

# Safeguards Due Diligence Report

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Report  
November 2016

## VAN: Cyclone Pam Road Reconstruction Project

Prepared by Ministry of Infrastructure Development for the Solomon Islands Government and the Asian Development Bank.

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# DRAFT FINAL Appendix E3 – Social Safeguards Due Diligence Report

## Cyclone Pam Road Reconstruction Project

PWD Project No. TCP:16G678  
ADB Project No. 49319  
Cardno Project No. AC85900

Prepared for  
Ministry of Infrastructure and Public Utilities

18 November 2016



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## Document Information

Prepared for	Ministry of Infrastructure and Public Utilities
Project Name	Cyclone Pam Road Reconstruction Project
File Reference	Appendix E3 - DDR.docx
Job Reference	AC85900
Date	18 November 2016

Version	Date	Description of Revision	Prepared By	Prepared (Signature)	Reviewed By	Reviewed (Signature)
0.1	17/10/2016	Draft for ADB revision	LZC		DLS	
1.0	18/11/2016	DRAFT FINAL for submission with FS	LZC		JW	

Version	Reason for Issue	Approved for Release By	Approved (Signature)	Approved Release Date
0.1	Draft for ADB revision	DLS		17/10/2016
1.0	DRAFT FINAL for submission with FS	JW		18/11/2016

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## Acronyms and Abbreviations

ADB	Asian Development Bank
AP	affected persons
BBB	'build back better'
BNPL	Basic needs poverty line
CPRRP	Cyclone Pam Road Recovery Project
CLMO	Customary Lands Management Office
CCP	community consultation plan (for the Project)
DOL	Department of Lands
DP	displaced persons
DSC	design and supervision consultants
RF	resettlement framework
MDG	Millennium Development Goals
MIPU	Ministry of Infrastructure and Public Utilities
LAA	Land Acquisition Act
MOU	Memorandum of understanding
NGOs	Non-government organisations
PAM	project administration manual
PMU	project management unit (within MIPU)
PRC	Program Recovery Committee (within Prime Minister's Office)
PWD	Public Works Department (within MIPU)
SPS	Safeguard Policy Statement 2009 (of ADB)
UNESCO	United Nations Educational, Scientific and Cultural Organization

## Executive Summary

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Severe Tropical Cyclone Pam (TC Pam) was a category 5 cyclone that devastated Vanuatu on 13 March 2015. It caused damage to bridges, including to piers, abutments and scour protection. Road approaches to bridges, causeways and culverts collapsed or were washed away and road pavement stability was affected in a number of locations particularly along the Efate ring road, just outside Vanuatu's capital of Port Vila. On 25 August 2015, the Government of the Republic of Vanuatu (the government) requested the assistance of the Asian Development Bank (ADB) to assess the damage to roads and their structures on the island of Efate. ADB provided this assistance by scoping the Project, confirming loan and grant funding availability and procuring a design and supervision consultant (DSC). The Public Works Department (PWD) are delivering the Project under the Ministry of Infrastructure and Public Utilities (MIPU) as the implementing agency.

Based on the disaster assessment findings the Project has only one output – transport infrastructure in damaged locations on Efate ring road reconstructed, and made climate and disaster-resilient. The scope of works will include repair, rehabilitation or replacement of eight bridges, nine culverts, two road sections and one landslide protection.

The target impact of the Project is to accelerate economic and social recovery in Vanuatu's Cyclone Pam-affected areas and contribute to Ni-Vanuatu resilience. The development objective (outcome) is to restore socioeconomic activities of people around the Efate ring road to pre-cyclone levels. This will be achieved by providing climate and disaster resilient road and bridge infrastructure by protecting and reconstructing priority assets, i.e., to “build back better.”

The purpose of this due diligence report (DDR) is to screen whether the involuntary resettlement safeguard will be triggered by the proposed scope of works for each of the 20 Project sites (also known as subprojects), and to establish the process for securing short and longer-term access to the sites for Project purposes.

The objective of the resettlement framework (RF) is to “avoid land acquisition and resettlement impacts to a maximum possible extent; to minimise resettlement impacts by exploring design alternatives; to enhance, or at least restore, the livelihoods of all displaced persons (DPs) relative to pre-project levels; and to improve the standards of living of the poor DPs and other vulnerable groups.”<sup>1</sup>

The RF (Para. 21) prescribes selection criteria to minimise resettlement impacts which have meet incorporated into the multi-criteria analysis that was used. The screening form provided in the RF annex was used as the screening tool to ascertain significance or category of potential impacts.

Initial involuntary resettlement screening indicated that the Project falls under Category C as all 20 Project sites will build on sites of existing structures. Of the three sites with proposed works outside the road corridor, two sites (Prima and Mele), include vegetated islands in the creek bed that need to be reshaped up and downstream, to improve the flow regime under the bridges. Klems Hill includes slope protection works and construction of a top-of-batter drain beyond the corridor.

There are 14 communities who are within the vicinity of the 20 Project sites who are either customary land owners or leaseholders. At least 398 community members and leaders (28% women) in these 14 communities were consulted from August 8 to 29 September 2016. Overall, those consulted expressed strong support for the Project. The chiefs of the 14 Project communities have also expressed support for signing a long term access MOU in each of the Project sites to ensure continuity of public access and maintenance after construction.

The policy and legal framework for resettlement and associated land issues, governing access for construction and ongoing access during operations, is based on the ADB's Safeguards Policy Statement (SPS) and relevant Vanuatu laws.

The Project will comply with both ADB's safeguard requirements and Vanuatu's laws and regulations applicable to negotiation for longer-term access (with or without 'in-kind' compensation, lease, or negotiated purchase). The government does not intend to obtain land for the works through compulsory acquisition.

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<sup>1</sup> ADB, 2015, Resettlement Framework, Para. 20, p5

Instead, the government will use a lease or negotiated settlement. Failure of negotiation will not result in compulsory acquisition. No construction will take place prior to finalising the lease arrangement and compensation paid (monetary or in-kind). Any other unforeseen or unintended impacts will be mitigated as per the ADB's SPS and Vanuatu government policy.

This DDR is a draft, for issue with the final feasibility study report. The land use agreements are currently under consultation (expected to conclude by the end of November 2016). Detailed design is also anticipated to conclude at the same time. When these key activities are complete, the DDR will be updated (by the DSC, working for PWD) as a final issue. At this time, it will be disclosed to communities and on the ADB website.

A grievance redress mechanism was developed as part of the DDR and will be disclosed to communities and through posting to the government and ADB websites and by more immediate means within communities.

PWD is responsible for submitting and implementing the DDR. The DSC (on behalf of PWD) will also submit semi-annual monitoring reports, reporting on the progress of the implementation of the DDR. These will be submitted MIPU and ADB as part of project performance monitoring. The monitoring reports will be disclosed on ADB's website.

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# 1 Introduction

Severe Tropical Cyclone Pam (TC Pam) was a category 5 cyclone that moved through Vanuatu on 13 March 2015. Passing just east of the island of Efate, the ensuing impact from extreme winds and moderate rainfall resulted in severe damage to infrastructure including roads, bridges, housing, telecommunications, and sewerage and water supply systems. 17,000 buildings were destroyed or damaged, livelihoods dependent on agriculture were compromised<sup>2</sup> and 11 fatalities were suffered.<sup>3</sup>

Large waterway flows and debris build-up caused damage to bridges, including piers, abutments and scour protection. Road approaches to bridges, causeways and culverts collapsed or were washed away and road pavement stability was affected in a number of locations. The major damage to the transport sector was to the Efate Ring Road. The 120 km sealed two-way road, provides transport services to the rural population (about 29,150 people) around Efate Island and connects them to the capital, Port Vila, with an urban population of 55,525. It is the only road link servicing the rural population of Efate.

This disaster caused Vanuatu's Gross Domestic Product (GDP) growth to contract to 0.9 per cent in 2015, down from 2.3 per cent in 2014<sup>4</sup>. TC Pam had a notable effect on tourism, with immediate and future bookings affected for up to 12 months.

On 25 August 2015, the Government of the Republic of Vanuatu (the government) requested the assistance of the Asian Development Bank (ADB) to assess the damage to roads and their structures on Efate. ADB provided this assistance by scoping the Project, confirming loan and grant funding availability and procuring a design and supervision consultant (DSC). Cardno Emerging Markets (Australia) Pty Ltd (Cardno) was appointed as the DSC and commenced services on 6 July 2016.

Nineteen (19) sites were identified in the scope of work in the Project Administration Manual (PAM). During the inception phase of the Project, this was expanded to 20, including eight bridges, nine culverts, two road sections and one landslide.<sup>5</sup>

## 1.1 Scope of this due diligence report

The purpose of this social safeguards due diligence report (DDR) is to screen and assess whether the involuntary resettlement safeguard will be triggered by the proposed scope of works for each of the 20 Project sites (also known as subprojects), and to establish the process for securing short and longer-term access to the sites for construction, operational and maintenance purposes.

Screening and assessment was informed through site visits, review of ownership and tenure arrangements and conduct of community consultations including chiefs and male and female community members during the feasibility study stage, as described in the Community Consultation Plan (CCP).

This DDR is a draft, for issue with the final feasibility study report. The land use agreements are currently under consultation (expected to conclude by the end of November 2016). Detailed design is also anticipated to conclude at the same time. When these key activities are complete, the DDR will be updated as a final issue.

<sup>2</sup> Widespread crop destruction occurred to 80% of Vanuatu's rural communities (Government of Vanuatu, 2015, "Post Disaster Needs Assessment Report" Port Vila, p8)

<sup>3</sup> *ibid*, p113

<sup>4</sup> <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=VU>, accessed 03/08/2016

<sup>5</sup> **Bridges:** Prima, Mele, Tanoliu, Marona, Epule, Lamin, PangPang, Rentapau;

**Roads:** Onesua, Teouma-Rentapau;

**Culverts:** Creek Ai, Havannah, Malatia, Sara, Epau, Neslep, La Cressonniere, Eton Beach, Eton Dry Creek;

**Geotechnical:** Klems Hill. (ADB, 2016, "Memorandum of Understanding, Loans 3331/332 and Grants 0459/0460/0461-VAN: Cyclone Pam Road Reconstruction Project. Inception Mission 29 July – 3 August 2016", Para.12 (i))

## 2 Project description

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### 2.1 Objective

The target impact of the Project is to accelerate economic and social recovery in Vanuatu's Cyclone Pam-affected areas and contribute to Ni-Vanuatu resilience. The development objective (outcome) is to restore socioeconomic activities of people around the Efate ring road to pre-cyclone levels. This will be achieved by providing climate and disaster resilient road and bridge infrastructure by protecting and reconstructing priority assets, i.e., to “build back better” (BBB).

### 2.2 Consultation overview

Three major community consultations were conducted as part of the involuntary resettlement screening on 8 and 10 August, on 29 August to 1 September, and 29 September 2016 (**Appendix A – List of consultation participants**). Male and female community leaders and members were invited by PWD to attend the village-level Project briefing and consulted them on issues with roads, culverts, and bridges in the Project sites. Project communities were also consulted on the scale of flooding events and potential social and environmental impacts of these and the construction stage (refer **Section 4.3**).

It is important to note that during the 29 September consultation, upon learning that the Project sites were generally within the current road corridor, the chiefs were overtly supportive of the Project. They stated that if a situation arose where there was a possibility of the need to build infrastructure elements outside the road corridors, the leadership (Vaturisu Chairman) and other key leaders would remain supportive of the Project and requested that local chiefs allow the Project to be implemented. Rehabilitation or maintenance of these structures are very important for their communities.

### 2.3 Project components

In response to, and in line with, the post-disaster needs assessment findings, the Project will have one output: transport infrastructure in damaged locations on Efate ring road reconstructed and made climate and disaster resilient. The proposed Project outputs include the following approximate quantities:

- > 10 km of road resealed
- > 9 bridges, box culverts and causeways reconstructed, repaired for minor damages and debris cleared
- > 200 m of river channel realigned at upstream and downstream and river banks protected
- > 1400 m of sealed pavement protected against erosion from storm surges
- > 8 km of road side and cross road drainage improved
- > 6 culvert headwalls reconstructed
- > 2000 m of guard rail reconstructed
- > Land slide at Klems hill reinstated and stabilised
- > 100% of construction workers and at least 80% of roadside inhabitants receive education in gender equality and HIV/AIDS awareness by the end of the Project
- > All community consultations will include at least 30% participation by women

### 2.4 Scope of land access requirements

#### 2.4.1 Approach

The objective of the Project RF is to “avoid land acquisition and resettlement impacts to a maximum possible extent; to minimise resettlement impacts by exploring design alternatives; to enhance, or at least restore, the

livelihoods of all displaced persons (DPs) relative to pre-project levels, if applicable; and to improve the standards of living of the poor DPs and other vulnerable groups.”<sup>6</sup>

The RF (Para. 21) prescribes that to avoid and minimise resettlement impacts, the Project will adopt following resettlement criteria in selection of subprojects:

- (i) A candidate subproject should be an existing infrastructure
- (ii) Preference will be given to those subprojects which can be undertaken within existing right of way (ROW) / boundary or on government/public land
- (iii) If land acquisition cannot be completely avoided, only subprojects without significant land acquisition/resettlement impacts will be selected

The screening form provided in RF Annex 1 was used as the screening tool to ascertain significance or category of potential impacts.

The RF provides a process for resettlement impact assessment, preparation of a resettlement plan (RP) and implementation of compensation and income restoration measures for DPs. It covers both physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of land acquisition or restriction on land use or on access to parks and protected area.

If land acquisition/resettlement impacts are identified for any subprojects under the Project, MIPU will follow the policies and procedures spelled out in the RF, in compliance with the applicable laws and regulations of the government and the safeguard policy requirements of ADB on involuntary resettlement.

At present, Vanuatu legislation, which defines the road reserve as “15 metres either side of the centreline for an arterial road; or 10 meters each side of the centreline for a feeder road”<sup>7</sup> was gazetted in 2013. However, this is yet to be implemented by the government, primarily due to non-availability of budget to compensate landowners in the Efate area, including those at the Project sites.

Based on initial discussions with Department of Lands (DOL) and Public Works Department (PWD), the government has no intention to invoke procedures under the Land Acquisition Act to compulsorily acquire land of any Project sites. Instead, access and use of each site will be through lease or negotiated settlement. Following this directive, failure of negotiation will not result in compulsory acquisition, rather, construction of that particular subproject may be delayed until, at a minimum, there is a long term access agreement in place between the government and landowners and/or leaseholders, in the form of a signed Memorandum of Understanding (MOU), providing consent for civil works. For sites where works extend beyond the existing road corridor, the MOU signing will be followed by securing a lease agreement between the government and landowners or leaseholders prior to commencement of civil works.

#### **2.4.2      Securing access**

All 20 Project sites are existing roads and structures. Short-term access for surveys, investigations and some construction activities were agreed and approved for each site in July and August 2016, using PWD’s consent process.

Some land adjacent to sites may be required for short term access during construction for site access, facilities and storage. This may result in some impacts such as loss of trees and crops. Where known, this will be included in MOUs. When specific impacts are known following the detailed design and appointment of a construction contractor, these MOUs will be revisited and updated if required.

All sites require long term access arrangements for construction, operation and maintenance and this will be achieved under the MOU process (refer **Section 6** and **Appendix C – Procedures for Memorandum of Agreement**).

Some areas of adjacent land (for drainage, coastal and slope protection works) may be required at three locations (Prima, Mele and Klems Hill) in order to adequately reconstruct roads and bridges affected by Cyclone Pam to a BBB standard. The government will secure this land through negotiated settlement or long term lease.

<sup>6</sup> ADB, 2015, Resettlement Framework, Para. 20, p5

<sup>7</sup> Republic of Vanuatu, 2013, Public Roads Act No. 35 of 2013, Part 1, 1 Interpretation of “Road Reserve” (b)

In summary, to secure long term access, a two-level approach to secure land was adopted:

- (i) For all sites within the existing road corridor, for construction, operations and maintenance: Signing of a long term access MOU by government (**Appendix D – MOU Template** and **Appendix E – TPV Template**)
- (ii) For sites that will have permanent features or assets outside the existing road corridor: Specific lease agreement (or similar arrangement)

This is in accordance with the RF, where a long-term access MOU (construction and operations) must be secured first by the government prior to construction, to be followed by a more specific lease negotiation or a long term access arrangement prior to construction for sites that will permanently require land outside the existing corridor.

#### **2.4.3      Status of land ownership**

Specific scope of works for the 20 Project sites includes:

- > Replacement of damaged culverts (Creek Ai, Malatia)
- > New bridges (Mele, Marona, Lamin)
- > Bridge refurbishment (Prima, Tanoliu)
- > Bank protection (Malatia, Epule, Epau, Eton Beach, Eton Dry Creek)
- > Installation of new culverts (Malatia, Onesua)
- > Pavement repair works (Creek Ai, Havannah, Onesua, Neslep culvert, 2<sup>nd</sup> Lagoon to Rentapau)
- > Improvement of safety features including installation/repair of guardrails and footways (Sara, Pangpang, La Cressonniere, Eton Dry Creek, Rentapau)

Of the three sites with proposed works outside the road corridor, two sites (Prima and Mele), include vegetated islands in the creek bed that need to be reshaped up and downstream, to improve the flow regime under the bridges. Klems Hill includes slope protection works and construction of a top-of-batter drain beyond the corridor.

The proposed scope of works and ownership status of the land at each site is summarised in **Table 2-1**. Three options, corresponding to low, medium, high intervention/cost, were developed for each site. The options were selected by MIPU, based on a multi-criteria analysis encompassing environmental, social, economic, engineering and other criteria. The chosen options are indicated below as the “Proposed scope”.

The names of those known to be associated with land affected by Project works are listed in **Appendix B – Name of custom owner and leaseholders for possibly affected leases**).

**Table 2-1 Status of land ownership and requirements**

Site (ID)	Proposed scope	Land ownership <sup>8</sup>	Land requirement	Status of Agreement
Prima Bridge (BR01)	Scour protection, rechannelling, new footpaths, handrail and guardrail	Customary land (4 adjacent leases, <b>Appendix B</b> ) <sup>9</sup>	Land outside the road corridor to be confirmed during detailed design.	Conducted initial discussion of MOU long term access with chiefs of each project community and Efate Vaturisu Council <sup>10</sup> . In principle, commitment was provided by chiefs to support the MOU signing
Mele Bridge (BR02)	New bridge and abutment protection, rechannelling, new footpaths	Customary land (1 adjacent lease)	Small islands in the creek bed to be reshaped	
Klems Hill (GT01)	Erosion protection and new bored piled wall to downslope. Stabilise cutting surface and new open channel drains to upslope	Customary land (1 adjacent registered lease and 2 unregistered leases)	Land outside the road corridor to be confirmed during detailed design	Next step is to discuss with actual landowners in November 2016 (some of whom may also be already chiefs consulted)
Creek Ai culvert (CT01)	New culvert with greater flood immunity, suitable bank protection and improve side drains and footway	Customary land (1 adjacent lease)	Within existing road corridor	
Havannah culvert (CT02)	New concrete pavement, scour protection and guardrail	Customary land (3 adjacent leases)	Within existing road corridor	Met separately with State Law Office (SLO), Customary Lands Management Office (CLMO) and Department of Lands <sup>11</sup> re MOU
Tanolu Bridge (BR03)	Refurbishment of existing bridge, including new footway and scour and coastal protection	Customary land (1 adjacent lease)	Within existing road corridor	
Marona Bridge (BC01)	New higher level 2-lane bridge	Customary land (1 lease; still to be confirmed)	Within existing road corridor	
Malatia Culvert (CT04)	Backfill scouring and provide bank protection, relief culverts	Customary land (1 adjacent lease)	Within existing road corridor	
Onesua pavement works (RD01)	Coastal protection and repair damaged pavement	Customary land	Within existing road corridor	
Sara Culvert (CT05)	Repair roads, scour protection, provide footway	Customary land (1 lease including the bridge; 2 adjacent leases)	Within existing road corridor	

<sup>8</sup> Some of these sites have existing leases and this is currently being confirmed with Department of Lands. The Customary Land Management Office meanwhile are assisting the team to identify the rightful customary landowners of the project sites and provided initial commitment to assist the PWD team to facilitate the signing of the long term access MOU.

<sup>9</sup> Source: Department of Lands, October 2016. 15 of 20 sites have leases adjacent to the project sites.

<sup>10</sup> 29 September 2016 meeting with Efate Council of Chiefs and members. At least 44 chiefs attended at MIPU conference room.

<sup>11</sup> 5 and 6 October 2016. A series of meetings had been agreed with the respective officer-in-charge with a target MOU signing dates between October and December 2016 for the 20 sites

Site (ID)	Proposed scope	Land ownership <sup>8</sup>	Land requirement	Status of Agreement
Epule Bridge (BR04)	Repair scour protection. Replace timber deck and install new footway to the bridge. Steps to washing facilities	Customary land (3 adjacent leases)	Within existing road corridor	
Epau Culvert (CT06)	Scour protection works, road side drainage	Customary land	Within existing road corridor	
Neslep Culvert (CT07)	Remove deposition material, repair road pavement, road side drainage	Customary land	Within existing road corridor	
Lamin Bridge (BR05)	New two-lane bridge including footway	Customary land (1 adjacent lease)	Within existing road corridor	
Pangpang Bridge (BR06)	Guardrail and handrail, footway, steps to creek	Customary land (1 adjacent lease)	Within existing road corridor	
La Cressonniere Culvert (CT08)	Vegetation clearance, plantings and scour repairs	Customary land	Within existing road corridor	
Eton Beach Culvert (CT09)	Bank protection and replace guardrails	Customary land	Within existing road corridor. Will be confirmed during detailed design	
Eton Dry Creek Culvert (CT10)	Support road embankment and replace guardrail	Customary land	Within existing road corridor	
Rentapau Bridge (BR07)	Guardrails and creek access	Customary land (3 adjacent leases)	Within existing road corridor.	
2 <sup>nd</sup> Lagoon to Rentapau pavement works (RD02)	Surface patching, reseal, vegetation control, drain clearing	Customary land	Within existing road corridor	

## 3 Socioeconomic data

### 3.1 People and community within the Project sites

The 20 Project sites shown on **Figure 3-1**.



**Figure 3-1 Project sites**

There 14 communities associated with the Project sites and these are known as the “Project communities.” Some subprojects are identified with more than one community.

The socioeconomic situation of the Project communities is detailed below. All population figures are from the 2009 census. The land area, ownership and use arrangements, name and number of landowners for each site will be confirmed during detail design and included in a final, updated DDR.

#### 3.1.1 Eton village – North East Efate Area Council

Eton (about 20 km from Port Vila town) is located adjacent to the ring road. The population in 2009 was 516 people, of whom 262 are males and 254 are females. There are 99 households. The majority of the locals work in the village as farmers, fishermen, guest house operators, local restaurant operators, Mama’s market and kava bar operators, while a few commute to Port Vila for work.

The main source of income for most of the population is subsistence agriculture. Farmers sell crop produce such as manioc, banana, taro, kumala, cabbage, coconuts and fresh fruit and nuts at the central market in Port Vila. Fishing is also an activity used to generate income, however this is only on a very small scale. The community is also involved in tourism such as at Eton Beach, where picnic ground facilities and the beach



can be hired by the public. Some families also operate private tourism activities, especially in commercialising their picnic and swimming areas.

There are four different Christian affiliated denominations within the village – Presbyterian, Seventh Day Adventist, Jehovah's Witnesses and Church of God. Villagers are devoted to their religious duties and responsibilities within the respective churches. The church has influence in the lives of the community members and the societal stability.

Eton has average access to basic amenities and services. An aid post is located within the community hall premises. At scheduled times, a registered nurse from the main health centre in North Efate or the Shefa Province Health office, will visit at the Aid Post. Nursing mothers from the village and nearby communities bring their babies for regular check-ups and vaccinations. In cases of emergency, sick persons are transported to the Port Vila Central Hospital via private or public transport available in the village.

Eton is not yet connected to the UNELCO electricity grid. Electricity is obtained by solar panels and the few portable generators. Battery operated lamps are also common in households.

There is a communal water supply available and water tanks are also used by most households for collecting rain water, especially for drinking purposes.

There are three Project sites within the Eton area: Eton Dry Creek culvert, Eton Beach culvert and La Cressonniere culvert.

### **3.1.2 Pangpang – North East Efate Area Council**

Pangpang (about 45 km from Port Vila) is part of the North East Efate Area Council and has a population of 145, of whom 75 are males and 70 are female.

Subsistence agriculture is the main source of income, with farmers growing root crops such as manioc, banana, kumala, taro and green vegetables to sell at the central market in Port Vila. Fruit is also sold at the market such as coconuts, oranges, mandarins, mangoes and pawpaw. Sale of crops and fruit assist in generating income to buy basic needs and school fees. TC Pam severely damaged much of these fruit trees, however they are slowly being restored. Both men and women are involved in planting and selling of their produce.

The villagers travel to Epau Aid Post for basic health services, however emergencies are referred to the Port Vila Central Hospital. There is currently no communal water supply system and no electricity supplied to the village. Some villagers own solar panels that provide electricity, mainly for lighting. Villagers use water from the adjacent Epau river and store rain water in polytanks.

There is one Project site at this location: Pangpang bridge.

### **3.1.3 Epau – North East Efate Area Council**

Epau is part of the North East Efate Area Council, which includes Lamin village. The population is 381, of whom 201 are male and 180 are female. The number of households is 75.

The main sources of incomes are agriculture and fisheries. The community accesses the Port Vila central market where they can sell and buy food. The village market venue for trading and sales of garden produce was destroyed by TC Pam. Therefore, all produce, if not sold within the village or roadside markets, are transported to the central market in Port Vila, where women are usually the vendors. Women are also usually involved in selling cooked food in makeshift shelters with tables, along the roadside, often referred to as "20 Vatu Market", or at kava bars. Men would usually gather the food or fish and the women would prepare and sell it.

There is a primary school within the village, however many children also travel to Port Vila to attend primary school. Those attending secondary schools in Port Vila either board at their respective schools or live with family members in town. An Aid Post within the village provides basic health services for the village and nearby settlements.

The majority of villagers live mainly in semi-permanent buildings. The people have access to the ring road and water supply. Electricity is supplied by solar panels. There was previously donor funding available for a Solar Panel project, however maintenance of the assets was a challenge for the community.

Epau, is located at almost the halfway point around the ring road, from Port Vila. This position has made it an ideal location used by government departments, NGOs and religious groups for hosting of meetings all year round.

The Project sites within this area are: Epau culvert, Neslep culvert and Lamin bridge.

#### **3.1.4 Epule – North Efate Area Council**

Epule (about 62 km from Port Vila) is part of the North Efate Area Council and has a population of 317, of whom 150 are males and 167 are female. There are 55 households.

The main source of income is agriculture, with farmers, mainly women, taking their produce to the Port Vila central market for sale. Other activities include cattle farming, fishing and some tourism activities on the Epule River, which all members of the community are involved in. Some adults commute to Port Vila town for work, including in government agencies, commercial institutes, retail shops, private companies as well as resorts. The income from the above activities is used for basic needs and school fees.

Children either travel to Ekiye village to attend the Ekiye English-speaking primary school, or to attend the nearby Matarisu French-speaking primary school. The village has a health clinic but it is no longer in operation. Therefore, villagers either travel to Paunangisu Health Centre or to Port Vila, to access health services.

The village has access to communal water supply and also from water tanks storing rain water, mainly used for drinking purposes. Although the Epule River is easily accessible to the village, the village has no reticulate water supply system to supply water to households. The village is located on a tidal reach of the river. Most villagers bath and wash in the river. Students from the nearby secondary school frequently come to Epule River for recreational swimming.

There is no electricity supplied to the village. However, solar panels owned by individuals within the community primarily provide electricity for lighting.

Except for the Paramount Chief and the indigenous people of Epule, most of the villagers are originally from the Shepherd Islands, a group of islands lying between the larger islands of Epi and Efate, in Shefa Province. They migrated to Epule in the 1960-70s as a result of good friendships and relationships that their descendants had with the paramount chief of Epule. The Chief invited his friends to Epule and gave them land to live on and farm. Over time, more Shepherds Islands families moved to Epule, who were also either given land or bought land to live on and grow crops.

There are locally and foreign owned restaurants within the vicinity of the village and tourist scenic tours are operated by the local community. Some villagers also own small retail shops which sell basic food and household items. There are also kava nakamals and kava bars in the area. Most of the kava that is being sold is not originally planted at Epule, but bought from markets in Port Vila, then prepared for sale.

The Project site within this area is: Epule bridge.

#### **3.1.5 Siviri – North Efate Area Council**

Siviri Village (30 km from Port Vila) is part of the North Efate Area Council with a population of 97 resident villagers. Of these, 51 are males and 46 are females. There are 21 households. The population of Siviri has decreased over the past decade. Some families have moved to resettle at Malufau village, several kilometres away from the main Siviri village (about 2 km north of Tanoliu), due to reasons related to land disputes within the community. The other reason for this move was for the benefit of living closer to fertile land, 8km from Siviri village, which is utilised for agricultural purposes and is the main gardening grounds for the villagers.

The main source of income for the village is mainly subsistence agriculture and fishing. The men are usually engaged in fishing and women are involved in the sale of garden produce and cooked food, such as the local *laplap*, shellfish and fish, all at the Port Vila central market. There are also tourist activities within the area such as the Siviri cave and beach and swimming areas which can be hired by the public for picnics.

The majority of the children from Siviri attend Malatia Primary School, which is located approximately 1.5 km eastwards from the village. Secondary school students either attend Onesua Presbyterian College or commute to Port Vila to attend school. A communal water supply is available in the village with some individual villagers owning tanks storing rainwater. An aid post within the village provides basic health

services, while emergencies and serious cases are referred to the Paunangisu Health Centre and the Port Vila Central Hospital.

Anecdotal reports indicate that numerous land sales have taken place around the area. To the east of Siviri village is the Undine Bay Plantation, a former commercial coconut plantation but now leased. A section of this leased land was turned into a marina by a private developer who is also the lessee of that part of the land. Private boats and yachts use the marina. The entrance to the marina is adjacent to the Malatia river mouth.

Part of the Undine Bay Plantation lease was reportedly taken over by UNELCO and the company has recently used some of this land for a solar power project.

The Project site within this area is: Malatia culvert.

### **3.1.6 Tanolu – North West Efate Area Council**

Tanolu village is located 25km from Port Vila. It comes under the jurisdiction of the North West Efate Area Council and has a population of 158, of which 80 are males and 78 are females. There are 29 households. Tanolu has close ties with Moso Island, a nearby island that has a population of about 240, known for fishing charters and picnic areas. It also has close ties with the village of Malafau about 2 km north of Tanolu (on the mainland), with a population of about 30. They also depend on agriculture and fishing as the main economic activities.

The main sources of income for the Tanolu villagers are from agriculture with some fishing activities. A large portion of adults comprise the workforce at a number of tourist resorts in the surrounding area such as the 4-star Havannah Resort. A few also commute to Port Vila for paid jobs, working in private companies, shops and hotels. There are also occasional tourist activities, such as cultural tours and local food tasting, in which community members are involved in. Women sell handicrafts and artefacts on the road stalls. Villages are also involved in production of charcoal which is sold in Port Vila.

The increased economic activities around the area, has improved livelihoods of the villagers. This is reflected in the dwelling or housing types in the village, where most are permanent buildings. The village has its own water supply system sourced from a local spring, and some private water tanks.

The National Disaster Management Office (NDMO) has recently set up a disaster centre within the village, due to the area being vulnerable to natural disasters and there being a secondary school nearby.

The village has a secondary and primary school – Ulei Primary and Junior Secondary Schools, within 200m of the village. Students from other villages and islands also attend at the Junior Secondary School.

Various Christian affiliated denominations are represented in the village – the main ones being Presbyterian Church (largest membership), Assemblies of God and Jehovah's Witnesses.

Tanolu was formerly used as a base for the Americans during World War II. Many artefacts, such as Coca Cola bottles and remains of artillery equipment, can still be seen around the area. The old American swimming pool still exists near Ulei Junior Secondary School and is still frequently being used by students, villagers and visitors.

The Project sites within this area are: Marona culvert and Tanolu bridge.

### **3.1.7 Mangaliliu – North West Area Council**

Mangaliliu, located 18 km from Port Vila, is part of the North West Efate Area Council. The locals are originally from Lelepa Island, but have migrated to live on the mainland. Of the population of 266 villagers, 136 are males and 130 are females. It has 56 households.

Like other villages, the main sources of income are from subsistence agriculture and fishing activities. Occasionally, income is generated through tourist related activities involving community members, such as cultural site visits, and picnic and swimming areas. Villagers are also involved in the production of charcoal which is used for cooking on charcoal stoves. This is sold in the village and is also transported for sale at the Port Vila central market.

An English-speaking primary school and Aid Post are all accessible and located within the village. However emergency cases are either referred to either Lelepa Health Centre, or transported to main Port Vila Central Hospital.

Mangaliliu is the site of the UNESCO World Heritage Site – the home of Chief Roimata, an iconic chief who lived in the 17th Century. Upon his death, 50 of his wives were also buried alive with him on the renowned Eretoka or Hat Island.

A land sub-division has also been established near the village, where investors have started purchasing land and have started constructing permanent houses.

The Project site within this area is: Creek Ai culvert.

### **3.1.8      Mele – Mele Area Council**

Mele is located 8 km northwest of Port Vila and is part of the Mele Area Council. It is the largest village on Efate with a population of 2118 in 388 households. Of these 1069 are males and 1049 are females.

Unlike many of the villages on Efate further from Port Vila, Mele has ease of access to amenities and basic services that are readily available in Port Vila. There is relatively more development within and around the village, which has largely contributed to the livelihoods of the people. There are numerous tourist resorts with accommodation, bars, cafes and restaurants, outdoor adventures and tours, gardens, lookouts, picnic and swimming areas and waterfall tours nearby and along Devils Point Road.

Thus, the main sources of income come from tourist related activities, as well as agriculture, rearing of pigs and chickens, and fishing. A large portion of the population have paid jobs in Port Vila town. There are a number of retail shops which are either family owned and operated or are community cooperatives. Sand mining activities for supply of construction aggregates, is also an income generator for the villagers.

Mele Trustees Ltd was established to manage the village resources, in particular, land and natural resources and to fairly distribute benefits to the community. Nevertheless, individuals and or families are also engaged in the sale of customary land to interested individuals.

Mele, being the largest village on Efate, has the most diverse representation of religious denominations. They include Presbyterian, Assemblies of God, Neil Thomas Ministries, Jehovah's Witnesses, Mormons, Seventh Day Adventists, United Pentecostal and Islam. There are other Christian denominations that do have a church building within the Mele area, but have members in the village community.

French and English-speaking primary schools, a few kindergartens and a health clinic are all accessible and located within the village. Children from Mele also travel to and from school in Port Vila. Most diseases are treated at the clinic which serves the Mele Area Council, including several nearby villages. Mele shares many of its services such as health centres and schools with the nearby Melemaat Village. Melemaat Village is located on land that traditionally belongs to Mele Village. Villagers there originated from Maat Village on Ambrym island, and were relocated by the government to this current site on Efate, due to a volcanic eruption that occurred in 1951. The villagers at Melemaat also have gardens around Klems Hill and work in the tourism industry around the area as well as in Port Vila town.

Mele is connected to the UNELCO power grid and has its own water supply with the source located at Klems Hill above the Teae River. Mobile phone reception and network coverage is generally good and most villagers own a mobile phone.

The Project sites within this area are: Klems Hill, Mele bridge and Prima bridge.

### **3.1.9      Rentapau – Eratap Area Council**

Rentapau is located 11 km east of Port Vila. It has a population of 346, of which 178 are males and 168 are females. Rentapau is part of the Eratap Area Council. There are 85 households. Rentapau is a settlement that is increasingly becoming more diverse in its composition. The original land owners are from Eton on the eastern side of the river and Eratap on the west. However, land was leased out and now non-indigenous people are occupying the land and residing in the area.

The main income generating activities are subsistence agriculture and fishing. Produce is sold in various Port Vila markets, shops and individual homes. Women are mostly involved in the sale of agricultural products

while men and boys are involved in fishing activities for income sources. Some residents are also involved in public transportation (both buses and taxis) and small retail shops as well as kava bars.

Children attend schools in Teouma, approximately 4 km to the west.

There is electricity now available from UNELCO, but relatively few households are connected, with the majority still using solar or battery-powered lights. The residents source water for drinking and cooking from identified springs at the Rentapau river banks. Other water catchments are also used such as tanks and drums for rainwater storage purposely filled for cooking and drinking. The river is used mainly for washing and swimming.

The Project sites within this area are: Rentapau Bridge and part of 2<sup>nd</sup> Lagoon to Rentapau pavement works

### **3.1.10 Sara – Emau Area Council**

Sara (65 km from Port Vila) is a small settlement under the jurisdiction of the Emau Area Council. It has a population of 40 people, of whom 23 are males and 17 are females. Its closest neighbouring settlements are Takara and Onesua to the north, under the same Area Council and Epule to the south (refer **Section 3.1.5**). Main economic activities include fishing and tourism related activities. Handicraft markets, local cafés and picnic spots are evident in the area. Some of the residents commute to work in Port Vila. This was made possible with the upgrade of the ring road in 2008-2010.

There is no health centre or aid post in Sara. Villagers either travel to Takara Aid Post or the Paunangisu Health Centre to access health services. There is no electricity supplied to the settlement. However, some individuals own solar panels which provide electricity for basic use.

The Project site within this area is: Sara culvert.

### **3.1.11 Takara and Onesua – Emau Area Council**

Takara village has 61 households with population of 354, consisting of 181 females and 173 males. Main economic activities include sale of agricultural products such as manioc, kumala, banana, cabbage. Fishing products and tourism related activities including a resort, geothermal pools and handicraft markets which provides employment to both men and women.

A number retail shops selling basic food stuff and items, an aid post, women's hall and community hall are located in the village. Bread from one of the main bakeries in Port Vila, Ah Pow Bakery, is delivered to the area daily. There is communal water supply. Electricity is being supplied by either solar panels, portable generators or battery operated lamps.

Takara is located on a part of Efate that is geo-active, evident at a number of hot springs. A project was proposed for a geothermal energy plant in the area. Feasibility studies were conducted, however progress has stalled due to land access and feasibility issues.

Christian affiliated denominations in the village include Presbyterian, Christian Outreach Centre and Seventh Day Adventists.

Within the Takara custom boundary, is the settlement at Onesua, approximately 800m south. It is known as the location of the Onesua Presbyterian College, a secondary boarding school of up to 400 students, 30 academic staff and 24 auxiliary staff (417 people, consisting of 203 females and 214 males). Students come from all over Vanuatu and from various Christian denominations to study at the college, which accommodates Years 9 to 13. The college is located approximately 500 metres north of Sara.

College vehicles travel to and from Port Vila about 3 times a week, to attend to administrative matters as well as transporting staff and students. Public transport is also available to and from Port Vila, on a daily basis. The College is located on a former coconut plantation belonging to the people of Takara.

The College provides its own electricity, using diesel generators. Power is switched on 5.30am and switched off at 9.00pm. Water is supplied from an underground source, pumped and stored in tank reservoirs for supply to the College buildings. The College supplies its own local produce from its farm, such as manioc, kumala, rice and grapefruit. The College also rears its own cattle, pigs and chickens, for their own consumption. The College farm is located at Saratop, where a waterfall is also located. Within the College premises, there is a chapel, a canteen, dormitories, sports ground and basketball courts, a meeting hall, dining hall, classrooms and a clinic. It's close proximity to the sea results in fishing being a major source of

food for students and staff and recreational swimming, fishing and diving. During weekends, students also swim at Epule River.

The Project site within this area is: Onesua pavement repair and coastal protection. The customary land ownership of Onesua is under dispute between Takara village (originally from Emau Island), Sara, and a family from Nguna Island.

### **3.1.12      Emua – North Efate Area Council**

Emua is part of the North Efate Area Council with a population of 285. There are 65 households, of whom 148 are males and 137 females.

The main income generating activities is subsistence agriculture, with the sale of surplus cash crops at the Port Vila central market. There is a market house at the roadside where women sell their crops as well as cooked food. Fishing is also a main source of income with the fisheries department. Emua wharf is 100m from the village, where boats from the nearby islands and from the Shepherd Islands, berth. These boats transport people, goods and fishing produce between Efate and the islands.

Christian affiliated denominations in the village include Presbyterian, Assemblies of God and United Pentecostal.

Emua is a well-established village and is now connected to the UNELCO power grid. It has a banking facility and some retail shops. There is good transportation between the village and Port Vila, enabling villagers to commute to work. A Digicel tower is approximately 200m away from the village centre and most villagers own a mobile phone. Health services are provided by the Paunangisu Health Centre, located about 2 km away.

The Project site within this area is: Malatia culvert.

### **3.1.13      Lelepa – North West Efate Area Council**

Lelepa Island, 20 km from Port Vila, has an estimated population of 387 people with around 350 people living in its largest village, Natapao. Lelepa comes under the North West Efate Area Council. Some people have moved on to the main land, living around the Havannah harbour area.

Lelepa has facilities such as a health clinic, schools and retail shops.

Tourism is one of the main economic activities, offering employment to the locals and opportunities for further development of the village land and natural resources. Tourist activities evident in the area include yacht cruises, water sports, scuba diving, fishing charters, historical site tours, and picnic and swimming areas. Subsistence agriculture and fishing are also an important part of the livelihoods of the people. Basic household needs and school fees are met through the sales of surplus garden crops, fruits and fish. Most Lelepa residents live and work in Port Vila, but some still live on the island and commute to work. Some work in the tourist resorts and restaurants around the Havannah area.

Communal water supply is available from underground wells and individual water tanks for rain water storage. There is no electricity supplied by UNELCO to Lelepa, however solar panels are used as well as battery-operated lamps. The predominant Christian denomination on the island is Presbyterian. Later, the Seventh Day Adventists were introduced into the community.

The Project sites within this area are: Havannah culvert and Creek Ai culvert. The villagers at Lelepa were consulted regarding the Creek Ai site, as they are partly customary land owners of the land on which the road crossing structure is located.

## **3.2            Project impact**

The Safeguard Policy Statement 2009 (SPS) describes involuntary resettlement impacts as both physical and economic displacement. Physical displacement impacts include relocation, loss of residential land, or loss of shelter. Economic displacement impacts include loss of land, assets, access to assets, income sources or means of livelihoods as a result of:

- (i)        Involuntary acquisition of land
- (ii)      Involuntary restrictions on land use or on access to legally designated parks and protected areas

It includes whether such losses and involuntary restrictions are full or partial, permanent or temporary.

In accordance with the ADB SPS, the involuntary resettlement screening was completed for each subproject, using the screening form template in Annex 1 of the RF (**Appendix F – Screening Checklist**). The screening was based on land title search, site investigations, community consultation and stakeholder engagement with relevant government agencies (DOL and CLMO). The screening process included commencing the identification of land resource owners and land use, to determine whether the involuntary resettlement (IR) safeguard will be triggered, and to guide the level of due diligence reporting required for each site.

The outcome of the screening is that there is no expected risk of landlessness, loss of home, and/or loss of major income source at any of the 20 Project sites. The proposed works will be largely within the existing road corridor with only very minor works proposed directly adjacent to the road corridor. Thus, the Project is classified as category C for land acquisition and involuntary settlement. In alignment with the PAM (Para. 141), the Project is also category C for indigenous people. Thus, it does not trigger the ADB safeguard policy.

As described in **Sections 2.4 and 5.4**, the government's approach to avoid involuntary resettlement impacts is by design and construction of works within the existing road corridor. Where this is would result in a sub-optimal solution and works are required on customary or private leasehold land, the government will negotiate with landowners to secure a lease or a negotiated agreement.

Below is a summary of the screening outcomes for the Project sites:

**Table 3-1 Summary of screening**

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?		X		All 20 Project sites are existing sites and are within the existing road corridor. There are however three sites (Mele, Prima and Klems Hill) that will require civil works outside the road corridor
2. Is the site for land acquisition known?		N/A		The government will sign a long term access MOU for all 20 sites through lease or negotiated agreement with landowners or leaseholders
3. Is the ownership status and current usage of land to be acquired known?		N/A		
4. Will easement be utilized within an existing Right of Way (ROW)?	X			All structures are to be built along the road
5. Will there be loss of shelter and residential land due to land acquisition?		N/A		All sites will improve or build on existing structures except for three that will require a small amount of land for river channeling (Mele and Prima) and slope protection (Klems Hill). Land requirement will be confirmed during detailed design.
6. Will there be loss of agricultural and other productive assets due to land acquisition?		N/A		

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?		N/A		As all project sites are only an improvement of existing structures except for Mele, Prima, and Klems Hill. Proposed works on Mele and Prima bridges will be on a vacant, small island formed on the creek bed. The proposed works outside the road corridor for Klems Hill may require cutting of some trees to be confirmed during detailed design.
8. Will there be loss of businesses or enterprises due to land acquisition?		N/A		As above
9. Will there be loss of income sources and means of livelihoods due to land acquisition?		N/A		Subprojects are improvement of existing transport infrastructure.
10. Will people lose access to natural resources, communal facilities and services?		X		Improved access to communal facilities provided with concrete footpaths and stairs to bridge footways and creeks
11. If land use is changed, will it have an adverse impact on social and economic activities?		N/A		
12. Will access to land and resources owned communally or by the state be restricted?		X		Proposed works in creeks at Mele and Prima will improve access by constructing footways
<b>Information on Displaced Persons:</b>				
<b>Not Applicable</b>				
Any estimate of the likely number of persons that will be displaced by the Project? <input type="checkbox"/> No <input type="checkbox"/> Yes				
If yes, approximately how many?				
Are any of them poor, female-heads of households, or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Are any displaced persons from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes				

### 3.3 Project impacts on communities and vulnerable groups

Based on the 2013 Pacific Millennium Development Goals Report, Vanuatu was one of only four of the 14 Forum Island Countries (FICs) on track to achieve Millennium Development Goal 1 (reducing poverty). Similar to other Pacific countries, poverty was defined in Vanuatu as a lack of income and/or income opportunities, and having limited access to basic social services including education, health, and transport. From the UNDP Poverty and Hardship Report in 2013, whilst the incidence of basic needs poverty and hardship is highest in Luganville, the poor in Luganville represent only 11.4% of all households living below the basic needs poverty line (BNPL), with 59.4% of all poor households living in the rural areas, and 29.2% in Port Vila.

At the time of the 2009 Census, labour force participation in Vanuatu was 71% - with men's labour force participation rate 80%, compared to 61.4% for women. The participation rate was higher in rural than urban areas. Women are more likely to be unemployed and looking for work than men, especially in urban areas. Producing goods for sale is the main income source for 46% of households, while wages and salaries are the main support for around 36% of households. Being engaged in formal employment does not necessarily hold individuals and their households out of poverty. Note that this analysis is based on household income and expenditure survey data from 2010, which was prior to the increase in the minimum wage from VUV 26,000 to 30,000 per month in 2012. The survey data was obtained prior to the devastation caused by TC Pam in 2015.

The Project is not expected to have adverse impacts on the poor, indigenous peoples or on other vulnerable groups. The Project however, similar to the upgrade works to the ring road in 2008-2010, is expected to improve access to land transportation, markets and social/community infrastructure communities along the Efate ring road. The Project will facilitate the continuation of access to income opportunities by securing the



road for daily commuting, tourist access and local people (including women) transporting produce to sell along the ring road or in Port Vila.

According to the 2012 UNDP Hardship and Poverty Report, elderly men and women (aged 60 plus) are more vulnerable in urban areas than in rural areas. Around 22.7% and 21.1% of elderly men and women respectively, are below the BNPL in Port Vila. In Luganville, 21.9% and 25.4% of elderly men and women respectively, are below the BNPL. In contrast, only 10.9% and 9.0% of elderly men and women, respectively, are below the BNPL in rural areas. Half of the elderly men and women in rural areas are not poor, compared to around a third of elderly men and women in urban areas. In general, and throughout the country, elderly women are more vulnerable than elderly men, with the exception of Port Vila, where the degree of vulnerability is nearly the same for both. At the national level, one third of households headed by the elderly are in the lowest three expenditure deciles, while only 15.3% are in the highest expenditure quintile. Elderly-headed households comprise 13.4% of all households in Vanuatu, 15% of all households in the lowest deciles and 10.4% of households in the highest expenditure deciles. Households headed by elderly are, therefore, among the highly vulnerable groups.

### **3.4 Gender**

The Project will provide opportunities to improve gender equity. By securing continued access to markets, government services and basic social facilities (health services and schools), pregnant women, women with young children and primary and secondary school age children will benefit, as well as men.

Gender sensitive design features were included at several sites (Mele, Tanoliu, Epule, Epau, Pangpang, Rentapau), including provision of concrete steps and footpaths to the edge of waterways at existing access points. The construction or improvement of laundry facilities at selected sites is also under consideration for detailed design. Universal access provisions were included at all crossing structures where possible (Prima, Mele, Creek Ai, Tanoliu, Marona, Sara, Epule, Epau, Lamin, Pangpang).

Consideration is being given as to how women's participation in income generating opportunities during construction can be encouraged, such as non-skilled construction labour, food supply, administrative support or other services.

### **3.5 Indigenous people**

The Project does not trigger the ADB's safeguard requirement for Indigenous People, as the people in the area do not meet the ADB criteria (distinctiveness and vulnerability) of indigenous peoples.

While all Ni-Vanuatu are indigenous to the country and to their respective islands, the people at the Project sites are considered to be part of mainstream, Melanesian Vanuatu culture and society, thus they are not considered by either themselves or with others, to be distinct. They will receive the same benefits from the Project as the rest of people on Efate. The communities at Project sites do not require any special protection or attention. Project information will be translated into Bislama as a standard practice and will be made available for affected communities and other stakeholders.

## 4 Consultation, information and disclosure

### 4.1 Project stakeholders

The Project's Community Consultation Plan (CCP) identifies three key groups of stakeholders to be consulted during Project implementation:

- (i) Government
- (ii) Civil society including business people
- (iii) Communities along the ring road and catchment areas, including landowners

The DSC consulted government and civil society representatives, including the chiefs, men and women representatives. The general Project scope was presented and feedback was sought, firstly to develop the possible design options, and ultimately to inform determination of the preferred option. Consultation methods included individual meetings, focus group discussions, and community meetings. The DSC developed the design options using stakeholders' inputs and many of the design features are attributed to community input.

### 4.2 Consultation activities

The following consultations were conducted:

- > Consultation within PWD of MIPU
- > Consultation with relevant government agencies including Department of Lands, and Department of Environmental Protection and Conservation, Department of Fisheries, Department of Forestry, Department of Geology, Mines and Water Resources, Department of Women's Affairs, Ministry of Health, and Shefa Provincial Government
- > Meetings with civil society including Chamber of Commerce, Vanuatu National Council of Women, Vaturisu Executive Council (Efate Chiefs) and international non-government organisations
- > Two area-level village consultations for all 14 Project communities on 8 and 10 August 2016
- > Eight community level consultations for all 14 Project communities from 29 August to 1 September 2016
- > Efate Council of Chiefs Project briefing and MOU discussion on 29 September 2016

There are 14 communities within the vicinity of the 20 Project sites where customary land owners or leaseholders reside. At least 398 community members and leaders (28% women) in these 14 communities were consulted from August 8 to 29 September 2016. A summary of the consultations held including date, location and number of participants and their feedback is provided below.

**Table 4-1 Summary of stakeholder consultations**

Date	Groups	Participants	Response
July 2016 - ongoing	PWD/MIPU	At least 10 staff and officers	Supportive of the Project
July 2016 – ongoing	Department of Environmental Protection and Conservation Department of Fisheries Department of Forestry Department of Biosecurity Department of Agriculture Department of Geology, Mines and Water	At least 15 officers	Supportive of the Project; will provide required information or staff to support

Date	Groups	Participants	Response
	Resources Department of Lands Department of Women's Affairs Ministry of Health Shefa Provincial Government		
July – September 2016	Chamber of Commerce Vanuatu National Council of Women Vaturisu Executive Council (Efate Chiefs) International non-government organisations (Save the Children, Red Cross)	7 officers	Supportive of the project  Recommended continued involvement particularly the women and chiefs consulted
8 and 10 August 2016	Two area-level village consultations (Epau and Mele) for all 14 Project villages along the ring road area	92 people	Concerned about lack/poor public safety features e.g. lack of footway of structures; requested improvement of washing areas in some sites.  Chiefs concerned about being left out of the maintenance contracts that were agreed with PWD during MCA construction.  PWD reiterated its commitment to do this after this Project. Also stated that PWD is doing open tender thus could not hand over contracts to any individual.
29 August to 1 September 2016	Community level consultations (14 villages)  Location: Villages of Epau, Eton, Paunangisu, Mangaliliu, Tanoliu, Mele, Rentapau, and Epule	253 people	
29 September 2016	Malvatumauri Chiefs (Efate Council of Chiefs) briefing  Location: MIPU Headquarters, Port Vila	48 people	Project briefing, introduction of long term access MOU, and formation of community liaison committee in each Project site.  Supportive of the MOU and CLC. Details to be discussed separately with landowners of respective sites.
	Sub-Total	392 communities 33 government/NGO	
	<b>Total Consulted People</b>	<b>425</b>	

Following the initial briefings and consultations shown in **Table 4-1**, further meetings and consultations were held with chiefs and relevant government agencies (DOL and CLMO) to secure an MOU for long term access in all 20 Project sites.

An initial meeting was held with the Efate chiefs (Vaturisu Executive Council) on 5 August 2016. This was followed by a consultation with the Efate chiefs, attended by at least 44 chiefs in the Efate area, on 29 September 2016, to inform them of the Project and to discuss the MOU concept and process and community liaison committees. In principle, the Vaturisu Council and local chiefs expressed their support for the MOU and the formation of CLC.

### 4.3 Consultation outcomes

The meetings increased the awareness of communities about the purpose, scope, timing and benefits of the Project. Information gathered from the communities was useful in informing the feasibility and design, including:

- > Socio-economic information about the respective communities which provided baseline information on livelihoods and access of basic social services of the Project communities
- > Information about historical events where bridge or road structures were damaged or temporarily inaccessible, particularly during TC Pam. Also, how long this disruption lasted and how it affected their lives. This provided a basic understanding of potential impacts of similar event, to improve engineering design
- > Recommended facilities by men and women, such as washing facilities, footways, speed humps and particular flooding problems
- > Chief's opinions on the grievance redress mechanism and use of existing Community Liaison Committees (CLC). They were very supportive of such a mechanism and suggest that for all CLCs formed, the Area Secretary of the Area Council in which the subproject is located, should be a member
- > Maintenance of structures and the current challenges faced. PWD assigns contract to communities, however, it was noted that there have been some grievances with this and Chiefs requested more control of the contract award, to assign them to community groups rather than individuals, which results in the potential benefits not being maximised among the community
- > Chiefs being made aware of the need and purpose of the MOU and agree in principle to give consent for the Project to progress. Where temporary access is required, chiefs will co-operate to ensure progress

Consultation and engagement with key stakeholders including landowners and surrounding communities is continuing. Information disclosure during detailed design and implementation are available in the CCP together with the revised Project Administration Manual (August 2016).

### 4.4 Disclosure

Disclosure of this DDR will formally apprise the communities of the mechanism for GRM. It will be used as a starting point for open and meaningful communications with communities and landowners.

As described in the CCP, the DDR, and in particular the establishment of the GRM, will require face-to-face meetings with landowners and leaseholders and public disclosure of the GRM through community meetings for all Project communities. Also a signage with the Project name, contact person, and contact number for inquiries and complaints will be erected in public view for each of the Project sites. Moreover, a leaflet summarising the GRM will be disclosed on community notice boards, government and ADB websites.

## 5 Legal policy and framework

### 5.1 Vanuatu laws

The policy and legal framework for resettlement and land issues governing access to construction and ongoing operational access, is based on the ADB's SPS and relevant Vanuatu laws. These laws include the relevant provisions of the Constitution of the Republic of Vanuatu, legislation relating to land leases, management of customary land, and other acquisition and land ownership laws. These are detailed below.

#### 5.1.1 Constitution of the Republic of Vanuatu

The Constitution of the Republic of Vanuatu (the Constitution) is the source of modern land law and sets up the key provisions for land ownership, land management and land status. Under Article 74, the Constitution provides that "the rules of custom" form the basis of land ownership in Vanuatu and all land was nominally returned to customary ownership at independence from colonial rule in 1980. Further Articles of the Constitution emphasise importance to custom and custom owners in land tenure and land use. Article 80 also allows the government to own land acquired by it in the public interest. In general, there are two distinct categories of land in Vanuatu: (a) customary land which is land identified, marked and known by its owners and occupiers and the ownership is based on custom (*kastom*), and (b) leased land which are lands which have been converted into a lease, have been surveyed and marked and registered in the land records of Vanuatu and have placed on them a modern legal status of 'indefensibility' of title.

#### 5.1.2 State land

Within the category of leased lands there is one category where land is classed as 'state land' (or 'Public land'). These are land spaces which are marked and identified and mapped and are recorded in the same manner as leases, but are owned controlled by the State (government). These are spaces that usually accommodate services and facilities such as roads, hospitals, schools, airports, wharves, public facilities, sports fields and similar infrastructure, meant for public purposes. State lands are often classified as "special leases." There are other lease types such as commercial, industrial, residential and agricultural. Infrastructure such as roads is envisaged to be built on state land.

#### 5.1.3 Land Leases Act [CAP. 163]

The Land Leases Act is the primary legislation that provides for the leasing, management and administration of land dealings in Vanuatu. Under this law, the system for creation, management, administration and enforcement of leases is defined. The Act gives necessary powers and duties to the Minister of Lands and Director of Lands for the management and administration of leases. For persons who have leases in Vanuatu, whether as an individual, corporation, organisation or group, the Act provides security over their leases and regulates the contractual relationship that is established under a lease instrument. An important administrative body is established under the Act, the Land Management and Planning Committee (LMPC), whose role it is to process, determine and recommend approvals of leases to the Minister of Lands.

#### 5.1.4 Public Roads Act No. 35 of 2013

The Public Roads Act provides for the designation, planning, administration, construction, and maintenance of public roads. The Act defines the **road reserve** as:<sup>12</sup>

- (a) land that is set aside for the purposes of a road and within the boundaries of the road,
- (b) Where there are not clearly defined boundaries identifiable by cadastral map or by a survey recognised and recorded by the Department of Lands, the boundaries of the road is to be determined as:
  - (i) 15 metres either side of the centreline for an arterial road; or
  - (ii) 10 metres either side of the centreline for a feeder road or an urban road,

<sup>12</sup> Republic of Vanuatu, 2013, Interpretation of road reserve

unless there is an existing agreement on boundaries between the Road Administrator and the landowner adjoining the road

The Act defines **road users** as “people who use the road including drivers and passengers of vehicle transport, public transport users, pedestrians and cyclists.”<sup>13</sup> Although the Act was gazetted in 2013, the Minister of Infrastructure and Public Utilities is still to commence implementation of this Act as it will require significant budget support.

#### **5.1.5 Land Surveyors Act [CAP. 175]**

The Land Surveyors Act is legislation which deals with the role of surveyors and the practice of surveying. Surveying of land for the creation of leases is to be done by registered and certified surveyors. The Act sets down standards for surveying and mapping of land. This legislation is relevant for proposed construction of roads outside the existing road corridor, as it will provide the necessary steps for mapping and surveying land space for construction as well as using standard surveying practices to identify boundaries and marks prior to commencement of construction.

#### **5.1.6 Land Acquisition Act 1992 [CAP. 215]**

The Land Acquisition Act sets out procedures for exercising the government’s powers to acquire land in the public interest. The first step is a decision by the Minister that particular land is required for a “public purpose”, which the Act defines as “utilization of land necessary or expedient in the public interest and includes a purpose which under any other written law is deemed to be a public purpose.”<sup>14</sup> It establishes a procedure, from initial notification and investigation to notice of intended acquisition, appeals, inquiry into compensation, further appeals, payment of compensation and taking of possession. The Act allows the government to acquire both customary and leased or alienated land, but in practice the government usually negotiates with landowners to avoid compulsory acquisition.

#### **5.1.7 Land Acquisition (Amendment) Act 2014 (No. 31 of 2014)**

The Land Acquisition (Amendment) Act 2014 amends the Land Acquisition Act 1992, with the inclusion of a new section (7A), which gives power to the Minister to stop an acquisition process if he or she is satisfied that the proposed acquisition could be detrimental to the State. It also amends Section 9 on matters to be considered in determining compensation.

The Minister may direct the acquiring officer to investigate in the suitability of land for acquisition and to serve notices of investigation or intended acquisition on the custom owners or persons interested in the land. The Minister shall decide whether that land or easement shall be acquired, after having heard possible objections of owners and the acquiring officer’s recommendations on those objections. Where the Minister decides under Section 4 that a particular land or easement should be acquired under this Act, he or she shall make a written declaration to that effect. Other provisions concern compensation and other procedures for the taking of possession by the State and appeals to the Supreme Court.

#### **5.1.8 Land Reform Act [CAP. 123]**

The Land Reform Act specifies that all land titles will be customary held by traditional owners, whose lineage can be traced back 200 years. It separates and makes important distinctions between indigenous owners and non-indigenous land users. This was a law that was enacted in the early 1980s to allow the Minister of Lands to act on behalf of customary land owners on lands which are in dispute but have actual developments and dealings occurring on them.

#### **5.1.9 Customary Land Tribunal Act No. 7 of 2001 [CAP. 271]**

The Customary Land Tribunal Act legislated a new system for dealing with customary land disputes. It establishes the process for Land Tribunals to be set up from Village, Area and Island Land Tribunals. However, this Act was since repealed in 2013, and new legislation for managing customary land disputes is now in place.

<sup>13</sup> Republic of Vanuatu, 2013, Interpretation of “road users”

<sup>14</sup> Republic of Vanuatu, 1992, Land Acquisition Act, Part I, Interpretation of “public purpose”

#### **5.1.10 Customary Land Management Act No. 33 of 2013**

The Customary Land Management Act passed in 2013, to install a new system and procedures for the resolution of land disputes over customary land between disputing parties. It establishes a process of managing and resolving land disputes. It required a new office to oversee, implement and enforce the new legislation, called the Customary Land Management Office (CLMO). It is now formalised that customary institutions termed 'nakamals' and 'custom area land tribunals' will resolve customary disputes. This Act substitutes the jurisdiction of the formal courts to resolve customary land matters. Formal courts still have jurisdiction to deal with matters relating to land that are subject to the Land Leases Act [CAP. 163]. When a properly constituted decision from a nakamal becomes recorded, interests in land that are binding in law and are not subject to appeal to, or judicial review by, any Court of Law. Any new and fresh disputes by parties over customary land must be channelled through the CLMO.

#### **5.1.11 Foreshore Development Act [CAP. 90]**

The Foreshore Development Act regulates all types of development on the foreshore and places the powers of approvals for any foreshore development with the Minister for Internal Affairs. Administrative duties for screening applications are placed with the Physical Planning Unit. The Act creates a checklist and set of criteria for all applications for permits to carry out any development on the foreshore. Given that the Project scope proposes works adjacent to the coastline, a Foreshore Development Consent will be applied for at four sites (Tanoliu, Malatia, Onesua, Sara), once the MOUs have been signed.

#### **5.1.12 Municipalities Act [CAP. 123] and Decentralization Act [CAP. 230]**

Both the Municipalities Act and the Decentralization Act establish local authorities such as Municipal Councils and Provincial Councils. These authorities have powers to make by-laws covering relevant activities such as issuance of building permits, regulation and management of traffic, noise control regulations and overall authority to manage impact of construction activities in their local jurisdiction. For all areas where culverts, bridges and roads will be constructed or repaired, PWD have advised that building permits are not required as the legislation addresses buildings and dwellings rather than infrastructure.

### **5.2 ADB Safeguard Policy Statement**

The SPS requires ADB-assisted projects to:

- > Avoid involuntary resettlement wherever possible;
- > Minimise involuntary resettlement by exploring project and design alternatives;
- > Enhance, or at least restore, the livelihoods of all affected persons in real terms relative to pre-project levels
- > Improve the standards of living of the affected poor and other vulnerable

It covers both physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of land acquisition or restriction on land use or on access to parks and protected area.

The key principles of the ADB safeguards policy on resettlement are as follows:

- > Screen early the projects resettlement impacts and risks
- > Carry out meaningful consultations with participation of affected persons (APs)/Displaced persons (DPs), inform all APs/DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups
- > Establish a grievance redress mechanism
- > Improve, or at least restore the livelihoods of all APs/DPs through (i) land-based resettlement or cash compensation at replacement value as relevant, (ii) prompt replacement of assets, (iii) Prompt compensation at full replacement cost, and (iv) additional revenues and services through benefit sharing schemes where possible

- > Provide APs/DPs with needed assistance including i) if there is relocation, secured tenure to relocation and better housing; ii) transitional support and development assistance; and iii) civic infrastructure and community services as required
- > Improve the standards of living of the displaced poor and vulnerable groups to at least national minimum standards
- > Develop procedure in a transparent, consistent and equitable manner if land acquisition is through negotiated settlement
- > Ensure that APs/DPs without titles are eligible for resettlement assistance and compensation for loss of non-land assets
- > Prepare a RP elaborating on APs/DPs entitlements, income and livelihood restoration strategy
- > Disclose a RP in an accessible place and a form and languages understandable to the APs/DPs and other stakeholders
- > Conceive and execute resettlement as part of a development project or program
- > Provide compensation and other entitlements before physical or economic displacement
- > Monitor and assess resettlement outcomes and their impacts on the standards of living of APs/DPs

### 5.3 Policy differences and reconciliation

A comparison was conducted to identify the key differences between ADB's SPS and Vanuatu's laws on land acquisition and resettlement. Any gaps between the laws the SPS will be resolved in favour of the SPS.

**Table 5-1 Comparison of land acquisition and resettlement in Vanuatu and ADB's SPS**

ID	ADB SPS Safeguards	Vanuatu Law	Resolution
1	Avoid resettlement impacts wherever possible	There is no minimum standard that requires the projects to avoid resettlement impacts	Ensure all resettlement and land acquisition and impacts on community and business/ productive interests are avoided, wherever possible
2	Minimise impacts by exploring project design alternatives	There is no minimum standard that requires the projects to minimise land acquisition and impact on the community	Ensure all resettlement and land acquisition and impacts on community and business/ productive interests are minimised by design, wherever possible
3	Enhance, or at least restore, the livelihoods of all APs/DPs in real terms relative to pre-project levels	Compensation is determined based on issues including land type, crops etc. It also does not necessarily require that compensation be provided and that conditions of the affected people be the same level or better than pre-project situation	Compensation for losses by land owners and leaseholders will be considered in the entitlement. Land is valued by Valuer General (VG) in Ministry of Lands and Natural Resources (MLNR). The VG will be used (refer ID 8)
4	Improve the standards of living of the affected poor and other vulnerable people. It covers both economic and physical displacement	Laws and practices in Vanuatu do not recognise the standards of living of the poor and vulnerable, in determining compensation for land acquisition and resettlement	ADB SPS will be to use to ensure assistance will be provided to vulnerable APs/DPs, if any identified, to ensure that living standards are the same as, or wherever possible better than, pre-project levels
5	Screen the projects resettlement impacts and risks early in the project	Laws and practices in Vanuatu, relating to Government capital works projects, require that the project budget consider and includes associated resettlement and land acquisition costs. However, there are no other assessments of resettlement impacts required prior to	ADB SPS will be enforced to recognise resettlement impacts and risks, including through this DDR and subsequent updates



ID	ADB SPS Safeguards	Vanuatu Law	Resolution
		budget approval, hence capital works commencing	
6	Carry out meaningful consultations with participation of APs/DPs, inform all APs/DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups	The law, and current practices, does require the land acquisition and relocation orders to be disclosed several times over radio and in the printed media over a one-month period, as well as display on-site. However, there is no recognition of vulnerable groups nor the consultation with, or participation of, APs/DPs at any part of the process, except in the case of people given opportunity to make objections	ADB SPS will be in use to ensure that the prepared DDR and its implementation will require a level of participation and consultation
7	Establish a grievance redress mechanism	Vanuatu has a grievance redress system for general village matters, backed by the chief. Redress has also been set up at Provincial level, through the Customary Land Tribunal	ADB SPS will be enforced to ensure an appropriate multiple level grievance redress system, which allows AP/DP participation, relatively rapid action and results, as well as encompassing existing grievance procedures.
8	Improve, or at least restore the livelihoods of all APs/DPs through (i) land-based resettlement or cash compensation at replacement value as relevant, (ii) prompt replacement of assets, (iii) prompt compensation at full replacement cost, and iv) additional revenues and services through benefit sharing schemes where possible	<p>In Vanuatu valuation of land is stipulated by Law, and is conducted based on several factors regarding that specific plot of affected land such as lease and ownership type; location of property; amenities; market price of nearby properties; physical land characteristics; and intangibles</p> <p>The law specifically points out times for disclosure prior to valuation, time for objection to valuation and acquisition of lands and assets. However, the law does not provide any clauses for compensation, income restoration and entitlements to be provided to the AP/DP in “prompt” manner.</p>	<p>The VG will be used to determine compensation requirements relating to land, land-based income losses. All other compensation, such as non-agricultural business entitlements will be at the existing market rates.</p> <p>At the end of the disclosure period, as soon as practicably possible, as per ADB SPS, compensation will be provided promptly.</p>
9	Provide APs/DPs with needed assistance including i) if there is relocation, secured tenure to relocation and better housing; ii) transitional support and development assistance; and iii) civic infrastructure and community services as required	In Vanuatu, land acquisition, resettlement and compensation for land-based losses are included under the law. However, impacts on landowners or leaseholders are less clear and there is no recognisable transitional support mechanism under the law	ADB SPS will be enforced in supplementing the Law of Vanuatu, in order to cover transition assistance requirements, landowners or leaseholders, as required.
10	Develop procedure in a transparent, consistent and equitable manner if land acquisition is through negotiated settlement	As a project under the Government of Vanuatu, all lands by law must be acquired for capital works, based on the orders of the Minister for Lands	This aspect of the ADB SPS relating to “Negotiated land acquisition” is not applicable Therefore Vanuatu laws and practices will be adopted for this purpose
11	Ensure that APs/DPs without titles are	Laws have no clauses that recognise encroachers in any way to be entitled or	ADB SPS will be enforced to recognise encroachers, who are

ID	ADB SPS Safeguards	Vanuatu Law	Resolution
	eligible for resettlement assistance and compensation for loss of non-land assets	NOT entitled to compensation or rehabilitation	legitimately affected at the time of the census/detailed measurement survey conducted
12	Prepare an RP elaborating on APs/DPs entitlements, income and livelihood restoration strategy	Land acquisition and resettlement and compensation is carried out focusing on affected households and the values of the land and structures affected. However, an RP is not specifically required	ADB SPS will be enforced to ensure an RP is prepared and is updated at the time of detailed design
13	Disclose a RP in an accessible place and a form and languages understandable to the APs/DPs and other stakeholders	Although the Law does not require an actual RP to be prepared, its clauses do necessitate notices and official valuations by the MLNR to be prepared. The law, and current practices, also requires that land acquisition and relocation orders for a specific site be disclosed several times over radio and in the printed media over a 1-month period, as well as display on-site. However, only the radio would be useful for the illiterate to become informed of any pending land acquisition and resettlement activity on a specific site	This practice will be maintained in addition to the RP being disclosed on the ADB website. If APs are found to have low literacy a further disclosure through public meeting may be held.
14	Conceive and execute resettlement as part of a development project or program	The MLNR does have a large budget for land acquisition and resettlement for capital works projects allocated on an annual basis. Government agencies will develop their work plans for the following fiscal year. At this time, proposals for projects where land acquisition is involved should be submitted. This is subject to the approval of the Council of Ministers	Laws and practices in Vanuatu, relating to government capital works projects, require that the Project budget consider, and includes, associated resettlement and land acquisition costs.  No supplementary measure required
15	Provide compensation and other entitlements before physical or economic displacement	Compensation is to be provided after a period of disclosure and a period for objection has finished. However, legislation does not clearly state that compensation will be provided prior to commencement of construction, which would force physical/economic displacement impacts to occur.	ADB SPS will be enforced to ensure land acquisition, resettlement and / or compensation measures are completed prior to commencement of construction
16	Monitor and assess resettlement outcomes and their impacts on the standards of living of APs/DPs	There is no specific clause in the law of Vanuatu that required monitoring and assessment of APs/DPs during or after land acquisition and resettlement commences	ADB SPS will be enforced to ensure that internal monitoring and evaluation program is set up for this project. Although not currently expected, external monitoring program may be required if land acquisition and resettlement impacts are required

#### 5.4 Government approach to land access

The Project will comply with both ADB's safeguard requirements and Vanuatu's laws and regulations applicable to negotiation for longer-term access (with or without 'in-kind' compensation, lease, or negotiated purchase). The government has no intention of obtaining the sites through compulsory acquisition. It will not invoke its right to compulsory acquire custom or privately-owned land but instead it will obtain land through lease or negotiated settlement. Failure of negotiation will not result in compulsory acquisition. No

construction will take place prior to finalising the lease arrangement and compensation paid (monetary or in-kind). Any other unforeseen or unintended impacts will be mitigated as per the ADB's SPS, the Project RF (entitlements, Para 45) and Vanuatu government policy.

The process of securing long term access to the Project sites is as follows:

- > Conduct of meaningful consultations with landowners and disclosure arrangements. The government policy is to secure access to the site through community contribution for temporary or permanent access outside the existing corridor. The government has started and will continue to carry out meaningful consultations with the landowners, host communities, and concerned community organisations including women's groups, during the detailed design and construction
- > Vulnerable groups will be given priority to employment in civil works where appropriate and involvement in maintenance works if possible
- > Compensation for affected assets, trees, crops etc. The landowners who own trees and other productive assets on the lands to be leased or donated which need to be cleared are entitled to compensation (monetary or non-monetary) to replace these assets. The compensation rates and amounts shall be valued based on latest government valuation and should be based on full replacement cost at existing market prices. No assets, trees or crops will be removed prior to compensation. No affected trees and crops have so far been identified outside the road corridor. This will be confirmed during detailed design
- > Third Party Validation (TPV). An independent third party will be identified and engaged to verify that the negotiation is fair, transparent, free of coercion based on the negotiation and settlement process undertaken. The TPV will involve an independent party, knowledgeable and widely respected in the community and is not related to the landowners and government agency responsible for the Project. Based on consultations with the Shefa Provincial Government and the chiefs, pastors assigned to communities on the ring road, recommended by the community and endorsed by the provincial government, are likely TPVs for each of the MOUs

## 6 MOU Process

The table shows the government procedures to secure a long term access MOU, including the timing that will apply to this Project. All responsibilities for delivery of this process for the Project lie with PWD with the support of the DSC. The CLMO, Department of Lands and the State Law Office (SLO) will be requested to be involved, consulted and to discharge duties as required.

**Table 6-1 MOU process**

ID	Activities	Timing
1	Based on the site-specific Project concept design, identify the landowner(s) or leaseholders	Weeks 1 – 5 [Oct – Nov 2016]
2	Coordination meeting between DG Lands and CLMO	Week 2 [Oct 2016]
3	Present draft MOU to SLO for review and comment	Week 2 [Oct 2016]
4	Initial meeting with the chiefs in each of the 20 Project communities	Weeks 3-4 [Oct]
5	Meet with landowner(s) to discuss the Project scope and objectives of the MOU. Agreement on MOU	Weeks 3-6 [Oct – Nov 2016]
6	Present specific MOU, ready for signature, to SLO for review and comment	Week 6 (Nov 2016)
7	Follow up meeting(s) with landowners, if required	Weeks 7-8 [Nov 2016]
8	Signing of MOU between landowners, MIPU, CLMO, DG Lands, Shefa Provincial Government, TPV	Week 8 [Nov]

## 7 Grievance redress mechanism

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### 7.1 Resolving disputes land ownership

As per the Project's RF, any disputes arising over alienated land, usually in relation to compensation as ownership is clear, are referred to the Magistrates Court and follow the procedure set out in the LAA and other relevant law. Disputes over the award of compensation for resumed title, or where an existing leaseholder seeks to get compensation for "unimproved" land, are settled in the Supreme Court.

As per the Custom Land Management Act, for disputes over customary land, there is a two-step process; through mediation; and if it cannot be resolved through mediation it will be determined through customary procedures via either the nakamal<sup>7</sup> or the custom area land tribunal. If the dispute cannot be resolved by nakamal or custom area land tribunal it may be referred to Island Court or even Supreme Court.

### 7.2 Grievance redress mechanism

During the course of the Project, it is possible that people may have concerns with the Project performance on any matter, including implementation of the DDR. The following process will be used to address concerns quickly and transparently at Project level, based on the existing system for dispute resolution.

- > Any AP may discuss their complaint with the Chief in their village. The AP or both AP and Chief take the complaint to PWD (formally, the Director)
- > PWD will record all complaints (date, details of complainant/grievance, attempts to resolve the complaint, and outcomes) and will have a maximum of one week to resolve the complaint and convey a decision to the AP
- > If the complaint of the AP is dismissed, the AP will be informed of their rights in taking it to the next step. A copy of the decision is to be sent to next level of authority
- > Should the AP not be satisfied with decision of PWD, depending on the nature of the complaint, the AP may take the complaint to the MLNR, who will appoint a representative to review the complaint in the case of alienated land or to a custom land officer (under the Custom Land Management Act) for customary land. The MLNR will have two weeks to make a determination. The determination by nakamal or custom area land tribunal will follow the timelines established in the Custom Land Management Act
- > If a satisfactory conclusion cannot be obtained through this process (or at any time), the AP can take the matter to the courts (nakamal, custom area land tribunal, Island Court or Supreme Court). This will be at the APs cost but if the court shows that the government ministries have been negligent in making their determination, the AP will be able to seek costs

Through public consultations, APs will be informed that they have a right to complaint/grievance resolution. The record of the grievance redress mechanism will be the subject of monitoring.

During construction/implementation, a grievance register will be held at each Project site office, maintained by the site manager and monitored by the Project safeguards team. All complaints arriving at a site office are to be entered in a Register (by, date, name, contact address and reason for the complaint) that is kept at site. A duplicate copy of the entry is given to the AP for their record at the time of registering the complaint. The Register will show who was directed to deal with the complaint and the date when this was made together with the date when the AP was informed of the decision and how the decision was conveyed to the AP.

The Register is then signed off and dated by the person who is responsible for the decision. The Register is to be kept at the front desk of the site office and is a public document. The duplicate copy given to the AP will also show the procedure that will be followed in assessing the complaint, together with a statement affirming the rights of the AP to make a complaint. For anybody making a complaint no costs will be charged to the AP.

In the event that grievances cannot be resolved at the local level, MIPU and MLNR will hold the compensation amounts in escrow or trust account. 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 AP.

**Table 7-1 Procedures for resolving grievances**

Step	Process	Duration
1	Displaced Person (AP)/Affected Person (AP) takes grievance to the village chief/ then with village chief to PWD. This could be done after initial notification of grievance at Contractor's site office, or through the DSC (Resident Engineer)	Any time
2	PWD reviews issue, and in consultation with contractor (if appropriate), then records a solution to the problem.	1 week
3	PWD reports back to AP and gets clearance from complainant.	1 week
<b>If unresolved</b>		
4	AP take grievance to relevant government agency for resolution (MLNR)	Decision within 1 week
5	AP refers matter to public solicitor's office	2 weeks
6	National agency refers to an internal committee	4 weeks
7	National agency through reports back to relevant government agency/AP	1 week
<b>If unresolved or if at any stage and AP is not satisfied with progress</b>		
AP can take the matter to appropriate court.		As per judicial system

## 8 Institutional arrangements

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### 8.1 Responsibilities

MIPU is the implementing agency responsible for overall guidance and Project implementation. As a department under MIPU, PWD implements the Project and is responsible for overall planning, management, coordination, supervision, and progress monitoring of the Project including disclosure and implementation of the DDR.

Based on the detailed design and the conclusion of the MOU process, an updated DDR will include, among others, the confirmation on the following:

- (i) Scope of land required and affected assets
- (ii) Affected landowners, if any, and their willingness to enter into lease agreement with the government
- (iii) Agreed steps with the landowners in finalising the lease agreement in accordance with government processes and other requirements

Construction on customary-owned or leasehold lands will not commence prior to the payment of compensation (monetary or in kind) for the lease of land and other assets. PWD, on behalf of MIPU and the government, will submit to ADB, a compensation completion report with the signed MOU, lease agreement, third party validation on the negotiation process undertaken and other relevant information, to confirm compliance with ADB and government policies and requirements. PWD will seek no-objection from ADB to commence civil works for non-government owned land. The monthly progress reports and semi-annual safeguards monitoring reports, prepared by the DSC on behalf of PWD, will include information on the monitoring and reporting of this process.

PWD will also work together with the Ministry of Lands and Natural Resources (MLNR), their Department of Lands, Customary Lands Management Office (CLMO), State Law Office (SLO), Vaturisu Council, and the respective chiefs in each Project site, to secure a formal lease agreement with the landowners at the Project sites.

The PWD Safeguards Unit is comprised of staff who are responsible for social and environmental safeguards planning, implementation and monitoring at PWD. The DSC works to support the PWD Safeguards Unit, who are responsible for the updating and disclosure of all safeguards documents required for the Project. PWD are also responsible for ensuring grievances are documented and addressed throughout the stages of Project implementation.

### 8.2 Monitoring and reporting

Based on the Project's CCP, the PWD Safeguards Unit will facilitate the resolution of grievances on site and document all activities associated with grievances by APs including the public and affected businesses. PWD, with support from DSC, will maintain proper documentation of consultation process and keep relevant records of complaints received during implementation and construction phase (resolved and pending issues). PWD Safeguards Unit, with assistance from DSC, will document the consultation and grievance resolution process. The outcome of the negotiation process will be submitted to ADB and MIPU (government).

On behalf of PWD, the DSC will prepare and submit semi-annual monitoring reports and submit to MIPU and ADB as part of project performance monitoring. The monitoring reports will be disclosed on ADB's website.

## 9 Implementation schedule

Table 9-1 shows the activities and timing for the signing of MOU and long term lease agreements.

**Table 9-1 Implementation schedule**

ID	Activities	Timeline	Responsibility
1	Confirmation of land requirements based on detailed design	Month 1 [Nov 2016]	DSC (technical and social safeguards)
2	MIPU informs CLMO and DOL/DOL informs landowners of Project and scope	Month 1 [Nov 2016]	MIPU CLMO DOL
3	Sign MOU with the landowners	Month 1 [Nov 2016]	MIPU DOL
4	Land survey (and valuation)	Months 3- 4 [Jan – Feb 2017]	MIPU/DOL with PWD resource assistance e.g. surveyor
5	Update of DDR	Month 5 [Mar 2017]	DSC
6	Submission of survey report to DOL for approval	Month 5 (March 2017)	DSC
7	Negotiation between DOL and landowners on compensation for land, crops and other non-land assets	Months 5-6 [Mar-Apr 2017]	DOL CLMO Vaturisu Council
8	Lease agreement preparation	Month 7 [May 2017]	DOL CLMO
9	Signing of land lease	Month 8 [June 2017]	DOL
10	Payment of land lease and compensation to crops and other non-land assets	Month 8 [June 2017]	PWD/DOL Landowners
11	Submission to ADB of compensation completion report for no-objection	Month 8 [June 2017]	PWD
12	Handover of site to contractor	Month 9 [July 2017]	PWD



## Appendix A – Participant list for community consultations

### Area Level Consultation

**Table A-1 Attendance Sheet - Eastern Efate Consultation (Epau Village Consultation - 8 August 2016)**

No	Name	Village/ Organisation	Position	Contact Details	Signature
1	James W	Epau	Gardener	7319604	
2	Samson	Epau	Gardener	-	
3	Sam Kiss	Epau	Gardener	-	
4	Ben Kov	Epau	Gardener	-	
5	Jean Andre	Epau	Gardener	-	
6	Tarip Henry	Epau	Gardener	-	
7	Athy Kalo	Epau	Gardener	-	
8	Kamisak	Epau	Gardener	-	
9	John	Epau	Gardener	-	
10	Jack	Epule	Gardener		
11	Kalo	Epau			
12	Daniel K	Epule	Chief	7319776	
13	C.T.C Abel	Epau	C.T.C	5367110	
14	Bill K	Takara	Chief	5640739	
15	Leslyn Willy	Epule	-	7319776	
16	Freddy Boblang	Pangpang	Secretary Chief	7734281	
17	Linda Boblang	Pangpang	Gardener	7734281	
18	Kalmet Frank	Epau	Gardener	5364978	
19	Kalsaf Kai	Epau	Gardener	7795606	
20	Tony Jack	Epau	Gardener	7116564	
21	Ruben Loba	Epau	Gardener	5384820	
22	David Ken	Epau	Gardener	7717641	
23	Ps Kaltang	Epau	Pastor	7712033	
24	Ben Wilson	Epau			
25	Mark	Epau	Gardener	5667181	
<b>Sheet 2</b>					
1	Uravo Nafuki	Public Works Dept	Env.Social Off.	22888	

No	Name	Village/ Organisation	Position	Contact Details	Signature
2	Johnny Fred	Epau	Gardener		
3	Mathias Joe	Lamin	Gardener	5943840	
4	David	Epau	Gardener	5418593	
5	Simon Sam	Epau	Gardener	5618560	
6	Obed D	Epau	Gardener	5339970	
7	Dickson	Epau	Gardener		
8	Henry	Epau	Gardener		
9	Falewy	Epau	Gardener		
10	Michael	Epau	Gardener		
11	Joseph Kalpeau	Epau		5911278	
12	Moris John	Epau	Gardener		
13	Wily Kai	Epau	Gardener	5490229	
14	Allan Kai	Epau		5631629	
15	Kalmeir	Epau	Gardener		
16	Dandy	Epau	Gardener	5441651	
17	Morden	Epau	Gardener	5406342	
18	Jif Paak	Epau	Jif/Driver	5440356	
19	Jif Tarpo	Pangpang	Gardener	5950632	
20	Spetly	Epau	Caren (Garden		
21	Stephen	Epau	Caren	5672159	
22	Jif Sam Marpako	Takara	Chief		
23	David Pakoa	Lamin	Chairman	5641066	
24	Kalman K	Epau	Chairman - Council	7336159	
25	Jif Nema	Epau	Jif	5608305	
<b>Sheet 3</b>					
1	Kamel B	Epau			
2	Frank L	Epau			
3	Dan J	Epau			
4	Spetal Andrew	Epau	Assitant Jif	5462605	
5	Samson Sif	Epau			

No	Name	Village/ Organisation	Position	Contact Details	Signature
6	Roger Frem	Epau	Gardener	5358189	
7	Antuan	Epau			
8	Kency	Epau			
9	Andisen	Epau			
10	Lui	Epau			
11	Kalmila	Epau			
12		WOMEN			
13	Rita M				
14	Carol M			5667181	
15	Toufa R				
16	Leitau Athy				
17	Serei Nxn			5347574	
18	Frances Chen	Epau	Peace corps Volunteer	5627594	

**Attendance Sheet (Southwest Efate Consultation)**  
**Table A-2 Mele Village Consultation - 10 August 2016**

No	Name	Village/ Organization	Position	Contact Details	Signature
1	Kalori	Klems Hill	Chief	7772085	
2	Masoipisigi Sopuso	Class teacher	Kaonsela	5453667	
3	Wilson Popovi	Tanolu	Chief	5468266	
4	Tim Kalangis	Tanolu	Chairman	7118485	
5	Edward	Meten	Chief	5975696	
6	Alfred Manapanga		Chief	5381076	
7	Leisale Hamish	Tanolu	PWMU woka (Elder)		
8	Donald James	Tanolu	Com.Rep	5419965	
9	K.Taripoamata	Siviri	Chief	7772285	
10	Edwin Tapasei	Mosso	A/C Secretary	7764937	
11	Atlagy Sope	Mele	Kaonsela		
12	Novi Supelulu	Mele	Kaonsela		
13	K Makikoa	Imere (Mele)	Kaonsela		
14	R Songolapa	Mele	A/C Secretary		
15	Masoipong	Mele	Kaonsela		
16	Lorry Naowmata	Mele	Kaonsela	5494413	
17	Joseph Frank	Shefa Mele A/C	A/C Secretary	5646027	
18	J Morris	Malafau	Jif	5639738	
19	Julie Soromon	Mele	House girl		
20	Poilapa Simeon	Mele	Paramount Chief of Mele	7747736	
21	Ohlen Lenny	Mele Village	Head Police	7104148	
22	Kaltonga Vatoko	Mele Village	Youth Rep	5981795	
23	Poilapa Saki	Mele Village		5421258	
24	Pascaloa	Mele Village		5451769	

**Project Briefing of Chiefs 29 September 2016**

No	Name of Chief	Village/Island	Contact	Amount Rec	Signature
1	Andrew Kalpoilep	Eratap			
2	Kas Kolou	Eton			
3	David Kaltapei Taripoalebul	Pangpang			
4	Pakomiel	Epau			
5	Valeawia	Epau			
6	Daniel Kalmaire Maripatok	Epule			
7	Elmo Manukat	Sara / Wanakopa			
8	Kaltalua Ameara	Takara			
9	Tamata Tarma	Takara			
10	Manapanga Manua	Takara			
11	Tom Masemantonga	Ravenga			
12	Albert Manlaesinu	Emua			
13	Albert Kolaumara Kalwat	Saama			
14	Peter Masongomapula	Siviri			
15	Esrone Manapanga	Malafau			
16	Wilson Popovi	Tanoliu			
17	Albert Mormor	Mangaliliu			
18	Natematewia	Lelepa			
19	Simeon Poilapa Tivaitelapa	Mele			
20	George Naperikmal	Erangorango			
21	Leon Laliet	Erakor			
22	Rolland Maseiman	Pango			
23	Daniel Kalorib	Ifira			
24	Mantoi Kalsakau 3rd	Ifira			
25					
<b>Sheet 2</b>					
1	Henry Manlaewia	Paunangisu			
2	Jimmy Meameadola	Sunae /Moso			
3	David Alikau	Tasiriki / Moso			
4	Matakoroliu	Nekapa /Nguna			

No	Name of Chief	Village/Island	Contact	Amount Rec	Signature
5	Mariwota Matuanasu	Talao/Nguna			
6	Donald Manamena	Talao/Nguna			
7	Thompson Tokai Tangele	Unakap/Nguna			
8	Fred Malesumata	Mere/Nguna			
9	Marimasoe Tafakalo	Meresauwia/Nguna			
10	Kalorana Taripoamara	Malaliliu/Nguna			
11	Atavi Sandy Oscar	Matoa /Nguna			
12	Robert Mari Usamoli	Fareafau/Nguna			
13	Tamata Mariatungialiu	Tava Farealapa/Nguna			
14	Kalontas Masepokas	Farealapa/Nguna			
15	Marmasoe Daprae	Rewoka/Nguna			
16	Donald Willie Napuawia	Woralapa/Nguna			
17	John Maserei Tonga	Piliura / Pele			
18	Tom Watt	Launamoa / Pele			
19	Tavakalo	Werearu / Pele			
20	Atavi Pokas	Worasiviu / Pele			
21	Fano Naupat	Marou / Emau			
22	John Maasama	Mapua / Emau			
23	Tales Adam	Mangaronga / Emau			
24	Maraktomate	Ngorua / Emau			
25	Marpakoa	Lausake / Emau			

## Appendix B – Name of custom owner and leaseholders for possibly affected leases

Project Site	Lease Number	Leaseholder Name	Leaseholder Contact	Lessor Name OR Kastom Landowner
1. Creek Ai	12/0523/035	Conquest investment Ltd	Po Box 257	Merily Zacherie Natapoa Village, Lelepa Island, Efate
2. Epau Bridge	No lease nearby	-----	-----	
3. Epule Bridge	12/0431/004	Atuary Henry Fred	Ebule Village	Ersen Kalmarie, Fred Kalmarie
	12/0431/005	Jimmy Toara/Toara Seule	Matarisu Village	Family Albert Kalmera
	12/0431/045	Roger Japhet	Sara Beach c/o Onesua PMB 9061, NE Efate	Chief Maukat and Family
4. Eton Beach Bridge	No Lease nearby	-----	-----	
5. Eton Dry Creek	12/1024/008	Nvera Holdings Ltd	PO Box 222 Port Vila	Pesal kalokul Eton Village, Efate
	12/1024/002	Parfait Holdings Ltd	PO Box 212 Port Vila	Minister of Lands (Vanuatu Government)
6. Havannah Culvert	12/0524/002	Plantations Ltd	PO Box 1019 Port Vila	Chief Andrew Popovi and Saniei Daniel
	12/0521/003	Havannah Harbour Beach Resort Ltd	PO Box 478 Port Vila	Chief Jack Tugulumani, Billy Tauman, John Kalaria, Pierre Malcomar, George Munalapa, Billy Poikiki and Jack Nearman.
	12/0521/004	Havannah harbour Beach Resort Ltd	PO Box 470 Port Vila	Chief Andrew Popovi representing Tanoliu Village
7. Klem's Hill Landslip	12/0544/018	Mary Jane Dinh	C/o Dinh Van Kim PO Box 178 Port Vila	Family Songoriki
	12/0544/011 (Not Registered)			Disputed - Pending Court Declaration ?
	12/0544/026 (Not Registered)			
8. La Mine Bridge	12/0714/001	Ben Kai & Athy Simeon Malachi	c/- Reserve Bank of Vanuatu PMB 062, Port Vila	Obed Kai, Maraki Kai, Epau Village, SE Efate

Project Site	Lease Number	Leaseholder Name	Leaseholder Contact	Lessor Name OR Kastom Landowner
9. Malatia Bridge	12/0314/008	Undine Bay, Plantation Ltd	Level 95, Queen St Auckland, NZ	Kalowia Tari Poamata, Arthur Masongomapula, Kaltake Steele Masenawaota of Siviri Village, North Efate
10. Mele Golf Bridge	12/0822/012	Port Vila Golf & Country Club Ltd		Mele Trustees Ltd
11. Neslep Bridge	No lease nearby	-----	-----	
12. Pangpang Bridge	12/0741/007	Freddy Boblang, Willie Kalfatak, William Kalsauga, Albert Kalangis & Paul Kalskar	PO Box 3077 Eton Village	Bob Sul Kalfau & Elvis Kalfau
13. Prima Bridge	12/0633/032	Vanuatu Beverage Ltd	PO Box 683	Sobuso Family, Mele Village, Lakelotaoa Family- Mele Village, Ps Pierre Nikara & family - Mele
	12/0633/655	Daniel Caleb & Mrs Rosie Caleb	Onesua Presb.College PMB 9061	Bladinieres Estate (Urban) Ltd, PO Box 393, Port Vila. Aloani George Kano Chichirua, C/- Ports & Harbour PMB 9046, Port Vila
	12/0633/416	Maureen Rose Lui Aru & Albert Keith Barlow	PO Box 730 Port Vila	Minister of Lands (Van. Govt)
	12/0633/1081	Vanuatu Govt – Vanuatu Livestock Development Co Ltd	PMB 9039	Aloan George Kano, Kaltoi Chichirua, Mahit Kalorai & Dick Kalorai
14. Rentapao Bridge	12/1031/012	Moana Carcasses & Paulette Carcasses	PO Box 538 Port Vila	Minister of Lands (Van. Govt)
	12/1031/003	A & K Holdings Ltd	PO Box 909 Port Vila	Vanuatu Government
	12/1031/004	Pine Ltd C/- PITCO, PO Box 45, Port Vila		Van. Govt
15. Sara Bridge	12/0413/004 <i>(the bridge is actually located in this leased area)</i>	Presbyterian church of Vanuatu Trust Assoc.	PO Box 150, Port Vila	Van. Govt
	12/0413/097	Roger Japheth	C/- PMB 9061 Port Vila	MOL (Van.Govt)
	12/0413/098	Roger Japheth	C/- PMB 9061 Port	MOL (Van.Govt)



Project Site	Lease Number	Leaseholder Name	Leaseholder Contact	Lessor Name OR Kastom Landowner
			Vila	
<b>16.</b> Tanoliu Bridge	12/0522/007	Philemon Pakoalaelae representing Family Pakaoalaelae & Tongolutongo	Tanoliu Village	Timothy Kalagai, Kaltova Livae, Jacky Kalosaruru & Philemon Obed
<b>17.</b> Ulei Bridge	12/0522/008 ( <i>Not Registered</i> )	<i>No records – not registered</i>		
<b>18.</b> Marona Bridge ( <i>cadastral map not provided</i> )	12/0522/001 ??	Goodies Limited	PO Box 909 Port Vila	Kalmelu Marimelu, Kaltu Ivoky Ataviau, Morris Tongleomanu & Edward Matokoale Moso Island (Tasiriki Community, Karl Kalsev (rep))
<b>19.</b> Takara Causeway ( <i>cadastral map not provided</i> )	??			

## Appendix C – Procedures for Memorandum of Agreement

### ANNEX 2: PROCEDURES FOR MEMORANDUM OF AGREEMENT

1. Following the screening, the MIPU will coordinate with the MLNR to undertake project related land access/acquisition activities, including purchase or lease of customary land, as needed.
2. **Identification of land requirement and survey.** The MIPU will identify the land requirement based on the detail engineering design. The MIPU will undertake survey of land and other properties required for the subproject through private or government surveyors and will get the survey reports approved by the surveyor general, if needed. The MIPU will also consult with local communities/stakeholders in selecting the subproject location(s). The MIPU's safeguards unit will facilitate consultations with customary land owners and other relevant people.
3. **Consultation with landowners.** The MIPU through MLNR and the safeguards unit will identify landowners and their representatives. The MIPU will inform land owners about land requirements for the subproject. MLNR and SU will obtain views of the land owners as to whether they support the subproject and are willing to provide the land for the subproject. In cases where the land owners are willing to further discuss, MLNR and safeguards unit will document the considerations requested by the land owners.
4. **Publication of notice.** Public notices are publicly disclosed through publication in newspaper and/or being put up in the villages of the land owners and villages adjacent to the subproject area. The public notice will document: (i) the objectives of the overall project; (ii) the nature, scope, and timeframe, of the subproject (including a map if applicable); (iii) a list of the land owners as identified; (iv) that cash compensation to be provided for crops, trees or structures as per the project's resettlement framework; (v) types of in-kind compensation being considered in return for the customary land. In the event that additional land owners come forward, their validity as land owners will be verified, and if they found to be landowners, they will participate in the process. Responses to any written or verbal comments on the public notices, if required, will be made by the MIPU.
5. **Memorandum of understanding (MOU).** One month after the public notices have been published, MLNR will prepare a valuation report and a draft agreement on land use (lease or purchase). Discussions will be held with the landowners about whether the transaction will be through lease arrangements or complete purchase. Once agreed, MOU will be signed by all the parties: the landowners, representative(s) of the government (the MIPU and the COL will decide), and representative(s) of Provincial Government. The MOU will establish obligations of each party to the agreement. The determination of compensation of crops, trees or structures, if required, will follow the project's entitlement matrix in the resettlement framework.
6. **Documentation and third-party validation.** The project's safeguards specialist(s) will document the consultations and agreements reached. A third party, such as a civil society organization or a magistrate, will provide independent verification/validation that (i) the consultations have been undertaken, meaningfully, freely, and in good faith; (ii) the landowners are willing to provide land to the subproject; and (iii) the in-kind compensation for land and cash compensation for other improvements have been agreed to by the land owners. The process of third party verification/validation will include following tasks:
  - (i) Undertaking interviews and meetings as required;
  - (ii) Review of the process for identification and verification of relevant land owners;
  - (iii) Review of any and all meeting minutes and documentation of the consultation process leading up to the signing of the MOUs;
  - (iv) Validation that the agreement is voluntary;
  - (v) Validation that the land owners speak for, and reasonably represent, the community;
  - (vi) Verification that the provision of the land to the project will not cause hardship to any individual;
  - (vii) Validation that any crops, trees or structures belonging to individuals have been identified and sufficiently compensated;
  - (viii) Validation that in-kind compensation for loss of customary land being provided by the MIPU to the landowners/community represent a fair and reasonable replacement value for the affected land; and
  - (ix) Documentation of the foregoing in a short report.
7. **Documentation of due diligence:** The MIPU will include in the RP (or a separate due diligence report, as relevant) descriptions of the process followed and outcome achieved through the process mentioned above. The MIPU will submit the RP/due diligence report to ADB for approval and provide agreed compensation package to affected people/communities before awarding the civil works contracts for the respective subprojects.

## Appendix D – Memorandum of Understanding Template

### MEMORANDUM OF UNDERSTANDING

#### BETWEEN

- 1) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_
- 2) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_
- 3) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_
- 4) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_
- 5) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_
- 6) Mr./Mrs \_\_\_\_\_ of \_\_\_\_\_

In the Republic of Vanuatu, as landlords/claimants of \_\_\_\_\_ land, in  
\_\_\_\_\_ will underwrite the present Memorandum of Understanding.  
**as**

#### SIDE A

#### AND

13) The Government of the Republic of Vanuatu represented by the Ministry of Infrastructure and Public Utilities (PMB 9057) and the Ministry of Lands and Natural Resources (PMB 909), Port Vila  
**as**

#### SIDE B

#### WHEREAS

- a) That side A represents in this agreement:

- I. Mr./Mrs/Chief \_\_\_\_\_
- II. Mr./Mrs/Chief \_\_\_\_\_
- III. Mr./Mrs/Chief \_\_\_\_\_
- IV. Mr./Mrs/Chief \_\_\_\_\_
- V. Mr./Mrs/Chief \_\_\_\_\_
- VI. Mr./Mrs/Chief \_\_\_\_\_
- VII. Mr./Mrs/Chief \_\_\_\_\_
- VIII. Mr./Mrs/Chief \_\_\_\_\_
- IX. Mr./Mrs/Chief \_\_\_\_\_
- X. Mr./Mrs/Chief \_\_\_\_\_
- XI. Mr./Mrs/Chief \_\_\_\_\_
- XII. Mr./Mrs/Chief \_\_\_\_\_ as landlords/claimants of  
\_\_\_\_\_ land, \_\_\_\_\_ in the Republic of Vanuatu, as better identified  
as \_\_\_\_\_.

- b) That Side A has agreed to work in collaboration with Side B by granting of access to Side B to undertake preliminary assessment on the identified land area for the purpose of constructing a jetty mandated under the Cyclone Pam Road Reconstruction Project (the "Project").
- c) The Side A hereby represented and confirms to Side B that they are the duly authorized representative(s) of the custom owner(s) according to law who are under the Constitution of Vanuatu the custom owners entitled to create leasehold interest in and otherwise deal with the demised land.
- d) That Side B has a responsibility to provide general amenities to the public at large.

- e) That Side B is obliged to secure a proper lease or compulsory acquires the land for public interest upon the confirmation of the feasibility assessment if the site is suitable for the Project.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

## **1. SUBJECT**

The subject of this Memorandum of Understanding is for granting of access to Side B by Side A for constructing/maintenance of a jetty. The land and foreshore on which the jetty is located with either be compulsorily acquire by Side B or and registering of lease on the land representing located in \_\_\_\_\_ (name of Island) in the Republic of Vanuatu. The land is owned by the landowners, Side A who will undersigned the present Memorandum of Understanding.

## **2. ROLE OF THE PARTIES**

In order to reach the said objective, the Parties agree to operate as follows:

- 2.1 That Side A will give access to Side B for feasibility study of the area; to cooperate to reach the requirements of the “due diligence” in order to reach in the shortest possible time for the completion of the feasibility study.
- 2.2 That Side A will give access to Side B for the construction/maintenance works, and if the area is suitable for the Project to be carried out.
- 2.3 Should the Project proceed, Sides A and B agreed to negotiate and register a proper lease or compulsory acquire the land for public interest.

## **3. EXCLUSIVITY**

That Side A gives B the exclusivity of access to the site and will not activate any other negotiation with third parties, being Side B actively committed to proceed with all the necessary steps in terms of Project's completion.

## **4. THE PRICE**

That all payments are subjected to the registration of a proper lease or the completion of a compulsory acquisition process.

## **5. TIMETABLE**

The timetable for the mutual activities to develop and define the purposes of this Memorandum of Understanding will be established jointly by both parties.

## **6. DURATION AND VALIDITY**

That the present Memorandum of Understanding will have 3 year option to be exercised from the signature date, except for extension of the due date and only if agreed by written notice by the Parties.

## **7. DISPUTE RESOLUTION**

The parties must attempt to settle any disputes between them in an amicable manner.

## **8. GOVERNING LAW**

This Memorandum of Understanding is governed by the laws of the Republic of Vanuatu

IN WITNESS WHEREOF, the Parties have caused their respective representatives hereunto  
duly authorized to execute this Agreement at the place and on the

\_\_\_\_\_ day of \_\_\_\_\_ 2016

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
11. \_\_\_\_\_

Land owners/Claimants

\_\_\_\_\_  
(Vanuatu Government signed by its duly authorized representative MIPU and MOL)

Independent Third Party Validation

Independent third party validation is to be conducted by a local pastor or NGO

1. \_\_\_\_\_ (representing) \_\_\_\_\_
2. \_\_\_\_\_ (representing) \_\_\_\_\_

Mr. .... (Witness)

Mr. ....(Witness)

-Provincial Secretary General

## Appendix E – Template for third party validation letter

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We provide the independent verification of the Memorandum of Agreement (MOA)/Lease Agreement signed on \_\_\_\_\_ (date) between the XXXX (on behalf of the Vanuatu Government) represented by the \_\_\_\_\_ and landowners of \_\_\_\_\_ (address of landowners) on the use of \_\_\_\_\_ acre of land for \_\_\_\_\_ under the \_\_\_\_\_ (the Project) that (i) the landowners support the Project and its activities and have agreed to provide affected land through lease; (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/Lease Agreement have been explained to and understood and agreed by the landowners. The verification is based on our independent:

- Validation that consultations with the landowners have been undertaken and that they were provided with relevant information as per the Due Diligence Report and other Project documents;
- Validation that the agreement is voluntary and that the landowners have fully understood and agreed to the agreements' terms and conditions;
- Validation that the landowner representatives signing the agreement duly represent the landowners or the lawful owner/s of the land;
- Validation that landowners or any other users/occupants will not experience major adverse impacts from land use by the Project;
- Validation that any minor impacts have been identified, sufficiently addressed and documented by the Project;
- Validation that compensation (if required by MOA) represents a fair and reasonable replacement cost based on market prices; and
- Validation that the agreement is in compliance with applicable laws of Tuvalu as well as safeguard requirements stipulated in ADB SPS (2009).

Signature:

Date:

Name of Verifier:

Official Stamp (if applicable):

## Appendix F – Screening checklist

### Involuntary Resettlement Impact Categorisation Checklist – Mele Bridge, October 2016

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?		X		<p>Similar to Prima bridge, the proposed works will include construction of a new bridge and abutment protection on the bridge and construction of footpath will go <b>beyond the 15m each side of the centreline</b>. Have small islands in the creek bed that need to be reshaped. Land required outside the existing road corridor will be determined during detail design.</p> <p>Customary-owned land. The land outside the road corridor together with Prima and Klems Hill also belongs to Mele people.</p> <p>The government will seek to negotiate with landowners for longer-term access (through community contribution (with or without 'in-kind' compensation, lease, or negotiated purchase).</p>
2. Is the site for land acquisition known?		n/a		The site outside the existing bridge is a customary land next to a leased land. Still to be confirmed by the Department of Lands.
3. Is the ownership status and current usage of land to be acquired known?		n/a		
4. Will easement be utilized within an existing Right of Way (ROW)?	X			
5. Will there be loss of shelter and residential land due to land acquisition?		n/a		Vacant small island in the creek bed.
6. Will there be loss of agricultural and other productive assets due to land acquisition?		n/a		
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?		n/a		
8. Will there be loss of businesses or enterprises due to land acquisition?		n/a		
9. Will there be loss of income sources and means of livelihoods due to land acquisition?		n/a		
10. Will people lose access to natural resources, communal facilities and services?		X		Communal access area for crossing on the other side of the creek will be kept open.
11. If land use is changed, will it have an adverse impact on social and economic activities?		n/a		
12. Will access to land and resources owned communally or by the state be restricted?		X		
<b>Information on Displaced Persons:</b>				
<b>N/A</b>				
Any estimate of the likely number of persons that will be displaced by the Project? If yes, approximately how many?	[x]	No	[ ]	Yes
Are any of them poor, female-heads of households, or vulnerable to poverty risks?	[x]	No	[ ]	Yes
Are any displaced persons from indigenous or ethnic minority groups?	[x]	No	[ ]	Yes

### Involuntary Resettlement Impact Categorisation Checklist – Prima Bridge, October 2016

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?		X		<p>The proposed works will include construction of a new bridge and abutment protection on the bridge and construction of footpath will go <b>beyond the 15m each side of the centreline</b>. Have small islands in the creek bed that need to be reshaped. Land required outside the existing road corridor will be determined during detail design.</p> <p>Customary-owned land. The land outside the road corridor belongs to Mele people.</p> <p>The government will seek to negotiate with landowners for longer-term access (through community contribution (with or without 'in-kind' compensation, lease, or negotiated purchase).</p>
2. Is the site for land acquisition known?		n/a		The site outside the existing bridge is a customary land next to a leased land. Still to be confirmed by the Department of Land.
3. Is the ownership status and current usage of land to be acquired known?		n/a		
4. Will easement be utilized within an existing Right of Way (ROW)?	X			
5. Will there be loss of shelter and residential land due to land acquisition?		n/a		Vacant small island in the creek bed.
6. Will there be loss of agricultural and other productive assets due to land acquisition?		n/a		
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?		n/a		
8. Will there be loss of businesses or enterprises due to land acquisition?		n/a		
9. Will there be loss of income sources and means of livelihoods due to land acquisition?		n/a		
10. Will people lose access to natural resources, communal facilities and services?		X		Communal access area for crossing on the other side of the creek will be kept open.
11. If land use is changed, will it have an adverse impact on social and economic activities?		n/a		
12. Will access to land and resources owned communally or by the state be restricted?		X		
<b>Information on Displaced Persons: N/A</b>				
Any estimate of the likely number of persons that will be displaced by the Project? If yes, approximately how many?	[x] No [ ] Yes			
Are any of them poor, female-heads of households, or vulnerable to poverty risks?	[x] No [ ] Yes			
Are any displaced persons from indigenous or ethnic minority groups?	[x] No [ ] Yes			



### Involuntary Resettlement Impact Categorization Checklist – Klems Hill, October 2016

Probable Involuntary Resettlement Effects	Yes	No	Not Known	Remarks
<b>Involuntary Acquisition of Land</b>				
1. Will there be land acquisition?		X		<p>The proposed works include slope work on the upslope and top (catch drain), plus the work downslope to provide a drainage channel will go <b>beyond the 15m each side of the centreline</b>. Amount of land still to be determined during detailed design.</p> <p>The area outside the road corridor is a customary-owned land that also belongs to the Mele people.</p> <p>The government will seek to negotiate with landowners for longer-term access (through community contribution (with or without 'in-kind' compensation, lease, or negotiated purchase).</p>
2. Is the site for land acquisition known?		n/a		The site outside the existing road corridor is a customary land. Still to be confirmed by the Department of Lands.
3. Is the ownership status and current usage of land to be acquired known?		n/a		
4. Will easement be utilized within an existing Right of Way (ROW)?	X			May require long term access for the road stabilization works outside the road corridor.
5. Will there be loss of shelter and residential land due to land acquisition?		n/a		
6. Will there be loss of agricultural and other productive assets due to land acquisition?		n/a		
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?		n/a		Both sides of the road are with trees thus depending on the proposed works, trees may have to be removed.
8. Will there be loss of businesses or enterprises due to land acquisition?		n/a		
9. Will there be loss of income sources and means of livelihoods due to land acquisition?		n/a		
10. Will people lose access to natural resources, communal facilities and services?		X		
11. If land use is changed, will it have an adverse impact on social and economic activities?		n/a		
12. Will access to land and resources owned communally or by the state be restricted?		X		
<b>Information on Displaced Persons: N/A</b>				
Any estimate of the likely number of persons that will be displaced by the Project? If yes, approximately how many?	[x]	No	[ ]	Yes
Are any of them poor, female-heads of households, or vulnerable to poverty risks?	[x]	No	[ ]	Yes
Are any displaced persons from indigenous or ethnic minority groups?	[x]	No	[ ]	Yes

## Appendix G – Signed MOUs [to be completed]

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*[Attach signed MOU's]*