

Land Acquisition and Resettlement Framework

TONGA: Cyclone Ian Recovery Project

Prepared by the Ministry of Infrastructure, Kingdom of Tonga, an Implementing Agency for the Asian Development Bank (ADB)

This Land Acquisition and Resettlement Framework is a document of the Kingdom of Tonga. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
List of Tables	3
ABBREVIATIONS	4
I. INTRODUCTION.....	1
I. A. General Project Description.....	1
I. A. 1. Background	1
I. A. 2. The Cyclone Ian Recovery Project (CIRP)	2
I. B. Potential Resettlement Impacts	3
II. OBJECTIVES AND POLICY FRAMEWORK.....	3
II. A. Objectives of the Land Acquisition and Resettlement Framework	3
II. B. Comparison of Tongan Laws on Land Acquisition and Compensation and ADB Safeguard Policy Statement	4
II.B. 1. Land Tenure in Tonga.....	4
II. B. 2. Involuntary Land Acquisition and Resettlement in Tonga.....	4
II. B. 3. ADB’s Safeguard Policy Statement: Requirements on Involuntary Resettlement.....	5
II. B. 4. Comparison of ADB Safeguard Policy and Tonga Laws, Regulations and Procedures.....	5
II. B. 5. Remedial Measures to Bridge the Gap	6
II. B. 6. Principles and Policies of the Project	6
III. ENTITLEMENTS AND VALUATION PROCESS.....	7
III. A. Entitlements to Compensation	7
III. B. Compensation and Valuation of Land and Assets	7
III. B. 1. Calculation of Compensation for Land.....	7
III. B. 2. Calculation of Compensation for Loss of Agricultural Production.....	8
III. B. 3. Calculation of Compensation for Structures.....	8
III. B. 4. Calculation of Compensation for Businesses	9
III. B. 5. Calculation of Compensation for Community Assets	9
III. B. 6. Livelihood Restoration	10
III. C. The Valuation Process.....	10
IV. IMPACT ASSESSMENT AND MITIGATION.....	14
IV. A. Core Component Screening	14
IV. B. Preparation of Resettlement Plan	14

IV. C.	Vulnerable People and Gender Considerations.....	16
V.	CONSULTATION, PARTICIPATION AND DISCLOSURE	16
V. A.	Project Stakeholders	16
V. B.	Consultation and Participation	17
V. B. 1.	Vulnerable People and Gender Considerations.....	18
V. B. 2.	Further Information Disclosure	18
VI.	COMPENSATION, INCOME RESTORATION, AND RELOCATION.....	19
VI. A.	Compensation	19
VI. B.	Income Restoration.....	19
VI. C.	Opportunities to Derive Development Benefits	19
VI. D.	Relocation	20
VII.	GRIEVANCE REDRESS MECHANISMS.....	20
VI. A.	Grievance Coordination	20
VI. B.	Grievance Procedures	20
VIII.	IMPLEMENTATION, BUDGETING AND MONITORING.....	22
VII. A.	Institutional Arrangements	22
VII. B.	Implementation Activities.....	24
VII. C.	Budget and Financing.....	25
VII. D.	Monitoring, Evaluation and Reporting.....	25
ANNEX A.	Brief Outline of Tongan Laws Relating to Land Acquisition and Resettlement.....	28
ANNEX B.	Comparison of Tonga Law and ADB Safeguard Policy Statement (SPS) on Land Acquisition and Resettlement.....	30
ANNEX C.	Land Acquisition and Resettlement Screening Form	34
ANNEX D.	Outline of a Resettlement Action Plan.....	36
ANNEX E.	Draft Terms of Reference for Consultants.....	41

List of Tables

Table 1.	Entitlement Matrix	11
Table 2.	Responsibilities for Resettlement Implementation	23
Table 3:	Implementation Schedule	24

ABBREVIATIONS

ADB	Asian Development Bank
APs	Affected People/ Persons
DMS	Detailed measurement survey
EA	Executing Agency
EMA	External Monitoring Agency
ESU	Environment and Social Unit
GFP	Grievance Focal Point
IA	Implementing Agency
IR	Involuntary Resettlement
LAR	Land Acquisition and Resettlement
LARF	Land Acquisition and Resettlement Framework
MLECCNR	Ministry of Land, Environment, Climate Change and Natural Resources
NGO	Non-government Organization
PIU	Project Implementation Unit
PMU	Project Management Unit
RF	Resettlement Framework
RPs	Resettlement Plans
SPS	Safeguard Policy Statement 2009

I. INTRODUCTION

1. This Land Acquisition / Resettlement Framework (RF) has been prepared for the Tonga Cyclone Ian Recovery Project. It outlines the resettlement policy principles, procedures, and institutional arrangements to mitigate risks and offer sustainable livelihood and development opportunities to the people affected by the project. It is based on applicable laws and regulations of Tonga and the Safeguard Policy Statement (SPS) of the Asian Development Bank (ADB).

I. A. General Project Description

I. A. 1. Background

2. The Tonga Cyclone Ian Recovery Project (the project) has been prepared to support the Government of Tonga reconstruct and climate proof the main electricity grid network and school buildings and facilities on the Ha'apai Island Group, which were damaged by Tropical Cyclone Ian. On 11 January 2014, Tropical Cyclone Ian, a Category 5 system and the most powerful ever recorded in Tongan history, passed directly over the northeast islands of Ha'apai causing substantial damage. An estimated 5,000 people were directly affected and an estimated 800 homes were destroyed or heavily damaged. The Prime Minister declared a state of emergency for the Ha'apai on the same day. The preliminary estimates of damage and losses amount to \$55.3 million, equivalent to some 12.1% of the GDP.

3. The 'Tropical Cyclone Ian Response Plan'¹, which was prepared by the government with the assistance of development partners, serves as the government's post-disaster needs assessment. The response plan identified immediate requirements and priority recovery and reconstruction needs. The 'build back better' principle is included in the assessment of these needs in order to ensure improved climate resilience. The Government of Tonga, through the Ministry for Finance and National Planning (MFNP), requested ADB support for post-cyclone reconstruction on 7 February 2014, to reconstruct the Ha'apai electricity grid network and other key government infrastructure such as school and related facilities. The proposed project will (i) reconstruct and climate proof the electricity grid on Ha'apai; and (ii) reconstruct and climate proof damaged school buildings and facilities.

4. The project will use the implementation arrangements that are being set up by two ADB projects in Tonga, namely the Outer Island Renewable Energy Project (OIREP, under G0347/0348) for the reconstruction of electricity grids, and the Climate Resilience Sector Project (CRSP, under G0378) for the reconstruction of school buildings and facilities.

5. The Asian Development Bank (ADB) has developed a strong partnership with the Government of Tonga. Both ADB's Pacific Approach 2010–2014, and country operations business plan 2013–2015 for Tonga, emphasize the need for improved disaster risk management to deal with climate-induced natural disasters. Current ADB programming under the Nuku'alofa Urban Development Sector Project, the Climate Resilience Sector Project, and Public Finance Management Road Map provides ADB with a clear understanding of the challenges Tonga faces in recovery and reconstruction efforts in government operations following a natural disaster. This includes the need for increased capacity, coordination, whole-

¹ Government of Tonga, 'Tropical Cyclone Ian Response Plan'

of-government involvement, donor harmonization as well as consideration of recurrent costs for the sustainability of critical investments.

I. A. 2. The Cyclone Ian Recovery Project

6. The project will support the government's efforts to reconstruct and climate- and disaster-proof the main electricity network in Ha'apai and damaged schools (outputs 1 and 2), and remove asbestos from damaged buildings (output 3).

7. **Output 1: Reconstruction and climate- and disaster-proofing of the electricity network.** The project will restore access to the electricity supply network and make it more resilient to extreme weather and disasters. Repairing the damage to these utilities—assessed at more than 90% of the Ha'apai network on 13 January—and upgrading them requires considerable investment. After the Government of New Zealand contributed \$1.4 million for the initial emergency restoration of power lines in Ha'apai, TPL prepared a plan and cost estimates for repairing and climate-proofing the electricity network.

8. The project will reconstruct the distribution network and upgrade its capacity from 6.6 kilovolts to 11.0 kilovolts. This will include (i) rebuilding about 15.2 km of high-voltage overhead bundle lines, (ii) constructing about 32 km of low-voltage overhead lines, (iii) reconnecting the underground cables of about 1,000 households and 30 commercial and government buildings to the TPL network, and (iv) constructing 2 km of underground cables of the Ha'apai Hospital and High School network. The project will also restore and climate-proof about 161 streetlights and purchase temporary solar lanterns and community solar chargers for about 100 households in the outer Ha'apai islands. This output will use the implementation arrangements established for the OIREP, which is being implemented by TPL.

9. **Output 2: Reconstruction and climate- and disaster-proofing of schools.** The project will support the reconstruction, restoration, and climate- and disaster-proofing of schools that were damaged in Ha'apai.² The reconstruction will include (i) constructing improved building structures (classrooms and staff quarters); (ii) providing appropriate water and sanitation amenities for schools; and (iii) installing necessary fixtures and furniture, such as blackboards, desks, and chairs. This will allow classes to resume in a safe environment that is conducive to learning; in the future, it will reduce the number of days that schools are closed because of extreme weather and natural disasters. The reconstruction will be implemented in two phases. Primary schools will be rebuilt first as most of them are government owned, were severely damaged, and serve half of the affected student population. Secondary schools will be selected for reconstruction in line with the government's secondary school rationalization policy and with the agreement of ADB. MET has provided a preliminary assessment of the damage, and the cost of reconstruction and building back better, including demolition and removal of debris. This output will use the implementation arrangements set up under the CRSP.

² The damaged primary schools are Ha'ano, Fakakai, Mo'unga'one, Mata'aho, Lofanga, Faleloa, Fotua, Koulo, Pangai, and Tongoleleka. The damaged secondary schools are Ha'apai High School, Taufa'ahau Pilolevu College, St Joseph's Community College, Tailulu College, 'Ofamo'oni School, and Petani Christian Bilingual Side School.

10. **Output 3: Removal of asbestos from damaged buildings.** The project will support the removal of material containing asbestos from damaged schools, Niu'ui Hospital, government offices, and residential buildings. An assessment by the World Bank identified the presence of asbestos in these buildings.³ Since local knowledge on safe handling of asbestos is limited and Ha'apai does not have a site to dispose of asbestos, it will be removed to Tongatapu. This output will allow reconstruction works to be carried out safely and will also use the implementation arrangements set up under the CRSP.

I. B. Potential Resettlement Impacts

11. It is acknowledged that there are no impacts evident in the proposed components as all repairs and improvements are contained within the current boundaries. Any further designs will also aim to avoid significant impacts defined as follows: acquiring more than 10% of household land; acquiring any other assets, such as buildings or businesses; and/or physically displacing a household.

12. Given however that there might be unanticipated and unexpected LAR impacts, this framework has been developed to guide how any LAR issues are addressed. The project is classified as Category C and this RF also outlines the processes that will be followed if its resettlement category is unexpectedly altered. This RF is developed in compliance with Tonga's laws and regulations and ADB's Safeguards Policy Statement (SPS) 2009.

13. If eventually components selected for funding under this project and the option assessment documents find that the avoidance of resettlement impacts is unfeasible, the implementing agency will prepare a Resettlement Plan (RP) for each subproject involving resettlement impacts.

II. OBJECTIVES AND POLICY FRAMEWORK

II. A. Objectives of the Land Acquisition and Resettlement Framework

14. This RF is a government document reflecting Tonga's relevant laws and policies and ADB's specific requirements under the ADB Safeguard Policy Statement, 2009. The RF provides a compensation/rehabilitation framework detailing agreed upon compensation / rehabilitation provisions that are shared by the government and the ADB. It also provides specific guidance on the particular ADB requirements for planning and implementing LAR under the grant and uses ADB language and terminologies.

15. This RF applies to all land holders and displaced person, should there be any, with land status affected permanently or temporarily due to the construction, including purchase and temporary use during construction. It also applies to people whose use of land, registered or not, changes as the result of the investment. The RF does not apply to State land that is transferred from one authority to another, or is used for construction, unless third parties are adversely affected by the transfer or use.

³ World Bank. 2014. *Asbestos Assessment Report, Cyclone Ian*. Nuku'alofa. Commissioned by the Government of Tonga.

II. B. Comparison of Tongan Laws on Land Acquisition and Compensation and ADB Safeguard Policy Statement

II.B. 1. Land Tenure in Tonga

16. Under the Constitution of Tonga (1875) all land in the Kingdom belongs, in principle, to the Crown and is classified as (i) King's estate, (ii) hereditary Royal Family estates, (iii) hereditary estates of Nobles, or (iv) crown land. The latter two categories are subdivided into allotments for the rest of the people of Tonga. In theory, every Tongan male over the age of 16 is entitled to an agricultural (tax) allotment of 3.3 hectares (ha), and a residential (town) allotment of between 758 m² and 1,618 m² for residential purposes. In practice, there is now little land available for distribution, particularly in the Nuku'alofa area.

17. When the registered owner of an allotment dies, the allotment is inherited by the eldest son, or other male heir. Women can only lease land or hold land in trust for their male heirs. Sale of land is prohibited, but land leases and land permits may be granted. Leases are transferable. Both leases and allotments may be used to secure bank loans. Given the fact that there is already limited land available, especially for the allocation of town lots to all eligible males, this future increase in demand will put further pressure on the existing system of land allocation.

II. B. 2. Involuntary Land Acquisition and Resettlement in Tonga

18. There are no laws or legislation in Tonga that specifically address matters related to involuntary resettlement. Rather land acquisition is governed by the following laws:

- (i) Constitution of Tonga
- (ii) Government Act
- (iii) The Land Act

19. The establishment of mechanisms for establishing urban and rural infrastructure is contained under the following Acts:

- (i) Roads Act
- (ii) Transport Services Act
- (iii) Harbors Act
- (iv) Emergency Management Act
- (v) Building Control and Standards Act
- (vi) Building Code Regulations
- (vii) Shipping Act
- (viii) National Spatial and Management Act

20. Within the incorporation acts of relevant authorities, there are additional subordinate regulations and powers that might be relevant. These include:

- (i) Ports Authority Act
- (ii) Environmental Management Act
- (ii) Environmental Impact Assessment Act
- (iv) Tonga Water Board Act
- (v) Public Health Act
- (vi) Waste Management Act

21. Collectively, these regulations provide a fundamental basis for acquiring land for public purposes and for compensating land users according to the registered use of the land. Outline of main sections in Tongan Laws relating to land acquisition and resettlement is provided in **Annex A**.

22. In summary, the King or the relevant Minister can compel any holder of land to grant an easement to the Crown. If land, crops or premises are taken, the government will pay fair value or an amount determined annually by Government. People have the right to voluntarily relinquish land for public purposes for no compensation.

II. B. 3. ADB's Safeguard Policy Statement: Requirements on Involuntary Resettlement

23. The ADB Safeguard Policy Statement (SPS) of 2009 builds upon the three previous safeguard policies on the environment, involuntary resettlement and indigenous peoples, and brings them into one single policy that enhances consistency and coherence, and more comprehensively addresses environmental and social impacts and risks. The SPS aims to promote sustainability of project outcomes by protecting the environment and people from projects' potential adverse impacts by avoiding adverse impacts of projects on the environment and affected people, where possible; minimizing, mitigating, and/or compensating for adverse project impacts on the environment and affected people when avoidance is not possible; and helping borrowers/clients to strengthen their safeguard systems and develop the capacity to manage environmental and social risks.

24. In the context of involuntary resettlement, the objectives of the SPS are to: (i) avoid involuntary resettlement wherever feasible, and minimize involuntary resettlement through assessing project alternatives and alternative project designs. (ii) enhance or at least restore the livelihoods of all affected people (APs) in real terms relative to pre-project levels and improve the standards of living of the affected poor and other vulnerable groups. The SPS principles on involuntary resettlement are: (1) Screen early and assess resettlement impacts; (2) Carry out consultations with APs and develop a grievance redress mechanism; (3) Improve/restore livelihoods of APs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate; (4) Provide appropriate assistance to physically displaced APs; (5) Improve living standards of poor APs and other vulnerable groups; (6) develop transparent procedures for negotiations; (7) provide assistance and compensation to non-titled APs for loss of non-land assets; (8) Prepare RPs; (9) disclose RPs to APs and other stakeholders and document the consultation process; (10) conceive and execute resettlement as part of the project; (11) deliver entitlements to APs before their physical or economic displacement; and (12) monitor and assess resettlement outcomes.

II. B. 4. Comparison of ADB Safeguard Policy and Tonga Laws, Regulations and Procedures

25. The detailed comparison of Tonga laws/regulation and the ADB SPS requirements on land acquisition/resettlement and necessary gap-filling measures are outlined in **Annex B**. Comparison of the Tonga LAR laws with the ADB requirements on involuntary resettlement under the SPS indicates that key elements of the ADB Policy are present in Tonga laws—particularly those related to valuation of immovable property. ADB's principle of avoidance or minimization of resettlement is also reflected in Tongan Legislation.

II. B. 5. Remedial Measures to Bridge the Gap

26. Identified differences have been resolved by identifying gap-filling measures to comply with the ADB policy requirements, particularly in areas where practices are less subject to independent oversight (**Annex B**).

II. B. 6. Principles and Policies of the Project

27. The following principles for the compensation/rehabilitation of families affected by the Project will be followed, and communicated to all stakeholders:

(i) The cut-off date for identifying affected lands, families and people will be identified at the conclusion of the detailed measurement survey (DMS). This will be when the original subproject scoping takes place and when any affected people within the proposed subproject routes/boundary are informed.

(ii) Project planning will avoid or minimize the need for acquisition of land and will avoid acquisition of houses and other buildings.

(iii) Where there will be permanent or temporary acquisition of land, identification of impacts and compensation and assistance for the same will be provided prior to any construction commencing.

(iv) All affected person will receive compensation or assistance at replacement cost, even if they are without lease or formal recognition.

(v) All construction through agricultural land will be timed to avoid any impacts on the income and activities of adjoining land parcels. If impacts do occur, compensation will be provided to affected land and crops.

(vi) All construction over public rights of way – footpaths, driveways and roads—will be undertaken rapidly and without undue delay to avoid inconvenience to businesses and residences.

(vii) Detailed seminars and consultations will be available for all affected households to keep them informed of the process. Representatives of affected households will be meaningfully consulted, including involving in valuation meetings. Negotiation will be conducted in a fair, transparent and equitable manner.

(viii) A grievance procedure will be established. When a land leaseholder or user does not agree with a decision regarding compensation or change of the land use (lease), it may not be exercised before the dispute is resolved judicially. In addition, any person who feels that s/he in any way worse off can take her/his grievance to the highest level, at the cost of the project.

(ix) Project design will aim to avoid significant impacts (i.e., acquiring more than 10% of household land and/or physically displacing a household). Should significant impacts occur, such households will receive additional support, assistance, and compensation.

(x) If a land plot becomes unviable due to acquisition, then the whole land plot will be compensated.

(xi) Vulnerable groups, including female-headed households, the poor, disabled, or families with significant numbers of elderly or disabled members, will receive additional support, assistance, and compensation to ensure that they are not severely affected.

(xii) Affected persons may use and exercise their rights to a land plot and make necessary expenditures in compliance with its purpose after notification of acquisition for public needs until compensation is agreed upon. However, there will be no entitlement to additional compensation based on these improvements if made after the cut-off date.

III. ENTITLEMENTS AND VALUATION PROCESS

III. A. Entitlements to Compensation

28. The following groups of affected people are included:

- (i) all people/ households losing land either with legal lease, lease holding land rights or without legal status;
- (ii) owners of buildings, crops, plants, or other objects attached to the land, if any; and
- (iii) people losing business, income, and/or salaries, if any.\

29. APs and their affected assets will be identified through a Detailed Measurement Survey (DMS). The DMS end date will be the cut-off date for compensation eligibility. APs settling in affected areas after this date will not be eligible for compensation. They, however, will be given sufficient advance notice to vacate and dismantle the affected land/structures. Their dismantled structures will not be confiscated nor will they will be fined or sanctioned.

III. B. Compensation and Valuation of Land and Assets

III. B. 1. Calculation of Compensation for Land

30. Apart from Royal land (King and nobles), compensation for the land will be either on a land for land basis - where available - or otherwise by negotiation of a cash compensation for long-term lease. In the case of Royal land, a lease will be negotiated. All land users will have the option of land or lease option.

31. The land user/owner will have the option of land of equal value/productivity in a nearby location and with comparable associated services/facilities, or cash compensation to provide such services. In the case of cash leases, they will be negotiated based on current rates for similar, nearby leased land. All transaction costs and registration fees, if any, will be borne by the relevant authority. In the case that all or parts of land holding become unviable, unaffected portions of a plot will also be compensated.

32. While negotiations will be with the land user, the traditional or registered owner (King, noble, or commoner) may wish to resume control of the land and negotiate with the project. In that case, the project will do so, but also find an appropriate, nearby and similar piece of land for the displaced leaseholder/user to lease/use and provide all removal, re-establishment, and transaction costs.

33. In the case where land is used by a person who does not have a formal lease at the cut-off date, the preferable course of action will be that all land used (leased or unleased) is combined under one lease, without fees, taxes or charges. In case the owner does not wish to

lease the unleased land, an alternative plot will be found in a nearby area and combined with the users existing plot. The land will then be compensated as per a normal leaseholder. It is important to note that the relevant owner/authorities will not charge historical lease or registration fees or evict potentially affected persons following initial identification of the project, even if it is undertaken prior to the official survey. Eviction can occur only after alternate plots have been found and the affected person/s has moved and had livelihood restored.

34. Workers, if any, who lose their incomes due to land acquisition will be provided a cash compensation corresponding to their salary (in cash and in kind) for the remaining part of the agricultural year/or contractual period, or 6 months – whichever is the greater amount. Should any of the components cause significant impact, as defined for the purpose of this document, a severe impact allowance will be paid. This will be equal to an additional payment equivalent to the net income from crop, tree and fruit production and the waiving of taxes and fees. This is in addition to the agricultural compensation paid.

35. In the case of temporary land use for the placement of easements and use for construction, a lease agreement (for the total land used) will be signed for the use of the land. After the use, the land will be restored to its original condition or improved in quality and returned to the registered owner. An easement fee of 15% of the land value will be paid each year for the declared easement.

III. B. 2. Calculation of Compensation for Loss of Agricultural Production

36. Agricultural production will be calculated for all farms and subsistence households and provide values for crops, trees, orchards, and gardens. For businesses and households calculations will be made for gardens and trees. Calculations will be made based on Department of Agriculture compensation rates (as determined by the government) and adjusted to reflect maximum market rates – the higher figure being selected for application.

37. Annual crops (whether or not on titled land) that cannot be harvested will be valued at full market rate as determined by purchase prices in the local market. Assessment will take account of more than one crop on a particular parcel in a year. Compensation for trees will be done based on type and productivity. Non-productive fruit trees (young trees) will be compensated for seedlings and for plantation costs of the seedlings. Compensation for productive trees will be calculated based on the age of the tree and future loss of profit till the end of the tree's productivity period. Compensation for trees used for production of merchantable wood will be based on the market price for the timber that would be produced once it reaches maturity.

III. B. 3. Calculation of Compensation for Structures

38. This project is not expected to require acquisition of any buildings.

39. Should acquisition of buildings be required, buildings - registered or not - will be valued through calculating the real replacement cost based on the cost of materials, type of construction, labour, transport, and other construction costs. No deductions will be applied for depreciation or transaction costs. The cost of reconnection to lost water, electricity, gas, and telephone connections will be included in the compensation (the new land sites are assumed to have similar services available or they will be provided). Salvaged materials will be allowed to be taken away by the affected persons prior to demolition at no charge.

40. A detailed 'per unit cost' table will be established that covers the initial valuation for all housing types in an area. At the minimum it will detail square-meter costs for structures of different wall and roof types, finished and unfinished, improved and unimproved. In the case of new sites, the full land preparation costs will be calculated to ensure that the full cost for providing services and leases is understood by the relevant agencies. For partial impacts (structure wall, fences, etc.), cash compensation at replacement rates will be paid to restore the remaining structure to its original state. Unaffected portions of a structure will also be compensated if they become unviable after impact occurs.

41. Affected persons who have tenants (i.e., landlords) will receive compensation of income (cash or in kind) lost as a result of the permanent or temporary loss of the houses, buildings, and structures for the remaining period of lease. The lease must be justified by a legal document. Landlords without a formal lease will have to show other proof or evidence in order to claim compensation.

42. Tenants of structures that will be demolished or temporarily impacted will receive a new lease by their landlord or 3 months cash equivalent of the existing lease to allow for a new lease to be found and signed. Tenants without a formal notarized lease will need to show other proof or evidence of their cash and in-kind payments in order to claim compensation.

III. B. 4. Calculation of Compensation for Businesses

43. This project is not expected to require acquisition of any businesses.

44. Should any business be either permanently displaced or have their operations temporarily impacted by the project, compensation is payable in either case. Compensation for the loss of business/income will be calculated based on estimated income—on the basis of tax declarations, imputed earnings or average income in this area – multiplied by the amount of time an independent valuer determines the business will be interrupted. The valuer will be appointed and paid for by the relevant authorities. The owner has the right to alter this amount if delay or hardship is encountered, through formal application to the grievance process.

45. Compensation for workers will be based on regular wage rates (including those fixed by oral agreement with the employer) multiplied by the amount of time an independent valuer determines that the business will be interrupted. The valuer will be appointed and paid for by the relevant authorities.

46. Unregistered businesses will be first registered by the relevant authority at no cost to the affected person/s. They will then be subject to compensation as per registered businesses. All business owners will receive the full replacement cost of buildings destroyed.

III. B. 5. Calculation of Compensation for Community Assets

47. This project is not expected to require acquisition of any community assets.

48. Should any community assets be impacted, full cost of replacing it should be covered. This includes re-establishing or constructing intersections with existing roads; water, gas, electricity, irrigation, and telephone infrastructure; and civic buildings and community facilities (wells, etc.). Community structures will be fully replaced or rehabilitated to maintain their pre-project functions. In the case of community infrastructure for elderly or children, additional safety measures will be put in place.

49. In the case of assets provided by public enterprises (e.g., water, power), reconnection, relocation, and upgrade of these facilities will be paid for by the project (as per business compensation), irrespective of whether the existing infrastructure is legal or not (similar to unregistered land user).

50. Traditional ceremonies (custom, church, etc.) will be funded by the project if it can be demonstrated that they are normal practice in the reestablishment, construction, or dedication of assets or livelihoods.

51. In the case that access to common property is interrupted, an alternative access will be provided, an easement fee paid and remediation of all associated impacts will be undertaken as per 'permanent land loss'.

III. B. 6. Livelihood Restoration

52. This project is not expected to displace any people and impact livelihoods.

53. Should project result in displacement of any people and impact livelihoods, the project will be responsible for ensuring that the livelihoods of all displaced people are enhanced, or at least restored to, relative to pre-project levels, and the standards of living of the displaced poor and other vulnerable groups are improved. All displaced persons will be entitled to priority for employment in project-related jobs, training opportunities, self-employment and wage employment assistance, and community activities provided by the project.

54. All vulnerable displaced persons, including female-headed households, the poor, and households containing a disabled family member will be provided with an additional livelihood allowance. Each family member will receive a payment equal to the annual per capita poverty rate. Poor is defined as a person whose cash income falls below Tongan annual poverty line (indexed in 2011 at T\$1,638 per person per year based on ADB studies).

55. In the case of a requirement to move, APs will be fully supported for transaction, transport, and removal costs. In the case of employed individuals who are required to move house, they will receive up to 2 months wages to allow time off from work to arrange removals.

III. C. The Valuation Process

56. **Cash compensation (sublease):** This might be the most preferred method of compensation in this project. In the case that the land user wishes to sublease land (rather than a land-for-land swap described below) the responsible PMU will determine the leasehold price of similar land nearby and enter into a sub-lease for the required land. The lease will be for the period that the land is expected to be required (project life).

57. **Land for Land.** The PMU/PIU will need to enter into negotiations with the traditional holder or other nearby registered land holders if this option is to be selected. Associated infrastructure requirements - service roads, drainage, sanitation, water supply, and electricity facilities—will be provided as part of site-preparation costs. All relocation activities will be carried out with the consent and cooperation of the APs. The relevant government authority will be instrumental in carrying out resettlement activities as scheduled. Utility corporations (water, power) will be compensated by the project for the provision of services (as with any other

business), irrespective of whether the existing infrastructure is legal or not. The process for undertaking the land-for-land re-allocation will include the following steps:

(i) identification of all physically and/or economically displaced households, if any, their leased land and connected services, also identification of lands that are used but remain unleased;

(ii) in discussion with nearby registered and traditional owners, undertake preliminary identification of appropriate land parcels for land-for-land reallocation prior to discussions with APs;

(ii) preparation of a draft implementable land reallocation plan outlining proposed new land parcels for each AP; any voluntary land contributions from farmers; land preparation requirements (cost and locations of water, gas, roads, etc.); associated maps; and a draft agreement for each AP (containing lease number, total land size, new location and services/facilities to be provided) signed by the PMU and AP; note that this plan will be fully implementable, subject only to final detailed design of the project.

58. **Asset valuation.** At the beginning of each component, the valuation will be undertaken or updated by the PMU/PIU. Affected people will be involved in the valuation and revaluation. If the AP agrees with the valuation, then this will be used as the basis of negotiation. If the AP disagrees with the valuation, the project will allow for her/him to utilize an independent valuer that will be paid for by the project.

59. **Unviable land.** In an unlikely event that the business, residence, or farm may become unviable due to significant land acquisition, the AP will be contacted in the first instance to assess her/his views. Farmers and businesses are well able to assess this impact. The PMU/PIU is responsible for negotiating with groups of APs on the best way to reallocate lands. APs may also develop their own method for reallocating land and present this to the PMU/PIU.

60. If assets will become unviable following land acquisition, then they will be added to the assets to be acquired and compensated in the same way. In the case where a candidate subproject's resettlement impact is considered 'significant', then an external monitoring agency will be appointed and actively participate in all discussions with APs.

61. The Entitlement Matrix, that is compensation and rehabilitation entitlements for each item that might be affected by the core components, is presented in the table below.

Table 1. Entitlement Matrix

Loss type	Specification	Affected People	Compensation Entitlements
Permanent loss of rural or town land	All land losses independent of impact severity	Tofi'a – King and Nobles Landholders	Long-term lease based on the market value of the affected land and provision of all legal and other expenses associated with it Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs
		Api'uta or Api'kolo registered landholder (tax or	Land-for-land grant with plots of equal value/productivity, comparable location and services to plots lost with registration Registered owner has option of long-term

		town allotment)	lease based on the market value of the affected land. In all cases (land or lease), provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs
		Api'lisi – leaseholder	Leaseholder has the option of land-for-land grant with plots of equal value/productivity, comparable location, and services to plots lost; or, long term sub-lease based on the market value of the affected land. In all cases (land or lease), provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs. If the owner/registered user resumes control of the land from the leaseholder/user, the project will find an appropriate, nearby, and similar piece of land for the leaseholder/user to lease/use and provide all removal, reestablishment and transaction costs.
		Unregistered land user	All land used (leased or unleased) combined under one lease without fees, taxes or charges Alternative leasehold provided for formal lease
		Agricultural workers losing their job/contract	Cash indemnity corresponding to their salary (in cash and in kind) for the remaining part of the agricultural year, contractual period or 6 months - whichever is the greater
	Additional provisions for severe impacts on rural land (> 10% of total rural land loss)	All land holders, registered lease, permit or users (legal or not).	Severe impact allowance equal to the net income from annual crop (crop, tree, and fruit) production and the waiving of taxes and fees
Loss type	Specification	Affected People	Compensation Entitlements
Temporary loss of rural or town land	Easements and/or land used for construction	All land holders, registered lease, permit or users (legal or not).	A lease agreement will be signed for the use of the land. After the use, the land will be restored to its original condition or improved quality and returned to the registered owner. An easement fee of 15% of the land value will be paid each year.
Loss type	Specification	Affected People	Compensation Entitlements
Agricultural production	Crops affected	All APs	Cash compensation equivalent to the gross income from the crop calculated at the maximum annual market value of the total annual produce from affected land or the formal government rate – whichever is greater
	Trees affected	All APs	Fruit trees. The full cost of seedling, cost of preparation of a garden and lost profit at annual income (using maximum annual market values) multiplied by the number of years of fruiting remaining or the formal government rate, whichever is greater Timber trees. The full cost of seedling, cost of preparation of a garden, and maximum market

			value of maximum timber production per tree (at full maturity) or the formal government rate, whichever is greater
	Livelihoods	Vulnerable APs	An additional allowance equal to at least 3 months at minimum salary. Priority for employment in project-related jobs, training opportunities, self-employment and wage-employment assistance. Training programs to improve livelihood opportunities for vulnerable persons, including indigenous peoples, if identified..
Loss type	Specification	Affected People	Compensation Entitlements
Housing and structures	Full or partial loss of structures	Owners (with/without house or building registration)	Cash compensation at full replacement rate for affected structure/fixed assets free of salvageable materials, depreciation, and transaction costs. Salvageable material will be allowed to be taken away by owner at no cost Cost of replacing existing water, electricity, gas, and phone connections will be included in the compensation For partial impacts (structure wall, fences, etc.), cash compensation at replacement rates to restore remaining structure Unaffected portions of the structure will also be compensated if they become unviable after impact occurs
		Landlords	Compensation of income (cash or in kind) lost as a result of the loss of the tenancy of houses, buildings, and structures for the remaining period of lease justified by legal document Landlords without formal notarized lease to show other burden of proof or evidence in order to claim compensation
		Tenant	New lease by landlord or 3 months cash equivalent
Loss type	Specification	Affected People	Compensation Entitlements
Business/ employment	Permanent or temporary loss of business or employment	Registered business owner	Independent valuer (paid by relevant authority) to determine business interruption, and profit/loss to establish or suspend business For permanent loss, cash compensation equal to 6 month's income or the period of interruption, whichever period is greater Compensation is estimated on the basis of tax declarations, imputed earnings, or average income in this local area for business type
		Unregistered business owner	Business is registered at no cost (fees, charges) to AP, then as per registered business owner
		Worker/employees	Indemnity for lost wages (including fixed by oral agreement with employer) paid for the amount of work time interruption; the time is established by the independent valuer.

		Tenants of affected buildings	Compensation for lost rent paid in advance plus cash compensation equal to the amount of work time interruption. The time is established by the independent valuer. Compensation is estimated on the basis of tax declarations, imputed earnings or average income in this local area for similar businesses.
Loss type	Specification	Affected People	Compensation Entitlements
Relocation	Transport/transitional livelihood costs	All APs affected by relocation	Provision of cash compensation to cover transport expenses and livelihood expenses for one month.
Community assets	Loss/damage to public infrastructure/utilities		Rehabilitation/replacement of affected structures/utilities (i.e. roads, schools, health centres, etc..) to pre-project level
Any unforeseen or unintended impacts		APs	Compensation and assistance in line with the principles in this RF to ensure the APs better off than before the project

IV. IMPACT ASSESSMENT AND MITIGATION

IV. A. Core Component Screening

62. Each core component will be screened for resettlement impacts. The screening will assess if there will be any impacts. The screening form will be completed after site visits, and, as relevant, in consultations with potential APs to understand land use/ ownership arrangements. The screening process will cover (i) brief description of the site and proposed work, (ii) whether the subproject will require land acquisition, (iii) land status and ownership arrangements, (iv) land usage, and (v) characteristics of affected persons. A screening form is attached in **Annex C**.

63. If the subproject does not involve LAR impacts, this will lead to the preparation of a due diligence report confirming that there is no need for a RP. The due diligence report will include following aspects:

- (i) description of the subproject location and its boundary, location map, and pictures;
- (ii) confirmation of the land ownership and supporting documents and/or records of verification;
- (iii) findings of the field visit and observation of the subproject site
- (iv) process and outcome of consultations with land holders/users and other relevant stakeholders; records of meetings (attendance, minutes, etc.);
- (v) confirmation that there are no land acquisition/resettlement issues and that no RP is needed.

IV. B. Preparation of Resettlement Plan

64. Where screening identifies that a subproject will require land acquisition/resettlement, a Resettlement Plan (RP) will be prepared. The scope and level of detail of RP will vary

depending on the magnitude and complexity of land acquisition issues. This document includes an example outline of a RP (**Annex D**) as required by the ADB SPS and, where required, RPs will be prepared accordingly.

65. The PMU/PIU will carry out consultations with the district and town officers and APs and conduct necessary surveys including inventory of losses (IOL) and census of APs. The IOL and census will be undertaken covering all APs after detailed design. It will be conducted in a participatory manner to estimate the losses and impacts.

66. A cut-off date will be established as the date of the completion of the IOL and this will be publicized by the PMU/PIU. The landowners and/or users that have claims of affected land, crops, trees, and/or structures as of the cut-off date will be eligible for compensation and/or rehabilitation assistance.

67. The IOL will document the losses and impacts resulting from the land and/or resource/asset acquisition. The survey will also contain a number of questions about the socioeconomic status of APs in order to furnish information required for the elaboration of livelihood restoration and stabilization measures.

68. The RP will include sufficient budget and specify source of funds. The budget will be based on published rates from relevant government authorities and will include additional grants, if required, to ensure that compensation rates for affected land and assets are at replacement cost. The RP will also include an implementation schedule linked with civil works to ensure that civil works will not commence until compensation and/or assistance has been paid to APs.

69. A summary of the draft RP (translated into Tongan) will be disclosed to APs and other stakeholders for their comments. The RP will be finalized incorporating comments from APs. The final RP will be produced in English, with a summary in Tongan. The RPs will be endorsed by the executing agency and submitted to ADB for review and approval. A “no objection” for the RPs need be received from ADB prior to implementation of the core component.

70. Based on Tonga’s Land Act, the following procedures will be followed if land acquisitions cannot be avoided:

(i) The King may call on a landholder to give up possession of land provided that the Privy Council is satisfied that the land is required for public purposes.

(ii) The Minister of Land shall give notice in writing to the landholder of the resumption of land. This notice must be given at least thirty days before the date on which it is intended to resume possession of the land.

71. The Land Law does not go into specifics on the nature or process for acquisition or compensation other than the Constitution notes that acquisition of land and compensation of crops and assets by the government should be compensated at —fair value. It also notes that there should be arrangements to ensure that any donated land is indeed voluntarily given, that the donor is the legitimate landholder, and that the donor is fully informed of the nature of the activities and the implications of donating the property.

72. In the absence of detailed procedures for land acquisition, the PMU/PIU should ensure that any land to be resumed should have its ownership confirmed and be fully mapped, surveyed, and valued prior to submission to the Ministry of Lands for processing.

73. In determining existing land agreements, the PMU/PIU will confirm ownership of the existing infrastructure during implementation and a memorandum of agreement will be signed before the start of civil works. The preparation of the RP will be coordinated with the government's land acquisition process in accordance with the Land Act and other relevant legislation.

IV. C. Vulnerable People and Gender Considerations

74. Vulnerable people are often at a disadvantage to participate and benefit from social and economic opportunities in their communities or need special assistance to do so. Women have important economic roles and engage in a very wide range of income making activities in the agricultural and marketing sector. The Program will pay particular attention to ensure that vulnerable people and women are the recipients of compensation pertaining to and reflecting their full activities. The PMU/PIU will ensure that women who are de-facto household heads are clearly listed as beneficiaries of compensation and rehabilitation proceedings under the grant. In order to ensure the above the following actions will be considered: Impact assessment will disaggregate the APs gender-wise (or by vulnerable people if appropriate) and will clearly indicate the number of affected women-headed households (or vulnerable people) and their pre-project socioeconomic status. Women and vulnerable people will be encouraged to actively participate in all LAR-related consultations and negotiations, to be facilitated by women's groups. When required, special mitigation actions/ measures for vulnerable people/ women will be prepared and included in the RP. All compensation due to woman-headed families will be given to only the women family head. RP monitoring and evaluation will pay special attention on the impact of resettlement on women and other vulnerable people.

75. Each RP will reference and utilize the overall project safeguards processes to ensure minimization of project externalities on gender and the local community and target them as beneficiaries of the project. PMU/PIU will support capacity development for the district and town committees and the local communities living within the project area. Activities may include, but not be limited to:

- (i) priority work placement,
- (ii) community facilities, and
- (iii) small scale vocational and governance training.

V. CONSULTATION, PARTICIPATION AND DISCLOSURE

V. A. Project Stakeholders

76. The project will consist of a number of stakeholders, all of whom will have some involvement in the RP process and mitigation of impacts. These will be identified early in the RP process and targeted through a series of consultations. They include:

- (i) affected person, businesses and institutions;
- (ii) local officials from district and town councils;
- (iii) women's groups at relevant level;
- (iv) representatives from groups who will benefit from the sub-projects; and

(v) commercial representatives – businesses, chambers of commerce.

77. Women and vulnerable groups will be fully included in the consultation and implementation process. They will have representation at meetings at the district and national levels. Women will have separate meetings during the census process; and their numerous concerns and ideas will be reflected in the RP recommendations and updated Gender Action Plans.

V. B. Consultation and Participation

78. The project will promote meaningful public and stakeholders' participation in consultations and focus groups. For the core components it will begin early in the project cycle and continue throughout RP preparation. Plans will be in place for it to continue through RP update and implementation. The process will provide timely disclosure of relevant information to stakeholders through a project brochure or similar, with follow up focus group discussion and face-to-face meetings to ensure it is fully understood. Meetings will be undertaken at all levels so that power differentials do not create feelings of coercion and intimidation. Particular attention will be paid to the poorer and vulnerable affected households so that they are more comfortable with the process and feel included.

79. The key objectives of the consultations are to (i) identify and help address AP concerns related to the preparation and implementation of the RP; (ii) determine AP preferences for the type and delivery of compensation; (iii) minimize AP apprehensions and ensure transparency in RP activities; and (iv) help avoid unnecessary and costly project development delays.

80. CRSP and OIREP Project stakeholder engagement plans and communication strategies will be updated to include specific requirements of the RP consultation process.

81. A number of mechanisms will be used to undertake information dissemination and meaningful public consultation. These might include but are not limited to the following:

(i) Public consultations. These are the formal public information campaigns undertaken at the district or town level. They include environmental, social, and resettlement presentations. The meeting is widely advertised in the media. Attendance is normally by government agencies, informed and mobile APs, and concerned citizens. Due to the distance from project sites, poorer APs may find it difficult to attend and will be paid a pre-set attendance fee (currently T\$10) to assist with fuel and transport costs. An attendance list for all consultations will be recorded.

(ii). Public information brochure. A Public Information Brochure will be developed for relevant sub-projects and will outline details of the project, its locations, potential impacts, entitlements and compensation, the project implementation timeline, the grievance redress mechanism, and answers to frequently asked questions. It will be developed as part of RP preparation, and a Tongan version will be distributed to every affected household/business during the Census. It will be available at the all meetings and focus group discussions for other interested parties. It will be updated as the project progresses, incorporating new questions and more details on the implementation process.

(iii) Socioeconomic survey and Project census. The household survey will include a brief overview of the project and will elicit comments on impacts. Each respondent will be provided with contact details for any follow-up questions. This will ensure that the basic

project concept is made widely known throughout the project-affected areas. Similar to socioeconomic survey, the project census will also use an information exchange with APs. A more detailed outline of the project will be provided at the beginning of each survey in the form of the public information brochure.

(iv) In-Depth interviews. These will be undertaken with relevant stakeholders to gain a better understanding of issues highlighted in the socioeconomic survey or census. The interviews will mainly assess views on the potential project impacts (positive and negative), mitigation measures, and suggestions for improvement.

(v) Focus group discussions. These will be undertaken with APs, in particular the less powerful and poorer APs and women, who may not have the resources or time to attend the official public consultations due to distance, time, and/or cost. The sessions will elicit further understanding about issues raised in the census. It will be conducted in the local community (to reduce distance travelled) and be sensitive to the potential of influence (from government, church, elders) so as to reduce any feelings of intimidation, obligation, or coercion.

vi) Media coverage. Newspaper, radio and TV coverages will be used as a means of disseminating information to ensure outer islands receive information in an effective and timely manner.

V. B. 1. Vulnerable People and Gender Considerations

82. During the RP preparation and implementation, the PMU/PIU will assign staff to:

(i) persuade housewives to be with their husband when receiving payment for compensation and assistance from the PMU/PIU; and

(ii) involve women of affected households and vulnerable groups in the locality in addressing the unanticipated social and environmental impacts during project implementation through the GAP.

V. B. 2. Further Information Disclosure

83. Further information disclosure will occur once approval of the RP has been obtained by the PMU/PIU and ADB.

84. The updated public information brochure and summary RP (translated into Tongan) will be distributed to each AP to provide additional information on the implementation arrangements, payment schedule, and assistance provided to specific groups, and complaints resolution options.

85. The summary RP (in English and Tongan) will be distributed to each relevant district/town for display and reference by all APs. Index sheets outlining each AP, their global positioning system coordinates, maps, assets, and entitlements will also be available for review. All APs will be informed of this, so that they understand that they will be able to provide comments or grievances through the normal channels.

86. The full RP (in English) will be disclosed by the PMU/PIU and ADB websites.

87. In conjunction with the detailed engineering design, it will be necessary for the PMU/PIU safeguards team to update and finalize the RP. If there are any changes, this will then be disclosed through the same methods as earlier.

VI. COMPENSATION, INCOME RESTORATION, AND RELOCATION

VI. A. Compensation

88. The PMU/PIU will finalize all requirements for compensation in consultation with MLECCNR and MAFFF prior to land acquisition. The executing agency, the Ministry of Finance and National Planning, will be responsible for the timely allocation of funds to implement the RP. The budget for the RPs will be disbursed in cash by the PMU/PIU, in conjunction with the district/town officer, to APs. Once all land acquisition, resettlement and compensation activities have been completed, the PMU/PIU will obtain a signed declaration from each AP that all activities have been satisfactorily completed as per the final RP.

VI. B. Income Restoration

89. Income restoration assistance to displaced persons includes both short- and medium-term strategies. Short-term income restoration strategies are for immediate assistance during relocation and include the following as detailed in the entitlements matrix:

- (i) compensation for land, structures, and all other lost assets to be paid in full before construction activity begins;
- (ii) APs losing an entire structure are entitled to a subsistence allowance and moving costs in cash;
- (iii) assistance in finding replacement land for continuation of livelihood/living arrangements;
- (iv) advance notice to harvest standing seasonal crops;
- (v) for vulnerable groups, additional subsistence allowance and prioritized engagement in any project employment;
- (vi) PMU/PIU will work with district and town leaders to ensure that all APs maintain cultural relationships and other forms of social capital.

90. During the construction stage the APs, especially vulnerable APs, will be given preference over others to become engaged in project activities suitable to their skills. In order to make the APs employable, the PMU/PIU will identify the required skills for the construction activities prior to the commencement of the construction and provide the required training to the APs. The contract document for the project will include a provision for employment under the social requirements.

VI. C. Opportunities to Derive Development Benefits

91. Each RP will reference and utilize the overall project safeguards processes to ensure minimization of project externalities on gender and the local community and target them as beneficiaries of the project. Consulting services in the PMU/PIU will support capacity development for the district and town committees and the local communities living within the project area. Activities may include, but not be limited to

- (i) priority work placement,
- (ii) community facilities, and
- (iii) small scale vocational and governance training.

VI. D. Relocation

92. The PMU/PIU and district/town office will be responsible for assessing options for relocation of land plots, structures, and/or farmland. The process is complex, and early assistance will be provided by the project technical assistance to ensure adequate preparation.

93. Farmers and households will be actively involved in the planning and consideration of alternatives. This will be facilitated through the extensive public consultation process, in particular, the FGDs.

94. The final RP will ensure that the following are in place prior to relocation starting:

- (i) final project boundaries/alignment;
- (ii) environment safeguard teams established. The PMU/PIU will ensure that these teams are appointed and staffed with adequate background, skills and experience to ensure the quality of preparation and implementation of RP documents; and
- (iii) external monitoring agency (EMA) such as an NGO, if subproject is significant.

VII. GRIEVANCE REDRESS MECHANISMS

VI. A. Grievance Coordination

95. The grievance focal point (GFP) will be the district or town officer, who will coordinate and address all complaints and concerns arising from the project. The contact details will be provided to all APs.

96. The GFP will be assisted and supported by the PMU/PIU focal points who will maintain a register of complaints, keep track of their status and report to the PMU/PIU and Executing Agency. They will regularly track complaints received, actions taken and the status of resolution. Complaint forms will be distributed to the GFP to facilitate recording of complaints.

VI. B. Grievance Procedures

97. Affected persons will be informed that they may ask any questions or discuss grievances with their community leader (the district or town officer) by phone or in person, or they may approach project staff visiting the area.

98. If these questions/grievances are not answered within 1 week, they may be prepared in writing (using the assistance of the GFP, church or school). APs will also be told that national and international project staff will assist them with writing a grievance if necessary.

99. Written complaints may be sent or delivered to the GFP where they will be registered as being received. The district/town GFP will have 1 week to deliver a resolution to the AP.

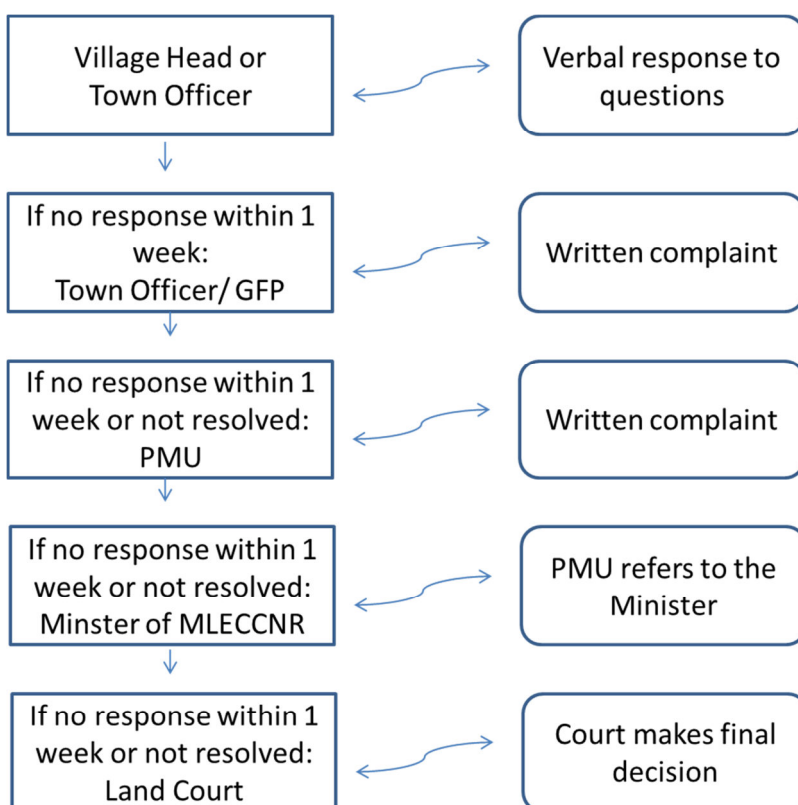
100. In the event that a satisfactory answer cannot be provided, the AP may lodge the complaint with the PMU/PIU and will receive a reply within 7 days.

101. Affected Persons will have the right to take the dispute to the Minister of Land, Environment, Climate Change and Natural Resources (MLECCNR), who will also have 1 week to respond.

102. In the event that the situation is not resolvable, or they do not accept the decision, the affected person(s) may have recourse to the land court (or other relevant court). All court costs incurred by the AP (preparation and representation) will be paid for by the project unless it can be demonstrated the action was unreasonable and/or the outcome mirrors the answers provided by the Minister (MLECCNR).

103. This process is summarised in Figure 1.

Figure 1. Grievance Procedure



VIII. IMPLEMENTATION, BUDGETING AND MONITORING

VII. A. Institutional Arrangements

8. The MFNP will be the executing agency. TPL and the Ministry of Infrastructure (MOI) will be the implementing agencies, with the MET, the Ministry of Public Enterprises, and the Tonga Energy Road Map Implementation Unit providing oversight.

9. **Output 1.** TPL, through the project management unit (PMU) established under the OIREP, will be the implementing agency. TPL will conduct the final technical and engineering designs and bidding process. TPL staff will carry out the design, supervision, and installation work. ADB will finance the incremental labor costs TPL incurs in carrying out the project civil works, using force account, that is, its own resources to finance certain required approved civil works required for the project. TPL will use ADB disbursement procedures and financial management guidelines. TPL will maintain separate accounts for the project, which will be audited by an independent auditor. All procurement of goods and works will be undertaken following ADB's Procurement Guidelines (2013, as amended from time to time). ADB will review the design and works periodically. The Ministry of Public Enterprises and the Tonga Energy Road Map Implementation Unit will provide national policy oversight for output 1. Repeat orders will be used for procuring miscellaneous electrical equipment, high-voltage cables, and the supply of power poles from TPL's existing suppliers that were selected using competitive procedures. This will allow TPL to start reconstruction works immediately.

10. **Output 2.** MOI, through the project implementation unit (PIU) established under the CRSP will be the implementing agency. The CRSP PMU under the Ministry of Land, Environment, Climate Change, and Natural Resources will assist in coordinating and overseeing implementation of output 2, with advice from the MET. The CRSP procurement project committee, chaired by the MFNP, will oversee procurement. The MET will provide national policy oversight on the design of schools. All procurement of goods and works will be undertaken following ADB's Procurement Guidelines (2013, as amended from time to time). The MOI will carry out the technical specifications and detailed designs for the schools with support from the PIU and two architects funded under this recovery project.

11. **Output 3.** MOI will be the implementing agency and the implementation arrangements for output 2 will be adopted. A single contractor will be hired to undertake the removal of material containing asbestos. All procurement of goods and works will be undertaken following ADB's Procurement Guidelines (2013, as amended from time to time). The implementation arrangements are summarized in Table 4 and described in detail in the project administration manual.⁴

104. The ToRs for the national social development/ gender specialist (60 months) and the international safeguards specialist (3 months, intermittent) are provided in **Annex E**. Both positions will be funded by the project grant and included in the budget. Responsibilities of various parties are summarised in Table 2 below. The PMU/PIU will plan, implement, and coordinate land acquisition, resettlement, and environmental activities. The Crown Law Office will provide overall guidance on Tonga's requirements and legal issues relating to land acquisition. All PMU/PIU staff and consultants working on this project will be funded through this program.

⁴ Project Administration Manual (accessible from the list of linked documents in Appendix 2).

105. Each core component will have its detailed design supervision consultant. During design, the design supervision consultants will collaborate and work closely with the PMU/PIU to:

- (i) look for measures and alternatives to avoid and minimize land acquisition and resettlement impacts,
- (ii) assemble all documents required for compensation,
- (iii) carry out topographic surveys of any affected land and replacement lands,
- (iv) elaborate layouts for alternate land, and
- (v) conduct land marking and pegging of the land assigned for temporary use and permanent occupation of acquired land.

106. District and/or town officer will play an enhanced role throughout implementation. They will work closely with the PMU/PIU and the contractor to:

- i) identify land losses incurred by land owners and land users plus agricultural output losses;
- ii) determine the need for protective zones around future construction sites;
- iii) prepare proposals on allocation of land plots of equal value under land for land;
- iv) investigate alternatives to acquiring currently used land through developing unused land;
- v) together with the APs, be involved in the detailed measurement survey and subsequent valuation discussions;
- vi) approve the project implementation plan and the final RP;
- vii) assist with implementation of compensation payments and livelihood restoration activities;
- viii) be the grievance focal point (GFP); and
- ix) ensure that all resettlement and livelihood restoration activities are fully completed prior to any construction beginning.

Table 2. Responsibilities for Resettlement Implementation

Activities	Responsible Agency
A. Preparation and Implementation of RP	
Subproject preliminary design	PMU / PIU
Subproject disclosure and public consultation	PMU / PIU
Survey and marking of subproject sites	PMU / PIU
Loss assessment	PMU, district & town officer
Survey and establishment of market unit prices	PMU/PIU with Ministry of Agriculture
Consultation and agreement on compensation	PMU/PIU, district & town officer
Review and approval of draft RP	ADB
Update of the RP	PMU/PIU, district & town officer
Disclosure to the APs and the public by IA and posting on ADB website	PMU/PIU and ADB
B. RP Implementation	
Approval and release of funds for compensation	EA and PMU
Verification of APs	PMU/PIU, district and town officer
Monitoring	PMU/PIU, district and town officer
Grievance and redress	district and town officer, MLECCNR
Preparation of deeds of sale	MLECCNR
Payment of compensation	PMU/PIU

Acquisition of affected lands	MLECCNR
Submission of compliance documents to ADB	PMU/PIU and EA
Monitoring of compliance of RP implementation	MLECCNR and ADB
C. Construction Stage	
Confirmation of —No Objection for the beginning of civil works	ADB
Hiring of APs and mobilization of labor force	Contractor
Subproject construction	Contractor
D. Post Construction	
Restoration and return of temporarily affected lands	PMU/ PMC, Contractor

VII. B. Implementation Activities

107. As previously mentioned, the PMU/PIU will prepare a RP for a core component at the preliminary design stage following the format shown in **Annex D**. They will undertake a brief verification and update of the RP once core component details are finalized by the detailed design consultants. Any modifications to the RP will be made, and verified with the PMU/PIU and ADB, and fully disclosed prior to any LAR activities commencing. The revised RP will include the full details of all RPs, including verification by the APs. It is expected that this will take place prior to approval by ADB.

108. Disbursement of cash will follow the approval of budgets for cash compensation. The PMU/PIU will inform the APs of the schedule of fund release. They will also advise the APs to produce acceptable legal documents pertaining to their identification for claiming the compensation. It is the main responsibility of the PMU/PIU to ensure that all the compensations and entitlements have been paid to and settled with APs prior to the construction activities.

109. The APs will sign a document signifying their satisfaction with and receipt of the compensation package. Proposed Implementation Schedule is provided in Table 3.

Table 3: Implementation Schedule

Activities	Indicative Timing
Mobilize consultants and safeguards specialist	Month 1
Establishment of grievance focal point	Month 1
Establish internal monitoring program (incl. monthly reporting)	Month 1
Component preliminary design	Month 1
Conduct detailed measurement survey (based on detailed design)	Month 1-3
Distribute resettlement booklet and entitlement framework to APs & communities	Month 1 -3
Consultation with local officials, APs and concerned groups/departments	Month 1-3
Continue, information dissemination, participation programs & grievance resolutions	Ongoing
Contract and mobilize design and construct supervision consultants	Month 2-3
Detailed design	Month 3

Submissions to local authorities/utilities for all clearances	Month 4 (ongoing)
Finalize list of entitled persons, replacement cost survey and compensation rates	Month 4
Submit final RP to EA and ADB	Month 5
EA and ADB approval of final RP	Month 5
Prepare and distribute copies of approved resettlement plan	Month 5
Approved resettlement plan disclosed on ADB's website	Month 5
Ensure appropriate advance evacuation notification (notice to clear construction area)	Month 5 (ongoing)
Effect compensation payments and implement land transfer procedures	Month 5 (ongoing)
Submission of monitoring report (on plan implementation) to ADB	Month 6 (ongoing)

110. PMU/PIU will ensure that the RF is implemented in coordination with the requirements set in the Environmental Assessment and Review Framework.

VII. C. Budget and Financing

111. In order to ensure that sufficient funds are available for LAR tasks, the project will allocate 100% of the cost of compensation at replacement cost and expected allowances estimated in each RP plus contingencies before RP implementation. As the executing agency, the Ministry of Finance and National Planning will be responsible for the timely allocation of funds to implement the RPs. Allocations will be reviewed based on budget requirements indicated in the RPs.

112. The executing agency will be responsible for including RP funds for project activities in each fiscal years government budget. The executing agency will also be responsible to allocate adequate budget for the PMU/PIU to conduct their tasks and responsibilities during the projects activities. These budgets will be based on the amounts of compensation required to cover all losses and impacts, including: (i) the costs of acquiring required land at market prices; (ii) compensation for lost crops and trees based on replacement and/or market values; (iii) lost income from the temporary use of land for spoil; and, (iv) loss of traditional use rights and community properties and resources, compensated by replacement of similar common property resources or as cash compensation if the former is not possible. Ten percent will be allowed for physical contingencies. Budgets will be shown as per unit costs required to cover replacement of all losses.

113. The full costs of developing, disclosing, staffing and implementing the RP will be borne by the Government and will be considered as counterpart funding. The Government will commit adequate budgetary support and release the funds necessary for the implementation of the subproject RP. Prior to implementation, the PMU/PIU will establish a chart of accounts to capture compensation and resettlement administrative costs.

VII. D. Monitoring, Evaluation and Reporting

114. The primary objective of monitoring is to identify as early as possible the activities achieved and the cause(s) of constraints so that the arrangements in the RP implementation can be adjusted. Monitoring is important because RP implementation is often the critical path for any project where civil works is involved, due to issues on land acquisition, compensation and resettlement that may cause delay in civil works. The early identification of the causes of delay

will enable the PMU/PIU (with support from the consultants), to prepare the mitigating measures during RP implementation.

115. LAR tasks will be monitored internally and, if relevant, externally. Internal monitoring will be carried out by the PMU/PIU, in conjunction with the district/town officers. The PMU/PIU will prepare and submit to ADB semi-annual monitoring reports on resettlement in addition to inclusion of relevant resettlement information in the project's quarterly progress reports. External monitoring will be only required if the impacts are significant (see definition) and will require the appointment of an External Monitoring Agency hired by the PMU/PIU and approved by ADB from among local consultants or NGOs.

116. Specific internal monitoring indicators will be:

- (i) information campaign and consultation with APs;
- (ii) status of land acquisition and payments on land compensation,
- (iii) compensation for affected structures and other assets,
- (iv) relocation of APs,
- (v) payments for loss of income,
- (vi) selection and distribution of replacement land areas,
- (vii) income restoration activities, and
- (viii) ensure the gender mitigation measures are adhered to during the internal monitoring and reporting process.

117. Upon the completion of civil works, the PMU/PIU will prepare a post-RP implementation evaluation report that will assess both the permanent and temporary land acquisition activities and impacts of the project focusing on the restoration of impacted lands and conditions of APs, especially those who were identified as vulnerable.

118. In the event that an external monitoring agency (EMA) is required, their duties will include the following:

- (i) Review and verify internal monitoring reports prepared by the PMU/PIU
- (ii) Review of the socio-economic and census and inventory of losses baseline information of pre-displaced persons
- (iii) Identification and selection of impact indicators
- (iv) Assess impact through formal and informal surveys of the affected person
- (v) Consult APs, officials, and community leaders for preparing a review report
- (vi) Assess the efficiency, effectiveness, impact and sustainability of resettlement drawing lessons for future resettlement policy formulation and planning
- (vii) Ensure that gender mitigation measures are implemented.

119. Monitoring and reporting will continue until all LAR activities have been completed. Monitoring reports will be disclosed on the project/ADB website and relevant information provided to APs.

ANNEX A. Brief Outline of Tongan Laws Relating to Land Acquisition and Resettlement

A. Compensation Generally

1. Constitution

1. Clause 18. All the people have the rights to expect that the Government will protect their life, liberty and property and therefore it is right for all the people to support and contribute to the Government according to the law.

2. And if the Legislature shall resolve to take from any person or persons their premises or a part of their premises or their houses for the purpose of making Government roads or other work of benefit to the Government the government shall pay the fair value.

B. Easements

1. Land Act

3. Section 19 (11) The Minister of Lands shall have the power to compel any holder of land to grant an easement to the Crown and he shall approve all easements whether they involve the Crown as a party or not.

4. Section 112 A (3) Kind of easement permissible –
(i) Right of way
(ii) Right to convey water
(iii) Right to drain water
(iv) Right to drain sewage

5. Section 112B Easements to be registered at the office of this Minister.

6. Section 112C Procedure for the granting of easements.

7. Section 112D Form of easement

C. Resumption of Land

1. Land Act

8. Section 138 The Minister of Lands with the consent of Cabinet reserve such portions of Crown Land as may from time to time be required for roads, public ways, commons, cemeteries, school sites, playgrounds, public health purposes and for use by Government Departments or for other public purposes and may grant a lease of land to trustees to be used as a cemetery for Europeans.

9. Section 140 All commons, cemeteries, Government school sites heretofore constituted or taken under any law, or custom shall be deemed to be Crown Land reserved for public purposes.

10. Section 141

(i) The King may, with the consent of Cabinet, call upon any holder to give up possession of land held by him provided that the Cabinet is satisfied that the land is required for public purposes.

(ii) In all cases the Minister of Land shall, to the holder of the land to be resumed

(a) in respect of the crops being grown on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act;

(b) in respect of the land to be resumed, at the Minister's own discretion, either grant other land in its place, or pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act, or both grant other land and pay money compensation;

(c) in respect of buildings or buildings erected on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided by this Part of this Act.

(iii) The power of resumption shall not preclude any one voluntarily relinquishing land for public purposes for no compensation either in land or money.

11. Section 142 Minister shall give notice of intentional resumption to landholder at least 30 days before taking possession.

12. Section 143

(i) The King may, with the consent of Cabinet, make regulations from time to time specifying the rates of money compensation to be paid for land resumed by the Crown under this Part of this Act; and for crops being grown and for buildings on such land and the method of calculations of such matters.

(ii) Money compensation to be paid on said rates will be paid within 30 days of said notice in Section 142.

ANNEX B. Comparison of Tonga Law and ADB Safeguard Policy Statement (SPS) on Land Acquisition and Resettlement

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives.	Not specified in Tongan law.	ADB policy will be followed.	ADB policy will be followed.
Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Improve the standards of living of the displaced poor and other vulnerable groups.	Tongan law does not provide for compensation to improve livelihoods or housing, or specify the type or timing of compensation payable for assets.	Gap	ADB policy will be followed.
Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	Not specified in Tongan law.	Gap	ADB policy will be followed.
Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.	<p>No specific policy in Tongan Law.</p> <p>However, customary practice is to consult with all affected and potentially affected people. APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.</p> <p>There is no specific provisions for vulnerable people in Tongan law. However such practice is embedded in the customs and traditions of Tonga and the land tenure system.</p> <p>No specific policy in Tongan Law distinguishing between rich and poor; all citizens are treated equally.</p>	Tongan practice is in line with ADB policy.	Customary practice will be followed, with additional inclusion of specific ADB requirements.
Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the	Grievance redress mechanisms are approved by Tonga on a project-by- project basis.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.	<p>Given traditional and customary processes of communication, community structures and leadership, procedures are often well communicated.</p> <p>However, these same societal structures can allow for power differentials to occur.</p>		
<p>Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.</p>	<p>Land Act, Section 141 provides powers to the Minister of Lands in case of loss of land for compensation in the form of land and/or cash.</p> <p>Land Act, Section 141 (2) provides for the payment of cash compensation for loss of structures.</p> <p>Tongan Land law provides for compensation to legal land users for crop/tree losses at rates determined by the government and established by Ministry of Agriculture.</p> <p>In practice, compensation is generally paid within a timeframe prior to the action of the civil works.</p>	Tongan policy complies with ADB policy.	None required.
<p>Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment</p>	<p>No specific policy in Tongan Law.</p> <p>Tongan customs and traditions provide support for certain groups.</p>	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
opportunities; and (iii) civic infrastructure and community services, as required.			
Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	Tongan law does not provide for compensation to improve livelihoods or housing. Tongan customs and traditions provide support for certain groups. There is no law relating to this provision.	Gap.	ADB policy will be followed.
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.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets	Land users with no legal registration have no rights.	Gap.	ADB policy will be followed.
Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	Land Act, Section 142 requires the Minister of Lands to notify affected persons of Government's intention to acquire land at least 30 days prior to resumption. In practice, APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	No specific policy in Tongan Law. In practice, each involuntary resettlement is assessed according to the development project. Compensation is generally paid within a timeframe prior to the action of the civil works.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.	Not specified in Tongan law.	Gap.	ADB policy will be followed.

ANNEX C. Land Acquisition and Resettlement Screening Form

A. Introduction

Each core project output is assigned an involuntary resettlement category depending on the likelihood and the significance of the probable involuntary resettlement impacts.

B. Information on Subproject

Sub-project name:	
Location:	
Scope of subproject (description of the nature and scope of works):	

C. Screening Questions for Resettlement Categorization

Involuntary Resettlement Effects	Yes	No	Extent of Impacts And Other Remarks
Does the subproject include upgrading or rehabilitation of existing physical facilities?			
Does the subproject include the construction of new physical facilities?			
Will it require permanent land acquisition?			
Is the ownership status and current usage of the land known?			
Are there any non-titled people who live or earn their livelihood on affected land?			
Will there be loss of housing?			
Will there be loss of agricultural plots?			
Will there be losses of crops, trees and fixed assets?			
Will there be loss of businesses or enterprises?			
Will there be loss of incomes and livelihoods?			
Will people lose access to facilities, services, or natural resources?			
Will any social or economic activities be affected by land use-related changes?			

D. Involuntary Resettlement Category

After reviewing the answers above, the PMU/PIU agrees subject to confirmation, that the subproject is a:

[]	Category B, Not significant* land acquisition and resettlement impacts: a Resettlement Action Plan (RP) is required. RP to be submitted to ADB by [insert date]_____
[]	Category C, No land acquisition and resettlement impacts: No RP is required

* Not significant: Less than 200 people (approximately 35 households) will experience major impacts that are defined as (i) being physically displaced from housing and/or shops or (ii) losing 10% or more of productive land or other income-generating assets.

If Category B, please provide the following information:

Any estimate of the likely number of households and people that will be affected by the subproject?	
Are any of them designated as poor households? If yes, how many?	
Are any of them households headed by women, elderly or disabled persons? If yes, how many?	

Prepared By:

Signature: _____

Name: _____

Position: _____

Date: _____

ANNEX D. Outline of a Resettlement Action Plan

I. EXECUTIVE SUMMARY

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

- (i) Project scope
- (ii) Key survey findings
- (iii) Entitlements
- (iv) Recommended actions

II. PROJECT DESCRIPTION

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

- (i) General description
- (ii) Project components
- (iii) Project area
- (iv) Alternatives considered

III. SCOPE OF LAND ACQUISITION AND RESETTLEMENT

Discusses the project's potential impacts, and includes maps of the areas or zone of impact of project components or activities; describes the scope of land acquisition (provide maps) and explains why it is necessary for the main investment project; summarizes the key effects in terms of assets acquired and displaced persons; and provides details of any common property resources that will be acquired.

IV. SOCIOECONOMIC INFORMATION AND PROFILE

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including: define, identify, and enumerate the people and communities to be affected; describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account; discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

V. INFORMATION DISCLOSURE, CONSULTATION, AND PARTICIPATION

This section identifies project stakeholders, especially primary stakeholders, describes the consultation and participation mechanisms to be used during the different stages of the project cycle; describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan; confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to

disclose any subsequent plans; and describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

VI. GRIEVANCE REDRESS MECHANISMS

This section describes mechanisms to receive and facilitate the resolution of affected persons' concerns and grievances. It explains how the procedures are accessible to affected persons and gender sensitive.

VII. LEGAL FRAMEWORK

This section:

(i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.

(ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;

(iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.

(iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

VIII. ENTITLEMENTS, ASSISTANCE AND BENEFITS

This section:

(i) defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);

(ii) specifies all assistance to vulnerable groups, including women, and other special groups; and

(iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

IX. RELOCATION OF HOUSING AND SETTLEMENTS

This section:

(i) describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);

(ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;

(iii) provides timetables for site preparation and transfer;

(iv) describes the legal arrangements to regularize tenure and transfer leases to resettled persons;

(v) outlines measures to assist displaced persons with their transfer and establishment at new sites;

(vi) describes plans to provide civic infrastructure; and

(vii) explains how integration with host populations will be carried out.

X. INCOME RESTORATION AND REHABILITATION

This section:

- (i) identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
- (ii) describes income restoration programs, including multiple options for restoring all types of livelihoods (examples include project benefit sharing, revenue sharing arrangements, joint stock for equity contributions such as land, discuss sustainability and safety nets);
- (iii) outlines measures to provide social safety net through social insurance and/or project special funds;
- (iv) describes special measures to support vulnerable groups;
- (v) explains gender considerations; and
- (vi) describes training programs.

XI. RESETTLEMENT BUDGET AND FINANCING PLAN

This section:

- (i) provides an itemized budget for all resettlement activities, including for the resettlement unit, staff training, monitoring and evaluation, and preparation of resettlement plans during loan implementation.
- (ii) describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
- (iii) includes a justification for all assumptions made in calculating compensation rates and other cost estimates (taking into account both physical and cost contingencies), plus replacement costs.
- (iv) includes information about the source of funding for the resettlement plan budget.

XII. INSTITUTIONAL ARRANGEMENTS

This section:

- (i) describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
- (ii) includes institutional capacity building program, including technical assistance, if required;
- (iii) describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
- (iv) describes how women's groups will be involved in resettlement planning and management.

XIII. IMPLEMENTATION SCHEDULE

This section includes a detailed, time bound, implementation schedule for all key resettlement and rehabilitation activities. The implementation schedule should cover all aspects of resettlement activities synchronized with the project schedule of civil works construction, and provide land acquisition process and timeline.

XIV. MONITORING AND REPORTING

This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies

arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.

ANNEX E. Draft Terms of Reference for Consultants

A. Social Safeguard and Monitoring and Evaluation Specialist – International under CRSP (4 person-months intermittent)

The international Social Safeguard Specialist and Monitoring and Evaluation Specialist will advise on implementation of, and compliance with, the social safeguard requirements, poverty reduction and social strategy, and gender action plan, as well as any resettlement plan or ethnic groups development plans which may be developed. He/she will have regional experience and substantial knowledge of the social and gender issues facing Tonga. He/she will have substantial experience (>15 years) in community development work, with a master's degree or higher in a related area. Together with the national Social Safeguard/Gender Specialist, his/her main tasks include but are not limited to:

- (i) Assist the PMU in implementing and complying with the EARF, social safeguard requirements and development strategy/plan and other related documents including information disclosure and data collection for monitoring;
- (ii) Specifically assist the PMU in managing the Project's social safeguard activities, including: (i) preparation and implementation of the RPs, if required, and (ii) facilitation of consultations at various stages of the project and individual subprojects. Should there be unanticipated land acquisition and resettlement process, if required, they will ensure that entitlements and compensation measures established in the RP are consistent with the RF and suitable budgetary provisions are made for timely RP implementation. They will also ensure that funds for compensation and entitlements under the RP are fully provided to affected persons prior to the commencement of civil works under relevant subprojects. For candidate subprojects, the social safeguard specialists will prepare either (i) a satisfactory RP as per the RF if subprojects involved unanticipated land acquisition and resettlement; or (ii) a due diligence report documenting the screening and consultation process when there are no land acquisition and resettlement requiring a RP.
- (iii) Prepare/update project-specific social safeguard implementation manuals; and
- (iv) Assist the PMU in preparing environmental and social safeguard reports as part of quarterly project progress reports;
- (v) Strengthen the capacity of the JNAP-TWG for social management and safeguard compliance through on-the-job training and the implementation of recommendations as required by MLECCNR and ADB;
- (vi) Monitor compliance with requirements as described in the RF and other project documents, in consultation with beneficiaries and provide recommendations as necessary; and
- (vii) Report related issues with social safeguards to MLECCNR and ADB as required.

B. Social Development Monitoring Safeguards Specialist – National under CRSP, (50 person months)

The Social Development and Monitoring Safeguard Specialist will be responsible for implementing and monitoring of social/gender safeguard progress for the overall Climate

Resilience Sector Project (CRSP) and of activities under Component 2 of the TON Cyclone Ian Recovery project (CIRP) in line with ADB's Safeguard Policy Statement (SPS) 2009. He/she will ensure community and gender mainstreaming of project activities and ensuring/publicising representation by key stakeholders including communities, with a special focus on gender issues in activity design and implementation.

He/she will have substantial experience (>7 years) in social development and gender monitoring and evaluation work, with a degree or higher in a related area. He/she will be conversant with ADB guidelines on social safeguards and on Monitoring and Evaluation and familiar with climate resilience projects in Tonga. He/she will support all PIUs in ensuring the delivery of outputs consistent with the project DMF, the Gender Action Plan and the Communication Strategy in line with ADB guidelines on social safeguards. This will be a full-time position based in Nuku'alofa, contracted by the Ministry of Finance and National Planning. He/She will report to the Project Director of the CRSP and to the CEO of MFNP.

The detailed tasks include:

- a) Develop and manage a comprehensive database to monitor indicators and results of the individual CRSP and the CIRP projects based on the Design and Monitoring Framework (DMF), in collaboration with respective project teams;
- b) Lead the revision of project component activities and recategorization if necessary to develop resettlement plans as deemed appropriate for proposed works including an inventory of losses, an entitlements matrix, a detailed budget, implementation schedules, a management and monitoring framework, and grievance and appeals procedures in line with ADB's Safeguard Policy Statement (SPS) 2009;
- c) Support the program coordinator in the design, coordination, monitoring and training assistance programs for community-based interventions in climate change adaptation planning; and facilitate the training and assistance programs for community based interventions on Vulnerability and Adaptation (V&A) assessments and plans.
- d) Identify performance targets and indicators, including gender disaggregated indicators, for the individual CRSP and CIRP investments; and support a harmonized monitoring and evaluation system that aligns with the PPCR results framework;
- e) Support the JNAP-TWG and other PPCR focal points in line ministries to conduct an annual evaluation of PPCR project performance and liaise with the relevant ministries to ensure that the PPCR results reporting system is consolidated, updated and taken into account throughout the project implementation cycle;
- f) Support the JNAP-TWG in implementing the communications strategy for the entire CRSP and CIRP as well as a results management system for various adaptation programs and projects;
- g) Support the project teams and other national stakeholders in adopting international best practices in implementing communication strategies related to communities and climate change;
- h) Review the design and implementation of all training and knowledge sharing activities with regard to gender needs and benefits, and provide guidance on their revision;
- i) Assist in training and knowledge sharing activities, and ensure the broad participation of women through training set-up and arrangements; and
- j) Coordinate with other consultants in identifying areas where gender-inclusive and socially inclusive provisions can be strengthened under the CRSP and CIRP.

- k) Develop and maintain good communications with all CRSP and CIRP project teams, development partners, and government counterparts to facilitate a participatory communication process for designing and implementing project activities and promoting knowledge sharing

C. Social Specialist (Community and Gender) – International under OIREP PMU (2 person months)

The expert will have substantial and demonstrated experience working in developing countries environments, with a degree in social science and relevant experience ideally in projects funded by the international development community. The activities to be undertaken will include but not be limited to the following:

- (i) Review existing ADB documentation relating to the project and other documents. Through desk study and site visits identify gender, social, land acquisition and resettlement issues identified during PPTA, and update relevant data and reports. Conduct necessary consultations and meetings with affected persons (APs) and stakeholders. Prepare detailed implementation activities and related training, by targeting women participation in the project activities.
- (ii) Finalize identified training activities and ensure accomplishment of gender targets for project communities.
- (iii) Prepare a training plan, design training modules with clearly defined target knowledge, skills, and attitude (KSA) from training, carry out training activities of target men and women trainees.
- (iv) Facilitate disclosure of relevant information to APs and local stakeholders on entitlement, grievance redress mechanism.
- (v) Assist the government in addressing effectively any grievances of persons affected by the project.
- (vi) Recommend necessary inputs, if needed, to other project implementation documents (e.g. bidding documents) on resettlement aspects.