structure</td>
<td>Houses, commercial structures etc on land required for project construction. Houses, commercial structures etc on road ROW or other public land</td>
<td>Registered owner Owner of structure, regardless of legal status</td>
<td>Cash compensation at undepreciated full replacement value without deduction for salvaged materials, and relocation assistance. Compensation will be provided for entire structure if remaining structure is no longer viable. For commercial structure: compensation for business disruption. Subsistence allowance if required.</td>
</tr>
<tr>
<td>Partial or total removal of minor structures (fence, carpark, driveway, ATM, etc.)</td>
<td>Structures in ROW</td>
<td>Owner of structure, regardless of legal status</td>
<td>Replacement of minor structures affected or compensation for removed structures at replacement value without deductions for salvaged materials.</td>
</tr>
<tr>
<td>Impact/Type of Loss</td>
<td>Application</td>
<td>Entitled DPs</td>
<td>Entitlement</td>
</tr>
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</tr>
</tbody>
</table>
| Loss of standing crops and productive trees (timber, fruit trees, etc.)           | Gardens, trees, crops, perennials, productive trees/plants | Owners of crops, trees, regardless of legal status | Cash compensation equivalent to the gross income from the crop calculated at the maximum annual market value of the total annual produce from affected land or the formal government rate (ref Ministry of Agriculture) – whichever is greater.  
Provision of 30 days’ notice to harvest standing seasonal crops. If harvest is not possible, cash compensation for crops (or share of crops) equivalent to prevailing market price.  
Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by the number productive years.  
Cash compensation equivalent to prevailing market price of timber for non-fruit trees. |
| Loss due to temporary occupation by the project                                   | Alienated and customary land                             | Landowners, users                     | Rent as negotiated with landowners. All temporary use of land will be through written agreement with the landowner/leaseholder and land will be returned to the landowners after rehabilitation to original or better condition.  
Possible compensation may include:  
(i) provision of 30 days’ notice regarding construction activities, including duration and type of disruption;  
(ii) contractor’s actions must ensure there is no income/access loss through provision of access etc.;  
(iii) assistance to mobile vendors/hawkers to temporarily shift for continued economic activity;  
(iv) for construction activities involving unavoidable livelihood disruption, compensation for lost income or a transitional allowance for the period of disruption, whichever greater; and  
(v) restoration of affected land, structure, utilities, common property resources.  
Compensation at replacement cost for damages within land used for project.       |
<table>
<thead>
<tr>
<th>Impact/Type of Loss</th>
<th>Application</th>
<th>Entitled DPs</th>
<th>Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>The project will ensure that DPs have uninterrupted access to their land and livelihood sources. In case of any unavoidable loss of access, DPs will be provided compensation for their losses at replacement cost.</td>
</tr>
</tbody>
</table>

### VULNERABLE HOUSEHOLDS

- **Vulnerable Households**
  - Loss of assets (land, structures, trees, crops)
  - Identified through consultation with community leaders (households headed by women, elderly, disabled, poor)
  - Additional cash assistance depending on extent of disruption to vulnerable DP's means of livelihood. Amount to be specified in the RP.

### UNFORESEEN OR UNINTENDED IMPACTS

- **Unforeseen or unintended impacts**
  - Identified at final design phase
  - Unanticipated involuntary impacts will be documented and mitigated based on the principles provided in ADB’s IR policy.

ATM = automated teller machine; FTE = fixed-term estate; MID = Ministry of Infrastructure Development; PE = permanent estate; ROW = right-of-way.

**IX. SOCIOECONOMIC INFORMATION**

### A. Methodologies to be used for Socioeconomic Assessments

78. In order to assess socioeconomic impacts of the project, an SIA will take place covering

(i) an SES focusing on APs’ income-earning activities, livelihoods and standards of living. This should include secondary data sources, supplemented by information obtained from a survey of affected communities, carried out on a sample basis. Indicators for the SES will include, among others, demographic, education, income and occupational profiles; livelihood and production systems, economic activities, income sources and poverty levels; access to and use of land and natural resources, tenure security and common property resources; and social and cultural systems and networks. All data must be disaggregated, as relevant, by gender and income group.

(ii) identification of present and future potential social impacts based on baseline socioeconomic data collection and analysis;

(iii) a census of APs (100%) including basic demographic and socioeconomic data such as household size, age, gender, clan identity, religion, ethnicity, occupation, household income, and vulnerability;

(iv) an inventory of their affected assets within the designated project area or construction limits, including land of various types (residential, commercial, and agricultural) and other immovable property (buildings, fences, sheds, irrigation canals, wells, water pipes, and other structures), where quantities and relevant measurements are clearly
determined. This will be undertaken through a detailed measurement survey;
(v) valuation of the affected assets at replacement costs according to Ministry of Lands, Housing and Survey (MLHS), Ministry of Agriculture or local market prices, without deductions for age-related depreciation, recovery of salvageable materials, surveys or registration fees and other transaction costs;
(vi) collection of gender-disaggregated information pertaining to the economic and sociocultural conditions of APs; and
(vii) analysis of potential impacts on identified vulnerable individuals and groups.

79. Baseline data (disaggregated by gender) will include basic demographic information, social organization, occupational structure, income level and assets, and access to public services. Attitudes and preferences particularly regarding the distribution component of the project also need to be explored. This information enables the design of appropriate rehabilitation measures, enlists the participation of people affected, and forms the basis for the mitigating measures following project impacts.

80. Apart from quantitative surveys, qualitative tools to be used include focus group discussions, interviews with key informants, participant observation, and other participatory techniques. Sufficient time needs to be allowed for: (i) design of the census and SES questionnaire form; (ii) hiring and training of field investigators, (iii) field supervisions, verification and quality control; and (iv) data processing and analysis. The team investigating should be interdisciplinary and include male and female members, so that people feel comfortable and gender perspectives can be developed for forthcoming safeguards documents to be prepared by the project.

81. Affected assets may include
(i) customary land – fallow or garden land, hunting grounds, fishing sites;
(ii) leasehold land;
(iii) annual crops;
(iv) perennial crops and trees (fruit or timber);
(v) fences, carparks;
(vi) houses, kitchens, and garden shelters;
(vii) business premises: commercial buildings, canteens, trade stores, ATM, etc.;
(viii) other structures: fences, etc.; and
(ix) cultural or religious sites: sacred sites, places of worship (churches, shrines).

X. CONSULTATION, PARTICIPATION, AND DISCLOSURE

A. Consultation

82. In compliance with the government and ADB policies and priorities, the project will ensure a transparent and accountable process for land acquisition/resettlement as required. Meaningful consultation and participation of APs and key local agencies will help to maintain transparency which is dependent on thorough and ongoing consultations with local communities and provincial officials. It will also raise awareness of project objectives, reduce potential conflicts, minimize the risk of project delays, promote local decision making, and enable the project to design the land acquisition and resettlement component as a comprehensive development program which suits the needs and priorities of the beneficiaries themselves.

83. MID, through its project preparatory consultants, will consult affected leaseholders, landowners, households, leaders, and representatives of communities to ascertain their needs.
and concerns about land and asset acquisition. AP surveys will be carried out in a participatory manner with heads of households having input into the estimate of losses and impacts. MID will ensure participation of APs in planning and implementation of the process, and specific consultations in relation to impacts to land and non-land assets will be detailed in the RP. Individual meetings with directly affected households will also be undertaken and recorded in the RP. In the case of customary land, these consultations and surveys will be coordinated with the Lands Officer from the seconded Lands Officers in the provincial governments.

84. The first step in the consultation process is the identification of stakeholders. A stakeholder analysis will be prepared to identify all affected APs, FTE leaseholders, customary leaders, landowner trustees, local officials, (e.g., provincial and city administration), and nongovernment organizations (NGOs). MID will conduct consultation with stakeholders at different points in the preparation and implementation of subprojects. MID will utilize a variety of mechanisms, as appropriate considering the nature, scale, and impact of the subproject, to consult with stakeholders and APs during preparation and implementation of RPs including (i) community meetings; (ii) specific facilitated meetings with APs including customary leaders, leaseholders, and land users; (iii) separate meetings with women and vulnerable households; (iv) key informant interviews with government staff; (v) one-to-one socioeconomic household surveys of women and men APs and affected communities; and (vi) participatory compilation of IOLs affecting DPAs. In any case, meaningful consultation as per ADB SPS will be adhered to and special attention will be provided to the need of disadvantaged or vulnerable groups, especially those below the poverty line, the landless, the elderly, female-headed households, women and children, and those without legal title to land.

85. Detailed information on the consultation process at implementation stage will be included in each RP. A stakeholder communication strategy and community consultation plan has been prepared for the project.

B. Notification

86. Official notifications will be provided to leaseholder or landowners outlining the nature of the project, the land acquisition requirements relevant to their land parcels, and the proposed process for negotiation. The notification will also advise owners of their entitlement to and suggestions for accessing impartial legal advice, will appraise them of the role of the Third-Party Validator, and will seek commencement of the negotiation process. At notification, relevant information from the RP will be provided to landowners and local government officials.

87. In the case of private land (PE, FTE, Sublease and Temporary Occupier License), this notification will be provided to registered landowners. In the case of customary land, the notification must be given in the manner most effective for the purpose of bringing it to the attention of all members of the customary group, and also made known to local members of the community. The notification will include advertisement of a public meeting and set this as the date for raising any claims relevant to the site. A public meeting will be held, and all issues raised will be recorded.

C. Negotiation

88. The timing and nature of negotiations will vary between sites; however, they will be conducted adhering to the following principles:
   (i) adequate time and information will be provided to landowners to prepare for negotiations;
(ii) negotiations will be entered into in good faith;
(iii) due consideration will be given to all landowner requests;
(iv) those who entered into negotiated settlements will maintain the same or better income and livelihood status; and
(v) no party to the negotiation will be forced to arrive at an outcome. Failure to negotiate will not result to compulsory acquisition, otherwise IR policy of ADB will be triggered.

89. MID will be responsible for the availability of two key elements of the negotiation process to ensure its fairness:
   (i) entitlement of leaseholders/landowners to receive relevant information;
   (ii) arbitrate of ongoing disagreement; and
   (iii) engagement by the project of a Third-Party Validator to validate the fairness of the negotiation process according to ADB safeguards requirements.

90. If the Third-Party Validator finds there is a lack of symmetry and fairness in the negotiation process, including uneven access to information, this should be resolved through corrective action plans or application of the grievance mechanism. Records of all negotiation activities will be prepared by MID. The Third-Party Validator’s report will be submitted firstly to MID and MLHS for comment, then to MOFT and ADB for approval before implementation of agreements and entry to land.

D. Disclosure of the Resettlement Plan

91. MID is responsible for RP disclosure. RPs will be disclosed to APs and communities and posted on MOFT’s and ADB’s websites prior to the subproject’s approval. They will be made available in English in accessible public locations. MID will also arrange to interpret and explain the key provisions in local language if needed. Any updates to the RP will be disclosed to the APs and key project progress and information shared to them during implementation.

XI. COMPENSATION, INCOME RESTORATION, AND RELOCATION

A. Avoiding or Minimizing Land Acquisition

92. In order to minimize land acquisition and resettlement impacts, the engineering design will avoid or minimize the need to acquire additional land to the extent feasible and consistent with agreed design standards and good engineering practice. Should householders need to be physically displaced from their home, they will receive appropriate compensation or assistance according to the entitlement policy. In most customary land areas, clan leaders and family will also be involved in trying to find alternative land within the customary land boundaries, for those who have lost houses, gardening land, and livelihood source. Because commonly everyone in the rural areas is related and belongs to the same social group, reallocating land or support from the host population can be negotiated and agreed. However, in some areas there are land shortages and pressures on land may mean that replacing land for land will not be easy or possible. Any alternative approach to land replacement, if necessary, will be discussed and agreed with the APs. This will not be at the disadvantage of the APs and must enhance or at least restore the livelihoods of all APs in real terms relative to pre-project level.

B. Acquisition and Negotiated Use of Customary Land

93. For most land acquisition issues in Solomon Islands, the government authorities consult
with landowners who claim an interest in the land, and then obtain land through land lease or purchase through negotiated settlement. MID will continue this approach. Where the project involves a subproject that is located on customary land, MID will collaborate with the Provincial Land Officer (PLO) in order to negotiate with landowners to acquire the permanent right to use or acquire additional land, or on a temporary basis to accommodate other activities related to the project. If communities have been paid for customary land, but no certificate of registration has been processed, then the project will work with MLHS to regularize and formally transfer title of that land. Land purchase undertaken through negotiated agreement will follow relevant provisions of the LTA.

94. The negotiated use and purchase of customary land should be voluntary and without any coercion. The process will follow adequate safeguards including (i) consultation with local communities on the project and its components and options to avoid or minimize impacts; (ii) applicable national laws and regulations will be followed; (iii) landowners or any other people will not experience major adverse impacts, e.g., the land should be free of any private residential structures or major sources of livelihood; (iv) APs will receive compensation for land if purchased or any losses/damages to non-land assets; and (v) a written memorandum of agreement will be signed with representatives of landowner communities for the permanent use of the land and (vi) third party verification of the memorandum of agreement and process of negotiated land purchase.

95. **Customary Land Acquisition.** Land Acquisition refers to the process by which the State acquires land from its owners. There are two modes of acquisition provided for under the Land and Titles (Amended) Act 2014 by which the COL with the Lands Board may on behalf of the state acquire both customary land and crown/state land for public purposes.

96. In much of Solomon Islands there is no systematic authoritative record of customary ownership or tribal land boundaries. Land use, settlement, and community composition are dynamic in response to a number of social and physical influences. In many areas, including the project sites, broad clans have in recent times divided into smaller subclan groups or lineages made up of family units. Land ownership claims are made through reference to custom, particularly special knowledge of oral histories, custom stories, legends, etc., ancestors and lineages, the whereabouts of boundary markers (such as special landscape features, rocks, special trees, etc.), and the whereabouts of sacred (tambu) places, for example, places with special spiritual significance, ancestors’ settlement sites, grave sites, and knowledge of their ‘stories’.

97. The process for purchasing or leasing customary land is set out in Division 1 of Part V of the LTA, as detailed below.

(i) COL must appoint an LAO to act as the Commissioner’s agent. (In all provinces in the Solomon Islands, a LAO, together with surveyors and land planners, is at present seconded at the provincial government structure thus more accessible to the rural communities.)

(ii) the LAO marks out the boundaries of the relevant land on the ground or on a map in such manner as to bring them to the notice of the persons affected;

(iii) the LAO prepares a written agreement for the purchase or lease of the land with the people who claim to be the owners;

(iv) the LAO gives public notice of the written agreement and organises a public meeting to determine whether the persons named in the agreement are the correct customary landowners;
if there is no dispute at the meeting, and no other claimants, the LAO records this fact and sends a copy of the determination to the COL;

(vi) if there are rival claimants, the LAO must determine the rightful owners of the land and send a copy of his determination to the COL and bring it to the attention of the originally identified parties and any claimants;

(vii) an appeal of the LAO’s determination can be made to the Magistrates Court within 3 months;

(viii) the decision of the Magistrates Court can be appealed to the High Court on a question of law only;

(ix) once any appeals have been determined, or the period for appealing has expired, the agreement for sale or lease of the land in question can be implemented; and

(x) where the land is being leased, the COL makes an order vesting PE in the persons named as lessors—commonly representatives of the customary land group found to own the land.

98. **Compulsory acquisition.** The SIG’s powers of involuntary land acquisition are set out in Division 2 of Part V of the LTA. Division 2 gives the Minister of Lands the power to compulsorily acquire any customary or registered land where it is ‘required for any public purpose’. However, this broad power is circumscribed by protections provided in the Constitution: Section 8(1) of the Constitution allows an involuntary land acquisition to occur only where:

(i) the acquisition is “necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit;”

(ii) there is reasonable justification for causing any hardship to the interest holders;

(iii) the acquisition is done under a law which provides for reasonable compensation (including lump sum or instalments, and by cash or other form) in a reasonable time; and

(iv) the acquisition is done under a law which provides interest holders with the option of appealing to the High Court with respect to their ownership, the legality of the acquisition, or the compensation payable.

99. The Constitution also requires Parliament to provide the following additional safeguards where customary land is compulsorily acquired (section 112):

(i) prior negotiations must take place with the owners;

(ii) the owners shall have a right to access independent legal advice; and

(iii) as far as practicable, the interest acquired shall be limited to a fixed-term interest.

100. Although Parliament has not provided for these safeguards in the LTA, the Minister of Lands and COL can take these into account in conducting land acquisition. As for land under FTEs, the agreements provide that COL can resume the land for public purposes. This is triggered by a request by the concerned Minister to the COL. Temporary occupation of land for up to three years is possible under a similar process. Rent is paid and loss in value and damage are compensated.

C. **Project Approach to Land Acquisition**

101. The Resettlement Framework applies to the LMCP, including any activities that may be considered ‘linked’ to the Project. Consultation and GRM requirements apply throughout the
Project, irrespective of land acquisition method applied. In most cases it is anticipated that the land required for project delivery will be obtained via negotiated arrangements—generally ‘willing buyer-willing seller’ or long-term leases; in which case specific requirements as per ADB policy requirements will apply. A RP will only be needed in the unlikely event of involuntary land acquisition being required for activities funded by the project.

102. Involuntary land acquisition may be required if additional land is required during subproject implementation and the pre-requisites for negotiated settlement are not satisfied, or where land acquisition is for some reason restricted and involuntary land acquisition processes need to be applied. This scenario is considered unlikely as Project components will be designed to avoid involuntary land acquisition, in close collaboration with the community.

103. Given the prevalence of customary (communal land) in the Solomon Islands, the following guidance is provided for the preparation of RPs for this project:

(i) ADB safeguards policies and performance standards will be applied in full where involuntary land acquisition is required to allow project delivery.

(ii) Alternatives to land acquisition will be considered. Especially where replacement land is scarce or non-existent, or where customary land tenure is deemed inalienable, negotiated agreements for long-term lease or alternative infrastructure siting will be considered.

(iii) Where communal land must be acquired, collective compensation may be appropriate. Under such conditions, compensation may be used solely for appropriate community purposes, or be distributed equitably among community members. The RPs will describe arrangements for applying collective compensation.

(iv) Individual users and occupants of acquired communal land will be identified in the census prepared for the RP and appropriate mitigation measures or negotiated agreements established to provide for restoration of their livelihoods or living standards.

(v) Where replacement land does not exist, it will be impossible to establish a technical valuation for replacement cost. The RP will describe alternative means used for valuation. This may include negotiated agreement with affected communities.

(vi) If relevant, the RP will describe any changes that may occur regarding land use and tenurial arrangements for remaining communal land in Project-affected areas.

(vii) The RP will describe a process by which conflicting claims to ownership or use rights will be addressed.

D. Determination of Compensation

104. The project requires that compensation for any land or assets lost as a result of project development be compensated at full replacement cost. Full replacement cost is the cost of replacing an expropriated asset of the same or better quality in the current land and/or housing market. Depreciation is not a factor in ADB policy and is not considered when valuing compensation for expropriated built structures. Full replacement includes the following elements:

(i) **Fair market value.** Where markets function, fair market value can be assessed by examining land sales records in the last three or four years for similar properties. The market value is the going price of an asset in the open market, but where markets do not exist field investigations are needed to collect baseline data to value assets, and to ensure that the government valuation is realistic.

(ii) **Transaction costs.** These may include the legal and documentation expenses associated with updating land records to reflect sales, transfers, inheritances, and leases, as well as the legal expenses associated with registering property titles for
replacement lands and houses. Transport costs may also be included. These costs will not be paid by the displaced person, but by MID.

(iii) **Transitional and restoration costs.** Transitional cost involves a short-term subsistence allowance to support the displaced persons through a period of income loss due to a project. It may also include agricultural extension, training and other poverty reduction or capacity building programs. Restoration cost refers to necessary improvements on land or to housing to achieve the objectives of enhancing or at least restoring, livelihoods, compared with pre-project levels.

105. Valuation will be carried out through MLHS Valuation Division. Two valuation reports will be prepared—one by the government valuer and one by an independent valuer—based on the size and condition of land, any improvements made to the land, and assessment in respect of the closest comparable values that are obtainable.

106. MLHS Housing Division publishes valuation rates for houses and commercial structures. Private buildings are valued at replacement rate plus relocation expenses. During RP preparation, MID will undertake a market rates appraisal to determine if the official rates applied will meet the threshold of undepreciated full replacement cost for any assets affected.

107. For removal of crops and trees, eligible owners will be compensated on the basis of the published schedules of the Ministry of Agriculture (Agricultural Extension Division) for root crops and tree crops and the Forestry Division for plantation trees and wood/timber trees. The rates for root crops are based on value of product per square meter and tree crops according to age, size and productivity of individual trees. The crop rate schedule is Gazetted. However, if the published schedule is not based on market rate, the compensation will be adjusted, or additional grants will be included from the project to meet market rate compensation.

**XII. GRIEVANCE REDRESS MECHANISM**

108. The project will implement a GRM to receive and facilitate resolution of affected peoples’ concerns, complaints, and grievances about the Project’s performance, including those concerning environmental and social impacts and issues. The GRM will ensure that: (i) the basic rights and interests of every AP are protected; and (ii) their concerns arising from Project performance during the phases of design, construction and operation activities are effectively and timely addressed. The GRM will need to ensure that any concerns are addressed quickly and transparently, and without retribution to the affected parties. Any RP or other documentation prepared to meet the requirements of this RF will include details of the GRM process.

109. In the early stages of engagement, project stakeholders and affected communities will be made aware of:

   (i) how they can access the GRM;
   (ii) who to lodge a formal complaint to;
   (iii) timeframes for response;
   (iv) that the process must be confidential, responsive, and transparent; and
   (v) alternative avenues of redress, where conflicts of interest occur.

110. The grievance process will ensure that no costs are imposed on those raising the grievances; that concerns arising from project implementation are adequately addressed in a timely manner; and that participation in the grievance process does not preclude pursuit of legal remedies. Specific means of redress are available in disputes over land ownership or
compensation, or for grievances related to Project construction impacts. These are discussed below.

A. Land Ownership Disputes

111. In alienated land e.g. FTE, ownership is generally clear under the land registry system. Where disputes over land ownership arise, however, disputing parties have recourse to the Magistrates Court under procedures set out in the LTA. Magistrates Court decisions may be appealed to the High Court on a question of law.

112. For disputes over customary land, there is an opportunity for resolution in the course of the acquisition process, involving consultations, public hearing and determinations of the LAO. If disputes are not resolved in this process, the Magistrates and Customary Land Appeal courts have jurisdiction. MID will not be party to court cases between competing private parties as to land ownership or other claims to land.

B. Compensation and Other Disputes

113. Most grievances related to compensation calculation and disbursement and other assistance are expected to be resolved at the PMU level. A mutually satisfactory resolution at this stage prevents the cost and delay of court proceedings. DPs will incur no costs in participating in good faith in the grievance redress procedure.

114. The complaints and grievance redress procedures will be outlined in the RPs prepared for particular subprojects to ensure stakeholder participation in the implementation process and to ensure there is a publicly acceptable forum with which to deal with any issues or complaints arising through land acquisition. Through public consultations, DPs will be informed that they have a right to seek redress through the Project complaints/ grievance resolution mechanism. The record of the GRM will be the subject of monitoring.

115. Subject to elaboration and adjustment in the RPs for particular subprojects, the GRM will apply the following procedure:

(i) The complainant may, but is not required to, submit a complaint for resolution to the subproject office. Straightforward complaints may be resolved on the spot, with the complaint and its resolution recorded by subproject staff.

(ii) If the complainant is not satisfied with the outcome or chooses to initiate the complaint at a higher level, it is submitted to the PMU.

(iii) The complaint is referred to the Third-Party Validator and, in the case of customary land, to the head of the land-owning group. A RP may provide for a Community Advisory Committee representing APs, which will participate in the GRM.

(iv) If the complaint concerns the valuation of land or buildings, it will also be referred to the Land Valuer.

(v) The complaint is discussed among the complainant, Third-Party Validator, head of the land-owning group, representative committee, land valuer, and MID - PMU. The complainant may be assisted by a person of his/her choosing, including a lawyer, payment of whose reasonable fee is the responsibility of the project.

(vi) Decision on the grievance is made promptly by MID PMU in accordance with the grievance procedure and conveyed to the complainant.

(vii) PMU will record the complaint: date, complainant, grievance, attempts at resolution, outcome.
A complainant who is not satisfied with the outcome of the process will be advised of his/her right to take the matter to court, and any cost that will incur will be met by the disputing individual or group.

C. During Construction

116. Onsite complaints during construction will be directly addressed by the construction site supervisor. If the complaint is straightforward, the site supervisor will resolve the complaint immediately. If the complaint is complicated and outside the control of the site supervisor, it will be referred to the site supervisor’s manager who will have two days to resolve the complaint and communicate the outcome to the AP. Onsite complaints will be documented in a register that will be maintained at the local MID office, or at the subproject office if there is one. Details of the complaint will be recorded by date, name, contact address and reason for the complaint. A duplicate copy of the entry will be given to the complainant for their record at the time of registering the complaint.

117. Complaints will be responded to within the first 24 hours by the construction site supervisor and then further updated if required to be provided every two days, until the complaint is resolved. The complaints register will show a record of who has been directed to deal with the complaint and the outcome of the complaint. The register will also record other details such as the date and time when the action was commissioned, complaint was resolved, when and how the complainant was informed of the decision. The register is then signed off by the person who is responsible for the decision and dated. The register will record all the issues raised and will be available during the monitoring of the Project. This is also a public document that MID will make available.

118. If the complainant is not satisfied with the on-site complaint resolution, they may refer their grievance to PMU. The Complainant may take the grievance to the country’s judicial system if still unsatisfied with the final resolution through GRM.

XIII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

A. Ministry of Infrastructure Development

119. The Ministry of Infrastructure Development has overall responsibility for management of the land acquisition and resettlement program. Project preparatory assistance consultants will undertake the surveys and prepare RPs with the help of MID and relevant authorities. MID will ensure that entitlements and measures in the RP are consistent with this RF and suitable budgetary provisions are made for timely implementation of the RP. MID will coordinate with the Ministry of Land, Housing and Survey (MLHS) and other relevant government agencies in the land acquisition process.

1. Existing Safeguards Capacity

120. The current MID structure through its Central Project Implementation Unit includes a permanent Principal Social Safeguards Officer and a Principal Environment Officer under its Social and Environment Unit working on land acquisition and negotiation with project communities to facilitate project implementation by MID. Capacity building in safeguards for land acquisition and resettlement has been taking place during previous and current ADB-funded project (Sustainable Transport Improvement Investment Project or STIIP). The officer's
interaction with and support to the PPA consultants in the preparation of RPs will continue building their capacity on impact assessment and RP preparations.

B. Project Management Unit

121. The PMU, assisted by PPA consultants, is responsible for preparation and implementation of the overall Project, including preparation and implementation of the land acquisition and resettlement safeguard requirements. In this regard the PMU is responsible for the following activities:

(i) Screening and assessing subprojects.
(ii) Preparing RPs for subprojects, if required, or DDR to meet the project’s requirements according to the safeguard policies of ADB and the government.
(iii) Undertaking adequate consultations with and dissemination of relevant information to DPs, including public disclosure of draft and final RPs, in accordance with the RF.
(iv) Ensuring that design engineers take into account safeguard issues and try to avoid or minimize social impacts through appropriate design. PPA consultants will brief technical design team in this regard.
(v) Addressing any project-related grievances of APs and facilitating the resolution of disputes on land ownership.
(vi) Undertaking public consultation to inform APs of the subproject scope and schedule of the subproject activities, including land acquisition and compensation activities.
(vii) Ensuring that safeguard requirements are included in the bidding documents for civil works contracts.
(viii) Following the award of the civil works contract, arranging a briefing to the contractors to raise their awareness on safeguard requirements.
(ix) Coordinating with relevant authorities including MLHS and COL to ensure that land acquisition and compensation activities are completed prior to start of construction activities.
(x) Undertaking regular monitoring and reporting on implementation progress of safeguard plans.

C. Ministry of Land Housing and Survey

122. The MLHS will provide necessary support to MID in carrying out land acquisition activities, particularly with respect to customary land. If a subproject requires acquisition of customary land, the COL will on the request of the Minister appoint an LAO to undertake land acquisition. MID PMU assisted by the PPA consultants and LAO will identify land, landowners, or leaseholders, participate in consultations, prepare declarations and notices as required, and undertake a land acquisition survey.

123. The Valuation Division of MLHS, headed by the Valuer General, is responsible for the valuation of land and buildings.

D. Third-Party Validator

124. To ensure that land compensation offers in the negotiation process are fair, free of coercion and reasonable in the local context, MID will engage a Third-Party Validator to ensure that proposed prices are fair; to observe key stages of the negotiation process; intervene (if required); and record the negotiation process in order to ensure transparency and any imbalance of power or information between the parties is recognised and addressed and as a consequence a fair process is followed. The Third-Party Validator will also participate in the GRM.
125. MID will engage the Third-Party Validator on a contract basis, based on an open and transparent procurement process. The Third-Party Validator will have experience and qualifications in law, land rights or negotiation. The validator must, although engaged by MID, be able to perform their role impartially. Appropriate candidates for the role may include lawyers or magistrates, or civil society organizations in related fields or roles.

126. Terms of Reference for the role of Third-Party Validator are provided in Annex 3

127. TERMS OF REFERENCE FOR THIRD PARTY VALIDATOR

E. Table 3: Resettlement Implementation - Roles and Responsibilities

The following table below summarizes the roles and responsibilities of the respective agencies.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Roles and Responsibilities</th>
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| MID                              | ▪ Overall execution of the project;  
▪ Provides funds for land acquisition and resettlement; and  
▪ Liaison with MLHS |
| MID PMU                          | ▪ Manages the social and resettlement aspects of the project;  
▪ Finalizes project decisions concerning land acquisition (in consultation with MLHS re customary land);  
▪ Manages design and supervision of works;  
▪ Manages consultants on all matters dealing with resettlement and consultations;  
▪ Prepares and updates RPs/DDR;  
▪ Discloses the RF and RPs/DDR;  
▪ Informs APs, local authorities and interested others about the Project, including compensation details;  
▪ Coordinates with MLHS/COL to initiate land acquisition process;  
▪ Prepares inventory of losses (IOL) and census of APs;  
▪ Assist MID to obtain budget and funds for compensation payments from MOFT;  
▪ regarding alienated land: prepares and attends the execution of purchaser agreements; payment of purchase price; registration in Land Registry;  
▪ With civil contractor schedules and makes compensation payments for non-land assets;  
▪ Records the compensation payment process for monitoring and reporting;  
▪ Establishes grievance procedure as outlined in RPs;  
▪ Provides data and other information to external monitoring agencies;  
▪ Prepares completion report; and  
▪ MID makes payments. |
| Ministry of Land, Housing and Survey/ Commissioner of Lands | ▪ Oversees and supports land acquisition and resettlement process as the national agency responsible for land acquisition; and  
▪ Regarding customary and FTE land, through COL completes land acquisition.  
▪ COL appoints LAO;  
▪ Surveyor General carries out land survey or approves survey by MID engineers;  
▪ Valuer General confirms land valuations;  
▪ LAO finalizes agreements and obtains execution by owners; and  
▪ COL registers transfers in Land Registry. |
| ADB                              | ▪ Review and approve all RPs/DDRs under the respective policies of ADB and the government;  
▪ Disclose RP on ADB website; and  
▪ Provide guidance as required based on safeguards monitoring report and supervision missions. |
XIV. BUDGET AND FINANCING

129. Land acquisition, compensation, resettlement, income restoration costs, and monitoring and reporting will be financed by MID. The budget for all such activities will be estimated during feasibility based on interviews with affected leaseholders, landowners, occupants, and communities, and on available information and experience as to market values of land and buildings and other costs. This information will be updated after the detailed survey and investigation, and further consultations with APs. The government will release sufficient budget for implementation of compensation, resettlement, and rehabilitation activities in an appropriate and timely manner.

130. All APs are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of RP and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the RP budget will include contingency funds, i.e., at least 10% of estimated total costs. Compensation must be paid promptly and in full to the APs prior to the possession of the sites or affecting any assets. No deductions from compensation will occur for any reason.

131. RPs prepared under the project will identify all costs of resettlement describing the valuation of land and assets and how replacement value or cost will be achieved. Costs will include compensation (including in-kind compensation); livelihood restoration, where this is required; costs of implementing the RP (including administration charges and contingency); and monitoring.

XV. MONITORING AND REPORTING

132. RPs will set out a monitoring framework consistent with the generic indicators described in this RF. The progress of all aspects of land acquisition and RP implementation will be monitored, particularly the delivery of resettlement entitlements to APs. The PMU will involve customary heads and Community Advisory Committees to assist with the monitoring, where appropriate. The monitoring will also cover APs’ satisfaction with consultation, timeliness of compensation payment, and restoration of livelihoods.

133. PMU will submit compensation completion reports on land acquisition and RPs to ADB, and the findings will be incorporated into the progress reporting of the PMU. ADB review missions will specifically check the progress of any resettlement and land acquisition undertaken for subsequent investments or subprojects.

134. The generic indicators for monitoring are set out in Table 14.

Table 4: Generic Indicators for Monitoring

<table>
<thead>
<tr>
<th>Monitoring Issues</th>
<th>Monitoring Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget and timeframes</td>
<td>Are resettlement implementation activities being achieved against agreed implementation plan?</td>
</tr>
<tr>
<td></td>
<td>Are funds for resettlement being allocated on time?</td>
</tr>
<tr>
<td>Monitoring Issues</td>
<td>Monitoring Indicators</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Has MID received the scheduled funds?</td>
<td></td>
</tr>
<tr>
<td>Have funds been disbursed according to the RP?</td>
<td></td>
</tr>
<tr>
<td>Delivery of DP entitlements</td>
<td>Have the APs received entitlements for land, trees and structures in accordance with the entitlement matrix?</td>
</tr>
<tr>
<td>Consultation, grievances and other issues</td>
<td>Have resettlement information brochures/leaflets been prepared and distributed?</td>
</tr>
<tr>
<td></td>
<td>Has the update RP been disclosed locally?</td>
</tr>
<tr>
<td></td>
<td>Have consultations taken place as planned?</td>
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<tr>
<td></td>
<td>Has a public meeting on the RP been held?</td>
</tr>
<tr>
<td></td>
<td>Have any DPs used the grievance redress procedure? What were the outcomes?</td>
</tr>
<tr>
<td></td>
<td>Have conflicts been resolved?</td>
</tr>
<tr>
<td>APs’ satisfaction</td>
<td>Are APs satisfied with consultation, fairness and adequacy of compensation, and timeliness of compensation payment?</td>
</tr>
<tr>
<td>Effect on livelihoods</td>
<td>Have APs’ standards of living been restored or improved?</td>
</tr>
</tbody>
</table>
IN VOLUNTARY RESETTLEMENT SCREENING CHECKLIST

<table>
<thead>
<tr>
<th>Project Component:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location and impact area:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Probable Land Acquisition and Resettlement Effects</th>
<th>Yes</th>
<th>No</th>
<th>Not Known</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will there be land acquisition?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Are the ownership status and current use of the land to be acquired known?</td>
<td></td>
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<td></td>
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<tr>
<td>Will infrastructure be located within existing public roads or rights-of-way (ROW)?</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Will there be loss of shelter and residential land?</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Will there be loss of crops, trees, or structures?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will there be business losses?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will there be loss of income sources or means of livelihood?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will there be involuntary restrictions on land use apply or on access to parks and protected areas?</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Will people lose access to natural resources, communal facilities and services?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Will sensitive cultural or historic sites be affected?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Information on Displaced Persons**

Is there an estimate of the likely number of persons who will be displaced?  
[ ] No    [ ] Yes

If yes, approximately how many? _____________________

Is there an estimate of the likely number of vulnerable persons?  
[ ] No    [ ] Yes

If yes, approximately how many? _____________________

Category for Involuntary Resettlement Impacts*:  
A [ ]   B [ ]   C [ ]

Name of Person Conducting the Screening: ________________________________.

Date: ________________________________.

Signature: ________________________________.
OUTLINE OF A RESETTLEMENT PLAN

1. This outline is for preparation of Resettlement Plans (RPs) for all subprojects that involve involuntary resettlement impact. The substantive aspects of the outline will guide the preparation of RP for the subproject, although not necessarily in the order shown.

A. Executive Summary

2. This section provides a concise statement of project scope, key survey findings, entitlements, and recommended actions.

B. Project Description

3. This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.

C. Scope of Land Acquisition and Resettlement

4. This section:
   (i) discusses the project’s potential impacts, and includes maps of the areas or zone of impact of project components or activities;
   (ii) describes the scope of land acquisition (provide 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

5. This 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) define, identify, and enumerate the people and communities to be affected;
   (ii) describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
   (iii) discuss the project’s impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
   (iv) identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

6. 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 project design and preparation for engaging stakeholders;
(iv) summarizes the results of consultations with affected persons (APs) (including host communities), and discusses how concerns raised and recommendations made were addressed in the RP;
(v) confirms disclosure of the draft resettlement plan to APs 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 APs during project implementation.

F.  Grievance Redress Mechanisms

7.  This section describes mechanisms to receive and facilitate the resolution of APs’ concerns and grievances. It explains how the procedures are accessible to APs and gender sensitive.

G.  Legal Framework

8.  This section:
   (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
   (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;
   (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for 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

9.  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 APs to derive appropriate development benefits from the project.

I.  Relocation of Housing and Settlements

10.  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

11. 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 social safety net through social insurance and/or project special funds;
   (iv) describes special measures to support vulnerable groups;
   (v) explains gender considerations; and
   (vi) describes training programs.

K. Resettlement Budget and Financing Plan

12. This section:
   (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during 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.
   (iv) includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

13. This section:
   (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the RP;
   (ii) includes institutional capacity building program, including technical assistance, if required;
   (iii) describes role of NGOs, if involved, and organization of APs in resettlement planning and management; and
   (iv) describes how women’s groups will be involved in resettlement planning and management.

M. Implementation Schedule

14. 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

15. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the RP. It specifies arrangements for participation of APs in the monitoring process. This section will also describe reporting procedures.
TERMS OF REFERENCE FOR THIRD PARTY VALIDATOR

A. Terms of Reference for Third-Party Validator – Land Acquisition and Resettlement (National, 2-person months)

1. Scope of Work

1. The Third-Party Validator will provide independent verification/validation of the conformance of the negotiation process with the Resettlement Plan (RP) between Ministry of Infrastructure Development and each affected person or group. To achieve this, the tasks required of the validator will comprise:

   (i) review the Project’s Resettlement Framework and RPs;
   (ii) attend initial consultations and negotiation meetings;
   (iii) conduct meetings and interviews with landowners and other APs as required;
   (iv) review minutes of meetings and documentation of other consultations leading up to the conclusion of agreements;
   (v) review complaints submitted under the project’s grievance redress mechanism and participating in the ensuing discussions;
   (vi) validate that agreements are voluntary (through meetings or interviews as required); and
   (vii) validate that agreed compensation and other assistance is fair and reasonable.

2. Note that the Third-Party Validator must disclose any conflict of interest with affected persons.

2. Outputs

3. A brief report documenting the results of the review and validation activities will be prepared and submitted to Ministry of Infrastructure Development and Ministry of Finance and Treasury and will form part of the project’s reporting to ADB.

3. Qualifications

4. The Third-Party Validator should have experience and qualifications in law, land rights or negotiation. The validator must, although engaged by Ministry of Infrastructure Development, be able to perform their role impartially. Appropriate candidates for the role may include lawyers or magistrates, or civil society organizations in related fields or roles.