

# Land Acquisition and Resettlement Framework

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September 2014

## FIJ: Transport Infrastructure Investment Sector Project

Prepared by the Ministry of Finance, Government of Fiji for the Asian Development Bank.

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## CURRENCY EQUIVALENTS

(as of August 2014)

Fiji Dollar – (FJD)  
FJD 1.00 = USD 0.54  
USD = FJD 1.85

## ABBREVIATIONS

ADB	Asian Development Bank
ADRA	Adventist Development and Relief Agency
ALTA	Agricultural Landlord and Tenant Act
APs	Affected persons
CPP	Consultation and Participation Plan (for the project)
DOE	Department of Environment
DOL	Department of Lands and Survey (within Ministry of Lands and Mineral Resources)
DPs	Displaced persons
DSC	Design and supervision consultant
ESMF	Environmental and Social Management Framework
EA	Executing Agency
FPAL	Fiji Ports Authority Limited
FTIIP	Fiji Transport Infrastructure Investment Project
FRA	Fiji Roads Authority
GAP	Gender Action Plan
GOF	Government of Fiji
HIV/AIDS	Human Immunodeficiency virus Infection / acquired immunodeficiency syndrome
IA	Implementing Agency
LARF	Land Acquisition and Resettlement Framework
LARP	Land Acquisition and Resettlement Plan
MAFF	Ministry of Agriculture, Forestry and Fisheries
MOU	Memorandum of understanding
MRMD	Ministry of Rural and Maritime Development and National Disaster Management
MWTPU	Ministry of Works, Transport and Public Utilities
NSS	National safeguards specialist (in DSC team)
SALA	State Acquisition of Lands Act
SPS	Safeguards Policy Statement (ADB 2009)
SSS	Social safeguards/resettlement specialists
TLTB	iTaukei Lands Trust Board
TIISP	Transport Infrastructure Investment Sector Project
WB	World Bank

## GLOSSARY OF TERMS

Meaningful consultation	A process that (i) begins early in the PPTA and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision-making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation measures. This follows the principles of free, prior, and informed consultation (FPIC).
Displaced persons	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Affected persons	All persons living in the project impact zone whether they are land owning, tenants or without title to land. Terms of affected persons and displaced persons are used interchangeably in this report, they have the same meaning.
Indigenous peoples	This is a generic term used to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by other groups; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. Many indigenous peoples have become minorities in their own country, but in Fiji they remain the majority and do not suffer specific discrimination or disadvantage.
Physical displacement	This means relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Economic displacement	Loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Gender mainstreaming	The process of ensuring that gender concerns and women's needs and perspectives are explicitly considered in projects and programs, and that women participate in the decision-making processes associated with

	development-based activities.
Country safeguard system	This is the legal and institutional framework of Fiji and it consists of its national, sub-national, or sectoral implementing institutions and relevant laws, regulations, rules, and procedures that pertain to the policy areas of social safeguards (social and environmental).
Significant impact	The loss of 10% or more of productive assets (income generation) or physical displacement and/or both.
iTaukei	Indigenous Fijian people. iTaukei land is customarily owned
Mataqali	Indigenous Fijian clan who are usually the landowning unit.
Turaga-ni-Koro	Administrative leader of a village in Fiji.

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## A. Introduction

1. The proposed Transport Infrastructure Investment Sector Project (TIISP; the project) will be financed under the Asian Development Bank (ADB) and World Bank (WB) loans with counterpart funding from the Government of Fiji. The Project supports the Government of Fiji's (GOF) Roadmap for Democracy and Sustainable Socio-Economic Development, which emphasizes the lack of transport as a constraint for Fiji's economic and social development. It also responds to the requirements of the new 2013 Constitution of Fiji, which states that: "The state must take reasonable measures within its available resources to achieve the progressive realization of the right of every person to have reasonable access to transportation." (34(1)). As approximately 55% (412,425)<sup>1</sup> of Fiji's population lives in the rural areas, and approximately 44% of rural people live in poverty, improving service delivery and income opportunities for the rural population is a key priority.
2. The impact of the Project will be improved access to markets, employment opportunities and social services. The outcome will be safer, efficient, resilient land and maritime transport infrastructure in the project area. There are two main outputs: (a) rehabilitated and climate resilient land and maritime transport infrastructure, and (b) efficient project management support and institutional strengthening. This relates to improving the capacity of Fiji transport agencies and related departments to manage bridge, roads, and jetty assets; also to provide greater levels of accountability and transparency in safeguards, in particular, land acquisition and resettlement processes.
3. The project activities comprise physical works including new infrastructure and/or the upgrading, renewal, rehabilitation and/or repair of public roads, bridges and/or rural maritime infrastructure in Fiji and non-physical activities such as institutional strengthening and capacity building within the transport sector.<sup>2</sup>
4. The project will be implemented following a sector loan modality. The nature of the sector project is that the types of subprojects to be undertaken are known in general terms but only a small number of sub-projects are identified at the project preparation stage. Sub-projects will be included in the sector project provided they meet the selection criteria.
5. Two sample sub-projects have been prepared following the due diligence requirements and serve as examples. Both sample sub-projects selected are for repair or replacement of two bridges in the upper Sigatoka Valley, and therefore small amounts of land will need to be acquired, either temporarily or permanently. This will be less than one hectare at each site. From a safeguards perspective the sample subprojects demonstrate application of the land acquisition and resettlement framework (LARF) and preparation of land acquisition and resettlement plan (LARP).

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<sup>1</sup> Fiji Bureau of Statistics, Census 2007

<sup>2</sup> Public roads include national main roads (formerly main, secondary and country roads) and municipal roads under the responsibility of the Fiji Roads Authority (FRA), and rural roads under the Ministry of Rural and Maritime Development and National Disaster Management (MRMD). Rural maritime infrastructure includes wharves, jetties, channels and associated harbor works and maritime navigation aids, but not including the main port infrastructure under Fiji Ports Corporation Ltd (FPCL)

6. Other subprojects will include a variety of physical works including roads, bridges, navigation aids, jetties and other maritime infrastructure. The work will be mostly to upgrade, rehabilitate and/or repair existing structure. It is not anticipated that there will be any physical displacement, as engineering designs will try to minimize the amount of land needed and will avoid physical impacts. Most work will involve existing structures, and therefore is not likely to have significant resettlement impacts on local communities.

7. It is estimated that each subproject will require on an average around 1 ha of land acquisition and, therefore, there may be around 20-30 ha of land acquisition need for the sector project (less than 30 bridges & 30km road). The subproject selection criteria exclude any subprojects with significant land acquisition and resettlement impacts. The project is classified as Category B on resettlement.

8. During project preparation, an LARP has been prepared based on available information of affected/displaced persons (APs/DPs). The information for other subprojects will be available only during implementation, so the LARP for these subprojects cannot be prepared before the project appraisal. The LARP for these subprojects will be prepared during project implementation.

9. This LARF outlines principles and procedures for preparing the LARP for subprojects. It is based on applicable laws of Fiji and ADB and WB policy requirements on resettlement.

The executing agency (EA) will be the Ministry of Finance and the implementing agency (IA) will be the Fiji Roads Authority (FRA).

## **B. Objective, Policy and Legal Framework**

### **(i) Objectives**

11. The LARF has been prepared on the basis of the following legal and policy requirements: (i) the State Acquisition of Lands Act (SALA) of Fiji (Chapter 135 of Laws of Fiji); (ii) the ADB *Safeguard Policy Statement*; (iii) World Bank *Operational Procedures: Involuntary Resettlement (OP/BP 4.12)*. It provides guidelines on due diligence, social assessment, and preparation of LARPs for subprojects that may involve any form of land acquisition and resettlement impacts. It aims to provide safeguards to potential affected/displaced persons (DPs), and to ensure that the impacts of all subprojects are identified, mitigated and compensated adequately.

12. The main objectives of the LARF are that:

- Any adverse impacts on existing human settlements, land, buildings and other assets and livelihoods, will be avoided or minimized to the greatest extent possible; and
- In the case of any adverse impact, affected persons will be compensated and assisted so that they are able to maintain or improve their standard of living, access to basic services and infrastructure, production levels, and income earning capacity.

## **(ii) Fiji Laws on Land Tenure and Ownership**

13. Around 90 percent of land in Fiji is owned by indigenous Fijians, and termed native or iTaukei land owned by the *mataqali*. Of the remainder, about 8% is freehold and Government owns the balance of 2%.

14. Native land is communally owned and cannot be bought or sold except to the state for public purpose. The iTaukei Land Trust Board (TLTB) is the statutory body with the responsibility to administer, develop and manage this land on behalf of its owners and for their benefit according to the Native Land Trust Board Act. The TLTB identifies the land required for use by traditional Fijian communities and makes the remainder available for leasing. The TLTB, not the actual owners, issues the legally binding leases or agreements, which can be for agricultural, commercial, industrial or other uses.

15. All farmers of native land are either tenants or landowners farming with the permission of the own landowning clan. Some of these may have formalized their status by leasing the land and so have become tenants. Other tenant farmers will be either iTaukei from other islands or parts of Viti Levu, or Indo-Fijians.

16. The Agricultural Landlord and Tenant Act (ALTA) governs all agricultural leases of more than 1 ha and the relations between landlords and agricultural tenants. Minimum 30-year and maximum 99-year leases are allowed with no right of renewal. In practice, most leases are for 30 years. In the event of non-renewal, the tenant must vacate the land after a grace period.

17. The maximum annual rental is 6% of the unimproved capital value. In theory, the rental rate is reviewed every five years. The tenant can claim compensation for all development and improvements of the property with claims determined by the Agricultural Tribunal. Tenants can, however, only be compensated for improvements if the TLTB has granted prior approval to these improvements. In practice, there is a fixed schedule of lease rental rates under the ALTA, which has not been updated since 1997. The TLTB has, however, introduced a lump sum payment to induce landowners to lease their land for an additional 30-year period, but this “new lease consideration” has been applied mostly only to Indo-Fijian and not often to Fijian farmers.

18. The ALTA has been supplemented by the 2009 Land Use Decree No.36 (2010) because it was recognized that the requirement for tenants to vacate land once the fixed lease and grace period have expired, causes both social and economic hardship. Government therefore amended the land laws to increase the flexibility of leases and to facilitate leasing of lands, which are currently idle or unutilized, under terms and conditions which are meant to be attractive to both the landowners and tenants. The decree provides for longer tenure leases (up to 99 years) for agricultural and commercial development. Reserve land is presently not leased, but reserved by Mataqali/Government for future use.

## **(iii) Fiji Laws on Land Acquisition and Compensation**

19. The Constitution of Fiji provides for protection of private property against arbitrary expropriation. The Constitution states that native (iTaukei) land cannot be permanently alienated except for the public purpose. It requires just compensation for all land or rights acquired by the government.

20. Land acquisition in Fiji is governed under the State Acquisition of Lands Act<sup>3</sup> (SALA). Under the Act, all types of land can be acquired for public purposes. The law provides that in cases of land acquired for public purposes, legal title holders have a right to compensation. The law also provides for the right of land owners to legal proceedings for solving disputes and grievances. The customary rights of indigenous peoples without formal title are also protected.

21. The SALA guarantees compensation to those with recognized legal rights or interests in land. Compensation is paid at market values effective from the date at which notice of the State's intention to acquire the land is given. Structures are, however, compensated only at book/depreciated values. Compensation includes for land, crops and trees, damage to portions of land not acquired (if any), changes in use and restrictions on use of any unacquired portions – and any reasonable expenses associated with necessary changes of residence or places of business.

22. In some areas, there may be, however, a substantive difference between local market prices and the prices overseas investors are willing to pay. There is now realization that there needs to be recognition of new values in certain areas. These new values would derive from recent sales prices to overseas investors. However, this is unlikely to be currently applicable to the Sigatoka Valley, a poor rural area where most subprojects are expected to be located.

#### **(iv) ADB SPS and World Bank Policy Requirements**

23. ADB and WB policies on resettlement address both: (i) social and economic impacts, permanent or temporary, caused by acquisition of land and other fixed assets; and (ii) changes in the use of land or restrictions imposed on land as a result of a Bank operation. An affected or displaced person (AP/DP) is one who experiences such impacts. The objectives of the policy are: (i) to avoid resettlement impacts wherever feasible; (ii) to minimize resettlement impacts by choosing alternative viable project options; and (iii) to ensure that affected people receive assistance, so that they will be at least as well off as they would have been in the absence of the project.

24. ADB has the following policy principles that are similar to World Bank principles on involuntary resettlement:

(i) Screen projects early on to identify past, present, and future involuntary resettlement impacts and risks.

(ii) Carry out meaningful consultations with affected persons, host communities, and concerned non-governmental organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns.

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<sup>3</sup> Originally the Crown Acquisition of Lands Act, 1940 – subsequently amended: by Ordinance numbers 24 of 1940, 11 of 1942, 15 of 1943, 9 of 1955; Orders of Jan 1967 and Oct 1970 and Act of Parliament (Act No 1 of 1998).

(iii) Improve or at least restore, the livelihoods of all displaced persons through (a) land-based resettlement strategies when affected livelihoods are land-based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods; (b) prompt replacement of assets with access to assets of equal or higher value; (c) prompt compensation at full replacement cost for assets that cannot be restored; and, (d) additional revenues and services through benefit sharing schemes where possible.

(iv) Provide physically displaced persons with needed assistance, including the following: (a) secure land tenure on land identified for new sites and (b) if necessary transitional support and development assistance such as land development, credit facilities, training, or employment opportunities.

(v) Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards and provide access to land and other resources that is both legal and affordable.

(vi) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.

(vii) Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation of loss of non-land assets.

(viii) Prepare a draft resettlement plan and disclose a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule. Implement resettlement as part of the project.

(ix) Pay compensation and provide other resettlement entitlements before physical or economic displacement and implement the resettlement plan under close supervision throughout project implementation.

(x) Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring and disclose these monitoring results.

**(iv) Comparison of ADB and World Bank Requirements and Fiji Laws on Land Acquisition**

25. The following table provides an analysis of gaps between ADB/WB requirements and Fiji Laws and gap filling measures on land acquisition and resettlement.

**Gaps and gap-filling measures**

ADB and WB Requirements on Involuntary Resettlement	Fiji Laws on Land Acquisition/ Resettlement	Gaps	Gap-filling Measures
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<b>ADB and WB Requirements on Involuntary Resettlement</b>	<b>Fiji Laws on Land Acquisition/ Resettlement</b>	<b>Gaps</b>	<b>Gap-filling Measures</b>
<p>Avoid involuntary resettlement wherever possible.</p> <p>Minimize involuntary resettlement by exploring project and design alternatives.</p>	<p>The Constitution and the State Acquisition of Land Act (SALA) set out the conditions under which land may be compulsory acquired. The property can only be acquired for the public good, and with the payment of reasonable compensation.</p>	<p>No explicit reference to the need for minimizing resettlement impacts by exploring alternatives.</p>	<p>The LARF/RP includes measures on avoiding/minimizing land acquisition and resettlement impacts.</p>
<p>Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels.</p> <p>Improve the standards of living of the displaced poor and other vulnerable groups.</p>	<p>General principles of compensation for land and assets are set out in the Constitution and SALA.</p>	<p>FIJI Laws do not prescribe measures to restore/improve standard of living.</p>	<p>The LARF/RP includes measures on compensation at replacement cost for affected land/assets and to restore/improve living standard of DPs.</p>
<p>Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>	<p>SALA sets out the process for land investigation which includes identification of affected landowners and their assets.</p>	<p>No specific requirements for census, cut-off date, impact assessment and scoping of resettlement planning.</p>	<p>The LARF/RP includes measures on survey/census, cut-off-date, assessment of impacts and resettlement planning.</p>
<p>Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and</p>	<p>SALA sets out the process of notification of the land acquisition.</p>	<p>No specific provisions for preparing and implementing LARP based on meaningful consultations with DPs, including the poor, the landless, elderly, women, and other vulnerable groups</p>	<p>The LARF/RP includes measures on consultations with DPs, including vulnerable groups, during preparation and implementation of RPs.</p>

ADB and WB Requirements on Involuntary Resettlement	Fiji Laws on Land Acquisition/ Resettlement	Gaps	Gap-filling Measures
ensure their participation in consultations.			
Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population.	SALA provides for appeal against a declaration of public purpose for compulsory acquisition and amount of compensation.	No requirements for a project-specific grievance redress mechanism.	The LARF/RP includes measures on project-specific grievance redress mechanism.
Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.	SALA sets out the process that any person who claims to be entitled to an interest in compulsory acquired land may make a claim for compensation (within 3 months). SALA also sets out the requirements for payment and the provisions for assessing compensation.	No specific requirement for land-based resettlement, replacement of assets, compensation at replacement cost, and benefit sharing.	The LARF/RP includes measures of on-site relocation, replacement of affected structures, compensation at replacement cost and priority of project employment to DPs.
Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land	No equivalent provision.	FIJI laws have no specific provisions on relocation, transitional support and civic infrastructure and services.	The LARF/RP includes measures on-site relocation of affected structures, transitional allowances and restoration of civic infrastructure.

<b>ADB and WB Requirements on Involuntary Resettlement</b>	<b>Fiji Laws on Land Acquisition/ Resettlement</b>	<b>Gaps</b>	<b>Gap-filling Measures</b>
development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.			
Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	The Constitution and SALA include general principles of compensation.	FIJI Laws do not prescribe measures on improvement of living standard and restoration of livelihoods of the poor and vulnerable groups.	The LARF/RP includes measures on restoration/improvement of livelihoods of DPs, including the poor and vulnerable groups.
Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.	DOL has Procedures for Land Acquisition through negotiated settlement or purchase.	No provision of maintaining the same or better income and livelihood status for APs.	The LARF/RP describes measures on maintaining or improving livelihoods of APs through paying compensation at replacement cost and other assistance.
Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets	--	There is nothing in the FIJI Laws to address the issue of displaced persons without land title or legal land rights.	The entitlement matrix for the project provides for resettlement assistance and compensation for non-land assets to non-titled DPs as well.
Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	--	FIJI Laws have no provision of preparing LARP.	The LARF includes measures on preparation of LARP for subprojects involving land acquisition/resettlement impacts.
Disclose a draft	SALA sets procedures in	No	The LARF/RP includes

<b>ADB and WB Requirements on Involuntary Resettlement</b>	<b>Fiji Laws on Land Acquisition/ Resettlement</b>	<b>Gaps</b>	<b>Gap-filling Measures</b>
resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	notification of landowners at different stages of land acquisition steps.	requirements on disclosure of an LARP.	disclosure measures, including posting of documents on website as well as providing information to DPs.
Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.	No explicit provision	-	Land acquisition/resettlement costs will be included and financed out of the project cost.
Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	SALA sets timing for payment of compensation.	SALA states within 30 days of notification, but does not specifically state before displacement. DOL Procedure provides for 75% before construction and 25% after construction.	The LARF/RP includes measures on full payment of compensation for affected assets before start of civil works on affected land.
Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline	No equivalent provision	Gap.	The LARF/RP includes monitoring measures, including requirements of semi-annual safeguard monitoring report.

ADB and WB Requirements on Involuntary Resettlement	Fiji Laws on Land Acquisition/ Resettlement	Gaps	Gap-filling Measures
conditions and the results of resettlement monitoring. Disclose monitoring reports.			

26. In terms of major gaps, the Fiji SALA and its regulations do not require compensation payments to affected persons who have no recognized legal right or interest in the land, and only require compensation on a depreciated/book value basis for structures. Informal sharecroppers and squatters (non-titled) are, therefore, not entitled to any kind of compensation for the land they use. However, to comply fully with ADB and WB resettlement requirements, any non-titled people affected by the Project will be entitled to compensation for loss of structures, crops, trees, or incomes they derive from land, regardless of whether they have formal title to the land or not. And, all compensation including for structures will be at replacement cost without any deduction of depreciation.

27. The SALA does not provide relocation sites (in the case of resettlement) and there is no provision for assistance for the rehabilitation of adversely affected people. An express objective of the project is to avoid the need for physical relocation and therefore there may be no need for development of resettlement sites under the project. However, such measures are included in the LARF in case any subproject may involve such impacts.

28. The Fijian law does not provide for any special assistance for vulnerable groups or the poorest section of those adversely affected, but it does not prevent Government from providing assistance to adversely project affected people including vulnerable groups. The LARF includes provisions to ensure that affected people particularly vulnerable and disadvantaged people are assisted to improve their living standards.

## **C. Project Principles, Entitlements and Procedures**

### **(i) Project's Policy Principles**

29. The project's LARF has adopted a set of resettlement policy principles for the project which apply to all subprojects, as relevant. The principles are:

- Land acquisition will be avoided or minimized through careful engineering design during detailed design. There will be no or minimum physical displacement of people. The Project will avoid subprojects involving resettlement impacts of significant nature.
- Land acquisition and resettlement impacts will be assessed on time and LARP prepared based on social assessment. Draft LARP will be disclosed to affected persons before the subproject appraisal.

- DPs will be consulted during the project cycle.<sup>4</sup> The LARP will be prepared/updated with full participation of the DPs/APs. Effective mechanisms will be established for hearing and resolving grievances.
- DPs will receive compensation at replacement cost from FRA for their loss of land and assets and this should ensure they will be as well off or better off as without the Project. Compensation for vulnerable households will aim to improve their livelihood and will be carried out with respect for their cultural values and specific needs.
- Additional compensation and assistance will be provided, as required, to restore or improve living standards of all APs (as per ADB or WB requirements), including: (i) compensation to non-title holders such as squatters and sharecroppers recorded as of the cut-off date; (ii) compensation for any loss of livelihoods or income; (iii) compensation at full replacement cost for structures without deduction of depreciation, inclusive of transaction costs; (iv) compensation for transaction costs such as administrative charges, taxation and registration and titling costs; and (v) income-restoration measures.
- All compensation will be fully paid to DPs prior to the commencement of site clearance at each subproject site.
- Absence of formal title is not a bar to compensation and assistance, and particular attention will be paid to women and other vulnerable groups, as well as to sharecroppers or tenants without legal rights.
- Land acquisition will be conceived as part of the Project and costs related to the land acquisition/resettlement will be included and financed out of the Project cost as part of the GoF contribution to the Project cost.
- The impacts of the subprojects, including unforeseen losses and damages that may occur during either construction or operation, will be carefully monitored and remedial steps taken as required.

### **(iii) Eligibility for entitlements and types of displaced persons**

30. The date of land survey will be the “cut-off-date” for eligibility of compensation and rehabilitation assistance. Landowners and/or users that have documented claims to affected land, crops, and trees as of the cut-off date will be eligible for compensation and/or rehabilitation assistance as per the project policy.

31. The main categories of displaced persons eligible for compensation include:

- a) DPs with formal legal rights (Type 1). These are generally the customary owners of *iTaukei* lands or those with individual freehold titles recorded in the title registry and cadastral records in Fiji. This category also includes leaseholders with formal legal rights as tenants.
- b) Persons whose rights are not formal or legal, but whose claims on land or assets are recognized under national laws, such as those having informal leases on *iTaukei* land.

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<sup>4</sup> As the process is contingent upon clear boundary demarcations, successful negotiation and consensus amongst sellers, the FRA and TLTB are required to conduct the negotiation process through continuous dialogue with land-owners. This is seen as the most expeditious manner to minimize delays

(Type 2). Customary land tenure systems in Fiji are based on usufruct rights to land, and although no titles may exist, in practice some *mataqali* or individual households are granted use of land by owners, without formal title or leases. Where land records cannot be legalized, documentation and testimony from village chiefs and community leaders may be proposed to determine eligibility for compensation, replacement land, or other resettlement assistance.

- c) Persons with no legal rights to land or assets at the time of assessment or census. (Type 3). This may include sharecroppers, squatters, or wage labourers who depend upon the land acquired. They have neither legal rights nor recognizable ownership claims, but if the project land acquisition destroys their livelihoods, they are considered displaced persons and are entitled to receive resettlement assistance.

#### (iv) Entitlement Matrix

32. A common matrix in the table below has been developed for the project taking into account potential impacts under the Project as a whole. This will guide the preparation of subproject specific entitlement matrix that will be developed as part of the LARP for each subproject. The subproject level matrix will show the exact types of losses and definition of the entitled person, or unit of entitlement.

**Matrix of Entitlements**

Impact/Type of Loss	Application	Entitled DPs	Entitlement
Temporary occupation including any damages within land used temporarily  Loss of access during construction causing inconvenience to DPs or impacting livelihoods	Customary land required	Landowners/users of customary land	Rent as negotiated with landowners. All temporary use of land will be through written agreement with the landowner/lease-holder and land will be returned to the landowners after rehabilitation to original or better condition.  Compensation at replacement cost for any damages within land used for project.  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.
	Alienated land required	Owners, Lease-holders, users	
Permanent loss of land	Customary land required for the project construction	Landowners/users of customary land	Cash compensation at replacement cost.
	Alienated land to be acquired for the project construction	Owners/Lease-holders/Users	Cash compensation at replacement cost; OR New lease for alternative land, with no cost to DPs for relinquishing original lease and processing alternative lease.
Loss of gardens, trees, crops, perennials, and/or productive trees/plants	Standing crops, trees in the ROW	Owner(s) of crops or trees irrespective of legal status	Compensation at replacement cost as determined by the Forest Department for timber trees and the Department of Agriculture for crops or productive plants/trees.
Partial or total removal of	Structures in ROW	Owner of structure	Compensation at replacement cost without deductions for depreciation or salvaged materials;

structure (house or commercial structure)		irrespective of legal status	and assistance in locating suitable alternative housing or commercial building.  Shifting allowance <sup>5</sup> for relocating household or business goods.
Affected vulnerable households	Vulnerable households losing assets to the project	Vulnerable households identified through consultation with community leaders. In the project's context vulnerable groups include households headed by women, elderly, disabled, poor households, and physically relocating households.	Access to training programs developed under the Project; Employment during construction and maintenance for two household members (one male and one female). Vulnerable groups will get priority in these activities.  Additional cash assistance depending on extent of disruption to vulnerable AP's livelihood mechanism. Amount to be specified in the LARP.
Displacement of community structure	Community structure or resources within ROW if removed for project interest	Community representatives as identified by the social impact assessment	Replacement as agreed with community or cash compensation replacement cost without deductions for any materials salvaged.  Assistance with dismantling and reconstructing structure or property.
Unforeseen or unintended impacts	Any impact identified during implementation	Concerned affected people	Determined as per the spirit of this LARF.

#### (v) Methodology for Valuation of Compensation

33. FRA prepares initial valuations using local market prices, and data in this regard is obtained from the Valuation Division of the MLMR. The FRA may also involve the Department of Fisheries to assess compensation requirements, if any, regarding traditional fishing rights in river areas where bridges are expanded or altered. Finally determined prices, nonetheless, come about through negotiation with affected persons, because often market conditions for the replacement of land and assets are absent.

34. The current practice is to undertake valuation by FRA valuers and provide a private valuer to affected landowners in case of any disagreements. The FRA will continue providing the private valuer under the project, as a regular practice. It will inform the affected landowners at the beginning of the negotiation process about the availability of a private valuer and pay the valuer's fee if landowners decided to use this service.

35. The compensation to be offered will be at replacement cost based on actual market price of affected land and asset. If the government policy does not provide for full replacement costs (e.g. for transaction costs), the project's compensation will include top-up payments or

<sup>5</sup> The shifting/relocation allowance will be agreed between the FRA and the household/DP on a case-by case basis. The shifting allowance will be adequate to cover (i) dismantling of the structure; (ii) transport of structure/housing materials salvaged and all household effects/commercial goods; and (iii) costs of alternative accommodation, if required, while the structure is being re-built.

assistance to cover the full replacement cost.

36. Full replacement cost is the cost of replacing an expropriated asset of the same or better quality in the current land and/or asset. Full replacement cost includes the following elements:

- a) **Fair market value:** Where markets function, fair market value can be assessed by examining land sales records in the last 3 or 4 years for similar properties. In parts of Fiji, land values differ widely because of factors such as proximity to the coast (for tourist developments), or fertility and flatness of agricultural land (for market gardening). In such cases, the market value is the going price of an asset in the open market, but where markets do not exist (as in much of rural Fiji), field investigations are needed to collect baseline data to value assets, and to ensure that the valuation is realistic.
- b) **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 be paid by the project and are counted as part of the replacement cost.
- c) **Interest accrued:** When there is a gap of time between the agreed schedule and the actual payment of compensation, the interest that accrues over that period must be included in the replacement costs.
- d) **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 the project. 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.
- e) **Depreciation** will not be considered when valuing compensation for affected structures.

#### **(vi) Procedures for Land Acquisition and Compensation**

37. Land acquisition procedures will be initiated once land surveys are completed, the design is done, and the alignment plan is agreed and approved by the FRA. The FRA will forward outline plans to the DOL, showing the estimated land-take, and request them to acquire the land. The DOL, on receiving the request, passes the alignment plan to the statutory section to prepare acquisition diagrams and carry out a search on land owners affected. After this, the plans are forwarded to the Valuation Division, which will assess compensation requirements and obtain all the land clearances. Once the Valuation Division has received the consent of the landowners, field inspections are carried out and a valuation report prepared based on an inventory of losses, taking into account relevant data and sales analysis. FRA's lands and valuation officers work with DOL and relevant agencies in this process, including valuation of compensation. As stated in the previous section, FRA will also inform landowners of availability of the service of private valuer at the beginning stage of this process.

38. Where *iTaukei* lands are involved a meeting will be convened with members of the identified *mataqali*, arranged by the FRA (usually the Lands Liaison Officer), assisted by the Provincial Council, to undertake negotiations to come to agreed values. The FRA will send the

proposal to the TLTB, which will negotiate on behalf of the landowners. The *mataqali* owning the land will, however, have a final say whether to accept or reject the TLTB recommendations.

39. A Sale and Purchase Agreement is then entered into between the TLTB on behalf of the *mataqali*, and DOL. The Sale and Purchase Agreement is forwarded to the TLTB for its Board's consent, accompanied by the relevant fees. Cheques are then processed and paid to the TLTB Board, based on estimated area, to be adjusted after the final survey and completion of works.

40. Leasehold native land follows a similar process, where a field inspection is carried out, a Valuation Report prepared and a Price Agreement executed. The Agreement is sent to the TLTB with relevant consent fees for the Board to approve. If the lease is a registered one, then a caveat is lodged in the Titles Office (as an interim arrangement to prevent changes before the Sale and Purchase agreement can be finalized). The price paid for land will sometimes need to be divided between lessees and owners. Crown or state leases follow a similar process but do not require the Director of Lands consent.

41. In the case of freehold lands, after discussion with the DOL, the Valuation Division will prepare a Sale and Purchase Agreement and negotiate the purchase.

42. When compensation has been paid, a Certificate of Transfer is prepared and sent for execution. The FRA is then able to begin construction.

43. Following completion of the construction work, a final survey plan is done and once approved, this is viewed against the original acquisition diagrams. If the land used is found more than the original estimate then compensation will be adjusted to the exact size of the land used. In the case of leasehold land, after final surveys have been approved, compensation is adjusted in case of any excess land and surrender documents are prepared. The lessee is asked to provide lease documents for registration of the surrender at the Titles Office. The surrender documents are then forwarded to the TLTB prior to registration. The caveat is then withdrawn and title is returned to the owners.

44. FRA's social impact manager will work closely with the DOL and the TLTB to ensure safeguards are implemented as set out in the LARF.

## **D. Assessment of Impacts and Preparation of LARP**

### ***Subproject Screening***

45. The project's screening process will identify potential impacts of land acquisition and adopt necessary measures to avoid or minimize such impacts. FRA will screen impacts by completing the Subproject Screening Form as found in Annex 1. On the basis of the screening, FRA will adopt one of the following approaches:

- i. Further redesign of the subproject to avoid/minimize land acquisition/resettlement.
- ii. Preparation of the LARP if there are unavoidable land acquisition/resettlement impacts.

In the event of no land acquisition/resettlement, this will be reported in the subproject report along with a due diligence report confirming that there is no need to prepare the LARP. The Due Diligence Report will include:

- A brief description of the site including a location map and pictures;
- A description of proposed works and type of activities;
- Confirmation of land status, ownership, and usage (supported by land records);
- Findings of the field visit and observations on the subproject site;
- Process and outcome of consultations with stakeholders. Records of meetings (attendance, minutes, etc.); and
- Confirmation that there are no land issues and a LARP is not needed.

46. The subproject report, including the Subproject Screening Form and all other relevant information about land acquisition/resettlement, will be submitted to ADB together with the feasibility study report.

### ***Preparation of LARP for Subprojects***

47. The LARP will be prepared for subprojects involving land acquisition/resettlement impacts. The Annex 2 provides the outline of the LARP. The FRA will prepare the LARP with assistance from DOL, TLTB and other relevant authorities in the subproject area, and with close consultation with village leaders and DPs. The LARP must be submitted to and approved by ADB prior to awarding a contract for civil works for subprojects involving resettlement impacts.

48. The preparation of the LARP will include the following steps and activities:

- i. The FRA will organize consultations with DPs. The purpose of the consultations is to inform the DPs about the scope of works; and, the land acquisition/resettlement requirements. In the presence of village leaders, landowners/DPs and other stakeholders, FRA will identify the affected land and assets on the ground.
- ii. The FRA will conduct a detailed measurement survey (DMS) based on detailed engineering design and demarcation of land to be acquired. The DMS will include a) a census and socio-economic survey of APs, and b) measurement and inventory of affected land and other assets. The census and inventory of losses survey will count all DPs and a detailed list of affected land and other assets will be prepared. It will be conducted in a participatory manner to estimate impacts and losses. The socio-economic survey may cover all DPs if their number is small, but it will cover at least 10% of DPs and 20% of severely affected DPs. The surveys will document existing socio-economic conditions of DPs, including (a) demographic, education, and occupational profiles; (b) livelihoods and income; (c) type of land, use of land and other resources; and, (d) other relevant social aspects. The data will be disaggregated by gender and other relevant aspects such as number of DPs belonging to vulnerable groups.
- iii. A draft LARP will document the types and amounts of land that will be required. It will also summarize numbers of DPs; how they are affected by the losses; compensation and other assistance to which they are entitled to; and, amounts of compensation. The details will vary depending on the magnitude of land acquisition/resettlement. The LARP will also identify gender concerns and special measures for vulnerable DPs (if any)

through consultations with affected communities. The LARP will include sufficient budget and specify source of funds, and confirm that compensation is at replacement costs based on market prices. There will be a cut-off date for the eligibility of compensation and/or rehabilitation assistance. The LARP will include an implementation schedule ensuring that civil works will not commence until compensation and/or assistance has been paid to DPs.

iv. The draft LARP will be presented to DPs and other stakeholders in a public meeting. DPs will be encouraged to express any concerns or suggestions. Copies of the draft LARP and/or summary brochures will be available during these consultations. The subproject LARP will be finalized, incorporating comments and suggestions of DPs.

v. The LARP will be submitted for approval to FRA and ADB. It will be disclosed to DPs and posted on ADB's website.

vi. The LARP will be coordinated with the government's land acquisition procedure.

## **E. Consultation, Participation and Disclosure**

49. Information dissemination, meaningful consultation, and participation of DPs and key local agencies will be undertaken to maintain transparency, raise awareness, reduce potential conflicts and delays, and achieve the objective of the LARP. The actions that will be undertaken for participation in the various stages of land acquisition and resettlement planning are:

- Identification of stakeholders, who will be involved in planning and implementation: DPs, local officials (Rural Local Authority, Provincial Administration, Provincial Council, District Office), local communities at subproject sites, project authorities, implementing agencies, and NGOs.
- Dissemination of information (including project entitlements), and appropriate mechanisms for feedback and facilitation of the consultation process.
- Setting of a grievance redress mechanism and procedures.
- Community participation in monitoring the LARP.

### **(i) Mechanisms for consultation**

50. A variety of mechanisms will be utilized to consult with stakeholders and DPs during preparation and implementation of LARP including: (a) village meetings involving both women and men from communities - to consult them and to disseminate information about the subproject; (b) specific facilitated meetings with DPs including mataqali leaders, land owners, and users affected directly by the project; (c) separate meetings with women DPs and vulnerable households; (d) key informant interviews with relevant government staff, *mataqali* leaders, *Turaga-ni-Koro*, chiefs, women, religious and youth leaders (d) one-to-one socio-economic household survey of DPs and affected communities; (e) participatory compilation of the Inventory of Losses, and (f) informal conversations with passers-by and transport users near the subproject sites. Consultations will be undertaken in the Fijian vernacular where possible, or translated from English into the local Fijian dialect. Household interviews or focus group discussions with Indo-Fijians should, where possible, be conducted in Hindi or English.

51. An important incentive to greater participation is to ensure consultations are undertaken at venues and times that do not disadvantage women. Where it is impossible or inconvenient for women to attend community meetings or DP consultations because of child care responsibilities, caring for the sick and elderly, or because of traditional norms, women will be consulted in their own homes.

## **(ii) Responsibilities for Consultation and Participation**

52. The key organisations involved in facilitating and managing the participation, consultation and disclosure for the land acquisition, resettlement, and compensation process are:

- a) The FRA will have overall responsibility for consultation and participation of stakeholders. One of the FRA's staff will facilitate community liaison activities.
- b) The safeguards specialists at FRA will ensure that consultation occurs as planned, and that information is disclosed in a timely way. They will be responsible for preparing information brochure and disseminating it widely to affected communities and local authorities.
- c) The DOL Valuation Division in the MLMR will work with/assist FRA land officers in (a) village consultation meetings; (b) all initial valuations; (c) identification of owners and leaseholders and (d) negotiations with land owners for purchase of land. Their role is an important one in terms of informing DPs of the value of their assets.
- d) The TLTB (through the various Provincial Councils) which represents and negotiates on behalf of the *mataqali* land owners, will sign agreements on their behalf and is responsible for securing the consent of *mataqali* members prior to making such agreements.
- e) The Provincial Council will facilitate discussions around land acquisition, between the project's safeguard specialists and communities.

## **(iii) Disclosure Arrangements**

53. Stakeholders and DPs will be provided with relevant, timely information about the project, its land acquisition requirements, and policies on compensation and entitlements during preparation of the LARPs. The draft summarized LARP will be disclosed to DPs and stakeholders, and an information brochure will be available in English and Fijian, summarizing the entitlements and other relevant information. The contents will include:

- a brief description of the project and subprojects
- types of impacts expected
- basic compensation policy and entitlements
- outline of livelihood restoration measures
- consultation and participation of DPs and community
- implementation schedule
- who to contact for additional information

54. This will be disseminated at meetings, and available at local authority offices in affected

districts. The draft and final LARP will also be uploaded to the ADB website upon submission by the FRA. The FRA, the Provincial Council and the TLTB will continue to consult and engage with DPs, landowners, tenants, prior to and throughout project implementation. Formal consultation with DPs will take place again after detailed design work is completed, and prior to commencement of any project works, to enable compilation of a full census and inventory of losses. Community leaders and representatives from the DOL and TLTB will inform the affected parties and will respond to all compensation related inquiries.

## **F. Compensation Payment, Income Restoration, and Relocation**

### **(i) Disbursement and Payment of Compensation**

55. FRA will coordinate with DOL, TLTB, Provincial Councils and District Administrations to disburse and pay compensation to DPs in accordance with the Entitlement Matrix as described in preceding sections. Compensation will be paid and affected structures, if any, will be relocated before taking possession of land/properties and prior to the start of civil works. Local authorities, particularly, the village leaders (*Turaga-ni-Koro*), will assist in identifying entitled persons and delivering the compensation amounts.

### **(ii) Income Restoration Measures**

56. Apart from direct compensation, implementation of other measures to restore incomes for DPs will be adopted, such as employment in project construction, skills training, community development, or assistance to vulnerable groups, to be specified in the subproject LARP. Income restoration measures will focus on the poor and vulnerable people whose daily income and livelihood sources are at risk.

57. It is estimated that each of the subproject could take up to 18 months to construct and waged labour opportunities will be made available as a priority to DPs. DPs who will be offered employment on the Project, will be provided with on-the-job training by the contractors. Such training will include skills required by subproject activities.

### **(iii) Measures for replacement Land**

58. DPs losing land are expected to find replacement land of equal or better productive potential at nearby places. Because land is owned communally by the *mataqali* unit, in many parts of Fiji it is a relatively simple procedure for clan leaders to reallocate land among their members to ensure no one is disadvantaged by the project. However, in some districts there are land shortages, and replacement land may not be easily available. In this case, alternative income restoration methods will need to be undertaken for DPs losing significant portion of their productive land, such as employment and skills training.

## **G. Grievance Redress Mechanism**

59. In order to receive and facilitate the resolution of DPs' any concerns, complaints, or grievances about the project's safeguards performance, a Grievance Redress Mechanism (GRM) will be developed for the project including at each subproject site. When and where the need arises, this mechanism will be used for addressing any complaints that may arise during the implementation and operation of the project. The GRM will address APs' concerns and complaints promptly and transparently. The GRM will be gender responsive and readily accessible to all DPs at no costs. The GRM will use traditional systems for conflict and dispute resolution and, as far as possible, problems, concerns or grievances will be resolved at the project level. The GRM will not however impede DPs access to the Fiji's judicial or administrative remedies. FRA in coordination with relevant agencies will inform DPs about the GRM.

60. The key functions of the GRM will be to (i) record, categorize and prioritize the grievances; (ii) settle the grievances in consultation with complainant(s) and other stakeholders; (iii) inform the aggrieved parties about the solutions; and (iv) forward the unresolved cases to higher authorities.

61. The subproject manager or engineer supported by FRA's social impact manager and consultants will be the grievance focal point to receive, review and address project related concerns and to resolve land related disputes in coordination with the government authorities. DPs will be made fully aware of their rights during consultations about land requirements. No costs will be charged for anybody making a complaint. DPs will be exempted from any fees associated with resolving the grievance pursuant to the project's grievance redress procedure.

62. Complaints will be recorded and investigated by FRA's social impact manager working with relevant staff of the individual subproject. The FRA will be immediately informed/updated of any complaints from DPs by FRA's social impact manager. A complaints register will be maintained which will show the details and nature of the complaint, the complainant, the date and actions taken as a result of the investigation. It will also cross-reference any safeguard compliance report or other relevant documentation.

63. When subproject implementation starts, a sign will be erected at all sites providing the public with updated project information and summarizing the grievance redress mechanism process including contact details of FRA's social impact manager. All corrective actions and complaints responses carried out on site will be reported back to FRA. FRA will include information from the complaints register and corrective actions/responses in its progress reports to the ADB.

64. In the whole process, relevant Fiji agencies (DOL, TLTB, etc.) will be always available to review public complaints and advice on the FRA's performance for grievance redress.

### **Steps of Grievance Redress Process**

65. Any APs or village head/chief can take a grievance to the FRA or the site office. On receipt of a complaint in any form (in person, telephone, written), FRA's social impact manager for respective site/subproject will log the details in a complaints register. The register will record complaints by date, name, contact address and/or phone number if available, and reason for the complaint. If the complainant desires, their identity may be kept anonymous but the nature of their concern should still be recorded. A duplicate copy of the entry is given to the person making the complaint for their record at the time of registering the complaint. The duplicate copy

given to the complainant will also show the procedure that will be followed in assessing the concern or complaint. For straightforward grievances, the project engineer can make an on-the-spot determination to resolve the issue.

66. FRA's social impact manager will review and find a solution to the problem within two weeks in consultation with village or traditional chief and relevant local agencies. FRA's social impact manager will report back the outcome of the review to the village/traditional chief and affected persons within a week's time. If the complainant is dissatisfied with the, or have received no advice in the allotted time period, he or she can take grievance to FRA CEO. The FRA CEO in coordination with relevant national agency reviews and reports back to the DPs or chief about outcome. If unresolved, or at any time complainant is not satisfied, he or she can take the matter to appropriate court. Both successfully addressed complaints and non-responsive issues will be reported to the ADB by FRA.

67. Table below sets out the process to resolve any project related grievances.

<b>Grievance Redress Process</b>		
<b>Stage</b>	<b>Process</b>	<b>Duration</b>
1	DP/village head or traditional chief takes grievance to FRA's social impact manager	Any time
2	FRA's social impact manager reviews and finds solution to the problem in consultation with village head or traditional chief and relevant agencies	2 weeks
3	FRA's social impact manager reports back an outcome to village/traditional chief/DP	1 week
<b>If unresolved or not satisfied with the outcome by FRA's social impact manager</b>		
4	DP/village head or traditional chief take grievance FRA CEO.	Within 2 weeks of receipt of decision in step 3
5	FRA CEO reviews and find a solution in coordination with relevant agencies	4 weeks
6	FRA CEO reports back the solution/decision to DP/village head or traditional chief	1 week
<b>If unresolved or at any stage if DP is not satisfied</b>		
DP/village head or chief can take the matter to appropriate court		As per judicial system

## **H. Institutional Arrangements and Implementation**

### **(i) Institutional Responsibilities**

68. The following are key agencies responsible for the project's land acquisition, resettlement and compensation activities:

- (i) The Ministry of Finance will be the Executing Agency. The FRA as the Implementing Agency will have overall responsibility of the project including safeguards. The FRA responsibilities are (a) identification of affected areas; (b) all community liaison; (c) budgetary provision; (d) manage their social impact manager;

- (ii) FRA will ensure that compensation is paid as required under the LARF. If needed, a top-up resettlement budget will be made available to the safeguards staff to provide the additional compensation/assistance (if any). FRA's social impact manager will also be responsible for identifying capacity gaps and providing training and capacity building to Fijian agencies involved in land acquisition.
- (iii) The DOL and FRA land and valuation officers will be responsible for (a) all initial valuations; (b) identification of owners and leaseholders and (c) negotiations with land owners.
- (iv) The TLTB, which represents and negotiates on behalf of the *mataqali* land owners, will sign agreements on their behalf and will be responsible for securing the consent of *mataqali* members prior to making such agreements.
- (v) The Provincial Council of Nodoga-Navosa will facilitate discussions around land acquisition, between the Project safeguard specialists and communities.

### **Fiji Roads Authority**

69. FRA will be responsible for overseeing and managing project execution including compliance with project requirements including safeguards. FRA will recruit a social impact manager for the project. FRA's social impact manager will ensure that the procedures and processes established in this LARF are followed for the project. However, preparation of the LARP for individual subprojects will be the responsibility of the safeguards specialists within the design and supervision consultants (DSC) for respective subprojects.

### **Design and Supervision Consultant (DSC)**

70. The DSC will include international and national specialists to implement the safeguard tasks at specific subprojects as required by the LARF. This will include: (i) social safeguard/resettlement specialist (international) (SSS); and (ii) safeguards specialist (national) (NSS). The DSC will be headed by a team leader.

71. Safeguards responsibilities of the DSC include:

- Ensuring that safeguards are implemented as set out in the LARF and other safeguard documents so as to meet intended requirements.
- Undertaking safeguards assessments during the feasibility study, ensuring that the LARPs are prepared.
- Supervising the safeguards implementation, including implementation of relevant LARP activities.

72. Within the FRA, safeguard specialists will have specific responsibilities for implementation of the LARF and LARP. Their TOR is in the Annex 3.

### **Department of Lands**

73. The DOL will be responsible for (a) attending village consultation meetings; (b) initial valuations; (c) identification of owners and leaseholders (d) negotiations with land owners; (e) preparation of Sale and Purchase Agreements and sending to the TLTB for Board

endorsement; (f) approval of final land surveys on completion of Project, and adjustment of land compensation required; (g) preparation of land transfer, lease surrender, or freehold dedication documents; and (h) registration of titles.

**iTaukei Land Trust Board (TLTB)**

74. The TLTB, which represents and negotiates on behalf of the *mataqali* land owners, signs agreements on their behalf and is responsible for securing the consent of *mataqali* members prior to making such agreements. The TLTB Board must endorse and approve the Sales and Purchase Agreements, and transfer documents.

**(ii) Institutional Capacity Support**

75. Capacity of FRA and government agencies involved in land acquisition is still weak in the areas of safeguards and will be strengthened under the project.<sup>6</sup> FRA’s social impact manager will provide training to staff of FRA and relevant government agencies such as DOL and TLTB, mainly in the form of on-the-job training, but also through special workshops to enhance their institutional capacity and improve safeguard practice in Fiji. Based on the experience of training together, working groups can be established to ensure interdepartmental coordination. An initial workshop will be held for all staff involved in land acquisition in the early stages of the project, following by mentoring and on-the-job training. Further workshops on specific topics will be organized, as needed, once implementation is underway, particularly to ensure that monitoring activities are undertaken according to the LARF.

**(iii) Role of other organisations: civil society and women’s groups**

76. There are few local NGOs or women’s groups involved in the planning and management of any land acquisition or resettlement activities, except for groups of the landowning *mataqali*. Local groups and leaders will be consulted when identifying any particularly vulnerable people. Other NGOs, if available, will be consulted about land and livelihoods issues. They will also be consulted during monitoring of the LARP and its outcomes, as required.

**I. Implementation Schedule**

77. An indicative implementation schedule for the Project land acquisition and resettlement activities is provided in the Table below. This include activities to (i) prepare/update the LARP; (ii) implement the LARP: and (iii) monitor activities. A more detailed schedule with specific target dates will be provided in the LARP for each subproject during implementation.

	<b>Activities</b>	<b>Responsible Agency</b>	<b>Timing</b>
	<b>Prepare/Update LARP</b>		

<sup>6</sup> FRA has one Lands Liaison Officer and three Valuers. They have knowledge and experience on the local context, but have not had formal training on ADB and WB safeguard requirements. Other Fijian government organisations at both central and provincial level are familiar with Fijian legislation and regulations for acquiring land and paying compensation according to the law, but also lack staff with specific training or knowledge of ADB and WB safeguards and resettlement issues.

1	Confirm land requirements based on detailed engineering design of the bridges. Determine areas of land, which will fall outside the existing road reserve.	Consulting engineers	Month1
2	Provide plans identifying areas to be acquired to DOL and TLBT	FRA	Month 1
3	Determine type of affected land tenure (iTaukei, leased, or freehold)	DOL & TLTB	Month 1
4	Determine numbers in <i>mataqali</i> group, land owners and users affected (DPs), and identify any vulnerable households	DOL, TLTB, and FRA	Month 2
5	Conduct follow-up consultations with affected communities and agree on land acquisition	DOL, TLTB, FRA	Month 2; Ongoing
6	Obtain written consents from each landowning unit during consultation meeting	DOL & TLTB	Month 3-4
7	Cadastral survey of land if not previously done, and submission for land registration	DOL; FRA	Month 2
8	Conduct titles/leases search in Government titles registration office for affected land ownership	DOL and FRA	Month 2
9	Determine and mark areas for each land unit required	DOL and FRA	Month 2
10	Conduct inventory of losses – land, trees, crops and provide valuation for compensation	FRA, Valuation Division DOL & MAFF	Month 4 & 5
12	Negotiate compensation with land owners ( <i>mataqali</i> ) or holders of Native Leases or freehold landowners	FRA, DOL & TLTB	Month 5
13	FRA submits the updated LARP for approval and uploading on the ADB website	FRA & ADB	Month 6
	<b>LARP Implementation</b>		
14	Execution of Sale and Purchase Agreement. Endorsed by TLTB.	FRA, DOL and TLTB	Month 5
15	Payment of compensation and allowances	DOL, FRA and TLTB	Month 6
16	DOL completes land transfers & registration	DOL	Month 7
17	FRA submits the Land Acquisition Completion Report to ADB	FRA	Month 7
18	Award of civil works contract, clearance of land, and briefing of contractor on safeguards	FRA	Month 8
19	Commencement of civil works (contingent on compensation and allowances being paid)	FRA	Month 9
20	Final survey plan on completion of work; payment of adjusted compensation as required	FRA and DOL	Month 15
	<b>Monitoring</b>		
21	FRA starts AP socio-economic monitoring	FRA	Month 12
22	FRA submits progress report to ADB on implementation of the LARP	FRA	Six - monthly
23	FRA conducts post-project survey and final	FRA	Month

## **J. Budget and Financing**

78. All land acquisition, compensation, and income restoration costs for the project will be financed by the government using counterpart funds. The budget for such activities will be estimated during feasibility based on interviews with affected communities. This will be updated after the detailed survey and valuation, and further consultations with DPs. The government will release sufficient budget for implementation of compensation, resettlement and rehabilitation activities in an appropriate and timely manner.

79. The FRA will prepare the necessary arrangement for disbursement of compensation in coordination with the DOL and TLTB. FRA's annual budgets will show the cost of the land acquisition / resettlement according to project activities.

80. LARP for subprojects will identify the specific budget items, including: costs for compensation of land and assets, livelihood restoration, if required; costs of the LARP implementation and monitoring.

## **K. Monitoring and Reporting**

81. The FRA will monitor all activities associated with land acquisition and payment of compensation to DPs. The scope of monitoring includes: (i) compliance with the agreed policies and procedures for land acquisition; (ii) prompt approval, allocation and disbursement of compensation payments to DPs, including if necessary, supplemental compensation for additional and/or unforeseen losses; and, (iii) remedial actions, as required. The monitoring will also cover the social impacts of the project and whether DPs are able to restore and preferably improve, their pre-project living standards, incomes, and productive capacity. A set of monitoring and evaluation indicators are in Annex 4. Specific subproject level indicators will be included in the LARP.

82. The FRA will prepare and submit semi-annual progress reports to ADB as part of project performance monitoring. FRA will also submit subproject completion reports to ADB for each site when compensation has been paid.

83. FRA will coordinate with DOL and TLTB as well as Provincial and District administrators in monitoring activities associated with land acquisition.

## Annex 1: Screening Form

<u>Project Title:</u>		<u>Loan No:</u>		
Subproject:		Date:		
Location and impact area:				
Probable Land Acquisition/Resettlement Effects	Yes	No	Not Known	Remarks
<b>Acquisition of Land</b>				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilized within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
<b>Restrictions on land use or on access</b>				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
<b>Information on Displaced Persons:</b>				
Any estimate of the likely number of persons that will be displaced by the Project? <span style="float: right;">[ ] No [ ]</span>				
Yes				
If yes, approximately how many? _____				
Category for resettlement impacts <sup>7</sup> : A [ ] B [ ] C [ ]				
Are any of them poor, female-heads of households, or vulnerable to poverty risks? <span style="float: right;">[ ] No [ ]</span>				
Yes				

<sup>7</sup> Impacts are classified as Category A when 200 or more persons experience major resettlement impacts either through being physically displaced from housing, or losing 10% or more of their productive (income generating) assets. Not significant impacts (i.e. other than Category A) will be classified as Category B. No impacts will be classified as Category C.

Are any displaced persons from indigenous or ethnic minority groups?  
Yes

No

Note: Please attach additional information on the project, as necessary.

## **Annex 2: Outline of Land Acquisition and Resettlement Plan**

- A. **Executive Summary:** It provides a concise scope, entitlements and activities.
- B. **Project Description:** It introduces the project, and projects components with land acquisition or resettlement. It also describes the alternatives considered to avoid or minimize impacts.
- C. **Scope of Land Acquisition and Resettlement:** This section discusses the project's potential impacts; describes the scope of land acquisition and explains why it is necessary; and summarizes the key effects
- D. **Socio economic Information and Profile:** The section outlines the results of the assessment of social impacts:
  - a. defines, identifies, and enumerates the people to be affected;
  - b. describes the likely impacts of the land and asset acquisition;
  - c. discusses the project's impacts on the poor , and other vulnerable groups; identifies gender and resettlement impacts.
- E. **Information Disclosure, Consultations, and Participation.** This section:
  - a. identifies project stakeholders, especially primary stakeholders;
  - b. describes the consultation and participation mechanisms;
  - c. describes the activities undertaken to disseminate information;
  - d. summarizes the results of consultations;
  - e. confirms disclosure of the draft RP to affected persons; and
  - f. describes the planned information disclosure and consultation measures
- F. **Grievance Redress Mechanisms.** This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.
- G. **Legal Framework.** This section:
  - a. describes national laws and ADB and WB's policy requirement; and gap-filing measures.
  - b. describes the legal and policy for all types of displaced person;
  - c. outlines the principles and methodologies used for determining valuations and compensation rates; and set out the compensation and assistance eligibility criteria

**H. Entitlements, Assistance and Benefits.** This section:

- a. Defines DPs entitlements and eligibility, (includes an entitlement matrix);
- b. Specifies all assistance to vulnerable groups; and.
- c. Outlines opportunities for DPs to derive appropriate benefits from project.

**I. Relocation of Housing and Settlement.** This section, if relevant:

- a. Describes options for relocating housing and other structures;
- b. Describes alternative relocation sites considered; community consultations;
- c. Provides timetables for site preparation and transfer;
- d. Describes the legal arrangements to regularize tenure;
- e. Outlines measures to assist DPs with their transfer and establishment at new sites;
- f. Describes plans to provide civic infrastructure; and
- g. Explains how integration with host populations will be carried out.

**J. Income Restoration and Rehabilitation.** This section, (as relevant):

- a. Identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- b. describes income restoration programs, including multiple options from restoring all types of livelihoods;
- c. outlines measures to provide social safety net;
- d. describes special measures to support vulnerable groups;
- e. describes training programs.

**K. Resettlement Budget and Financial Plan.** This section:

- a. Provides an itemized budget for all resettlement activities.
- b. Describes the flow of funds.
- c. Includes a justification for all assumptions made in calculating compensation rates.
- d. Includes information about the source of funding for the resettlement plan budget.

**L. Institutional Arrangements.** This section:

- a. Describes institutional arrangement responsibilities and mechanisms.
- b. Includes institutional capacity building program.
- c. Describes roles of NGO's, if involved, and organizations of affected persons.

d. Describes how women's groups will be involved.

M. **Implementation Schedule:** This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities.

N. **Monitoring and Reporting:** This section describes the mechanisms and indicators appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

### **Annex 3: Terms of Reference (TOR)**

#### **Social Safeguards/Resettlement Specialists**

Specialists will have a graduate degree in social science or similar fields and experience (10 years for international and 5 years for national) in conducting social assessments and preparing land acquisition and resettlement plan (LARP) in developing countries. The international specialist will take a lead and national specialist will assist the international specialist in undertaking all relevant tasks.

#### **FRA's social impact manager**

- i) Review the project documents, including the RRP, loan documents, the land acquisition and resettlement framework (LARF), LARP, and other relevant reports (available at FRA and/or ADB websites) and visit the project sites to familiarize with the project's safeguard requirements and the implementation status.
- ii) Facilitate preparation and updating of LARPs by Design and Supervision Consultants (See TOR for DSC consultants). Review draft LARPs submitted by DSC, arrange FRA's endorsement and submit these to ADB for clearance.
- iii) Develop and maintain the project's information management system/database on social safeguard aspects, including a system to track the project's relevant documents and records. Maintain an up-to-date collection/library of relevant safeguard documents.
- iv) Develop and maintain the system for effective management and implementation of land acquisition and resettlement activities, and other relevant activities. Assist FRA in implementation and reporting on these activities in compliance with the project's requirements on social safeguards.
- v) Undertake monitoring of the resettlement and relevant activities on social safeguards. Monitor the livelihoods and living standards of the APs by conducting field visits and consultations with the APs and stakeholders. Develop remedial actions in case any gaps are identified to meet the project's safeguard objectives.
- vi) Prepare semi-annual monitoring reports with adequate information meeting ADB requirements for submission by FRA to ADB. Coordinate with ADB's safeguard specialist to review and clear the report. Assist in conducting any field review by ADB on the social safeguard compliance.
- vii) Assist FRA in mobilization of the third-party experts, if needed, and assist them in conducting their activities by providing relevant information, etc.
- viii) Undertake periodic consultations with APs and stakeholders and assist FRA for disclosure of relevant information to comply with the project's relevant requirements. Maintain proper documentation of consultation and disclosure activities.
- ix) Facilitate implementation of the project's grievance redress mechanism (GRM). Monitor status of grievances, facilitate their resolution, maintain documentation, and report the progress through monitoring reports.
- x) Conduct necessary capacity building for FRA staff, government agencies and other stakeholders on project-related and ADB's requirements on safeguards.
- xi) Coordinate with the environment manager and other FRA specialists, government counterparts, and other relevant stakeholders for implementation and monitoring on safeguards. In coordination with the environment specialist, monitor compliance on social aspects of the civil works contracts. Prepare a social management plan in case significant social impacts are identified that cannot be addressed by the environment assessment or existing plans.

- xii) Perform relevant tasks assigned by FRA, independently or in coordination with other specialists, to meet the project's requirements on social safeguards.

**Social Safeguards/Resettlement Specialist under DSC Consultants**

(International 18 pm; national 36 pm)

- (i) Review the scope and activities of the proposed subprojects and screen their potential impacts on land acquisition/involuntary resettlement (IR) and indigenous peoples (IPs).
- (ii) Conduct surveys, interviews and focus-group discussions to collect data for assessment of social impacts and preparation of safeguard planning documents.
- (iii) Coordinate with relevant government agencies for necessary information on affected land and land-based assets, and for coordination with the government's formal land acquisition procedures in accordance with relevant laws on land acquisition.
- (iv) Prepare land acquisition and resettlement plan (LARP) for subprojects involving physical or economic displacements due to land acquisition or restriction on land use or access. The LARP must be based on the census of affected persons (APs), inventory of losses, and socio-economic survey of APs. The LARP must meet the requirements of ADB Safeguard Policy Statement (SPS) as well as relevant country laws as stipulated in the Land Acquisition and Resettlement Framework (RF), and should include gap-filling measures in case of any gaps between the SPS and country laws. The contents of the LARP should follow the outline of the SPS as provided in the LARF.
- (v) Undertake due diligence on IPs, undertake adequate consultation with local communities and prepare a summary document confirming broad community support of local communities of the subproject. Include such report in the feasibility report to be submitted to ADB.
- (vi) In coordination with the FRA and relevant government agencies, undertake consultations with APs and other stakeholders and disclose relevant information including the draft safeguard documents in accordance with the country's laws and ADB SPS. Develop a grievance redress mechanism for relevant subprojects.
- (vii) Develop schedule to implement and monitor the LARP at subproject level.
- (viii) Conduct workshops and meetings, and provide guidance to FRA's social impact manager on project-related resettlement issues and ADB's policy and procedural requirements on social safeguards.
- (ix) Submit draft safeguard documents to ADB through FRA and finalize these incorporating comments from ADB and FRA.
- (x) Provide inputs to the team leader on social safeguards required for other project documents.

**Annex 1: Indicators**

<b>Type of Indicator</b>	<b>Indicator</b>	<b>Examples of Variables</b>
Process indicators	Staffing	Recruitment of FRA's social impact manager. Engagement of safeguards staff and training No. of other agency officials available for tasks
	Consultation, participation, and grievance resolution	No. of consultation and participation programs held with various stakeholders No. of field visits by FRA's social impact manager.
	Procedures in operation	Effectiveness of compensation/assistance delivery system Coordination between FRA and other GoF agencies and civil society groups
Output indicators	Households	No. of households affected
	Structures	No. of community structures, if any, moved
	Land, Economic trees & crops	No. of households receiving agreed compensation for land, trees and crops
Assistance to APs	No. of households that have participated in income restoration and livelihood enhancement measures No. of special assistance programs to vulnerable households	
Impact indicators	Household earning capacity	Employment status of households having a formal job Employment status of households being self-employed
	Special assistance to women	No. of women engaged as waged workers by the Project Type of Project-related skills women received. Average wage of women employed on Project compared to that of men
	Other livelihood indicators	Increase in market-based incomes of farmers Increase in ownership of household assets Increased access to schooling and health services Increase in visits by GoF service providers