

# Country Safeguards Review: Indonesia Draft Consultation

March, 2017

## Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector

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## TABLE OF CONTENTS

<b>I.</b>	<b>Context</b>	<b>3</b>
<b>II.</b>	<b>Water Resources Sector: Karian Multipurpose Dam Project</b>	<b>3</b>
	A. Institutional Capacity	4
	B. Implementation Practice: Processes and Procedures	6
	C. Outputs	8
	D. Outcomes	9
<b>III.</b>	<b>Road/Toll Road Sector: Palembang–Indralaya Toll Road</b>	<b>10</b>
	A. Institutional Capacity	11
	B. Implementation Practice: Processes and Procedures	13
	C. Outputs	16
	D. Outcomes	16
<b>IV.</b>	<b>Energy Sector: Central Java–Power Station</b>	<b>17</b>
	A. Institutional Capacity	18
	B. Implementation Practice: Processes and Procedures	21
	C. Outputs	25
	D. Outcomes	26
<b>V.</b>	<b>Urban Planning: Normalisasi Kali Ciliwung (NKC – Normalization of Ciliwung River)</b>	<b>27</b>
	A. Institutional Capacity	28
	B. Implementation Practice: Processes and Procedures	29
	C. Output	31
	D. Outcomes	31

## ACCEPTABILITY ASSESSMENT FOR INVOLUNTARY RESETTLEMENT SAFEGUARDS BY SECTOR

### I. Context

1. The acceptability assessment findings are presented in two Appendixes: 10 & 11. This document (Appendix 11) examines the capacity, and practice, and performance of TA – relevant sectors (Table A.11). Appendix 10 examines the capacity of regulatory bodies responsible for involuntary resettlement

**Table A.11: Summary of Involuntary Resettlement Acceptability Assessment  
of Case Study Sector Projects**

No.	Sector/Project	Component	Assessment Results
1.	Water Resource Sector/ Karian Multipurpose Dam (DGWR, BBWSC3)	Institutional Capacity	Moderate – Moderate <sup>a</sup>
		Process and Procedure	Moderate
		Output	Moderate
		Outcome	Moderate
2.	Road/Highway Sector Palembang – Indralaya Toll Road (DGH, Satker)	Institutional Capacity	Strong – Moderate
		Process and Procedure	Moderate
		Output	Not assessed
		Outcome	Moderate
3.	Energy Sector/ Transmission Line SUTET 500 kV PLTU 2 Jawa Tengah – GITET 500kV Kesugihan (PLN Pusat, PLN UIP VII.	Institutional Capacity	Strong – Strong
		Process and Procedure	Strong
		Output	Moderate
		Outcome	Strong
4.	Urban Planning Normalization of Ciliwung River (DGWR, BBWSCC, DGHS- Jakarta Government)	Institutional Capacity	Weak – Moderate
		Process and Procedure	Moderate
		Output	Not applicable
		Outcome	Moderate

<sup>a</sup>: the level of Moderate – Moderate shows the results of each assessed institution, in this case are DGWR, and BBWSC3. This is also applied to each sector result respectively

### II. Water Resource Sector: Karian Multipurpose Dam Project

2. The project assessed is the Development of the Karian Dam, one of the national strategic projects under the Directorate General of Water Resources (DGWR), Ministry of Public Work and Housing (MPWH). The Cidanau Ciujung Cidurian River Basin Organization (BBWSC3) is the agency responsible for the implementation of the project. According to the Karian Land Acquisition Resettlement Plan (LARP), 2,170 hectares (ha) of land would be acquired for the dam and inundated area. As of this report's writing, 824.31 ha or 38% of the land has been acquired by the BBWSC3 based on Presidential Decree (Perpres) 36 of 2005 and Perpres 65 of 2006. The other 62% would be acquired using Law 2 of 2012. When data for this report were being collected, BBWSC3 was preparing land acquisition documents by doing mapping, measuring, and collecting ownership information.

3. The project also developed a LARP for the quarry and road access, which consists of two main land acquisition activities: acquisition of Gunung Geblegan area for the quarry (14.5 ha affected area), and enlargement of a 19.0-kilometer (km) road access from the quarry to the Karian Dam (10.5 ha affected area). The LARP for these activities was conducted in accordance with Law 2 of 2012. As of this report's writing, the land acquisition process was in the implementation stage; an independent appraiser has been assigned to assess the value of the affected land and non-land assets.

4. The LARP reviewed for the study is the LARP for the quarry and access road. Although from a legal point of view, the quarry is not 1 of the 18 activities listed as the public facilities regulated under Law 2 of 2012,<sup>1</sup> it is an appropriate subject for review<sup>2</sup> as an associated impact project activity, in accordance with Asian Development Bank (ADB) policy.

## A. Institutional Capacity

**National Level.** At national level, the project is under Directorate of River and Beaches. The land acquisition is under supervision of The Assets Management and Land Facilitation Division under the Secretariat of Directorate General of Water Resources (DGWR), Ministry of Public – Works and Housing (MPWH). The Subdivision on Land Facilitation<sup>3</sup> is responsible for arbitrating disputes for the project involving coordination or collaboration with other state agencies and also to ensure that the regulations in regards to land acquisition and resettlement are applied appropriately. The Subdivision also provide technical support for the land acquisition process and secure the certification of the land owned by the state.<sup>4</sup>

5. Since its establishment on July 2015, the Country Assets Management and Land Facilitation Division has been actively supporting the DGWR offices to improve the capacity of the staff in land acquisition and resettlement by holding regular training, seminars and workshops as well as by inviting key speakers from its own ministry or providing external resources. The Division also develops and maintains relationships with other government agencies related to land acquisition including the Ministry of Environment and Forestry (MOEF), the state-owned Forest Enterprise (Perhutani) and the Ministry of Agrarian and Spatial Planning/National Land Agency (MASP/NLA).

6. Based on the findings and interviews conducted, the institutional capacity of the Country Assets Management and Land Facilitation Division for land acquisition and resettlement can be considered “moderate.”

7. **BBWSC3, Satuan Non Vertikal Tertentu (SNVT) Pembangunan Bendungan Karian.** . PP 37 of 2010 assigned the BBWSC3 as the proponent of the Karian Dam Project. The SNVT or Satuan Kerja – Satker (Task Force) of Dam has planning and implementation sections. The planning section is responsible for land acquisition. In 2014, the Satker of Dam

<sup>1</sup> Law 2 of 2012 concerning Land Acquisition for the Development in the Public Interest, Article 10

<sup>2</sup> Per the regulation of the head of the National Land Agency (BPN) by Government Regulation (PP) 6 of 2015 Chapter VIIA Para 54A: “Besides the activities listed in...Para 10 (of) Law 2 of 2012, (a project) of importance to a government priority program, can follow the stipulations in the Law 2 of 2012.”

<sup>3</sup> Established by Regulation of The Minister of Public Work and Housing (*Peraturan Menteri Pekerjaan Umum dan Perumahan Rakyat, Permen PUPR*) 15 of 2015 on Organization and Working Procedure of the Ministry Public Works and Housing (MPWH).

<sup>4</sup> The Subdivision has a dedicated budget from the DGWR to implement their mandates. Permen PUPR 15 of 2015 concerning the Organization and Working Procedure of the MPWH, Article 207 (3)

established a land acquisition team (*Tim Direksi Pengadaan Tanah*) with SNVT's Decree. However, there is no legal mandate to establish a specific safeguard unit at Balai level. All substantive work on land acquisition and resettlement is outsourced to consultants. Within BBWSC3, two engineers are assigned to handle land acquisition and resettlement issues for the Karian project, one in the planning section and one for implementation and one for implementation.

8. The *SNVT Pembangunan Bendungan Karian* of the BBWSC3 has a dedicated budget to implement land acquisition for the project, with supporting activities provided by DGWR.

9. The indicator used for the outputs of the Task Force for land acquisition is the percentage of land that has been acquired for the project. To date, the LARP for the quarry and its access roads has been implemented, but compensation is still pending. The previous LARP for the dam and inundated areas are 38% complete. The SNVT is required to develop a new LARP under the current regulation and, as of this time this report was written, the new LARP is in the preparation stage.

10. Based on the findings and interviews conducted during the field visits, the institutional capacity of the BBWSC3 for land acquisition and resettlement of the Karian Dam Project can be considered "moderate."

11. **Regional MASP/NLA, Banten Province.** The office is mandated as the executive agency to supervise the completion of Law 2 of 2012 requirements in the province. In general, at the implementation stage of land acquisition, the head of the land office is responsible for establishing the Land Acquisition Committee. Within the Banten Land Office, the government land regulation section (*Seksi Pengaturan Tanah Pemerintah*), under the Land Rights and Registration Division is responsible for the project. The structure of the office is consistent with Permen 8 of 2015, Organization and Management of the Regional MASP/NLA.

12. The section responsible for government land issues employs five people, but their tasks are not limited to social safeguards issues. These staff members have participated in capacity building workshops on the implementation of the Law 2 of 2012 and the supporting regulations. However, the human resources available for land surveys or measurements remain quite limited.

13. The division has a dedicated budget from the ministry to support its social safeguards mandates.

14. Based on the findings and interviews conducted during the field visits, the institutional capacity of the Regional MASP/NLA, Banten Province for land acquisition and resettlement for the Karian Dam Project can be considered "moderate."

15. The gap analysis for institutional capacity has concluded that:

- (i) At the national level, DGWR has a newly established unit (since July 2015) to negotiate land disputes with other agencies. However, within BBWS–SNVT/Satker Bendungan Karian, there is no specific unit assigned to these tasks. Consequently, concurrent authority exists between the central and provincial levels as to which agency is actually responsible for land acquisition and resettlement.
- (ii) For the implementing agencies (Satker and BPN District), the budget allocated by the central office covers activities to improve staff capacity.

- (iii) Under these circumstances, Satker and BPN District have been gradually achieving their mandates but with very slow progress. The lack of progress could be due to a number of factors including lack of clarity about the future of the project, limited budget and limited human resources.

## **B. Implementation Practice: Processes and Procedures**

16. **Planning Stage.** Studies for the Karian Dam Project have been carried out since the 1990s under the supervision of the DGWR.<sup>5</sup> The consultancy, Korean International Cooperation Agency (KOICA), which supported the Karian Dam Project, conducted the feasibility study for the whole Karian Dam Project and detailed engineering design in 2006. These studies were used for design certification, which was granted by the Ministry of Public Works and Housing in 2007.

17. The feasibility study report cited a socioeconomic survey and socialization of the proposed project with the potential affected community. The survey concluded that the total population to be moved as a result of the project would be 3,106 households consisting of 17,369 people, and their preference was to be moved to the nearby area rather than to other districts or provinces. The study estimated that the LARP would cost Rp 380 billion.

18. Meanwhile the proponent, BBWSC3, prepared the relevant documents for this stage. The LARP was prepared by qualified experts from the Korean Rural Community who was assigned to the task.

19. Consistent with legal requirements, the BBWSC3 submitted the LARP—which included the survey, assessment of the potential impacts and risks, consultation and agreement of affected people, and issuance of project location determination—to the governor through the Provincial Land Office to continue the process to the next stage.

20. One weakness identified in the planning stage was the lack of special attention to vulnerable people. All affected people were treated equally in the socioeconomic survey.

21. **Preparation Stage.** In order to support the technical and operational implementation of Law 2 of 2012, Banten Province developed a governor regulation (Pergub) to anticipate the strict timeline determined by Law 2 of 2012 and Perpres 71 of 2012.<sup>6</sup>

22. In accordance with the regulation, the Land and Coordination Division in the Setda Office reviewed the Planning Documents before submitting to the governor. This action is intended to accelerate the required process by which the governor reviews the documents within 10 days after the proponent submits the planning documents.

23. The Preparation Team conducted the following preparation steps:

- (i) Collection of initial data of the planning development

<sup>5</sup> The Karian Dam in Banten Province is expected to commence operations in 2019. The dam is designed to guarantee the supply of raw water to Cilegon, Serang and Tangerang in Banten Province, as well as the Special Capital Territory of Jakarta (DKI Jakarta). In addition to supplying raw water, Karian Dam will also irrigate the Ciujung irrigation area over 22,000ha and serve as flood control with a flood storage capacity of 60.8 million m<sup>3</sup>. In addition, there is the potential of hydroelectric power of 1.8MW. Kompas, 18 February 2016.

<sup>6</sup> Pergub 93 of 2014 for land acquisition more than 5 ha, and Pergub 72 of 2014 for land acquisition less than 5 ha.

- (ii) Public consultation concerning the planning development
- (iii) Issuance of the Location permit (*Penetapan Lokasi*)
- (iv) Announcement of the Location Permit

24. From the legal point of view, the quarry is not one of the 18 activities listed as the public facilities regulated in the Law 2 of 2012<sup>7</sup>. The *Penetapan Lokasi* location determination for the Gunung Geblegan quarry and access road was issued through Governor Decree (SK) 598/Kep 280-Huk of 2015, dated 11 June 2015.

25. In general, there are two types of land acquisition processes. The first is land acquisition for purely commercial purposes such as land for plantation, housing, fisheries, etc. For that purpose, applicants are required to apply for a *Penetapan Lokasi* from the Bupati/Mayor or Governor. The location permit is issued per local regulations derived from Regulation of Ministry of Agrarian Affairs and Spatial Planning/Head of National Land Agency 5 of 2015 on Location Permit, under which a conditional approval to acquire land in the proposed areas within 2 years and can be extended to another year.

26. After the land is acquired or purchased from the owners, the applicants have to take the Location Permit along with the document of land transferred to the National Land Agency to obtain the land right. The land right could either be a Cultivation Use Right (HGU), a Building Use Right (HGB) or a Use Right (*Hak Pakai*). HGB is for a type of land acquisition that is for public use, which can be carried out only by a government institution, local government, or state-owned company assigned by the government to acquire land for public use. Acquisition of land requires a *Penetapan Lokasi*.<sup>8</sup>

27. **Implementation Stage.** Project implementation is the responsibility of the Land Office of the Banten Province, which delegated authority to the Lebak District Office due to its closer location to the project.

28. The Lebak Implementation Team was formed and divided into two task forces. One was responsible for measurement, mapping, and all physical identification, and the other was responsible for valuation of the buildings, plants, and crops.

29. To date, no nominative lists (*Daftar Nominatif*)<sup>9</sup> have been produced, and recently an independent appraiser from Sih Suryadi Dkk was assigned to conduct the valuation. It was confirmed by the head of SNVT that the result from the independent appraiser would be one fixed value, rather than a range of values. There would be no monitoring or checking for the

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<sup>7</sup> The quarry in the project is considered an associated impact activity in accordance with ADB policy so the LARP for this component is assessed as part of the Karian Dam project. This issue exemplifies the type of acceptability gap that may occur between ADB and Indonesian applications of issues such as “associated impacts”.

<sup>8</sup> Another issue involved land acquisition for the quarry that supplied the project. The quarry ownership and location were transferred to other parties but it was not clear whether the land transfer was made before or after the issuance of a *Penetapan Lokasi*. According to Article 27 (3) of Law 2 of 2012, after the *Penetapan Lokasi* is issued, the land right holder can only transfer the land to the agency needing land through the National Land Agency. In the interim, it has also become clear that some brokers took advantage of previous landowners by buying the land at a significantly cheaper rate. They then increased the land price so the budget in the LARP was not sufficient to cover their final asking price.

<sup>9</sup> *Daftar Nominatif* is the detailed information of the entitled parties which includes: location, area, and status of affected assets/land acquisition objects; area and type of buildings; type of use of affected assets; plants/trees and other objects related to the land. The assigned task force of the Land Acquisition Committee lead by the regional MASP/NLA collects these data.

result that would be made by the independent appraiser on the presumption that they are certified appraisers under MAPPI.

30. The affected people are all listed in the LARP, in accordance with Law 2 of 2012, and the measurements include the value of the land, space under and above the land, building, crops and trees, other assets related to the land, as well as other losses resulting from land acquisition and/or the project itself.

31. **Results Stage.** As the project was in the Implementation Stage at the time of writing, there are no results to assess at this time.

32. **Monitoring and Evaluation.** Based on Law 2 of 2012, the monitoring of the land acquisition process should be coordinated by, and is the responsibility of, the land office. This monitoring covers the implementation and the submission of land acquisition results to the agency or office that needs the land and does not extend to impacts on affected households. According to the LARP document for the Karian Dam Project, a monitoring team with representatives from Bappeda, academe, nongovernment organizations, and affected persons was established before implementation of the LARP Action Plan. The Project Management Unit (PMU) would monitor the implementation of the LARP based on the team's report.

33. There are also two different types of monitoring: one is done internally by BBWSC3, and the other one externally, by an independent team, which would be engaged by the BBWSC.

34. Based on the discussions and findings, the implementation practices (i.e., processes and procedures) of the land acquisition stages of the Karian Multipurpose Dam can be considered "strong."

### C. Outputs

35. **Land Acquisition and Resettlement Plan Document.** The LARP documents assessed were for the quarry on the Geblegan Mountain and the improvement of access road from the quarry to the Karian Dam. Two other LARPs for the Karian Dam Project were still under preparation at the time this report was written. The action plan for the Geblegan LARP is scheduled from 2016 to 2019 (3 years). The existing LARP documents showed that the subproject was fully consistent with spatial planning and the development plans. It described the activities, location, LARP methodology, and data on the land to be acquired and on the owners of the land. However, there was no discussion of socioeconomic impacts in particular with respect to vulnerable groups and gender in the document; the socio-economic survey was carried out on all affected persons equally.

36. The LARP includes an inventory of assets including affected land, trees or crops, building, space over and below the land, assets relating to the land; and/or other monetary damages with land measurement on a plot-by-plot basis has been produced and attached in the documents. It also reported on the socialization activities conducted in connection with inventory.

37. Valuation of affected land that was not in the project area was done in accordance with Law 2 of 2012. The valuation for impacted vegetation used a list from the local government as a benchmark price. Valuations for building were conducted using the taxable value of property,

market price, government price as inputs for agreement between proponents and affected persons.

38. The LARP described the details of the administrative area where the development was to take place including the names of the *kelurahan* or villages, and also initial data on affected land with the corresponding associated impacts. The LARP outlined the land use of the affected area, the ownership of land titles and socioeconomic conditions of communities who will potentially be affected and entitled parties. The LARP also included the valuation of the nonviable remaining land that was part of the affected area.

39. The LARP document included an entitlement matrix for the affected persons and a livelihood restoration program including the option of relocation so that persons and households affected by the land acquisition and loss of access to assets and income were at least as well off as they were in the absence of the project.

40. The complaints-based grievance redress mechanism (GRM) was developed and incorporated into the LARP document.

41. The LARP included a timeline for implementation – from planning, preparation, implementation, and transfer of acquired land. In this case, 17 months (June 2014 – October 2015) were allocated to complete all the stages. Meanwhile the action plan for the Geblegan LARP was scheduled for 2016 – 2019. As of the time of writing this report, the project has yet to pay compensation to the affected persons and has hired the independent appraiser to undertake the asset valuation.

42. In the LARP there was an estimated value of compensation in general and detailed for land and non-land assets that would be affected by the project. Total compensation in the LARP was approximately Rp10.6 billion for:

- 14.6 ha for quarrying (50 parcels)
- 10.3 ha for enlarging access road (299 parcels)
- 0.99 ha for 18 main buildings (14 households)

43. However the LARP did not specify the source of funding, nor did it include a breakdown of fund allocations for the various stages of land acquisition.

44. Based on the study of the documents, the Output (LARP documents) of the Karian Multipurpose Dam can be considered to be of “moderate” quality.

#### **D. Outcomes**

45. Outcomes are based in part from the following findings from the field visits:

46. The implementation of Law 12 of 2012, which involves stakeholders with different responsibilities in each stage of the case study, shows that the ongoing implementation of the land acquisition regulation becomes more complex and time-consuming when more stakeholders coming from diverse backgrounds are involved.

47. During the public consultation some brokers took advantage of the situation by buying lands from the original owners. They then increased the land price which caused the budget in the LARP to be insufficient.

48. Generally, the project complies with Law 2 of 2012 and its supporting regulations. In addition, Banten Province has developed local regulations to support the implementation of the law. However the LARP process did not pay particular attention to the protection of Indigenous Peoples, women, children, the elderly, and other vulnerable populations from adverse impacts of development projects.

49. Interviews on site indicated that there were some meaningful consultations being held with the community.<sup>10</sup> The meeting agendas included discussions on the need to enlarge the access road from the quarry to the planned dam, the type of compensation that the affected persons would prefer to receive, and the amount of compensation would be allocated based on market value and losses.

50. Based on the current situation, the outcome of the Karian Multipurpose Dam can be considered “moderate.”

### III. Road/Toll Road Sector: Palembang–Indralaya Toll Road

51. The toll road sector project evaluated was the Palembang–Indralaya Toll Road, South Sumatra. The length of the tollway is 21.925 km, with total land to be acquired 302 ha<sup>11</sup>. The tollway is divided into three sections: Palembang – Pemulutan (+7 km), Pemulutan – KTM Rambutan (+5 km), and KTM Rambutan – Simpang Indralaya (+10 km).

52. The affected areas are located four sub-districts (*kecamatan*): Pemulutan (seven villages), Pemulutan Barat (five villages), Indralaya Utara (two villages), Indralaya (one village and one urban village).

53. The proponent of the project is the Directorate General of Bina Marga and the land acquisition component is assigned to the *Satker Inventarisasi dan Pengadaan Lahan, Pengadaan Tanah Jalan Tol Palembang–Indralaya* (Satker) under SK Mentri PU dated 22 February 2013. This unit began operations in October 2013. The project is one of first to apply Law 2 of 2012 for Land Acquisition in the Public Interest. At the Provincial level, the Satker coordinates closely with the Balai Besar Pelaksana Jalan Nasional III (BBPJN III) that is responsible for Sumatera Selatan Lampung, Bangka–Belitung, Bengkulu provinces, and Bidang Pembinaan Teknik Dirjen Bina Marga.

54. The land acquisition documents (Dokumen Pengadaan Tanah) were prepared by the Satker and the Penetapan Lokasi (Surat Persetujuan Penetapan Lokasi Pembangunan – SP2LP) was released in 2013 for the entire length of the project corridor of 21.925 km.

55. Land acquisition has been divided into two phases:

<sup>10</sup> An affected person from Jalan Gede stated in the interview that he had attended at least 3 meetings.

<sup>11</sup> *Koran Sindo*. 2015. Palembang to Lampung, 2.5 hours. 1 May.

<http://daerah.sindonews.com/read/996084/151/palembang-lampung-2-5-jam-1430447313>

- (i) Kantor Pertanahan Ogan Ilir: the first section which is 7 km long. The result has been released.
- (ii) Kanwil BPN Sumsel: this includes the second and third sections as well as the fourth, which is the exit toll. This is 90% completed as of the time of writing this report.

56. The construction of the project was delegated to PT Hutama Karya Jalan Tol (PT HKJT) which is a state-owned enterprise under Perpres 100 of 2014, Accelerated Development Program for Freeways in Sumatra. The ground breaking was held on 30 April 2015 and construction was started on 20 July 2015.

57. Some observations from the field visit are noted below.

58. The project is one of 22 projects under the Committee of Accelerated Development Program at the provincial level. Although the governor has not issued any policy related to the land acquisition process, there have been regular coordination meetings with all stakeholders involved in the project to keep the project on schedule.

59. Issues for land acquisition primarily involved multiple owners claiming the same piece of land. These issues were solved in 2014.

60. Recently the land acquisition process has been delayed by court action for some of the parcels. Although Law 2 of 2012 dictates that the designated time frame for disputed land to be resolved in the court is 30 days, implementation has taken longer in some cases.

61. From 614 parcels on sections 2 and 3, 216 have been paid in 2015, 180 parcels have been in dispute and brought to the court, and 218 parcels are being put in the hands of the court-administered Trust Account (Konsinyasi) for determination by the District Court.

62. The land acquisition payment was planned to be done all at once in accordance with the SP2LP released in 2013, but since BPN Sumatra Selatan had a limited budget for that year, the payment was made for the first section. The construction for the first section has been started. The recent status is to have BPN release the validation letter so then PPK could do the compensation payment.

63. For administrative reasons, the team was not able to obtain a copy of the relevant LARP documents from the proponent. However, the agency was providing adequate information about the project verbally to determine the progress of the implementation.

#### **A. Institutional Capacity**

64. **Directorate General (DG) Bina Marga.** As the agency acquiring the land is Bina Marga, land acquisition issues are managed under the Land Acquisition Unit of DG Bina Marga. This unit is also responsible for preparing the land acquisition plan.

65. According to the Minister of Public Works and Housing (MPWH) regulation *Permen PUPR 15 of 2015 SOTK*, the Sub Directorate of Land Acquisition is placed under the Directorate of Toll Road, Urban Road and Regional Road Facilitation (*DJBHP&FJD*) of the DG Bina Marga.

66. The task of the Sub Directorate is to perform the planning, preparation, development, and monitoring of land acquisition. These tasks are delivered by carrying out the following functions:<sup>12</sup>

- Forming and developing norms, standards, guidance, and criteria for land acquisition;
- Developing the plan, preparing the program, implementing, inventorying, and monitoring land acquisition for freeways and toll roads;
- Preparing work procedures and facilitating land acquisition;
- Supervising implementation of the land acquisition plan;
- Carrying out valuation of assets as the result of the land acquisition in Trans Java and non-Trans Java; and
- Coordinating and facilitating land acquisition Trans Java and non-Trans Java with focus on the land acquisition land facilitation aspects.

67. Based on the study of the documents, the institutional capacity of the DG Bina Marga can be considered “strong.”

68. **Satker Inventarisasi dan Pengadaan Lahan, Pengadaan Tanah Jalan Tol Palembang– Indralaya.** The Satker is the office assigned for the land acquisition of the project in accordance with Law 2 of 2012. The establishment of the sections is under the Ministry of Public Work Decision Letter (SK Menteri PU) dated 22 February 2013 and started its operation in October 2013. The *Satker* reports to the DG Bina Marga at the central office in Jakarta. There is also an office in Palembang to support local activities. Detailed structures and functions have been designed specifically for the land acquisition.

69. At the provincial level, the *Satker* coordinates closely with the *Balai Besar Pelaksana Jalan Nasional III* (BBPJN III) that is responsible for Sumatera Selatan, Lampung, Bangka – Belitung, Bengkulu provinces, and the Provincial *Bidang Pembinaan Teknik Dirjen Bina Marga*.

70. The *Satker* has one *Pejabat Pembuat Komitmen* (PPK), contract project manager, and 11 subordinate staff to handle land acquisition issues for the Palindra project. The PPK is trained as an engineer, and is only trained to manage land acquisition issues on an intermittent basis when invited to join training or workshops held at the local and national level and managed by central (DG Bina Marga). There is no regular supervision and monitoring of the capacity of staff related to land acquisition and resettlement issues.

71. The *Satker’s* budget is adequate to implement land acquisition for the project.

72. Based on field visit and interviews, the institutional capacity of the *Satker Inventarisasi dan Pengadaan Lahan, Pengadaan Tanah Jalan Tol Palembang – Indralaya* can be considered “moderate.”

73. **Land Office, South Sumatra Province.** The office has the legal mandate and structure as the executive agency to supervise the implementation of Law 2 of 2012. The head of the provincial MASP/NLA (land office) has authority to establish the land acquisition committee that is composed of several technical officers, including a land surveyor, and other land registration activities for the implementation stage of land acquisition.

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<sup>12</sup> Permen PUPR 15-2015, Organizational Structure and SOTK, Paragraph 468 and 469.

74. The structure of the office follows regulation *Permen* 8 of 2015 concerning Organization and Management of the Ministry of Agrarian and Spatial Planning/National Land Office. For the first section of the Palindra Toll Road Project, the South Sumatra Province Land Office delegated Ogan Ilir District Land Office as the responsible office for the land acquisition activity. The section responsible for government land issues in the Land Office in South Sumatra has five staff to do their job are generally competent to handle routine land acquisition activities. The institution participates in National Land Ministry training workshops for the implementation of Law 2 of 2012 and the supporting regulations.

75. In accordance with its institutional structure, organizational tasks, and functions, the office has a guaranteed budget from the Ministry to carry out the government's land acquisition mandates in accordance with the Law 2 of 2012. However, the office does not have adequate equipment and mobility or training facilities to support its mandates independently.

76. Based on the field visit and interview, the institutional capacity of the Land Office, South Sumatra Province can be considered "moderate."

77. The gap findings of the institutional capacity component were:

- (i) **Task force:** No gap regarding the establishment of the unit responsible for the land acquisition for the project.
- (ii) **Staffing:** For Satker as the implementing agency, the focus was for the land acquisition in accordance with government regulation. Consideration of broader land acquisition and resettlement issues is subject to the source of project finance (e.g., ADB, the World Bank, and bilateral funding organizations). There is a gap in awareness of the various policies and their implementation.
- (iii) **Budget:** At the implementation units (Satker and BPN District), budgets were allocated only for land acquisition activities, while the budget for capacity building remains dependent on external national level resources.

## **B. Implementation Practice: Processes and Procedures**

78. The LARP and other supporting documents for the project—including the substance of the public consultation—have not yet been obtained as of this writing. Therefore, an assessment of the processes and procedures remains incomplete pending review of all necessary documentation from the proponent.

79. **Planning Stage.** The feasibility study for the entire Palindra Toll Road project was completed in 2012 under the supervision of Bina Marga South Sumatra Province. With the accelerated development plan in 2013, the province initially budgeted Rp100 billion for the land acquisition implementation. However, after further assessment, the Directorate General of Highway (DGH) at central level decided that the budget would be allocated by central government, through the MPWH.

80. The proponent, *Satker*, prepared the relevant documents for this stage and submitted the Land Acquisition and Resettlement Planning (LARP) document to the governor through the Provincial MASP/NLA.

81. From interviews during the site visit, it was determined that there was no effort to pay special attention to vulnerable people in the planning stage, as all affected people were treated equally in the socioeconomic survey.

82. **Preparation Stage.** The project is one of 22 projects under the Committee of Accelerated Development Program at the provincial level. Although there are no provincial and local regulations to support this development, the governor facilitates close monitoring of the development process. For this purpose the governor has held regular coordination meetings with all stakeholders involved in the project (i.e., the Satker, BPN Province, Bina Marga Province, Bappeda Province, and the assigned contractor, Hutama Karya [HK]) to accelerate the preparation of the land acquisition and to ensure that the project is on schedule. Coordination is also being done with the provincial infrastructure development team.

83. The *Penetapan Lokasi (Surat Persetujuan Penetapan Lokasi Pembangunan – SP2LP)* has been released in 2013 for the entire length of the project corridor of 21.925 km with affected areas in the following four sub-districts (Kecamatan): Pemulutan (seven villages), Pemulutan Barat (five villages), Indralaya Utara (two villages), Indralaya (one village and one urban village).

84. **Implementation Stage.** The implementation stage in South Sumatra Province is the responsibility of the Land Office of the South Sumatra Province.

85. The process began when the proponent proposed the need for land acquisition by submitting planning and preparation documents including the *Penetapan Lokasi Pembangunan* from the governor.

86. After the submission, BPN delegated the Land Office Ogan Ilir District to direct the land acquisition process for the first seven kilometer phase of the project.<sup>13</sup> This process has been completed and compensation has been paid. The second and third phases were then conducted and as of this writing it is 90% complete.

87. The land acquisition payments were planned to be disbursed all at once in accordance with the SP2LP released in 2013, but according to the findings during the field visit, since BPN Sumatra Selatan has a limited budget for surveying affected land, payment has been limited to the first phase.

88. As of the time of writing this report, BPN has not yet released the validation letter for the second and third sections, so the PPK could not do the compensation payments.

89. The independent appraiser was selected for appraising the project after the formal validation released by BPN is Toto Suharto dan Rekan (TnR), with Mr. Radian as the contact person. The agency that needs the land is responsible for procuring the appraiser and submitting the selected company to BPN for formal approval. In accordance with the 2012 law, the result from the independent appraiser is one fixed value for each parcel of land instead of a range of values. This policy has been working well and has eliminated the need for further negotiations if a range of values was used as in previous policies.

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<sup>13</sup> For implementation purposes, the land acquisition has been divided into two phases:

- The Provincial MASP/NLA (Kantor Pertanahan) Ogan Ilir has commenced construction for the 7-km first section.
- Second and third sections and fourth section exit toll (15 km) by Kanwil BPN Sumsel: 90% completed.

90. The recent situation in the land acquisition process is that the second and third sections have been delayed by court action for some of the parcels. For the Palindra project, the court responsible for the land acquisition was the Indralaya District Court.

91. Articles 37–39 of Law 2 of 2012 provide clear guidance for occasions when displaced parties are not satisfied with compensation. They may file a lawsuit in the district court. This process demonstrates that the government does respect the landowners' right to appeal a valuation decision and provides a legal framework of possible actions to ensure equity in the land acquisition process.

92. The compensation of the acquisition will be entrusted (*dititipkan*) to the court if there is a dispute about the ownership or control of the acquired land. It cannot be determined when the dispute is settled because the case could go to the Supreme Court as a last resort. The case is categorized as a civil case that will be treated similarly to other common civil cases. However, land is already transferred to the State so the acquisition can go to the following step.

93. If an affected person refuses the compensation amount determined by the independent appraiser, the affected person can file a lawsuit in a District Court within 14 days after the end of the deliberation between the affected person and the land acquisition committee. Should the District Court fail to decide within 30 working days, the case goes to the Supreme Court for a final decision.

94. The situation illustrates that there are many areas in Indonesia where weak evidence of security of tenure will delay the land acquisition process. When there is multiple claims of land ownership, land acquisition must wait for the court's decision on which party is the true owner of the land. When this happens, the compensation that has been determined by the appraiser will be entrusted to the district court. This step cannot be skipped because there must be a legitimate party who will sign the land release ownership document to the agency that needs the land. The same process applies when the owner cannot be found due to indefinite circumstances.

95. Another feature of this case study is that implementation of the new law is encouraging the development of public projects that have significant benefits, which would not have happened if left to the private sector. The construction of the road project has been delegated under Perpres 100 of 2014 concerning the Accelerated Development Program of Freeways in Sumatra to PT Hutama Karya, a state-owned enterprise. Since the project was considered economically feasible but not financially viable, there was no private sector company that was interested in joining the tender process. The groundbreaking was held on 30 April 2015 and construction began on 20 July 2015, as up to 16 July there were still five parcels of land under the acquisition process.

96. There was no evidence found that the activity is paying special attention to vulnerable people in the planning stage; all affected people in the socioeconomic survey were not asked questions concerning their vulnerability since the main focus of the government is how to acquire land for public use and treat all affected persons equally using the same process and mechanism.

97. There is a gap between the volume of the work and the number of land acquisition committee members. Since Law 2 of 2012 has determined the limited time for steps in land acquisition activities, it is important to evaluate whether the time allocated by the law is enough to accomplish the tasks. For instance, Toll Palindra is about 22 km and it should have a

calculation on how many personnel are needed in the implementation stage to fulfill the timeline set up by the law. Since Law 2 of 2012 has determined the limited time for steps in land acquisition activities, it is important to evaluate whether the time allocated by the law is enough to accomplish the tasks.

98. **Results Stage.** The submission of the 7 km first section from Kantor Pertanahan Ogan Ilir to Satker has been released, construction has begun, and compensation has been completed. Another 15 km of the second and third sections, and the fourth, (exit toll) under the responsibility of Kanwil BPN Sumsel was 90% completed as of this writing so there hasn't been any submission of the results. The Land Office will submit the results to the proponent after all compensation has been paid.

99. **Monitoring and Evaluation.** Based on Law 2 of 2012, the monitoring of the land acquisition process should be done under coordination and responsibility of BPN. This monitoring covers the implementation and submission of the land acquisition result to the agency or office that needs the land, since BPN is authorized to do the implementation stage and results delivery. Furthermore, monitoring and evaluation are merely about the process of the LA, not about the impacts to affected households.

100. There is a gap which needs to be clarified about the scope of monitoring and evaluation mentioned in Law 2 of 2012. Monitoring and evaluation should be done for the entire process, instead of being applied to stages.

101. Based on the discussions and findings, the implementation practices (i.e., processes and procedures) of the land acquisition stages of the Palembang–Indralaya Toll Road can be considered “moderate.”

### **C. Outputs**

102. The output is the LARP document. For administrative reasons, the team was not able to obtain a copy of the relevant LAP and other supporting documents for the project from the proponent. However, the agency provided adequate information about the project verbally to determine the progress of the implementation. Since the document has not been obtained as of this writing, the assessment of this case study may need to be modified once the document can be collected from the proponent, and the rating would be defined later.

### **D. Outcomes**

103. Generally, the project complies with Law 2 of 2012 on Land Purchasing for Public Use and other supporting regulations. However, there is no particular attention paid to Indigenous Peoples, women, children, the elderly, and other vulnerable populations to be protected from the adverse impacts of development projects.

104. With regard to GRM, there was evidence that the law and policy was working effectively for environmental issues such as noise and dust pollution. That is, most of these environment issues were managed and resolved by the contractor (Hutama Karya Infrastructure [HKI]). Consequently, in most cases, the GRM did not continue to the next level for further coordination with the Satker Bina Marga.

105. The recent situation in the land acquisition process is that the second and third sections have been delayed by court action for some of the parcels. From 614 parcels on sections 2 and 216 were paid in 2015 but 180 parcels have been in dispute and brought to the court. A further 218 parcels are being put in the hands of the Court Administered Trust Account (*Konsinyasi*) for determination by the District Court.

106. For land acquisition issues involving GRM, usually the complainants went directly to the *Satker* office to file a complaint. The *Satker* would then address and resolve each issue, or refer to the next level of management if the complaint involves issues beyond the scope of their authority.

107. Grievance issues for land acquisition were mostly about multiple owners claiming the same piece of land. In 2013, owners of two parcels refused the price and there were three parcels with no owners. These issues were solved in 2014. Multiple claimants of land ownership are a common situation of land rights in Sumatra. The evidence of ownership is weak and is usually a letter signed by the head of village stating that a person in the document is the owner of land. Without a detailed survey map or land registration, it is common for landowners to mistakenly determine that a land parcel belongs to them but is actually owned by other persons.

108. There had been some intense and meaningful consultations held with the community. One affected person, Hanafi now sells vegetables, snacks, and coffee out of a small shop in front of his house, and is a part time farmer . Hanafi (he and his family has been living on the land since 1946. During the study. the Head of Sub Village II Ibul Besar Village, Pemulutan Sub District) mentioned that there were some meetings regarding the development of the project..

109. Some notes from him about the project:

- The affected land is not fertile so it was good that the land was used for the toll road and the affected persons received compensation from the project. The money was used to buy another piece of land for farming.
- Since the road in front of Hanafi's house was being used as a project road, his income increased by 25% per day since some workers were buying from him.
- There were some improvements from the project, now they have a fresh water tank and street lights.

110. Based on the above, the outcome of the Palembang–Indralaya Toll Road can be considered “moderate.”

#### **IV. Energy Sector: Central Java–Power Station**

111. The name of the project is the High VTL 500 kV *Pembangkit Listrik Tenaga Uap (PLTU)* Central Java–Power Station HVTL 500 kilovolt (kV) Kesugihan Central Java. The length of the transmission line is approximately 14 km; the land to be acquired is 35,966.90 square meters (m<sup>2</sup>). A total of 35 towers will be developed and will be situated in two affected sub districts, Kecamatan Adipala (three villages) and Kesugihan (four villages). About 800 people will be affected along the right of way (ROW).

112. The proponent of the project is the PLN *Unit Pelaksana Konstruksi Jaringan Jawa Bali 7* (UPK JJB) 7, which operates in coordination with PLN *Unit Induk Pembangunan VII (UIP VII)*, whose office is in Jogjakarta. The LARP document (named *Dokumen Perencanaan Pengadaan*

*Tanah*) was prepared by the *UPK* in 2013 and the *Penetapan Lokasi (P2LPT)* has also been released the same year by a *SK Gubernur* number 590/23 of 2013.

113. Some notes from the field visits are included below:

- (i) There is a change in the route of the corridor of the towers that requires PLN to acquire land for three more towers for the transmission lines. The land acquisition for this purpose was done under PLN policy so that the land acquisition team of PLN was not required to include local government personnel and procedures. This meant that the implementation process (identification and verification) was considerably faster than following the procedure of Law 2 of 2012.<sup>14</sup> Under the PLN policy there is no guidance on dealing with designated “village land” that cannot be acquired but can only be replaced. This is considered to be a PLN policy weakness. In other cases the issue of village land has led to significant difficulties in securing or replacing the land.
- (ii) The LARP document stated that the feasibility study and other information for the land acquisition were incorporated in the ANDAL document, which was approved in 2009.
- (iii) The project Location Determination - *Penetapan Lokasi (Persetujuan Penetapan Lokasi Pengadaan Tanah)* has been released by *SK Gubernur* 590/23 of 2013 dated 7 May 2013. Meanwhile, the provincial government has also established a general land acquisition preparation team in accordance with Law 2 of 2012 under a *SK Gubernur* No. 590/24 of 2013 dated 13 May 2013. The preparation team were responsible for the land acquisition preparation process in the Central Java province, so their tasks were not only focused on this project.
- (iv) Issues for land acquisition were mostly to do with local government coordination, sometimes there were different perceptions between the local government and PLN as to which land acquisition required a *Penetapan Lokasi (Location determination)* document or which land could be acquired by PLN itself using their own internal policies.

## A. Institutional Capacity

114. **PLN Persero.** The land acquisition issue in PLN is under the responsibility of the Health, Safety and Environment Division of the Directorate of Human Capital,<sup>15</sup> under the Directorate of Human Capital Management.<sup>16</sup> The tasks of the division in accordance to land acquisition are to monitor, implement, and analyze the management of LARP and prepare the terms of reference for the independent monitoring agency.

115. The government recently issued Presidential Decree Number 4 of 2016 concerning the Acceleration of the Development of Electricity Infrastructure that has provisions for simplifying and reducing the time required for the land acquisition process and for determining the location. Articles 33 through Article 37 of Chapter VII specifically state the land acquisition aspects of the Development of Electricity Infrastructure.

<sup>14</sup> Based on an interview with the *UPK* JJB 7 Manager, Bapak Sarwanto on 14 December 2015.

<sup>15</sup> Divisi K3L – Kesehatan Keselamatan Kerja dan Lingkungan

<sup>16</sup> Based on the PLN Regulation released in 2016 named Board Decision No. 0179.P/DIR/2016 about Organization and PLN Working Procedure, and the Board Decision No. 0028.P/DIR/2015 concern of Organisational Structure, Responsibility and Main Tasks of the Directorate of Human Capital Management

116. PLN Decree 0289 of 2013 regarding Land Acquisition for the Purpose of Providing Electricity, Operational Costs of Land Acquisition, and Operational Cost of Compensation covers (i) direct land acquisition to be used for tower siting, major electricity substation, network, transmission, distribution, power plant, and office, by giving indemnity; and/or (ii) indirect land acquisition for creating free space by giving compensation for the land crossed by the electricity network and transmission and by giving indemnity for the plants and buildings. As for compensation to owners of land, building, trees, and other objects under the transmission line of above 35 kV which will be formed as free space, the Ministry of Energy and Mineral Resources Decree 38 of 2013 Regarding Compensation of Assets in the ROW of Transmission Line establishes procedures, mechanisms, and formulas for compensation.

117. Based on the documents studied, the institutional capacity of the PT PLN Persero for land acquisition and resettlement can be considered “strong.”

118. **PLN UIP VII.** The PT PLN – Main Unit Development (*Unit Induk Pembangunan, UIP*) VII is one of the business units under PT PLN (Persero) and is a further merger from previous units called *UIPJJB* and *UIP VII* based on the Policy of PLN Board 171.K/DIR/2013, dated 13 February 2013.<sup>17</sup> The unit covers the development and construction of transmission lines and substations in Java and Bali. In accordance with the Policy of PLN Board (*Peraturan Direksi PLN*) 0133.K/DIR/2015, the *UIP VII* has a land acquisition and ROW compensation team consisting of 13 people including the coordinator responsible for all development of transmission line projects under their responsibility.

119. Per Policy of PLN Board (*Peraturan Direksi PLN*) No. 0133.K/DIR/2015, the *UIP VII* has a Land Acquisition and ROW Compensation team consisting of 13 members including the coordinator, and the *UPK* has a team of 6 members including the coordinator. The focus of the unit is on land acquisition for the projects under their responsibility, rather than on broader land acquisition and resettlement issues.

120. Based on the documentation reviewed, the institutional capacity of the PLN *UIP VII* for land acquisition and resettlement can be considered “strong.”

121. **PLN UPK JJB 7.** The PT PLN – Implementation Construction Unit Jawa Bali Network (*Unit Pelaksana Konstruksi Jaringan Jawa Bali, UPK JJB*) 7 (the *UPK 7* team) is responsible for the land acquisition and in accordance with Law 2 of 2012 and/or PLN regulation based on Regulation of Minister of Energy and Mineral Resources 38 of 2013 for the High VTL 500 kV PLTU Central Java project. Its legal mandate specifies has the structure, and detailed roles, functions, and assignments or land acquisition. The *UPK* has a land team with six members including the coordinator. The focus of the unit is on land acquisition for projects under their responsibility but not broader social safeguards issues such as resettlement and livelihood restoration. The *UPK* has to rely on *UIP* and PLN central office mobility to fulfill their mandates in the land acquisition issues.

122. To improve the capacity of the staff in the *UPK* for land acquisition and resettlement, they are required to participate in joint training sessions recommended and assigned by their supervisor. Each staff member of the unit is entitled to attend a minimum of two training sessions every year, either internally within PLN or externally. Since the *UPK* now has 19 contracts (each contract consists of approximately 50 to 80 towers) under their responsibility,

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<sup>17</sup> The regulation is about the Organisation of PT PLN (Persero) Unit Induk Pembangunan VII.

their workload is relatively heavy and the staff feels that they need more support in finishing their tasks in land acquisition.

123. The *UPK* JJB 7 has a budget to implement land acquisition for the project, as well as an annual budget (in coordination with its Human Resources Unit) for supporting social safeguards mandates including training and workshops. However, since the unit has many projects requiring land acquisition, most of the staff does not have time to join the workshops and/or trainings, and as a consequence the budget for capacity building is never fully used.

124. The indicator of achievement for the unit is the percentage of land that has been acquired for the project, which is 100% on December 2015.

125. Based on the documents study, discussions, and findings during the field visit, the institutional capacity of the PLN *UPK* JJB of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java can be considered “moderate.”

126. **BPN Cilacap.** The office has a mandatory regulation and structural legacy as the executive agency to supervise the completion of Law 2 of 2012. Generally, at the implementation stage of land acquisition, the Head of the Land Office is responsible for establishing the land acquisition committee. Meanwhile, following the structure from *Permen 8* of 2015 on Organization and Management of the Ministry of Agrarian Affairs /BPN,(KA BPN RI 4 of 2016 dated 16 May 2016), the office has a Land Rights and Land Registration Section to handle land acquisition..

127. There are 16 staff in the Land Right and Land Registration Section, and 2 under the Government Land Arrangement Subsection. Although their job is not specifically limited to social safeguards issues, they are competent to handle all land acquisition issues. The institution has also implemented a capacity building program using the resources of the National Land Ministry by joining workshops on the implementation of Law 2 of 2012 and the supporting regulations. The budget for improving staff’s capacity is managed from the central office in Jakarta.

128. In accordance with the institutional structure and organizational tasks and function, the division has a guaranteed budget from the ministry to carry out its limited social safeguards mandate, which is only the implementation of land acquisition in accordance with Law 2 of 2012. If the budget for the fiscal year has been completely utilized, the land acquisition activity would be subject to further request for the next year. Meanwhile, the budget for improving staff’s capacity is managed from the central office in Jakarta. However the office doesn’t have adequate equipment and mobility to support its mandates independently. They also lack a Pusdiklat or training center in their area. To improve staff BPN staff from offices across Indonesia must attend the training held regularly by *Diklat* Division in Central BPN.

129. Based on the documents study, discussions, and findings of the field visit, the institutional capacity of the BPN Cilacap of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java can be considered “moderate.”

130. The conclusions of the gap analysis for institutional capacity are as follows:

- **Task force:** There was no gap found regarding the establishment of the unit responsible for land acquisition for the project.
- **Staffing:** The focus of *UPK* as the implementing agency was limited to land acquisition in accord with government regulations. Consideration of broader land acquisition and resettlement issues was found to be subject to the source of project

finance (e.g., ADB, the World Bank, and bilateral funding organizations). There was a gap in the awareness of the various policies and their implementation of these organizations.

- **Budget:**

- **JJB 7:** Although there is an annual budget for capacity building, most of the time it was not used completely since the staff had to finish their target allocation for completion of their required land acquisition duties.
- **BPN Cilacap:** Although there appears to have been sufficient budget to cover the cost of all land acquisition for the project, BPN Cilacap commented that this was not always the case. This was due to the fact that the budget for land acquisition implementation is submitted annually from the District BPN to the Central BPN. Any local government office that needs land is required to submit their request early in each year. If the request is submitted late in the year, allocation normally has to wait until the next fiscal year. This issue generally delays the implementation process of land acquisition.<sup>18</sup>

- **Technical Resources—Equipment and Facility:**

- **PLN UPK JJB 7:** Although PLN has sufficient equipment and facilities to support staff capacity building and staff are required to attend at least two trainings a year, their workload sometimes prevents them from participating in the required training.
- **BPN Cilacap:** The office needs to improve the capacity of the staff by scheduling capacity building regular intervals, subject to supervision and monitoring.

## **B. Implementation Practice: Processes and Procedures**

131. **Planning Stage.** The LARP document for the project was prepared by the *UPK JJB 7* in 2013 and the *Penetapan Lokasi (Peretujuan Penetapan Lokasi Pengadaan Tanah)* was released in 2013 by a SK Gubernur No. 590/23 of 2013.

132. As a state-owned company, PLN has been assigned by the Ministry of Energy and Mineral Resources to acquire land for public use (development of power energy project). Without a letter of assignment, PLN has no authority to acquire land through Law 2 of 2012. PLN procedures to compensate the affected and/or displaced persons or parties are subject to the Regulation of Minister of Energy and Mineral Resources 38 of 2013: Compensation procedures to Land, Building and Plants located under *SUTT* (High Power Transmission) and *SUTET* (Extra-High Power Transmission).

133. PLN *UPK JJB 7*, as the responsible unit, has developed a planning document dated 22 May 2013, which states that the feasibility study, including social, economic, and environmental impacts of the project, has been developed in the ANDAL *SUTET* in 2009 and approved by the Regent of Cilacap with an SK No. 660.1/99/29/Tahun 2010 dated 25 February 2010. The project was developed in accordance with the regional spatial planning provisions and PLN *UPK JJB 7*'s strategic planning,<sup>19</sup>

<sup>18</sup> This finding should be clarified since the measurement budget is not from BPN but the agency that needs the land.

<sup>19</sup> The PTP (penilaian teknis pertanahan) document, produced by the land office, indicates whether the LAP achieved the consistency between the LAP and spatial planning, strategic planning and mid-term development planning.

134. The ANDAL document<sup>20</sup> referenced the results of a socioeconomic survey of respondents from the affected sub-districts, but with no breakdown of those households that were affected and those that were not affected. The document also contained detailed information on the land to be acquired and their owners; however there were no separate socioeconomic profiles of the affected persons.<sup>21</sup>

135. During field visit interviews, it became clear that, with the government focusing primarily on acquiring the land needed for the project, insufficient attention was paid to vulnerable groups during the planning stage. All affected people were treated equally in the socioeconomic survey.

136. From the PLN UPK perspective, the goal during the land acquisition planning stage is to have the same perspective among PLN, local government, and BPN. However at times there were different perceptions as to when land acquisition requires a *Penetapan Lokasi* document or when land can be acquired by PLN itself using their own internal policies.

137. **Preparation Stage.** The Central Java Provincial Government has issued Governor Regulation 18 of 2013 on Implementing Guidance for Land acquisition for public use, which then has been amended by Governor Regulation 60 of 2013. The regulations are intended to be the operational guidance for the Government in acquiring land for public use in Central Java.

138. From the data gathered, some *Penetapan Lokasi* were produced:

- (i) SK Bupati Cilacap 590/326/03/2007 for substation
- (ii) SK Bupati Cilacap 590/216/03/2009 for towers
- (iii) *Penetapan Lokasi* (Persetujuan *Penetapan Lokasi* Pengadaan Tanah) by Governor Decree (SK Gubernur) 590/23/2013 dated 07 May 2013 for towers, in accordance with Law 2 of 2012
- (iv) Renewal of SJ Gubernur 590/23/2013 by SK Gubernur 590/14/2015.<sup>22</sup>

139. The provincial government has also established a general land acquisition preparation team in accordance with Law 2 of 2012 under SK Gubernur 590/24/2013 dated 13 May 2013. The team is responsible for the preparation stage for all provincial level projects requiring land acquisition. For the case study, the team conducted public consultations in the Desa Kesugihan Kidul and Adipala subdistrict community centers to seek agreement from the affected people.

140. During the field visit and interviews with PLN and the Regional MASP/NLA staff, it was found that there were multiple interpretations as to whether land with an area that is less than 5 ha would have to develop a *Penetapan Lokasi*. This suggests a need to clarify this requirement as it applies to land acquisition of less than 5 ha.

141. **Implementation Stage.** After the *Penetapan Lokasi* was issued, BPN Central Java was assigned as the responsible agency for the implementation stage.<sup>23</sup>

<sup>20</sup> The ANDAL document was prepared by qualified and certified ANDAL consultants contracted by PLN.

<sup>21</sup> It is important to explore more whether Law 2 of 2012 requires the Feasibility Study (FS) for the whole project or land acquisition. If part of the whole FS includes sub-chapter/section on land acquisition satisfies the requirement stated in Law 2 of 2012, the collected document has fulfilled the requirement and would be consistent with ADB's Safeguard Policy Statement.

<sup>22</sup> The renewal of the *Penetapan Lokasi* was done since there were some ongoing negotiated land acquisition until 2015

<sup>23</sup> Letter dated 15 July 2013 was sent from BPN Province to the Land Office Cilacap District

142. An implementation team was formed in the designated land office. The team had two task forces: task force A was responsible for measurement, mapping, and all physical identification, while task force B was responsible for the valuation of the buildings, plants, and crops, in accordance with legal information (e.g., price list of plants and crops released by Agriculture Office).

143. The data gathered were then combined to make a list of *Data Nominatif* and *Data Fisik*. These would be disclosed to the public during consultations held by the team in the sub district office or other agreed places. The BPN Cilacap released the results in the public consultation in November 2013.

144. Generally, there are two compensation schemes covered in the acquisition of land for PLN TL projects. One is the compensation of land acquired for towers; and the other one is the easement fee for land along the ROW, the area beneath the transmission line. For the easement fee or ROW payment, the land is not acquired by PLN; rather the payment is to compensate for the land use restriction caused by the high power transmission.

145. The independent appraisers for the towers were hired on 20 January 2014 and asked to accomplish their task within 30 days. They submitted the result to the BPN on 14 March 2014.

146. For the easement fee, the process to identify and verify the list of affected persons and the payment took longer than for the payment of land acquired for the towers. The same appraisers were assigned to do the ROW compensation valuation on 1 April 2014 and the payment process was still ongoing at the end of November 2015.

147. Affected persons usually chose cash transferred to their bank accounts as the form of compensation for land acquisition. There are other forms of compensation for affected land owned by village's administration that must be replaced by new land in other locations.<sup>24</sup>

148. Also, there was a change in the route of the corridor of the towers that required PLN to acquire land for three more towers than was originally planned for the transmission lines. The land acquisition for this purpose was conducted under PLN policy such that the PLN land acquisition team was not required to include local government personnel and procedures. This meant that the implementation process (identification and verification) moved considerably faster than it would have had it followed the procedure of Law 2 of 2012. However, under PLN policy there is no guidance on dealing with a designated village land that cannot be acquired but can only be replaced. This is considered to be a PLN policy weakness. In other cases, the issue of village land has led to significant difficulties in securing or replacing the land.

149. The gap in this stage is that the BPN land acquisition team, composed of several officers responsible for verifying and validating the physical data (*data fisik*) and legal data or document (*data yuridis*) of land rights acquired for public use, has a limited number of staff to do the land survey and measurement. This may further delay the land acquisition process.

150. **Results Stage.** The submission from the Land Office for compensation of the 35 towers was done on 29 December 2014, and it was submitted after all compensation was paid. However, there remained three parcels of ROW and two land permits that were still under process as of the site visit on December 2015.

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<sup>24</sup> See on Section of Negotiated Land Acquisition, para 154

151. **Monitoring and Evaluation.** Based on Law 2 of 2012, the monitoring of the LA process should be done in coordination with BPN. Since BPN is authorized to conduct the implementation stage and results delivery, this monitoring covers the implementation and the submission of land acquisition results to the agency or office that needs the land. Monitoring and evaluation is limited to the land acquisition process and does not include the affected households. Meanwhile since the LARP for this project was developed within the framework of the ANDAL document, the monitoring and evaluation would be in accordance with the *Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup* (UKL/UPL) reports that would be produced every 6 months from the time the Environmental Permit is released.

152. The scope of monitoring and evaluation required in Law 2 of 2012 is limited to monitoring and evaluation of the land acquisition performance by the government and result of the handover of the land acquisition by the land agency (MASP/NLA).<sup>25</sup> However, Presidential Regulation 71 of 2012 provides that NLA conduct monitoring and evaluation of the control, ownership, use, and utilization of acquired land for the development in the public interest. Ideally, the monitoring should be extended to the land acquisition impacts to the affected households.

153. **Negotiated Land Acquisition.** The plan for the negotiated land acquisition was consistent with spatial and development plans. There were two parcels of land owned by villages that had to be replaced in the project, one in Kesugihan Village and the other in Bulupayung Village, both in the Kesugihan Sub District.

154. PLN UPK acted on behalf of the agency that needed the land. The agency had initiated some consultations in both villages and there were significant coordination between PLN, the villages' authorities, and the Cilacap District local government from May to October 2014.

155. The following steps were undertaken for land placement, a process that involved the agency needing land finding replacement land in the same area with a price that is equal to the acquired land:

- (i) Land for public use was appraised. The defined price should be agreed by both parties.
- (ii) The Land Replacement Committee was developed and an agreement for the replacement land locations was reached between PLN and the village authority.
- (iii) The replacement land locations were measured.
- (iv) Agreement on the land price at the replaced land location was reached with the owners.
- (v) Payment was made for the replaced land parcels.
- (vi) PLN coordinated with the Land Office for the balance of money that could not be spent in the form of a land parcel.
- (vii) Land replacement reports were submitted to the Land Office.

156. In this project, the Notary and Land Registration Office (Notaris dan PPAT) Sumardi SH was assigned to conduct the appraisal. In Kesugihan Village, the size of the land to be replaced was 784m<sup>2</sup> worth Rp 463,786,000. This was replaced by three parcels of land with a total area of 5,176m<sup>2</sup> worth Rp 463,721,000. The balance of Rp 15,000 was returned to the village administration bank account.

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<sup>25</sup> Law 2 of 2012 on Land Acquisition Law for the Development in the Public Interest, Article 51.

157. Other objects of negotiated land acquisition were undertaken with the Indonesian Railway Company (PT. KAI) and the Water Resource Management Office (PSDA) of DGWR, Ministry of Public Works and Housing. The arrangement was for PLN to rent the land parcel, and obtain land use permits while the PLN UPK JJB 7 was required to organize and prepare all the necessary documents. For the KAI, coordination took place to the national level (PLN Central and Ministry of Transportation), while for the PSDA it was up to the provincial and local government offices.

158. Discussions with PT KAI began in 2012 and with PSDA in 2014. The agreements with both agencies were ready in 2014 and the UPK subsequently issued the UIP.

159. Based on the discussions and findings, the implementation practices (i.e., processes and procedures) for the land acquisition stages of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java can be considered “strong.”

### C. Outputs

160. The LARP document was developed in accordance with the approved ANDAL document. A general explanation about land acquisition for the public interest was included as well as the purpose and objective for the development of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java. The project is expected to improve the capacity and energy distribution in Central Java by: (i) improving the energy system in the Central Java area by 1 X 660 mVA in the 500kV system and (ii) distributing energy from the PLTU 2 to the Kesugihan Power Station.

161. Multiple consultations were held with the local communities. A general public consultation during the planning stage of the project was followed by more specific consultations with affected persons along the ROW and adjacent to the towers.

162. The LARP documented a socioeconomic survey, with respondents from the affected subdistricts, but no breakdown of affected and non-affected households. The document also has detailed information on the land to be acquired and of the landowners. However there were no separate socioeconomic profiles of the affected persons, and the document did not mention if there was assistance offered for livelihood restoration and or corporate/social responsibility.

163. The LARP indicated that the total land area to be acquired was 36,000m<sup>2</sup> within two administrative affected areas, consisting of Kecamatan Adipala (four villages) and Kecamatan Kesugihan (four villages).

164. The proposed budget for land acquisition for the project would be taken from the PLN Budget (APLN), as followed:

#### Budget for Land Acquisition (Rp)

Planning stage	30,680,000
Preparation stage	142,060,000
Implementation stage	33,519,502,000
Handover stage	356,290,000
TOTAL	34,048,532,000

165. The LARP document has a detailed timeline for the land acquisition process from the submission to the local government (preparation stage) through the handover from the BPN to the PLN. It was initially estimated that this process would be completed between May and November 2013.

166. Based on the study of the LARP documents, the output of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java can be considered “moderate.”

#### D. Outcomes

167. The project generally complies with Law 2 of 2012– Land Purchasing for Public Use and other supporting regulations. However there is no particular attention paid to Indigenous Peoples, women, children, the elderly, and other vulnerable populations to be protected from the adverse impacts of development projects.

168. The affected people appeared to be satisfied with the compensation they received as paid in accordance with the valuation from the independent appraiser was nearly three times the estimated recent market price.

169. The Grievance Recourse Mechanism (GRM) was implemented effectively and addressed the issues raised. The LARP document was disclosed in the community in a timely and appropriate manner. To date there have been no complaints registered about any issue concerning the project. In PLN, such complaints usually concern workers’ and land issues.

170. With regard to the land acquisition process in general, the more important issues discussed during the case study fieldwork were:

- In coordinating with the local government, at times there were different perceptions between PLN and the local government as to whether a particular land acquisition required a *Penetapan Lokasi* document or could be acquired by PLN itself using their own internal policies.
- Due to the way BPN budget outlays are structured, as described above, any request to carry out land acquisition during the last quarter of the year, leaves BPN with limited or no budget to under taken the necessary due diligence until the beginning of the following year.
- It was found that there were multiple interpretations as to whether land less than 5 ha has to develop a *Penetapan Lokasi*. This suggests a need to clarify the regulations with respect to the requirements for land acquisition of less than 5 ha.
- Parcels of land owned by a village that have to be replaced and cannot be acquired also present difficulties during implementation. In practice it was challenging to replace the land with the same size of land without additional cash being provided to make up any difference with the agreed valuation.
- Coordination with other government institutions was also found to be the cause of the delay in current process. There is a need to review the current system of delegation to district and/or project specific teams.

171. In spite of these minor deficiencies, based on the situation and achievement of the project to date, the outcome of the High VTL 500 kV PLTU Central Java–Power Station HVTL 500 kV Kesugihan Central Java can be considered “strong.”

#### V. Urban Planning: Normalisasi Kali Ciliwung (NKC – Normalization of Ciliwung River)

172. **Relocation Issues.** The Normalisasi Kali Ciliwung (NKC) project areas are divided into three segments: (1) Manggarai to Kampung Melayu; (2) Kampung Melayu to Simatupang; and (3) Simatupang to Pesanggrahan. The focus of this case study is the land acquisition of Kampung Pulo, which is part of the Kampung Melayu to Simatupang segment, where hundreds of people living in the area were forced to leave their houses and neighborhoods. All of the displaced parties were allowed to stay without payment for three months in a leased apartment (Rumah Susun Sewa) provided by the Jakarta provincial government.

173. The *Daerah Khusus Ibukota* (DKI) Jakarta provincial government has made arrangements and distributed responsibilities based on agencies’ authorities and the available budget resources. The Ministry of Public Works and Housing allocated a budget for construction of the apartment building while the land was provided by the provincial government. The Water Resources Office of DKI Jakarta is responsible for acquiring the land for the NKC. The police unit of the provincial government (*Satuan Polisi Pamong Praja [SatPol PP]*) was tasked with enforcing the law on those who were occupying and using the riverbank.

174. With respect to the land, the government used two approaches. The first approach involved land acquisition for public purposes on land owned by individuals that have been registered in BPN. The second approach involved an area of river and its surrounding area (riverbank) which is considered to be a state-controlled area per Article 3 of PP 35 of 1991 on Rivers. Consequently, no one can use the river bank without permission, assignment or appointment from an authorized government entity.

175. The acquisition of land owned by affected parties followed steps regulated by Law 2 of 2012. The agency that needed the land (Water Resource Office of Jakarta Province) was responsible for acquiring land to improve the river and maintain it carefully to protect the surrounding area from flooding during the rainy season.

176. The Water Resource Office prepared the LARP and submitted the complete document to the provincial government to obtain the *Penetapan Lokasi*. Since there are so many land acquisition activities in Jakarta (about 340 activities per year) the provincial government mobilizes the preparation team from the agency that needs land. In this case, the Water Resource Office prepared LARP documents and was involved in the preparation stage for land acquisition conducted by the local government.

177. To repossess the riverbank that has been occupied by non-land rights holders, the Jakarta government specified that the people with have no land legal title are not eligible for compensation for land they occupy,<sup>26</sup> but may be permitted to inhabit temporary living quarters

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<sup>26</sup> The governor has, on numerous occasions, made it very clear that no cash compensation would be paid to the non-land rights holders.

at an apartment building constructed specifically as for the displaced persons who have been living in the area for specified number of years.

178. As a result, non-land legal title occupants were relocated to the new apartment which offered better living conditions than their previous houses. The relocation process was the responsibility of SatPol PP; Provincial/Kabupaten/City Law Enforcement Board responsible for enforcing the applicable Provincial Government Regulations concerning orderliness.

179. The Satpol PP is the Provincial/Regent/City Government's institution responsible for maintaining public order as mandated by DKI Jakarta Regional Regulation (Perda) including Perda 8 of 2007. Satpol PP is established in the provincial government and it has a branch in every city (there is Satpol PP in South, North, Central, and West Jakarta city) and every sub-district and *kelurahan*.

180. Perda 8 of 2007 on Public Order sets forth measures on how public order must be upheld. The Perda is translated into implementing provisions by Governor Regulation 221 of 2009 on Implementing Guidance for Regional Regulation 8 of 2007. According to Article 13 (a) of the Perda, it is strictly prohibited to build bathrooms, washing place, toilets, houses or businesses on the river and riverbanks or inside the area of lakes or dams. Article 14 (3) prohibits to use of river water and lakes for business except upon the permit from Governor and assigned official. Article 36 (1b) also prohibited building construction adjacent to roads, rivers, lakes, reservoirs, parks, and green belts, without government authorization. Violation of the above provisions is treated as a light criminal offense (*tindak pidana ringan*) and persons found to have violated this can be imprisoned from at least 20 days to 90 days and Rp 500,000 to Rp 30,000,000.

181. According to Article 2 of Governor Regulation 221 of 2009, Satpol PP along with related provincial offices is responsible for advisory, control, supervision, and oversight measures. With regard to the river area, *Satpol* PP will work closely with public works offices to ensure compliance with the rules.<sup>27</sup>

### A. Institutional Capacity

182. **Directorate General of Human Settlement (DGHS).** The DGHS implements policy and provides technical guidance and supervision in the development of residential areas; overseeing building arrangements; development of a supply system for drinking water; and wastewater, drainage, and waste systems management. As no land acquisition is undertaken by DGHS, no safeguard unit has been set up within DGHS. Considering the project assets ownership, the responsibility to acquire the land needed for the project rests with the local government, while the DGHS focuses on the physical construction. Accordingly, the institutional capacity of DGHS for land acquisition and resettlement can be considered "weak."

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<sup>27</sup> Article 4 of Governor Regulation 221 of 2009 authorizes Satpol PP to perform the following functions: (i) guarding and field security, (ii) monitoring and supervising the use of permit and disturbance law, (iii) delivering oral or written warnings, (iv) conducting field patrols, (v) executing raids, (vi) implementing expulsion (*pengusiran*), (vii) carrying out extrusion (*penghalauan*), (viii) conducting demolition (ix) stopping illegal activities such as building without permits from the local government and selling or running businesses on government land without permissions, (x) implementing field control, (xi) apprehending unauthorized people in restricted areas, (xii) carrying out arrests, (xiii) delivering court-issued notices of foreclosure, (xiv) destroying illegal structures (*pemusnahan*), (xv) cleaning up of debris after demolition, (xvi) releasing or revocation (*pencopotan*) such as removal of billboards that do not have permissions, and (xvii) supervising investigations by civil investigator.

183. At the implementation phase, the responsibility for land acquisition is delegated to the local governments and the land involved becomes an asset of the local government. For the NKC project, DGHS financed construction of apartments used for relocation of the affected persons.

184. The **BBWS Ciliwung Cisadane** under the DGWR is the office assigned for the project. Under the Balai, a Task Force (*Satker*) was mobilized and charged with responsibility for the NKC Project. Similar to the BBWS3C responsible to Karian Dam Project, there is no dedicated safeguard unit within the institution and preparation for land acquisition and resettlement is usually assigned to a consultant. Based on the gaps in the organizational structure for land acquisition and resettlement, the institutional capacity of the *Balai Besar Wilayah Sungai Ciliwung Cisadane* (BBWSCC) and the *Satker* for land acquisition and resettlement can be considered “moderate.”

185. **Dinas Tata Air DKI Jakarta** has established a Land Technical Implementation Unit (UPT *Pertanahan*), which is responsible for land acquisition for the project. The unit, established with a SK from the head of the office, prepared the planning documents for the project. Although UPT *Pertanahan* has a budget to run the land acquisition activity in connection with the project, the while budget for capacity building depends on the resources allocated by the office. Based on the study of project documentation, discussions and findings during the field visit, the institutional capacity of the UPT *Pertanahan* can be considered “moderate”.

## B. Implementation Practices: Process and Procedure

186. **Planning Stage.** There are two procedures undertaken by the Government for land acquisition. The first is land acquisition for privately owned lands with legal title; the second is ‘land acquisition’ for river banks occupied by residents. Article 3 of PP No 35 of 1991 on Rivers states that a river bank is considered state land. Consequently, no one can use the riverbank without permission or assignment/appointment from any authorized government entity.

187. Acquisition of land with legal land certificates follows the procedure regulated by Law 2 of 2012 and its implementing regulation. Agencies needing land (such as the Water Management Office of Jakarta Province) are responsible to acquire land in order to protect against flooding during the rainy season. Accordingly, the Water Management Office developed the Planning Document and submitted it to the Governor. Resettlement of the non-land rights holders living along the bank of the river is conducted jointly by of DGHS and DKI Jakarta Provincial Government under Sat-Pol PP.

188. **Preparation Stage.** The Water Management Office prepares the land acquisition plan and submits the complete document to the Provincial Government to obtain the *Penetapan Lokasi*. Since there are so many land acquisition activities in Jakarta (about 340 activities in a year) the provincial government established a preparation team drawn from the agency needing land. In this case the Water Management Office not only prepared the LARP, but also carried out activities for the *Penetapan Lokasi*.<sup>28</sup>

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<sup>28</sup> This process required the issuance of three *Penetapan Lokasi* for the project corresponding to separate segments of the riverbank

189. **Implementation Stage.** In Kampung Pulo, there were only 11 land parcels with land certificates while approximately 540 land parcels were identified without legal title to land. The Jakarta Provincial Government requested all displaced parties to move to a subsidized budget rental apartment (*Rumah Susun Sewa*) for free for three months. Rental cost was set at IDR of 300,000 per month after that initial period.

190. During the study, valuation for land with certificates was assigned to an independent appraiser. The detailed measurement survey for the segment 2 of the project was been divided into two Land Offices: East Jakarta Land Office for Kampung Pulo and South Jakarta Land Office for Bukit Duri. The measurement survey is ongoing.

191. For affected persons who have no legal land titles, the DKI Provincial Government has allocated responsibilities among authorities based on available budget resources. The Ministry of Public Works and Housing is allocated the budget for constructing the apartments, while the land itself is provided by the Provincial Government. After the construction of the apartments is complete, the building will be handed over to the Housing Office DKI Jakarta.

192. Enforcement of legal measures pertaining to occupants and users of the river-bank is the responsibly of *Satpol* PP (the Provincial Government Police Unit). To re-acquire occupied riverbank the Jakarta Government has imposed strict measures to ensure that such occupants are not provided with cash compensation.<sup>29</sup> However, the occupants are eligible to reside temporarily at a low budget rented apartment space, "*Rusunawa* Jatinegara," which was constructed specifically for the purpose of housing displaced persons/parties on a temporary basis pending assignment to more permanent housing. For a period of three months the displaced persons are entitled to occupy their apartments rent for free. The *Rusunawa* Jatinegara was opened on February 2015. From then until August 2015 the building provided housing to approximately 400 affected households, which is around 80% of the *Kampung Pulo* Affected Households.<sup>30</sup>

193. The relocation process is the responsibility of Sat-Pol PP, the Provincial/regent/City Government's institution responsible for enforcing all public order as mandated by The DKI Jakarta Regional Regulation (Perda) No 8 of 2007<sup>31</sup>.

194. No 8 of 2007 on Public Order sets forth measures on how the public order must be upheld. Implementing provisions are set forth by Governor Regulation No 221 of 2009 on Implementing Guidance of Regional Regulation No 8 of 2007. According to Article 13 (a) of the Perda, it is strictly prohibited to build bathrooms, washing places, toilets, houses or businesses on rivers and riverbank or inside areas surrounding a lake or dam. Further, Article 14 (3) prohibits use of river and lake water for business activities without a permit from Governor and a designated local official. Article 36 (1b) also prohibits to construction of any adjacent to a road river, lake, reservoir, park, or green belt, without government authorization.<sup>32</sup>

<sup>29</sup> In any event, the governor of Jakarta has made it very clear that no compensation will be paid for people with no legal land title, such as mentioned in this news: Reasons of Ahok (the DKI Jakarta Governor) do not Provide Cash Compensation to the affected Persons in Kampung Pulo, [metrotvnews.com/read/2015/08/25/424316/](http://metrotvnews.com/read/2015/08/25/424316/),

<sup>30</sup> Eviction in Kampung Pulo: 80% of Affected Households Occupied the Low Cost Apartment, Tempo Co, 23 August 2015

<sup>31</sup> Satpol PP is established in the provincial Government and has a branch in every district/city (in Jakarta there are Satpol PP in South, North, Central and West Jakarta) and every sub district and kelurahan (village in urban areas).

<sup>32</sup> Violation of such provisions is subject to criminal prosecution resulting in fines and prison sentences.

195. The relocation of the affected persons with no legal title to land in Kampung Pulo was subject to protests by and the affected persons and clashes between them and Satpol PP. Further consultations were conducted following the protests and ultimately, the Administrative Court rejected a lawsuit filed by the affected persons in and they were relocated to the Rusunawa Jatinegara.<sup>33</sup>

196. The affected persons in Bukit Duri lodged the complaint (class action) to the Central Jakarta District Court and in October 2016 lodged the complaint to the administrative court for the three warning letters issued by the DKI Jakarta Government used for the basis of eviction done in September 2016. In January 2017, the administrative court (*Pengadilan Tata Usaha Negara/PTUN*) ruled in favor of the Bukit Duri residents for the warning letters for the eviction. The judges cancelled the warning letters (*Surat Peringatan/SP* I, II, and III) because these letters violated the procedure of land acquisition set forth in the Law 2 of 2012 on Land Acquisition for Development of Public Interest<sup>34</sup>. Evictions to the Bukit Duri Residents violated the principle of humanity, justice, usefulness, certainty, openness, participation, prosperity, and sustainability. The judges, therefore, obligated the DKI Jakarta Government to restore the rights of residents and provide appropriate compensation to the affected persons for their lost assets due to the warning letters and eviction<sup>35</sup>. The DKI Jakarta Government plans to appeal the administrative court ruling to the Supreme Court for final decision<sup>36</sup>.

197. **Result Stage.** For the landowners with legal certificates, the process of measurement (in Implementation Stage) is still ongoing. The East Jakarta Land Office is the responsible office to finish the measurement and to develop the results. Of the affected persons without legal land title, 80% of them have moved to the Rusnawa Jatinegara on August 2015.

198. **Monitoring and Evaluation.** Based on the Law 2 of 2012, monitoring of the land acquisition process should be conducted in coordination with the Land Office (BPN). This monitoring covers the implementation and the submission of land acquisition results to the agency requiring the land, since BPN is authorized to conduct the implementation stage and results delivery. However the focus of monitoring and evaluation is limited to the procedures for land acquisition, rather than impacts of the affected households. For this project, the monitoring of short-term impacts on affected persons would be quite feasible so long as they are co-located in the centralized area of the Rusunawa. In any case the tools and assigned parties for both short and medium term monitoring and evaluation is lacking. Given these limitations, the implementation practices (process and procedure) of the land acquisition Stages of the Normalisasi Kali Ciliwung (NKC) Kampung Pulo can be considered “moderate”.

### C. Outputs

199. The team was not able to obtain a copy of the relevant land acquisition plan and the supporting documents for the project from the proponent. However the agency provided adequate information about the project verbally and the progress of the land acquisition implementation. Lots of information on the project progress and safeguard issues are available

<sup>33</sup> [Http://megapolitan.kompas.com/read/2016/01/22/10542971/](http://megapolitan.kompas.com/read/2016/01/22/10542971/).

<sup>34</sup> The judges stated that land ownership evidence of the citizens has been in accordance with Law 2 of 2012 on land acquisition and Presidential Regulation No. 71 of 2012 on the Land Acquisition of the Development for Public Interest. <http://www.cnnindonesia.com/nasional/20170105185429-12-184408>.

<sup>35</sup> <http://megapolitan.kompas.com>.

<sup>36</sup> <http://www.bbc.com/indonesia/indonesia-38560196>.

in the internet and printed media. Land acquisition for private land with legal title was undertaken using negotiated land acquisition and according to the regulation, a land acquisition plan is not required. While, land acquisition for area that has been owned by the project proponent (institution needing the land) and occupied by people with no land rights is considered as “a land clearing”, therefore the project proponent (Balai Besar Wilayah Sungai Ciliwung Cisadane) did not prepare a land acquisition plan for the project.

#### **D. Outcomes**

200. The team was able to determine that, to date, the process for land acquisition of the project appears compliant with Law 2 of 2012 for affected people with legal land title, although land acquisition was still ongoing and the full compensation has not yet been paid. The DKI Jakarta Government relocated the affected households with no land legal title to affordable rental fee Rusunawa located near the project area with rental fee for 6 months and monthly payment afterward as well as other livelihood resettlement programs.

201. Consultations and socialization was undertaken in 2015 for settlers with no land title who continued to demand compensation for their non-land assets<sup>37</sup>. Affected persons interviewed by the media after relocation to Rusunawa, the stated that they were satisfied with the living conditions in the Rusunawa, which they found to be more hygienic than their former dwellings in Kampung Pulo<sup>38</sup>. However, some affected persons planning to reside longer than six months are unable to pay the rental fee and the DKI Jakarta is working to solve the issue. Based on the situation to date the outcome of the Normalisasi Kali Ciliwung (NKC) Kampung Pulo can be considered “moderate”.

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<sup>37</sup> Ciliwung Merdeka, Press Release, August 2015

<sup>38</sup> Residents of Kampung Pulo Feel Comfortable After Moving to Rusunawa, Suara.Com, 21 August 2015