

Involuntary Resettlement Due Diligence Report

January 2019
Project Number: 47381-002

SRI: Mahaweli Water Security Investment Program

Additional Resettlement Monitoring and Evaluation Report

Final Report

Prepared by the Ministry of Mahaweli Development and Environment with the assistance of the Project, Management, Design and Supervision Consultant (Joint Venture Lahmeyer International GmbH – GeoConsult ZT GmbH) for the Democratic Socialist of Sri Lanka and the Asian Development Bank.

This involuntary resettlement due diligence report is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.



Mahaweli Water Security Investment Program

FINAL DUE DILIGENCE REPORT 5 – ADDITIONAL RESETTLEMENT MONITORING AND EVALUATION REPORT

January 2019



Program Management, Design and Supervision Consultant

© Joint Venture Lahmeyer International GmbH – GeoConsult ZT GmbH, 2019. The information contained in this document is solely for the use of the Client identified on the cover sheet for the purpose for which it has been prepared. The Joint Venture undertakes neither any duty to, nor accepts any responsibility towards, any third party who may rely upon this document. All rights reserved. No section or element of this document may be removed from this document, reproduced, electronically stored or transmitted in any form without written permission of the Joint Venture.

FINAL DUE DILIGENCE REPORT 5: Additional Monitoring and Evaluation Report

Prepared for:

Ministry of Mahaweli Development and Environment
Mahaweli Water Security Investment Program
Program Management Unit
No. 493 1/1, T.B. Jayah Mawatha
Colombo 10
Sri Lanka

Prepared by:

Program Management, Design and Supervision Consultant
Joint Venture Lahmeyer International GmbH – GeoConsult ZT GmbH
in Association with NIRAS (Denmark), Engineering Consultants Ltd. (Sri Lanka), and
Infotechs IDEAS (Pvt.) (Ltd.) (Sri Lanka)
No. 493, T.B. Jayah Mawatha
Colombo 10
Sri Lanka

Lahmeyer International Main Office
Friedberger Str. 173
61118 Bad Vilbel
Germany

Distribution Register:

Distribution List:	Month of Issue	Number of Copies
MMDE	February 2019	4
ADB		2

Revision History:

Revision No.	Author	Approved by	Description of Revision
1	R. McIntyre / Y.G Wijeratne	F. Negrassus	Initial issue
2	R. McIntyre	B. Freeman	Incorporate PMU comments
3	R. McIntyre / Y.G Wijeratne	M Chegwin	Final issue incorporating ADB Comments
4	R. McIntyre	M Chegwin	Final issue incorporating second set of PMU comments

ABBREVIATIONS

ADB	Asian Development Bank
AHH	Affected Household Heads
AP	Affected Person(s)
BoQ	Bill of Quantities
CAP	Corrective Action Plan
CAPC	Cabinet Appointed Procurement Committee
CEA	Central Environmental Authority
DDR	Due Diligence Report
DPC	Department Procurement Committee
DSD	District Secretariat Division level
EA	Executing Agency
EIA	Environmental Impact Assessment
EOI	Expression of Interest
FAM	Facility Administration Manual
GBL	Geotechnical Baseline Report
GND	Grama Niladari Division
GOSL	Government of Sri Lanka
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
IA	Implementing Agency
ICB	International competitive Bidding
ICTAD	Institute for Construction Training and Development
ID	Irrigation Department
ISEWP	Improving system efficiencies and water productivity
km	Kilometre
KMTC	Kalu Ganga-Moragahakanda Transfer Canal
LAA	Land Acquisition Act
LAR	Involuntary Land Acquisition and Resettlement
LB	Left Bank
m ³ /s	Cubic metres per second
masl	Metres above mean sea level
MASL	Mahaweli Authority of Sri Lanka
MCB	Mahaweli Consultancy Bureau
MCM	Million m ³
MDP	Mahaweli Development Program
MLLD	Ministry of Land and Land Development
MIWRM	Ministry of Irrigation and Water Resources Management
MLBCR	Minipe Left Bank Canal Rehabilitation
MFF	Multitranches financing facility
MFP	Ministry of Finance and Planning
MMDE	Ministry of Mahaweli Development and Environment
MoM	Minutes of Meeting
MPC	Ministry Procurement Committee
MPP	Master Procurement Plan
MRB	Mahaweli River Basin
MWSIP	Mahaweli Water Security Investment Program
NCB	National Competitive Bid
NCPCP	North Central Province Canal Project
NEA	National Environmental Act
NIRP	National Involuntary Resettlement Policy
NPA	National Procurement Agency

NWPC	North Western Province Canal
PAP	Project Affected Person(s)
PD-MWSIP	Program Director Mahaweli Water Security Investment Program
PD-UEC	Project Director –Upper Elahera Canal
PIU	Project Implementation Unit
PMDSC	Program Management, Design and Supervision Consultant
PMU	Program Management Unit
PPTA	Project Preparatory Technical Assistance
PSC	Program Steering Committee
RB	Right Bank
RF	Resettlement Framework
RIP	Resettlement Implementation Plan
RPC	Regional Procurement Committee
SBD	Standard Bid Documents
SIWRM	Strengthening Integrated Water Resources Management
SPS	ADB Safeguards Policy Statement (2009)
ToR	Terms of Reference
UEC	Upper Elahera Canal

Table of Contents

0	EXECUTIVE SUMMARY	1
0.1	Resettlement Team, Organization and Coordination:.....	2
	<i>Findings:</i>	2
	<i>Recommendations:</i>	2
0.2	Resettlement Management Plans	2
	<i>Findings:</i>	2
	<i>Recommendations:</i>	2
0.3	Data Management.....	3
	<i>Findings:</i>	3
	<i>Recommendations:</i>	3
0.4	Land Valuation Process	3
0.5	Consultation and Disclosure	3
	<i>Recommendations:</i>	4
0.6	Grievance redress.....	4
1	INTRODUCTION	5
1.1	Background.....	5
1.2	The Basis for this Due Diligence Study	5
1.3	This Report	7
2	APPROACH FOR THIS DUE DILIGENCE STUDY AND REPORT	9
2.1	Aim and Objectives.....	9
2.2	Approach	9
3	PROGRAM DESCRIPTION	11
3.1	Upper Elahera Canal (UEC) Project.....	11
3.2	Minipe Anicut Heightening and Left Bank Canal Rehabilitation (MLBCR) Project	11
3.3	North Western Province Canal (NWPC) Project	11
3.3.1	<i>Detailed Technical Description of NWPC Project Tranche 1 Sub-projects – NWPC ICB-1, ICB-2 and NCB-1.....</i>	<i>11</i>
3.3.2	<i>Mahakithula Inlet Tunnel, Mahakithula & Mahakirula Reservoirs, Feeder Canal from Mahakithula to Mahakirula Reservoir (NWPC ICB-1).....</i>	<i>12</i>
3.3.3	<i>Main Canal from Nabadagahawatta to Mahakithula Reservoir Inlet Tunnel - (from 5+250 km to 22+300 km (NWPC ICB-2).....</i>	<i>13</i>
3.3.4	<i>Wemedilla Left Bank Canal and Construction of New Sluice and Tail Canal - NWPC NCB-1.....</i>	<i>15</i>
3.3.5	<i>Comment and Recommendation.....</i>	<i>15</i>
4	RECONNAISSANCE INSPECTION	19
4.1	NWPC ICB-1	19
4.2	NWPC ICB-2	19
4.3	NWPC NCB-1	20
5	SUMMARY OF LAND ACQUISITION AND RESETTLEMENT IMPACTS.....	22
5.1	Introduction.....	22
5.2	NWPC Summary of Affected Persons.....	22
5.3	NWPC ICB-2	22

<i>Note that Tranche 1 consists of NWPC NCB-1, ICB-1 and ICB-2; and Tranche 3 included</i>	
	<i>NWPC ICB-3 and ICB-4.....</i> 23
5.3.1	<i>Numbers of Affected Persons</i> 23
5.3.2	<i>Impacts on Land</i> 24
5.3.3	<i>Crops and Trees</i> 24
5.3.4	<i>Structures</i> 24
5.3.5	<i>Compensation Payments (ICB-2)</i> 27
5.4	<i>NWPC ICB-1</i> 27
5.4.1	<i>Numbers of Potentially Affected Persons (PAPs)</i> 28
5.4.2	<i>Impacts on land</i> 29
5.4.3	<i>Crops and Trees</i> 30
5.5	<i>NWPC NCB-1</i> 31
5.6	<i>Recommendations for Improvement of Land Acquisition and Resettlement Impacts and Compensation Data</i> 31
6	LEGAL AND POLICY FRAMEWORK 33
6.1	<i>Land Acquisition Act (LAA)</i> 33
6.2	<i>National Involuntary Resettlement Policy</i> 33
6.3	<i>National policy on Payment of Compensation (2008) and LA Regulations (2008)</i> 36
6.4	<i>National Environmental Act (NEA) of 1980 and 1988</i> 36
6.5	<i>Attorney General Office letter on Valuing Temple Land Development (2006)</i> 36
6.6	<i>Paddy land Act (1958)</i> 36
6.7	<i>Regulation on Tax (2009)</i> 36
6.8	<i>Project Loan Agreements</i> 36
6.9	<i>ADB Safeguards Policy Statement, 2009 (SPS, 2009)</i> 38
6.10	<i>Gap Analysis</i> 40
6.10.1	<i>Resettlement Framework Gap Analysis</i> 40
6.10.2	<i>Recent Identified Gaps</i> 40
6.11	<i>Involuntary Land Acquisition and Resettlement Principles and Recommendations on Legal Framework</i> 41
6.11.1	<i>Principles</i> 41
6.11.2	<i>Recommendations</i> 42
7	VALUATION METHODOLOGIES FOR COMPENSATION 44
7.1	<i>Introduction</i> 44
7.2	<i>Current Compensation</i> 44
7.2.1	<i>Valuation of Lost and Affected Assets</i> 44
7.2.2	<i>Negotiated Land Acquisition</i> 45
7.2.3	<i>Voluntary Donation of Land and Assets</i> 45
7.2.4	<i>Assessment of Replacement Cost</i> 45
7.2.5	<i>GoSL LAA Section 48A</i> 47
7.2.6	<i>Special Arrangements for Paying Compensation</i> 47
7.2.7	<i>Reinstatement cost of buildings and compensation for other developments on encroached lands</i> 48
7.2.8	<i>Common Property</i> 48
7.2.9	<i>Temporary Impacts</i> 48
7.2.10	<i>Income restoration</i> 48
7.2.11	<i>Relocation</i> 49
7.3	<i>Valuation Approaches</i> 50
7.3.1	<i>Valuation of Temple Lands</i> 50
7.3.2	<i>Valuing Structures with Trees</i> 50
7.3.3	<i>Valuing Paddy Land</i> 50
7.3.4	<i>Businesses and Income loss valuation</i> 51

7.3.5	<i>Injurious Affect Compensation</i>	51
7.3.6	<i>Valuation of Temporary Impacts</i>	51
7.4	Identifying the Compensation Gaps Between ADB Policy and GoSL	51
7.5	Recommended Valuations	52
8	CONSULTATIONS AWARENESS AND DISCLOSURES	54
8.1	Consultation with stakeholders	54
8.2	Consultation and Awareness During Resettlement and Land Acquisition Process	54
8.3	Disclosure	54
8.3.1	<i>Disclosure of information during the RIP process to date</i>	65
8.3.2	<i>Disclosure of this Due Diligence Report 5</i>	65
8.4	Discussion and Recommendations	65
9	GRIEVANCE REDRESS MECHANISM	67
9.1	Introduction	67
9.2	Levels of the Grievance Redress Mechanism	67
9.3	Issues and Recommendations	68
9.3.1	<i>Grievance Resolution</i>	68
9.3.2	<i>GRM Awareness</i>	69
9.3.3	<i>GND Grievance Register</i>	69
9.3.4	<i>PIU/PMU Involvement</i>	69
10	RECOMMENDED CORRECTIVE ACTION PLAN	71
10.1	Concluding Remarks	71
10.2	Staffing and Roles	74
10.3	Corrective Action Plan	74
	ANNEX 1 – MAP LAYOUTS OF MWSIP AND UEC, NWPC AND MLBCR PROJECTS	85
	ANNEX 2 – GAP ANALYSIS	90
	ANNEX 3 – LETTER REGARDING NWPC ICB-2 AREA SECTION 38A IMPACTED AREAS	96
	ANNEX 4 – GOSL AGENCIES INVOLVED IN THE LAA PROCESS	98
	ANNEX 5 – PROGRAM GRM BROCHURES	102

List of Figures

Figure 1: Resettlement Areas and Design Changes on NWPC ICB-2	17
Figure 2: Flow Chart for land acquisition procedure	34

List of Tables

Table 2: Population and Numbers of People affected by Land Acquisition and Resettlement	23
Table 3: Definition of assets for NWPC ICB-2	23
Table 4: Vulnerable NWPC ICB-2	24

Table 5: Extent of land owned and land to be acquired – NWPC ICB-2	25
Table 6: Perennial Trees Removed with age analysis – NWPC ICB-2	26
Table 7: Impact on Structures – NWPC ICB-2	26
Table 8: Number of households provided GoSL compensation – NWPC ICB-2.....	27
Table 9: Numbers of Affected Household by Gender and Impacted plots - NWPC ICB-1	28
Table 10: Land ownership status (numbers of potentially affected plots) - NWPC ICB-1	29
Table 11: Land Ownership Status (by area affected – acres/perch/roods) - NWPC ICB-1	29
Table 12: Severity of impact (area of land and % of land volunteered to total occupied) - NWPC ICB-1 ...	30
Table 13: Crops affected - NWPC ICB-1	30
Table 14: Number of plots with affected trees - NWPC ICB-1.....	31
Table 15: Consultations with Stakeholders	55
Table 16: Types of Grievances	67
Table 17: Recommended Roles and Responsibilities for Resettlement Safeguards Staff	75
Table 18: Corrective Action Plan for Resettlement and Land Acquisition.....	80

0 EXECUTIVE SUMMARY

1. The Mahaweli Water Security Investment Program (MWSIP), financed by the ADB and Government of Sri Lanka (GoSL), is pivotal in meeting Sri Lanka's national development goals of food security, social development, energy production and environmental protection. The Executing Agency (EA) is the Ministry of Mahaweli Development and Environment (MMDE) on behalf of the GoSL and the Implementing Agency (IA), responsible for day-to-day management, is the Program Management Unit (PMU), based in Colombo, and Project Implementation Units (PIUs) for each of the three construction implementation component Projects.

2. The Loan agreement for financing MWSIP, signed between the GoSL and the ADB, stipulates that any "Involuntary Land Acquisition and Resettlement" (LAR) safeguards issues that arise during project implementation will require a Resettlement Implementation Plan (RIP) or other appropriate document showing that all impacts are mitigated in accordance with the government's relevant legislation and policies, the existing Program Resettlement Framework (RF), and particularly with ADB's Safeguard Policy Statement (SPS) 2009 and within the legal framework of Sri Lanka. ADB will only finance projects and programs that fully comply with its SPS 2009.

3. Phase 1 Program (MWSIP) Outputs include construction of new and improved water conveyance and storage infrastructure. There are five Projects listed under the Program, three of which involve civil works and have land acquisition and resettlement impacts. These Projects include: (i) Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project (MLBCRP), (ii) North Western Province Canal Project (NWPCP) and (iii) Upper Elahera Canal Project (UECP). The Projects are split into 11 International Competitive Bidding and 6 National Competitive Bidding Contracts.

4. Out of all the Tranche 1 packages, NWPC ICB-2 has the most resettlement and land acquisition impacts to-date. Land acquisition and resettlement is on-going. The construction contract and notice to proceed has already been issued by the PMU, with ADB no objection.

5. On August 2018, the ADB conducted a mission to NWPC ICB-2, to specifically investigate a complaint that was made direct to ADB, on behalf of 32 affected household during which concerns were raised with regards to the compliance performance of the Project. This Report is prepared on request from the ADB for an investigation of whether resettlement and land acquisition activities conducted on the NWPC ICB-2, and the Resettlement Implementation Plan for NWPC ICB-2 meets ADB SPS 2009 compliance as well as GoSL requirements.

6. The following land acquisition and resettlement process and policy and related issues were the key focus of the study, since they may be considered as key components of any resettlement and land acquisition activity:

- (i) Engineering design and construction
- (ii) Impacts and data collection
- (iii) Legal and Policy Framework
- (iv) Approaches to Valuation and Compensation
- (v) Consultation, awareness and disclosure
- (vi) Grievance redress

7. The approach used during this Due Diligence Study has included the following Documentation and data review (ADB SPS 2009 and GoSL laws for land acquisition and resettlement, relevant data from Census/inventory/socioeconomic surveys and review against the compensation entitlements given and identify gaps, MoMs and other Consolutions and GRM processes to date in the focus area), consultations with affected people and field inspections conducted in September and October 2018.

8. This document focusses on the findings of a due diligence investigation, conducted by the PMDSC in September and October 2018, with the assistance of PIU and PMU, designed to examine the packages in Tranche 1, particularly complainants in NWPC ICB-2, and determine what gaps (if any) are evident in compliance with ADB SPS 2009. Furthermore, the report provides recommendation for “corrective action” in filling gaps identified by this Due Diligence Study.

9. This Due Diligence Study has found the following deficiencies in the Resettlement and Land Acquisition aspects of the MWSIP, focussing on NWPC Tranche 1 and NWPC ICB-2:

0.1 Resettlement Team, Organization and Coordination:

Findings:

10. The PIU and PMU staff have capacity to implement national laws and regulations. However, number of people are not sufficient to deal with a Program with such large resettlement and land acquisition implications. Furthermore, experience of PMU/PIUs with international resettlement standards and practices is limited.

Recommendations:

11. Resettlement staffing should be reviewed by PMU, PMDSC and ADB considering the data management, stakeholder engagement, grievance redress, livelihoods restoration and monitoring needs of the Project. Additional staff should be brought into the team as necessary. Additional “on-the-job” training may assist in this capacity building with regards to implementation of ADB SPS 2009.

12. Coordination between PMU and PMDSC should be improved. The relationships between PMU/ PIU and PMDSC staff involved with resettlement and land acquisition need to be clarified and brought into line with the PMDSC’s scope of services.

0.2 Resettlement Management Plans

Findings:

13. NCB-1 has a unique situation, where GoSL acquired land 30 years ago, using the LAA section 38A clause, whereby the land is acquired, and compensation is paid later during or after construction. However, while the land was acquired under the Section 38A, neither the variation to official registration documentation, nor the payment of compensations were made. Some new areas, not under the Section 38 A, were found being permanently used on NWPC NCB-1, which will need to be acquired.

14. During the detailed design stage, the NWPC ICB-2 package has undergone some design changes which has changed the area, magnitude and profile of land acquisition and resettlement.

15. Currently, in NWP ICB-2, the valuations have been mostly conducted, based on the GoSL laws and policies and valuations practices. However, there are several allowances and compensation, which are in the Resettlement Framework, which may not correspond to the GoSL valuation and the GoSL valuations approaches do not always support the SPS 2009. This points to amending the Entitlement Matrix and updating the Resettlement Framework.

Recommendations:

16. NWPC RIP needs immediate updating to separately cover ICB-2 and NCB-1 to reflect the design changes and resettlement conditions. The Entitlement Matrix and the Resettlement Framework should be updated to reflect the allowances and compensation practices in ICB-2.

0.3 Data Management

Findings:

17. Land acquisition and affected household data collected by PMU (from government stakeholders) and that held by PMDSC (based on conducted census and asset inventories) show some differences.

Recommendations:

18. An overhaul and improvement to the database, to properly combine the data sets of PMU/ PIU and PMDSC, must be implemented. Expanding and centralizing a database to cover details required and being collected to ADB standards by PMDSC and to fully cover the APs, recorded by the DSD/ Valuations Departments is recommended. This is recommended to occur with existing and future resettlement-affected packages in Tranches 1, 2 and 3.

0.4 Land Valuation Process

Findings:

19. There are some critical laws and valuations processes that were not clarified in the RIP or RF of the PPTA (2015). Details of valuations remain to be provided by Valuers Department to the PMDSC to allow an analysis of valuations so as to confirm it is in full compliance with ADB policy. PMDSC has concerns particularly with regards to the valuation of paddy lands.

Recommendations:

20. It is not possible for the Valuation Department to provide the actual various valuation components (land itself, trees, crops, structures etc) all separately, so that the different impacts compensation and allowances foreseen under the law and the actual payments of compensation to each AP may be fully monitored along with additional allowances required to comply with ADB SPS 2009. However, it is recommended that the PMU request “valuation methods” be provided so that compensation amounts paid may be assessed in the RM&E reporting, ensuring GoSL and ADB policy is complied

0.5 Consultation and Disclosure.

Findings:

21. While it is recognized that the PMU and PIU have conducted several consultation meetings, as confirmed by the communities consulted, key discussions under ADB policy have not necessarily been complied with, such as providing the project information, including entitlement matrix and explanations adequate enough that APs can understand what they are entitled to in terms of overall compensation.

22. The PMU instituted a system of providing a package to include compensation amounts offered through DSD, in accordance with GoSL requirements. However, some compensation and allowances in compliance with ADB SPS 2009 have not being calculated and are not included in these packages. Therefore, it is recommended to have a similar package for each household, to include a detailed set of line items – impact and its compensation amount – be provided, with an agreement to be signed by both household head and spouse, with witness (perhaps even a CBO), to indicate no coercion.

Recommendations:

23. Consultations and communications in land acquisition and resettlement requires an overhaul with the assistance of the PMDSC's Communications Specialists. Copies of the approved report shall be made available to stakeholders and the public, from the PMU, PIU and Grama Niladari and District Secretary levels, as well as disclosed on the websites of ADB and MMDE. A copy of the findings and other relevant information of this report will be available in English and local languages and distributed to stakeholders and each affected household in NWPC.

24. With particular central involvement of the communications team with resettlement team, the PIU, PMU, with PMDSC and District authorities, shall explain some of the key findings of this report to the APs and other stakeholders. Full Minutes of each activity presented, and all consultations shall be recorded and shall be reported in Resettlement Monitoring and Evaluation reports by the PMDSC.

0.6 Grievance redress**Findings:**

25. The Project has a Grievance Redress Mechanism set up. There has been confusion as to just how informed the affected persons have been about this system and the fact that grievances were directly sent to ADB and not through the GRM, indicates that the awareness of GRM was insufficient..

26. Furthermore, there were comments at the GND level GRC, that there exists a lack of cooperation and coordination between the levels of GRCs, other stakeholders and the PIU, PMU with regards to the GRM activities.

Recommendations:

27. During all consultations, and regular contact with APs, the GRM should be mentioned, and in all cases of complaints, the PMU/ PIU and PMDSC shall assist the AP(s) to submit grievances to the GRM and improve coordination and cooperation with the GRCs and stakeholders. An official form of letter or form of communication of resolution decisions from other GRC levels must be formally provided or received directly by the complainant.

1 INTRODUCTION

1.1 Background

28. The Mahaweli Water Security Investment Program (MWSIP), financed by the ADB and Government of Sri Lanka (GoSL), is the end point of an investment program that has spanned more than six decades. It is pivotal in meeting Sri Lanka's national development goals of food security, social development, energy production and environmental protection. The Executing Agency (EA) is the Ministry of Mahaweli Development and Environment (MMDE) on behalf of the GoSL and the Implementing Agency (IA), responsible for day-to-day management, is the Program Management Unit (PMU), based in Colombo, and Project Implementation Units (PIUs) for each of the three construction implementation component Projects.

29. The Loan agreement for financing MWSIP, signed between the GoSL and the ADB, stipulates that any "Involuntary Land Acquisition and Resettlement" (LAR) safeguards issues that arise during project implementation will require a Resettlement Implementation Plan (RIP)¹ or other appropriate document showing that all impacts are mitigated in accordance with the government's relevant legislation and policies, the existing Program Resettlement Framework (RF), and particularly with ADB's Safeguard Policy Statement (SPS) 2009 and within the legal framework of Sri Lanka. ADB will only finance projects and programs that fully comply with its SPS 2009.

30. Phase 1 Program (MWSIP) Outputs include construction of new and improved water conveyance and storage infrastructure. There are five Projects listed under the Program, three of which involve civil works, and have land acquisition and resettlement impacts². Table 1 and Annex 1 present how the three construction Projects are split into several subprojects or International (9) and National (9) Competitive Bidding Contracts³:

- (i) Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project (MLBCRP)
- (ii) North Western Province Canal Project (NWPCP)
- (iii) Upper Elahera Canal Project (UECP)

1.2 The Basis for this Due Diligence Study

31. The ADB conducted a mission to NWPC ICB-2, to specifically investigate a complaint that was made direct to ADB, on behalf of 32 affected households. An additional complaint was subsequently lodged with ADB, from the same GND area, and is also part of the focus on this DDR. This investigation revealed some possible inconsistencies in the compliance with ADB SPS 2009 and complaints regarding a lack of information and issues related to the compensation offered in accordance with GoSL laws and policies. Key concerns of the ADB included the following:

- (i) Lack of project information provided to APs.

¹ Resettlement Implementation Plan (RIP) is the legally accepted term in Sri Lanka for a Land Acquisition and Resettlement Plan (LARP) or Resettlement Plan (RP) – all 3 terms may be used inter-changeably.

² The other two of the five Projects will not involve any involuntary Resettlement: "Improving System Efficiencies and Water Productivity (SEWP) and "Strengthening Integrated Water Resources Management" (SIWRM)

³ For more detailed descriptions of the 3 construction projects please refer to Section 2 and 3.

Table 1 – Disaggregation of MWSIP Program into Project and Sub-Projects with each Tranche

SN	Tranche	Project	Sub-project
1	Tranche 1	MLBRC	<ul style="list-style-type: none"> ICB-1 - Heightening of the Minipe Diversion Weir (Anicut)", NCB 1 - Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project - MLBCRP Stage 1 NCB-2 - Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project - MLBCRP Stage 2 NCB-3 - Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project - MLBCRP Stage 3 NCB-4 - Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project - MLBCRP Stage 4 NCB-5 - Minipe Anicut Heightening and Left Bank Canal Rehabilitation Project - MLBCRP Stage 5
		UEC	<ul style="list-style-type: none"> UEC- ICB-1 – Stage 1 – Minneya-Girthala Wildlife Reserve.
		NWPC	<ul style="list-style-type: none"> NCB-1 - Wemedilla Sluice and LBMC from reservoir to Nabadgahwatta ICB-1 - Mahakithula Inlet Tunnel, Mahakithula and Mahakirula Reservoirs and Feeder Canal ICB-2 - Main canal Nabadagahawatta to Mahakithula Reservoir
2	Tranche 2	UEC	<ul style="list-style-type: none"> ICB 2A - Tunnel 3 and 4 – Kilometre 27+509 to Kilometre 55+600 ICB 2B (KMTTC) – Kalu Ganga – Moragahakanda Transfer Canal
3	Tranche 3	UEC	<ul style="list-style-type: none"> ICB-3 - Kongetiya reservoir-Bogahawewa-Madeththawewa Km +226 to 27+509 ICB-4 – Yakallla Hurulu wewa to Tunnel No. 4 km 55+600 to 65+500 ICB-5 – Eruwewa Right Bank Canal-Maminya Oya - Yakalla Mahakanadarawa Diversion
		NWPC	<ul style="list-style-type: none"> ICB 3 – Mahakirula to kaduruwewa Feeder Canal and Pothuwila, Mediyawa and Yapahuwa feeder Canals. ICB 4 – Dambulu Oya to WemedillaLB Main Canal

- (ii) Little knowledge of affected people's possible entitlements as per the Resettlement Framework and SPS 2009.
- (iii) No knowledge of the Grievance Redress Mechanism by APs.
- (iv) The perception of APs, that the valuations for compensation and allowances were unfair and incomplete.

32. Based on these concerns resulting from their Mission, the ADB has requested that a comprehensive Due Diligence Study and Report (this DDR-5) be prepared to investigate whether resettlement and land acquisition activities conducted on the NWPC ICB 2, and the Resettlement Implementation Plan for NWPC ICB-2 meets ADB SPS 2009 compliance as well as GoSL requirements.

1.3 This Report

33. This document focusses on the findings of a due diligence investigation, conducted by the PMDSC in September and October 2018, with the assistance of PIU and PMU, designed to examine the packages in Tranche 1, particularly complainants in NWPC ICB-2, and determine what gaps (if any) are evident in compliance with ADB SPS 2009. Furthermore, the report provides recommendation for “corrective action” in filling gaps identified by this Due Diligence Study.

34. This Due Diligence Study has found the following deficiencies in the Resettlement and Land Acquisition aspects of the MWSIP, focussing on NWPC Tranche 1 and NWPC ICB-2:

- (i) Human resources available in the PIU/ PMU are very low for conducting such a Program with a large resettlement and land acquisition impacts currently and in the future. Staffing should be reviewed by PMU and ADB.
- (ii) Despite training, PIU and PMU capacity to comply with ADB requirements is not to the expected standard.
- (iii) During the detailed design stage, the NWPC ICB-2 package has undergone some design changes, including changes in alignments and introduction of tunnels to the design, which has changed the area, magnitude and profile of land acquisition and resettlement. A change in detailed design on NWPC ICB-2, as per SPS 2009 triggers the requirement for the RIP(s) to be updated and approved by ADB, prior to compensation being distributed to affected persons and land being handed over to the contractor for construction.
- (iv) Regarding RIP compliance with GoSL and ADB SPS 2009, the land acquisition and resettlement activities that are currently taking place in the field, in NWPC NCB-1 and ICB-2 are based on the RIP submitted and approved by ADB during the PPTA period in 2015. However, in 2016-2017 there has been a change in scope and impact profiles, which automatically trigger the SPS 2009 requirement for updating the RIP:
- (v) The process of GoSL land acquisition occurred, including the involvement of Government Departments authorized to conduct Land acquisition and resettlement and compensation under the GoSL laws.
- (vi) The legal cut-off date in Sri Lanka with the LAA Section 2 notice (in 2017) was published.
- (vii) There has been a change in engineering detailed design including alignments and new tunnels introduced.
- (viii) The DDR-3, which addressed safeguards issues of roads accesses to NWPC ICB-1, has not been implemented to date, and it was identified that some of these access roads will also impact on the access to the wildlife park and forest department areas for the upper parts of NWPC ICB-2. Therefore, in the NWPC ICB-2 areas the contractor cannot commence without implementing parts of DDR-3 study recommendations enabling access of the construction equipment.
- (ix) Some new areas, not under the Section 38 A, were found being permanently used on NWPC NCB-1, which will need to be acquired. The PMU has suggested compensation under “injurious affect” part of GoSL compensatory processes. However, compensation or allowances provided must be in compliance with ADB SPS 2009 requirements, given that the land acquisition requirement commenced within the period of the ADB Loan.
- (x) The PMU must decide on how to handle the situation for land use that are above tunnel areas, as per Attorney General guidance.
- (xi) Data collected by PMU, from Government stakeholders in land acquisition and that held by PMDSC, after conducting a census and inventory of losses, was found to be inconsistent. An overhaul and improvement to the database, to properly combine the data sets of PMU/ PIU and PMDSC, must be implemented.

- (xii) There are some critical laws and valuations processes that were not clarified in the RIP or RF of the PPTA (2015). The RF needs to be updated for this purpose, while the RIP(s) needs to be updated for NWPC ICB-2 and the remaining packages of Tranche 2 and 3.
- (xiii) Details of valuations should be checked by the UEC PIU Resettlement Officer because his qualification is in Land valuation.
- (xiv) Consultations and communications in land acquisition and resettlement requires an overhaul with the assistance of the PMDSC's Communications Specialists.
- (xv) The PMDSC International and National Resettlement Social and Resettlement Safeguards Specialists, while also obtaining information and data from the PMU and PIUs shall make joint trips with PMU/ PIU and independent monitoring and verification inspection missions to sites as part of the ongoing monitoring process.
- (xvi) To ensure that land acquisition and resettlement planning and implementation comply with both GoSL and ADB requirements, it is recommended that Quarterly Monitoring Reporting be re-introduced to be completed by the PMDSC, from the beginning of 2019.
- (xvii) The relationships between PMU/ PIU and PMDSC staff involved with resettlement and land acquisition need to be clarified and brought into line with the PMDSC's scope of services. A matrix of roles and responsibilities for each PMU/ PIU and PMDSC has been recommended (refer to Section 10).
- (xviii) The Project has a Grievance Redress Mechanism set up. There has been confusion as to just how informed the affected persons have been about this system and the fact that grievances were directly sent to ADB and not through the GRM, indicates that the awareness of GRM was insufficient.
- (xix) A Corrective Action Plan, focussing on time bound key actions and especially reporting has been provided (see Section 10).

2 APPROACH FOR THIS DUE DILIGENCE STUDY AND REPORT

2.1 Aim and Objectives

35. The aim of this Due Diligence Study was to:

“To conduct an additional monitoring of the MWSIP to address ADBs concerns that there are gaps in the resettlement activities of the Program and, therefore, no in accordance with ADB SPS 2009 and GoSL requirements combined.”

36. The objectives of this study are as follows:

- (i) To examine the status of land acquisition and resettlement activities towards preparation of the updated RIP, on the NWPC ICB-2 and NCB-1, to be submitted to, and approved by, ADB prior to construction commencement.
- (ii) To consult and conduct check of all 32 complainants, with regards to processes towards land acquisition and compensation measures ensuring that they are all in full compliance with ADB SPS 2009 and the Resettlement Framework
- (iii) To examine those areas already advised to be released to the contractor on ICB-2, ensuring resettlement and Land Acquisition activities have not only followed GoSL requirements, but also activities and compensation are in compliant with ADB SPS 2009 and the RF.
- (iv) To conduct a random monitoring of the MLBRC Project areas to ensure that all procedures were followed to ADB standards and continue to follow the DDR-1 and DDR-2 practices (optional and if time allows). This did not occur due to time constraints.
- (v) To conduct a random monitoring of the NWPC ICB-1 road areas to ensure that all procedures were followed to ADB standards and continue to follow the DDR-3 practices (optional and if time allows). This did not occur due to time constraints.
- (vi) Based on the above, to recommend corrective actions to bring the project into compliance with ADB SPS 2009 and GoSL legal requirements.

2.2 Approach

37. The following land acquisition and resettlement process and policy and related issues were the key focus of the study, since they may be considered as key components of any resettlement and land acquisition activity:

- (i) Engineering design and construction
- (ii) Impacts and data collection
- (iii) Legal and Policy Framework
- (iv) Approaches to Valuation and Compensation
- (v) Consultation, awareness and disclosure
- (vi) Grievance redress

38. The approach used during this Due Diligence Study has included the following:

(i) Documentation and data review –

- ADB SPS 2009 and GoSL laws for land acquisition and resettlement.
- Relevant data from Census/inventory/socioeconomic surveys and review against the compensation entitlements given and identify gaps.
- MoMs and other Consultations and GRM processes to date in the focus area.

(ii) Consultation -

39. There are several items to discuss during the site visits including:

- Checking information was given about the project and when.
- Confirm Census/inventory/social data collected is correct taken in 2017

(iii) Field inspection -

- Reconnaissance inspection of sites to view the areas and changes
- Inspect areas said to be clear of land acquisition and resettlement
- Check areas still pending to ensure that policy is breached

(iv) Community Awareness –

- During consultations, provide the APs with information about the Project and the GRM.
- Provide information on valuations and entitlement options.

3 PROGRAM DESCRIPTION

40. This section describes the MWSIP's three construction Projects and presents a detailed description of works required under the three NWPC Tranche 1 packages (i.e., NWPC ICB-1, ICB-2 and NCB-1). This is to provide a package context to the issues raised in this DDR. Note that resettlement and land acquisition in the project will cause social and livelihood losses to affected people. Project activities will also cause displacement impacts for the clearing of canals, bridges, reservoirs etc.; space for legal reservation or way leave; space for construction and health and safety purpose; and enough room for road access, materials stockpiles, workshops/ camps and temporary waste areas.

3.1 Upper Elahera Canal (UEC) Project

41. The UEC includes KMTC and comprises the construction of approximately 101 km of canal (including 37 km of tunnels) connecting the Kalu Ganga Reservoir via Moragahakanda Reservoir to the existing tanks of Huruluwewa, Eruwewa and Mahakanadarawa. The Kalu Ganga-Moragahakanda Transfer Canal (KMTC) under this component will include the construction of approximately 9 km of conveyance infrastructure (including 8 km of tunnels) for the transfer of water between Kalu Ganga and Moragahakanda Reservoirs. The civil works will be carried out through 7 international contracts – one contract under Tranche 1; two in Tranche 2 (which will also finance cost overruns from Tranche 1); and three in Tranche 3 (**Annex 1** Error! Reference source not found.).

3.2 Minipe Anicut Heightening and Left Bank Canal Rehabilitation (MLBCR) Project

42. The MLBCR component of the program includes the heightening of the Minipe diversion weir (anicut) (downstream of the Rantembe Dam) by approximately 3.5 metres, construction of new intake gates to the Minipe Left Bank system, construction of emergency side spillways on both the Left and Right Bank systems, and rehabilitation of approximately 74 km of the Left Bank system to improve conveyance and reliability of service to existing irrigated lands. All civil works contracts (one international and five National) are covered by Tranche 1 (**Annex 1**).

3.3 North Western Province Canal (NWPC) Project

43. NWPC includes the construction of 91 km of new and upgraded canals (including 2.1 km of tunnels) for transfer of water from the Dambulu Oya River and the existing Nalanda and Wemedilla Reservoirs to the cascade irrigation systems and Mahakithula and Mahakirula Reservoirs with a combined storage volume of approximately 26 MCM linked to the NWPC. The Project was to be constructed through 8 civil works contracts – one national and two international contracts in Tranche 1; and two international contracts for civil works proposed for Tranche 3 inclusion (Error! Reference source not found.).

3.3.1 Detailed Technical Description of NWPC Project Tranche 1 Sub-projects – NWPC ICB-1, ICB-2 and NCB-1

44. This Due Diligence Report (DDR) has focussed on the Tranche 1 NWPC packages of NWPC comprising ICB-2, ICB-1 and NCB-1, but with a special focus on NWPC ICB-2 (also refer to **Table 1** above). These encompass the area from the existing Wemedilla Reservoir through Nebadaghawatta (00+000 to 5+250 Km); then to Mahakithula Reservoir inlet tunnel (5+250 km to 22+300 km); and Mahakithula tunnel to Mahakithula and Mahakirula Reservoirs. A summary of construction works for each of the three Tranche 1 NWPC packages is below.

3.3.2 Mahakithula Inlet Tunnel, Mahakithula & Mahakirula Reservoirs, Feeder Canal from Mahakithula to Mahakirula Reservoir (NWPC ICB-1)

45. This Contract comprises the construction of the Mahakithula Inlet Tunnel, the dams and associated works for the Mahakithula and Mahakirula Reservoirs and a 3.66 km length of feeder canal between them, and the raising of the existing dam of the Mahadambe Reservoir and construction of the associated works. The full length of canal and associated construction is entirely within the Kahalla - Palkelele Wildlife Sanctuary (soon to be re-designated a National park). The scope of works of this contract package includes:

- (i) Provision and operation of new permanent Project guesthouse accommodation buildings at the Polpithigama Employer's office, including all services and associated facilities;
- (ii) inlet tunnel to Mahakithula Reservoir, circular section with horizontal invert (clear height 4.0 m, bottom width 4.0 m), length ca. 940 m, design flow 12 m³/s, excavated by drill and blast;
- (iii) cut and cover circular section downstream of tunnel outlet with horizontal invert (clear height 3.0 m, bottom width 2.833 m), length ca. 250 m, design flow 12 m³/s;
- (iv) Main dam at Mahakithula Reservoir (crest length ca. 1750 m, maximum height 26 m, trapezoidal core trench), earthfill dam including 1.5 m wide clay cut-off wall (maximum depth 6 m), and appurtenant structures including outlet structure with gated intake tower and twin barrel conduit, and chute spillway;
- (v) Saddle dam at Mahakithula Reservoir (crest length ca. 640 m, maximum height 21 m), earthfill dam including outlet structure with twin barrel conduit;
- (vi) Concrete lined trapezoidal open lined canal (bed width 3.0 m, section height 2.21 m), length ca. 150 m, to divert water to the Hakwatuna Oya Reservoir and the Pothuwila Tank;
- (vii) Gated bifurcation structure on diversion canal, to divert 7 m³/s to the Pothuwila Tank and 5 m³/s to the Hakwatuna Oya Reservoir;
- (viii) Concrete lined trapezoidal open feeder canal (bed width 2.4 m, section height 1.85 m), length ca. 1.5 km, from the bifurcation structure to the Pothuwila Tank;
- (ix) At Mahakirula Reservoir (crest length ca. 400 m, maximum height 24 m), earthfill dam including clay cut-off wall and a soil-cement-bentonite slurry cut-off (both maximum depth 6 m), and appurtenant structures including outlet structure with gated intake tower and twin barrel conduit, and chute spillway;
- (x) Gated bifurcation structure on diversion canal, to divert 6 m³/s to the Upper Mi Oya Canal and 5 m³/s to the Abakolawewa System;
- (xi) Concrete lined trapezoidal open lined canal (bed width 2.4 m, section height 1.85 m), length ca. 300 m, to divert water to the Upper Mi Oya Canal and the Abakolawewa System;
- (xii) Feeder Canal from Mahakithula Reservoir saddle dam outlet to Mahakirula Reservoir, total length ca. 3.66 km, cut and cover rectangular twin conduit (width 2.25 m, height 2.11 m) including transitions, improvement of natural stream channels, and outlet structure from Mahadambe Reservoir;
- (xiii) Raising of the existing earthfill dam at Mahadambe Reservoir (Level Crossing) by ca. 2.5 m, with crest width 4 m, provision of riprap slope protection, including a soil-cement-bentonite slurry cut-off (maximum depth 6 m), and appurtenant structures including new chute spillway and improvements to two outlet structures;
- (xiv) Provision, installation and testing of dam instrumentation including settlement gauges, pressure cells, piezometers, levelling monuments and seepage measurement weirs at the Mahakithula Reservoir main dam and saddle dam and at the Mahakirula Reservoir dam;
- (xv) Design, provision, installation and testing of 6 No. control gates and 9 No. bulkhead gates at the Mahakithula Reservoir main dam and saddle dam and the Mahakirula Reservoir dam

- outlet structures, and 14 No. control gates at canal control structures including bifurcation structures, complete with hoist systems and all associated equipment;
- (xvi) Design, provision and installation of hydromechanical equipment including trash racks, stop-logs etc.
 - (xvii) Design, provision and installation of flow measuring devices and solar power units complete.

46. The Contractor is also responsible for rehabilitation, widening and maintaining, during the project implementation, all access roads. The DDR-3, which has been approved by the ADB in 2017, presents the impacts and mitigation of land donation and social and environmental mitigation requirements to also comply with Wildlife Sanctuary requirements and with the ADB safeguard policy (SPS, 2009). These road access sections are included under the contract⁴

- (i) Herathgama to Kirula Ela (3.8 km) – Road 1;
- (ii) Access road to Mahakirula dam (1.4 km) – Road 2
- (iii) Access road from Pothuwila to Moragolla (11.1 km) – Road 3; and
- (iv) Access road to Mahakithula dam (2 km) – Road 4

3.3.3 Main Canal from Nebadagahawatta to Mahakithula Reservoir Inlet Tunnel - (from 5+250 km to 22+300 km (NWPC ICB-2))

47. The scope of works of this contract package includes construction of Main Canal, of length approximately 17 km, from Nebadagahawatta to Mahakithula Reservoir inlet tunnel (5+250 km to 22+300 km), associated structures and two tunnels. Two sections of the canal, 18+400 km to 19+500 and 20+600 km to 22+300 km falls within the Kahalle-Pallekele wildlife reserve.

48. The main construction works include (but not limited to) the following:

- (i) Repair and renovation of existing dilapidated building located at Irrigation Department premises close to Dewahuwa Reservoir and provision of all work, furniture, fittings, equipment and all services and facilities necessary to establish the Employer's and Engineer's Sub-Office, and maintenance of the Sub-Office including all facilities;
- (ii) Provision and operation of new permanent Project Guesthouse accommodation building within the existing office compound of the Divisional Irrigation Engineer at Dambulla, including all services and associated facilities;
- (iii) Provision of new office building in the compound of the Irrigation Department Divisional Irrigation Engineer's office in Dambulla complete including design and construction as specified;
- (iv) Concrete lined trapezoidal open canal (bed width 3.5 m, section height 2.24 m), aggregate length of 4.25 km distributed over several sections along the conveyer;
- (v) Two reinforced concrete long crested weir (Duck Bill weir, width 7.2 m length 6.4 m crest height 0.945 m) across the trapezoidal open canal over several sections along the conveyer;
- (vi) Reinforced concrete rectangular open canal (bed width 4.5 m, section height 2.475 m), aggregate length of 2.5 km distributed over several sections along the conveyer;
- (vii) One reinforced concrete long crested weir (Duck Bill weir, width 4.5 m length 5.4 m crest height 1.074 m) across the rectangular open canal;
- (viii) Reinforced concrete rectangular open canal (bed width 6.5 m, section height 2.235 m);
- (ix) Reinforced concrete twin rectangular conduit (each conduit 3.25 m wide and 2.25 m high), aggregate length of 8.6 km distributed over several sections along the conveyer;
- (x) Reinforced concrete circular conduit (radius 1.85 m, base width 2.83 m), length ca. 520 m;

⁴ A 14 km access road (1A) solely within the Wildlife Park is being constructed by the Wildlife Department.

- (xi) Four reinforced concrete inverted siphons (width 3.5 m, section height 2.5 m) at Kalugal Oya, Mugalan Oya and under the two natural streams, including inlet and outlet transitions;
- (xii) Two tunnels (at Ranwediya Neelagama), cross-section circular with horizontal invert (base width 2.83 m, clear height 3.45 m), lengths ca. 740 m and 800 m respectively, with associated inlet and outlet structures;
- (xiii) Reinforced concrete circular conduit section beneath A6 road crossing, horizontal invert (base width 2.83 m, clear height 3.04 m), with roadway approach slabs and RDA standard surfacing;
- (xiv) Road culvert cum aqueduct (bed width 4.5 m, section height 2.475 m) beneath a Pradeshiya saba road crossing including associated structures;
- (xv) Elevated reinforced concrete rectangular open canal (bed width 4.5 m, section height 2.475 m) including associated foundation structures at two locations along canal;
- (xvi) Various transition structures between different canal sections (e.g. trapezoidal – rectangular canal, rectangular canal – cut and cover twin rectangular conduit, twin rectangular conduit – inverted siphon, trapezoidal canal – circular conduit, twin rectangular conduit – circular conduit);
- (xvii) Cross regulator structure (width 6.5 m, length 13.9 m) with four gated bays (gate width 1.8 m, height 1.85 m), including associated inlet and outlet structures;
- (xviii) Head regulator structure (width 6.5 m, length 6.5m) with two gates (width 1.7 m, height 2.2 m) for the Dewahuwa Feeder Canal, including associated inlet and outlet structures;
- (xix) Reinforced concrete drop structure (width 4 m length 6.9 m) at downstream of Dewahuwa feeder canal head regulator;
- (xx) Four bathing locations with steps and 2 No. animal access/safe escape points with steps on trapezoidal open canal;
- (xxi) Demolition of existing drainage over-crossings as directed and construction of new drainage under-crossings, with inlets and outlets, at locations along the canal;
- (xxii) New drainage under-crossing structures at various locations along the canal (Types 1, 2, 3 and 4) with location specific structures;
- (xxiii) Turnout structures in trapezoidal canal and in rectangular canal, with cast iron gates, inlet and outlet structures and spun pipes of various diameters at locations along the canal, including drops at specific locations;
- (xxiv) Two-lane bridge across the Galewela–Moragolla Road (width 6.7 m, length 13.5 m), with pre-stressed precast beams and all associated works;
- (xxv) Ten single lane bridges across the Pradeshiya saba roads and provincial council roads (width 5.0 m, length 13.5 m), with pre-stressed precast beams and all associated works;
- (xxvi) Road bypass provisions at locations where the Works cross RDA roads, Pradeshiya saba roads and provincial council roads, and reconstruction of demolished roads with asphalt as required;
- (xxvii) Design, provision and installation of general hydromechanical equipment including trash racks, stoplogs etc.

49. Out of all the Tranche 1 packages, NWPC ICB-2 has the most resettlement and land acquisition impacts to-date. Land acquisition and resettlement is on-going. The construction contract and notice to proceed has already been issued by the PMU, with ADB no objection. However, the needed updating of RIPs, and resettlement and land acquisition, has not been completed to the requirements of ADB SPS 2009. This includes the necessary processes such as disclosure or RIP (or summary) and disclosure of Entitlement Matrix etc be conducted well before the resettlement processes commence. Furthermore, updated RIPs of NWPC ICB-2 is required because in 4 places the detailed design changed and the GoSL was not involved in compensation valuation during the PPTA RIP preparations.

3.3.4 Wemedilla Left Bank Canal and Construction of New Sluice and Tail Canal - NWPC NCB-1

50. This is a National Competitive Bidding Contract (NCB) which is due to completion by the end of 2018. As per the Bid and Contract Employer Requirements, the Contract includes the following civil works components:

- **Component 1:** The improvements to existing Wemedilla LB Main Canal from 00+000 to 5+250 km with widening, concrete canal lining for the full length, demolition and construction of new turnout structures, gated regulators, road crossing and bathing steps.
- **Component 2:** Construction of new tower sluice from Wemedilla tank and tail canal length of 600 metres to connect with the improved Wemedilla LMMC.

51. The main construction works include (but not limited to) the following:

- (i) Provision of employer and contractor facilities and contractor key staff.
- (ii) Clearing existing canal, widening of existing canal and lining with self-compacting concrete with provision of drainage under the lining for the length of 5.25 km and lead away drains to nearby streams.
- (iii) Borrow earth from borrow pits or excavated earth for filling embankments, as required.
- (iv) Demolition of existing structures and construction of new structures along the length of canal. This includes: turn-outs with provision of gates, drainage under-crossings, aqueduct, road crossings, gated regulators with gates and bathing steps.
- (v) The construction of Aqueduct of design discharge 12 m³/s, length 40 m, and 10 m³/s off take structure to Dewahuwa reservoir as major structures of the canal.
- (vi) The construction of new tower type sluice with enclosure design capacity 8.5 m³/s with two control gates of size 1.4 m (W) x 1.8 m (H) and bulk head log gates of size 1.7 m (W) x 1.83 m.
- (vii) Construction of 535m long new tail canal to discharge 8.5 m³/s from downstream of new sluice to Wemedilla LB Canal. The canal includes 3 new drop structures of 0.365 m, 3 m and 3 m respectively along the canal length.

52. Land Acquisition and resettlement has been completed in May 2017 in the Component 2 area, without updating the NWPC RIP, and the with the approval of land acquisition completion by the ADB. However, another land acquisition, but historical issue arose in the latter half of 2017.

3.3.5 Comment and Recommendation

53. **Changes in Scope.** the scope of civil works has changed in packages 1, 2 and 3 in Tranche 1 have change of scope, compared to the PPTA design:

- (i) **NWPC ICB-2** in which detailed design made some alignment changes and changes in types of canal construction. The changes in design include Niligama tunnel construction where the alignments to enter and exit the tunnel changed; change in alignment for the area at Ranwediya Tunnel; and alignment changed to go around, not through, the reservoir at Nabadgahawatta, near NCB-1. These changes trigger an updated RIP for NWPC ICB-2, which may have impacts on construction delay and claims by contractor (refer to **Figure 1**). This will have implications on the schedule and progress of handing over land for construction to the contractor on this package. Updating the RIP forms part of the DDR corrective actions plan.
- (ii) **NCB-1** - Land Acquisition and resettlement has been completed in May 2017 in the Component 2 area, without updating the NWPC RIP, and the with the no objections of land acquisition completion from the ADB. Additional land acquisition issues, most of which date back 30

years, were discovered in the latter half of 2017, regarding land that was acquired for the original canal, with space for widening, but was never finalised on paper or with compensation. This includes land acquisition along the full length of the main LB canal as well as structures in 5-locations and one well (recently identified). ADB agreed on a corrective action plan which allowed construction to proceed with conditions, and to report progress and compensation completion as part of the RIP for ICB-2. The slow pace of the processes involving compensating, relocation and rebuilding affected structures are impacting on the accessibility for the Contractor, causing delays to the construction program and works completion leading risk of time and financial claims. A Resettlement Plan shall be updated and submitted for ADB approval.

- (iii) **ICB-1** - has experienced some engineering design changes and environmental and land release issues relating to road access for construction equipment. Mitigations were reported in DDR-3 document approved by ADB in 2017. The PMU, PIU, PMDSC and Contractors shall need to comply with all conditions of the DDR3 in its entirety. This includes fully implementing DD3 recommendations and monitoring the implementation of DDR-3 recommended actions. The Corrective Action plan resulting from this DDR 5 includes this implementation and monitoring requirement for DDR 3.
- (iv) **Some of the access roads within the area of ICB-1** - (refer to DDR3 approved and disclosed by ADB) will need to be widened to allow construction equipment to be transported into the upper areas of ICB-2. Therefore, variation to ICB-2 construction contract may be required to cover the required access roads that ICB-1 and 2 contractors might require jointly. This leads to the requirement that the selected both the ICB-1 and ICB-2 Contractors shall both need to comply with all conditions of the DDR3 in the relevant upper areas of ICB-2 and the whole of ICB-1. This will have implications on the schedule and progress of construction for the contractor on this package. The Corrective Action Plan includes the requirement to implement and monitor the DDR 3 recommendations in relation to road accesses, as appropriate by both the ICB-1 and ICB-2 contractors, given some of the roads will need to be rehabilitated and widened by the ICB-2 Contractor and the remainder by the ICB-1 Contractor for their respective site accesses.



- (v) **Opinion of the Attorney General (AG) of Sri Lanka Concerning Tunnels** – In early 2017, the UEC PIU Project Director, inquired to the PMU as to whether land acquisition and resettlement would be required for those land and structure areas above the designed tunnels, for the purposes of safety and regarding protecting use of water from the tunnels, in a way creating a buffer zone in length, width and depth. The PMDSC advised that the risk of these problems occurring was extremely low. However, to confirm legal status the PMU, with PMDSC support, contacted the Attorney General Office of the GoSL by letter in April 2017 and then discussed the issue during a meeting with the AG Office in December 2017. On the 31st of August 2018, in response to the letter and meeting, the AG Office provided the following two alternatives:
- That if the land above the tunnel is to protect tunnel integrity, then existing laws may be amended to ensure restricted land use in the areas; or
 - If there is a need to restrict subsurface action by communities living above the tunnels, then land acquisition and resettlement was the recommended solution.

54. A decision was made by the PMU, that a 20m strip of land shall be acquired, where the tunnels are located, given that the land to be acquired will be new and not in any approved RIP, as well as being under ADB financing, the ADB SPS 2009 must be complied.

55. In accordance with ADB SPS 2009 land acquisition requirements, this triggers the requirement for an updated RIP. Therefore, the Tranche 1 and 3 NWPC packages, as well and Tranche 2 UEC contract packages where involuntary resettlement occurs, shall require updated plans in accordance with ADB SPS 2009 and the GoSL legal framework, which shall be submitted and approved by ADB, and implementation or the RIP shall be completed in each of the affected areas, prior to construction commencement. This change in acquiring land above tunnels, also triggers the need for updating the Resettlement Framework, particularly to include the information of Impacts, Entitlement Framework (to include those above tunnels) and Legal Framework.

4 RECONNAISSANCE INSPECTION

56. The Consultant team conducted a “Reconnaissance” drive through the three packages of NWPC Tranche 1 – NWPC ICB-1, ICB-2 and NCB-1 to observe the projects’ condition and note any issues which require further examination, relating to resettlement and land acquisition. The Section documents some of the results of the reconnaissance drive through, especially NWPC NCB-1.

4.1 NWPC ICB-1

57. During a drive through this NWPC ICB-1 package section, some of the roads, tunnel portal and elephant fencing/gates were observed. The following observations were made:

- (i) Some of the access roads for ICB-1 which are the subject of DDR 3 on road widening were observed. There will be some tight turns for large machinery and trucks. As much as possible, these were identified and covered in DDR-3, approved and disclosed in 2017 by ADB. DDR 3 recommendations must be followed.
- (ii) Traffic Management will be an issue along all access roads, from the main road, particularly the sections of Herathgama to Mahakirula Road and Pothuwilla to Morogolla access road:
 - Although parts of this road are listed to be rehabilitated and widened, at the time of the large machinery being moved to site for construction, the roads are wide enough for the large trucks and no space for traffic to pass.
 - Public safety may be an issue during the implementation period. Therefore, the EMP will need to include road safety.
 - The contractor shall need to not only follow the DDR-3, but also conduct, with the PIU/PMU and PMDSC, an information awareness campaign with ALL households along the affected roads to inform that roads will be closed for machine movements, and alternative arrangements must have made.
 - It is also recommended that the Contractor prepare a full “Traffic Management Plan”, to cover the road areas during movement of big construction machinery and access road constructions.

4.2 NWPC ICB-2

58. During a drive through this NWPC ICB-2 package section, some of the access roads, Nilagama tunnel portal and some of the land acquisition and resettlement issues were observed. The following observations were made:

- (i) Two sections of the canal, 18+400 km to 19+500 and 20+600 km to 22+300 km falls within the Kahalle-Pallekele wildlife reserve. The contractor will need special attention to the Environmental Management Plan for ICB-1 and ICB-2.
- (ii) DDR3 Recommendations must be followed for ICB-2 as well as ICB-1. For the upper area of the canal, it is understood that the same access roads as the NWPC ICB-1 package will need to be utilized to enable contractor access to the wildlife park and Forest department areas. Therefore, there will be a selection of roads, included under DDR-3. These access roads required by ICB-1 and 2 combined may need to be widened and rehabilitated by NWPC ICB-2 Contractor, given they may be the first of the two contractors to mobilize. Based on this observation, the information, findings and recommendations from DDR-3 for ICB-1 will also need to be implemented under the NWPC ICB-2 contract, impacting on ICB-1 and 2 wildlife park accesses.

- (iii) Although there are lengths of the ICB-2 canal within Forest Department and Wildlife Park areas, access to the sites in some areas, even a few meters, are lands to be acquired temporarily or permanent. Tunnel portal areas will also need to have land acquisition and resettlement completed before construction of the tunnels can start – Nilagama has coconut and banana trees at one end and paddy areas at the other end, in the way of portal and access to the portals. While the temporary land acquisition areas required at the portals are included under the construction contract, with a provisional sum, the footprint of permanent canal alignments at the tunnel portal and any permanent accesses will need to be acquired through the GoSL/ADB compliant process. Tunnels alignments are design changes, thus triggering a RIP update requirement, as per SPS 2009, in these GND areas..
- (iv) It has been noted that there are many wells in area, including some on or close to the tunnels. If the water table lowers during construction, then the local community will need alternative water sources in case of temporary losses or replacement if the loss (or water table lowering) is permanent. Specialist engineers are currently studying this issue, in order to identify those wells that will be impacted. These wells, in close proximity of the tunnels and in any other areas at risk of reducing water accessibility for the community, will need to be considered for the RIP inclusion.
- (v) An area of alignment, at the NCB-1 end of this package in ICB-2 are marked as completed compensation and ready for contractor, is a Section 38A area like NCB-1. ADB only gave permission for construction in NCB-1 and not for this area to be constructed. On consultation with the PMU Resettlement Specialist, it was confirmed that this area had not completed valuations and was not compensated to date. As this is an area of detailed design change and was not given permission by the ADB to construction, similar to cases in NCB-1, it is recommended that this follow the SPS 2009 safeguards requirements. That is, this area should be a part of ICB-2 RIPs to be produced, with appropriate compensation and allowances per GoSL and ADB 2009 (**Annex 3**).
- (vi) Currently no areas on the alignment may be ready for resettlement because GoSL compensation may be ready or paid but are not ready in accordance with ADB SPS 2009.

4.3 NWPC NCB-1

59. An inspection of the NWPC NCB-1 package was conducted, especially examining the structures to be relocated and other resettlement and land acquisition issues. The following observations were made:

- (i) The affected structures are still in process of demolition and rebuilding:
 - Inspection of each of the five areas where structures are affected, it was confirmed that construction of the canal and adjacent reserve areas has not taken place and is waiting for relocation to be completed.
 - However, these affected structures are stopping access to other sites on the same side as the structures, causing is delay on more than just canal areas in front of the structures.
 - Toilets on the alignment due to be compensated September 14th, 2018. Need rebuilding and a safety wall construction where a house is located almost on the reserve area
 - A well was observed on the alignment, which shall need to be relocated under the package.
 - Valuation land only areas along the alignment and reserve areas has not yet been completed, due to delays in information gathering by NWPC PIU and the DSD District Secretariat, according the Valuations Department in Kandy.
 - The above issues have led to delays in the construction schedule of the contractor, with claims for extra time and financial claims being submitted to the PMU.

- (ii) There is an area of estimated to be approximately 200 m in length by up to 10m (varying 3 m – 10 m) width in the area of Km 2+100 1 in NCB-1:
- That is outside the Section 38A demarcated area, recently surveyed and marked out by the GoSL Survey Department.
 - The NWPC PIU and the PMU Resettlement Specialist have been aware for this issue since at least August 2018.
 - The PMDSC NCB-1 Resident Engineer has indicated this situation to now be at a critical stage, given the construction program.
 - The specific land owner is willing to release the land area, if paid compensation. However, the owner has allowed signed agreement to allow construction to continue on his land area, until a compensation is paid.
 - Since this land area appears not to be under Section 38A order, different to the other adjacent parts of the canal, and this land area is being used after the ADB financed Project is in construction phase, ADB SPS 2009 requires that land acquisition occur in this area in compliance with ADB Safeguards Policy Statement, (SPS, 2009) as well as GoSL laws.
 - An engineering solution is also being considered, such as retaining wall or reducing road width to avoid the land acquisition.
 - The PMDSC has forwarded a letter to the PMU to consider the alternative actions for this affected area. The PMU response was to provide “injurious affect” compensation in accordance with GoSL legal framework. However, this would not be possible, unless 75% of the APs Land Area is already acquired (to be acquired) under the Project or from the Section 38A issue on NCB-1.
 - Slower decision making, especially with the involvement of external Line Agencies, is causing an additional delay in the construction schedule, and thus may well lead to time and financial claims from the contractor.

5 SUMMARY OF LAND ACQUISITION AND RESETTLEMENT IMPACTS

5.1 Introduction

60. This Section presents the available Resettlement and Land Acquisition Impacts for the NWPC ICB-1, ICB-2 and NCB-1. These data were collected from the Land Acquisition surveys, conducted by the DSD, with PIU assistance and/or an Inventory of impacts and Census/Socioeconomic survey conducted by the PMDSC with PIU/PMU support. The section is concluded with a set of recommended actions to ensure data consistency and accuracy across the Project and Program.

61. According to ADB requirements, either the borrower's legal system or the end of the Census normally marks the cut-off date for entitlement eligibility. The GoSL processes, the cut-off date may be announced after the Section 2 Notice, when areas for acquisition are identified and recorded by MLLD (refer to Figure 3). In accordance with SPS, 2009 and the GoSL LAA, the Section 2 notice has been adopted for MWSIP as the "cut-off" date. It should be noted that these dates will differ among the GNDs.

62. There are inconsistencies in data collection and its use throughout the resettlement activities in MWSIP. There is an obvious gap in the data consistency when comparing the summary of affected persons (APs) (refer to **Table 1**), provided by the PMU, and data collected through inventory of losses and Census and socioeconomic surveys, prepared by the PMDSC, along the alignment for ICB-2. In NCB-1 the GoSL records are being used and not the PMDSC/PMU prepared census/inventory data that was completed in January 2018. In ICB-1, the DDR-3 for roads rehabilitation was prepared using the Census and Inventory surveys developed by the PMDSC. This may be attributed to either differences in understanding definitions, changes in the corridor width and land to be acquired, or a difference in affected persons found through the land records accessed, by DSD Land Acquisition officer compared to the Census/inventory. While DSD records, and its valuation is good for GoSL compliant compensation to APs, the Census and Inventory surveys developed by the PMDSC, provide the supplementary data to ensure ADB SPS 2009 is also complied in RIP preparation for approvals, monitoring compensation payments and post resettlement evaluations.

5.2 NWPC Summary of Affected Persons

63. **Table 1** presents a summary of affected persons, population and impacts, known to date on NWPC packages. These data shall be updated during future Resettlement Monitoring and Evaluation Reports, along with RIP preparation and implementation progress.

5.3 NWPC ICB-2

64. A Census of displaced persons and an Inventory of Assets survey was conducted on all areas of LAR impacts covering 100% of affected persons. Data collection survey formats and approaches were prepared specifically for NWPC ICB-2 in April-May 2017. Surveys commenced in May 2017 directly after engineering design and all design changes were finalized along the entire NWPC ICB-2 canal length.

65. This section discusses the baseline information on the Project's land acquisition and resettlement impacts, identified by the measurement surveys, along the NWPC ICB-2 Canal Alignment. The compensation and rehabilitation measures and costs are based on this information, the MLLD findings and valuations and by the Resettlement Framework.

Table 2: Population and Numbers of People affected by Land Acquisition and Resettlement

Package	No. of Households	Households to be Resettled	No. of Physically Displaced People	No. of people losing 10% or more	Population of Households Affected	No. of Land Lots	Extent (hectares)
NWPC-NCB-1	178	5	17	17	792	245	25.776
NWPC-ICB-1 ⁵	46	0	0	0	-	46	0.494
NWPC-ICB-2	258	10	34	34	752	605	28.8
NWPC-ICB-3	Land Acquisition and Resettlement Impacts to be determined subsequently in Tranche 3 preparation						
NWPC-ICB-4							
TOTAL	482	15	51	51	1544	896	55.07

Note that Tranche 1 consists of NWPC NCB-1, ICB-1 and ICB-2; and Tranche 3 included NWPC ICB-3 and ICB-4.

5.3.1 Numbers of Affected Persons

66. Table 2 presents the numbers of affected Households⁶ and Table 3 provides the numbers of vulnerable households (or APs) by category, based on the Census and Inventory developed by the PMDSC and approved by PMU. It is noted that this is inconsistent with the PMU supplied data.

Table 3: Definition of assets for NWPC ICB-2

SN	District	DSD	GND	Number of affected land lots	Number of households	Categorization of affected land lots		
						Houses	Other structures	Paddy land
1	Matale	Galewela	Nabadagahawatta	18	7	0	0	3
2	Matale	Galewela	Danduyaya	79	36	1	5	5
3	Matale	Galewela	Bambawa	58	32	5	8	22
4	Matale	Galewela	Ranwediya	57	18	0	0	11
5	Matale	Galewela	Kospotha	111	51	0	5	15
6	Matale	Galewela	Hombawa	170	60	0	3	0
7	Matale	Galewela	Aluthwewa	68	36	0	3	1
8	Matale	Galewela	Pibidunugama	44	18	0	2	2
Total				605	258	6	26	59

⁵ NWPC ICB-1 – refer to DDR-3, as all potentially affected household signed agreements to volunteer land for roads widening, as would assist in improved access for the community.

⁶ Note that reference is made throughout the document to affected households or affected persons (APs). Both these terms are the same

Table 4: Vulnerable NWPC ICB-2

SN	GND	Vulnerable category					Total
		Poverty	Physically Disabled	Mentally Disable	Age over 60 years	Widow	
1	Nabadagahawatta	0	0	0	0	0	0
2	Danduyaya	0	2	1	0	3	6
3	Bambawa	0	1	0	4	1	6
4	Ranwediya	0	3	2	3	2	10
5	Kospotha	0	0	1	13	3	17
6	Hombawa	0	2	0	1	1	4
7	Aluthwewa	0	0	0	4	1	8
8	Pibidunugama	0	0	0	0	0	0
	Total	0	8	4	25	11	51

5.3.2 Impacts on Land

67. **Table 4** present the inventory survey data on extent of land to be acquire, status of land ownership type. From the table, a total of 11,489 Perches (28.7 Ha) of land will be impacted by the project. However, based on the site inspection there are also encroachers, particularly impacted by the Project. Due to this inconsistency in census/inventory data compared to DSD data, it is recommended that the PMDSC and the PMU/PIU work to consolidate and make consistent, the database of impacts, to ensure all APs are accounted for in valuation, compensation payments and for monitoring purposes.

5.3.3 Crops and Trees

68. **Table 5** presents the number of impacted trees in a household in each GND, by the project. Trees on public land, not used by households have been included in the Environment management plan documentation. A total of 854 trees were recorded as impacted by the Project. Trees are valued under GoSL laws, through type of tree and its girth, age and type of land it grows on. The value provided to the household is a combined tree and land figure, as compensation for the tree asset.

69. Paddy land is valued under GoSL laws on standard rates for rainfed and irrigate paddy and high land areas, the valuation is provided to the household as a combined paddy income and land value. However, the valuation only accounts for two rice crops per year and does not consider one rice crop season and the higher income generating vegetable cropping in the second growing season. This is inconsistent with ADB policy, which require replacement cost for compensating such as providing compensation that would cover the higher vegetable cop income.

70. A standard ADB accepted RIP, generally requires presentation of the land and crop impacts separately, to show valuation is consistent with replacement cost. Therefore, it is recommended that the Valuation department provide the MWSIP with the separated values for trees, crop and land.

5.3.4 Structures

71. According to the Census and inventory data, there are 32 structures impacted by the ICB-2 Subproject 3 of which are severely impacted (**Table 2**). This appears to be inconsistent with the PMU held data on severity and relocation impacts, in which 34 structures are identified (**Table 7**). This points to a need for enhancing the database to ensure consistency impacts and enabling records of impacts and compensation to be more accurately presented.

Table 5: Extent of land owned and land to be acquired – NWPC ICB-2

GND	Total land owned in perch						Land to be acquired in perches				Total acquired in Hectares
	Private	Jayaboomi	Lease	LDO	Encroached	Total	Private	LDO	Lease	Total	
Nabadagahawatta	400	0		0	0	400	333	0		333	0.832
Danduyaya	4698	2200		640	0	7538	756	92		848	2.12
Bambawa	80	0	1289	0	0	1369	36	0	875	911	2.28
Ranwediya	4778	2080		480	80	7418	775	115		890	2.24
Kospotha	4320	1600		1120	0	7040	2126	360		2486	6.2
Hombawa	8169	910		178	670	9927	2196	204		2400	6
Aluthwewa	4640	2200		640	0	7480	2014	495		2509	6.28
Pibidunugama	760	1120		480	0	2360	966	155		1121	2.8
Total	27885	10110		3876	750	42621	9202	1421	875	11498	28.8

Table 6: Perennial Trees Removed with age analysis – NWPC ICB-2

Name of Trees	Age below 5 years	Age 5-10 years	Age 11-15 years	Age 16 - 20 years	Age over 21 years	Total
Teak	31	18	187	28	17	281
Satin wood	13	8	4	11	9	45
Jak	0	0	31	12	7	50
Halmilla	0	0	13	4	0	17
Mango	38	72	4	3	2	119
Coconut	112	87	19	13	21	252
Other	23	27	12	17	11	90
Grand Total	217	212	257	88	67	854

Table 7: Impact on Structures – NWPC ICB-2

SN	GND	Permanent affect to house	Partially affected house	Wells	Toilet	Fence and Walls	Business
1	Nabadagahawatta	0	0	0	0	0	0
2	Bambawa	5	2	2	3	3	2
3	Danduyaya	0	0	2	1	2	0
4	Hombawa	0	0	1	1	1	0
5	Kospotha	0	0	2	2	1	0
6	Aluthwela	0	0	1	1	1	0
7	Pibidunugama	0	0	0	1	1	0
8	Ranwediya	0	0	0	0	0	0
	Total	3	2	8	9	9	2

5.3.5 Compensation Payments (ICB-2)

72. Payments up to end September 2018 in ICB-2 are presented in **Table 8**. Twenty-nine households were paid compensation and allowances in 2 of the GNDs. As yet, no updated RIP has been submitted or approved by ADB, following detailed design changes on ICB-2, although the RIP to GoSL standards may have been prepared for GoSL (this is not confirmed). This has potential implications for construction delays on ICB-2 and may result in claims by the contractor for late hand-over of land for construction.

73. According to ADB SPS 2009, a change in scope such as number of APs and design changes trigger the need for an updated RIP, and if there are changes in policy, impacts leading to different compensation valuation approaches and entitlement matrix, then the Resettlement Framework must be updated. Furthermore, a RIP should generally be prepared and approved prior to compensation payments. In the case of ICB-2, compensation is being calculated and paid in accordance with GoSL laws and processes, prior to a RIP being prepared and approved by ADB. This has led to a gap in compensation to satisfactory SPS 2009 compliance and a confused approach to monitoring and identifying areas to hand over to the contractor. Therefore, the PMDSC is recommended to work with PMU and PIU to improve the database system, RIP preparation approach and schedule of compensation payments and monitoring to comply with ADB requirements

Table 8: Number of households provided GoSL compensation – NWPC ICB-2

SN	GND	No of HH paid compensation	No of total HH affected
1	Nabadagahawatta	0	7
2	Bambawa	13	32
3	Danduyaya	0	36
4	Hombawa	0	60
5	Kospotha	0	51
6	Aluthwewa	16	36
7	Pibidunugama	0	18
8	Ranwediya	0	18
Total		29	258

5.4 NWPC ICB-1

74. Based on initial screening of the Project site and accessibility, it was found that the ICB-1 canal footprint area of impact is located within the Nature Park and does not trigger any Involuntary Resettlement and Land Acquisition impacts. It has implications on the environmental impacts and has been addressed through the Environmental Management Plan for ICB-1. However, it was also identified that some of the road accesses would need upgrading and widening, causing some potential impacts. As mentioned in Section 4 above, it was recently identified that a portion of the roads included under ICB-1 to be rehabilitated and widened for machines to access the sites, will also be needed for accessing the upper reaches (forest department and Wildlife department areas) of ICB-2.

75. Consultations with “Potentially Affected Persons” (PAPs) were held, and it was established that the community would donate land for the road rehabilitation and widening, since improved access roads would be of direct benefit, with improved access to services and economic benefit. Due to voluntary land donations, and signed agreements (refer to DDR-3), the GoSL stakeholders in Land acquisition and resettlement were not involved in survey data collection, and thus the figures below are consistent with those recorded in Section 5.2 above.

76. An inventory of assets of “Potentially Affected Persons” (PAPs), was conducted by the NWPC - PIU and MWSIP – PMU, with PMDSC support, to identify potential impacts of the road rehabilitation and widening. During the period of 15th August and 3rd September 2016, led by the NWPC Project Director and Resettlement officer of the NWPC - PIU, with PMDSC assistance. This identified potential impacts of the road rehabilitation and widening. The inventory of 100% of potentially affected persons included collection of the following data:⁷

- (i) Number of potentially affected persons.
- (ii) Gender of household head.
- (iii) Type of land ownership or encroachment.
- (iv) Extent of land required for road widening.
- (v) Extent of total land use area.
- (vi) Severity of impact (extent of total landholding/used by the AP versus that required for the road).
- (vii) Cropping patterns and details of types of crops affected.
- (viii) Trees and crops affected.

5.4.1 Numbers of Potentially Affected Persons (PAPs)

77. There is a total of 46 plots that are potentially impacted by the road rehabilitation and widening. There are no potentially affected persons owning multiple of plots. Therefore, there are 46 affected persons, of which 41 are male headed and 5 are female headed (total 46) affected persons (**Table 9**). Out of a total of 46 Plots, 20 are private and 26 are encroachments into the Wildlife Park. All 26 encroachment, along one road are highland agricultural areas, as well as 8 private plots farming paddy and 12 private plots are highland agricultural areas (**Table 10**).

Table 9: Numbers of Affected Household by Gender and Impacted plots - NWPC ICB-1

SN	Name of Road	No. of affected households (AHHs)		No. of affected Plots
		Male	Female	
1	Herathgama - Mahakirula	3	0	3
2	Mahakirula Dam	10	2	12
3	Pothuwila to Morogolla	4	1	5
4	Mahakithula Dam	24	2	26
Total		41	5	46

⁷ No structures or businesses were found to be potentially impacted.

Table 10: Land ownership status (numbers of potentially affected plots) - NWPC ICB-1

SN	Name of Road	Description of lands	Private ownership Number of Plots	Encroached land (No. of plots)	Total (No. of plots)
1	Herathgama-Mahakirula	Highlands	3	0	3
		Paddy land	0	0	0
2	Mahakirula Dam	Highlands	4	0	4
		Paddy land	8	0	8
3	Pothuwila to Morogolla	Highlands	5	0	5
		Paddy land	0	0	0
4	Mahakithula Dam	Highlands	0	26	26
		Paddy land	0	0	0
	Total		20	26	46

5.4.2 Impacts on land

78. The inventory collected data on the type of land title status of the PAP as well as the extent of land area to be volunteered for the road widening. The total land area volunteered includes 1 Rood, 10.68 Perches (approximately 0.13 ha) of privately-owned land and 2 roads, 18.7 perches (approximately 0.25 ha) of encroached land (owned by the Wildlife Department). The Wildlife department and the said encroachers have all provided consent, agreeing to volunteer strips of land for road widening) (**Table 10**). **Table 11** presents severity of potential impact in volunteering land out of total land holdings which ranges from 0.7% to a maximum of 3.08% of total land area and well below 10% land area is thus not classified as severe.

79. It is important to note that, per Sri Lanka's history, the encroachers have been permitted to remain on the Wildlife department land because authorities are not keen to enforce clearance unless the land is needed for a specific development purpose of the Government. Although this is not a reason for lack of enforcement relating to the land encroachment, at the same time it does not necessarily make any argument for or against compensatory requirements for land use in the Project, and in accordance with ADB SPS 2009.

80. Access road to Mahakithula Dam (Road No 4), where 26 encroachments are located in the lands to be released for road widening who have living and occupying in these lands since 1970, almost above 40 years. During this period Kahalla - Palkeleke wildlife reserve has declared and gazetted by the government including these encroached lands.

Table 11: Land Ownership Status (by area affected – acres/perch/roods) - NWPC ICB-1

SN	Name of Road	Description of lands	Private ownership			Encroached land			Total		
			A.	R.	P.	A.	R.	P.	A.	R.	P.
1	Herathgama – Mahakirula	Highlands	0	0	3.56	0	0	0	0	0	3.56
		Paddy land	0	0	0	0	0	0	0	0	0
2	Mahakirula Dam	Highlands	0	0	12.3	0	0	0	0	0	12.3
		Paddy land	0	0	27.6	0	0	0	0	0	27.6
3	Pothuwila to Morogolla	Highlands	0	0	7.22	0	0	0	0	0	7.22
		Paddy land	0	0	0	0	0	0	0	0	0
4	Mahakithula Dam	Highlands	0	0	0	0	2	18.7	0	2	18.7
		Paddy land	0	0	0	0	0	0	0	0	0
	Total		0	1	10.68	0	2	18.7	0	3	29.38

* A = Acres; R= Rood; and P= Perch

Table 12: Severity of impact (area of land and % of land volunteered to total occupied) - NWPC ICB-1

Item / Road		Herathgama-Mahakirula	Mahakirula Dam	Pothuwila to Morogolla	Mahakithula Dam	Total
Impacted land to be volunteered	Paddy		0.069 Ha (27.6P)			0.069 Ha
	Highland	0.009 Ha (3.56 P)	0.151 Ha (12.3P)	0.02 Ha (7.22P)	0.245 Ha (2r 18.7P)	1.134
percentage of whole land area	Paddy		1.4% (1.86% paddy)			
	Highland	0.07%	3.08% (12.6% H'land)	0.60%	1%	

5.4.3 Crops and Trees

81. The inventory recorded a total of 37 plots with 4 categories of crops and 2 categories of trees (**Table 12** and **13**). The highest number of cropping land plots are chillies, followed by onions and paddy. However, in terms of land area, the highest affected land area is onion crops, followed by paddy, chillies and beetroot crops.

82. There are total number of three plots with trees that would need to be removed for road widening. No crops are impacted on these plots. Two Teak trees and 2 Neem trees are located on one land plot, which and 1 Neem tree is affected on another separate plot, totalling 3 neem trees and 2 teak trees that will need to be removed for road widening (**Table 13**). The affected trees are on privately owned properties and recorded under the specific letters signed to volunteer land and assets (refer to DDR-3).

Table 13: Crops affected - NWPC ICB-1

SN	Road	Type of crops and area of cultivation				
		Data	Vegetable-Chilies	B-Onions	Vegetable-beetroots	Paddy
1	Herathgama - Mahakirula	No. of Plots	0	0	0	0
		No. of APs	0	0	0	0
		Area	0	0	0	0
2	Mahakirula Dam	No. of Plots	0	0	0	8
		No. of APs	0	0	0	8
		Area	0	0	0	perch - 27.6
3	Pothuwila to Morogolla	No. of Plots	0	0	0	0
		No. of APs	0	0	0	0
		Area	0	0	0	0
4	Mahakithula Dam	No. of Plots	11	10	5	0
		No. of APs	11	10	5	0
		Area	perch. 22.72	perch - 57.78	perch - 18.2	0

Table 14: Number of plots with affected trees - NWPC ICB-1

SN	Name of Trees	Teak		Neam	
		No. of Plots	No. of Trees	No. of Plots	No. of Trees
1	Herathgama - Mahakirula	0	0	1	1
2	Mahakirula Dam	0	0	0	0
3	Pothuwila to Morogolla	2	2	2	2
4	Mahakithula Dam	0	0	0	0
	Total	2	2	3	3

5.5 NWPC NCB-1

83. NCB-1 is a unique situation, where GoSL acquired land 30 years ago, using the LAA section 38A clause, whereby the land is acquired, and compensation is paid later during or after construction. However, the land was acquired under the Section 38A, but was not followed through with variation to official registration documentation and payment of compensation. As this was a historic situation, and while the requirement is for ADB policy compliance, since this is now an ADB financed Project, some flexibility was given on the process of reporting and ADB concurrence. .

84. However, monitoring of the land acquisition and relocation process is required to be fully monitored and reported in PMDSC reports with a final report being attached to the RIP for ICB-2. As ICB-2 is likely to need a multiple of RIPs to be approved by ADB, given the varied pace of land acquisition process in the various GNDs on ICB-2, the consultant recommends a separate monitoring report be prepared for NCB-1, at the completion of compensation payments.

85. A survey of impacts was conducted in December 2017 by PMDSC, PIU and PMU, in consultation with ADB. However, processing of these data appears not to have been completed, given that the PMU and PIU are relying on GoSL available data via land survey documentation. Based on the PMU information there are 178 households affected, 5 households requiring full resettlement/physical displacement, with 25.776 hectares to be compensated.

86. According to the PMU Resettlement Specialist, when requesting data for this DDR, they have only two out of five GND land acquisition documents. Therefore, it would not be able to accurately monitor the full amount of land acquisition or its progress on NCB-1. Therefore, consolidation of data in a central database with detailed impacts and compensation data is needed and made available to PMDSC, PMU and PIU.

5.6 Recommendations for Improvement of Land Acquisition and Resettlement Impacts and Compensation Data

87. The Census and Socioeconomic surveys were conducted by the PMDSC; based on the Land Acquisition Survey, generally provided at the end of the Section 2 Notice; and the Engineering Design. It is notable the differences between the data presented from the PMU, received from the GoSL Land Acquisition stakeholders and the PMDSC survey data in NWPC ICB-2. This indicates a coordination issue. A few observations made during the study includes:

- (i) The NWPC PIU officers utilized the RM&E report No. 7 to update their records, which may have been inaccurate.
- (ii) The data in Table 1 was provided partially from PMU data and PMDSC data during preparation of the RM&E No. 7 document by the PMDSC.
- (iii) The PMDSC re-designed some areas of the canals triggering a need for an RIP update.

- (iv) The PMDSC re-designed some areas of the canals to be a much smaller footprint width in order to reduce land acquisition impacts, while the PIU Project Director requested a wider footprint to ensure safety.

88. The following is recommended to rectify the inconsistency in data and improvements to the database records, hence improved RIP preparation capacity land acquisition and resettlement monitoring capacity in accordance with ADB standards:

- (i) The PMDSC, shall check the PMU database records obtained from the DSD Land acquisition records for the project (NWPC ICB-2) . The updating of the Census and socioeconomic surveys, may be required, if it is found that data obtained from the PMU database system is not detailed enough for a RIP expected by ADB .
- (ii) The PMDSC shall verify the survey data of APs.
- (iii) The PMDSC shall assist the PMU and PIUs of NWPC and UEC to upgrade the Central database for resettlement and land acquisition, for managing the current Tranche 1, Tranche 2 and future Tranche 3 resettlement and land acquisition impacts data and database to monitor compensation, to the standards required by ADB. This also includes monitoring of DDRs (currently 1, 2, 3, 4 and 5) findings.
- (iv) A central database of data shall be set up, with the aim of ensuring consistency of data used by PMDSC and PMU in RIP preparation, compensation distribution and completion of resettlement activities.

89. As NWPC ICB-2 has undergone design changes, in accordance with ADB SPS 2009, the need for updating the PPTA RIP is required. Due to the varying status of valuations of GND level, it is recommended that a multiple set of RIPs be prepared to cover a set of GNDs, where valuation is completed by the GoSL, and the valuation checked and supplemented by allowances, to make bring them back into compliance with ADB policies.

90. A separate evaluation report indicating completion of compensation payments and structure relocations for NWPC NCB-1 is recommended, in order to reduce the risk of claims being made by the contractor, which would otherwise increase if waiting for the next RIP to be prepared.

91. To reduce the risk of non-compliance with ADB and GoSL requirements, as well as RIPs, during the time of RIP preparations and implementation in all 3 Tranches, the PMDSC shall prepare and submit quarterly monitoring and evaluation Reports, instead of the current requirement for semi-annual reports. These reports shall consist of data sourced from the PMU and PIUs as well as from site inspections, some of which shall be conducted with the PIU/PMU and others conducted independently by the PMDSC.

6 LEGAL AND POLICY FRAMEWORK

92. Key aspects of this DDR have been to ensure that the Resettlement and land acquisition and compensation processes are being conducted in accordance with ADB SPS 2009 and in compliance with GoSL laws. A key finding of the study is that not all the laws and policies of GoSL have been recorded in the Resettlement Documents, from PPTA stage through to the current period. The recently identified laws do indicate some direct and indirect gaps with ADB SPS, 2009. Therefore, this section provides a summary of the Legal and policy framework, including the addition GoSL laws and policies, as well as a reviewed analysis of gaps.

93. Land Acquisition, compensation, relocation and income and livelihood restoration of the subproject will be guided by the MWSIP Resettlement Framework (2015) which was prepared in accordance with the: LAA, 1950 and its amendments; National Involuntary Resettlement Policy (NIRP), 2001; National Policy for Payment of Compensation, 2008; the Land Acquisition Regulations of 2009 (LA regulations of 2009); National Environmental Act of 1980 and its amendments; Program/Project Loan Agreements; and ADBs Safeguards Policy Statement 2009 (SPS, 2009). Figure 3 shows the processes of the RIP process as required by the Laws of Sri Lanka and Annex 4 presents the multiple of GoSL agencies involved.

6.1 Land Acquisition Act (LAA)

94. The LAA provides a legal framework for acquisition of land for public purpose. It provides detailed procedures for land acquisition, consultations, calculation of compensation for land, structures and crops at market value and assistance packages. It guarantees that no person is deprived of his land except under the provisions of LAA, and provides a compensation package for acquired land, structures, damaged crops and disturbances caused by the project. The normal procedure for land acquisition and involuntary relocation through the LAA is by application to the Ministry of Land and Land Development (MLLD) and once acquired, land is vested in the Government Agency which made the application.

95. Provisions of the LAA are inadequate to address all adverse impacts associated with land acquisition and relocation. The LAA is indifferent to affected people's socioeconomic conditions and long-term adverse impacts on their incomes and livelihoods. The LAA prescribes that the market value of land should be paid as compensation which amounts to the price of property the owner could expect if sold in the open market. ADB SPS 2009 stipulates that replacement cost should be paid as compensation which includes market value and other resettlement assistance packages. Post-acquisition monitoring of IR impacts is not part of the LAA.

6.2 National Involuntary Resettlement Policy

96. The Government of Sri Lanka adopted the NIRP in 2001 to ensure that:

- (i) PAP's are fairly and adequately compensated, relocated and rehabilitated;
- (ii) Delays in project implementation and cost overruns are reduced; and
- (iii) Better community relations are restored among PAPs and host communities.

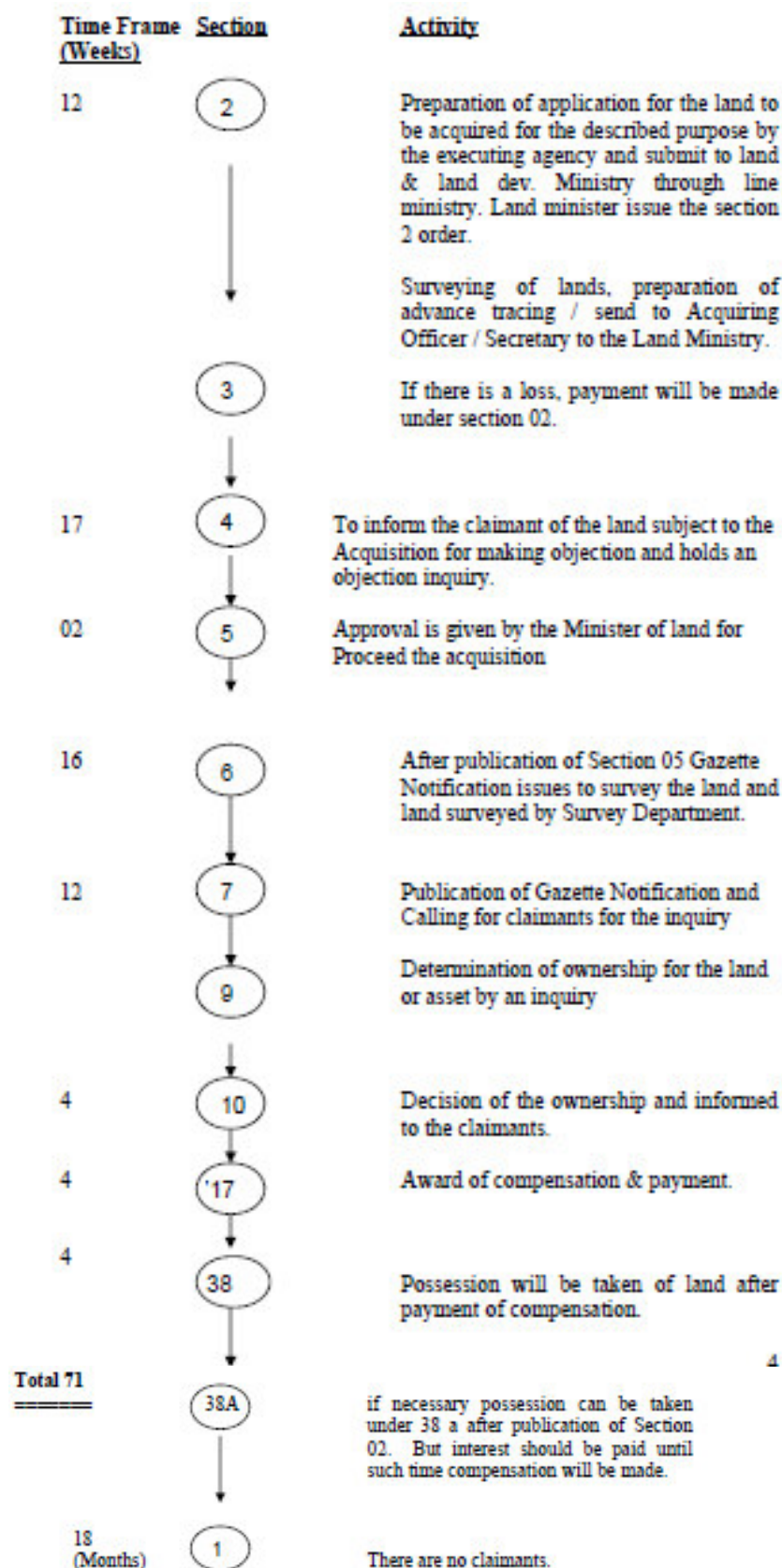


Figure 2: Flow Chart for land acquisition procedure

97. The NIRP is based on the LAA and its amendments, the National Environment Act of 1980 and its amendments, and several other applicable laws such as the Urban Development Authority Act and the Coastal Conservation Act, the regulations of the Acts, and also legal opinions of courts on land acquisition, compensation, consultation and income restoration.

98. Tenets of the Policy are:

- (i) IR should be avoided as much as possible by reviewing alternatives to the project as well as alternatives within the Project.
- (ii) Where IR is unavoidable, PAPs should be assisted to re-establish themselves and improve their quality of life.
- (iii) Gender equality and equity should be ensured and adheres to throughout.
- (iv) PAPs should be fully involved in the selection of relocation sites, livelihood compensation and development options at the earliest opportunity.
- (v) Replacement land should be an option for compensation in the case of loss of land; and in absence of replacement land cash compensation should be an option for all PAPs.
- (vi) Compensation for loss of land, structures, other assets and income and livelihood losses should be based on full replacement cost and should be paid promptly. This should include transaction costs.
- (vii) Resettlement should be planned and implemented with full participation of the provincial and local authorities.
- (viii) Participatory measures should be designed and implemented to assist those economically and socially affected to be integrated into their host communities.
- (ix) Common property resources and community and public services should be provided to re-settlers.
- (x) Resettlement should be planned as a development activity for PAPs.
- (xi) PAPs who do not have title deeds to land should receive fair and just to improve their living standards.
- (xii) Project executing agencies should bear the costs of compensation and resettlement.

99. The Policy applies to

- (i) All development-induced land acquisition or recovery of possession by the State.
- (ii) All projects regardless of source of funding
- (iii) All projects in the planning phase on the date the policy came into effect and all future projects

100. The MLLD is responsible for implementing of NIRP. This is done in collaboration with a wide network of public agencies including the CEA, Survey Department, Valuation Department, Ministries concerned and Divisional Secretaries.

101. NIRP ensures that PAPs are treated in a fair and equitable manner, and that they are not impoverished in the process of land acquisition and resettlement. The policy also enables establishing a framework for project planning and implementation that would meet international best practices in involuntary resettlement including the involuntary resettlement safeguards policy principles and requirements of the ADB.

6.3 National policy on Payment of Compensation (2008) and LA Regulations (2008)

102. The Cabinet of Ministers approved the National Policy on Payment of Compensation (NPPC) in November 2008 to establish a uniform system of adequate compensation payment, based on the LAA, NIRP and several other laws applicable to land acquisition and resettlement, and also to supersede all other ad-hoc and special compensation packages used by Government agencies such as Road Development Authority. The LA Regulations 2008 ratified by the parliament of Sri Lanka in 2009 as Regulations of LAA gave effect to both NIRP and NPC. The LA Regulations of 2008 incorporated NIRP and NPPC principles into Sri Lanka's legal framework thereby improving the congruence between local regulatory framework for land acquisition and resettlement, and international best practices for involuntary resettlement.

6.4 National Environmental Act (NEA) of 1980 and 1988

103. The National Environmental Act (NEA), No. 47 of 1980, amended by Act No. 56 of 1988 has provisions relevant to involuntary resettlement. The Gazette notification No859/14 of 23 February 1995 determined the projects and undertakings for which Central Environmental Authority (CEA) approvals is needed in terms of Part IV – C of the NEA. Item 12 of the schedule requires the formulation of an RIP to address involuntary resettlement of 100 or more households.

6.5 Attorney General Office letter on Valuing Temple Land Development (2006)

104. In 2006 the Attorney General issued a letter which legally requires that land development, by lease holders and encroachers on land owned by the temple shall no longer be given to the people, but shall be paid to Temple, which is to the "Public Trustee." This is most likely the most significant reason for valuation of temple Lands in Bambawa DSD being extremely low.

6.6 Paddy land Act (1958)

105. Although an old legal Act, it is still currently in force. Under the Agrarian Services Department, it is required that all land used for farming paddy is registered as paddy land under this act. This registration assumes this land will only be used for rice cropping. Therefore, it does have an impact on valuing land on those who grow alternative crops during the year

6.7 Regulation on Tax (2009)

106. This regulation includes clauses which require a minimum of the past 2-years of tax records must be considered in valuation business losses. Furthermore, the regulation also requires that those without the past two years tax records shall be paid an allowance for business loss of 15,000 Rupees.

6.8 Project Loan Agreements

107. The Loan agreement signed between the GoSL and the ADB, stipulates that any Involuntary Land Acquisition and Resettlement (LAR) and Environmental safeguards issues that arise during project implementation will require a Resettlement Implementation Plan (RIP), Initial Environmental Examination (or Environmental and Social Impact Assessment), or other appropriate document showing all impacts are mitigated in accordance with the Government's relevant legislation and policies, and the existing (or updated) Program Resettlement Framework (RF) and Environment and Social Management Framework (ESMF) documents, and particularly with ADB's Safeguard Policy

Statement (SPS) 2009 and within the legal framework of Sri Lanka. The ADB will only finance projects and programs that fully comply with its SPS 2009.

108. The Loan Agreement(s) set out a number of “Loan Covenants” which are legally enforceable. For the MWSIP, Tranche 1, the following Covenants related to Resettlement and Land acquisition are as follows:

- (i) Para. 2, Schedule 5 - The Borrower and MMDE shall ensure that the PMU and the PIUs employ sufficient staff for the duration of the Project with adequate and relevant expertise in the field of project management, financial management, engineering, procurement, contract management, construction management, communications, and environmental and social safeguards assessments, monitoring and implementation. The Borrower and MMDE shall keep the PMU and the PIUs equipped with the necessary office space, facilities, equipment, support staff and management information systems for the duration of the Project.
- (ii) Para. 5, Schedule 5 - The Borrower shall make available to MMDE, and MMDE shall provide, all counterpart funds required for timely and effective implementation of the Project, including, without limitation, any funds required to keep the PMU and PIUs fully equipped and fully staffed in accordance with the requirements set out in the FAM, to mitigate foreseen and unforeseen environmental and social impacts, and to meet additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances. The Borrower shall make the resources thus required available to MMDE on a quarterly basis for each fiscal year, or more frequently as required.
- (iii) Para. 10, Schedule 5 - The Borrower and MMDE shall ensure that all land and all rights-of-way required for all Project facilities are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; (c) the RF; and (d) all measures and requirements set forth in the respective RPs, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.
- (iv) Para. 11, Schedule 5 - Without limiting the application of the Involuntary Resettlement Safeguards, the RF or the RPs, the Borrower through MMDE shall ensure that no physical or economic displacement takes place in a project area until:
 - a) compensation and other entitlements have been provided to affected people in accordance with the relevant RP; and
 - b) a comprehensive income and livelihood restoration program has been established in accordance with the relevant RP
- (v) Para. 14, Schedule 5 - The Borrower shall cause MMDE to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:
 - a) comply with the measures and requirements relevant to the contractor set forth in the EIAs, IEE, EARF and the EMP, and any corrective or preventative actions set out in a Safeguards Monitoring Report;
 - b) make available a budget for all such environmental and social measures
 - c) provide MMDE with a written notice of any unanticipated environmental or resettlement risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIAs, IEE, EMP, RPs or the RF;

- d) adequately record and inventory the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
 - e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction unless alternative mitigation is provided as included in the design of the project.
- (vi) Para. 15, Schedule 5 - The Borrower shall cause MMDE to do the following:
- a) submit semi-annual Environmental Monitoring Reports to ADB for the Upper Elahera Canal and North Western Province Canal projects and annual Environmental Monitoring Reports for the Minipe Left Bank Canal project, and disclose relevant information from such reports to affected persons promptly upon submission
 - b) submit semi-annual Resettlement Monitoring Reports for each of the Upper Elahera Canal project, North Western Province Canal project and Minipe Left Bank Canal project;
 - c) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIAs, IEE, EMP, EARF, RPs or the RF, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan; and
 - d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP promptly after becoming aware of the breach
- (vii) Para. 23, Schedule 5 - The Borrower, MMDE, and other relevant government agencies, shall provide sufficient extension services to farmers located within the Project's beneficiary areas to educate and encourage them to (a) improve their application of irrigation water to crops and reduce water consumption; (b) apply water saving practices such as Alternate Wetting and Drying, and System for Rice Intensification; (c) improve crop yields; (d) grow higher valued crops during the Yala season; and (e) reduce application of fertilizers and pesticides.

6.9 ADB Safeguards Policy Statement, 2009 (SPS, 2009)

109. As per ADB Safeguards Policy Statement (2009), important elements of the resettlement policy are:

- (i) Avoid and minimize land acquisition and resettlement impacts;
- (ii) Compensate for lost assets at replacement cost;
- (iii) Livelihood and income restoration;
- (iv) Assistance for relocation, including provision of relocation sites with appropriate facilities and services; and
- (v) Assistance for rehabilitation to achieve at least the same level of well-being with the project as without it.

110. Involuntary Resettlement safeguards covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources or means of livelihoods) as a result of (i) Involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected area. IR Safeguards apply whether such losses and involuntary restrictions are full or partial, permanent or temporary.

111. The ADB Policy on Involuntary Resettlement (SPS, 2009) is based on the following principles:

- (i) Screen the project early on to identify past, present and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through survey and/or census of affected persons, including gender analysis, specifically related to resettlement impacts and risks.
- (ii) Carry out meaningful consultations with Displaced Persons (DPs), host communities, and concerned non-government organizations. Inform all DPs of their entitlements and resettlement options. Inform all DPs of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs.
- (iii) Pay attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and indigenous peoples and those without legal title to land and ensure their participation in consultations.
- (iv) Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns.
- (v) Support the social and cultural institutions of DPs and their host population.
- (vi) Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- (vii) Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods; (ii) prompt replacement of assets with access to assets of equal or higher value; (iii) prompt compensation at full replacement cost for assets that cannot be restored; and (iv) additional revenues and services through benefit sharing schemes where possible.
- (viii) Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.
- (ix) Improve the standards of living of the affected poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas, provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- (x) Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status. This includes cases of voluntary donation.
- (xi) Ensure that DPs without titles to land or any recognizable rights to land are eligible for resettlement assistance and compensation for loss of non-land assets.
- (xii) Prepare a resettlement plan elaborating on affected persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
- (xiii) Disclose a draft resettlement plan, including documentation of consultation process in a timely manner, before appraisal, in an accessible place and in a form and language in which the affected persons and other stakeholders will all understand. Disclose the Final resettlement plan and its updates to DPs and other stakeholders.

- (xiv) Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component as a stand-alone operation.
- (xv) Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- (xvi) Monitor and assess resettlement outcomes, their impacts on the standards of living of affected persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring.
- (xvii) Disclose monitoring reports.

6.10 Gap Analysis

112. A Gap Analysis was conducted during the PPTA period in preparation of the first Resettlement Framework for MWSIP. While some gaps were identified in the RF, further understanding of the legal framework of GoSL and ADB SPS 2009 has been conducted during this due diligence study. Therefore, this section presents the already prepared Gap Analysis (from the PPTA) with a short explanation of additional issues identified during the Due Diligence Study, based on more recent knowledge of legal framework

6.10.1 Resettlement Framework Gap Analysis⁸

113. The key gaps between the LAA and IR policy principles of SPS are (i) the entitlements of non-titled PAPs; (ii) compensation at replacement cost; (iii) income restoration and improvement; (iv) consulting PAPs and their host communities on relocation options; (v) special assistance to vulnerable PAPs; (vi) monitoring and assessment of resettlement outcome and impacts; and (vii) the formulation of RIP to address these issues.

114. The issue of non-titled PAPs entitlements is addressed in LAA and elaborated in NIRP and LA regulations 2009. Under the LAA any person having a right title or interested in or over the Land which is to be acquired or over which a servitude is to be acquired (Section 10(1)) is entitled to compensation. A person who has interest in land apart from the owner and co-owner's area mortgage, a lessee, or occupier absolutely for himself or in trust for another person or for any charitable, religious or other purpose or a person having servitude over the land (section 65 as amended in 1964). The Court of Appeal in 2001 added tenants to the list. The court also held that the occupier could not in any event be evicted without being compensated in respect for his improvement (if in fact he is the owner of the improvements and owner of the property). This matches ADB's involuntary resettlement safeguards principle that those who do not hold title to land are eligible to resettlement assistances and compensation for loss of non-land assets. (refer to **Annex 2**)

6.10.2 Recent Identified Gaps

115. While it is recognized that the Resettlement Framework provided a Gap Analysis, based on the key Land Acquisition and resettlement laws and policies of Sri Lanka, identified at that time, the Due Diligence Study, as per Sections 6.5 to 6.7 above, identified some additional legal issues relevant to the process to land acquisition and resettlement impacting on the MWSIP, including NWPC packages.

⁸ Extract copied from the approved Resettlement Framework for MWSIP

116. One significant cause of complaints from the APs leading to this DDR, and appeared not recognized in the Resettlement Framework, is the 2006 AG letter ordering that the value of temple lands development, regardless of the one that developed the temple land, would be paid to the temple – the Public Trustee. ADB policy requires that, a) APs be compensated for livelihood loss and non-land assets losses; and b) APs shall be left post-project in the same or better situation than before the project. ADB Policy also subscribes to APs being compensated to development of land and livelihood losses in the cases of no land title or lack of rights to the land. Other Laws such as the NIRP, states for APs to provided fair compensation for losses.

117. The Paddy Land Act refers to all paddy lands, be they irrigated, or rain fed and upland or lowland paddy areas, must be registered. Due to this law, registered paddy land, which covers a large area of highly fertile agricultural land is valued based on rice crop income replacement, and not considering a second crop. This leads to a gap with the ADB SPS 2009, in than income/crop land value is not compensated at replacement value, but only at a market rate equal to an annual 2-season rice production. The second crop, these days in not rice, but may often be vegetable, allowing for a significantly higher income, which should be included in the paddy land valuations in order to comply with ADB policy.

118. The tax regulation, under GoSL requirements informs on compensation for business which do not pay tax and those which do pay tax. Those businesses with the past 2-3 years of tax records are eligible for a compensation in accordance with their income (refer to Section 7 below). However, those without tax records are allocated an amount prescribed in 2009. This does not allow for any inflation, changes in minimum wage, or other price changes that may occur over time. Therefore, the allowance paid to the AP, particularly without tax documentation, may not be in accordance with ADB SPS 2009 requiring that economic displacement be paid at replacement cost for livelihood losses and must ensure that host areas for the business may be developed to the same or better livelihood conditions than pre-project.

6.11 Involuntary Land Acquisition and Resettlement Principles and Recommendations on Legal Framework

6.11.1 Principles

119. Based on the comparative review of various resettlement policies, laws, regulations and guidelines of Sri Lanka and the ADB IR Policy, the following broad resettlement principles are distilled for this investment program to apply to its projects:

- (i) Screen each project of the investment program to determine whether it triggers the following involuntary resettlement principles and to determine the scope of resettlement planning required.
- (ii) Take every effort to avoid physical displacement and/or any other adverse impacts on livelihood and income sources and community resources and infrastructure by exploring project and design alternatives. If physical displacement and economic displacement are unavoidable, the following actions will be taken to ensure that they improve or at least restore their income and livelihoods and rebuild their socio-cultural systems.
- (iii) Consult and inform all PAPs on land acquisition, compensation, and rehabilitation, and their entitlements and grievance redress mechanism.
- (iv) Provide special project assistance to meet the needs of affected vulnerable people such as poor, landless, elderly, woman-headed households, informal settlers and squatters.
- (v) Improve or at least restore livelihoods of all affected households through cash-for-land compensation at replacement cost for acquired or damaged non-land property, and cash-for-land or land-for-land for land acquired.

- (vi) Provide well-planned and budgeted income restoration and improvement programs for the benefit of PAPs, especially for the poor and vulnerable groups considering PAP's requirements, expertise, skills, experience, capacity, and available market avenues.
- (vii) All common property resources lost due to the project will be replaced or compensated by the project;
- (viii) If land acquisition is through negotiated acquisition, the project will ensure that PAPs who enter into negotiated acquisition will maintain the same or better income and livelihood status.
- (ix) PAPs without title to land are eligible for resettlement assistance.
- (x) Disclose resettlement information and RPs/RIPs including consultation documentation before the project appraisal in a form, manner and language(s) accessible to PAPs and other stakeholders. The final RPs/RIPs and their updates, if any, will also be disclosed to PAPs and other stakeholders in the same manner.
- (xi) Establish a grievance redress mechanism and ensure all PAP's, beneficiaries, contractors and line agencies are aware of the mechanism and its processes.
- (xii) The full costs of resettlement will be included in project costs.
- (xiii) Pay compensation and provide other entitlements to each eligible displaced person before physical displacement and any construction work starts.
- (xiv) Monitor and assess the progress of RP/RIP implementation and prepare monitoring reports to share with ADB, PAPs and other stakeholders.

6.11.2 Recommendations

120. Along with the laws of Sri Lanka related to the land acquisition and resettlement, there are some small gaps related to complying with ADB SPS 2009. Therefore, the following is recommended:

- (i) The Principles as outlined in Section 6.10.1 shall always be followed in resettlement and land acquisition preparation and implementation of plans, compensation distribution, and monitoring. This may be expanded in accordance with Resettlement Framework and Resettlement Implementation Plan updates.
- (ii) To ensure the gaps between GoSL laws for compensation and allowances in land acquisition and resettlement as well as ADB SPS 2009 are all complied, the Resettlement Framework requires a significant update to detail additional GoSL laws and practices as well as clarifying and supplementing the valuation methods and approaches, to be complied.
- (iii) A part of screening each Subproject, shall include a review of GoSL legal framework, especially to identify legal updates and additional, applicable laws that will impact on compensation (financial and in kind) requirements and not only identify what may be affected in the footprint of the project infrastructure, reserve areas, access areas or temporary space for construction.
- (iv) Due to the additional laws, not previously identified, and those which were found to prescribe compensation at rates which may be out-of-date and not accounting for inflationary and other costs increases over time, Resettlement Implementation Plans shall require updates, in accordance with ADB SPS 2009, at the same time not breaching GoSL laws.
- (v) In accordance with the GoSL laws and policies and ADB SPS 2009 and the Principles above-mentioned, all APs shall be entitled to a combination of compensation packages and resettlement assistance according to the nature of ownership/user/occupier rights and interests on lost assets and the degree of project impacts on socio-economic conditions and vulnerability of PAPs.
- (vi) There Due Diligence Study has identify a number of laws that were not included in the original MWSIP Resettlement Framework, but are of high relevance to the resettlement, land

acquisition and compensation processes that must be followed, under GoSL laws and policies. Therefore, it is recommended that the Resettlement Framework be update, including a full review of the legal framework and gap analysis.

7 VALUATION METHODOLOGIES FOR COMPENSATION

7.1 Introduction

121. The aim of this section is to describe some of the approaches used to value assets of the affected persons leading to the compensation packages. It provides information of the valuation entitlements described in the Resettlement Framework of 2015, prepared during the PPTA for the Program. During this Due Diligence Study, a number of existing regulations and more information of valuation methods conducted by GoSL were identified. Therefore, this section further conducts a simple gap analysis to identify where valuation methods differ from ADB policy requirements and if there are any gaps in valuation of affected assets, that differ from ADB SPS 2009 compliance. In order to conduct this analysis, the Entitlement Matrix and associated valuation information from the MWSIP Resettlement Framework was reviewed, compensation lists of the affected persons were reviewed and the Land acquisition officer of the Bambawa DSD and the Valuation officers that are determining compensation for the focus affected population were consulted.

7.2 Current Compensation

122. The Resettlement Framework for the Program prescribes the Compensation, Income Restoration and Relocation strategies to be used in this Program. These are described below.

7.2.1 Valuation of Lost and Affected Assets

123. The MMDE and PAPs will participate in determining the replacement cost of acquired property for a project. The LAA, NIRP and LA Regulations 2008, outlined in Section 6 above, constitute the resettlement regulatory framework for determining the replacement cost. Replacement cost comprises fair market value of the property and other compensation packages that are elaborated in NIRP and LA Regulations 2008 (see below). The valuation of acquired property is done by the Valuation Department on the request of by the DS of the area where land is located. The DS is the land acquiring officer. The Valuation Department will calculate the replacement cost of fully acquired, partially acquired and damaged or partially damaged structures, guided by the 2008 LAA Regulations.

124. Those holding legal rights to land acquired are entitled to compensation at replacement cost of the land and structures on the lost land or to replacement land and replacement cost of structures on the land. Those persons who do not own land but have 'interests' such as squatters on acquired land are entitled only for replacement cost of dwellings and other structures, improvements to the land, only if the person had occupied the land or the structure prior to the cut-off-date for eligibility for resettlement assistance.

125. In case of PAPs whose livelihoods are land-based, the MMDE will give priority to find replacement land for them. It is the responsibility of the MMDE to find suitable land of equal size or quality where PAPs are willing to relocate. Where replacement land is offered, displaced persons will be given a plot of land at least equivalent to the quality and size of the land acquired. The replacement land will allow them to improve or at least to restore their livelihoods such as agriculture at the relocation site with necessary infrastructure, extension facilities and community support. If there is any time gap between displacement and relocation, the MMDE will provide cash and subsistence assistance to the displaced persons until such households are given land and resettlement assistance at resettlement locations. These facilities are to be provided in accordance with the entitlement matrix.

126. The value of land will be based on updated official records, field observations, recent land market rates in the vicinity, if available, and valuation done by the Valuation Department. The land records containing information such as legal title and classification of land will be taken into

consideration in determining its value. All land parcels identified to be acquired for the project will be compensated based on the replacement cost of the land and will be paid in cash unless the land-for-land option is opted by PAPs.

7.2.2 Negotiated Land Acquisition

127. The LAA refers to 'willing seller' as a precondition for negotiated land acquisition. This avoids expropriation and use of governmental authority to remove people and acquire land. It is based on meaningful consultation with PAPs including those who occupied land without legal titles. Obtaining lands through negotiated land acquisition still involves a formal acquisition as per LAA. This is mainly to avoid land with title defects get passed on to the State. Within the LAA framework, it is difficult to apply negotiated land acquisition modality, although the LAA recognizes negotiated land acquisition as a method of calculating compensation. The Supreme Court defined the test of a willing seller as being 'likely to receive prompt compensation of the market value.' The Court pointed out the impracticality of negotiated land acquisition because of 'delays, technicalities and expenses' associated with the LAA mandatory procedures for land acquisition and compensation payment. Therefore, what is feasible and efficient is to negotiate and agree replacement cost of land, dwellings and other structures, and the market value of crops and trees. Such negotiated prices could be used in determining compensation for acquired property. In any negotiated settlement, the MMDE will conduct meaningful consultation with affected persons including those without legal title, and the MMDE will engage an independent external party to record the negotiation and settlement process. The MMDE will also open for third party validation, in case, it is required.

7.2.3 Voluntary Donation of Land and Assets

128. Voluntary donations of land and/or crops or other assets to the project is not covered under the GoSL legal framework or ADB SPS (2009). In rare cases where PAPs refuse their entitlement to compensation, and instead wish to voluntarily donate assets, the Project must be able to abide by very strict controls and provide justifications to ADB prior to approval. This approval must be sought from ADB prior to every case of voluntary donation. Voluntary donation will be accepted only when the following conditions are met; i) the PAP is donating less than 5% of their asset (e.g. land, crop, structure), ii) the PAP is informed that they were entitled to compensation, and nonetheless prefer to voluntarily donate the asset, iii) the PAP can exercise 'power of choice' (i.e. the scope of project activity will be the same, irrespective of whether the donation will occur, iv) the donation must benefit the PAP, v) the PAP signs a letter agreeing to the aforementioned points, which also includes a declaration of the assets being volunteer, signed by the PAP and witnessed by the GND authority vi) an independent party, such as a locally-based NGO or CBO, shall also witness and sign the form confirming that the volunteering of assets has been done without coercion. The PMU, with the GND and PAP, shall ensure all title documents are updated to reflect the land ownership status, including the asset donation, free of all charges for the PAP. Annex 5 presents samples of the 2 types of forms to be used as the basis in such voluntary land acquisition situations. A special monitoring plan shall be prepared and implemented by PMU and PMDSC, and which detailed results shall be report semi-annually to ADB, indicating that the specific affected persons are the same or better off than pre-project, and benefitting from the infrastructure for which the asset was volunteered temporarily or permanently.

7.2.4 Assessment of Replacement Cost

129. The LAA provides for determining compensation based on 'market value'. It defines market value as 'the amount which the land might be expected to have realized if sold by a willing seller in the open market as a separate entity on the date of publication of that notice in the Gazette ... [Section 46(1)]. The NIRP states that compensation will be based on 'replacement cost' of acquired land and structures. 'Compensation for loss of land, structures, other assets and income should be

based on full replacement cost and should be paid promptly. This should include transaction costs [Principle 6].

130. The LA Regulations of 2008 under Section 63(2) (f) of the LAA did not adopt 'replacement cost' as the basis for compensation as the LAA does not use the concept; instead it used 'market value' as defined in the LAA together with several safeguard provisions to eliminate inequities arising from methods of valuation and determining 'market value' thereby upgrading compensation to the level of the replacement cost.

131. The current IR regulatory framework ensures that persons affected by land acquisition receives replacement cost, so that they could maintain the same socio-economic status that they enjoyed prior to land acquisition, or that their living standards are raised to a higher level compared with the pre-acquisition level particularly in case of the poor. As outlined above, LA Regulations of 2008 under 'Disturbances' make the necessary provisions for compensating every possible cost incurred by a PAP during the acquisition of their properties. Section 3.11 of the LA regulations 2008 within the framework of 'value to owner' provides a range of 'disturbances' caused by land acquisition. The total package of compensation and other payments would bring compensation to the level of 'replacement cost' which is also a best international practice. The LA Regulations 2008 provides the following compensation packages to those who lost land to a public project.

- (i) Where part of a land is acquired and when its value as a separate entity deems to realize a value proportionately lower than the market value of the main land, the compensation will be proportionate to the value of the main land.
- (ii) A building used for occupation or for business purpose or was intended to be used for occupation or business purpose on the date the intention to acquire was published, the difference between the cost of re-construction and the value of building based for determination of market value will be paid as additional compensation.
- (iii) Value based on 'development potential' is considered in determining the value of land when a paddy land plot is acquired if the Agrarian Services Commissioner General's approval has already been obtained to convert it into a non-agricultural land.
- (iv) Where an acquired building is occupied by a tenant/statutory tenant protected under the provision of the Rent Act No. 7 of 1972 (as amended thereafter) compensation will be ascertained in proportion having regard to the provisions of Rent (amendment) Act No. 26 of 2006.
- (v) Damages caused by injurious affection and severance should be allowed fully. Compensation for disturbance is based on the "value to owner" will be paid based on written claims:
- (vi) Expenses incurred during appearing under LAA Section 9 Inquiry: maximum payment is SLRs 10,000.
- (vii) Expense of finding an alternative accommodation: maximum rental of SLRs 10,000 per month for properties located in urban council areas, and SLRs 5,000 per month for properties located in pradeshiya sabha areas. If the anticipated physical displacement is temporary, maximum of three months rental will be paid; if the anticipated physical displacement is permanent, a maximum of 6 months rental of SLRs 10,000 per month is payable for a house where floor area is less than 1,000 square feet. In the program areas, the average monthly rental per household with less than 1,000 square feet is about SLRs 4,000. The method proposed for physical displacement is not to relocate the displaced household until it has built its own house elsewhere or bought a house with compensation and special assistance received from the program.
- (viii) Cost incurred in change of residence: SLRs 10,000 for houses where floor area is less than 1,000 square feet and SLRs 15,000 for houses where floor area is between 1,000 and 2,000 square feet. SLRs 25,000 for houses where floor area is more than 2,000 square feet. If sub

- families live in a house, the payment should be divided proportionately. For other properties, maximum of SLRs 25,000 is paid based on the nature of the occupation.
- (ix) Cost of advertising: permanent displacement of informal business establishment will get SLRs 2,500 and a formal business establishment, SLRs 15,000.
 - (x) Re-fixing cost of fixtures and fittings; transport expenses: SLRs 5,000 for a house/ residence. In case of a business premises or any other structure of specific nature, the amount should be based on actual expenses
 - (xi) Loss of earnings from business: SLRs 15,000 a month for informal businesses. For formal businesses compensation amount is based on accounts and tax returns pertaining to preceding three years.
 - (xii) Increased overhead expenses will be paid according to the circumstances.
 - (xiii) Double payments, for example, rent or rates: This is to be calculated based on actual expenditure; all other expenses incurred by the owner in relation to the acquisition: losses sustained because of the compulsory sale of the business due to the acquisition, for example, sale of livestock.
 - (xiv) Other additional expenses for disturbance or compensation not considered under any other compensation item above: disturbance experienced by tenants fall into this category. A payment in respect of vulnerable persons such as old and disabled people who are dependent on affected persons. Another category is self-employment. The maximum payment for any of these disturbances is SLRs 15,000.
 - (xv) When an owner of a house or of an investment property is displaced, additional 10% of the compensation is paid as an incentive payment to encourage the PAP to handover the acquired property to the program by a stipulated date.
 - (xvi) Value of an agricultural land or a piece of land with agricultural potential, both replacement cost and estimated loss of income will be taken into consideration in determining its compensation value.

7.2.5 GoSL LAA Section 48A

132. This part of the Land Acquisition process allows for land acquisition and resettlement of an area using a detailed inventory but paying compensation at a later date. However, the law also requires that at the same time as land acquisition and possession occurs, the titles and legal documentation must be updated. Interest shall also be paid for the time between the acquisition and possession of land. A case has occurred, where, historically, the Section 38A was enacted and an infrastructure built, without any further action on compensation for legal titles updating. In cases such as this, found on this Project, the original land title holders/owners, shall be compensated, in accordance with new valuations conducted in accordance with LAA, using values at the time of possession, plus interest in accordance with the LAA. Furthermore, any encroachments on this land area, shall be compensated for the improvements made to the land (i.e., Income losses) as per the Entitlement Matrix valuations.

7.2.6 Special Arrangements for Paying Compensation

133. In addition to the normal procedures of land acquisition, there are several special arrangements for paying compensation for acquired land and structures. The key arrangements are listed below.

- (i) Projects under the investment program are likely to acquire narrow strips of land for canals and water conveyance facilities. In such case, the valuer will be given specific directions under LA Regulations 2008. Irrespective of the size of the main land, determine the site value of a buildable front block and adopt the same rate for acquired portion uniformly.
- (ii) When a part of a building is acquired compensation will be paid for the entire building.

- (iii) Some lands occupied by PAPs may belong to Buddhist temples. Such lands are managed by the chief incumbent of the temple. Compensation for acquired temple lands, however, is paid to the Public Trustee Department.

7.2.7 Reinstatement cost of buildings and compensation for other developments on encroached lands

134. The following steps will be followed in determining compensation for improvements on encroached lands.

- (i) The Land Acquiring Officer should include the encroacher as an 'interested party' under Section 10 (1) (a) of LAA.
- (ii) Encroachments on state lands: with the concurrence of the DS in writing, reinstatement value for developments/improvements done by the encroacher may be paid.
- (iii) Encroachments on private land: where the landowner has not contested the encumbrances in a Court of Law, the person who improved land qualifies will receive the value of such improvements.
- (iv) In subprojects of the investment program, encroachments will be considered as occupied and developed land and the operator will be paid compensation for land and crops and a special grant to purchase alternative land elsewhere.

7.2.8 Common Property

135. The MMDE will restore or reinstall common resources, structures and facilities affected by the project as outlined in the Entitlement Matrix. If access is restricted to such resources, alternative access to similar common property resources will be provided by the MMDE. Compensation for trees will also be based on the current market value of timber for timber trees, the annual net product market value multiplied by remaining productive years for perennial and fruit trees. The MMDE will consult the Department of Agriculture on the value of trees. The market value of trees will be paid to community organizations enabling them to initiate re-plantation programs.

7.2.9 Temporary Impacts

136. For temporary impacts, cash compensation and other entitlements prescribed in the entitlement matrix will be provided to each entitled affected person before taking acquiring land or properties.

7.2.10 Income restoration

137. The MMDE will improve or at least, restore lost or affected income sources and livelihoods of PAPs in real terms to the pre-project levels. The MMDE will identify the number of eligible PAPs from the socio-economic survey and census and formulate detailed income restoration and improvement plans such as skill development programs in consultation with PAPs, CBOs, NGOs, government officials and other agencies in the project areas. The MMDE will also formulate income improvement programs for the benefit of vulnerable households. These plans will be included in RIP with a budget, institutional support, and an implementation schedule.

138. Income restoration and improvement will have several components. Compensation at full replacement cost and other cash components of the compensation packages will allow PAPs to invest some portion of cash received in income generating activities. The PMU/PIU will guide PAPs on financial management and investment. Such investments are augmented by ex-gratia payments that will be paid to eligible PAPs by the project. Among ex-gratia payments are shifting assistance, initial living assistance, and special grant for vulnerable households.

139. In project areas, the majority of PAPs are rural agriculturalists who depend on small plots of paddy and highland to earn their living. If these plots are fully or partially affected by the project, the MMDE will prepare a comprehensive plan to find land-for-land and to develop relocation sites for their benefits. No land acquisition will take place before relocating the physically displaced persons. While compensation is required to be paid before displacement, full implementation of relocation plans might take longer. The gap period is to be dealt with ex-gratia assistance such as living allowances and temporary housing. Such complicated programs are to be in place before land acquisition starts and certainly before any project construction activity begins.

140. Project-sponsored skill training programs and micro-credit programs will provide basic knowhow and capital respectively especially to the displaced youth helping them to find or generate income sources or livelihoods. The MMDE will introduce PAPs to national and local employment development programs and will also secure priority enrolment for them in such programs. The MMDE will also encourage project contractors to hire skilled, semi-skilled and daily wage workers from among PAPs, if they are seeking such employments from the project. Priority will be sought for vulnerable PAPs. Women workers will be encouraged to engage in project construction activities. The MMDE will negotiate with contractor's special assistance programs for them and ensure their safety at work sites. Such assistance requires prior planning and negotiations. The MMDE will initiate such dialogue with concerned agencies and contractors before land are acquired.

141. A cohesive and comprehensive income restoration and improvement strategy based on local skills, resources, and PAPs' expectations and needs will be developed by the MMDE as a key component of RIP with key monitoring indicators and a secured adequate budget. TV repairs, motor mechanics, vehicle driving, heavy machinery handling, sawing and cattle rearing are some of income restoration and improvement programs. In developing such programs, project authorities will consult GN officers and DSs to explore the possibility of combining them with current local income-generating programs.

7.2.11 Relocation

142. The MMDE will decide in consultation with IAs, provincial and divisional authorities the locations for relocation of physically displaced PAPs and the resettlement assistance package for each PAP or displaced household. This information should be disclosed to all PAPs during the formulation of RIP for a project. It is necessary to describe in RIP relocation sites, how and why they have been selected, how many PAPs are to be relocated at each of relocation site; the size of highland and wetland land plots identified for each PAP, the temporary housing arrangements if residential units are under construction; and basic infrastructure facilities and assured budget for all identified resettlement activities at relocation sites.

143. The selection of relocation sites is to be done in consultation with PAPs. Their willingness to move to the relocation sites, expectations, worries and concerns are to be probed through group and individual consultations. The results of such consultations are to be recorded and attached to the RIP. Resettlement administration, responsibility for each task will be outlined in the RIP.

144. The RIP will describe the resettlement assistance package which is given in addition to the land compensation package. Resettlement assistance package will include transportation of household good and salvaged items from the demolished/damaged house, house construction assistance programs; temporary shelter and food supplies; and special security arrangement for women.

145. If PAPs are predominantly farmers, the MMDE will provide land suitable for agriculture for them with cultivation assistance such as tractors to plough land and build bunds (embankments) and tertiary canals.

146. If PAPs of an affected village or hamlet want to live together as a community at relocation sites, the MMDE will take necessary actions to fulfil this requirement. Such formation of a

community at a new location will help them to cope with displacement trauma, anxiety and fear. A community would also provide them mutual labor and subsistence at the initial stage of relocation.

7.3 Valuation Approaches

147. During the site visit to NWCP in preparation of this DDR, the team consulted with the Valuations Department in Kandy, whom are responsible for valuing the impacts in all NWPC areas impacted by resettlement and land acquisition in accordance with GoSL law. The valuation department clarified the ways in which they value various assets, under GoSL laws.

7.3.1 Valuation of Temple Lands

148. The 2006 Attorney General issued letter legally required that land development, by lease holders and encroachers on land owned by the temple shall no longer be given to the people, but shall be paid to Temple, which is to the “Public Trustee”. In some areas of NWP ICB-2, especially Bambawa GND, most of the land is temple lands, by which the land users are leaseholders paying rents of various levels.

149. It was noted that the complaints from various APs noted the compensation rate for land to be paid to the land user was extremely low, compared to that payment to the temple (Public Trustee). On review of the valuations some APs were awarded large compensation and others very small, compared to the actual land valuation for the temple/public trustee. Although not confirmed, it is assumed that the extremely low compensation allocated for the land and its development were valued based on rental agreement and taxation documents. In the case where tax is nil and rent was low, then a minimum standard rate applied to the specific AP. In any case the compensation awarded to the APs in Temple Lands, many of whom had been in the area well before 2006 would lead to APs being worse off at the time the projects commenced.

150. In order to correct this approach, the PMU, through Cabinet paper approval, awarded these APs in Temple lands, compensation through special budget amounting to 50% of the land value compensation allocated to the temple. The DSD Land Acquisition Officer confirmed that the APs at a meeting to explain this extra 50% payment, did sign in agreement and seven APs did not agree. While this went so far as to satisfy general land values, a number of APs thought the compensation was not satisfactory to cover the real value of land developments the AP had made or the potential of future impacts.

7.3.2 Valuing Structures with Trees

151. House and land value with trees are given in one compensation figure. Structures are valued based on various factors related to the plot of land. These may include: location of the structure and land plot, related marketed lands close by, type of materials the structure is made from and state of the structure; history of land use and title as well as opportunity cost of the land plot.

152. Trees on bare land or plantation land are valued differently and valued also according to condition/age/size of tree and type of tree on the area of land. e.g., coconut with land is a higher rate than mango on same land.

7.3.3 Valuing Paddy Land

153. Paddy lands that must be registered under through the Agrarian services department, accordance with the Paddy land Act of 1958 (refer to section 6). The paddy land is valued, based on whether it is irrigated or non-irrigated, rainfed land at approximately 1.6 million and 1.2 million Rupees per acre respectively. The paddy land valuation is inclusive of two annual crops of rice per year.

154. However, nowadays farmers are still growing 1 season of rice, but the second growing season sees farmers diversifying into vegetable growing, which attract a significantly higher income than a second paddy crop. This higher income is not covered in the valuations of paddy land. Therefore, in compliance with ADB SPS 2009, there should be an additional allowance which accounts for loss of income from the vegetable crops normally grown by farmers' in second season.

7.3.4 Businesses and Income loss valuation

155. The 2009 regulation on tax for the past 2 years determines the level of business compensation. Businesses without tax documentation are compensated the minimum amount of 15,000 Rs. This is separate to the structure on the site. Compensation for income loss is one-year average calculated by a review of the past 3 years turnover of the business, with one third of this figure paid as compensation.

156. The valuations do not take into account the relocation and the impacts suffered by an AP when having to set up a new business elsewhere.

7.3.5 Injurious Affect Compensation

157. Compensation rate of injurious impact is paid if over 50% of a structure is taken; 75% or more land is to be acquired; or less than 50% the value is taken based potential impact being a certain number of feet from structure.

7.3.6 Valuation of Temporary Impacts

158. Temporary acquisition or land and/or assets (e.g., Land, structures, temporary loss of business) does not exist under Sri Lankan land acquisition laws, although some losses may be able to be accounted for in "injurious affect" compensation.

159. The Government agencies, including MWSIP EA/IA can by law, either use land which is donated or rent the land plot. The former choice is not recommended, especially in the case of NWPC canal construction alignments, because the benefits for many of the residents in this area are not high, except for those that are connected to the irrigation turnouts. However, donated land for roads widening may have benefits in terms of access to services and economic benefits. The latter, rental of land (and/or assets) is more preferable, which as a negotiated settlement, is permitted also under ADB policy and benefits both land user and renter.

160. The GoSL can rent land on the basis of requesting to rent the land from the owner/user; then through the DSD, attaining the documents and forwarding to the Valuation Department, whom will value the asset and provide the rental rate for the land. The disadvantage is that this rate may be low, which benefits the Government Agency, but the land owner may reject to rent out the land a lower rate. Therefore, normal practice is that the Contractor is then given permission to lease out the land area themselves by mutual agreement with the land owner, at an often much higher, and market rate, than the Valuers prescribed rate.

7.4 Identifying the Compensation Gaps Between ADB Policy and GoSL

161. This section describes some of the identified issues, gaps and complexities in the valuation system, that differs to ADB requirement. Although there are compliances and non-compliances in valuation comparing GoSL with ADB SPS 2009, the differing approaches does cause confusion about what is compliant or non-compliant.

162. The Valuation Department makes many of their valuations of individual assets and presents valuations to the AP as aggregated figures, such as land with structure, land with trees, paddy land etc. However, this approach is not able to show, in writing, if the valuation has been conducted as a

“replacement value” in accordance with SPS 2009. It is also difficult to monitor a household, after compensation is paid, to confirm that the AP is the same or better off than before the Project, in accordance with ADB policy.

163. ADB policy requires that temporary land and resettlement impacts be included in compensation. Temporary use of lands and structures and temporary impacts to resource access (e.g., wells) are valued by GoSL based on Valuation Department valuations and not necessarily at an acceptable rate to the AP (often very low). Therefore, this is often provided to the contractor to negotiate themselves.

164. Paddy land valuation is based on land and income. However, due to the law, the value takes into account only two paddy crops per year. Therefore, it does not account for a much higher value cash crop in the second growing season such as vegetable. In order to comply with ADB requirements of replacement cost, valuations under GoSL LAA will need to be modified with a supplementary allowance that adds values the income loss from the higher value second crop to the two-rice crop valuation.

165. Valuation of structures and business loss valuation are prepared accounting for several impact factors and surrounding conditions at the time of acquisition. However, the valuation for a structure and the valuation for a business appears to compensate for the loss of the asset and/or the income but does not go far enough in valuation of setting up a business in the new location, services required by an AP when relocating to a new area or considering the impacts in the Host area due to an AP relocating.

166. In two parts of NWPC ICB-2, there are resettlement and land acquisition impacts on temple land. Based on the GoSL, legal framework, the AP is not eligible for compensation for land improvements, while the Resettlement Framework for MWSIP does allow for this, but still also recognizing that land compensation is to be paid in full to the Public Trustee. The PMU Program Director, recognizing this gap, has already stepped in and paid 50% of the valued temple land to the APs in addition to the 100% valued land to the Public trustee.

7.5 Recommended Valuations

167. Along with the laws of Sri Lanka and the methods for conducting valuations, related to the land acquisition and resettlement, there are some small gaps related to complying with ADB SPS 2009. Therefore, the following was recommended to rectify the inconsistency in data and now implemented under the program:

- (i) Currently, in NWP ICB-2, the valuations have been mostly conducted, based on the GoSL laws and policies and valuations practices. However, as seen in Section 7.4, there are several allowances and compensation, which are in the Resettlement Framework, which may not correspond to the GoSL valuation and the GoSL valuations approaches do not always support the SPS 2009. In these cases, additional allowances may be required from the MMDE budget for payments to the affected households.
- (ii) The PMU should make a request to the Valuation Department to provide the various valuation components (land itself, trees, crops, structures etc) all separately, so that the different impacts compensation and allowances foreseen under the law and the actual payments of compensation to each AP may be fully monitored along with additional allowances required to comply with ADB SPS 2009.
- (iii) To ensure GoSL and ADB requirements are complied, once the PMU/PIU receive valuations, they shall be passed to the PMDSC, where valuations may be checked, and additional compensations/allowances be provided in each compensation package, in accordance with the GoSL legal framework and policy and SPS 2009.

- (iv) To ensure the gaps between GOSL laws for compensation and allowances in land acquisition and resettlement as well as ADB SPS 2009 are all complied, the Resettlement Framework requires a significant update to detail additional GoSL laws and practices as well as clarifying and supplementing the valuation methods and approaches, to be complied.
- (v) The new information presented in this section on valuations was not considered in the approved NWPC Resettlement Implementation Plan, submitted as part of the PPTA and approved by ADB. Therefore, it is recommended that the Resettlement Implementation Plans be prepared for NWPC ICB-2, NCB-1 and future Tranche 2 NWPC Subprojects, where there are land acquisition and resettlement impacts identified.
- (vi) During the PPTA, the RIP prepared and approved by the ADB, and being used by the PMU without update: covered the whole of NWPC Project across all proposed Tranches; was developed based on a proposed engineering design from the PPTA design engineers; and the budget was based on estimates, with official involvement by the Valuation Department, DSD or GND. This leads to the conclusion that the PPTA prepared RIP may be inaccurate in its valuations and budgeting and should not be used. Furthermore, there has been a change in detailed design alignment of the NWPC canal. Therefore, change in detailed design does trigger a requirement in the ADB SPS 2009 which stipulates updating of the RIP.
- (vii) Given that timing of the GoSL LAA process is extremely lengthy, and timing differs among each GND in a particular Project area, it is recommended that consideration be given to multiple RIPs submission to, and approval by, ADB. This would assist in reducing risk of delays in the construction program as well as future construction contract awards (in tranche 3).

8 CONSULTATIONS AWARENESS AND DISCLOSURES

168. This section focusses on Consultation with the communities and stakeholder. The key areas covered in this section include: 1) during the Due Diligence Study process, 2) during the resettlement processes to date, 3) by PMU/PIU and future consultation approaches; 4) how information disclosure has been conducted, 4) recommendation for future disclosure and this DDR-5 disclosure; and human resources and capacity building of PMU, PIU and PMDSC specialists and resettlement staffing.

8.1 Consultation with stakeholders

169. During the conduction of this due diligence study, consultations were conducted with 27 of 33 Bambawa Affected households (some individual and some as groups), with PIU NWPC Project Director, Resettlement Officer for NWPC PIU, the DSD Secretariat and the Valuations Department (. **Table 15** presents the notes on these meeting, which we conducted on an informal/semi-formal basis and, therefore, no official minutes were taken⁹.

8.2 Consultation and Awareness During Resettlement and Land Acquisition Process

170. Consultations and awareness meeting were conducted by the PMU/PIU a minimum of 4 meetings in one year, according to several Bambawa community members and the PIU/PMU stakeholders confirmed that similar levels of awareness and consultation meetings were held with affected communities in other GNDs . However, critical items were missed, including providing GRM information in a timely manner and information on the Entitlement Matrix early in the Project. People received a paper indicating what compensation amount was owed to them. Affected people were not made aware of the project entitlements, nor were they provided with a detailed breakdown of the items being compensated or their entitlement to assistances. The GRM and project information were provided the week before the DDR-5 site visit. However, the PD PMU made a positive step in making the compensation process more transparent, through developing a package of information to go with the valuations. However, the PMDSC team were still spending time with APs, during their site visit, explaining the compensation packages and amounts.

171. Although there should be RIP update due to change in the design, there has been disclosure of the 2015 PPTA RIP (which was what was being used). The meetings generally are awareness with just a few questions, more recently used to announce increased financial packages for compensation, even though it was difficult to identify justification for this increase in Bambawa, other than an attempt to appease complaints received. It has not appeared that these consultation sessions are used for gaining insights from the APs. Therefore, a new, more improved approach to consultation and disclosure is required.

8.3 Disclosure

172. This Due Diligence Study addresses two types of disclosure:

- (i) To establish the way in which disclosure has been conducted during the NWPC RIP process so far and recommend any improvements.
- (ii) To recommend an approach to disclose this DDR.

⁹ Names of community members have been deleted from the table for purposes of confidentiality and may be supplied by request to PMDSC.

Table 15: Consultations with Stakeholders

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
Monday 10th September 2018					
1	Asoka Perera	PIU PD	<ul style="list-style-type: none"> Explained the aim of the site visit. PIU has 1 Officer and one assistant and will soon get a Land Acquisition Officer. So, staffing resources may not be sufficient 	It is obvious they need more resources and capacity	2 male
2	Dulanjan Wijesinghe, engineer and malini resettlement officer and supporting officer	PIU Resettlement team	<ul style="list-style-type: none"> Issue of knowing timing for valuation and release of land Economic compensation value for crops / trees Culture of not losing face but making commitments and confirmations to superiors Need to improve relations with other departments involved Data discrepancies including misunderstandings of APs, versus households versus land lots Confusion of Census/inventory data No idea of structures/land possession (for ICB and NCB-1 Records training needed A system of published offers is needed to include full set of ADB and GND/MMDE compensation per person. It is currently very haphazard. Temporary displacement for land/crops/resources (wells) are not included in LAA, but in a different law, which Govt can rent land at the Valuers rates or private must rent. One of the GND sections is only at Advance tracing still, so will not be complete until into 2019. No knowledge of time lag between compensation and vacating the property, therefore no idea when land area would be ready. 	Recommend the PIU/PMU provide a single form, showing each AP the final compensation amount, fully detailed line items.	2 female / 2 male

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
3			<u>Site Reconnaissance</u>		
4			<u>NCB-1</u>		
Tuesday 11th September 2018					
5		1	<ul style="list-style-type: none"> Half of house is to be acquired Valuation received, but not agreed Will lose jackfruit and coconut, which classed by the AP as for income and livelihood 		2 Male / 3 Female
6		2	<ul style="list-style-type: none"> 13 or 40 perches taken Have no records but will be full possession of trees and land. 		3Male / 7 Female
7		3	<ul style="list-style-type: none"> 30 Perches of land with 15 to be acquired, plus 3 Mango, 2 coconut and 1 Teak tree. Trees are income sources, although income provided by the AP was viewed as possibly an overestimation Documents and abstract required for the LAA process are collected from the Land Ministry – PIU should help do this but do not (or are collected but not shared with the AP), therefore AP cannot argue with compensation rate. 	PIU Officer will need to monitor construction in the field to ensure that people' lands are not encroached of damaged.	
8		4	<ul style="list-style-type: none"> Of 15 Perches, 5 to acquired (33%) land area which has 16 coconuts, 1 Mango and 5 small coconut trees and a Tamarind tree. 		
9		5	<ul style="list-style-type: none"> 1.5 Acres, with 54 Perches to be acquired, including 2 Coconut and 1 mango tree. 		
10		6	<ul style="list-style-type: none"> Refer to 8 and 9. Have a temporary garage for vehicle repairs, been there for 11 years Compensation is not accepted but is a concern because of land purchase and house build from compensation will take all the money. 	People were not informed, until the week before the trip. Even that did not show the Entitlement matrix, indicating the rights of people to compensation.	

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<ul style="list-style-type: none"> Although no tax proof, compensation is still a requirement for loss of income and business reestablishment. No money then to re-establish business and get the clients. Not enough compensation for home and business replacement after relocation. 		
11		7	<ul style="list-style-type: none"> Not agree to compensation package 	Compensation so requested in 1 instalment not 2 because it means purchasing the land, and then will not be able to build the structures	
12		8	<ul style="list-style-type: none"> Refer to 6 and 9 Want compensation in 1 lump instalment not in 2 or multiples, as it makes difficulties in restarting livelihoods or in building replacement structures. People have not been fully informed to the point of understanding, although it is recognized that there have been many meetings called by the PIU/PMU The daughter met with the team and thought that her father maybe has a lesser valuation than the 2 brothers. The DSD is aware of this issue He is doing brick making business, no replacement land given for starting the business. No loss of business compensation given. 		
13		9	<ul style="list-style-type: none"> Want compensation in 1 lump instalment not in 2 ore multiple, as it makes difficulties in restarting livelihoods or in building replacement structures. Valuation is thought to be too little Small garage has affected, no loss of business compensation offered and no replacement business place given or identified. 		

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
14		10	<ul style="list-style-type: none"> They are now happy with the compensations provided They said materials and awareness provided over 1 year ago, but forgot until it was given out the week before our visit 	It is not clear if the true story was spoken because the PIU officer was there filming and even I was feeling intimidated by her approach.	3 Female / 2 Male
15		11	<ul style="list-style-type: none"> 80 perch total and 38 being acquired According to records, and consultation, he has accepted the amount at GoSL laws/policies. It cannot be established if ADB policy is followed. Given over 10% of land is used, a disturbance and a "significant impact" allowance should be provided to the AP. 	<p>Seems to be much confusion about what is included and what is compensated.</p> <p>Recommend contractor to photograph alignment to avoid false damage claims</p>	1 male 1 female
16		12	<ul style="list-style-type: none"> Recognizes consultations have been conducted several times over the last 5 years His sister is losing toilet and well and land may not be sufficient to use. House and land affected, and prefers land replacement, but only money is allowed. 	Land for land option is not permitted under LAA laws.	1 male
17		13	<ul style="list-style-type: none"> 22 of 40 Perch is to be acquired, but decision to acquire 100%. Has small business Over discussion, the AP was obviously unsure of what everything met of his compensation offer. 100% land take, but only part of the house was valued. There should be income loss /business loss allowances also paid. 	The DSD was contacted by the National Consultant to fix this issue	1 male / 3 female
18		14	<ul style="list-style-type: none"> Has agreed to new compensation offer, but the offer did not also award "vulnerability" allowance, since the man is 65 years old (elderly). To his memory, he only received the awareness materials on the week before the consultant 		1 male

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			arrived. However, he knows there have been several meetings.		
19		15	<ul style="list-style-type: none"> Wells are there. He is worried about his house being damaged. He has also been trying for years to land free of charge for his third daughter. 	Contractor should have own 3 rd part insurance and take precautions prior to starting construction to photograph, in case any members make complaints about damage, so photos will help to show if the damage is contractor cause or not.	1 male / 2 female
20	Gramaniladari, Pahalabambawa GND	GRC Member	<ul style="list-style-type: none"> 21 Grievances recorded between July and 10 September at the GND GRC level. According to GND GRC, there are 32 additional grievances without solutions provided. These are different to what ADD has been provided grievance resolution is not advised readily to the complainants. PIU and PMU do not coordinate or cooperate readily. 	<p>Compared to Program GR register, there are many unrecorded complaints it appears.</p> <p>PMDSC needs to regularly audit the GRM register at the various levels.</p>	1 Female
Wednesday 12th September 2018					
21	M.U.Nisantha	DSD / Acquisition Officer	<ul style="list-style-type: none"> DSD Secretariat is the legal acquiring officer under the LAA. The officer is trying to provide a good compensation package, including identifying land for the resettlement businesses and household to relocate, within the area. However, land is not easy to find. In LAA if over 75% of land take, then remainder must be acquired also. LAA is the main law Survey department checks the land to be acquired and people will also give their claims for land / trees / crops, including a price and ownership status. 	Given that there is new compensation through the Cabinet Paper = change in conditions and therefore an updated RIP and RF is required.	4 males

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<ul style="list-style-type: none"> The owner must obtain document to confirm ownership followed by claims being verified. Agreement is made within and one instalment is made within 1-month – this is 6 months rental and then a 2nd instalment made. People have 14 days to vacate, normally. 		
22		-----	<ul style="list-style-type: none"> This AP was not included in the APs list it appears, but had the papers for valuation However, maybe on the boarder of 2 GNDs. He will have a home garden impacted. He has not been included in the consultation meetings. He does not agree with compensation 		1 male
22		16	<ul style="list-style-type: none"> Has 4 Lots affected. DSD letter only shows 3000 Rs One lot is missing from the list is Lot 85, which the list claims as Government land (“updated list”). Although is paddy land mostly, with a second crop being vegetables, there is no allowance/compensation for this loss. 		1 male / 1 female
23		17	<ul style="list-style-type: none"> Agrees with compensation amount. 	Need to check is to ADB compliance.	1 female
24		18	<ul style="list-style-type: none"> No valuation yet. AP wife has cancer and has been in Colombo at hospital for a long, while daughter is living near the affected area. They made special trip from Colombo to see us. The area is paddy land rice, so may need to value based on vegetable crops previously grown. 	Since there is illness, may be eligible for vulnerable compensation	1 male / 1 females
25		19	<ul style="list-style-type: none"> Agree, although total amount was unknown to the AP. The payment so far is 57,000 Rs, which is 50,000 higher than original offer and paid 2-months ago and 		4 female / 2 males

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<p>is much higher in the updated version, so not all transparent here.</p> <ul style="list-style-type: none"> Three in the family, with lot going to belong to son. May be eligible for compensation for vulnerable, as the lady is 74 years old 		
26		20	<ul style="list-style-type: none"> These 2 are sister as with consultation 19 above. They are 1/3 sharecroppers No GRM information was given and no entitlement information was provided or explained 		
27		21			
28		22	<ul style="list-style-type: none"> 50 of 160 perches is being acquired, in 2 household plots. This AP does not agree with the compensation, as he believes his land is not temple lands and said he can provide the deeds as evidence. 		1 male
29		23	<ul style="list-style-type: none"> The owner passed away prior to compensation payment. So, the beneficiary (son) will need to either prove ownership or seek court decision for compensation to be given through the "estate". 		1 male
30		24	<ul style="list-style-type: none"> This AP made a complaint to the PIU and DSD subordinate. Both parties refused to listen to complaint The complaint was that the documentation on the acquisition papers were unclear on how much land is to be acquired They do not agree with the compensation offer. The believe Lot 59 offer is too small. 		1 male / 2 females
31		25	<ul style="list-style-type: none"> This AP comes to the house for 2 days per month. The area has not been valued They are not aware of the GRM. Have no awareness materials 		3 males

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<ul style="list-style-type: none"> The land area affected includes Teak, Coconut and one other edible fruit 		
32		26	<ul style="list-style-type: none"> This is for 3 lots, although the names are spelled different on the land documents. 20 of 200 perches will be acquired (20 Perches of 2 acres total of paddy/vegetable lands. In dry season vegetables / onions are grown, attracting a much higher income than paddy crops. Never knows about GRM, but new about the project but not the design. 4 meetings in the past year were held. These were mainly to request the APs give consent to the land acquisition and support the project, and that they will get compensation Has no objection to the Project as long as compensation is good and fair. 	It could not be established if the compensation amounts were also provided to the AP	1 male / 1 female
33		27			
34		28	<ul style="list-style-type: none"> 29 out of 80 perches will be acquired – it is paddy land He has given consent, but believes the offered compensation is too low, given has paddy land, gets 200,000 Rs from green Chili crop and 1 Bushel in Maha season, while for the paddy crop gets 70-80,000 Rs in addition to what he takes for his family consumption. He is 64 years and is eligible for compensation. 		1 male
Thursday 13th September 2018					
35	D.Walisundara, District Valuer	Valuation Officer in Kandy	<ul style="list-style-type: none"> Valuers find the PIU resettlement officer very rude and do not like her, as uses disrespectful language (This statement was made by a management assistant of regional valuation office, Kandy). 		4 males

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<ul style="list-style-type: none"> In 2006 the AG issued a letter on “Valuing temple Land Development” where occupied land is acquired. Pre-2006 the development of temple lands would be paid to the people, but now this is paid to the temple. House and land value with trees are given in one compensation figure. Trees on bare land or plantation land are valued differently and valued also according to condition/age/size of tree and type of tree on the area of land. e.g., coconut with land is a higher rate than mango on same land. Paddy land is classed into irrigated and non-irrigated – 1.6 mill to 1.2 mill Rs respectively. This includes 2 paddy crops. However, the compensation for a high-income vegetable crop is not valued due to Agricultural land registration being under the “paddy land act” of 1958. Farmers must register paddy land under this act 2009 regulation on tax for the past 2 years determines business compensation, but is no tax documents then a 15,000 Rs is paid. Compensation for income is based on 3 years turnover, with one third of this paid as compensation Compensation rate of injurious impact is paid if over 50% of a structure is taken or less than 50%...value... feet from structure. Laws do not allow temporary acquisition. Government can rent, but must get consent from the owner for temporary use, then the valuers department will provide a rental amount NCB-1 – land valuation is still going, but structure values are all completed. PIU and DSD are not 	ADB difference	

SN	Name(s)	Consultation No.	Discussions	Remarks	No. of participants (Male / Female)
			<p>getting the Lot numbers and required information to valuer fast enough for them to do their job. This is slowing the valuer down.</p> <ul style="list-style-type: none">• There are some land plots taken under the Section 38A that are not included in the Project. So, may consider returning to the respective owners.		

8.3.1 Disclosure of information during the RIP process to date

173. Based on information gained in the field and from the PIU/PMU, disclosure appears haphazard. Most of the APs interviewed did not know or remember the existence of an RIP prepared for the PPTA, or disclosure of information, as instructed through the PPTA RIP (ie. Recommended brochure was not distributed) leading up to this MWSIP implementation. No stakeholders consulted, had been introduced to the “Entitlement Matrix” and other critical information, which was detailed in the PPTA RIP, with an Annexed brochure to be given to the APs. This indicates a gap in the awareness processes in resettlement which requires improved coordination between the resettlement team and the communications team. The latter team are especially qualified, to specifically deal with these communication and awareness issues, and should be used more frequently for land acquisition and resettlement planning and implementation.

174. Already addressed in Section 8.2, is that consultation activities have occurred at least 4 times or more per year. However, many APs also said they received brochures about the Project and GRM, only the week prior to the Due Diligence study field work commenced, while others mentioned they forgot, but received some information on earlier occasions. The LAA process by the GoSL does have periods of consultation, disclosure and grievance redress built into it, but the method does not auger well with ensuring APs are aware and remember their rights, are provided with enough information about the Project and land acquisition and enough awareness to remember over the long period of time (12-18 months) about the impacts and process.

8.3.2 Disclosure of this Due Diligence Report 5

175. Approval and disclosure of this Due Diligence Report, by ADB and PMU will be carried out as a condition for further land acquisition and resettlement activities in all 3 Projects, including contract award and notice to proceed.

176. Copies of the approved report will be made available to stakeholders and the public, from the PMU, PIU and Grama Niladari and District Secretary levels, as well as disclosed on the websites of ADB and MMDE. A copy of the findings and other relevant information of this report will be available in English and local languages and distributed stakeholders and each affected household in NWPC. With particular central involvement of the communications team with resettlement team, the PIU, PMU, with PMDSC and District authorities, shall explain some of the key findings of this report to the APs and other stakeholders. Full Minutes of each activity presented, and all consultations shall be recorded and shall be reported in Resettlement Monitoring and Evaluation reports by the PMDSC.

8.4 Discussion and Recommendations

177. Through advice from the MWSIP Program Director, each affected household receives a folder package of information at the time, when the compensation offer is made. This is commendable, as provides some of the detail of the already calculated compensation for the assets to be acquired. However, well in advance of this stage, prior to valuation, the affected persons should be provided with advanced copies of the “Entitlement Matrix” and summary of the Resettlement Plan, enabling them to determine what they are entitled to in compensation and can then understand what they are to receive when the offers are provided to them and what to expect in the RIP implementation and after the RIP implementation is completed.

178. The PMU/PIU have a limited number of human resources, 1 key specialist at the PMU responsible for all 3 Projects, in all 3 tranches. The NWP PIU resettlement team has a staff of three (a resettlement Officer, a Land acquisition officer recently appointed and an assistant) plus an irrigation engineer, who takes an interest and assists in the resettlement processes. This is a very small staff number to deal with the Project having the largest resettlement and land acquisition magnitude, which will increase with implementation of Tranche 3 in future. Therefore, it is recommended that consideration be given to additional staff for the NWPC PIU and an additional resettlement officer liaison to be based in Dambulla, to assist the PMU Resettlement Specialist, and be able to coordinate monitoring, GRM and other activities on all three Projects.

179. The PMU and PIU resettlement staff have attended three formal training courses – one in Vietnam, one at ADB resident Mission in Colombo and one conducted by the National PMDSC Resettlement Specialist. However, it appears that these have had limited impact, particularly a gap exists relating to ADB standard and its implementation in the field. Therefore, it is recommended that the PMDSC Specialists conduct on-the-job capacity building to the PMU/PIU resettlement teams, so that the theory aspect of both GoSL laws and ADB SPS 2009 can be implemented in the field more effectively and efficiently.

180. From the PMDSC, there is one International and one National Resettlement Specialist who are responsible for conducting “internal” monitoring and evaluation as well as assisting to prepare RIPs and activities in accordance with GoSL and ADB SPS 2009. While the National Specialist does spend much time in the field, when required, the International specialist has so far spent much of the time in Colombo, visiting the site one time. This is due to a high demand for reports (e.g., PFR reports, Due Diligence reports, Resettlement Monitoring and Evaluation reports and RIPs etc.) and advice to detailed designers on resettlement matters. However, the results of this DDR including the DDR related site visit to NWPC, does indicate that the International Resettlement Specialist must spend more time in the field, during his schedule inputs, conducting monitoring activities and advising on resettlement to ADB standards. It is also recommended that the International and national specialists conduct monitoring and evaluation field works independently of PMU, to verify information, as well as some joint monitoring. The latter should be used as “on-the-job” training and capacity building.

181. Overall, the PMDSC input into the Resettlement and Land Acquisition activities is governed by PMU/PIUs need for assistance, but not with the assigned PMDSC Scope of Works or the Facility Administration Manual (FAM) in full. This seems to be because there are very few demarcated roles/responsibilities being observed. In order to facilitate good working relationship between PMU, PIUs and PMDSC, it is recommended that a “demarcated” table of roles and responsibilities, for the various types of resettlement and land acquisition and other social/resettlement reporting processes be prepared (refer to **Table 16**). Working in accordance with a “demarcation” of roles is expected to allow the PMU and PIU to continue working on resettlement; but with more effective PMDSC assistance, compliance with both GoSL laws and policies and ADB SPS 2009; improving the processes of RIP preparation and implementation, that is orderly and will allow more efficient land acquisition and resettlement to be actioned for more rapid handover of acquired lands for project construction; and reducing the risk of a non-compliant RIP preparation and implementation .

9 GRIEVANCE REDRESS MECHANISM

9.1 Introduction

182. In order to receive and facilitate the resolution of possibly affected people's concerns, complaints, and grievances concerning the Program's performance, a Grievance Redress Mechanism (GRM) has already been established for the MWSIP and is being enhanced at local and PIU level, at the Project sites in accordance with ADB SPS requirements and legislative requirements of Sri Lanka. The GRM addresses potentially affected people's concerns and complaints proactively and promptly, using an understandable, communicated and transparent process that is gender-responsive, culturally appropriate and readily accessible to all community members at no costs and without retribution. The mechanism will not impede access to the country's judicial or administrative remedies.

183. The GRM is has been set up by the PMU, with PMDSC support in the MLBRC, UEC and NWPC Project areas. The GRM is designed to resolve the legal and practical issues presented in Error! Reference source not found. 16.

Table 16: Types of Grievances

Legal Issues	Practical Issues
i) Application of the Land Acquisition Act (LAA) and its limitations to arrive at replacement cost of acquired property. ii) Difficulties in obtaining abstracts of deeds from Land Registry. iii) Rules and regulations determining the ownership of land and amount of compensation:	i) Lack of knowledge on the acquisition process and how to present claims. ii) Delays in payment of compensation iii) Delays in payments of resettlement assistance and provision of benefits. iv) Most contracts on leased land are verbal. Difficulty in transforming into written contracts. v) Inability to find new land for building new houses vi) Inability to construct new houses in a short period of time vii) During the construction period temporary disruptions viii) Cracks in structures ix) Noise pollution x) Environmental Pollution xi) Dust problems xii) Other environmental issues

9.2 Levels of the Grievance Redress Mechanism

184. The four levels of the Program's GRM are as follows:

- (i) **Grievance Redress Committee – Grama Niladari Level** - The complainant may submit a Grievance¹⁰ either in writing or orally to the PIU's Resettlement Officer or the PIU's Envi-

¹⁰ A Grievance or complaint any be Project related, environmental or Social

ronmental Officer or to the Grama Niladari (GN). The Grama Niladari is the closest community administrative representative to the affected household and is under the Divisional administration. It is expected that most complaints will be resolved at this level. A resolution will be determined within 1-week. However, if the complaint cannot be resolved through the Grama Niladari GRC, then the grievance is passed to the GRC – PIU level.

- (ii) **Grievance Redress Committee – Project Implementation Unit (PIU) Level** – A resolution will be determined within one week. If a resolution cannot be determined, then the complaint will be passed to the GRC - Divisional Secretary level by the Project Director.
- (iii) **Grievance Redress Committee – Divisional Secretary Level** - At this level the grievance is considered by representatives of Program-related Government agencies such as Land Registration Office, Inland Revenue Office, Forest Department, Wildlife Department, Samurdhi Officer, surveyor and PIU staff. A resolution is expected to be determined within one week. In case the Divisional Secretary cannot resolve the complaint, the Project Director will then bring the complaint to the Executive Agency GRC.
- (iv) **Grievance Redress Committee – Executing Agency (PMU) at Ministry Level** - In case the complaint cannot be resolved, a resolution could take up to four weeks (inclusive of GRC levels 1-iv). This is the final level of the GRM system. However, there are still the law courts, although this is time consuming, costly and often not used.

185. The four levels mentioned above are authorized under the Project to consider grievances in relation to land acquisition cases, compensation payments, resettlement issues, ownership disputes, delays of payment of compensation, rehabilitation assistance programs and environmental concerns related to the Project.

9.3 Issues and Recommendations

186. Four Grievance Redress Mechanism areas were addressed during the Due Diligence Study. These included: checking of grievances through consultation with complainants in Bambawa GND; communication and awareness of the GRM at the community level; the GND Register of grievances and gaps in register of complaints centrally (in PIU and PMU); and levels of communication, cooperation and coordination of GRCs with the PMU and PIU.

187. ADB's SPS 2009 requires that the Project level system:

- (i) Should be formed as early as possible.
- (ii) Be disclosed to all affected persons as early as possible, through consultations, for their use without prejudice.
- (iii) Shall not impede access to the country's judicial or administrative systems and thus the complainant has the right to access the legal court system at any time of the resolution process.

9.3.1 Grievance Resolution

188. Consultation with APs in Bambawa GND, indicated that although represented in 1 letter, the 32 complainants each had a different grievance. These ranged from not understanding the compensation; concern for post relocation situation and being worse off than pre-project; and belief that compensation was too low.

189. Most of the grievances raised by the affected communities can be resolved at Grama Niladari Level and decisions supposed to be informed through letter. At the PMU level, grievances are resolved, and complainants informed through letters. However, although no evidence is available to indicate, consultations by the PMDSC with some complainants indicated that letters or form of communication of resolution decisions from other GRC levels were not necessarily being formally provided or received directly by the complainant.

9.3.2 GRM Awareness

190. The PMU, communications and resettlement teams have prepared a special brochure, which is easy to understand and in local language, for distribution to APs and other stakeholders (**Annex 5**). There are also posters that may be posted within the communities. The PMDSC has encouraged the PMU and PIUs to provide GRM awareness materials, during census and inventory surveys conducted in UEC, MLBRC and NWPC subproject areas. No posters were observed during the NWPC site visit, although people did have the brochures.

191. As mentioned in Section 8 above, the PMU/PIU have held awareness meetings with APs since 2016/17. Many of the APs advised that there were at least 4 meetings per year. However, it is unclear at what stage awareness of GRM was introduced to the APs. Numerous APs mentioned that they were not informed of the GRM earlier than the week before this Due Diligence Study conducted site visits and consultations, while other APs in the same area, claimed that they had forgotten the brochures had been provided early 2017, and were reminded again with the recent meeting held by the PMU and with the Program Director. Other stakeholders were introduced during several formal group meetings (refer to MoMs in the RM&E Reports No. 2-6 and DDRs 1,2,3 and 4 for more information on this in specific subproject areas).

192. It appears that GRM and Program awareness has been held with community and stakeholders. However, the GRM was easily forgotten by the affected communities, which led to the Bambawa community letter direct to ADB, citing that no information was given on the GRM. Therefore, it is important that, during all consultations and meetings with stakeholders, communities and affected households, that the GRM be constantly reinforced, ensuring people remember that they have rights to complain and be heard.

9.3.3 GND Grievance Register

193. Most of the grievances raised by the affected communities were resolved at Grama Niladari Level and decisions supposed to be informed through letter. However, the PMDSC notes that, in consultations with members of the community and a GRC member, there are many more grievances registered at GND level, which are not collected in the Program Register (via PIU to PMU). The Program register, held by the PMU in Colombo, for monitoring and resolution purposes, should have a record of all grievances submitted and their progress of resolution through all the levels of the Program grievance system (refer to 9.2 above) as well as complaints through the normal GoSL system.

194. Grievances are not being adequately recorded in the subproject areas or reported back to the head office in Colombo. In viewing the Program Grievance Register, held in Colombo, recorded only 17 grievances from the MWSIP implementation commencement to June 2018, for the whole of NWPC ICB-2. All of these were marked as resolved and were in several ICB-2 GNDs. During site inspections the Due Diligence Study viewed the Bambawa grievance register book and found the Bambawa GND GRC has records over 32 complaints recorded, plus another 21 complaints recorded between 1st July and 10th September 2018. Therefore, the Program Grievance Register, which is used for monitoring all three Projects is not accurately and regularly updated.

9.3.4 PIU/PMU Involvement

195. According to the structure of the GRM, the PIU has major involvement at the three of the four GRC levels (all except the Executing agency level). However, according to a Bambawa GND GRC representative, there is a lack of coordination and cooperation by the PIU with the GRC on grievances. This was echoed by a nearby AP complainant. The role of the PIU, especially the PIU resettlement team includes, participation in the three GRCs; assisting all complainants to prepare and submit a complaint with the GND GRC and any updating required if the complaint is not resolved

at GND level; ensuring all grievances are recorded in the central database at the PMU; and monitor the respective 3 levels of GRC for resolving the grievances.

196. The PMU is mostly directly involved in the Executing Agency GRC, involving PMU and MMDE. The PMU role is to keep a record of all grievances submitted on all three Projects, regardless of tranches from GND level to Executing Agency Level. This also includes follow-up on grievance records, unresolved issues passed to different GRC levels, resolutions at any and all of the 4 levels plus those that go through the existing GoSL system.

197. During discussions with the PMU Program Director, it is understood that the GND, PIU and District Secretariat levels of GRCs do not necessarily forward all listed Grievances to PMU level. Therefore, the Program Level Grievance Register is out-of-date , hence there is no up-to-date grievance register covering the whole Program.

198. Therefore, it is recommended that the PIU shall collect copies of the grievance register from each GND, the PIU and the DSD GRC representative every 2-weeks and ensure that a copy is kept on database register at the PIU and at the same time copies provided for updating the PMU register. The PIU shall also: follow-up at these times to ensure that resolutions are recorded, and the complainants are informed officially in writing; follow the complaint in the case that it goes to the other levels of GRC; and assist the complainant to submit and/or update complaints for submission to each level of the GRM, as required. It shall be noted that no complaints being registered does not mean the people are happy or agree with the project activities. Only regular consultation and monitoring may do this.

10 RECOMMENDED CORRECTIVE ACTION PLAN

199. This Due Diligence Study and Report, conducting an additional monitoring and evaluation of the NWPC packages, especially NWPC ICB-2 and NCB-1, has established the findings and recommendations set out below:

10.1 Concluding Remarks

200. This study concluded the following issues with regards to the land acquisition and resettlement activities on the MWSIP, particularly found in NWPC ICB-2:

- (i) **PIU/PMU requires additional staff and capacity building on SPS 2009.** Human resources available in the PIU/ PMU are very low for conducting such a Program with significant resettlement and land acquisition impacts currently and in the future. Staffing should be reviewed by PMU and ADB. Despite training, PIU and PMU capacity to comply with ADB requirements is not to the expected standard. Additional “on-the-job” training may assist in this capacity building, especially compliance with ADB SPS 2009.
- (ii) **Roles of PMU, PIU and PMDSC in Resettlement.** The relationships between PMU/ PIU and PMDSC staff involved with resettlement and land acquisition need to be clarified and brought into line with the PMDSC’s scope of services. A matrix of roles and responsibilities for each PMU/ PIU and PMDSC has been recommended (refer to Section 10.2).
- (iii) **During the PPTA, the RIP prepared and approved by the ADB, and being used by the PMU without update:** covered the whole of NWPC Project across all proposed Tranches; was developed based on a proposed engineering design from the PPTA design engineers; and the budget was based on estimates, with official involvement by the Valuation Department, DSD or GND. This leads to the conclusion that the PPTA prepared RIP may be inaccurate in its valuations and budgeting and should not be used. Furthermore, there has been a change in detailed design alignment of the NWPC canal. Therefore, change in detailed design does trigger a requirement in the ADB SPS 2009 which stipulates updating of the RIP.
- (iv) **The process of GoSL land acquisition** has been conducted effectively in NWPC Tranche 1 Projects, including the involvement of Government Departments authorized to conduct Land acquisition and resettlement and compensation under the GoSL laws. However, compliance with ADB SPS 2009 is less certain, although the project has provided additional allowances for the APs to bridge the gaps between ADB and GoSL policy, as much as possible.
- (v) **Time for the GoSL LAA process is extremely lengthy,** and timing differs among each GND in a particular Project area, it is recommended that consideration be given to multiple RIPs submission to, and approval by, ADB. This would assist in reducing risk of delays in the construction program as well as future construction contract awards (in tranche 3)
- (vi) **NWPC ICB-2 and NCB-1 RIP’s need immediate updating.** During the detailed design stage, the NWPC ICB-2 package has undergone some design changes, including changes in alignments and introduction of tunnels to the design, which has changed the area, magnitude and profile of land acquisition and resettlement. A change in detailed design on NWPC ICB-2, as per SPS 2009 triggers the requirement for RIPs to be updated and approved by ADB, prior to compensation being distributed to affected persons and land being handed over to the contractor for construction. A multiple RIP approach to cover clusters of GNDs is recommended, so that land may be compensated, vested and handed over to contractor for construction as early as possible. This is applicable for the remainder of NWPC packages to occur in the coming Tranche 3.
- (vii) **Due Diligence Report 3 Implementation.** The DDR-3, which addressed safeguards issues of roads accesses to NWPC ICB-1 has not been implemented as of the time of DDR reporting in 2018, and it was identified that some of these access roads will also impact on the access to the wildlife park and Forest Department areas for the upper parts of NWPC ICB-2. Therefore,

although the actual canal footprint in the NWPC ICB-2 areas may be ready for construction in the Wildlife and Forest Departments areas, the contractor cannot commence in these areas without implementing parts of DDR-3 study recommendations and contract variation to rehabilitate and widen roads for access of the construction equipment.

- (viii) **Additional Involuntary Resettlement and Land Acquisition.** Some new areas, not under the Section 38 A, were found being permanently used on NWPC NCB-1, which will need to be acquired. The PMU has suggested compensation under “injurious affect” part of GoSL compensatory processes. However, this does not apply unless 75% of the APs land is to be acquired. Therefore, ADB SPS 2009 requirements prevail, given that the land acquisition requirement commenced within the period of the ADB Loan.
- (ix) **Land Acquisition above Tunnel areas.** The PMU have decided on the second option presented, as per Attorney General guidance. They will acquire a 20m width strip of land above the tunnels. Therefore, in accordance with ADB SPS 2009, the PMU and GoSL shall need to acquire land in accordance with GoSL laws and policies and in accordance with ADB SPS 2009.
- (x) **Database, utilisation and data inconsistencies.** Data collected by PMU, from Government stakeholders in land acquisition and that held by PMDSC, after conducting a census and inventory of losses, was found to be inconsistent. PMU and PIU have been utilizing data collected through the District Secretariat and Valuations Department as well as the ADB approved 2015 PPTA RIP. The PMDSC, with approval of the PMU, conducted a census and inventory of APs along the alignments of the NWPC ICB-2 package. However, data is inconsistent between that of the PMU records and PMDSC surveys. The PMDSC, shall check the PMU database records obtained from the DSD Land acquisition records for the project (NWPC ICB-2). The updating of the Census and socioeconomic surveys may be required, if it is found that data obtained from the PMU database system is not detailed enough for a RIP expected by ADB.
- (xi) An overhaul and improvement to the database, to properly combine the data sets of PMU/PIU and PMDSC, must be implemented. Expanding and centralizing a database to cover details required and being collected to ADB standards by PMDSC and to fully cover the APs, recorded by the DSD/ Valuations Departments is recommended. This is recommended to occur with existing and future resettlement-affected packages in Tranches 1, 2 and 3.
- (xii) **Compliance with ADB safeguards policy and GoSL valuation compensation.** Currently, in NWP ICB-2, the valuations have been mostly conducted, based on the GoSL laws and policies and valuations practices. However, as seen in Section 7.4, there are several allowances and compensation, which are in the Resettlement Framework, which may not correspond to the GoSL valuation and the GoSL valuations approaches do not always support the SPS 2009. This points to amending the Entitlement Matrix and updating the Resettlement Framework. In the cases of compliance with ADB safeguards policy, additional allowances may be required from the MMDE budget for payments to the affected households.
- (xiii) The new information presented in this section on valuations and some of the GoSL laws, although important, were not documented in the approved NWPC Resettlement Implementation Plan, submitted as part of the PPTA and approved by ADB. Therefore, it is recommended that the Resettlement Implementation Plans be updated for NWPC ICB-2, NCB-1 and future Tranche 3 NWPC Subprojects, where there are land acquisition and resettlement impacts identified.

- (xiv) It is not possible for the Valuation Department to provide the actual various valuation components (land itself, trees, crops, structures etc) all separately, so that the different impacts compensation and allowances foreseen under the law and the actual payments of compensation to each AP may be fully monitored along with additional allowances required to comply with ADB SPS 2009. However, it is recommended that details of valuations be checked by the UEC PIU Resettlement Officer because his qualification is in Land valuation.
- (xv) **Resettlement Framework Update.** In the RF, and current status of land acquisition and resettlement in NWPC, there are some critical laws and valuations processes that were not clarified, until this DDR-5 study. This has led to the affected households being dissatisfied with compensation amounts; the PMU/ PIU attempting to provide additional compensation,; some valuations and laws provide inconsistencies with ADB SPS 2009, and should be corrected in RIPS and additional allowances/ compensation, such as valuation of second crops.
- To ensure the gaps between GOSL laws for compensation and allowances in land acquisition and resettlement as well as ADB SPS 2009 are all complied, the Resettlement Framework requires a significant update to detail additional GoSL laws and practices as well as clarifying and supplementing the valuation methods and approaches, to be complied.
- (xvi) **Consultation and Awareness.** While it is recognized that the PMU and PIU have conducted several consultation meetings, as confirmed by the communities consulted, key discussions under ADB policy have not necessarily been complied with, such as providing the project information, including entitlement matrix and explanations adequate enough that APs can understand what they are entitled to in terms of overall compensation.
- Consultations and communications in land acquisition and resettlement requires an overhaul with the assistance of the PMDSC's Communications Specialists.
- (xvii) **Disclosure.** Copies of the approved report shall be made available to stakeholders and the public, from the PMU, PIU and Grama Niladari and District Secretary levels, as well as disclosed on the websites of ADB and MMDE. A copy of the findings and other relevant information of this report will be available in English and local languages and distributed to stakeholders and each affected household in NWPC.
- (xviii) With particular central involvement of the communications team with resettlement team, the PIU, PMU, with PMDSC and District authorities, shall explain some of the key findings of this report to the APs and other stakeholders. Full Minutes of each activity presented, and all consultations shall be recorded and shall be reported in Resettlement Monitoring and Evaluation reports by the PMDSC.
- (xix) **Change in Monitoring approach for PMDSC.** The PMDSC till now has relied on PMU and PIU data for its monitoring works, which has only provided GoSL status of land acquisition, but not status of compliance with ADB's requirement. Furthermore, the PMDSC International Social and Resettlement Safeguards Specialist has spent minimal time in site inspections, due to demands for various reporting requirements during his limited inputs, by the ADB. Therefore, the PMDSC International and National Specialists, while also obtaining information and data from the PMU and PIUs shall make joint trips with PMU/PIU and independent monitoring and verification inspection missions to sites as part of the monitoring process.
- (xx) **Resettlement Monitoring and Evaluation and Reporting.** To ensure that land acquisition and resettlement planning and implementation comply with both GoSL and ADB requirements, it is recommended that Quarterly Monitoring Reporting be re-introduced to be completed by the PMDSC, from the beginning of 2019 until all resettlement and land acquisition activities are completed in an area, at which time the monitoring goes back to semi-annual. However, due to there being in Tranches 1, 2 and 3 resettlement impacts and variations of GNDS on NWPC ICB-2 alone, quarterly reporting may continue for several years and not just

for the next 1-2 years. Monthly progress of “Corrective Action” implementation, may be informed through the construction monitoring reports

- (xxi) **Grievance Redress Mechanism.** The Project has a Grievance Redress Mechanism set up. However, there has been confusion as to just how informed the APs have been about this system (opinions during consultations were mixed) and the fact that grievances were directly sent to ADB and not through the GRM, indicates that the awareness of GRM was insufficient. During all consultations, and regular contact with APs, the GRM should be mentioned, and in all cases of complaints, the PMU/ PIU and PMDSC shall assist the AP(s) to submit grievances to the GRM. An official form of letter or form of communication of resolution decisions from other GRC levels must be formally provided or received directly by the complainant.
- (xxii) **Due Diligence report 3 (DDR 3) Implementation.** The DDR-3, which addressed safeguards issues of roads accesses to NWPC ICB-1, has not been implemented to date, and it was identified that some of these access roads will also impact on the access to the wildlife park and forest department areas for the upper parts of NWPC ICB-2. In the NWPC ICB-2 areas the contractor cannot commence without implementing parts of DDR-3 study recommendations enabling access of the construction equipment.
- (xxiii) **ICB-2 NtC.** The NtC to the ICB-2 Contractor may be issued, but in line with ADB SPS 2009, construction activities should not commence until the resettlement processes have been conducted and full compliance with implementation of RIPs, DDRs etc have occurred and monitoring and evaluation, confirming compliance and completed implementation has been confirmed and approved by ADB.
- (xxiv) **A Corrective Action Plan.** focussing on time bound key actions and especially reporting has been provided (see Section 10.3).

10.2 Staffing and Roles

201. The relationships between PMU/ PIU and PMDSC staff involved with resettlement and land acquisition need to be clarified and brought into line with the PMDSC’s scope of services. Therefore, **Table 17** presents an approach which demarcates roles and responsibilities among the PMU, PIU, and PMDSC specialists, with the aim of improving which specialist does what set of tasks and reducing the risk non-compliance with GoSL and/or ADB resettlement and land acquisition laws and policies.

10.3 Corrective Action Plan

202. There are several corrective actions in terms of actions and reporting, some of which are mentioned above, that must be taken in order to bring back into ADB SPS 2009 compliance, this NWPC and also be reflected in MWSIP Tranches 1-3 Projects. The key items in a “time-bound” format is presented in **Table 18**.

Table 17: Recommended Roles and Responsibilities for Resettlement Safeguards Staff

SN	Item	PMDSC Resettlement Specialists		PMU	PIU
		International	National		
1.0	<u>RESETTLEMENT PLANNING</u>	The ADB requires a Land Acquisition and Resettlement Plan submission for all resettlement Category A or B Project and they must comply fully with ADB SPS 2009, and in this case, GoSL LAA and other resettlement related laws and policies. The Proposed Resettlement Process for Tranche 3 involves an initial screening that includes researching the resettlement/land acquisition history and current status as well as an overall record of the types of assets and magnitude in the resettlement right of way or footprint. This will reduce potential problems that arose on NWP NCB-1 recently. The next stages include Census and socioeconomic surveys which record assets affected and details on affected households, that will confirm and supplement data collected in the GoSL process to enable us to deliver the details of impacts and valuations and monitoring that ADB normally requires. GRM records and activities needs to be maintained and monitored. Finally, Resettlement monitoring for tr 3 aims to record the compensation distributed to each AP, identify any discrepancies both in the compensation itself and/or the amount of asset taken and compensated/not compensated. The general requirement under ADB policy is that Resettlement and land acquisition must be concluded before construction in that area can commence, and ADB must have given its no objection to the evaluation reporting on this, which declares RIP implementation completed satisfactorily. Due to the high number of APs and population affected Tr 3 may need to categorised as A, which will add a new dimension to the program - an external resettlement monitor and additional level of checks within ADB in Manila.			
1.1	Pre-RIP - Initial Screening Process	Assist PMU and advise on necessary information to confirm impacts. Advise on compliance with ADB Policy. Supervision of activities.	Assist PIU/PMU with required information and data collection, consultations, data tabulations and initial analysis	Data compilation, updating of database, Data collection and site observations, Approval of Tender for field surveys and Overall decision making; & manage the GoSL LAA process liaising with Govt authorities	Contact with Local Government authorities with records, data collection and Field work data collection. Assist PMU with GoSL liaison for following LAA requirements under the law
a	Checking land acquisition and History along the alignments and approximate resettlement footprint areas	Advise on compliance with ADB Policy. Supervision of activities.	Assist PIU with data collection and advise PMU/PIU on stakeholders to contact determine existing land title/acquisition status and history.	Data compilation updating ADB on impacts identified on request	Data collection
b	Confirm Compensation payments history	Advise on compliance with ADB Policy. Supervision of activities.	Assist PMU with Data compilation updating		Data collection

SN	Item	PMDSC Resettlement Specialists		PMU	PIU
		International	National		
c	Initial recording of assets within the alignments (RoW) is what is within the project for resettlement and acquisition impact	Advise on compliance with ADB Policy. Supervision of activities.	Collect data, in accordance with ADB and GoSL Land Acquisition and resettlement laws and policies. Provide a summary of types of assets, approximate magnitude and left/right of centre line of canal or structure - this allows the resettlement team (PMDSC/PIU/PMU) to get an overview of assets to acquired and what survey will need to record in more details through the Census and socioeconomic surveys		Work with National PMDSC with data collection
1.2	RIP Preparation	All projects must comply with ADB SPS 2009 in full. Type and magnitude of impacts and number of affected population determines Category A,B or C Resettlement. This also determines if there is a need for External resettlement Monitor to be recruited and other levels/departments in ADB in manila being more closely involved to approve resettlement			
a	Census/Assets inventory & Socioeconomic survey data collection and collation	Confirmation of census and inventory requirements, as per 1.0; Preparation of TOR for field (socio-economic) surveys; and Assist in data analysis. Assist PMU to upgrade Resettlement and Land Acquisition database, as required	Assist International Specialist, prepare proposal & budget for tendering for field surveys; Training of Survey Team; and Data analysis and draft tabulations for RIP. Assist PIU with data collection and database development	Approval of Tender for field surveys (PMDSC prepared census and socioeconomic survey); arrange GoSL authorities to commence LAA and compensation process as required; and overall decision making; Provide PMDSC Specialists with database records (Census, socioeconomic survey data and GoSL LAA data) for adjustments / inclusion in RIP Data compilation and accurately managing / maintaining land acquisition and resettlement database	Assist PMU; Liaise with GoSL authorities conduction LAA process Data Collection - Assist with training of procured field survey teams; and conducting surveys; and Follow-up on GoSL data collection and valuation (LAA) processes.

SN	Item	PMDSC Resettlement Specialists		PMU	PIU
		International	National		
b	Consultations and Awareness	Advise on consultations needed for RIP development, Minutes of meetings and evidence required from consultations.	Assist PMU/PIU with formal consultations. Ensure Minutes of Meetings are available for RIP preparation; Conduct informal meetings during site visits and make records of discussions (i.e., Views questions, project staff responses; and observations on site	Lead formal consultations with community and stakeholders; Ensure GRM is fully set up and is known to Affected Persons, through consultations; Collect and distribute (including to PMDSC) Minutes of Meetings from Consultations and GRC's	Conduct Community Formal Consultations and collect detailed Minutes of meetings
c	RIP Preparation and Submission	Preparation of RIP report (draft/final); Amend RF if any differences are noted	Assist International Specialist with RIP preparation - ensuring required data/information from field is complete	Review and Comment on RIP.	respond to field-based queries during RIP preparation
d	GoSL Land	Assist as required, the PMU/PIU/National Consultant; Advise requirement for insertion into RIP; Advise PMU and PIU and request additional information on GoSL land acquisition/resettlement needs to comply with ADB needs and comments.	Initial inquiries into GoSL land owners of specific areas along alignments/right of way; advising on GoSL Agencies to approach; Advise on protocols for contacting and requests to GoSL to acquire lands.	Contact with Government Agencies to request permission to temporarily and/or permanent acquire land to use during Construction and/or for structures proposed by Project. GoSL internal Land ownership/responsibility transfer, as required and agreed.	
1.3	ADB Approvals	Provide Information to ADB and PMU on request from ADB through PMDSC Team Leader	Provide Information to ADB and PMU on request from ADB through PMDSC Team Leader cc'd to International Specialist	Submit Final RIP to ADB for approval and disclosure on ADB Website and MWSIP website; Liaise with ADB directly - any queries from PMDSC and PMU/PIU team(s).	Provide Information to ADB and PMU on request from ADB through PMU PD
1.4	RIP Implementation	Advice on what is needed for monitoring reports; advise/assist with Grievance resolution, as required	Assist PIU with data collection and collation (ie. Preparing Reporting tabulations)	Management of Disclosure of RIP; Community Awareness/Communications of RIP and GRC, RIP Implementation, Database collection-collation records	Disclosure of RIP- Community Awareness/Communications of RIP and GRC; & RIP Implementation on site, including data collection

SN	Item	PMDSC Resettlement Specialists		PMU	PIU
		International	National		
a	RIP Disclosure	Advise on disclosure, as per RIP documented requirement	Assist with Community Awareness disclosure - attendance of meetings on site	Disclose RIP on Websites & arrange disclosure materials for communities; and site monitoring visits during disclosure and compensation periods. Collect minutes of disclosure meetings	Conduct RIP disclosure/awareness meetings with APs
b	Compensation of APs		Attendance at Compensation days/periods as scheduled by authorities with PIU & assist PIU with data collection/collation.	Database collection-collation records; collect minutes of meetings/records of events during compensation periods.	Data collection - actual compensation paid/distributed to each AP & impacts for which compensation was provided (ie. Actual Rs or replacement item paid for each actual loss of each asset. Note any discrepancy with RIP.
c	Grievance Redress Mechanism	To Assist PMU, PIU and GRCs in resolving grievances, as they come in. Assist those, if required, to submit grievance through GRM		Participate and records of GRM - Minutes of GRCs and Grievance Register maintenance	
1.5	RIP Monitoring	To be provided quarterly during RIP implementation + semi-annual thereafter per Contract PMDSC ToRs. Monitoring Reports are required to be submitted to ADB as part of the process to ensure ADB policy is complied. The concurrence with the report will trigger ADBs no objection to Contract award/construction commencing in a certain area for the Project site, once resettlement and land acquisition is fully completed.			
a	Compensation data collection and compilation	Advise on monitoring requirement, as necessary, for reporting - Finalize Monitoring data Tabulations; Preparation of Resettlement Monitoring and Evaluation Report(s); Finalize report with PMDSC and ADB comments Assist PMU in preparing Database covering RIP Vs actual impact and compensation; Prepare table formats for resettlement monitoring and evaluation report	Assist PMU/PIU with data collection and collation (i.e., Preparing Reporting tabulations); Work with International Specialist in preparing PMDSC Report.	Data compilation, updating of database with Actual Rs or replacement item paid for each actual loss of each asset. Note any discrepancy with RIP; and submission of PMDSC Monitoring and Evaluation reports to ADB and ensure public disclosure of report	Assist to provide additional field data collection and field-based information or information/data gaps identified during document preparation - respond to field-based queries

SN	Item	PMDSC Resettlement Specialists		PMU	PIU
		International	National		
b	Report Preparation and Submission	Prepare Draft Resettlement Monitoring and Evaluation Report(s); Review and finalise Resettlement Monitoring and Evaluation Report(s) with PMU comments; and Final review and final Resettlement Monitoring and Evaluation Report(s) with ADB comments.	Ensure all complete datasets and other information required is collected for reporting; and review draft report prior to draft submission	Review PMDSC Monitoring report and comment; Submit Final PMDSC Monitoring Report to ADB for no objection to recommence construction & ensure disclosed by ADB and MWSIP through websites. Submit final as part of PFR.	

Table 18: Corrective Action Plan for Resettlement and Land Acquisition

SN	Item	Description	Completion	Responsibility
1	Due Diligence Report No. 5 approval and implementation (DDR-5)	Address inconsistencies and presentation of the DDR and submit final copy to ADB for disclosure on the ADB website and validation by an ADB consultant.	24 January 2019	PMDSC
2	Resettlement Framework (PMDSC/PMU)	Review and update of the Resettlement Framework: <ul style="list-style-type: none"> Entitlement matrix to confirm ADB SPS 2009 and GoSL compliance, including on compensation and allowance requirements Clarify the legal framework.¹¹ 	TBD ¹²	PMU, PMDSC
3	Database Upgrade (PMDSC/PMU)	Centralise and update all land acquisition and resettlement data into a single master database which is accessible to PIU, PMU and PMDSC. The database will comprise all relevant resettlement-related baseline data, including but not limited to data on: <ul style="list-style-type: none"> All affected people and losses (title and non-title holders, temporary and permanent losses) Individual household entitlement to compensation and assistances Records of all paid household compensation and resettlement assistance, including details of the items and valuation for each loss by the valuations department 	15 February 2019	PMU, PMDSC

¹¹ The Resettlement Framework must be updated prior to NWPC ICB-2 or any other resettlement and land acquisition being conducted.

¹² The PMU referred the EM to the Valuation Department for concurrence. However, they declined responsibility for the EM, given that the Valuation Department is answerable to the laws of GoSL. Any impacts outside of GoSL laws, but nevertheless required under the ADB SPS 2009, shall be separately calculated and paid through PMU/PIU/MMDE Project finances.

SN	Item	Description	Completion	Responsibility
		<ul style="list-style-type: none"> • Verification that compensation has adequately addressed ADB's requirement for compensation of assets at replacement cost, without depreciation • Other 		
4	Request to Valuation Department and DSD for Detailed Data. (PMU Program Director)	<p>The PMU will request the Divisional Secretary's Department to provide detailed records of all household valuations, including for trees, crops, land and other assets. Records will be stored in the project database as stated above.</p> <p>Note 1: details of the valuation methodology are not required, but only household name, list of entitlements, items paid and amounts. PMU may then cross-check that all entitlements are paid according to the project entitlement matrix and identify any gaps to be paid/addressed by the Project.</p> <p>Note 2: Under the Loan Agreement, it is required that the compensations paid are in accordance with ADB SPS (2009) and GoSL laws and policies. The comparison shall be conducted based on the upgraded database data, which shall include DSD data and the detailed updated Census and Inventory losses conducted/updated through the Project (Refer to CAP point No. 3 above).</p>	Completed December 2018	PMU
5	Communications Development (PMDSC/PMU)	Strengthening and implementation of the Stakeholders Communication Strategy (SCS). Overhaul the implementation of the SCS to ensure it not only fully encompasses the requirements of resettlement communications (consultations and disclosure), but also provides a more specific approach for the resettlement program in NWPC and other Projects and Tranches to follow. ¹³	Immediately commenced December 2018 with updating of the SCS; involvement to be ongoing throughout the	PMU, PIU and PMDSC Communications Specialists

¹³ Currently the communications team is involved early in the process but is not involved in the full RIP processes. The Communications teams must be involved throughout the full resettlement and land acquisition activities, to ensure people are consulted and are informed from beginning of the subproject design through to the post-resettlement and land acquisition Plans, as well as implementation and monitoring.

SN	Item	Description	Completion	Responsibility
			remainder of the Program. (in progress)	
6	Land Acquisition and Resettlement Census, Inventory of Assets and Socioeconomic surveys	Verification of the census and inventory of losses. For each of the GNDs, at the time when GND valuation is completed, the census / socioeconomic survey and inventory of assets surveys shall be verified and updated, prior to RIP preparation and compensation. ¹⁴	RIP 1 – Pibudunugama and Aluthwewa (December 2018 – February 2019) RIP 2 – Kospotha, Danduyawa and Ranwediya (February-March 2019) RIP 3 – Pahala bambawa and Hombawa (part 3) (April to May 2019) RIP 4 – Hombawa Part 1 and 2 and Nabadgawatta (June 2019) RIP 5 - Tunnels - TBD (these are subject to change depending on readiness of GoSL valuations)	PMU, PIU, PMDSC

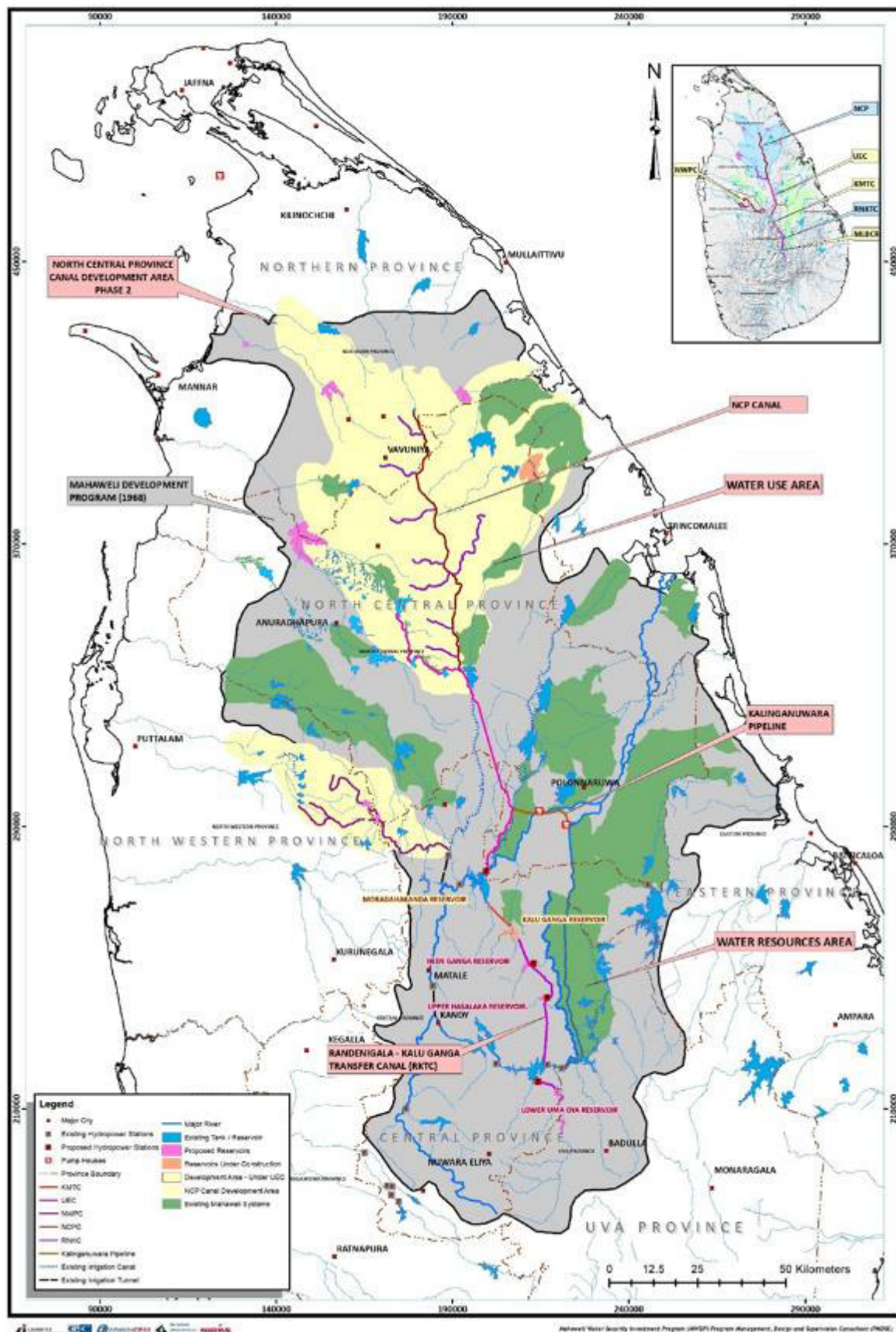
¹⁴ This is to ensure enough detail to comply with GoSL and ADB RIP requirements and for any additional valuations not included under the GoSL legal framework but nevertheless required by SPS 2009.

SN	Item	Description	Completion	Responsibility
7	Resettlement Implementation Plans	RIPs shall be prepared by the PMDSC, for the PMU to submit to ADB for approval	RIP 1 – Pibudunugama and Aluthwewa (28 22 March 2019) RIP 2 – Kospotha, Danduyawa and Ranwediya (31 May 2019) RIP 3 – Pahala bambawa and 30 June 2019) RIP 4 – Hombawa Part 1 and 2 and Nabadgawatta (31 August 2019) RIP 5 - Tunnels - TBD (these are subject to change depending on readiness of GoSL valuations)	PMDSC, PMU, PIU
8	Update of the Central Grievance Register (PMU with GND, DSD, PIU and PMDSC assistance)	Review, centralization and strengthening of the Grievance Redress Mechanism process, records. There are many complaints registered at GND level some of which are unresolved and informing APs is not always done formally. Many grievances are not centrally recorded at PMU, so resolution and compliance is not monitored.	28 February 2019	PMU, PIU, PMDSC
9	Resettlement Monitoring and Evaluation Reporting	Progress of all RIPs requires monitoring. All resettlement must be completed and documented in monitoring reports, in detail to ADB standards, and documents approved by ADB, prior to construction commencement in an area.	RM&E Report No.8 (January 2019) RM&E Report No.9 (15 April 2019) –	PMDSC, PMU, PIU

SN	Item	Description	Completion	Responsibility
	(PMDSC with PMU/PIU assistance)		include RIP-1 completion RM&E Report No.10 (15 July 2019) – include RIP-2 and 3 completion RM&E Report No.11 (October 2019) – include RIP-4 completion RM&E inclusion of RIP 5 for Tunnels completion - TBD	
10	DDR-3 Implementation	Requirement is immediate, in readiness for NWPC-ICB-2 Contractor to commence the necessary road accesses to be rehabilitated and subsequent readiness for NWPC-ICB-1 contract to commence	Immediate	PMU
	Monitoring and Reporting on the DDR completion	PMU will monitor and provide brief status updates to ADB on the progress and completion of all corrective actions included within this Corrective Action Plan. <i>PMU will ensure that contractors will not be given access to land (except for the contractor to conduct surveys along the alignments) until resettlement plans have been approved by ADB.</i>	Weekly	PMU, PMDSC

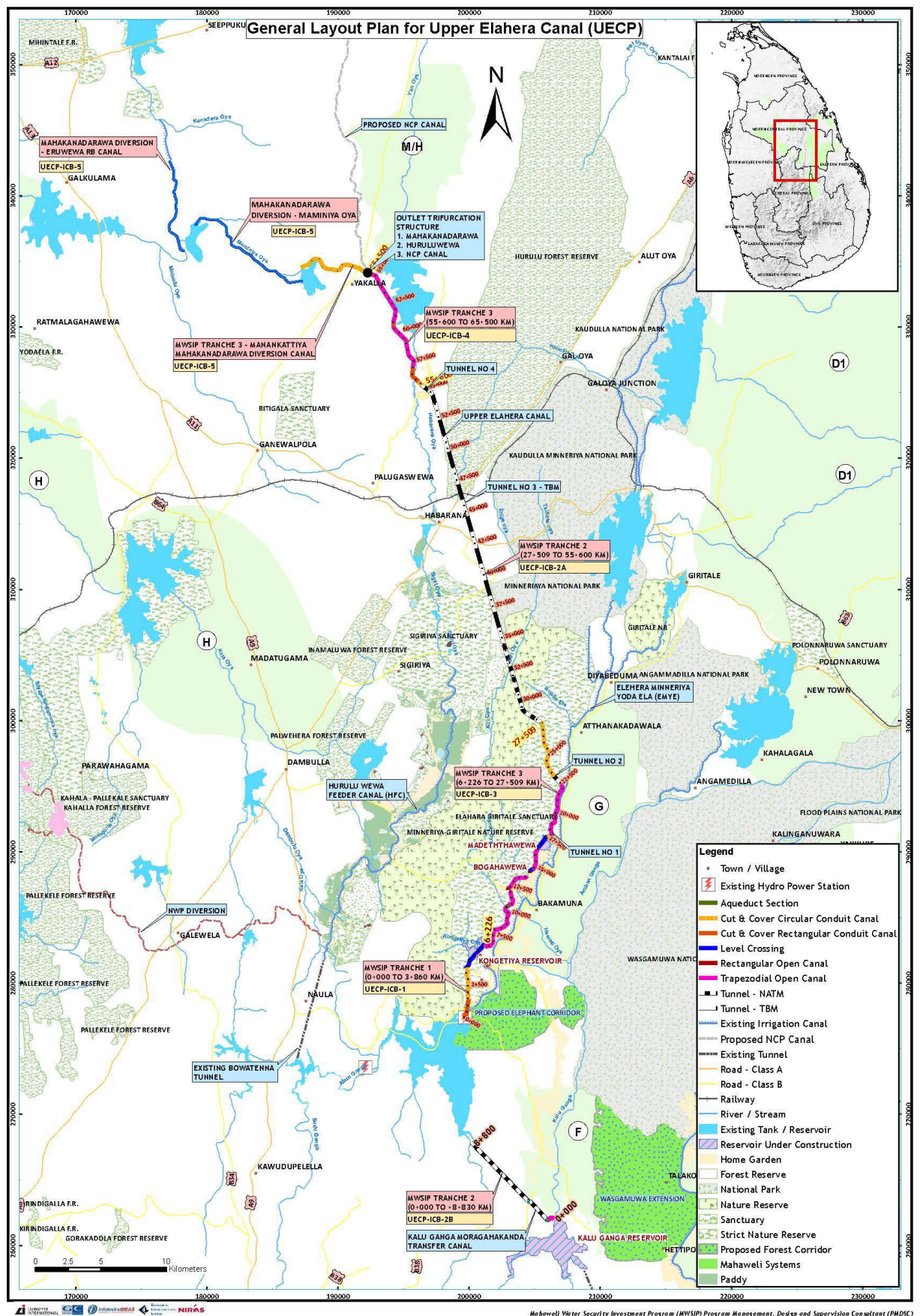
ANNEX 1 – Map Layouts of MWSIP and UEC, NWPC and MLBCR Projects

Map of Mahaweli Water Security Investment Program

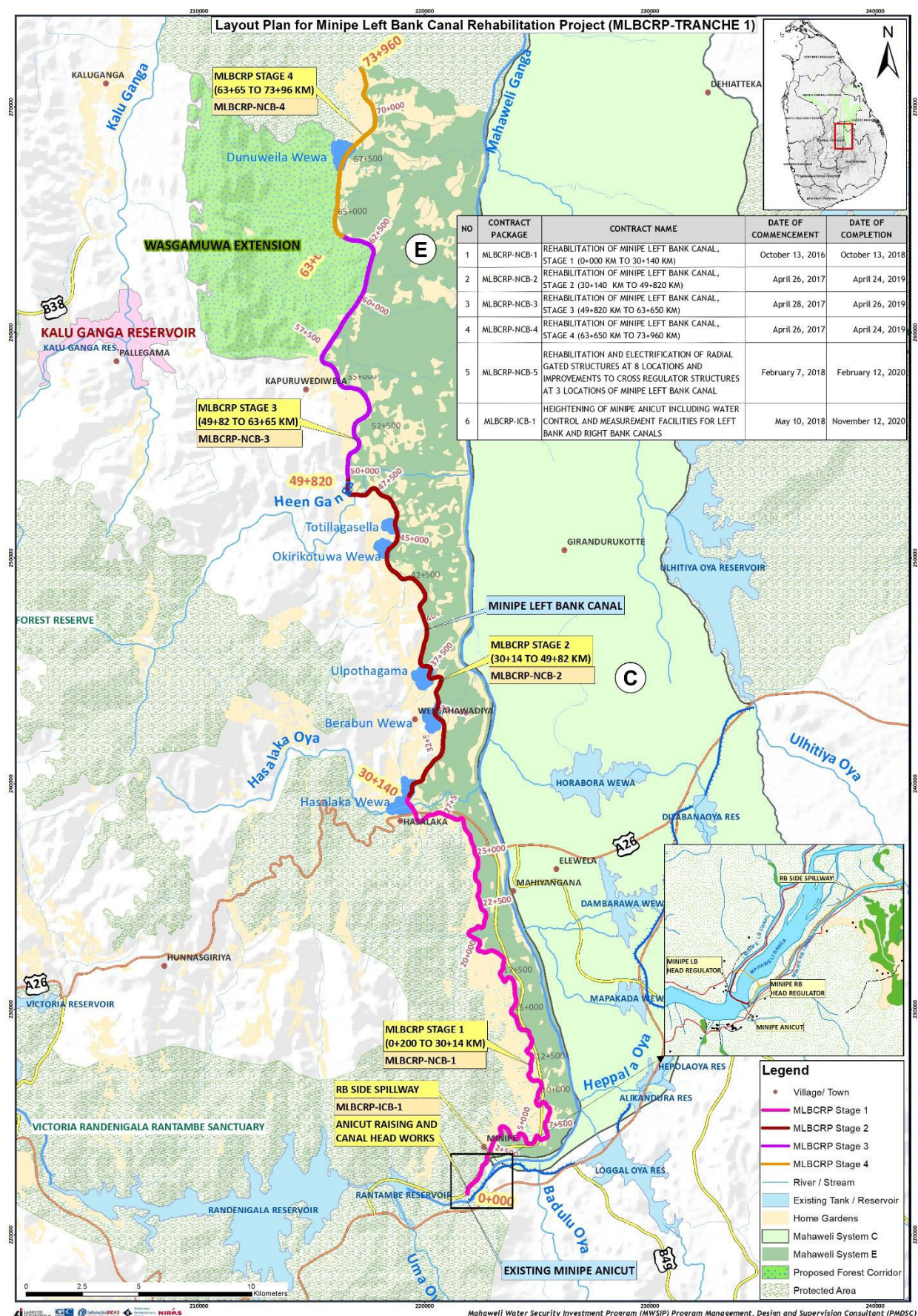


[illegible]

Map of Upper Elaheira Canal (Tranches 1, 2 and 3)



Map of Minipe Left Bank Canal Rehabilitation (Tranche 1)



ANNEX 2 – Gap Analysis

ADB Policy Principle	Triggered by the Program	Assessment	
		Assessment of Adequacy of the Program IR Safeguard Regime to Meet SPS IR Safeguard Requirements Actions	Assessment of Implementation Capacity
Screen the project to identify involuntary resettlement (IR) impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons and a gender analysis	Yes	IR country safeguard system provides for screening IR and risks as part of resettlement planning. NIRP requires that a RIP is prepared for projects where 20 or more households are affected. If less than 20 households are affected a RIP is to be prepared at a 'lesser level of detail'. Part of resettlement planning is identifying key stakeholders and exploration of viable project alternatives to minimize social impacts especially involuntary displacement, and assess whether resettlement and social impacts are significant or not. See 2008 LAA Regulations	MLLD is responsible for implementing of NIRP in collaboration with network of public and CSOs including CEA, PEA, the Ministries concerned and Divisional Secretaries. These agencies and MMDE have sufficient experience in applying this principle in formulating RIPs for projects.
Conduct meaningful consultations with affected persons (APs), host communities, and NGOs. Inform APs of their entitlements and resettlement options. Ensure APs, especially vulnerable household participation in project planning, implementation and monitoring. Establish a grievance redress mechanism. Support socio-cultural institutions of APs. If IR impacts are complex and sensitive, provide social preparation phase	Yes	The country safeguard system (CSS) has specific guidelines on consultations with PAPs, vulnerable groups and other stakeholders and NGOs; establishment of a GRM; recording of decisions at consultative meetings; and social preparation phase of RIP planning.	MMDE has experiences in conducting meaningful consultations with PAPs and other stakeholders. GRM is a component of RIPs in the Mahaweli Systems and other irrigation programs. MMDE has used social preparation phase in their projects. The capacity to implement this principle exists at the Program and project levels.
Improve or at least restore the livelihoods of all DPs. Land-for-land	Yes	The country safeguard system provides opportunity to identify persons, households severely affected in terms of	MMDE is aware of this key principle and have applied in several projects.

ADB Policy Principle	Triggered by the Program	Assessment	
		Assessment of Adequacy of the Program IR Safeguard Regime to Meet SPS IR Safeguard Requirements Actions	Assessment of Implementation Capacity
compensation when affected livelihoods are land-based where possible or cash-for-land compensation when land the loss of land does not undermine livelihoods; prompt replacement of assets, prompt compensation at replacement cost for assets that cannot be restored. Provide additional revenue and services through benefit-sharing schemes.		<p>their income and employment losses. Income restoration programs are to be developed in consultations with APs in order to re-establish themselves and improve their quality of life. Replacement land is an option for compensation in the case of land loss; in the absence of replacement land cash compensation is an option for all APs. See NIRP</p> <p>Payment of full replacement cost of lost assets to PAPs is a key principle of NIRP. LA Regulations 2008 provide a comprehensive compensation package including the market value of property acquired. The total package amounts to replacement cost of lost assets.</p>	
Provide all APs needed assistance: if relocated, secured tenure to resettlement land, better housing, access to employment and production opportunities, integration of resettlers with host communities, extension of project benefits to host communities, transitional support and civic infrastructure and community services, as required.	Yes	The CSS recognizes the special needs of physically relocated PAPs. PAPs involve in the selection of resettlement sites, livelihood compensation and development options at the earliest opportunity. Gender equality and equity are to be ensured and adhered to in resettlement programs. The CSS provides for assisting PAPs to be economically and socially integrated into the host communities. Participatory measures are to be designed and implemented by the resettlement planners and implementers.	Our field visits to current resettlement sites of projects (Moragahakanda Reservoir project) indicate that MMDE has sufficient understanding of this principle and have applied in several other projects.
5. Improve the standards of living of the displaced poor	Yes	CSS, especially NIRP and LA Regulations 2008, emphasize the importance of improving	MMDE in its previous projects and RIPs have paid sufficient attention to this

ADB Policy Principle	Triggered by the Program	Assessment	
		Assessment of Adequacy of the Program IR Safeguard Regime to Meet SPS IR Safeguard Requirements Actions	Assessment of Implementation Capacity
and vulnerable groups		standard of living of the affected vulnerable and poor groups. The program will compensate affected households regardless of their tenure rights over the lost property together with assistance to re-establish income sources. Vulnerable households will receive additional cash assistance and help in registering deeds etc.	key principle. Entitlement Matrices indicate this practice which is satisfactory.
6.Develop procedures in a transparent, consistent and equitable manner if land acquisition through negotiated settlement to ensure that APs maintain the same or better income and livelihood status	Yes	Although negotiated acquisition is recognized as a method of land acquisition by CSS, it is subject to LAA procedures of land acquisition which could cause delays. However, the NIRP and LA Regulations 2008 provide a legal framework for ensuring that PAPs maintain the same or better income and livelihood status	The application of LA Regulations 2008 and NIRP by MMDE in several other projects is satisfactory. They have the capacity to apply this principle.
7.Ensure that APs without titles to land or recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets.	Yes	Compensation for non-land assets of non-titled persons is a well-established principle in CSS. Often such non-titled persons are provided with land at resettlement sites to ensure that they will have better socio-economic status during post-displacement.	MMDE has planned and implemented several RIPs which include this key principle. EA/IA possess sufficient capacity.
8.Prepare a resettlement plan with APs' entitlements, income and livelihood strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule	Yes	CSS, especially NIRP and LA Regulations 2008 require RIP for any project which is likely to have resettlement impacts. Necessary guidance is also published by MLLD on how to prepare RIP.	MMDE has vast experience in RIP formulation and implementation

ADB Policy Principle	Triggered by the Program	Assessment	
		Assessment of Adequacy of the Program IR Safeguard Regime to Meet SPS IR Safeguard Requirements Actions	Assessment of Implementation Capacity
9. Disclose resettlement plan including documentation of the consultation process in a timely manner, before project appraisal in an accessible place and a form and language understandable to APs and other stakeholders. Disclose final resettlement plan and its updates to APs and other stakeholders.	Yes	CSS, especially NIRP and LA Regulations 2008 require disclosure of RIP. LAA discloses the lands which have been identified to acquire for a public purpose and calls for views, opinions and objections.	MMDE possesses sufficient experience and capacity in RIP disclosure and consultations on resettlement information with PAPs. This has been done in several projects.
10. Conceive and execute involuntary resettlement as a part of development project or program. Include the full cost of resettlement in the project costs and benefits. If significant resettlement impacts are found, consider implementing the IR component of the project as a stand-alone operation.	Yes	IR is considered as a key component of any development project in Sri Lanka and in this regard, NIRP and LA Regulations 2008 provide sufficient guidance.	MMDE has sufficient experience in calculating resettlement cost as part of project cost and in obtaining sufficient funds from the Treasury to pay compensation and implement resettlement programs including income restoration programs for the benefit of PAPs.
11. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement RP under close supervision throughout project implementation	Yes	CSS focuses on this key safeguard principle. Payment of compensation before displacement is the law except in case of urgency clause 38(a) of LAA.	MMDE is cognizant of the importance of paying compensation prior to displacement. Delays do occur because of lack of sufficient funds and litigation over land ownership. MMDE has sufficient experience and capacity to apply this principle
12. Monitor and assess resettlement	Yes	Monitoring and assessing resettlement outcomes are	Project-based internal and external monitoring of IR

ADB Policy Principle	Triggered by the Program	Assessment	
		Assessment of Adequacy of the Program IR Safeguard Regime to Meet SPS IR Safeguard Requirements Actions	Assessment of Implementation Capacity
outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the RP have been achieved based on baseline conditions and the results of resettlement monitoring.		not well developed in the IR regulatory framework. Special arrangements are to be introduced to overcome this deficiency in CSS	impacts is part of donor-funded projects which MMDE has planned and implemented. They have gained sufficient capacity in this regard which could be applied to the Program.

ANNEX 3 – Letter Regarding NWPC ICB-2 Area Section 38A Impacted Areas



මහවැලි ජල සුරක්ෂිතකා ආයෝජන වැඩසටහන
மகாவலி நீர்ப் பாதுகாப்புக்கான முதலீட்டுத் திட்டம்
Mahaweli Water Security Investment Programme

මහවැලි සංවර්ධන හා පරිසර අමාත්‍යාංශය
மகாவலி அபிவிருத்தி மற்றும் சுற்றுநிலை அமைச்சு
Ministry of Mahaweli Development & Environment

වැඩසටහන කළමනාකරණ ඒකකය
திட்ட முகாமைத்துவப் பணிமனை
Programme Management Unit



නො. 493 1/1, ටී. ඩී. ජයා මාවත, කොළඹ 10. இல. 493 1/1, டி. பி. ஜெயா மாவத்தை கொழும்பு 10. No. 493 1/1, T. B. Jayah Mawatha, Colombo 10.

☎ Programme Director: 0112 675811 ☎ Consultant: 0112675049 ☎ General Office: 0112 675810 ☎ Office Fax: 0112 675810 @ pdadbproject@gmail.com

මගේ අංකය
எனது இல
My No } MMDE/MWSIP/ PMU/RES/02
உமது இல
Your No }
දිනය
திகதி
Date } 16.10.2018

Mr. Micheal Chegwin
Team Leader
PMDSC

Sub: Land Acquisition and Resettlement – NWPCP- ICB-2

This has reference to your letter No. 7.24/25.5_L02386 dated 28th September 2018

As you have mentioned in your letter canal chainage 5+250 to 6+000 belongs to NWPCP- ICB-2. The land acquisition or payment of compensation is not completed in this area. However, section 38A applied in 1986 and this area has been included to the NWPCP- NCB-1, only for the purpose of land acquisition and compensation process. As this site has not been handed over to the contractor there is no necessity to get the consent from the affected parties.

The RIP will be completed after completion of valuation in this area along with NWPCP- ICB-2.

Eng. K.R.Neil Bandara
Program Director
MWSIP

MWSIP - PMDSC	
493, T.B Jayah Mawatha, Colombo 10	
Registered Incoming By:	IN
Seen:	Team Leader D. Team Leader
Date:	17 OCT 2018
Action By:	RM
Copies to:	7/6/4
Primary File Location:	7.24 25.5
Copy to Files:	

PIU Office : (UECP) Upper Elahera Canal Project Address - UEC Project Office Mahaweli Authority of Sri Lanka, Madatugama. Telephone No. 025-3248604 Fax No. 025-3248604 e-mail - uecp.mwsip@gmail.com	PIU Office : (NWPCP) North Western Province Canal Project Address - Irrigation Department P.O. Box 44, Kurunegala. Telephone No. 037-3970783 Fax No. 037-2222532 e-mail - nwpcp.mwsip@gmail.com	PIU Office : (MLBCRP) Minipe LB Canal Rehabilitation Project Address - DIE Office Irrigation Department, Hasalaka. Telephone No. 055-2257205 Fax No. 055-2257205 e-mail - mlbcprp.mwsip@gmail.com	PD Office : (ISEWPPI) Improving System Efficiency & Water Productivity Improvement Project Address - 11, Jawatta Road, Colombo 05. Telephone No. 0718-101628 Fax No. 0112-554063 e-mail - dealwis.lalith@yahoo.com
---	---	---	--

ANNEX 4 – GoSL Agencies Involved in the LAA Process

SN	Acquisition Process	Activity/Step	Responsible Institution	Time frame (weeks)
01	Section 2	Preparation acquisition proposal on lands/property to be acquired Authorization to start acquisition Publication of section 2 notice indicating particular land/property is subject to acquisition Issue of survey requisition by DS to survey superintendent in the district where particular land/property is located for preparation an advance tracing on land/property to be acquired Survey the land/property and prepare an advance tracing which sends to DS	Executing agency (Department/Institution/project and ministry) Minister of land and ministry of land Ministry of land and divisional secretary (Sec. 2 notice published at the land by Gramaniladari) Divisional secretary(DS)/Acquiring officer Survey department	12
02	Section 3	Claim for damage caused to the land during section 2 surveys.	Land owner Divisional secretary/Acquiring officer Executing agency	01
03	Section 4	Decision to acquire the land/property and direct to divisional secretary for inform to owner/s of land/property Publication a notice which is given details in the advance tracing on land/property need to be acquired and call for objection Making objection Conducting objection inquiry Making recommendation to land ministry on outcome of objection inquiry whether land/property should acquire or not	Minister of land and Ministry of land Divisional secretary/acquiring officer Land/property owner/s Executing agency (Secretary or his nominee should conduct the objection inquiry) Secretary of line ministry	17
04	Section 5	Make decision to acquire land/property Printing notice on decision to acquire land/property Publication the notice on decision to acquire land/property	Minister of land Government printing department Divisional secretary	02
05	Section 6	Issue survey requisition for prepare a preliminary plan (PP)	Divisional secretary/Acquiring officer Survey department	16

SN	Acquisition Process	Activity/Step	Responsible Institution	Time frame (weeks)
		Preparation of PP		
06	Section 7	Call for claims on ownership and compensation by gazette and newspapers in Sinhala, Tamil and English Publication of notice in gazette and newspapers on ownership claim/s	Divisional secretary/acquiring officer Government printing department and press	04
07	Section 8	Direct person/s for submit the ownership status for the land/property	Divisional secretary/Acquiring officer	01
08	Section 9	Conducting inquiry	Divisional secretary/acquiring officer	07
09	Section 10	Determination of ownership and inform to claimant/s with a copy to valuation department If claimants are not satisfied with the decision of acquiring officer, they should inform to acquiring officer on not acceptance of ownership determination	Divisional secretary/acquiring officer Claimants of land and property Valuation department	04
10	Section 11 to 15	Appeal procedure (once objection made on decision of ownership of land/property by claimant/s, acquiring officer should be filed a case before district court.	Divisional secretary/acquiring officer Claimant/s District court and supreme court	-
11	Section 16	Acquiring officer can entertain and conduct an inquiry at any time on ownership claims before he concluded the ownership status of land/property	Divisional secretary/Acquiring officer Claimant/s	-
12	Section 17	Award of compensation Payment of compensation	Divisional secretary/Acquiring officer Claimant	04
13	section 18	Restart inquiry before making payment under section 17 If lapses occurred by acquiring officer	Divisional secretary/Acquiring officer	02
14	Section 19 to 28	Appeal procedure for higher compensation	Claimant/s Board of appeal Supreme court	-

SN	Acquisition Process	Activity/Step	Responsible Institution	Time frame (weeks)
15	Section 29	Payment of compensation after appeal procedure	Board of appeal Divisional secretary/Acquiring officer Claimant/s	-
16	Section 38 Section 38 A	Request to issue 38 order for take over possession. Decision to take over possession of land/property. Preparation of 38 order notice Printing of 38 order notice Taken over of possession of land/property Hand over the land/property to executing agency Under urgent situation possession of land/property can take over under section 38 A provision	Divisional secretary/Acquiring officer Minister of land and ministry of land Ministry of land Government printing department Divisional secretary/Acquiring officer Divisional secretary and Officer in charge of executing agency Claimant/s	04
17	Section 44	Issue vesting order/release acquired land to executing agency Preparation of plan for vesting order	Divisional secretary/Acquiring officer Survey department Secretary to line ministry/Head Line agency	02
			Total	76

* Please note that time period cannot define for complete the sections 11 to 16 and 19 to 29.

ANNEX 5 – PROGRAM GRM BROCHURES

GRC at Executing Agency (PMU) (Ministry level) -Members

1. Program Director (Chairman)
2. District Secretary
3. Divisional Secretary
4. Resettlement Specialist, Environment Specialist
5. Project Director for respective project
6. Four members of CBO or representatives of PAPs (two should be women)
7. Two Representatives (Contractor, Consultant)

- ❖ GRC meeting will be held once a month at PIU office



- ❖ All complaint will be recorded in GRM Registry Book, and all steps taken to resolve the complaint will be recorded in the GRM file that will be kept in the PIU or PMU and Divisional Secretary



The Mahaweli Water Security Investment Program is giving a win-win solution for PAPs.

PAPs are the most important people of the project. Hence we are in a position to solve your issues at any time.

For More Information:-

1. **Project Director,**
Minipe Left Bank Canal Project,
Divisional Irrigation Engineer's
Premises,
Hasalaka.
055-2258977
2. **Project Director,**
Upper Elahera Canal Project,
Mahaweli Authority of Sri Lanka,
Madatugama.
025-2054896
3. **Project Director,**
North Western Province Canal Project,
Department of Irrigation,
P.O.Box 44, Kurunegala
Tel. 037 - 3970783, Mobile No. 0714432826
4. **Resettlement Specialist,**
PMU, MWSIP.
Tel: 011-2675810
Mobile No: 0715206541
5. **Environment specialist,**
PMU, MWSIP.
Tel: 011-2675810
Mobile No: 0771035020

Mahaweli Water Security Investment Program
No. 493 1/1, T.B. Jayah Mawatha,
Colombo 10
Tel. - 011-2675810
Fax - 011-2675227

MAHAWELI WATER SECURITY INVESTMENT PROGRAM (MWSIP)

MINISTRY OF MAHAWELI DEVELOPMENT AND ENVIRONMENT

**GRIEVANCE REDRESS MECHANISM (GRM)****About MWSIP**

Asian Development Bank supports the government of Sri Lanka to implement the Mahaweli Water Security Investment Program through the Ministry of Mahaweli Development and Environment by financing the following three projects

- ❖ Upper Elahera Canal Project (UECP)
- ❖ North Western Province Canal Project (NWPCP)
- ❖ Minipe Left Bank Canal Rehabilitation Project (MLBCRP)

The investment program will accelerate the economic activities of Sri Lanka's Northern Dry Zone region by transferring surplus water of the Mahaweli River basin for irrigation, drinking and commercial purposes.



What is GRM ?

The GRM provides an avenue for adversely project affected people (PAPs) to raise their concerns and to seek solutions to their problems. There will be no cost for PAPs to bring their concerns and it is accessible for all PAPs.

What concerns or complaints are eligible to be brought under the GRM?

1. Land acquisition cases.
2. Compensation payment packages
3. Resettlement issues
4. Ownership disputes
5. Delay of payment of compensation
6. Rehabilitation assistance Program
7. Social Environment concerns related to the project

What concerns that are not going to be dealt by GRM

1. Matters pending in the court
2. Disputing the agreed compensation rate

How to file complaints or submit concerns to GRM

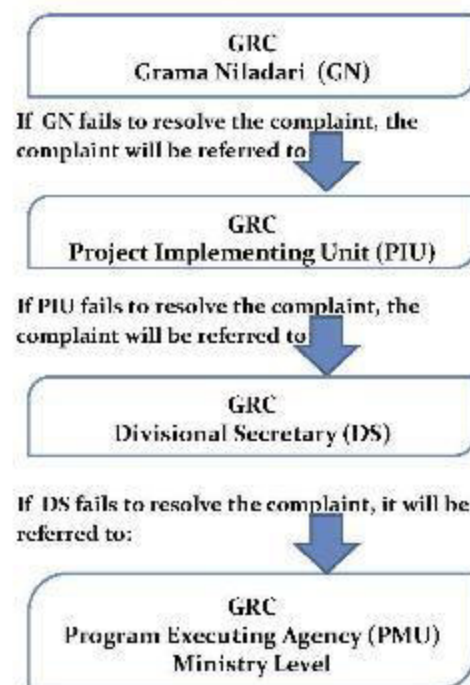
Grievances can be presented either in writing or verbally to the Project Resettlement Officer (PRO) or Project Environment Officer (PEO) or to the Grama Niladari (GN). Complaint forms are available with GN and Project Office.

The PRO or PEO with the guidance of the Project Director, will resolve the PAP's complaints within one week. However, if the problem cannot be solved, the Project Director will bring the complaint to the Executing Agency.

In this case, the whole process to provide a solution will take a maximum of 4 weeks.

Grievance Redress Committees (GRC) will be established at all levels mentioned below.

Complaints from the PAPs could be submitted to PIU staff, PMU staff, GN or Divisional Secretary
Complaints will be recorded and filed in PIU office (PAP)

**COMPLAINT HANDLING PROCEDURES****GRC at Grama Niladari Level:-****Members**

1. Grama Niladari (Chairman)
2. Village Level Officers
3. Village Level Priest (Buddhist, Hindu, Christian, Islam)
4. Resettlement Officer, Environment Officer
5. Community Leaders
6. Two Representatives (Contractor, consultant)

GRC at Project Implementation Unit (PIU)**Level:- Members**

1. Project Director (Chairman)
2. Secretary – Pradesiya saba
3. Resettlement Officer and Environment Officer
4. Grama Niladari
5. Four members of CBO or representatives of PAPs (two should be women)
6. Two Representatives (Contractor, consultant)

GRC at Divisional Secretary Level:-**Members**

1. Divisional Secretary (Chairman)
2. Secretary – Pradesiya saba
3. Surveyor
4. Grama Niladari (relevant area)
5. Resettlement Officer and Environment Officer from PIU
6. Four PAPs (two should be women)
7. Two Representatives (Contractor, consultant)

ව්‍යාපෘති කළමනාකරණ ඒකකයේ දුක්ගැනවිලි විසඳීමේ කමිටු සාමාජිකයින්

1. වැව්වලින් අධ්‍යක්ෂ (පහසුකම්)
2. දිප්පුන් ලේකම්
3. ප්‍රාදේශීය ලේකම්
4. නැවත සිදුවීම් කිරීමේ විද්‍යාඥ , පරිසර විද්‍යාඥ
5. ව්‍යාපෘති අධ්‍යක්ෂවරු (අදාළ ව්‍යාපෘතියෙන්)
6. ප්‍රජා සුලු සංවිධාන නිලධාරීන් 04ක් (02 නවත් කාන්තාවන් විය යුතුය)
7. සිවිල් සේවා (ප්‍රාදේශීය අංශය , ඉදිකිරීම් අංශය)

❖ දුක් ගැනවිලි විසඳීමේ කමිටුව පසුගිය වරින් ව්‍යාපෘතිය ක්‍රියාත්මක කිරීමේ ඒකකයේ දි රැස් වේ.



❖ සියලුම පැමිණිලි හා ඒවා විගදීමට තෝරා ලද සියලුම ක්‍රියාකාරීන් දුක්ගැනවිලි විසඳීමේ පල්ලියකට පල්ලියකට නොවේ. එමගින් ලේඛන ව්‍යාපෘතිය ක්‍රියාත්මක කිරීමේ ඒකකයේ හා ප්‍රාදේශීය පල්ලියේ කාර්යාලයේ ස්ථානගත නොවේ.



මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන මගින් පිටවීමට පත් වන සියලුම ප්‍රජාවන් විසඳීමට ලබා දේ. එමගින් ව්‍යාපෘතියේ ඉතා වැදගත්ම සාධකය ප්‍රජාව වන අතර මිනිස් ගැටලු විසඳීමට අපි බැඳී සිටිමු.

වැඩි දුරටත් තොරතුරු ලබා ගැනීමට

1. ව්‍යාපෘති අධ්‍යක්ෂ,
මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන,
ප්‍රාදේශීය මාර්ගගත ඉන්ෆර්මේෂන් කාර්යාල සේවකාලය,
දුරකථන අංකය: 055- 2258977
2. ව්‍යාපෘති අධ්‍යක්ෂ,
ඉහළ ඇල්ලේ ඇළ ව්‍යාපෘතිය,
ශ්‍රී ලංකා මහවැලි අධිකාරිය, මහවැලි,
දුරකථන අංකය: 025- 2054896
3. ව්‍යාපෘති අධ්‍යක්ෂ,
විශේෂ සුළු ව්‍යාපෘතිය,
වාර්ෂික ලදායිකමණ්ඩලය, ම.ප.ප.44, කුරුමා,
දුරකථන අංක: 037-3970783
මොබ් දුරකථන: 071-4452826
4. මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන,
මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන,
අංක 493 1/1, ටී.පී. රෝ රෝ, කොළඹ 10
දුරකථන අංක: 011-2675810
මොබ් දුරකථන: 071-5206541
5. පරිසර විද්‍යාඥ,
මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන,
අංක 493 1/1, ටී.පී. රෝ රෝ, කොළඹ 10
දුරකථන අංක: 011-2675810
මොබ් දුරකථන: 077-1035020

මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන
අංක 493 1/1, ටී.පී. රෝ රෝ, කොළඹ 10,
දුරකථන: 011 2675810
මොබ් 011 2675810

මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන

මහවැලි සංවර්ධන හා පරිසර අමාත්‍යාංශය



දුක්ගැනවිලි විසඳීමේ යාන්ත්‍රණය

මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන

සාමාන්‍ය සංවර්ධන සැලැස්මේ ආධාර ඇතිව ශ්‍රී ලංකා රජය මගින් මහවැලි සංවර්ධන හා පරිසර අමාත්‍යාංශය යටතේ ක්‍රියාත්මක කරනු ලබන වැව්වලින් මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන වේ. එම යටතේ සහන පදනමක් ව්‍යාපෘති තුළ සඳහා මූල්‍ය ආධාර හැරෙයි.

- ❖ ඉහළ ඇල්ලේ ඇළ ව්‍යාපෘතිය
- ❖ මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන
- ❖ මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන

එමගින් සායෝජන වැඩසටහන මගින් ශ්‍රී ලංකාවේ දැනුරු පියළි කලාපයේ මහවැලි ජල සුරක්ෂිතතා සායෝජන වැඩසටහන දියුණු කිරීම, පාරිසරික සුරක්ෂිත හා වාණිජමය කාර්යාල පදනමක් කර ගැනීමට ශ්‍රී ලංකාවේ සංවර්ධන පරිසරයේ දියුණුවක් කරා යොමු කිරීමට අපේක්ෂා කෙරේ.



1. ප්‍රාදේශීය පෙදින (සහකර්)
2. ප්‍රාදේශීය සභාවේ පෙදින
3. මැතිවරණ ක්ෂේත්‍රය
4. ප්‍රාමි පිළිබඳ (ප්‍රාදේශීය ප්‍රදේශය)
5. නැවත පදිංචි කිරීමේ නිලධාරී, පරිසර නිලධාරී
6. ප්‍රජාතන්ත්‍රවාදී නිලධාරී පිළිබඳ 4ක් (02 සහකර්
තාක්කාලයේ වී සිටින)
7. නිලධාරී (ප්‍රාදේශීය සභාව, පරිසර සභාව)