

Land Acquisition and Resettlement Framework

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Papua New Guinea: Sustainable Highlands Highway Investment Program

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CURRENCY EQUIVALENTS
(as of 1 February 2017) Currency

Unit – Kina (K)
K1.00 = \$0.32
\$1.00 = K3.10

ABBREVIATIONS

ADB	-	Asian Development Bank
APs	-	Affected persons
CEP	-	Community Engagement Program
COA	-	Certificate of Alienability
CPP	-	Community Participation Program
DAL	-	Department of Agriculture and Livestock
DDR	-	Due Diligence Report
DLO	-	District Lands Officer
DLPP	-	Department of Lands and Physical Planning
DMO	-	Disaster Management Office
DMS	-	Detailed measurement survey
DOW	-	Department of Works
DPs	-	Displaced persons (physically or economically)
DSC	-	Design and Supervision Consultant
EHP	-	Eastern Highlands Province
GAP	-	Gender Action Plan
GoPNG	-	Government of Papua New Guinea
HH	-	Highlands Highway (or Okuk Highway)
HIV/AIDS	-	Human Immunodeficiency virus/ acquired immunodeficiency syndrome
HRMG	-	Highlands Region Maintenance Group
HRRIP	-	Highlands Region Roads Improvement Investment Program
IMO	-	Independent monitoring organization
LAR	-	Land acquisition and resettlement
LARF	-	Land acquisition and resettlement framework
LARP	-	Land acquisition and resettlement plan
LIR	-	Land Investigation Report
LLG	-	Local-Level Government
LSB	-	Lands and Survey Branch, DOW
MFF	-	Multi-Tranche Financing Facility
M&E	-	Monitoring and Evaluation
MOA	-	Memorandum of Agreement
Momase	-	Morobe, Madang, and Sepik region
NEC	-	National Executive Council
NGO	-	Nongovernmental organization
NRA	-	National Roads Authority
NTDP	-	National Transport Development Plan
PFR	-	Periodic Financing Request
PLO	-	Provincial Land Officer
PMO	-	Program/Project Management Office
PNG	-	Papua New Guinea

SES	- Socio-economic survey
T1 (T2,T3)	- Tranche 1 (2 and 3)
WHP	- Western Highlands Province

GLOSSARY OF TERMS

Meaningful consultation	A process that (i) begins early in the PPTA and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision- making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation measures. This follows the principles of free, prior, and informed consent (FPIC).
Displaced persons	In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Affected persons	All persons living in the project impact zone whether they are land owning, land users, tenants or without title to land.
Indigenous peoples	This is a generic term used to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self- identification as members of a distinct indigenous cultural group and recognition of this identity by other groups; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. Almost all groups in Papua New Guinea (PNG) are indigenous peoples and they remain the majority and do not suffer specific discrimination or disadvantage in comparison to other citizens.
Physical displacement	This means relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Economic displacement	Loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.
Gender mainstreaming	The process of ensuring that gender concerns and women's needs and perspectives are explicitly considered in projects and programs, and that women participate in the decision-making processes associated with development-based activities.
Country safeguard system	This is the legal and institutional framework of PNG and it consists of its national, sub-national, or sectoral implementing institutions and relevant laws, regulations, rules, and procedures that pertain to the policy areas of social safeguards (social and environmental).
Significant impact	The loss of 10% or more of productive assets (income generation) or physical displacement and/or both.

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A. Introduction

1. The Government of Papua New Guinea (GoPNG), with the Department of Works and Implementation (DOW) as the executing agency (EA), is requesting financial assistance of the Asian Development Bank (ADB) to implement the Multi-tranche Financing Facility for the Sustainable Highlands Highway Investment Program (SHHIP or 'the Investment Program'). Funding will be provided through a multi-tranche financing facility (MFF) comprising discrete projects to be implemented sequentially over ten years under an envisaged three tranches. The estimated total cost of the Investment Program is about \$1 billion. The Investment Program includes physical components (i.e., transport infrastructure development) some of which will involve limited land acquisition and resettlement (LAR) impacts¹ as well as non-physical works such as institutional strengthening and capacity building within the transport sector.

2. The national road identified for funding under the Investment Program, and likely to involve some degree of land and resettlement impacts, is the Highlands Highway (HH) from Kagamuga airport, near Mt. Hagen to the Nadzab junction, near Lae (430 km). It is not anticipated, however, that there will be any involuntary resettlement impacts, in Tranche 1, as most of the initial civil works will take place within the existing 40 meter (m) wide road corridor, and because engineering designs will try to minimize the amount of land needed, and therefore avoid resettlement impacts. Most work undertaken in Tranche 1 will involve only maintenance and upgrading works executed within the existing highway cross section, and the alignment and longitudinal profile of the road will be maintained, so this is not likely to have significant impacts on local roadside communities. Tranche 1 of the Investment Program has been classified by ADB as Category C for resettlement.

3. The overarching objective of the Investment Program is to: (i) improve access to health and education, and raise standards of living; (ii) to increase opportunities for equality and prosperity in rural areas; and (iii) to provide a well-integrated, safe, financially and environmentally sustainable transport system. The expected outcome is to make the movement of people, goods, and services between the Highlands region and domestic and international markets safer and more efficient.

4. The ten-year Investment Program has been designed to:

- Restore, upgrade and effectively maintain the entire 430 kilometers (km) section of the Highlands Highway (HH) from day one;
- Increase the resilience to climate change and the safety of pedestrians and vehicle occupants;
- Improve transport logistics and services between the provincial capitals; and
- Develop DOW managerial and operational capacity to deliver the Investment Program and sustain its benefits.

5. The Investment Program concept is based on the observation that the failures of the road pavement are primarily due to a prolonged lack of maintenance, not to an inadequate structural design, except for the flood-prone sections in the Morobe Province. Many sections can be restored without engaging in costly reconstruction if corrective

¹ According to ADB OM/F1 (March 2010), involuntary resettlement impacts are considered significant if 200 or more people will experience major impacts, which are defined as: (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets.

actions are implemented rapidly. The current two-lane design is sufficient to carry the projected traffic over the next 20 years, except in the vicinity of Goroka town. Road traffic safety is very poor and pedestrians are especially at risk, including children who use the highway to walk to school. Twenty-nine one-lane bridges constitute a primary safety hazard and 40 two-lane bridges need repairs, if not reinforcement or full reconstruction. Climate change is also a threat, although of uncertain nature, and the budget for the Investment Program is constrained, given PNG's recent economic downturn.

6. The main components and core activities to be undertaken during the Investment Program are:

- Comprehensive sustained maintenance, including specific repairs, routine and periodic resurfacing to keep the road open to traffic at all times, and to improve ride comfort; salvaging the road sections which are in fair condition; removing vegetation encroachment; restoring drainage efficacy; unearthing paved shoulders; and setting up a quick-response mechanism to address emergency situations.
- Appropriate upgrading by incrementally resurfacing or strengthening the pavement structures; increasing the drainage capacity, protecting slopes from instability, and raising the road on flood prone sections in Morobe Province.
- Improving traffic safety through installation of crash barriers, signage, road markings, and implementation of a community road safety campaign
- Building a two-lane by-pass to divert heavy and through traffic around Goroka, and construction of about 20 km of truck climbing lanes on the steep slopes of Kassam and Daulo Passes
- Building two truck weighing stations in Jiwaka and Goroka; and building two logistic platforms for the trade of fresh produce in Jiwaka and Goroka.
- Widening all the 29 single-lane bridges to two lanes (with footpaths), which will require a limited number of realignments; and reinforcing and reconstructing as appropriate, all 40 two-lane bridges.
- Improving the capacity of the PNG DOW and related departments to manage and sustain bridge, road, and infrastructure assets, and also to provide greater levels of accountability and transparency of safeguards, in particular, land acquisition and resettlement processes.

7. The Investment Program has been designed to have three overlapping tranches: Tranche 1 (T1) from 2017-2021; Tranche 2 (T2) from 2019-2024, and Tranche 3 (T3) from 2023-2027. Maintenance and upgrading works will start immediately under two Output and Performance Based Road Contracts (OPRC) of about 200 km each. The entire crossing of Simbu Province will be executed under a third contract during Tranche 1, since it is in very poor condition. The other upgrading works and road safety improvements will be executed gradually over the ten-year Investment Program period during T2 and T3. The field investigations, detailed design, and safeguards due diligence, will be completed during T1.

8. This Land Acquisition and Resettlement Framework (LARF) was prepared by DOW to detail mechanisms, procedures and compensation entitlements for planning and implementing land acquisition tasks for relevant works or subprojects under the Investment Program. The nature of MFF lending is that the types of activities to be undertaken and the types of subprojects to be implemented are known in general terms but only a small number of subprojects may be identified at the Investment Program approval stage, although in the case of this Investment Program, the planned works are known with a greater degree of detail than usual. The LARF will clarify safeguard principles and requirements governing screening and categorization, social assessment, and preparation and implementation of safeguard plans for components, projects and subprojects to be prepared **after** MFF approval. The LARF (in English) will be posted on the ADB website and it will also be disclosed on the DOW website.

9. Based on ADB procedures for MFFs, the Investment Program appraisal is carried out together with the appraisal of the first tranche of works or subprojects (where known), collectively referred to as Tranche 1. Subsequent tranches will be appraised once the EA sends to ADB a Periodical Financing Request (PFR) accompanied by the final documents and technical studies for each subproject under the respective tranche.

10. LAR tasks involved in the approval and implementation of the MFF as a facility and each tranche will require the preparation of the following documents:

- (i) A LARF for the MFF, as a facility, applicable to all subprojects implemented under the Investment Program. The LARF will be reviewed, if necessary updated, and submitted for ADB approval at least annually, and at the start of preparing PFRs for each subsequent tranche under the MFF;
- (ii) An Initial Poverty and Social Assessment (IPSA) for each tranche indicating LAR impacts, magnitude, type and likelihood of impacts on Indigenous Peoples (IP); and
- (iii) Depending on the extent and categorization of impacts, a LARP **or** Due Diligence Report (DDR). In the case of a LARP, this will include detailed compensation budgets and implementation schedules linking LAR tasks to the initiation of civil works.

11. Based on ADB policy and practice, the appraisal of the MFF and each tranche, and subsequent approval for subproject implementation will be based on the following LAR-related conditions:

- (i) **MFF and Tranche 1 appraisal:** Conditional on the preparation and disclosure of: a) LARF acceptable to ADB and Government; b) IPSA; and c) LARPs or DDRs acceptable to ADB and Government for Tranche 1 subprojects requiring LAR.
- (ii) **Approval of PFR for following tranches:** Conditional on: a) LARF review, update, re-disclosure, and b) preparation and disclosure of LARPs consistent with the revised LARF and acceptable to ADB and Government for each tranche subproject with land and resettlement impacts.
- (iii) **Implementation – Start of Contract (construction) for subprojects with LAR impacts:** Conditional to the finalization and disclosure of “implementation-ready” LARPs acceptable to ADB and reflecting final impacts, affected person (AP) lists, asset valuations, and

compensation rates. A Compensation Completion Report if required will be submitted to ADB for clearance before the start of physical civil works.

- (iv) **Initiation of physical civil works in subproject sections with LAR Impacts:** Conditional on the full implementation of the relevant LARP including full delivery of compensation and rehabilitation to affected people. Such a condition will be clearly spelled out in the text of the civil works contract.

12. LARP preparation will be integral part of the preparation of any Tranche 1 subprojects, starting with and poverty and social analysis, and impact screening tasks and ending with a readily implementable LARP based on detailed design. LARP preparation entails the execution of: a) a Detailed Measurement Survey (DMS) of all land and non-land impacts; b) a census of all affected households (AHs) and affected persons (APs); c) a valuation of all affected assets and a LAR budget, and; d) a socio-economic survey (SES) of the AHs based on a 20% statistical sample.²

B. Objectives, Policy Framework and Entitlements

(i) Objectives

13. This LARF has been prepared in order to provide safeguards to potential Displaced Persons (DPs), and to ensure that the impacts of all subprojects to be included under the Investment Program are identified, mitigated and compensated for, in accordance with the acts and policies of the government and ADB.

14. The policy framework and entitlements for land acquisition/resettlement are based on the laws, regulations and policies of the Government of Papua New Guinea (GoPNG) and the ADB Safeguards Policy Statement 2009 (SPS 2009). The principal PNG laws include: (i) the 1975 Constitution; (ii) the 1996 Land Act; (iii) the 2000 Land Disputes Settlement Act; (iv) Fairness of Transaction Act (1993); (v) Land Group Incorporation (Amendment) Act (2009); and (vi) Customary Land Registration Act (2009).

(ii) PNG Legal Framework

15. In PNG, the majority of land is customary land where ownership of specific territorial areas is vested in descent groups or clans. Clan members or “primary rights holders” are co-owners, with rights to use but not to alienate land. They own/possess these lands as stewards for future generations. Land ownership and use is an integral part of the identity, the sustenance, and the social relations of clans; property rights are inherited from ancestors through either the patrilineal or matrilineal descent and maintained in trust for future generations.

² Detailed measurement survey (DMS) and census include: i.) a full inventory/measurement of all land/other items losses including buildings, crops, trees, and income; ii.) an assessment of unit replacement values for each affected item/loss based on government schedules; iii.) identification of each AH/AP by gender, age and ethnic affiliation. The DMS is the term used by ADB but its objective and scope are similar to the Land Investigation Report (LIR) as set out in the PNG 1996 Land Law, namely, to document land and other assets (or land and improvements on land) that are affected by the additional land required to upgrade and rehabilitate roads

16. The State has no authority over customary land other than the provisions of the Land Act, which enables the government to acquire customary land for public purposes upon payment of just compensation. Provincial roads as well as many national “feeder” roads have generally been developed on customary land that has not been alienated by the State. However, the government has recently introduced a policy that all state infrastructure and assets should be built on state land, and has begun to alienate land for government facilities, where funds exist to pay for this. The use of customary land requires agreement of customary landowners.

The PNG Constitution

17. The 1975 Constitution explicitly provides for the adoption of custom as part of the underlying law of PNG (Schedule 2), thus recognizing the property rights attached to customary land. During the colonial administration, the 1963 Customs Recognition Act stated that “custom shall be recognized and enforced by, and may be pleaded in, all courts...” (Art. 3(1)(a)). Following independence, these principles were reaffirmed in the Constitution and, subsequently, in the 2000 Underlying Act. Customary law is defined as the rules, rights and obligations pertaining to an individual or group by custom and tradition; and, according to the 2000 legislation, it shall apply and be recognized by the courts where written and underlying laws do not apply and except as it is inconsistent with written law.

18. The Constitution also guarantees the right of PNG citizens to protection from unjust deprivation of property (Art. 53). No land or interest in land may be acquired compulsorily by the State except as it is required for public purposes or other justifiable reasons. Moreover, in the event of expropriation of land, “just compensation must be made on just terms by the expropriating authority” (53(2)).

The Land Act (1996)

19. The Land Act (No. 45 of 1996) sets out the conditions and procedures for the State to acquire customary land required for public purposes such as roads, bridges, culverts and quarries. Usually the government negotiates agreements with customary landowners for the purchase of land, but it can also compulsorily acquire land. The acquisition process involves several steps, including: initial investigation, land survey by a registered surveyor; land investigation report (LIR - which includes genealogical research to list the names of all those with rights in the land); the valuation of land and improvements and verification by the Valuer-General; payment of compensation; registration of land for state ownership by Department of Lands and Physical Planning; granting of the Certificate of Alienation; and finally the transfer of title. The key provisions of the Act are presented in Appendix 3: Salient Provisions of 1996 Land Act.

The Land Disputes Settlement Act (2000)

20. The Land Disputes Settlement Act (No. 10 of 2000) was initially adopted in 1975. It sets out rights and procedures related to the resolution of disputes involving customary land. It recognizes as parties to these disputes, customary kinship groups, customary descent groups and customary local groups or communities (S2). It also requires that proceedings take into account relevant customs (S35 (1) (d)). The Act provides for the establishment of a Provincial Land Disputes Committee, as well as Land Courts at the local (LLG), district and provincial levels. The Committee can appoint land mediators for specified land mediation areas where disputes occur; a mediator may be the Local Land Court Magistrate (LLCM), a Village Magistrate, a Local Councillor or other senior person of good standing with the

litigants. The Act promotes a process for resolution of land disputes through (i) a first step of mediation; if mediation fails, it is followed by (ii) appeal to the designated courts. The mediation process is based on the principles of traditional dispute settlement in PNG.

Fairness of Transaction Act (1993)

21. The Fairness of Transaction Act of 1993 relates to the effect of certain transactions, to ensure that they operate fairly without causing undue harm to, or imposing too great a burden on, any person, and in such a way that no person suffers unduly because he is economically weaker than, or is otherwise disadvantaged in relation to, another person. The purposes of this Act are to (a) ensure the overall fairness of any transaction which (i) is entered into between parties in circumstances where one party is for reasons of economic or other advantage predominant and the other is not able to exercise a free choice; or (ii) for one reason or another, without attaching any evil design or bad faith, appears to be manifestly unfair or not to be genuinely mutual; and (b) allow for the re-opening and review of any transaction irrespective of fault and validity, enforceability or effect of any agreement; and (c) ensure the fair distribution and adjustment of rights, benefits, duties, advantages and disadvantages arising out of a transaction. Transaction means any contract, promise, agreement, dealing or undertaking of an economic or commercial nature whether supported by consideration or not entered into between parties, and includes (a) an informal, complete or incomplete transaction; and (b) a transaction governed by customary law.

Land Group Incorporation (Amendment) Act (2009) and Voluntary Customary Land Registration Act (2009)

22. These Acts were brought into effect in 2011, following recommendations from the National Land Development Taskforce. The Acts recognize the corporate nature of customary groups and allow them to hold, manage and deal with land in their customary names, and for related purposes. These also facilitates the voluntary registration of customary land, to be known as “registered clan land”, and makes that land available for development through the use of Incorporated Land Groups (ILGs). These laws encourages (a) greater participation by local people in the national economy by the use of the land; (b) better use of such land; (c) greater certainty of title; (d) better and more effectual settlement of certain disputes; (e) legal recognition of the corporate status of certain customary and similar groups; (f) conferring on them, as corporations, of power to acquire, hold, dispose of and manage land, and of ancillary powers; and (g) encouragement of the self-resolution of disputes within such groups.

(iii) The ADB Safeguard Policy

23. The ADB Safeguard Policy Statement 2009 (SPS 2009), applies to losses due both to physical and economic displacement caused by involuntary acquisition of land and is based on the following basic principles:

- Involuntary resettlement should be avoided wherever possible.
- Projects should be screened early on to identify past, present and future involuntary resettlement impacts and risks. Affected people are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cutoff date, preferably at the project identification

stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.

- **Meaningful consultations:** The affected people are to be fully informed and closely consulted. Affected people are to be consulted on compensation and/or resettlement options, including relocation sites, and socioeconomic rehabilitation. Pertinent resettlement information is to be disclosed to the affected people at key points, and specific opportunities provided for them to participate in choosing, planning, and implementing options. Grievance redress mechanisms are to be established to receive and facilitate resolution of affected persons concerns. Where adversely affected people are particularly vulnerable, (landless, elderly, women, or disabled people) resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning, and implementation.
- Where population displacement is unavoidable, it should be minimized by providing viable livelihood options.
- **Replacing what is lost:** If individuals or a community must lose part of their land, means of livelihood, or social support systems, so that a project might proceed, they will be promptly compensated and assisted through replacement of land, housing, infrastructure, resources, income sources, and services, in cash or kind, so that their economic and social circumstances will be improved or at least restored to the pre-project level. All compensation is based on the principle of replacement cost for assets that cannot be restored, and additional revenues and services will be provided through benefit sharing schemes where possible.
- Each involuntary resettlement is conceived and executed as part of a development project or program. ADB and executing agencies or project sponsors, during project preparation, assess opportunities for affected people to share project benefits. The affected people need to be provided with sufficient resources and opportunities to reestablish their livelihoods and/or homes as soon as possible, with time-bound action in coordination with the civil works.
- **Social and cultural institutions:** Institutions of the affected people, and, where relevant, of their hosts, are to be protected and supported. Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.
- **No formal title:** Ensure that displaced/affected people without formal legal rights to land, and others, who may have usufruct or customary rights to affected land or other resources, are eligible for resettlement assistance and compensation for loss of non-land assets. The absence of a formal legal title to land is not a bar to ADB policy entitlements. APs who neither have formal legal rights nor recognized or recognizable claims to land should be compensated for all non-land assets and for other improvements to the land. In PNG, this particularly applies to women.
- **The Poorest:** Particular attention must be paid to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment. This may include those without legal title to land or other assets, households headed by females,

the elderly or disabled and other vulnerable groups. Appropriate assistance must be provided to help them improve their socio-economic status.

- The full resettlement costs are to be included in the presentation of project costs and benefits. This includes costs of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over the “without project” situation that are included in the presentation of project costs and benefits. The budget also includes costs for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior to approval of the loan. Similarly, resettlement plans should also reflect the timeframe for resettlement planning and implementation.
- Eligible costs of compensation: relocation and rehabilitation may be considered for inclusion in ADB loan financing for the project, if requested, to assure timely availability of the required resources and to ensure compliance with involuntary resettlement procedures during implementation.
- Compensation and rehabilitation allowances are to be provided before the land is acquired, or any physical or economic displacement occurs.
- The resettlement outcomes, their impacts on the standards of living of displaced/affected persons, and whether the objectives of the resettlement plan have been achieved, should be monitored, assessed, and reported by taking into account the baseline conditions, and the results of resettlement and land acquisition monitoring.

(iv) Identification of Gaps between ADB Policy and PNG Law

24. The land laws of PNG and ADB policy diverge on some key points on involuntary acquisition of land. The following table provides the comparison of PNG laws and ADB SPS 2009 requirements for land acquisition and resettlement, the assessment of equivalence or gaps between ADB SPS 2009 and PNG laws, and gap-filling measures included in the LARF. When Investment Program roads require land acquisition and resettlement, measures adopted in the LARF will apply wherever a gap exists between PNG laws and ADB SPS. While there are frequently challenges on timely completion of negotiated agreements on land use, and in the registration and alienation of customary land, LARPs will be frequently updated and measures to resolve any land issues will be pro-actively implemented during Tranche 1 and subsequent tranches.

Table 1: Comparison of PNG Laws and ADB SPS on Land Acquisition/Resettlement

ADB requirement on involuntary LAR	PNG Law on land acquisition / resettlement	Gaps between ADB SPS and PNG Law	Gap-filling measure
Avoid involuntary land acquisition resettlement wherever possible. Minimize involuntary resettlement by exploring project and	The National Constitution (National Goal 5 (4)) clls for 'traditional villages and communities to remain as viable units of PNG	No explicit reference to need for avoidance or minimizing resettlement impacts	The LARF includes measures on avoiding and minimising land acquisition. Subprojects identify specific measures to achieve

ADB requirement on involuntary LAR	PNG Law on land acquisition / resettlement	Gaps between ADB SPS and PNG Law	Gap-filling measure
design alternatives	society'. Section 53 protects citizens from 'unjust deprivation of property' by limiting the justification for acquisition by the state		this.
Enhance, or at least restore, the livelihoods of displaced persons in real terms relative to pre-project levels. Improve the standard of living for affected poor and other vulnerable groups	General principles of compensation for destruction of physical and economic assets are set out in NC x.53.Land Act (LA) s.23	PNG law does not prescribe measures of replacement cost or need to restore/improve stand of living	The LARF and LARPs contain measures for compensation at replacement cost for assets and to restore or improve living standards of APs.
Screen the project early to identify past and future resettlement impact and risks. Determine the resettlement needs through a survey/census of persons, including an analysis of specific impacts / risks.	Land Act sets out the process for the Land Investigation Report which includes identification of all members of affected clans/tribes and their assets.	No specific requirements for a census, cut-off date for entitlements, impact assessment or resettlement planning	The LARF includes measures on surveys/census, the cut-off date for entitlements, assessment of needs and resettlement planning. LARPs include specific information on particular subprojects.
Carry out meaningful consultations with APs, (including those without legal title), host communities, and concerned NGOs. Inform DP/APs of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of LAR programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and those without legal title to land, and ensure their participation in consultations.	NC National Goal 2(9) calls for every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his/her interests or community.	No specific provisions for preparing and implementing LARPs based on meaningful consultations with APs, including the poor, landless, elderly, women and other vulnerable groups	Subproject LARPs require specific consultation and information disclosure measures.
Establish a grievance redress mechanism to	The Land Disputes Act provides for a process	No requirements for a project-specific GRM.	The LARF and LARP contain detailed

ADB requirement on involuntary LAR	PNG Law on land acquisition / resettlement	Gaps between ADB SPS and PNG Law	Gap-filling measure
<p>receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase</p>	<p>of resolution of land grievances, both through local mediation as well as through court processes.</p>	<p>No specific requirement for a social preparation phase for highly complex and sensitive projects.</p>	<p>measures for a project redress mechanism.</p> <p>The Investment Program will not involve highly sensitive projects, and most land acquisition will be by negotiated agreement, so it does not need to have a preparation phase.</p>
<p>Improve, or at least restore the livelihoods of all DP/APs through (i) land-based resettlement strategies where possible, or cash compensation at replacement value for land, (when 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 anything that cannot be restored; and (iv) additional goods and services through benefit sharing schemes where possible.</p>	<p>Principles of resettlement are set out in NC x.53, LA s.23.</p>	<p>No specific requirement for land-based resettlement, replacement of assets, compensation at replacement cost, or benefit sharing. Valuer General's Schedule is from 2013.</p>	<p>The LARF and LARPs measures for on-site relocation/replacement of affected structures, compensation at cost for affected assets, and where possible, additional land and project employment for affected people.</p>
<p>Provide physically and economically displaced persons for needed assistance, including: (i) secure tenure to replacement land, better housing, access to employment and production opportunities, integration of resettled persons into their host communities, and project benefits for host</p>	<p>PNG law allows compensation for lost assets, and entitlements can be received in cash.</p>	<p>PNG law has no specific provision for relocation, transitional support, or rebuilding of civic infrastructure and services</p>	<p>The LARF and LARP contain measures for affected structures, adjoining land and allowances.</p>

ADB requirement on involuntary LAR	PNG Law on land acquisition / resettlement	Gaps between ADB SPS and PNG Law	Gap-filling measure
communities; (ii) support and development assistance, such as land, credit, training or employment, and (iii) civic infrastructure and community services required.			
Vulnerable People: improve the standard of living of displaced and other vulnerable groups, including women, to at least national minimum standards, and assist them with legal affordable land, adequate housing, and appropriate income sources,	NC and LA include principles for restoring damages or losses	PNG law does not prescribe measure for improvement of living standards to national minimum standards, nor for restoration of livelihoods, or access to income generating sources	The LARF includes provisions for livelihood restoration of APs. For subprojects, the LARPs will record the specific number of APS, their losses, and measures to replace these.
Develop transparent, consistent, and equitable procedures for land acquisition through negotiated settlements by recognizing the asymmetry of information and bargaining power of the parties involved and by agreeing on (a) consultation processes applicable to such transactions, (b) third party validation, (c) mechanisms for calculating replacement costs of land and assets, and (d) record-keeping requirements	<p>The National Constitution calls for 'every citizen to be able to participate...in the consideration of any matter affecting his interests or the interests of his community'.</p> <p>Land Act sets out procedures for outright land purchase or lease through agreement</p> <p>The Land Group Incorporation Act and Voluntary Customary Land Registration Act enable incorporated land groups to register titles to customary land, allowing for negotiated leases or transfer of such land.</p> <p>The Fairness of Transaction Act sets out rules on fairness of transactions</p>	No explicit requirement on third-party validation, or calculation of compensation at replacement cost	The LARF includes measures on the consultation process, documentation, third party verification of negotiated agreements and the provision of compensation at replacement cost for purchase of land. It also describes the negotiations for additional land with landowner groups, through memoranda of agreement (MOAs) signed with respective landowners.
Prepare a LARP elaborating on DPs	The NC National Goal 2(3) calls for 'every	PNG law has not provision for a formal	The LARF includes guidelines on preparing

ADB requirement on involuntary LAR	PNG Law on land acquisition / resettlement	Gaps between ADB SPS and PNG Law	Gap-filling measure
entitlement's, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget and time-bound implementation plan.	effort to be made to achieve an equitable distribution of incomes and other benefits of development among individuals and throughout the various parts of the country'.	LARP	a LARP for subprojects involving land acquisition and/or resettlement impacts.
The draft LARP, including documentation of the consultation process, must be disclosed in a timely manner before project appraisal (in an accessible place, and a form and language understandable to APs and other stakeholders.) The final LARP must also be disclosed.	No specific provisions on disclosure, apart from the constitutional requirement for 'participation'.	No specific requirements on disclosures.	The LARF includes disclosure requirements, including posting of the LARF and LARP on the ADB website, providing clan and community leaders, and APs with a summary LARP or information brochures (spelling out entitlements and the GRM) in the local language,
Conceive and execute the land acquisition and resettlement as part of a development program, and include full costs in the presentation for the program's costs and benefits.	No equivalent provision	Costs of the purchase of land are given in the LIR and Valuation, but there are no other wider costs included (such as survey and valuation, or income restoration costs)	Land acquisition and resettlement costs will be included and financed out of the program costs (with the government contribution being responsible for land purchase costs)
All compensation and resettlement entitlements must be provided before any displacement or commencement of works.	No equivalent provision	No such provision in PNG law	The LARF includes measure on payment of compensation for affected assets before the start of civil works on affected land. Subproject LARPs include an implementation schedule to ensure this.
Monitor and assess land acquisition and resettlement outcomes, their impacts on standards of living of DPs and whether objectives have been achieved, by taking account of baseline conditions and results of monitoring. Disclose reports	No equivalent provision for monitoring and reporting on impacts	Gap	The LARF and LARPs include monitoring measures, including requirements for semi-annual safeguard monitoring report by the PMO of the Executing Agency, and provision for third party monitoring.

(v) Criteria for screening and selecting subprojects

25. During the Investment Program, the components to be undertaken in each tranche will be known and the detailed design for each component and subproject will be carried out at the appropriate stage. During T1, the road restorative and maintenance activities will start immediately under the two OPRCs and continue throughout the program duration. The road strengthening works on the Simbu section will be undertaken during Tranche 1 and 2 through the separate RIC contract, and will be handed over in good condition to the Henganofi-Kagamuga OPRC contractor in T3. All other components such as investments in bridges, trade and logistic platforms, weigh stations, and overtaking lanes will be undertaken during T2 and T3.

26. The PMO will screen each subproject for their potential land acquisition and resettlement impacts, and will adopt measures to avoid or minimize the impacts (see Appendix 6). Eligible subprojects will be identified for upgrading, rehabilitation or new construction using criteria yet to be decided by the Program and GoPNG, but likely to include the following:

- subproject feasibility studies reflect need and high development priority;
- the proposed civil works will not have any significant adverse effect on the environment;
- the proposed civil works will not have any significant resettlement impacts; and
- environmental mitigation, land acquisition and resettlement plans will be prepared and other social issues addressed in accordance with ADB's guidelines.

27. During T1, all the field investigations, technical studies, safeguards due diligence and preparation of bidding documents will be completed, including all the assessment and planning needed to produce LARPs for each subproject. For the few subprojects which involve any additional land acquisition outside of the current road corridor, (such as upslope drainage work at landslide sites, or land needed for widening of bridges) the PMO and DOW will coordinate with provincial and district authorities, and the DLPP in conducting the necessary due diligence. The screening form provided in Appendix 6 will be completed after initial site visits and, as relevant, in consultations with potential DPs/APs. As a result of the screening, the PMO may recommend a) further redesign of the subproject to minimize extent and costs of land/resettlement, or b) the preparation of a LARP if there are impacts and losses, or (c) where there is no physical or economic displacement, a due diligence report (DDR) to be written which will:

- provide a brief description of the site including a location map and pictures;
- give a description of proposed works and types of activities;
- determine whether the subproject will require land acquisition;
- investigate the land status, ownership, and usage supported by deeds of title/records;
- explore the history of previous land payments, if any;
- report findings of the field visit and observations on the subproject sites;
- report outcomes of consultations with landowners and other stakeholders, and provide records of meeting such as attendance, minutes etc.; and
- confirm that a LARP is not needed.

28. Where a proposed subproject is likely to have significant adverse economic, social or environmental project-related impacts, the Investment Program will weigh the possible benefits to decide whether it should be included, but such subprojects are likely to be totally excluded unless impacts can be properly minimized, mitigated or compensated.

(vi) LARP preparation and implementation process

29. In order to minimize the incidence of encroachment on to land required for upgrading and rehabilitation of roads and bridges, the identification on APs and affected assets, and negotiation of entitlements to compensation and/or rehabilitation assistance, will occur following detailed engineering design, and prior to the initial of civil works. There will be full consultation and disclosure of requirements for land. Once the community has been consulted, and assets assessed, there will be a “cut off” date for eligibility for compensation and rehabilitation assistance. Landowners and users that have documented claims to affected land, crops, trees, or structures at the cut-off date will be eligible for compensation. Others who occupy or use land required for upgrading or rehabilitation of the road or bridge, after the cut-off date, will not be eligible for any compensation or assistance, and they will be required to vacate the land, as per the provisions of the land act.

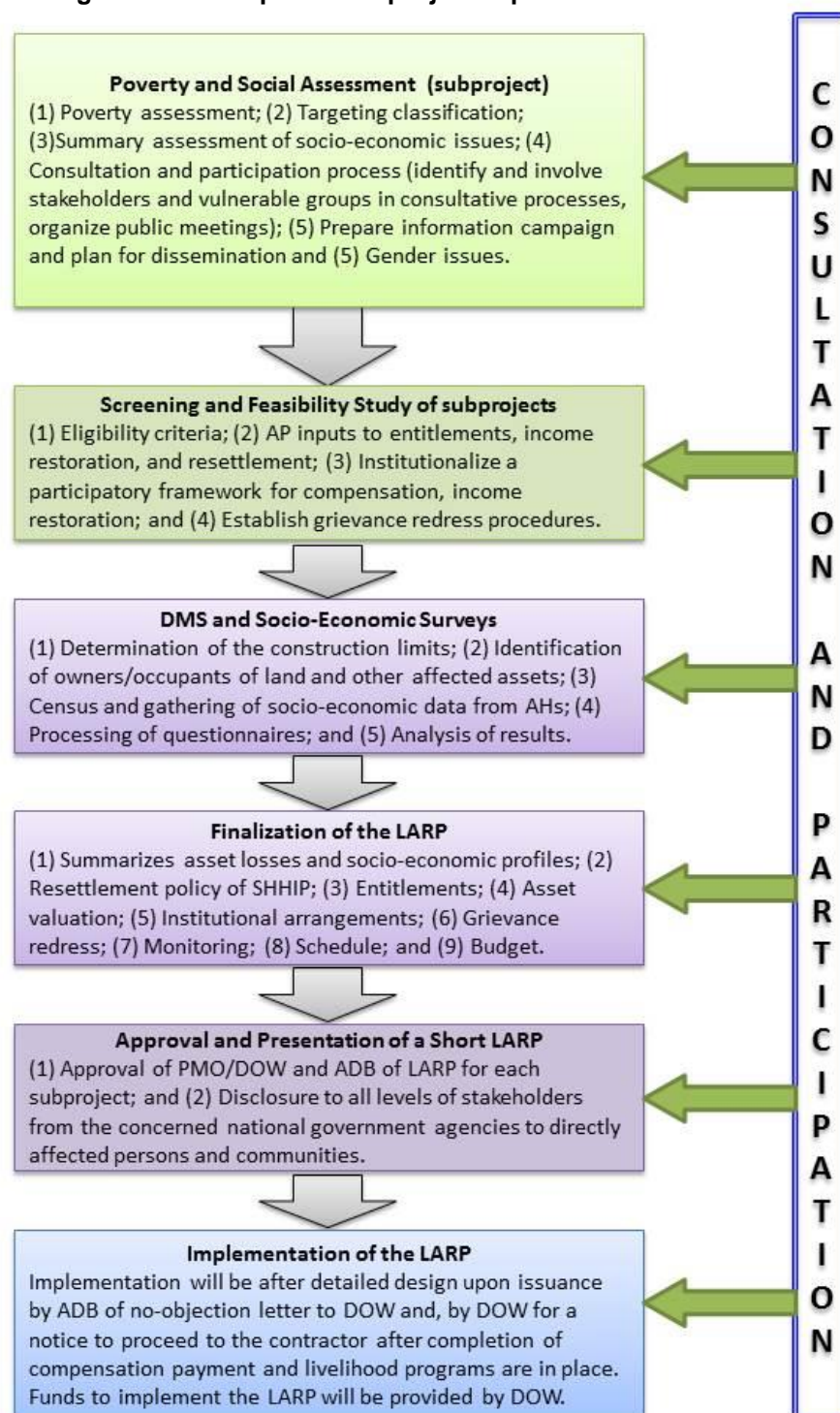
30. A Due Diligence Report for T1, which is not expected to have land acquisition impacts, was prepared by the project preparation consultants and DOW. LARPs for following tranches will be prepared by the detailed design consultants and DOW. LARP implementation will be overseen by the supervision consultants and PMO. LARP preparation and implementation will follow the process detailed below:

- LARP preparation. This phase will be carried out in parallel with the preparation of the subproject screening and feasibility study (See Annex A for a standard outline of a LARP). The draft LARP will be presented to APs and other stakeholders in a public meeting. APs will be encouraged to express concerns and make suggestions about compensation and land acquisition activities. Copies of the draft LARP and/or summary brochures will be available during these consultations.
- LARP review and finalization. This phase will be carried out during detailed design preparation and will include eventual updates of impacts (AP data) and revision of compensation rates. Contracted construction activities will be initiated after review and final LARP approval.
- LARP implementation. This phase will start after the final LARP is approved and will be concluded with the provision of due compensation to all DPs and AHs.
- Civil works implementation. In general, civil works will start only after all AHs are compensated and a compliance report is prepared by the external monitoring/third party validation organization. However, if a road has sections without impacts and with sufficient length to economically justify construction, civil works for these sections may be initiated immediately after the beginning of the construction phase of the contract. In these cases, the absence of impacts will have to be demonstrated by a due-diligence report, and community agreement must be obtained.

31. The following diagram clarifies the different social and land acquisition phases and

associated activities involved in the implementation process:

Figure 1: Social phases of project implementation for SHHIP



(vii) Estimates of the number of affected persons and categories of DPs

32. Because all of the works or subprojects are not yet known for the Investment Program as a whole, it is not possible to estimate accurately the number of affected persons. It is

expected that the Investment Program will have impacts on quite a large number of rural people and a smaller number of urban people. However, the number of *directly* affected persons is likely to be very small, as most subprojects will require little land, as some will be replacing existing structures or confined to the existing road corridor of 40m. It also depends on whether work is being undertaken in a rural or urban location, the form of land use at the subproject site, and the type of remedial action, which needs to be undertaken.

33. Of these affected people, it is likely that those physically displaced³ will be a very small minority, (less than 200) as the Investment Program will make efforts to avoid any physical displacement in its design of subprojects. The majority of those affected, will be those economically displaced⁴ from agricultural land (especially at potential landslide sites), roadside markets or small businesses (especially kiosks and canteens) along the highway. However, initial impressions from field visits are that very few of these will lose more than 10% of their income. During implementation, the PMO will conduct socio-economic surveys, a census, and inventory of losses, with an appropriate socio-economic baseline data to identify all persons who will be displaced by the Investment Program and to assess the project's socio-economic impacts on them. It will also investigate which land may have already been purchased by the state during previous rehabilitation programs.

(viii) Eligibility criteria for defining types of displaced persons

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

- a) DPs with formal legal rights (Type 1). These are generally the customary owners of clan lands or those with individual freehold titles recorded in the title registry and cadastral records in DLPP. This category also includes any leaseholders with formal legal rights as tenants. (Not a common occurrence in PNG).
- b) Persons whose rights are not formal or legal, but whose claims on land or assets are recognized under national or customary laws, such as those having usufruct rights or informal leases on customary land. (Type 2). Customary patrilineal land tenure systems in Highlands PNG are based on wives marrying into the clan, having usufruct rights to garden land, and although no titles may exist, in practice they are granted use of land through their husband's clan ownership rights. Where land records do not exist, documentation and testimony from community leaders and/or ward councilors would determine eligibility for compensation, replacement land, or other resettlement assistance.
- c) Persons with no legal rights to land or assets at the time of assessment or census. (Type 3). This may include internally displaced people, squatters, or wage laborers who depend upon the land acquired. They have neither legal rights nor recognizable ownership claims, but if the project land acquisition destroys their livelihoods, they are considered displaced persons and are entitled to receive resettlement assistance.

(ix) Entitlements

35. The following Entitlement Matrix summarizes the entitlements to compensation and rehabilitation assistance for works or subprojects in the Investment Program:

³ Physical displacement refers to relocation arising from loss of residential land or shelter.

⁴ Economic displacement refers to loss of land, assets, access to assets, income sources, or means of livelihoods.

Table 2: Matrix of Entitlements

Types of Impact	Entitled Person(s)	Entitlements & results	Implementation
Affected Land			
1. Temporary use of agricultural and fallow land, or vacant plots (for less than one year) for temporary road diversions, or land used for spoil, construction camps, or storage etc.	Customary land owners Individual legal landowners (identified during the village census and land investigations Land users (as recognized by clan leaders)	Use of land acquired through negotiated agreement with landowners. Rent negotiated under the lease. In the case of extraction of materials (e.g. gravel) from the land, the civil works contractor will negotiate directly with the landowner to reach agreement on payment of royalties.	Agreement to use customary land whether temporarily or permanently will be based on the following conditions: a) landowners agree to support upgrading and rehabilitation of the road b) land owners are fully consulted and make free, informed decisions regarding use of land; and c) they guarantee on behalf of all clan members that they will not disrupt the project in any way. For customary land used temporarily, cost of restoration of the land will be the responsibility of the contractors, and land will be returned to the owners on completion of project. Notice to be given to enable harvesting of seasonal crops; or compensation provided. If construction activities involve unavoidable livelihood disruption, compensation for lost income or period of disruption (whichever is greater).
	Government (for state-owned land) Users or occupants of state land	No compensation will be paid for use of the land Cash compensation at replacement cost will be paid for any damaged crops, trees, fences or other structures on project-affected land	
2. Permanent loss of land (residential, agricultural and fallow land, vacant	Customary landowners Land users as recognized by clan leaders	Use of land will be acquired through a negotiated Memorandum of Agreement with landowners.	(Same as temporary use)

Types of Impact	Entitled Person(s)	Entitlements & results	Implementation
plots, and commercial land)	Users or occupants of state-owned land	No compensation will be paid for use of land. Cash compensation at replacement cost will be paid for damaged crops, trees, fences of structures	
Other Affected Assets			
3. Loss of annual crops	Owners of short-term crops (regardless of their status in relation to land)	Cash compensation for damage or loss of standing crops to ensure income restoration, paid by DOW at replacement cost (according to DLPP schedule).	DPs will be given notice to harvest crops before site clearance or removal from required land. All compensation rates and amounts will be verified and approved by the Valuer-General's office and paid direct to owners of affected crops (for example, for women's garden, compensation will be paid to affected women working that garden)
4. Loss of perennial crops and trees, including fruit and timber trees of economic value	Owners of crops and trees	Compensation for damages as follows: a) APs given notice to harvest crops before removal from required land; b) cash for lost plants or trees calculated at replacement cost; and c) APs will be able to harvest trees and sell timber	All compensation assessed according to the DMS and cost survey shall be paid in full, prior to beginning of civil works. If further damage or loss occurs during civil works, the PMO will carry out further assessments and pay additional compensation as rapidly as possible, direct to the owners (including women).
5. Fencing	Owners of fences on land to be acquired for civil works	For wood and metal fences, cash compensation equal to the replacement cost at local market prices for the type of fencing materials lost or damaged. For wooden or vegetation fences, cash compensation at replacement cost for the type of plant material.	Same as above
6. Graves,	Owners of	Compensation paid equal	Result is restoration of

Types of Impact	Entitled Person(s)	Entitlements & results	Implementation
cemeteries and burial sites	graves	to the costs of reburial and construction of new graves. Additional compensation of K1,600 for the costs of ceremony, exhumation, coffin, and reburial of the dead.	affected structures in a suitable suit away from the road corridor
7. Loss of residential and other permanent or semi-permanent structures (including access to community resources, such as river fish or hunting grounds)	Owners of the structures, affected communities and groups (whether having legal title to land or not)	DPs will be provided with full cash compensation for structures on project affected land, at replacement cost (i.e. full value of replacement materials and labour at current market value, together with any other transaction costs) Result: Restoration of affected structures	Entitled to salvaged materials, and assistance in finding alternative building sites. Structures will be replaced or restored; community property will be replaced; compensation for loss of communal environmental resources. No deductions will be made to compensation paid for depreciation or value of salvaged materials.
Allowances			
8. Shifting back of semi-permanent and temporary structures – away from road corridor	Owners of structures (Mainly roadside stalls, stores and canteens)	A shifting allowance to compensate for lost business revenues while shifting the structure to a location outside the area designated for the road. Based on HRRIP a shifting allowance of K100 and handling/transport cost of K100 for owners of each affected house/business. Owners of residential buildings will be given K100 per day for their temporary accommodation allowance per HH for a maximum period of 2 weeks until fixing the house/business in new location. Cost for house forming ceremony calculated as K500 per unit.	The allowances for shifting structures and loss of business will be further assessed during the RCS in the LARP preparation, based on the duration of impacts, e.g. to shift a structure and the loss of income

Types of Impact	Entitled Person(s)	Entitlements & results	Implementation
		Result: restoration of livelihood / economic activities	
9. Disruption of business activities or loss of income and livelihood resources due to civil works	Owners of trade stores and other roadside businesses; roadside vendors	Full replacement cost of structure at market value. Shifting allowance of K100 per business. Transport allowance of K100/K150 per small/large trade store. A disruption allowance equal to the number of days that business is disrupted due to lack of access or other consequences of civil works calculated as K150/K250 for a small/large trade store per day for a period of two weeks. Result: restoration of livelihood / economic activities	At the time that the shifting allowance is paid, the trade store owner or vendor will sign an agreement with the PMO and/or DLPP regarding the date of removal from the land required for upgrading the road. Special attention to be paid in identifying any vulnerable groups during the census and DMS
10. Relocation of housing (Preliminary assessments indicate that there are unlikely to be many, if any, houses affected by the civil works, with the possible exception of landslide sites.)	Owners of residential structures (occupied family housing)	A moving allowance to cover the costs of moving personal possessions, paid in cash or in kind (e.g. provision of transport) Result: restoration of living conditions	Houses to be identified during the DMS, and home owners to be paid allowances before start of civil works.
11. Impacts on vulnerable APs and households	Vulnerable AP households identified by social surveys and census assessments (e.g. female	Vulnerable households will receive (i) land-for-land where possible under customary rules (determined by clan leaders) (ii) priority for any employment in	Amounts to be determined following DMS and socio-economic assessments.

Types of Impact	Entitled Person(s)	Entitlements & results	Implementation
	h/h heads, disabled, elderly, unemployed or landless etc.)	construction and maintenance works; and (ii) additional cash allowances for loss of land, structures, or crops - to purchase foodstuffs or maintain livelihoods during the period of income disruption.	
12. Any adverse impact on subproject affected people	APs/DPs including vulnerable APs, especially women	Priority for paid work for construction & on-going maintenance for road, assuming qualifications to do the work. Contractor specifications of provision of HIV/AIDS, gender awareness & GBV prevention programs in construction camps and surrounding communities. Extensive community relations and participation program involving women linked to subproject implementation.	Social safeguards staff will be responsible for poverty reduction measures, community based employment groups, and social development of subproject sites (e.g. water and sanitation at roadside markets, bus and truck stops; women's groups doing roadside maintenance work; etc.)
13. Unforeseen impacts or losses	APs, concerned displaced persons, poor and vulnerable groups	To be determined as per principles of the LARF and ADB's safeguard policy.	Unanticipated impacts shall be documented and mitigated based on the principles agreed in this LARF, according to ADB's involuntary resettlement policy.

C. Socioeconomic Information

(i) Methodologies to be used for Socio-economic Assessments

36. In order to assess socio-economic impacts of the Investment Program and specific tranche, a social assessment will take place including:

- A socio-economic survey focusing on DPs' income-earning activities, livelihoods and standards of living. This should include secondary data sources, supplemented by information obtained from a survey of affected communities, carried out on a sample basis. Indicators for the SES will include, among others, demographic, education, income and occupational profiles; livelihood and production systems, economic activities, income sources and poverty levels; access to and use of land and natural resources, tenure security and common property resources; and, social and cultural

systems and networks. All data must be disaggregated, as relevant, by gender and income group.

- Identification of present and future potential social impacts, based on baseline socio-economic data collection and analysis.
- A census of displaced persons (100%) including basic demographic and socio-economic data such as household size, age, gender, clan identity, religion, ethnicity, occupation, household income, and vulnerability.
- An inventory of their affected assets within the designated project area or construction limits, including land of various types (residential, commercial, and agricultural) and other immovable property (buildings, fences, sheds, irrigation canals, wells, water pipes, and other structures), where quantities and relevant measurements are clearly determined. This will be undertaken through a Detailed Measurement Survey (DMS).
- Valuation of these assets at replacement costs according to DLPP, Ministry of Agriculture or local market prices, without deductions for age-related depreciation, recovery of salvageable materials, surveys or registration fees and other transaction costs.
- Collection of gender-disaggregated information pertaining to the economic and socio-cultural conditions of DPs.
- Analysis of potential impacts on identified vulnerable individuals and groups.

37. Baseline data (disaggregated by gender) will include basic demographic information, social organization, occupational structure, income level and assets, and access to public services. Attitudes and preferences on the Investment Program and specific tranche and resettlement issues also need to be explored. This information enables each tranche under the Investment Program to design appropriate rehabilitation measures, to enlist the participation of people affected, and will become the basis for the mitigating measures following project impacts.

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

(ii) Methods for Valuing Affected Assets

39. Affected assets may include:

- Customary land – fallow or garden land, hunting grounds, fishing sites;
- Individually owned land;
- Annual crops;
- Perennial crops and trees (fruit or timber);
- Fences;
- Houses, kitchens, and garden shelters;
- Business premises: kiosks, stalls, canteens, trade stores, garages, storage facilities etc.;
- Other structures: such as toilets, animal pens etc.;

- Community property: schools, community centers, bus stops, markets, aid posts or health centers;
- Graves or burial sites; and
- Cultural or religious sites: tambu areas or sacred sites, places of worship (churches, shrines).

40. The standard DLPP procedure, which will be followed during the Investment Program, is to prepare initial valuations using local market prices, and data in this regard is obtained from the Valuation Division of the DLPP. The DOW may also involve the Department of Fisheries and Department of Agriculture and Livestock, to assess compensation requirements, if any, regarding crops or traditional fishing rights in rivers where bridges or are to be expanded or altered. Owners and land users will be compensated for lost income, standing crops,⁵ and other losses during construction also at the time of final measurement and at rates set by the Department of Agriculture provided that it is based on existing market prices. If the government policy does not cover the full replacement value (e.g. for transaction costs), the Investment Program assistance provides for top-up payments to cover the full replacement value. Under present government provisions, 100% of the value of structures (but only the depreciated book value) is paid at the same time as the payment for land

41. With the government system, civil works can begin as soon as an agreement to purchase is signed, but before final measurement, and the final transfer of title. Since completion of land acquisition procedures prior to contract award is necessary to comply with ADB policy, delays may occur. There is a lack of human resource capacity within the DOW to deal with time consuming and complex land arrangements, and social safeguard issues, and as such, assistance from project safeguards consultants in the PMO will be required.

(iii) Methods for Determining Replacement Costs of Acquired Assets

42. ADB's SPS requires that valuation of assets and compensation paid for acquired land, housing, and other assets, be at full replacement cost. Full replacement cost is the cost of replacing an expropriated asset of the same or better quality in the current land and/or housing market. Full replacement includes the following elements:

- a) **Fair market value:** Where markets function, fair market value can be assessed by examining land sales records in the last three or four years for similar properties. In parts of PNG, land values differ widely because of factors such as proximity to the coast (for tourist developments), or fertility and flatness of agricultural land (for market gardening.) In such cases, the market value is the going price of an asset in the open market, but where markets do not exist (as in much of rural Highlands PNG), field investigations are needed to collect baseline data to value assets, and to ensure that the government valuation is realistic.
- b) **Transaction costs:** These may include the legal and documentation expenses associated with updating land records to reflect sales, transfers, inheritances and leases, as well as the legal expenses associated with registering property titles for replacement lands and houses. Transport costs may also be included. These costs will not be paid by the displaced person, but by the Investment Program and are counted as part of the replacement cost.

⁵ In general, efforts are made to minimize crop losses. Farmers will often be allowed to harvest their crops at the proper time and before the land is taken.

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

43. Depreciation is not a factor in ADB policy, and is not considered when valuing compensation for expropriated built structures. This differs from the GoPNG policy, and illustrates one of the gaps that exist between the practices of the ADB and PNG. Compliance with ADB requirements at the project level can still be obtained, as long as the cost of restoring assets is topped up by the Project.

D. Consultation, Participation, and Disclosure

44. In compliance with GoPNG and ADB policies and priorities, the Investment Program will ensure a transparent and accountable process for land acquisition/resettlement as required, to upgrade, rehabilitate and maintain roads in the Highlands Highway network. Meaningful consultation and participation of APs and key local agencies will help to maintain transparency which is dependent on thorough and on-going consultations with local communities and provincial officials. It will also raise awareness of objectives, reduce potential conflicts, minimize the risk of project delays, promote local decision making, and enable the Investment Program to design the land acquisition and resettlement component as a comprehensive development program which suits the needs and priorities of the beneficiaries themselves. This section presents and discusses the SHHIP procedures for stakeholder consultations and disclosure of information.

(i) Stakeholder analysis:

45. The first step is identification of stakeholders who will be involved in planning and implementation of the social aspects of the Program: APs, clan leaders, landowner associations, local officials, (e.g. DLPP, Provincial Administration, District Office, Provincial Works Department, LLG and Ward Councils), service providers and NGOs. A stakeholder analysis should be prepared by the safeguards staff to facilitate the consultation process and ensure no important individuals or agencies are forgotten.

(ii) Consultations and Information Dissemination

46. Dissemination of information and consultation with stakeholders will occur at different points in the preparation and implementation of tranches/subprojects, to ensure that APs and other stakeholders have timely information about land acquisition/resettlement and compensation rates. A variety of mechanisms will be utilized to consult with stakeholders and DPs during preparation and implementation of LARPs including: (a) whole village meetings involving both women and men from communities - to consult them about needs and concerns, and to disseminate information about the subproject; (b) specific facilitated meetings with DPs including clan leaders, land owners, and users affected directly by the project; (c) separate meetings with women DPs and vulnerable households; (d) key informant interviews with Government service staff (local teachers, health workers, agricultural extension workers etc), community leaders, women, religious and youth leaders (e) one-to-one socio-economic household survey of women and men DPs and affected communities; (f) participatory

compilation of the Inventory of Losses affecting DPs, and (g) informal conversations with passers-by and transport users near the subproject sites. Consultations will be undertaken in local vernacular languages where possible, or in Tok Pisin. While all Investment Program staff will have need to meet with local communities, the prime responsibility for community relations and for managing the stages in the consultation process, lies with the PMO safeguards staff.

47. An important incentive to greater participation is to ensure consultations are undertaken at venues and times that do not disadvantage women. In the Highlands region, much of the discussion and decision making, around development priorities, occurs during men's houses, or other venues, from which women are traditionally excluded. Where it is impossible or inconvenient for women to attend community meetings or DP consultations because of their heavy gardening workloads, child care responsibilities, caring for the sick and elderly, or because of traditional norms, women should be consulted in their own homes.

(iii) Consultations during Preparation of the Investment Program

48. During preparation of the overall Investment Program, consultations were held in WHP, Jiwaka, Simbu, EHP, and Morobe with provincial and district authorities, NGOs and local leaders. A few community consultations were also conducted in over twenty communities along the highway. A number of people and organizations involved in these consultations also made the effort to communicate their views in writing. Minutes of the Provincial Meetings can be found in Appendix 2. The main points raised during the consultations were:

49. There was unanimous support for the upgrading, rehabilitation and maintenance of the Highlands Highway due to a wide range of economic and social benefits identified by participants (i.e. rehabilitation of coffee gardens; more accessible coffee factories; expansion of cash cropping; improved accessibility to markets; reduced costs for transport of goods and lower maintenance costs for vehicles; better access to health care, education and other services; improved family ties and social networking, among others). Women understand that road improvements offer them particular benefits related to their responsibilities to grow food, opportunities to engage in businesses and road work employment, and better care for the health and education of their children.

50. Some communities had questions about the adequacy and fairness of the previous compensation payments for affected land, trees and crops that were implemented during previous efforts by DOW to upgrade and rehabilitate some specific sections of the road. Further consultations with affected clans/tribes at potential "hot spots" were undertaken and during Tranche 1, as part of the due diligence process, these areas will be targeted for further consultation and investigation, in screening and preparation of the relevant LARP.

51. Some concerns were, nonetheless, raised by participants: road safety and accidents (partly due to the plethora of liquor outlets along the highway), lack of suitable truck and bus stops with hygienic toilets and water supplies, the risks of HIV/AIDS due to improved mobility of the population, and other social problems such as drug and alcohol abuse, and increased prostitution. Among people who may be directly affected by additional land requirements, some trade store owners are concerned that their businesses will be disrupted and/or they will have to relocate.

(iv) Further Consultations with Affected People and Communities during Implementation

52. During implementation, consultation will be ongoing and managed by the PMO safeguards staff. As part of the development of SHHIP works to ensure safeguards compliance, the PMO will implement a community Consultation and Participation Program (CPP) with communities located along subproject roads. The CPP will be organized with the collaboration of provincial, district and local-level government (LLG) authorities; and, following detailed engineering design by the Design Supervision Consultant (DSC) for a subproject, the PMO will involve AP participation in screening subprojects, undertaking the DMS, collecting data for the socio-economic survey (SES) and in other activities related to enhancing benefits for communities and mitigating adverse environmental and social impacts.

53. Village leaders will encourage all community members to attend including women, elderly people and young people; because women are often reluctant or unable to speak in general community meetings, separate meetings may be held with them to understand and discuss their preferences and concerns. The PMO staff will be joined by the PLO (and/or DLO) and surveyors/valuers of the office of the Valuer-General when their services are necessary to produce the Land Investigation Report (LIR) and valuations. (See Appendix 5: Scope of CPP Consultations).

(v) Disclosure of the LARP

54. Following a public meeting to disclose details of the Tranche 1 DDR, LARF, and subsequent LARPs of DDRs of the subprojects will be published on the ADB website in accordance with ADB's Public Communication Policy, and information properly disclosed to all levels of stakeholders from the relevant national and local government agencies to those directly affected along the highway, prior to the appraisal of Tranche 1 or any succeeding tranches. Apart from community meetings, (which may be facilitated by government and NGO representatives), popular media broadcasts and/or written materials, such as a public information booklet in *tok pisin*, will also be used as means for disclosure. It will contain relevant information including the entitlement matrix, grievance procedures, and timing of payments. The full LARP will be made available in English, the official administrative language in PNG, in accessible public locations, such as the LLG office.

E. Compensation, Income Restoration, and Relocation

55. This section describes the measures proposed for income restoration, including compensation and special measures to help vulnerable households improve their living standards and measures for replacement land if needed.

56. **Avoiding or minimizing land acquisition:** In order to minimize land acquisition and resettlement impacts, the engineering design for road upgrading and rehabilitation will avoid or minimize the need to acquire additional land outside the existing road, to the extent feasible and consistent with agreed design standards and good engineering practice. Should any households need to be physically displaced from their home, they will receive the appropriate compensation or assistance according to the entitlement policy. But in most areas, the clan leaders and kin will also be involved in trying to find alternative land within the clan boundaries, for those who have lost houses or gardening land. Because everyone is related and belongs to the same social group, there are normally no issues in terms of reallocating land or support from the host population. However, in some districts there are land shortages and pressures on land may mean that replacing land for land will

not be easy or possible. Any alternative approach than land replacement, if necessary, will be discussed and agreed with the affected persons. It will not be at the disadvantage of the affected persons and will enhance or at least restore the livelihoods of all affected persons in real terms relative to pre-project level.

57. Negotiated use of customary land: : For most public roads in PNG, the government authorities consult with landowners who claim an interest in the land, and then obtain land through land use or purchase through negotiated settlement. The project road will continue this tradition and take account of the new government stipulation that all state infrastructure should be constructed on state-owned land. Where the Investment Program involves a road section that is located on customary land,⁶ the PMO will collaborate with the Provincial Land Officer (PLO) and/or the District Land Officer (DLO) in order to negotiate with landowners to acquire the permanent right to use or acquire additional land required for the road corridor upgrading and rehabilitation, or on a temporary basis to accommodate other activities related to the Investment Program. If communities have been paid for customary land, but no certificate of alienability has been processed, then the Investment Program will work with DLPP to regularize and formally transfer title of that land. Land purchase undertaken through negotiated agreement will follow relevant provisions of the Land Act. The negotiated use and purchase of customary land should be voluntary and without any coercion. The process will follow adequate safeguards including: (i) consultation with local communities on the Investment Program and specific tranche and options to avoid or minimize impacts; (ii) applicable national laws and regulations will be followed; (iii) landowners or any other people will not experience major adverse impacts e.g. the land should be free of any private residential structures or major sources of livelihood; (iv) APs will receive compensation for land if purchased or any loss/damages to non-land assets and (v) a written memorandum of agreement (MOA) will be signed with representatives of landowner communities for the permanent use of the land and (vi) third party verification of the MOA and process of negotiated land purchase

58. Most of the Highlands Highway is located on state land as the road corridor has been purchased by the state. However, there are some small sections where there are potential disputes as to what was paid for the land. Further investigation will be undertaken on the outstanding issue to arrive at a satisfactory and acceptable solution between the government and landowners. Key steps involved looking at land records in DOW and the Department of Lands and Physical Planning, to accurately determine the ownership status of the whole highway corridor, and producing a corrective action plan to be implemented and funded by the government. No civil works will take place in each tranche until all the outstanding or legacy issues have been resolved. The use of customary land as needed for the project road, will be negotiated through an MOA with the community leaders and affected landowners, verified by a third-party, until a permanent alienation of the land title is affected. (See Appendix 4 for the format of the Memorandum of Agreement and third-party verification). Experience so far as with the HRRIP shows that agreements with leaders and landowner groups can be achieved through good participatory processes and successful negotiations, but the process requires trust, concerted efforts, and time, by trained and qualified land and social experts.

59. Compensation for removal or damages to crops, trees, and structures: In the case of annual crops, to the extent possible, the APs will be encouraged to harvest the crops before clearance of any land, and in this case, no compensation will need to be paid

⁶ Provided it can be proved that the land has not previously been paid for by the state.

for crops. If APs are unable to harvest before the land is needed, compensation will be paid. For perennial crops and fruit trees, APs will also be encouraged to harvest the current year's crop before clearance of land, to the extent possible, and no compensation will be paid for the current crop, since APs will be able to make use of it for household consumption or sale. However, plants and trees to be removed, will be compensated for, in recognition of the lost income for future years, for the time until new perennial plants or fruit trees produce a yield similar to the lost plants and trees. For example, in the case of mature coffee trees, the lost income would be incurred over a three or four year period. If APs have not been able to harvest the current year's crop, the grant for lost income will take this into account. For timber trees, APs will be required to cut the trees prior to clearance of additional land, but they will be permitted use or sell the timber from the harvested trees.

60. **Fences and animal shelters:** Loss of these assets will be compensated for at replacement value (per meter) for similar fencing, planting, or building materials.

61. **Structures:** Along the Highlands Highway there are many makeshift semi-permanent or temporary structures built mostly from local materials (bamboo and pitpit), which are used as trade stores or kiosks. As many are located close to the road, it may be necessary to shift these buildings back outside the road corridor, in order to upgrade the road. APs will be provided with compensation at replacement cost to cover this activity, and they may also be eligible for an allowance due to disruption of their businesses.

62. Additional land requirements are not expected to affect any residential structures or other permanent buildings. Nonetheless, if such structures are affected, they too will be compensated at replacement cost for the materials and labor. In addition these APs are entitled to a moving allowance to relocate their possessions.

63. **Graves and *tambu* areas:** Compensation will also be paid for any affected graves or cemeteries or damage to '*tambu*' (sacred) sites. Costs of replacement graves will be based on those that were removed. Specific costs will be determined within the specific LARP.

64. **Payment of compensation:** As explained above, the initial assessment of affected assets will be made at the time of the screening of the subproject which will be followed by a DMS and replacement cost survey, after the completion of the detailed engineering design. Where necessary, the PMO/DOW will engage a valuer/appraiser (usually through DLPP) to review the rates,⁷ and survey current market prices, in order to recommend the compensation rates at replacement costs. Particular attention must be paid to ensure that the person who actually owns or plants the crops or assets receives the compensation directly, for example, women gardeners. Compensation rates for crops and structures will be verified and approved by the office of the Valuer-General. The PMO will ensure that all procedures are followed properly, funds are disbursed in a fair and transparent manner, and that payment is made prior to start of works.

65. **Other allowances:** The Investment Program will support APs to restore their living conditions and standards in the most efficient, effective manner possible, and will provide a number of allowances for this. These include: a shifting allowance to move trade stores or businesses to cover loss of income; a business disruption allowance due to lack of access

⁷ The initial rates are based on the Department of Agriculture and Livestock schedule of prices for crops and trees.

caused by civil works, the value calculated on the number of days of disruption; a moving allowance for APs that have to relocate housing and move possession, paid in cash or in the form of transport provided.

66. Vulnerable APs: The Investment Program will assist the following vulnerable households: (i) APs with monthly income of less than K130 (i.e., the country's national poverty threshold or \$60, the international poverty threshold); (ii) AP household heads whose age is 65 or older; (iii) female-headed household heads; and (iv) household heads who are physically and/or mentally incapacitated (disabled). Female-headed households, in particular widows, face particular disadvantages, as they have no secure land use rights, when their husbands are dead. Many will return to their own clan land to re-establish their rights there, but, since their children belong to their husband's clan, some will stay. Some districts, particularly in Simbu, have high rates of sorcery accusations after a person dies. The most likely targets of these are wives and elderly female kin with no close male protectors. The Investment Program must ensure that their livelihoods, resources, and indeed, lives are not jeopardized or put at further risk through the road rehabilitation activities.

67. It is possible that some APs fall in more than one of these vulnerable groups; they are therefore eligible to receive the allotted entitlements for each count of vulnerability. Nearly all households in the highlands are headed by men, and those headed by women are among the poorest. Women's literacy rates are also lower than men's, they have high rates of maternal mortality, and there are extremely high rates of sexual and gender based violence within families, and outside. Because men in PNG commonly have multiple sexual partners, or are in polygamous relationships, their wives and babies are also at risk from HIV and STIs. For this reason, the Investment Program will include measures to reduce women's hardship and poverty. A positive characteristic of the highlands, is the presence of many organized women's groups that can serve as vehicles of change for empowering women, and which can help mobilize women to take advantage of employment and income generating activities provided by the Program. The social safeguards staff of the PMO will ensure that women are given equal opportunities to take advantage of employment and other social development programs. They will also ensure that they are equally represented in any skills training and HIV/AIDS and gender awareness raising workshops. Where possible, the health and gender programs will be carried out by service providers and NGOs who already have established programs in the area, and who can offer on-going training and support, rather than one-off events. A list of some possible providers is provided in Appendix 10.

68. Project employment: People affected by permanent or temporary loss of land, or by damage or loss of crops, trees and structures, will be given priority for employment by contractors for civil works and/or maintenance works on the road, in accordance with their qualifications to do the work. The Investment Program will encourage the formation of small community-based labor groups (including women's groups) for tasks such as vegetation clearance and control, construction of drainage channels and footpaths, pothole patching, and other jobs. Where necessary, local people will be given skills training, for example, in making and laying concrete. Each section of the road will have its own maintenance groups, since it is often impossible for people to work outside their own clan territory, and there is a risk of conflict if contractors employ outsiders who are not members of the local clan.

69. Timing and Coordination of Land Acquisition Activities with Civil Works: If

payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates (e.g. PNG Consumer Price Index) to ensure that APs receive compensation at replacement cost at the time of compensation payment. Changes to compensation amounts will be verified and approved by the office of the Valuer General. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until (i) compensation and relocation of APs have been satisfactorily completed; (ii) agreed rehabilitation assistance is in place; and, (iii) the site is free of all encumbrances. A Compensation Completion Report will be submitted to ADB confirming satisfactory completion of these requirements.

F. Grievance Redress Mechanisms

70. A grievance redress process will be established to ensure that all AP grievances on any aspect of their social, economic, or environmental rights, including rights to use additional land and/or compensation for affected assets, are resolved in a timely and satisfactory manner. APs will be made fully aware of their rights (both verbally and in writing) and informed how they can access to the grievance redress mechanism (GRM) during the initial community consultations, and through the information brochure. The GRM will operate on the principle of trying to solve problems locally at the lowest project level, as far as possible, using trained community relations officers of the DSC and social safeguards staff, and taking into account, customary problem solving methods. However, the Program will also establish a grievance redress committee (GRC) in each province for hearing and resolving any complaints that cannot be resolved at the local level or by the PMO.

71. Complaints from APs can be filed as a written or oral complaint addressed to the PMO as the implementing body. The SHHIP community relations officers and/or safeguard officers will assist APs in registering their complaints, usually with the construction site office, or (if the AP wishes for whatever reason), with the provincial DOW office or the Goroka PMO, where registers for this purpose will be kept. All complaints in the register will record: date, name of complainant, contact address or mobile, and reason for the complaint. A duplicate copy of the entry should be given to the complainant for their record, at the time of registering it. Within five days, the PMO will issue a notice to the AP, the DLO and/or other relative officials, with the date of a conciliation meeting, which should be held not later than ten days after receiving the complaint. Should APs be not satisfied with the process or decision reached, they may take the grievance to the PNG judicial system at any time.

72. During the meeting staff from the PMO will clarify the issues involved, and try their best to resolve the issue in a manner acceptable to the AP and the DOW. If no solution is found, further meetings may need to be held. The complaints register will show details such as who has been directed to deal with the complaint, the date when it has been resolved, together with the date when the complainant was informed of the decisions, and how this was conveyed to the complainant. The register should be signed off by the person responsible for the decision, dated, and included in monitoring reports.

73. The PMO staff, along with local government officials, will assist the Program Engineer and/or Project Manager in reviewing and addressing the complaint. The safeguards officers will facilitate communication between the APs and the PMO in this process, and also between the PMO, the DSC, and the contractors where relevant. Where no solution is found by the PMO, the GRC will be asked to meet to consider the complaint.

The grievances must be redressed within one month from the date of lodging the complaint, and where no resolution is possible, legal cases will be referred to the PNG courts. The key functions of the GRC are to (i) record, categorize and prioritize the unsolved grievances; (ii) settle the grievances in consultation with complainant(s) and other stakeholders; (iii) inform the aggrieved parties about the solutions; and (vi) forward the unresolved cases to higher authorities.

74. The provincial GRC will handle environmental, land, resettlement, compensation and other social related grievances. The committee shall be composed of: the District Administrator, the LLG Council President, DOW (represented by the safeguards staff at the PMO, and the Community Relations Officer at the relevant site, and a representative from civil society. Provincial officials may also be invited to attend where relevant. There shall be only two hearings of the GRC, and the scheduling of the final hearing should be not more than 10 days after the first hearing. Both parties may re-negotiate the solutions proposed during the first hearing, and may introduce new arguments and evidence to support their respective positions. After summation of the case, the GRC will decide the issues based on the policies governing the SHHIP, the prevailing laws in PNG and taking account of customary laws of the place where the dispute or complaint arose.

75. Any unsolved grievances related to land and compensation issues received by the PMO, will also involve discussions with the DOW Survey and Lands Branch at national headquarters, and/or the Department of Lands and Physical Planning (DLPP), as appropriate. They have established procedures for dealing with these issues (outlined in the LARP).

76. If the AP is not satisfied with the GRC's decision, s/he may then take the grievance to the PNG judicial system. In this case, if the complaint concerns compensation, the PMO and DLO will hold the compensation amounts in escrow. Compensation will be paid in full upon final resolution of the case in the courts or other forum, in accordance with the entitlements of the affected person as decided by the court of competent jurisdiction.

77. The Land Disputes Settlement Act establishes judicial procedures for resolution of landownership disputes on customary land. It has a mediation process whereby a designated mediator meets with the disputing parties to resolve grievances. This process is closely allied with the village court system and traditional mediation procedures that draw on the skills of recognized local leaders and elders.

78. There are no fees attached to the AP for making a complaint, the complainant is free to make the complaint which will be treated in a transparent manner, and the AP will not be subject to retribution for making any complaint.

G. Institutional Arrangements and Implementation

79. **Institutional Capacity:** Effective land acquisition and resettlement depends on the capacity and commitment of the agencies responsible for its planning and management. While PNG has a policy and legal framework for acquiring land and for involuntary resettlement, the agencies responsible for implementation often have insufficient qualified personnel and lack an understanding of ADB's safeguards policy and procedures. While many DLPP staff have a wealth of knowledge of the local context and understand government procedures, they may have had no formal training on ADB safeguard requirements, and DLPP lacks staff with specific knowledge of social safeguards in

particular. This is also true of some contracting companies. Mechanisms for interdepartmental coordination in land and resettlement matters are also lacking.

80. The SHHIP will finance (i) an international social safeguards specialist with experience in land and resettlement; (ii) two national social development/resettlement specialists; (iii) an international social development and gender specialist; and (iv) a national community development specialist. These people will be recruited by the PMO according to ADB procurement procedures. (The draft TORs can be found in Appendix 9).

81. The PMO social safeguards staff will be responsible for providing training to government agencies such as the DLPP and local administrations, mainly in the form of on-the-job training, but also through special workshops for those working on the Investment Program, to enhance their institutional capacity and improve safeguard practice in PNG. Based on the experience of training together, better coordination between departments can be fostered. An initial workshop should be held for all staff involved in land acquisition in the early stages of the program, followed by mentoring by safeguards staff in the PMO. Once implementation is underway, training will be needed to ensure that monitoring activities are undertaken according to the LARF. This could involve training in building trust and community cohesion, using checklists, recording minutes of meetings, writing progress reports, data collection and analysis. The costs for this will be included in detailed budgets provided in the LARPs.

Governance

82. A Steering Committee and a Core Working Group, both supported by a Technical Secretariat will be responsible for strategic guidance, high-level decisions, and overall performance monitoring of the Investment Program.

Department of Works

83. As Executing Agency (EA) for the Investment Program, DOW has overall responsibility to manage the planning, implementation and monitoring related to acquiring use rights for additional land to implement subprojects along the highway, as well as compensation for damages on project-affected land. DOW has a Survey and Land Branch, as well as an Environment and Social Safeguards Unit (ESSU) based in Moresby, who may assist with land issues, but for the day-to-day SHHIP operations, DOW will establish a PMO in Goroka. Monitoring reports and semi-annual reports will be submitted to the DOW and ADB by the PMO.

Project Management Office

84. The PMO in Goroka will have the responsibility (delegated by the DOW) to carry out all operations and deliverables. The small team of qualified TA safeguards staff, (national and international) with skills in environment, land acquisition / resettlement, community development, indigenous peoples and gender will carry out and coordinate the consultations, screening, surveys, census and other fieldwork for additional land requirements, as well as the tasks of monitoring and reporting on progress. They will also brief and liaise closely with, safeguards staff from the Design and Supervision Consultant (DSC). Further details of the PMO are contained in the Investment Program's Institution Development Plan.

Design and Supervision Consultant

85. The DSC will also employ national and international safeguard specialists to supervise the compliance of the contractors' operations in terms of safeguards requirements in their contracts. This includes compliance with the Environmental Management Plan (prepared by the contractor, and reviewed and validated by the DSC safeguards experts), and compliance with the LARF/LARP which is prepared by the PMO safeguards staff, who are responsible for ensuring it is compliant with PNG national and ADB's safeguard requirements. During the pre-construction phase, the DSC will ensure that social issues that need to be addressed by the design engineers are considered. Following award of the contract, the DSC safeguards specialists will provide social safeguards induction for the contractor, if required. They should ensure that the contractor has access to the social assessments of the subprojects, and advise them of their responsibilities to mitigate social impacts. DSC safeguards compliance specialist will also prepare regular site visit and compliance checks and contribute to quarterly progress and bi-annual monitoring reports.

Provincial Administrations and DLPP

86. The Provincial Land Officer (PLO) of DLPP will collaborate with the PMO to negotiate MOA for use of land for the road corridor, or to facilitate the acquisition of additional land where needed. In some cases he may delegate responsibility to the relevant District Land Officers (DLO). The PLO/DLO responsibilities include:

- a. Attending community consultations - conducting surveys of land required permanently or temporarily for the subproject, identification of owners, and producing LIRs and valuation reports;
- b. Negotiating and signing a Memorandum of Agreement for permanent use of customary land with the leaders and affected landowners in communities;
- c. Negotiating and signing leases for temporary use of land required for the subprojects (in collaboration with contractors);
- d. Preparation of land documents for submission to the Department of Provincial Affairs, to obtain Certificates of Alienability where required, and follow-up for the land deeds and transfer of title; and
- e. Consulting with and advising affected communities about the Program, the policies and procedures when additional land is required and the rights and responsibilities of affected people and other stakeholders.

87. The Provincial Governor and/or Provincial Administrator (PA) in coordination with DOW and DLPP are responsible to ensure that funds are allocated and disbursed to pay compensation and allowances that are included in the Investment Program.

District and LLG Administrations

88. LLG and Ward Councillors will be participants in all consultations with local communities, affected people and other stakeholders. They will be responsible for collaborating with the PMO to organize and carry out these consultations.

Health Service Providers and NGOs

89. The Highlands Highway has been at the center of the HIV/AIDS epidemic in PNG, providing a conduit for transmission, so that highway communities have some of the highest incidence rates in the country.⁸ Any major infrastructure construction work carries the increased risk of further spreading the virus, and the highway already has a major problem with the many truck and vehicle drivers who engage in transactional sex or employ sex workers at stops along the road.⁹ The Investment Program will mitigate the risk of contributing further to the epidemic, by providing HIV/AIDS awareness and prevention training with the contractor's construction staff, roadside communities, and transport company staff.

90. It is well known that behavior change programs are difficult and change happens only slowly. For this reason, it is not sufficient to provide one-off training events to contractors and target populations. The Investment Program will engage with health service providers and NGOs (especially women's NGOs) who already have existing projects along the highway, and are familiar with the communities, in order to support an on-going program of activities to mitigate the very considerable risks that the epidemic poses. Many of the existing programs are effective and innovative, but are facing funding crises because of the changes in donor priorities. All HIV/AIDS awareness training will include discussions of reproductive health and gender based violence issues, as violence is contributing to the increasing rates of HIV/AIDS and STIs. (See Appendix 10 for a list of NGOs and service providers along the Highlands Highway).

H. Budget and Financing

Sources of Funding for Land Acquisition and Compensation

91. Funds for land and compensation are paid directly to DPs/APs by the DOW, from the GoPNG's counterpart contribution to this Investment Program. The PMO prepares the funds for disbursement based on advice from the DLPP (Valuation Division). Annual budgets will show the cost of key items in the land acquisition and resettlement process according to scheduled activities. Payment for any temporary acquisition of land is made directly by the contractor to the DPs, based on an agreement between the two parties, as to the actual amount. This will not involve the DLPP or other parties unless the DPs are dissatisfied with the amount offered by the contractor.

92. The actual budget for such activities under each subproject will be prepared and incorporated in each LARP during detailed design based on the assessment by the DLPP Valuation Division, estimates made based on assessment of impacts, and cost norms utilized by DOW in other similar projects. DOW will request the National Executive Council (NEC) to allocate and disburse the funds for any land purchase, compensation and allowances related to additional land required to upgrade and rehabilitate. The DLPP and DOW LSB will provide proof that any land to be acquired, has not already become state land.

⁸ National prevalence is 0,8%; Mt Hagen is 1.7% of adults; and Jiwaka, Simbu and EHP all have over 1% prevalence.

⁹ Between Nadzab and Yonki, there are approximately 345 sex workers registered with the Mutzing Health Center (Personal communication from Director and health centre records). Around 19% of sex workers are HIV positive (UNAIDS) and Mutzing Health Center is treating around 20 cases of STIs per day.

93. Once the LARPs have been drafted based on census figures, surveys and assessments, the government will release sufficient budget for implementation of land-related activities in an appropriate and timely manner. The costs for the land survey, income restoration and other DP/AP allowances, as well as those for resettlement and safeguard specialists, will be included in the project management costs.

94. In all instances, the PMO acting on behalf of the DOW, will monitor the process to ensure that there are minimum delays in the allocation, disbursement and payment of compensation funds.

I. Monitoring and Reporting

Internal Monitoring

95. The ADBSPS 2009 requires the borrow (GoPNG) through its implementing agency, the DOW, to monitor and assess land acquisition and resettlement outcomes, impacts on standards of living of DPs and whether objectives have been achieved. There are three main types of monitoring for ADB projects: (i) monitoring by GoPNG “the borrower”; (ii) resettlement supervision by ADB; and (iii) verification of monitoring information by external experts.

96. The DOW, through the safeguards staff in the PMO is responsible for providing “internal” monitoring of all activities associated with land acquisition and payment of compensation to APs. The scope of internal monitoring includes: (i) compliance with the agreed policies and procedures for land acquisition; (ii) tracking the prompt approval, allocation and disbursements of funds and payment of compensation to APs, (including any supplemental compensation for additional and/or unforeseen losses); (iii) the availability of other resources and efficient, effective use of these resources to restore or improve incomes and living standards; and, (iv) assessing whether the planned activities are producing the desired social outcomes.

97. A database and management information system will be set up in the PMO which will provide the basis for reports. During the implementation of the LARP, the PMO will prepare semi-annual safeguard monitoring reports and submit these reports to DOW and ADB in addition to regular quarterly progress reports as part of project performance monitoring. The PMO will also submit a subproject land acquisition completion report to ADB when compensation has been paid and request approval to proceed with civil works.

External Monitoring

98. The PMO will recruit an independent monitoring organization (IMO) to conduct external monitoring for Investment Program subprojects that require land acquisition. The external monitoring will focus on the social impacts of the subprojects and whether APs are able to restore, and preferably improve, their pre-project living standards, incomes, and productive capacity.

99. The IMO will be specialized in social sciences and experienced in resettlement monitoring. It will be recruited and mobilized from the first tranche of the Investment Program; and, will monitor all activities related to land acquisition, community consultations, preparation of LARPs and payment of compensation. Proposed terms of reference for the IMO are found in Appendix 8.

100. The IMO will prepare bi-annual monitoring reports; and, conduct post-acquisition

evaluations twelve (12) months after compensation is completed for each subproject. All IMO reports will be submitted to the PMO and ADB.

APPENDIX 1: Issues in Acquiring Customary Land for Roads

1. In the Highlands region, the social structure of tribal groups is patrilineal and tribes and clans include people who share a common ancestry through their father's lineage. Each clan has a specific territory; sub-clans or extended family groups are granted rights to use some of the clan territory to meet their basic needs for housing and gardens. Primary rights are reserved for people who are recognized as members of a clan (or its sub-clans); other people may earn secondary rights to a clan's territory through marriage or other forms of social ties. In all cases, clan territory cannot be alienated, unless there has been clan agreement to form an Incorporated Land Group, which must be established under the specific regulations of the Incorporated Land Groups Act.
2. Most clan land boundaries are well known and delineated by natural features such as creeks, ridges, rocks and trees. However, this does not prevent disputes over access to particular pieces of land, and in some places along the roads there is continuing conflict, with tribal fighting breaking out, if matters are not resolved between the disputing clans.
3. Access to land is a fundamental and a defining asset in the livelihoods and cultural traditions of the Highlands people. Land is, first and foremost, the basis of subsistence agriculture that provides for the needs of rural households. It is common practice to produce small surpluses that are distributed in kind or in cash (after sale of crops at local markets) to members of the '*hauslain*' or sub-clan; this represents repayment into the social capital of the group. Large exchanges of food and livestock are also a feature of social obligations, particularly for marriages, deaths, and ceremonial occasions. However, much land along the Highlands Highway is now used for cash cropping, mostly of coffee or fresh vegetables, which are sold both locally and in other provincial markets.
4. The land is also where sacred ('*tambu*') sites are located; and, where people bury their dead, often at visible locations in order to venerate a community leader of 'big man' who has passed away. Allegiance to one's clan territory remains strong among people who migrate from their communities for short or longer periods. Land is what a family transfers to the next generation as the basis for the continuing cycle of social reproduction.
5. In recent years the difficulties inherent in how to mobilize customary land for new economic and physical development have become more and more acute. With respect to works to upgrade road networks, several approaches have been employed. These are identified here as background to the proposed Program approach that is discussed in the next section.
 - i. For the implementation of the ADB Loan for the Highlands Rural Road Improvement Investment Program, (HRRIP) the DOW negotiated a Memorandum of Agreement (MOA) with affected communities and landowners to acquire the use of customary land without payment of compensation for the upgrading of national and provincial roads.
 - ii. In consultations during the preparation of the HRRIP, people and communities in the more remote areas of the Highlands region, strongly supported proposals to upgrade and rehabilitate roads, recognizing that this is a necessary condition to improve accessibility and living conditions in their areas. They were prepared to grant customary to the state in recognition of the value roads bring to their communities.

- iii. Most people in the region consider that existing roads are located on state land, whether or not there has been a formal process to alienate and purchase customary land. However, there are some stakeholders who insist that some road sections are located on customary land and are still unpaid for, since these lands were first used as roads. In the case of the Highlands Highway, this may date back to the 1950s and 1960s.
- iv. There are also sections where there have been more recent diversions or short new sections constructed as the result of landslides or instability of land. In some of these sections, the damages caused by the slips, have been paid for by the DOW or provincial governments, but the actual land may or may not have been legally alienated and purchased. The payments made were often rushed through in order to enable the road to be repaired and re-opened. The landowners living in these 'hot spots', therefore believe the road is on their customary land, and some are demanding additional payments for the 40m road corridor. The Highlands Highway communities have had long exposure to outside influences and are not always as cohesive or communally orientated as those in more isolated regions.
- v. In consultations during preparation for the Investment Program, provincial and district authorities as well as communities along the roads repeatedly indicated their support for the SHHIP plans, and their willingness to contribute additional land to enable roads to be upgraded. However, where there is a lot of pressure on land, (e.g. in Simbu), and where past damage caused by landslides has not been adequately addressed, landowners still expect some compensation to be paid for the 40m road corridor, or for damages on adjacent land. Attempts by DOW in the past, to solve this problem, have sometimes exacerbated discontent, if the compensation payments are perceived to have been unfairly or incompetently managed, with some receiving payment and other eligible landowners missing out. In this way, even some areas which are recorded as state land may still remain contested.
- vi. Complaints about the government's past road upgrading and rehabilitation activities regarding potential outstanding issues on affected improvements may influence the acceptability of sub-projects and/or impede the construction of road sections in the Investment Program. These potential issues should be further investigated in the future during detailed design under Tranche 1 financing in order to preclude the development and escalation of disputes.

APPENDIX 2: Minutes of Provincial Consultation Meetings (held 31st Oct – 4th Nov 2016)

Western Highlands

1. Participants raised the issue of needing good quality control and supervision of contractors in order to achieve the outcomes. The fact that foreign exchange reserves are going down, will limit the amount of foreign exchange available for overseas companies who might bid for contracts. However, there will be a consulting firm hired to regularly monitor progress and ensure compliance with safeguards and contract requirements.
2. There was a long discussion about drunk driving, liquor licensing and the number of beer outlets operating along the Highlands Highway. Both SHP and Enga Provincial Governments have banned beer outlets along the Highlands Highway to the west, and have set up checkpoints on the provincial borders to police the ban (at Tomba for Enga, and Kagul for SHP). The Enga one is working well: a mini police station with cell block, and permanent police housing have been built, and the police are well trained. They are strict and check everyone. This has had a very positive effect on the behaviour and driving along the highway in those provinces. WHP has no such legislation to control beer outlets.
3. The need for road safety education in schools and footpaths for pupils near schools was raised by a school principal.
4. Road safety is a particular issue at Minj where the market is on both sides of the road, there is a junction to Banz, and people are crossing the road all the time.
5. Drains along the highway get blocked near markets because people are encroaching on them with stalls, and throwing rubbish in them. Truck-stops and markets are always surrounded by potholes because of this. The 20m clear ROW road corridor should be enforced by police, but there is rarely any police presence. Markers could be installed to show the 20m limit. There is a need to clearly delineate boundaries,
6. Drains are also being used for washing, so it would be good if people could be given laundry facilities where there is a water source, or near bridges, to keep them out of the drains.
7. All those present also appealed for help in repairing the road between Kagamuga and Mt Hagen (which at present is not part of the Investment Program), as it is in a terrible condition and holds up all the traffic coming into Hagen. It was explained by the ADB consultants that this is to be done under a separate government contract, and is not part of the current program. Financing is currently being sought from a Chinese bank to fund the construction.

Jiwaka

1. Jiwaka provincial staff asked that the weighing station for vehicles be situated in Jiwaka Province, rather than in Mt Hagen, as there is more land available to build the station. In fact land owned by the provincial government has already been set aside for a weighing station, and planning has begun to establish one. The TL said that this idea had merit and would be further investigated. He promised to send the PWM information about truck weigh bridges, which could help inform where to build it, and includes best practice from around the world. Jiwaka staff wanted to know if the construction could be brought forward into Tranche 1 activities.
2. Jiwaka also proposed that a fresh produce logistics depot with cold storage be built near

the market, as it is the center of a large vegetable and fruit growing area.

3. A suggested re-routing of the Chimbu section of the highway from Kundiawa-Mingende to Jiwaka (where there is a lot of land instability) was not thought to be viable in this ADB project as the costs would be prohibitive to move it to the other side of the Waghi River.

4. Jiwaka DOW asked if the provincial branch offices would benefit from training by the PMO under the SHHIP project. ADB staff assured them that capacity building would include the provincial works departments.

5. The Provincial Police Commander, Joseph Tondop, suggested that Mobile Units to check maintenance should be instituted, so that repairs can be done quickly rather than waiting weeks or months. It was noted that if labour-based maintenance teams were employed to maintain local sections of the road, they should each be assigned to their own clan land, in order to prevent conflict with surrounding groups, and women as well as men should be employed so that the income is distributed fairly.

6. The PPC also said that small roadside alcohol distributors should be restricted as they are not registered with the Liquor Licensing Board. Jiwaka province is currently working on a master plan to clamp down on alcohol distributors. This was strongly supported by the women's group representative, *'Voice for Change'*, who said the beer outlets contributed to the breakdown of the social fabric, to traffic accidents, and to domestic violence.

7. The Jiwaka PWM suggested that a truck overtaking lane was needed on the steep section between Simbu Wara and Kundiawa town.

8. People were concerned about how the procurement of contracts is handled under ADB processes, and were anxious to avoid political interference or wantokism. They want to make sure ADB will ensure transparency and fairness.

9. Jiwaka provincial authorities were keen to assist the project wherever possible, such as with the community road safety pilot project, and in mitigating problems with roadside dwellers.

Simbu

1. Simbu participants also expressed a need for a fresh produce storage and logistics facility in Kundiawa, as it is the marketing center for surrounding districts of Gembogl, Kup, Gumine, Sina Sina and Elimbari. ADB consultants were not confident that the project could afford to build more than two fresh produce facilities, but agreed to consider priorities within the overall budget.

2. There was an appeal to involve local authorities in district and provincial administrations when planning and implementing the project within the road corridor, so that local disputes could be sorted out. In the Duman area between Tambar creek and Nintel, a 3 km strip of land was apparently not acquired by the state, and landowners are refusing to allow DOW to maintain that section of the road. The District Administrator for Sine Sine/Yoggomugl, Bal Numapo, said that local people no longer trusted the DoW because they feel their grievances have not been properly addressed and that the project would need to deal with this issue, as well as establishing an effective Grievance Redress Mechanism.

3. The PA, Joe Kunda Naur, suggested that there was an urgent need for toilets and

parking places or rest areas along the road, so that drivers could rest. There have been numerous accidents where drivers fell asleep.

4. Contracts for regular maintenance should be awarded to local people rather than companies or outsiders, so that residents living close to the road feel responsible for its condition.

5. More bus stops with seats, bus shelters, pedestrian crossings at schools and in town areas, stop signs, footpaths, and other facilities are needed at appropriate places along the highway.

6. The steep section of road from Wara Simbu up the hill to Kundiawa town is dangerous, as large trucks get stuck there, it is busy, with lots of traffic and pedestrians. The Simbu officials would like to see a passing lane for trucks built on this short section, as well as crash barriers, footpaths, guardrails, school signs, and other safety features. The participants were pleased to hear about the planned safety improvements where the highway crosses Kundiawa town.

7. The PA suggested that recipient communities should be part of the monitoring of the project, and on completion, they should be asked if they are satisfied with the work as part of the formal approval sign off process and completion report.

Eastern Highlands

1. The meeting participants were very pleased to hear of the plans for a Goroka bypass, as well as the proposed fresh produce logistical platform, the replacement of one-lane bridges, the weigh stations, and the proposed location of the PMO in Goroka. However, they asked whether the by-pass could be constructed during Tranche 1 of the Investment Program. ADB representatives thought this unrealistic and not likely to happen, as it will take a lot of planning and design work, and it will also be very expensive, so time is needed for preparation. The old highway on the other side of the Asaro River (between Kamaliki (6km south from Goroka) and the Kafamo/Ufeto turnoff from the highway, has been investigated, but this would involve construction of 24km of road, much longer than the usual bypass. More work needs to be done to find and plan a viable route.

2. Drunk driving and alcohol outlets were discussed, and the PA, Solomon Taato, pointed out that there is already a steering committee working on issues to do with the control of alcohol sale and distribution. It was noted that the police, DOW, Lands, Agriculture and other provincial bodies all need to play a role, and there is a need to carry out awareness raising activities.

3. Jackson Appo (Deputy Director, Technical Health Program, Provincial Health Authority) noted that Environmental Health Officers could be employed to assist with control of alcohol outlets. He also appealed to the project to use the existing public health authorities and NGOs to assist with HIV/AIDS prevention training and traffic safety campaigns. He recommended that local NGOs be involved, as some such as Save the Children have long-term programs to assist sex workers and keep them safe. Short-term one-off training events are unlikely to affect behavior change, and are not sufficient to mitigate against the risks of HIV/AIDS.

4. The DOW said they had plenty of land on which to locate a PMO for the SHHIP, and hoped it would be built in their grounds.

5. Mr Solomon Tata the Provincial Administrator reminded the ADB / DOW that if they

required contributions from the provincial government or needed them to do anything, then they would need to be told in good time to allow items to be budgeted. ADB pointed out that all PAs and governors were members of the high-level steering committee, and they needed to attend the meetings to ensure that provincial perspectives and local knowledge were incorporated into the plans and design.

Morobe

1. There was a discussion about the new weigh bridge in Lae, and all agreed that the current design is problematic, as there is not enough space to park waiting trucks, nor room for them to turn around, should they fail the inspection. It needs to be re-designed, and preferably moved to a better location. Jacob Luke, chairman of the PNG Road Transport Association and owner of Mapai Transport suggested that the weigh station would be better sited at Nadzab where the government (Civil Aviation) has plenty of flat space for parking. He also suggested that newer digital technology was needed, and that some mobile weigh bridges should be introduced. It was felt that fees and fines are not the answer to overloading as this easily leads to 'bribery', and it would be better to turn trucks back to re-load if they breached the regulations. It was also suggested that the weigh bridges should be built as early as possible (in Tranche 1), so that newly restored and upgraded roads are not being damaged by overloaded trucks. Trucking companies face a lot of pressure from suppliers to overload trucks (or lose the contracts). There is a need to educate communities and companies about the risks this entails.

2. The freight companies are also concerned that almost half the fresh produce goes to waste because of the poor packaging, lack of cool storage, and other problems. The Mapai Transport company often refuses to carry produce because the containers are not cooled, and if the road is blocked or impassable, the farmers then complain about produce being kept too long in the truck and spoiled. The PNG Road Transport Association would like to be involved in the planning and design of the logistics platforms for the SHHIP, as it is an important issue for them. Planning for these needs to be done in cooperation with FPDA, DAL, NARI, and provincial administrations.

3. Lae participants also raised concerns about the lack of toilets and rest facilities along the highway, pointing out that there are thousands of people using the road daily, but there are no public facilities.

4. There is also a need for designated truck parking areas especially in towns, as trucks are used as lodging places, and also used for sex work. At the moment, they park along the seafront at Lae, which is unsatisfactory. There needs to be good on-going HIV/AIDS prevention programmes associated with the project, (run by established local organizations with appropriate expertise), as many of the drivers are becoming HIV positive, and three or four men working for Mapai Transport have already died of HIV/AIDS related illness.

5. When the issue of drunk driving was discussed, some participants rejected the idea of restricting the sale of beer along the highway, saying that banning alcohol outlets would just increase the use of home brew and drugs such as marijuana.

6. The Morobe participants acknowledged the importance of the AusAID Transport Sector Support Program to them, saying that much of the rehabilitation work is still visible. However, more resources are needed to continue the maintenance and rehabilitation work, and they look forward to working with the SHHIP.

APPENDIX 3 – Salient Provisions of the PNG 1996 Land Act

1. The Minister may acquire land through a) agreement or b) compulsory purchase, including acquisition of developments to or improvements on the land (Art. 7 and 8). Improvements on land include, among others, buildings, fences, wells, reservoirs, gardens, plantations or fixtures constructed to manage or use land and/or to raise livestock.
2. Acquisition of customary land by agreement shall be on the terms and conditions agreed between the Minister and the customary landowners. However, the Minister may not acquire land that is required or likely to be required by the customary landowners for their livelihoods. Further, if the land is likely to be required in the future by customary landowners, the Minister may lease the land (Art.10).
3. In the case of compulsory purchase,¹⁰ the date of acquisition is the expiration of a two month period following the publication of a notice to treat in the National Gazette (Art. 12). The notice to treat must also be served to all landowners or such of them as can, after diligent inquiry, be ascertained; prior to the end of this period, landowners are required to provide particulars regarding their interest in the land, as well as the amount requested to sell their interests to the State (Art. 13). The National Land Commission (NLC) shall hear landowners and shall determine and recommend to the Minister the amounts to be paid.
4. The value of compensation for land acquired under compulsory purchase shall take into consideration a) the value of the land at the date of acquisition, b) the damage (if any) caused by the severance of the land from other land in which the claimant has an interest and c) the enhancement or depreciation in value of the claimant's interest in other land adjoining or severed from the acquired land by virtue of the purpose for which the land is acquired. This enhancement or depreciation in value shall be deducted from or added to, as the case requires, to the amount of compensation otherwise payable (Art. 23).
5. The value of compensation to be paid shall be determined a) by agreement between the Minister and the claimant prior to or after the acquisition (Art. 25 and 26) or b) by arbitration as per the procedures of the Arbitration Act, as agreed by the Minister and the claimant (Art.27).
6. It is an offence punishable by fines and/or imprisonment of persons who trespass on or unlawfully enter, occupy or use State or customary land, or who refuse to leave that land within 14 days of being notified to do so (Art. 144-146).
7. The procedures for compulsory acquisition of land for major highways (e.g. Highlands Highway) as implemented by the Department of Works (DOW) include:
 - a. When the road design is complete, the Lands and Survey Division (LSD) of DOW commissions a private registered surveyor to determine the boundaries of the land to be acquired as well as the location, sizes and areas of affected customary land. The completed surveys are submitted to the Surveyor General for registration.
 - b. Upon receipt of the registered survey plans, the DOW requests the Department of Land and Physical Planning (DLPP) to issue an instruction to the relevant Provincial Administration land officers (PA) to carry out a land investigation for the

¹⁰ Compulsory acquisition is not permitted under ADB's policies

proposed acquisition.

- c. The relevant Provincial Land Officer (PLO) (and/or District Land Officer (DLO)) conducts the land investigation and prepares a Land Investigation Report (LIR) including ownership genealogy, rights and interests held in the land; and, an assessment of the value of improvements to land prepared in accordance with the Economic Trees and Plant Price Schedule. (Department of Agriculture and Livestock)
- d. The LIR is submitted to the PA for his/her recommendation for alienation of the land. A signed copy of the LIR is sent to the Office of the Valuer General to conduct a valuation of the land and improvements.
- e. A copy of the LIR is then sent to the Department of Provincial Affairs that prepares Certificates of Alienability (COA). The COA certifies that there is no impediment to the acquisition of the customary land; it is signed by the Secretary for Provincial Affairs, as well as representatives of affected Local-Level Governments (LLGs).
- f. DOW receives the valuation report and COAs, raises cheques based on the valuation amounts and prepares purchase documents that are forwarded to the Secretary of DLPP for his/her signature. The signed documents and cheques are sent to the PA for execution and payment to landowners.
- g. The DLO, with all relevant forms, makes the offer to the landowners. If accepted, the forms are executed and the money is handed over in accordance with the requirements of the landowners. If rejected, it then goes to the Minister of Lands for a negotiated settlement.

APPENDIX 4 – Memorandum of Agreement**(a) Investment Program Approach in Obtaining MOA on Use of Customary Lands for Road Improvement**

1. HRMG with assistance from the PLO and/or DLO will organize a full consultation with local officials (LLG and Ward officials), community leaders, affected people (APs), other community members and other stakeholders; APs include all individuals and families that have rights to use land and/or own crops and structures affected by additional land requirements to upgrade or rehabilitate the road. The purpose of the consultation is that all APs and other stakeholders are fully informed about the Investment Program subproject, the scope of road improvements, the benefits that this will bring to individuals and the community and the strategies to acquire use of land to permit road rehabilitation to proceed, including the use of the MOA; and, the policies and procedures that will apply to the establish of a public road reserve or corridor as state property.
2. During consultations, the community leaders and affected landowners will be asked whether they agree that the use of this land for road improvements a) is directly linked to benefits they and their community will receive and b) does not severely affect their living conditions, livelihoods and incomes; and, they are satisfied that c) community sanctioned measures are in place to replace any losses that are agreed to through written record by affected people.
3. The agreement will be confirmed by a Memorandum of Agreement (MOA) that waives the customary interest in the land in lieu of the public infrastructure. An example of an MOA is included in this Appendix. The MOA will be signed by (i) community leaders and affected landowners and representatives of (ii) the PLO and (iii) the PMO (and/or DOW); and, will be verified by an independent third-party such as a designated non-government organization or legal authority. The third-party verification format is included in Appendix 4. The signed MOA will be copied to the Secretary of DLPP.
4. The PLO and/or DLO will inform community leaders, landowners, other APs and stakeholders about the SHHIP grievance redress mechanisms that are available for APs and others who have complaints and/or grievances related to the MOA or other aspects of the Investment Program
5. The experience so far shows that MOA with leaders of landowner groups and communities can be achieved through successful negotiations. However, the process requires concerted efforts and time and DOW will take pro-active measures on this.

(b) Template for MoA

This **Memorandum of Agreement** entered into by and between;

The Independent State of Papua New Guinea as represented by the Department of Works;

---AND---

The community of _____ **(Name of Ward)**, _____ **Province** as represented by its ward leaders, district leaders, leaders of clans and sub-clans, the names of whom are enumerated at the end of this document;

---WITNESSETH---

Whereas, the State through the Department of Works is formulating, administering and implementing the Multipartner Financing Facility for the Sustainable Highlands Highway Investment (the Investment Program), an ADB funded loan for the upgrading, rehabilitation and maintenance of the Highlands Highway;

Whereas, the _____ road section has been pre-selected by the State through the Department of Works (DOW) and approved by the Asian Development Bank (ADB) based on certain assumptions including two conditions namely that the right to use (a) existing road carriage has been negotiated in the past when such road was constructed, and (b) additional land to be required for the Investment Program has been negotiated with the customary owners;

Whereas, after diligent searches and inquiries from the relevant government agencies, the existence of a written document on the agreement for the use of customary land in the past cannot be ascertained and that the agreement may not have been put into writing;

Whereas, the absence of any proof of the existence of previous agreements for the use of the existing road carriage and the use of additional road for the Investment Program by the government might jeopardize the SHHIP because the previous assumptions of the existence of these documents for the use of existing road and additional land may not be defensible;

Whereas, there is an urgent need to correct any deficiencies that may affect the eligibility of the pre-selected road section _____ with the Investment Program and may create or foster future conditions that would give rise to misunderstandings, resentments and possible conflicts on the right to use the customary lands;

Whereas, the clans and communities who jointly own the customary land are fully aware of the benefits of an upgraded and rehabilitated road for their communities such as faster travelling time and cheaper transport costs, better access to health and educational facilities, increase economic activities, better access of farm products to markets among others;

Whereas, the clans and communities, who jointly own the affected customary land that will be needed by the government for road improvements, are fully supportive of the proposed project to improve the existing road section passing through their communities, wards and districts;

Whereas, the clans and communities, who jointly own the affected customary land are desirous for the road section which is located in their customary land, to retain its status as part of the Investment Program subject to a feasibility study including qualifications of the project's eligibility criteria and detailed engineering design;

Whereas, there is an urgent need for a close public – private partnership between the Independent State of Papua New Guinea as represented by the Department of Works who has the legal mandate to undertake infrastructure development in the country and the clans and communities who jointly own the customary land where the proposed road development will be constructed;

NOW, THEREFORE, for and in consideration of the foregoing premises and covenants hereinafter stipulated, the Independent State of Papua New Guinea, represented in this Memorandum of Agreement by the Department of Works (DOW) and the clans and communities who jointly own the customary land where the existing road carriage is located and the additional land that will be required to improve the existing road:

1.0 Identification and Location of Road Section

1.1 DOW has considered the road section from _____ as a pre-selected road section for upgrading under the SHHIP. This road section has a length of around _____ Km and will start at chainage _____ located at _____ and will end at chainage _____ km at _____.

1.2 We certify that we, as individuals and representatives of our communities and clans, are the exclusive customary owners of the road section that is a pre-selected road section for the Investment Program. The particulars of our customary land are described below;

Road section:

(name): _____

Km to km (chainage): From _____ to _____

Ward: _____

District: _____ Province: _____

2.0 Additional Land Requirements

The upgrading and rehabilitation of this pre-selected road section will require additional customary land and that based on the existing road and the proposed road, both described below, the preliminary estimate of the DOW for the additional land requirement is _____ hectares,

Existing Road		Proposed Road	
Carriageway _____ meters		Carriageway _____ meters	
Formation width _____ meters		Formation width _____ meters	
width _____ meters,	Total	to width _____ meters	Total
outside of drainage structures		construction limits	of
Total area _____ hectares	of	Total area _____ hectares	of

Difference of area between existing road and proposed road _____
(additional land required)

3.1 Agreement

3.2 Responsibilities and Commitments of Clans and Communities

1. We, members and representatives of the clans and communities who jointly own the customary lands on the above mentioned road section agree to permit the Independent State of Papua New Guinea (State), as represented by DOW, to use our additional customary land for the upgrading, rehabilitating and maintaining the road section described above exclusively under the Sustainable Highlands Highway Investment Program (SHHIP) and guarantee the unimpeded use of the road by the public;

2. That we enter into this agreement on the basis of our free and prior informed choice and consent, having been provided with full information by the State through the DOW and DLPP about the Investment Program and are fully aware of the consequences for our tribes, clans/sub-clans and communities and waive any and all customary interests over the additional lands in lieu of public infrastructure, on the understanding that where the road corridor has not been legally purchased, the state will pay for the road corridor of 40m and any additional land required at government valuation, as soon as possible, following review of the land records, and when adequate funds permit;

3. That we are aware that the State will be using public funds for the improvement of roads situated in customary lands and if the issue of land use is not properly addressed now, future generations of customary owners may restrict and limit public and private vehicles from using the improved road that may cause conflict and unrest in our communities and villages;

4. That our full permission for the State to use the additional land is premised on the existence of the said road and in the event that the use of our customary land as a road is discontinued for any cause, our permission will also cease and the use of the land will revert to the former owners and users of the land at the time of taking;

5. That we are validating and reiterating the permission given by our ascendants to permit the State through the DOW, to use our customary lands where the existing road corridor is located and in the event that the use of our customary land as a road is discontinued for any cause, our permission will also cease and the use of the land will revert to the former users of the land at the time of taking;

6. In the event that the State will seek to use or establish a public road reserve beyond the actual construction limits of the proposed road under the Investment Program, the required additional lands is not included in the subject matter of this MOA and will require a separate agreement with the customary land owners, and purchase by the state;

7. That if there are any dislocations on land use that will be caused to any member of our clans and community because of the additional land requirement of the road, in considerations for the positive effects of the project, our clans and communities involved will address this issue based on our customs and traditions and provide for adequate land replacement;

8. That we are representing all the clans and communities that jointly owned the land as described in Section 2 of this agreement and that we will all be jointly responsible to control and police our members in complying with the terms and conditions of this agreement.

9. That we are guaranteeing the State on behalf of all members of this community and its clans that there will be no further land claims on existing state road which has been purchased, as well as on the additional land required and that there will be no disruption and/or disturbance of the civil works to upgrade and rehabilitate the road;

10. That in the event that there is disruption and/or disturbance of data gathering for planning, surveys and preparation of the subproject during the implementation of civil works of the above road section, the clan and/or community involved will be jointly liable for the appropriate compensation and the erring person who may be criminally liable, be surrendered to the proper authorities for the appropriate legal measures.

3.3 Responsibilities and Commitments of the State through the Department of Works

1. The DOW has minimized as far as possible additional land requirements for the improvement of the existing road based on existing road standards to ensure the safety of passengers and vehicles using the improved road. However, there are instances that improvements in the hairpin curves sections, relocation of some bridges and improvement in the drainage system will result in using more lands than expected which are unavoidable but necessary to improve the safety of the existing road carriage.

2. DOW has conducted a detailed measurement survey to determine the additional land required to upgrade, rehabilitate and maintain the above mentioned road section based on the detailed engineering design and has a list of all the affected persons (APs) and their affected assets such as annual crops, perennial plants and trees, fences, structures, and graves and these will all be compensated at replacement cost;

3. The clans and communities will ensure that after the detailed measurement survey, there will be no new structures built or crops, plants, trees planted within the construction limits. Structures built and improvements planted or made after the detailed measurement survey (cut-off date) will not be compensated.

4. *Temporary Use of Land* – The road contractor will negotiate with customary land owners for the temporary use of customary land for the construction camps, motor pools, stockpile areas for aggregates, etc. The road contractors will be responsible for the payment of the leased area, and for restoration of the area after the completion of the road as part of their contract.

5. *Compensation for Loss of Annual Crops* -- APs will be encouraged to harvest their annual crops, in this case, no compensation will be paid; however, If the annual crop is not yet harvestable upon land taking, compensation will be provided at replacement cost;

6. *Compensation for Loss of Perennial Plants and Trees* -- Compensation for lost plants and/or trees will be paid at replacement cost according to the government schedule of the Ministry of Agriculture. An additional grant equal to the lost income will be paid for the period of time until new perennial plants or fruit trees produce a yield similar to the lost plants and trees. For timber trees, APs will be required to cut the trees prior to clearance of

the additional land; they will be compensated and permitted to harvest the trees and sell the timber.

7. *Compensation for Loss of Fences* -- Fences constructed of wood or metal will have a compensation rate equal to the current market price (per meter) for similar fencing materials as determined in the subproject area. For vegetation fences, the compensation will be at replacement cost for the type of plant material used.

8. *Compensation for Loss of Semi-Permanent or Temporary Structures* -- Semi-permanent or temporary structures may be located close to the road and it may be necessary to shift these buildings back in order to upgrade the road. In this instance, APs will be provided with a shifting allowance to cover the costs of this activity. If such structures cannot be moved, APs are entitled to compensation at replacement cost for the materials and labor to repair or reconstruct a similar structure.

9. *Compensation for Loss of Graves* -- Compensation will be paid for the affected graves at replacement cost.

10. *Construction Employment* -- People affected by permanent or temporary loss of land or by damage or loss of crops, trees or structures will be given priority for employment by contractors for civil works and/or maintenance works on the road, preferably on road sections where they own the customary land, provided that these applicants are qualified to perform the work required.

11. *Shifting Allowance* -- The value of the shifting allowance will be calculated through valuation for the duration of the shifting. At the time that the shifting allowance is paid, the landowner will sign an agreement with DOW and/or DLO regarding the date by which the structure will be removed from the land required to upgrade/rehabilitate the road.

12. *Business Disruption Allowance* -- APs that own a temporary or semi-permanent structure that is used as a trade store or for other business purposes that must be shifted a short distance to a location outside the area designated for the road are entitled to an allowance to cover the loss of business income while the structure is being shifted calculated through a valuation.

13. *Time for Valuation of Assets* -- The valuation of assets (at replacement cost) will be made by a valuation specialist at the time of the detailed measurement survey (DMS) conducted following completion of detailed engineering design and assessing the requirement for additional grants and the grant amount based on existing conditions in the subproject area.

14. *Delayed Payment* -- If payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates to ensure that APs receive compensation at replacement cost at the time of compensation payment. Changes to compensation amounts will be verified and approved by the office of the Valuer General.

15. *Full Payment of Compensation* -- APs are entitled to payment of all compensation based on the DMS prior to clearance of land and start of civil works. DOW will ensure that all procedures are followed to facilitate payment of APs prior to the start of civil works. In the case of affected crops, trees and structures, the compensation owed will be paid directly to the person who owns these assets (including the women who planted crops).

16. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until (i) compensation and relocation of APs have been satisfactorily completed; (ii) agreed rehabilitation assistance is in place; and, (iii) the site is free of all encumbrances.

4.1 General Conditions

1. If this negotiated agreement for the use of additional customary land to upgrade and rehabilitate the existing road has not been attained or did not push through for any cause, both parties agree that this memorandum of agreement will become null and void and unenforceable to any or both parties; In this case, the State through the DOW will inform in writing the clans and communities through their leaders and representatives about this development and this is sufficient notice for the State to invoke the unenforceability of the MOA;

2. The State through the DOW and its consultant together with the provincial, district and ward administrations will conduct periodic consultations and encourage active participation of affected clans and communities covered by this road section to inform and update all stakeholders of the development of the project;

3. The State through the DOW in collaboration with the provincial and/or district land officer will institute a grievance process based on the accepted practices of mediation to address any complaint or issue regarding the valuation of assets or any resettlement related matter. If the complaint or issue is not resolved in this level, the Investment Program will adopt procedures to refer matters to the system of land courts as set out in the Land Disputes Settlement Act;

4. In the event of grievances that cannot be resolved through mediation at the local level, the State through the relevant authorities will hold the compensation amounts in escrow. Compensation will be paid in full upon final resolution of the case in the courts or other forum, in accordance with the entitlements of the affected person;

5. This MOA repeals and/or supersedes any written or verbal agreement for the use of customary land on the existing road carriage and the proposed road referred to in Section 2 of this MOA issued previously by either the DLPP, DOW and the customary land owners;

6. No amendment or additional terms and conditions to this MOA shall be deemed binding between the parties unless mutually agreed upon by them in writing.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this _____ day of _____ 201__.

By and on behalf of the Independent State of Papua New Guinea Minister for Lands

(Name and Signature)

(Designation)

Witness:

I, _____, a Provincial Lands Office of _____ Province, a public servant of Papua New Guinea, do hereby certify that the contents of this Agreement were read over by _____ in _____ the _____ language that is understood by the signatories to this Agreement and I further certify that to the best of my knowledge and belief the contents of this Agreement are understood by the signatories hereto.

Dated at _____ this _____ day of _____

Signature: _____ Designation _____

Land owners

Name	Signature	Ward/Village	Clan/Sub-Clan	Date

Third Party Verification Letter

We provide the independent verification of the Memorandum of Agreement (MOA) signed on (insert date) between the Government of PNG represented by _____ the Department of Works and landowners clans of _____ (insert address of landowners) on the use of _____ ha land for widening of the _____ (insert name of relevant subproject) road under the Multipartner Financing Facility for the Sustainable Highlands Highway Investment Program (the Investment Program) that (i) the landowners support the upgrading and widening of the road and have agreed to provide affected land; (ii) consultations and negotiations with landowners have been undertaken meaningfully,

freely and in good faith and the landowners have made informed decisions on use of land, and (iii) terms and conditions of the MOA have been explained to and understood and agreed by the landowners. The verification is based on our independent:

- Review of the documentation on the identification of affected landowners and the consultation and negotiation process leading up to the signing of the MOA;
- Validation that consultations with the landowners have been undertaken and that they were provided with relevant information as per the Investment Program land acquisition and resettlement framework (LARF);
- Validation that the agreement is voluntary (free of coercion) and that the landowners have fully understood and agreed to the MOA terms and conditions;
- Validation that the landowner representatives signing the MOA duly represent the landowners;
- Validation that the contribution of the land to the project will not cause undue hardship to any third-party or individuals;
- Validation that the loss of all assets on land (structures, trees, crops, etc.) have been identified and sufficiently addressed for compensation in the land acquisition and resettlement plan (LARP);
- Validation that compensation for loss of assets on the land included in the LARP represents a fair and reasonable replacement cost based on market prices; and
- Validation that the MOA is in compliance with applicable laws of PNG, including (specify applicable law) as well as safeguard requirements stipulated in the LARF.

The verified copies of the MOAs are attached herewith.

Signature:

Date:

Name of NGO or Magistrate:

APPENDIX 5: Scope of Community Consultation and Participation Program (CPP)

The scope of the consultations will include:

1. The PMO will review the scope of works to upgrade and rehabilitate the road and the land acquisition requirements. In the presence of village leaders and landowners, the PMO will explain the proposed subproject and identify the affected land on the ground; the boundaries of land parcels will be walked, and staked, and/or GPS or other coordinates will be recorded by the land officers.
2. The safeguards staff from the PMO, staff from DOW Survey and Lands Branch, and the PLO (and/or DLO) will lead a discussion with village leaders and affected landowners to reach a negotiated agreement regarding access to customary land required on a permanent or temporary basis. Landowners will be informed about the process of alienating land to enable the state to own the infrastructure.
3. The PMO and the PLO (and/or DLO) will also inform village leaders and affected landowners about the policies and procedures regarding compensation and allowances for affected structures, crops and trees, including procedures for grievance redress. In addition, the PMO will inform the community about when and how compensation will be paid to eligible affected people (APs).
4. In conjunction with these discussions, the PMO and PLO/DLO representatives will interview each of the affected landowners to collect relevant information about the affected assets; the survey form will be signed by the landowner and witnessed by village leader(s), LLG Ward Councilor(s) and local police.
5. Prior to completion of the LARP, safeguards staff from the PMO will conduct public meetings and/or provide written information such as a public information booklet in Tok Pisin to village leaders and APs summarizing the results of the data collection on affected assets, proposed compensation rates and entitlements, schedule for payment of compensation, as well as grievance redress and monitoring procedures.
6. The consultations will also inform communities about the other benefits provided by the SHHIP, such as the gender, HIV/AIDS awareness raising, employment possibilities, and other income restoration plans.

APPENDIX 6 – Subproject Screening Form

Project Title: Multi-tranche Financing Facility for the Sustainable Highlands Highway Investment Program (the Investment Program)

Tranche/Project No:

Subproject Title:

Short Subproject Description:

Location and Impact Area:

Possible Land Acquisition Impacts	Yes	No	Not Known	Possible	Remarks
Will the project include any physical construction work?					
Does the project include upgrading or rehabilitation of existing physical					
Is land acquisition likely to be necessary?					
Is the site for land acquisition known?					
Is the ownership status and current usage of the land known?					
Will easements be utilized within an existing right-of-way?					
Are there any non-titled people who live or earn their livelihood at the site or within the right-of-way?					
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 livelihood?					
Will people lose access to facilities, services or natural resources?					
Will any social or economic activities be affected by land use-related changes?					
If involuntary resettlement impacts are expected:					
Are local laws and regulations compatible with the ADB Safeguard					
Will coordination between government agencies be required to deal with land					

acquisition?					
Are there sufficient skilled staff in the Executing Agency for resettlement planning and implementation?					
Are training and capacity-building interventions required prior to resettlement planning and implementation?					
<i>Whenever possible, consider also any future subprojects or investments.</i>					
<p>Information on Affected Persons (APs):</p> <p>Any estimate of the likely number of households that will be affected by the subproject? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many?</p> <p>_____</p> <p>_____</p>					
<p>Are any of them poor, female heads of households or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, briefly describe their situation</p>					
<p>Are any APs from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, please explain:_____</p> <p>_____</p> <p>_____</p>					

APPENDIX 7: Land Acquisition and Resettlement Plan Outline¹¹

This outline is part of the ADB SPS 2009. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

A. Executive Summary

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

B. 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.¹¹

C. Scope of Land Acquisition and Resettlement

This section:

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

D. 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:

1. define, identify, and enumerate the people and communities to be affected;
2. describe the likely impacts of land and asset acquisition on the people and communities affected taking social, cultural, and economic parameters into account;
3. discuss the project's impacts on the poor, indigenous and/or ethnic minorities, and other vulnerable groups; and
4. Identify gender and resettlement impacts, and the socioeconomic situation, impacts, needs, and priorities of women.

E. Information Disclosure, Consultation, and Participation

This section:

¹¹ Source: Safeguard Policy Statement 2009, pp. 51-54

1. identifies project stakeholders, especially primary stakeholders;
2. describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
3. describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
4. 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;
5. confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
6. 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.

F. Grievance Redress Mechanisms

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

G. Legal Framework

This section:

1. 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.
2. describes the legal and policy commitments from the executing agency for all types of displaced persons;
3. 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.
4. describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

H. Entitlements, Assistance and Benefits

This section:

1. defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
2. specifies all assistance to vulnerable groups, including women, and other special groups; and
3. outlines opportunities for affected persons to derive appropriate development benefits from the project.

I. Relocation of Housing and Settlements

This section:

1. 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);
2. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs
3. provides timetables for site preparation and transfer;
4. describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
5. outlines measures to assist displaced persons with their transfer and establishment at new sites;
6. describes plans to provide civic infrastructure; and explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

This section:

1. identifies livelihood risks and prepare disaggregated tables based on demographic data and livelihood sources;
2. 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);
3. outlines measures to provide social safety net through social insurance and/or project special funds;
4. describes special measures to support vulnerable groups;
5. explains gender considerations; and
6. describes training programs.

K. Resettlement Budget and Financing Plan

This section:

1. 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.
2. Describes the flow of funds (the annual resettlement budget should show the budget-scheduled expenditure for key items).
3. 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.
4. Includes information about the source of funding for the resettlement plan budget.

L. Institutional Arrangements

This section:

1. describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;

2. includes institutional capacity building program, including technical assistance, if required;
3. describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
4. describes how women's groups will be involved in resettlement planning and management.

M. 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.

N. 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.

APPENDIX 8: TOR for Independent Monitoring Organization

External Monitoring Objectives

1. The objectives for external monitoring are to provide an independent review and assessment of (i) the achievement of SHHIP resettlement objectives and principles, (ii) the effectiveness, impact and sustainability of entitlements, (iii) the need for further mitigation measures if any, and (iv) to identify strategic lessons for future policy formulation and planning.

Hiring, Qualifications and Timing

2. In accordance with ADB requirements for consultant procurement, the PMO will engage an individual or organization for the independent monitoring and evaluation of LARP implementation. The individual or organization, to be called the Independent Monitoring Organization (IMO), will be a) a specialist and/or specialized in social sciences and b) experienced in resettlement monitoring for international agencies. All candidates will be academically trained as social anthropologists and/or sociologists or equivalent qualification.

Monitoring and Evaluation Indicators

3. The following indicators will be monitored and evaluated by the IMO:

a. Public consultation and disclosure: (i) APs and other stakeholders should be fully informed and consulted about land acquisition activities; (ii) the monitoring person/team should attend selected public consultation meetings to monitor procedures, problems and issues that arise during the meetings and solutions that are proposed; (iii) public awareness of the compensation policy and entitlements will be assessed among APs.

b. Identification of APs and their entitlements: (i) all APs have been identified and informed of their rights and entitlements; (ii) there is a participatory process to collect data on affected assets; c) calculation of compensation and allowances is carried out according to Program policies.

c. Payment of compensation: (i) full payment to be made to all APs sufficiently before land acquisition; adequacy of payment to replace affected assets; (ii) prompt attention to unforeseen damages or losses, to ensure APs are fully compensated for losses.

d. Co-ordination of resettlement activities with construction schedule: The completion of land acquisition and resettlement activities for any sub-project to be completed prior to the approval to award of the civil works contract for that sub- project.

e. Restoration of productive activities: Affected persons should be monitored regarding restoration of productive activities so as to ensure the process is satisfactory for the APs.

f. The level of satisfaction of APs with various aspects of the LARP: This will be assessed, reviewed and recorded, and the operation of the mechanisms for grievance redress and the speed of grievance redress will be monitored.

Methodology

4. The methodology for monitoring and evaluation of the preparation and implementation of land acquisition activities associated with SHHIP tranches will include the following activities:

5. The detailed measurement survey (DMS) is to provide data on 100% of APs. The DMS will establish a database for each AP in terms of his/her social-economic status, the nature and extent of losses suffered, compensation and entitlements etc. Data will be disaggregated according to LLG and district. This database will become the basis for compensation and for monitoring the benefits as well as entitlements the AP receives during the process of implementation.

6. As soon as the detailed engineering design is finalized and marked on the ground, the PMO, PLO/DLO and LLG officials for each road section will carry out the DMS with the full participation of all APs. The IMO will monitor the DMS process. The resulting data will be made available to the IMO to enable them to create their initial database.

7. Socio-Economic Survey: In conjunction with the preparation of detailed engineering design, the PMO will conduct a baseline socio-economic survey in communities along the subproject road. The IMO will collaborate with the PMO to ensure that data are collected to provide a baseline for external monitoring, including:

- i. Inclusion of 20% of APs in the samples of households and business owners that are surveyed.
- ii. Baseline data to document the characteristics of AP households including demographic, education, income and occupational profiles; livelihood and production systems, economic activities, income sources and poverty levels; access to and use of land and natural resources, tenure security and common property resources; and, social and cultural systems and networks. All data must be disaggregated, as relevant, by gender, clan group and where possible, by income group.
- iii. Special attention should be paid so that women, elderly persons and other vulnerable target groups are not omitted and/or overlooked. The sample should have, as far as possible, equal representation of male and female respondents. Certain set questions in the interview should be specifically marked and answered only by female members of the household and/or those who are vulnerable (such as the lonely elderly, people with disabilities etc). Data should be disaggregated according to gender, age, ethnicity and socio-economic status where appropriate.

Participatory Rapid Appraisals:

8. The IMO will conduct periodic participatory rapid appraisals (PRA) to consult with the various stakeholders (local government, implementing agencies, social organizations, community leaders and APs). PRA will involve obtaining information, identifying problems and finding solutions through participatory means, which will include the following:

- Key informant interviews with selected local leaders at village, LLG and district levels; and, informal surveys and interviews with APs, vulnerable groups and other stakeholders.

- Community public meetings to discuss community losses and impacts and construction work employment; as required, separate meetings will be organized with women or other groups who because of cultural constraints are less likely to contribute in general community meetings
- Direct field observations on the status of land acquisition activities in addition to individual and group interviews for cross-checking purposes.

Database Management and Storage

9. The IMO will collaborate with the PMO to establish and maintain a database of resettlement monitoring information. It will contain certain files on each affected household and, as required, will be updated based on information to reflect changes in socio-economic conditions. All databases compiled will be fully accessible by all implementing agencies and those involved in the management of land acquisition activities.

Reporting

10. The IMO is required to file monitoring reports at intervals to be agreed (generally, once or twice per year). These monitoring reports shall be directly submitted to the PMO and the ADB. The report should contain the following topics:

- a. Progress of land acquisition and compensation activities;
- b. Deviations, if any, from the provisions and principles of the LARP and an explanation thereof;
- c. Identification of problem issues and recommended solutions so that implementing agencies are informed about the ongoing situation and can resolve problems in a timely manner; and
- d. Progress of the follow-up of problems and issues identified in the previous report.

Monitoring Report Follow-up

11. The monitoring reports will be discussed in a meeting between the IMO, the PMO and the other implementing agencies (e.g., PLO/DLO) held immediately after submission of the report. Necessary follow-up action will be taken based on the problems and issues.

Evaluation

For each Investment Program subproject, the IMO will conduct an evaluation of the resettlement process and outcomes 6-12 months after completion of all land acquisition and compensation activities, using the same survey questionnaire and sample as used during the monitoring activities.

APPENDIX 9: TOR for Safeguard Specialists - Social/Gender/Resettlement and Training Consultants

A. Scope and Objectives

In accordance with ADB requirements for consultant recruitment, DOW as the Executing Agency for the project will engage social development/resettlement consultants (27 months international and 78 months national for Tranche 1) to provide capacity building training and other assistance to the PMO and other participants in the Program related to land acquisition activities for subprojects. The consultants will be responsible for managing and social development and resettlement aspects of the SHHIP, in coordination with the national safeguards officers and other consultants. The consultants will be (i) specialists and/or specialized in social sciences, (ii) experienced in resettlement monitoring for international agencies and (iii) knowledgeable about customary land tenure and other relevant conditions in Papua New Guinea. In the case of the Gender and Social Development Specialist, s/he will ensure that the SHHIP is consultative, pro-women and empowering of communities, and that the Gender Action Plan is implemented and monitored for effectiveness. S/he will have extensive experience in community development, managing gender projects, and some knowledge of water and sanitation projects preferably in a Melanesian context. The consultants will assist with mobilization of local community maintenance groups and coordination of HIV/AIDS awareness training by local health service providers and/or NGOs. All candidates will be academically trained as social anthropologists and/or sociologists or equivalent qualifications.

1. The term of this consultancy will be concurrent with the initial stages of implementation of the first tranche of the Program (2017-2020). The objectives of the consultancy are to assist DOW, PMO, PLOs and DLOs in subproject areas and other stakeholders in the following areas:

- a. Review the required resources and procedures to support the work of PMO to carry out activities related to acquiring land to upgrade and rehabilitate roads in compliance with the Program policies.
- b. Planning and preparation of Land Acquisition and Resettlement Plans for Tranche 1 road sections, including all requirements for consultations, data collection, screening and documentation of AP entitlements and compensation; this work should serve as a training process for PMO staff, the PLO and DLO personnel to enable them to proceed with preparation of subsequent Program tranches.
- c. Conduct formal and on-the-job training related to the policy and legal framework for land acquisition (GoPNG and ADB), data collection, consultation and participatory planning methods and other issues relevant to the range of issues associated with land acquisition for the Program.
- d. Support DOW and relevant agencies in the implementation and monitoring of resettlement activities.

B. Review of Land Acquisition Resources

3. The consultants will collaborate with the PMO and relevant groups at DOW (e.g.,

Lands and Survey Division) to identify methods and procedures to assist the PMO to integrate land acquisition activities into the process of preparing and implementing Program subprojects. This will include, among others, assistance to:

- a. Establish procedures to facilitate consultation and collaboration with all provincial and district authorities involved in land acquisition and compensation activities for SHHIP subprojects. This will include, among others, the Provincial Land Officer (PLO) and District Land Officer (DLO) who will be directly involved in land acquisition activities; the LLG and Ward Councillors who will assist with village consultations; and, the Provincial Administrator who will be responsible for approving land documents and facilitating compensation funding for the road.
- b. Assess the personnel and logistical requirements of PMO and other participants and draw up strategies to ensure adequate and qualified personnel and other resources.

C. Preparation of Tranche 1 Subprojects and Land Acquisition and Resettlement Plans

4. The consultant will assist the PMO to prepare assessments for Tranche 1 road sections and, as required, Land Acquisition and Resettlement Plans (LARPs). This is intended as a learning-by-doing process and activities will include, but not be limited to the following:

- a. Undertake reviews of project design and standards to facilitate compliance with criteria that are related to additional land requirements.
- b. Conduct subproject screening related to land acquisition impacts, using the Subproject Screening Form; and, report on land acquisition requirements and impacts.
- c. Organize community consultations to inform village leaders, affected landowners, other affected people in the community about the Program, its objectives, the requirements for additional land to upgrade roads, entitlements for compensation and procedures to document and pay compensation, etc.
- d. Design survey tools and conduct detailed measurement surveys (DMS) with full participation of APs. Assess AP entitlements and compensation in accordance with Program policies.
- e. Assist DOW and the PMO (and/or their consultants) to design and carry out baseline socio-economic surveys in communities along Tranche 1 road sections, ensuring that samples include people affected by loss of or damage to assets.
- f. Assist the PMO to prepare and disclose LARPs to affected communities; and, to facilitate resolution of complaints and grievances through local mediation processes, according to the GRM.

D. Formal and On-the-Job Training on Resettlement and Social Assessment

5. The consultant will develop methods and materials and provide formal and on-the-job

training, as follows:

- a. Provide formal and on-the-job training for DOW, PMO, PLOs and DLOs related to resettlement, gender assessment and social impact assessment.
- b. Provide training sessions on, but not limited to the following: (a) policies, procedures and best practices related to resettlement, social preparation, social impact/assessment, gender and social development; (b) social assessment methodologies; stakeholder analysis; (d) participatory rapid appraisal; (e) participatory monitoring and evaluation; and, (f) basic social research methodologies.
- c. Provide training and assistance on consultation and public participation methods, including methods to increase the participation of women and other vulnerable groups.
- d. Develop and implement a capacity building strategy for DOW, PMO and PLO/DLO to sustain and coordinate all resettlement, social impact/assessment, gender and social development-related activities.

E. Implementation and Monitoring of LARPs

- a. Support and coordinate with DOW, DLPP and provincial authorities in implementation of the LARPs.
- b. Monitor implementation of the LARPs and prepare semi-annual monitoring reports on resettlement/social safeguards.
- c. Coordinate with other specialists and provide safeguard inputs to overall project reports (e.g. quarterly progress reports).
- d. Coordinate with the Independent Monitoring Organization (IMO) for external monitoring and ensure that the Terms of Reference are properly and effectively achieved

APPENDIX 10: NGOs and Service Providers

Annex 10: NGOs and service providers (HIV/AIDS and gender training)

Organisation	Areas serviced	Services / programs
Mt Hagen hospital	WHP	Well Women Clinic and Family Support Centre; emergency medical and psychosocial care for women and children victims of sexual abuse and violence; prevention/treatment of family violence and HIV/AIDS
Save the Children PNG	EHP & Morobe	Outreach and referral to at risk populations (sex workers, men who have sex with men and transgender people). GBV counseling and referral; SRH services including HIV/AIDS testing, FP, sexual assault intervention (PEP+); training service providers
Voice for Change	Jiwaka	Based near Minj, dynamic provincial women's organization involved in combatting GBV, peace and security work, and gender justice training. Works with police and local hospitals to provide refuge and support to victims of GBV. Also involved in livelihoods & economic empowerment work with women.
Salvation Army Health Services	Kainantu, EHP	VCT centre and support to 8 aid posts, providing HIV/AIDS prevention, care & treatment; condom distribution along HH; CHW training centre in Kainantu. 35 people receiving ART. Ran prevention program for 'truckies'.
Kainantu Hospital	Eastern Highlands	HIV/AIDS program with counselling and testing; ART provision; awareness raising and training
St Joseph's Mingende Rural Hospital VCT centre	Simbu	VCT centre provides prevention, counseling, testing, ART, and training. Part of the Catholic Health Services.
Kundiawa Hospital VCT centre	Simbu	VCT centre (Prapa Clinic and 6 subcentres), and Family Support Centre; Provide counseling, ART treatment, prevention awareness raising
Oxfam PNG	EHP and Simbu Partners of HRDN, KWP, KWA.	GBV program supporting volunteer human rights defenders providing services and referrals to survivors of family and sexual violence and sorcery victims; counseling and paralegal support; training and prevention
AT Projects	EHP and other provinces as funding permits	Community home based care program with 50 volunteers providing prevention services, ART, and technologies to assist in care of AIDS patients (e.g personal hygiene kits, rain water catchments, body bags, well liners, solar water disinfectant systems, AT loos). Excellent training centre available near Goroka.
Mutzing Health Centre	Markham District, Morobe	Manages 29 aid posts; hospital + HIV/AIDS clinic supported by ADRA; have registered 345 sex workers and provide regular check-ups to FSW for STIs; provide mobile clinics and awareness raising to 21 'hotspots' along HH

		between Nadzab and Akamore market
ADRA (Adventist Development and Relief Agency)	Lae & Markham Valley	Provides HIV/AIDS education and awareness; home based care and SRH interventions, and HIV/AIDS counseling and testing. Supports Lae FSC and Morobe health centres, including Mutzing.
CMC (Family and Sexual Violence Case Management Centre) Lae	Lae and Morobe	Improving access to services for survivors of domestic violence
Angau Hospital FCS	Lae	Medical and psychosocial care for survivors of family and sexual violence
Médecins Sans Frontière (MSF)	Lae and	Used to operate the FSC in Lae; then provided training to 28 provincial and district hospitals and health centres; advocates for 5 essential services to be provided in one location: medical first aid, psychological aid; prevention of HIV & STIs (PEP); vaccination against hepatitis B8 and tetanus; and emergency contraception to prevent pregnancies as a result of rape. Training expertise in GBV and HIV/AIDS
Clinton Health Access Initiative	EHP, WHP, Jiwaka, National	National HIV commodity supply chain, ART rollout, paediatric ART support, training & mentoring service providers
Marie Stopes	Morobe, Mt Hagen, Goroka	Clinics in Lae, Mt Hagen and Goroka providing high quality SRH, family planning services, HIV testing; 12 outreach teams; in-service training in FP and other SRH issues
Anglicare	Mt Hagen, Morobe	StopAIDS program; key population outreach prevention program to hotspots; counselling, testing, home based care and ART treatment, as well as training
Baptist Union	Mt Hagen & Jiwaka	Outreach and referral service – for men who have sex with men, transgender women and sex workers
FHI360	Jiwaka, Mt Hagen,	TA to 10 clinics in 3 provinces, support for HIV programs; training health workers and VCT counselors; GBV program including men's forums, village leaders, and school teachers/counsellors
Friends Frangipani	National	Works with male, female and transgender sex workers
CHASI	20 provinces	Catholic Health Service operating 22 testing centres, 30 health facilities offering ART and training
Susu Mama	Mt Hagen and Port Moresby	Primary health care services: information on infant feeding, FP, mother and child health care, and VCT services; prevention of mother to child HIV transmission

ART = Anti retroviral treatment; FP = family planning; FSC = Family Support Centres; FSW = female sex workers; GBV = gender based violence; HRDN = Human Rights Defenders Network; KWP = Kup Women for Peace; KWA = Kafe Women's Association; PEP = Post exposure prophylaxis; SRH = sexual and reproductive health; STI = sexually transmitted infections; VCT = voluntary counseling and testing;

It should be noted that on 7 September 2016, the Australian High Commission in PNG

announced its intention to discontinue funding for recipients of HIV and reproductive health grants across PNG. Nineteen NGO and civil society organisations are thought to be affected. Organisations were given 6-12 weeks' notice to end their grants and return assets. It is not yet clear how many of the service providers above, will be able to find alternative funding sources to maintain their services without this important source. It is also feared that the ART supply-chain will collapse, and the testing kits, lab reagents, condoms and other commodities may be unavailable. In addition, withdrawal of this funding is likely to impact on capacity building for health care workers, and public awareness raising efforts¹²

¹² UNAIDS, 7 October 2016, *Briefing Note: Australian Government Funding for HIV in Papua New Guinea*