

# Final Social Due Diligence Report

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Project Number: 51274-001  
June 2018

## Proposed Loans Northern Bangkok Monorail Company Limited Eastern Bangkok Monorail Company Limited Bangkok Mass Rapid Transit Project (Pink and Yellow Lines) (Thailand)

### Bangkok Mass Rapid Transit Pink Line Project PART A Final Social Safeguards Compliance Audit

Prepared for BSR Joint Venture, Northern Bangkok Monorail Company Limited and the Asian Development Bank.

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## ABBREVIATIONS

ADB	Asian Development Bank
AREA	Agency for Real Estate Affairs
BMA	Bangkok Metropolitan Authority
BSR	BSR Joint Venture
BTS	BTS Group Holdings Public Company Limited
BTSC	Bangkok Mass Transit System Public Company Limited
CAP	Corrective Action Plan
DOH	Department of Highways
EBM	Eastern Bangkok Monorail Company Limited
EIA	Environmental Impact Assessment
EXAT	Expressway Authority of Thailand
GSB	Government Savings Bank
Km	Kilometer
MOT	Ministry of Transport
MRT	Mass Rapid Transit
MRTA	Mass Rapid Transit Authority of Thailand
NEB	National Environment Council
NBM	Northern Bangkok Monorail Company Limited
OCC	Operation Control Center
ONEB	Office of National Environmental Board
ONEP	Office of Natural Resources and Environmental Policy and Planning
OTP	Office of Transport and Traffic Policy and Planning
PPP	Public-Private Partnership
RATCH	Ratchaburi Electricity Generating Holding Public Company Limited
ROW	Right of way
SPS	Safeguard Policy Statement
SRT	State Railway of Thailand
STECON	Sino-Thai Engineering and Construction Public Company Limited
THB	Thai Baht
USD	United States Dollar
Wa <sup>2</sup>	Square Wa

## Executive Summary

The Asian Development Bank (ADB) is considering financing the Mass Rapid Transit (MRT) Pink Line Project (the Project) through a private sector loan to the BSR Joint Venture (BSR). In this project, the Mass Rapid Transit Authority of Thailand (MRTA) will provide the land and the right of way (ROW) while BSR will invest in all civil works, mechanical and electrical systems, and rolling stocks, including operations and maintenance services. Land acquisition and resettlement is part of MRTA's responsibility.

### Project Description and Policy Context

The Pink Line is planned to accommodate travel demand of the northern Bangkok and ease travelling between west and east side of Bangkok Metropolitan Region. Its interconnection with Purple, Red, Green and Orange will link the Government Complex to the central part areas of the metropolis. It will be an elevated straddle monorail system covering a distance of 34.5 km with 30 stations. The two main components of its structural design are a viaduct structure located mostly in the middle of the road and a depot with Park-&-Ride facilities. It will have a capacity of 10,000-44,000 passengers per hour per direction and will run at an average speed of 35 km per hour and a maximum speed of 80 km per hour. Its scheduled operation in on 2020.

The Pink Line Project will acquire mainly private land and structures following Thai laws. The land acquisition process began when the royal decree designating the area for acquisition was issued on 16 December 2014. In June 2017, ADB learned that limited-recourse financing is considered for the project while ridership risk remains a concern, and identified ADB's potential value addition to the project. When ADB commenced its due diligence after the approval of the preliminary concept review in August 2017, the land acquisition process was underway. ADB considers project facilities existing when land acquisition is ongoing. For existing project facilities, the 2009 Safeguard Policy Statement (SPS) Safeguard Requirement 2 (SR2) on involuntary resettlement apply to resettlement actions conducted by the client in anticipation of ADB support (Paragraph 4 Appendix 2). Based on this timeline, land acquisition and resettlement activities being conducted by MRTA for the Yellow Line Project is not in anticipation of ADB support therefore does not fall within the ambit of SPS SR2 para4. But as a good practice, such actions were covered by this audit as part of the effort to assess the risk associated with the project.

### Scope of Land Acquisition and Resettlement Impacts

The scope of land acquisition and resettlement impacts is first estimated as part of the preparation of Amended Environmental Impact Assessment (EIA) Report completed in October 2015. It was estimated that approximately 45 hectares of land will be impacted. The total value of the affected land and structures was estimated to be 206,592,518 USD.

The continuing modification of the project design to minimize impacts resulted to changes in the scope of land acquisition and resettlement impacts. The number of parcels was reduced to 568 in October 2017 and correspondingly the area land for acquisition. On 25 December 2017, MRTA provided the "List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation" which contains information on the properties and damages to be compensated for 215 persons (202 owners and 13 tenants). These documents show the scope of land acquisition and resettlement impacts for 149 parcels of land out of 568 parcels affected. Among the affected owners and tenants, 50.7% are women and 45.6% are men. The rest are corporations. These owners will have combined losses of 38.1 hectares and 189 structures. While

most will only have parts of their structures affected, 21 will lose the entire structure. The total losses are valued at 2,489,170,226 THB based on their estimated compensation.

The two reconnaissance survey (October and November 2017) identified 11 stations that will not affect any private land and 13 stations that will not affect any private structure. Among these stations, 6 stations will affect neither private land nor private structures. The 14 stations which will require acquisition of private land will take only 3 meters or less from the boundary of public easement. Only three stations will require larger acquisition of private land. For structures, whole buildings or houses will be removed in six stations.

The scope of resettlement and land acquisition was identified as such as of the last meeting with MRTA on 21 March 2018. The continuing modification and redesign of parts of the project to respond to individual complaints, public interest and greater technical efficiency does not preclude unexpected resettlement impacts. These impacts will be monitored and addressed using the procedures in the Thai laws and MoT Compensation Manual and MRTA practices. It is established that MRTA has the mechanism and resources to respond to these impacts in a manner consistent with ADB's applicable requirements.

The project reduced land acquisition requirement in three ways: (i) selection of train technology; (ii) selection of station location; and (iii) modification of station design. The decision to opt for an elevated straddle monorail running mostly in the middle of the road was partly based on the need to reduce land acquisition. For train station location, seven stations will be located in non-road government land and one station has so far been moved from its planned location. Further, over 30 modifications in the station design have been done for the same purpose and will continue until the compensation process is complete.

## **Legal Context**

The main laws in Thailand applied to land acquisition and resettlement (LAR) issues in the project are the 2017 Constitution, 1987 Expropriation of Immovable Property Act and the 1997 Procurement of Immovable Property for Public Transportation Enterprises. Based on these laws, MRTA developed a land acquisition and compensation process. The process begins as one track that starts with the enactment of the expropriation decree and ends with the government agency offering the property owner the compensation contract. Then track diverges into two tracts. Track 1 is followed when the property owner accepts the compensation offer. In this track, the owner signs the compensation agreement, receives the compensation, clears and vacates his property and hands it over to MRTA. Track 2 is followed when the property owner refuses the expropriation or compensation. The track begins with the MRTA depositing the compensation amount in the property owner's bank account. The property owner can appeal to the minister of the Ministry of Transportation (MOT) and if unsatisfied with the judgement of the minister, he can elevate it to the judicial process.

For compensation, the MOT Manual prescribes the methods of computing the compensation of each affected asset for compensation in accordance with laws. A compensation committee set the rates. It is composed of the representatives of the following: (i) MRTA (Chair), Bangkok City Council, District Council, Land Department; and Community. In Nonthaburi Province which is covered by the Pink Line, each district has a committee with representatives from the Department of Local Administration. The MRTA is the secretary of the committee. The committee receives all the data from the survey of affected properties from MRTA and use these to determine the compensation for each affected asset.

To determine the extent of the alignment of the LAR practices of MRTA for the Project with 12 applicable ADB principles, these are juxtaposed and assessed. The assessment showed alignment in nine requirements: (i) census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes.

Two requirements are found not applicable. One is on negotiated settlement procedures because the project is applying expropriation. Another is the need to conduct meaningful consultations with vulnerable groups because the result of pre-construction survey covering 29 households with affected assets and 500 households living along the Pink Line route identified no household living below the country's poverty line who can be considered vulnerable. On the requirement of livelihood restoration, it is deemed that the compensation for assets, the added compensation for the damages incurred in the transfer and expenditures for transactions, number of months compensation for lost monthly income as well as the ease in starting business in Bangkok will suffice to attain it.

### **Land Acquisition and Compensation Status**

The audit focused on the assessment of land acquisition and compensation activities undertaken by MRTA. To assess whether land compensation rates offered by MRTA are adhering to Thai legal requirements, land compensation rates offered by MRTA for 134 parcels contained in the List of Determination of Initial Prices of Immovable Property were compared with three values: the latest Department of Treasury valuation of the same parcels, valuation of internet-advertisements, and indicative valuation of land in the vicinity of the parcels which were obtained from the database of rates of the Agency for Real Estate Affairs (AREA) which is a private real estate valuation company.

### **Socio-economic Baseline**

The result of the October-December 2017 survey fills the information gap in the EIA on the affected households. It covers 29 households with affected assets and 500 households living along the Pink Line route but whose assets are not affected. Among the households with affected assets, the respondents are almost equally divided between men and women all of whom live in the project area since birth. Close to 70% are earning over 50,000 THB a month and no one earns less than 2,644 THB a month, the country's poverty line. The structure affected for 58.6% is commercial in use and residential for 13.7 percent. Only 10.3% will have the structure they are using fully demolished. Structure ownership is at 89.7 percent. Among the sources of information on the Pink Line, the respondents mentioned the MRTA staff 52.5% of the times.

Among the households with unaffected assets, 63.4% of the respondents are women. Those who were born in the project area compose 59.0 percent. About 67.2% have more than elementary education with 16.4% university graduates or pursued post-graduate studies. Only 3.6% have no information on the project. TV and word-of-mouth are their main information sources. The modal household size is between four to seven members. Most of the households earn from commerce with 71.6% reported that the primary occupation of the household head is either as a trader or business owner. Their income is relatively high with 56.0% earning between 20,000-40,000 THB a month. None is earning below the country's poverty line. Around 48.0% are users of commercial structure. The structure ownership rate is 75.2 percent.

## **Information Disclosure, Consultation and Participation Activities**

The Pink Line Project has five direct stakeholder groups: commuters, property users, business operators along the route, private service providers (hospitals, schools and temples) and government offices along the route. The property users are divided into two: households with expropriated assets and those with unaffected properties. In the long-term, all the stakeholder groups, except the households who will lose all their lands or structure and will move out far from their present location, will benefit from the project's provision of easier point-to-point access. Further, the property owners with unaffected properties and those with affected properties but will stay in the area along the route will gain from increased property value. But in the short-term, they will bear the brunt construction impacts.

The information disclosure and consultation activities were conducted between June and September 2012 as part of the EIA preparation. Information was disclosed in TV, radio, print media, leaflets, brochures, video, exhibition boards and a dedicated website. Within the same period, 26 consultation meetings were held with five with the communities along the route. The other stakeholder groups consulted were local government officials, business operators and private service providers. One multi-stakeholder assembly was held with 526 participants. Seven social concerns were raised in the consultations: (i) need for more public information; (ii) land acquisition; (iii) need to consult with households with affected property; (iv) construction impact on structures; (v) traffic generation; (vi) space and ventilation of the stations; and (vii) provision of emergency procedures.

After the EIA preparation and its amendment in 2015, information about the project were continued to be disclosed by MRTA and the MOT through the conventional and social media including in the Pink Line website. For the affected households the following information disclosure activities are done: (i) posting of royal decree and property price appraisal results in public places; (ii) written notice to owners and renters for site inspection, compensation contract, availability and deposit of compensation, appeal process, requirement to vacate the property and appeal decision in case of complaint; and (iii) public disclosure of the minutes of the meeting of Compensation Committee. Consultations on affected assets has been conducted in the neighborhood and household level. With the affected households, consultations and exchange of information with MRTA are a continuous process.

## **Grievance Mechanism**

The 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises provide similar formal redress mechanism for two cases: disagreement on the compensation set by the Compensation Committee and need to expropriate unusable residual portion of a property after a portion is expropriated. In the first case, the complainant will appeal to the MOT minister within 60 days from the receipt of written notice to collect the compensation. The minister in turn must send his decision within 60 days from receipt of appeal. If the minister's decision is not received within 60 days or the complainant disagrees with it, he can file the case in court within one year from the receipt of the decision or expiry of the prescribed period to receive a decision.

On the second case, the property owner must request the expropriation officer to expropriate the residual property. If it is rejected, he can appeal to the MOT minister within 60 days from the receipt of rejection, who in turn, must deliver his decision within 60 days. If the decision is not

delivered within this period, it is deemed favorable to the property owner. Through public information dissemination and consultation activities and individual meetings, affected property owners and tenants are informed on grievance redress procedures. This information is also contained in the pamphlets prepared and distributed by MRTA. The chance that a grievance is filed reduced by the informal negotiation.

### **Institutional Arrangement for Land Acquisition and Compensation**

MRTA is undertaking the land acquisition and compensation process for the project. As a unit of the MOT, it is supervised by the Office of the Minister. MRTA's involvement in land acquisition starts when its MRT project is approved by the Council of Ministers. Based on the approved plan, MRTA conducts a preliminary survey on land characteristics of the project area including land ownership and non-movable assets. It starts with the notification of the public and property occupant at least 30 days in advance. Based on the survey result, the Royal Decree specifying the ROW of the project is drafted, approved by the Council of Ministers and enacted into a law by the king. The decree is disseminated with the MOT minister heading the execution.

Land acquisition as an impact is covered by the EIA. The MRTA, through a consulting firm prepares the EIA document in conjunction with the conduct of the feasibility study to incorporate its mitigating measures in the design. The Council of Ministers, upon the recommendation of the National Environment Board (NEB) gives the final approval of the EIA because the proponent is a state enterprise. After MRTA surveyed the land for expropriation, the Minister appoints a Compensation Committee to estimate the prices of the properties for expropriation and the compensation rates. Compensation rates established by the committee are disseminated in the project area. MRTA negotiate the purchase agreement with property owners, pays compensation within 120 days of signing and prepare legal documents to acquire property. If the property owner will file a case, MRTA will deposit the compensation in an escrow account. During construction phase, the contractor pays for the damage resulting from construction activities.

### **Implementation Schedule and Budget**

The Pink Line Project has a construction period of 34 months. On August 2017, the full inventory of affected people and assets was done and land acquisition and compensation were 20% complete. The percentage of completion is expected to be 60% in March 2018 and full completion on May 2019. The total construction cost is estimated at 56,725,000 Million Baht (1,736,101 Million USD) with 6,847,000 Million Baht (209,553 Million USD) allocated for land acquisition.

### **Conclusion and Recommendations**

The audit shows that MRTA's practices on land acquisition and resettlement for the Pink Line are in line with ADB's SPS SR2 on Involuntary Resettlement. The audit finds that MRTA has taken due care to assess the nature and scope of impacts on each affected property; conducted a census and full asset inventory, and disclosed information on impacts and entitlements to affected people. Compensation standards and methodology for valuating land have been validated.

Where the audit found sufficient information to be able to compare the market prices for the land being acquired, the audit finds that compensation offers issued by MRTA for affected assets are equivalent to or above the market rate and therefore adheres to Thai legal requirements. (This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy) ...MRTA has a robust grievance mechanism where the affected household can file as case in the grievance mechanism. If it is deemed the prices paid

is unfair to the affected person, the law provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

In terms of compensation for other assets, namely structures, crops and trees, MRTA attests that these are being paid following Thai laws, the MoT Compensation Manual and MRTA practices which this audit concludes as equivalent to replacement cost. The audit also finds that affected property owners can easily obtain the price of building materials from the Bureau of Trade and Economic Indices, Office of the Permanent Secretary of the Ministry of Commerce, or a provincial commerce office. They also can obtain the labor cost from the Budget Standard Bureau, Bureau of the Budget and from the Ministry of Labor. For trees, the price estimate is available from the provincial agricultural extension offices. Hence, they can readily check the computation of compensation, and negotiate for a price they consider more fair through the grievance mechanism.

Based on the replacement value of the amount of compensation for lost income, payment for various transfer costs, duration of monthly compensation payment and time required to establish a new business in Thailand, the MRTA arrangement would suffice to restore livelihood of affected person.

With respect to monitoring and reporting, MRTA requires monthly and semi-annual external monitoring of the Environmental Management Plan. However, this does not cover progress of land acquisition and resettlement. These are monitored by MRTA separately. ADB proposes to engage an independent social monitor to work with MRTA to prepare reports semi-annually of the progress of land acquisition and resettlement for the Project up to completion including unanticipated resettlement impacts such as impacts on informal settlers and street vendors.

MRTA has been continuously negotiating with affected people and provided information demonstrating responsiveness to people's concerns through various changes made in Project specifications in order to accommodate requests and minimize impacts to properties. This audit concludes that the reputation risk to ADB and risks to the Project of MRTA-led land acquisition and compensation activities is low.



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## Chapter 1: Introduction and Policy Context

### 1.1 Introduction

1. The Asian Development Bank (ADB) is considering financing the Mass Rapid Transit (MRT) Pink and Yellow Lines (the Project) through a private sector loan to the BSR Joint Venture (BSR). The Project aims to mitigate traffic congestion and associated environmental issues, and to provide convenient and cost-effective public transportation system. The Project is to be implemented under the PPP Net Cost scheme in which Mass Rapid Transit Authority of Thailand (MRTA) is responsible for provision of the land and the right of way (ROW) while the private sector (BSR) will invest in all civil works, M&E systems, and rolling stocks, including operations & maintenance services.

### 1.2 Project Description

2. The Pink Line MRT Project is one of the mass rapid transits incorporated into Mass Rapid Transit Master Plan in Bangkok Metropolitan Region (M-MAP). The plan which was first drafted by the Office of Transport and Traffic Policy and Planning (OTP) of the Ministry of Transport (MOT) was approved by the cabinet in 1994. The plan underwent revisions and the current version was endorsed by the Commission for the Management of Land Traffic on 8 February 2010. It designates eight primary routes: two commuter rail lines, an airport rail link and five rapid transit lines, as well as four feeder lines. The total length of the routes, is 555.74 km which is to be constructed between 2010 and 2029. The radial pattern is designed to expand development from urban to suburban part of Bangkok as a metropolitan region. Among the five rapid transit lines, the Orange, Pink and Yellow lines have received cabinet approval while the rest continue to be studied.

3. The Pink Line is planned to accommodate travel demand of the northern Bangkok between Min Buri district and Nonthaburi Province. It is designed to ease travelling between west side and east side of Bangkok Metropolitan Region and link the Government Complex to the central part areas of the metropolis through its interconnection with other lines. It will have interconnection with four mass rapid transit projects: Purple, Red, Green and Orange (Map 1).

4. It will be an elevated straddle monorail system covering a distance of 34.5 km total distance. The top of the rail is typically 15 m above existing road level but about 9 meters for some sections. The average distance between stations is about 1200 meters. There are 30 train stations (Table 1). The first station is at Rattana Thibet Road in front of Nonthaburi Government Center where it will connect to the Purple Bang Yai-Bang Sue Station. The last station is at Rom Klao intersection near Soi Ramkhamhaeng 192 where there is an interchange station linking to the Orange Line, Bang Kapi-Min Buri Section.



(ii) Depot and Park-&-Ride Facilities: Administration and Operations Control Center (OCC), Main Workshop, Park and Ride Building, Bulk sub-Station, Hazardous Building, Storm Water pump House, Waste water treatment Plant, Guard House, Stabling Yard and Canteen.<sup>1</sup>

6. The viaduct structure will be located mainly along the centerline of existing roads although parts will be shifted to the road side due to existing constraints. Its ROW will be from 6.7 to 7.3 meters in width. The general station is 15 meters high with a platform of 20-25 meters wide and 110 meters long. The depot and park-&-ride building at Romkiao on Ramkhamhaeng Road will be in a 366,400-square meter area. The three-level Park-&-Ride building will accommodate 3000 cars or 1000 per level. The number and areas for workers' camp are still to be determined. Each campsite is estimated to be about one rai<sup>2</sup>.

**Table 1**  
**Pink Line Stations, Number of Platforms, Transfer Lines and Province**

Code	Name	No. of Platform	Transfer(s)	Province
Pk1	Nonthaburi Civic Center	4	MRT   MRT	Nonthaburi
Pk2	Khae Rai	2		
Pk3	Sanam Bin Nam	2		
Pk4	Samakkhi	2		
Pk5	Chonlaprathan	2		
Pk6	Pak Kret	2		
Pk7	Liang Mueang Pak Kret	2		
Pk8	Chaeng Wattana-Pak Kret 28	2		
Pk9	Mueang Thong Thani	2		
Pk10	Si Rat	2		
Pk11	Mongkut Watthana	2		
Pk12	Bangkok Government Complex	2		
Pk13	TOT & MICT	2		
Pk14	Lak Si	4	SRT	
Pk15	Phranakhon Rajabhat	2		
Pk16	Wongwian Lak Si	4	BTS	Bangkok
Pk17	Ram Inthra 3	2		
Pk18	Lat Pla Khao	2		
Pk19	Ram Inthra 31	2		
Pk20	Raminthra Government Housing	2		
Pk21	Watcharaphon	4	BMA	
Pk22	Ram Inthra 40	2		
Pk23	Nawamin	2		
Pk24	Ram Inthra 83	2		
Pk25	Khan Na Yao	2		
Pk26	Siam Park City	2		
Pk27	Bang Chan	2		
Pk28	Setthabut Bamphen	2		
Pk29	Sihaburanukit	2		
Pk30	Min Buri	4	MRT	

<sup>1</sup> Team Consulting Engineering and Management Co Ltd. 2015. Amendment Report. EIA Report: The Pink Line MRT Project: Khae Rai-Min Buri. October.

<sup>2</sup> One rai is equivalent to 1600 square meters

7. During operation, the Pink Line will have the capacity to take 10,000-44,000 passengers per hour per direction. It will run at an average speed of 35 km per hour and a maximum speed of 80 km per hour.

8. The cabinet meeting approved the implementation of the Pink Line on 29 March 2016. It also approved the PPP Net Cost for public sector investment on land acquisition and the private sector investment which will cover the following cost: civil construction, mechanical and electrical systems, rolling stock, the project consultant cost and operation and maintenance services for 33 years and 3 months through a concession contract period (3 years and 3 months for construction and 30 years for operation)

9. In December 2016, the BSR Joint Venture consortium won the concession bid for the Pink Line.<sup>3</sup> Composing the consortium are the BTS Group Holdings (BTS), Sino-Thai Engineering and Construction (STECOM) and Ratchaburi Electricity Generation Holding (RATCH). The BTS owns 75% of the project. On 30 May 2017, the cabinet meeting approved the result of selection of private sector investor and the draft concession contract of the MRT Pink Line Project as proposed by the Selection Committee under Section 35 of the Private Investments State Undertakings Act B.E. 2556 (2013).<sup>4</sup>

10. On 16 June 2017, the BSR Joint Venture signed the Pink Line Project contracts with MRTA with a scheduled operation date at 2022. But the operation date was moved earlier to 2020.<sup>5</sup> The BSR established the Northern Bangkok Monorail Company Limited (NBM) to operate the monorail. The total construction cost is estimated at 56,725,000 Million Baht (1,736,101 Million USD) with 6,847,000 Million Baht (209,553 Million USD) allocated for land acquisition.<sup>6</sup>

### 1.3. Policy Context

11. As part of its due diligence, ADB needs to determine whether ADB 2009 Safeguard Policy Statement (SPS) Safeguards Requirements are applicable.

12. The Pink Line Project will affect private assets, mainly land and structures which are being acquired following Thai laws on land ownership and expropriation. The land acquisition process began when the royal decree designating the area for acquisition was issued in 16 December 2014 for the Pink Line Project.

13. When land acquisition is ongoing or completed, ADB considers the project facilities existing. For existing project facilities, the SPS involuntary resettlement requirements apply to resettlement actions conducted by the client in anticipation of ADB support (Paragraph 4 Appendix 2). The tender process of Pink and Yellow Lines was undertaken in 2016 when the respective land acquisition was already ongoing and not in anticipation of any ADB support. In June 2017, ADB learned that limited-recourse financing is considered for the project while ridership risk remains a concern, and identified ADB's potential value addition to the project.

14. When ADB commenced its due diligence in the project after the approval of the preliminary concept review in August 2017, the land acquisition process by Government of Thailand through MRTA was underway. By this time, MRTA has completed the full inventory of affected people

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<sup>3</sup> "BSR Joint venture wins rights for Bangkok's Yellow, Pink line MRTA construction". *Bangkok Post*. 7 December 2016

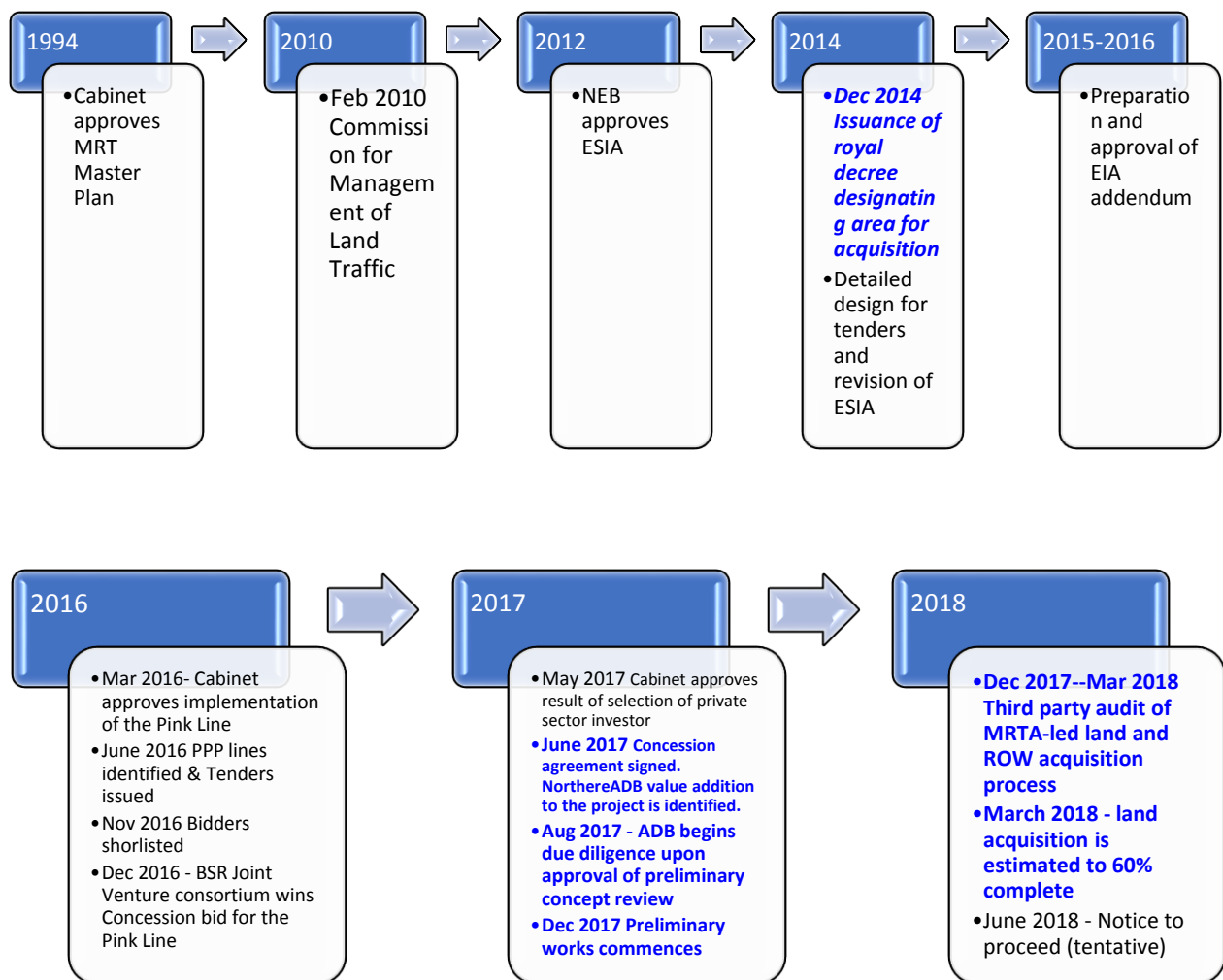
<sup>4</sup> "Pink and Yellow Lines construction contracts signed, operational in 2020". *Thai PBS*. 17 June 2017

<sup>5</sup> Mass Rapid Transit Authority of Thailand. The MRT Pink Line Brochure

<sup>6</sup> <http://www.mrta.co.th/en/projectelectrictrain/pinkline/>

and assets and land acquisition and compensation were 20% complete. The land acquisition process is expected to be 60% complete by end of March 2018. Based on the implementation arrangements and sequence of events as shown in Figure 1, it should be noted that resettlement actions are not being conducted by BSR, ADB's borrower/client. Based on the timeline presented, land acquisition and resettlement actions by MRTA for the Project are not in anticipation of ADB support as it commenced in December 2014 even prior to ADB's involvement in the Project (June 2017) and therefore does not fall within the ambit of SPS SR2 para 4. Moreover, BTS has in mind to obtain financing from Bangkok Bank which is their main relationship bank and with syndication with other Thai banks in mind principally. This is documented in the tender documents to satisfy the tender requirement for BSR in 2016.

**Figure 1 Project Timelines**



15. As a good practice as recommended under ADB's draft 2012 Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Source Book such actions will be



looked into as part of the effort to assess the risk associated with the project. The draft Good Practice Source Book provides that:

*“In most cases, it is also important for ADB’s due diligence to assess potential risks associated with the project, even if the previous resettlement actions are not done in anticipation of ADB support.....The same scrutiny would be required in cases where (i) land acquisition is still in progress, (ii) project authorities are not aware that the related project may be financed by ADB, and (iii) ADB and the borrower have yet to decide on whether or not to include it in ADB financing (Paragraph 19).”*

16. While the project timeline in Figure 1 establishes that land acquisition and resettlement is not in anticipation of ADB financing, a social safeguards compliance audit was undertaken. The audit to identify past or present concerns related to involuntary resettlement impacts (Appendix 4 Paragraph 12), determine MRTA adherence to relevant national laws and alignment with ADB SPS SR2 requirements.

17. The MRTA land expropriation process mainly followed two Thai laws: Expropriation of Immovable Property Act of B.E. 2530 (1987) and the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). The first law provides the general procedures that the government must comply in expropriating any immovable property for public utilities and other public interests if the transfer of ownership between the private owner and concerned government agency is not agreed upon. The second law adapts the first law to the needs of public transportation enterprises specifying the activities and entities involved in the land acquisition process in the construction, expansion, rehabilitation or large-scale improvement of transportation system. It also defers to the first law by providing that in case the ownership of the property will be acquired for a transportation enterprise, the first law will be followed. The MOT translated the procedures of determining the amount of compensation in the two laws into operational detail through the Manual of Compensation. As a MOT unit, the MRTA uses this manual in the land acquisition process for the Pink Line Project.

#### **1.4. Methodology**

18. Primary and secondary information are used to conduct social due diligence on the Pink Line Project. The sources of primary information are on-site observation, interview with the personnel of MRTA, BTS and STEC and attendance in project meetings. The secondary information are documents from MRTA, District Land Offices, Agency for Real Estate Affairs (AREA) which is a private valuation company, as well as reports, studies and discrete data available in the internet. The documents that MRTA provided are as follows:

- i. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation
- ii. Minutes of Monthly Meetings of MRTA, NBM and TEAM on Land Acquisition Process
- iii. MRTA Requirements. Part 1 Civil Works. Appendix 5. Environmental Protection Requirements
- iv. TEAM Consulting Engineering and Management Co. Ltd. October 2015. Amendment Report: Environmental Impact Assessment. The Pink Line MRT Project Khae Rai-Min Buri
- v. Result of Socioeconomic Survey Conducted October-December 2017

19. The documents from the Department of Treasury contain information on the government valuation of land parcels listed in the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation. The documents from AREA have



valuation of land parcels in the vicinity of the parcels in the same list. These valuation values are used in this due diligence to establish whether the compensation amount determined by Compensation Committee is at par with the market rate.

## **1.5. Limitations of the Audit**

20. The audit was conducted within three limitations. First was data availability. At the time the audit was conducted, MRTA Pink Line Land Acquisition Team was only able to provide compensation offers publicly issued by the respective compensation committee for only 134 parcels. There are still parcels which for compensation offers have not yet been issued due to continuing modifications in order to respond to grievances and minimize impacts. As a result of such modifications, the number of parcels with unissued compensation offers is not yet known and the final exact number of structures, trees and affected business are not yet known although it is appropriate to conclude that extent of impacts identified in the EIA is being reduced. Because of this limitation, the total number of affected assets and people has to be projected based on available data to provide an estimate of the scope of resettlement impact.

21. Second, validating the land compensation rates in the offer issued by the committee against the market rates can only be done in two ways. One is by comparing the amount with the prices of Department of Treasury. The government determines the price of land per parcel through the Department of Treasury to serve as basis for tax assessment. But the prices of the Department of Treasury have two limitations: prices are available only for certain parcels and the available prices are determined in 2018 while MRTA and the respective compensation committees used the value appraised by the Treasury Department for land registration made for the 2012-2015 period and the economic internal rate of return (which MRTA's research department provided as representing the price escalation from the date Department of Treasury prices were issued and the time of issuance of compensation offers in 2017) as some of the factors in setting the compensation rates. Another way was using the internet advertised prices and real estate valuation prices for comparison to the compensation rate. The internet advertised and real estate valuation prices available are, however, not of the acquired parcels but parcels in its vicinity. In the case of the real estate valuation prices, their sample zone (composed of five parcels) are along the main road while the parcel to be acquired includes roads in the interior, including to those without road access. Further, the lowest price among the parcels composing the sample zone was not available because the real estate valuator published only the average price of the five parcels. The MRTA price can be above the lowest sample parcel price but below the average price. MRTA has also acquired parcels where market price is difficult to establish and no records of sale for a similar property can be used as a factor in setting the compensation rate. One is the case of the agricultural and grassland land earmarked as the depot where the only available record of sale in the vicinity is in a nearby gated community. Another is the private road which practically has no market because there are no potential buyers. Where there are no available comparator valuations, the audit has approximate value by deducting the price escalation over time from the compensation offer.

22. Third, is the confidentiality of information and sensitivity of the negotiation between the landowners and MRTA preventing the interview of affected people and disclosure to a third party of the actual price paid as compensation and the information exchanged during consultations. This limitation is addressed by reviewing the grievance mechanism being implemented by MRTA and sample records of consultations with affected residential and commercial property owners to determine whether they have access to information, capacity and resources to negotiate effectively with MRTA.

## Chapter 2: Scope of Land Acquisition and Resettlement Impacts

23. The construction of the Pink Line and its depot and Park and Ride components will result to land acquisition and affect other private assets and commercial structures. The scope of land acquisition and resettlement impacts were first estimated as part of the preparation of Amended EIA Report which was completed in October 2015. The affected areas and structures were estimated based on existing project information and field survey. The continuing modification of the project design entailed changes in the scope of land acquisition and resettlement impacts. In 25 December 2017, the MRTA provided documents containing information on the properties and damages to be compensated of 215 owners and tenants and the initial amount of compensation.<sup>7</sup> These documents show the scope of land acquisition and resettlement impacts in 149 parcels of land out of 568, which, in October 2017, is estimated to be to be the total number of parcels to be affected. In 17-20 October and 7-13 November 2017, ADB conducted a site reconnaissance survey. The survey identified the stations where land acquisition will occur, the type of resettlement impact and to a certain extent, a broad estimate of the land and structures affected.

### 2.1 Scope of Land Acquisition and Resettlement Impacts Per Amended EIA

24. In 2015, it was estimated that an equivalent to 47.72 hectares would be acquired (Table 2). Around 94.6% this area was privately-owned. The impact on structures was measured in terms of number of rooms. Around 185 rooms would be affected, 184 of which were private. The total value of the affected land and structures was estimated to be equivalent to 206,592,518 USD. Around 83.3% of this amount was the value of land. The rest was the value of structures and other items. The land price estimate was based on the value appraised by the Treasury Department for land registration made for the 2012-2015 period. The price of structures (price per meter<sup>2</sup>) was estimated using the 2011 referenced prices of the Valuers Association of Thailand. The inventory of land and structures to be affected per station and their corresponding value is shown in Appendix 1.

**Table 2**  
**Estimated Affected Land and Structures and Their Value in Amended EIA: October 2015**

Item	In Thai Measurement	Equivalence	Percent
Land to be Acquired			
Public	15-3-42.88 <i>rai/nga/square wa</i>	2.56 hectares	5.4%
Private	282-1-56.89 ( <i>rai/nga/ square wa</i> )	45.16 hectares	94.6%
Total	297-4-99.77 <i>rai/nga/ square wa</i>	47.72 hectares	100.0%
Structures to be Acquired (Number of Rooms)			
Public	1 rooms	1 room	0.5
Private	184 rooms	184 room	99.5
Total	185 rooms	185 rooms	100.00%
Value			
Land	5,623,342.745 THB	172,185,033 USD	83.3%
Structures	510,334,524 THB	15,627,120 USD	7.6%
Other Items	613,387,741 THB	18,780,365 USD	9.1%
Total	6,747,045,010 THB	206,592,518 USD	100.0%
Source: TEAM Consulting Engineering and Management Co. Ltd. October 2015. Amendment Report: Environmental Impact Assessment. The Pink Line MRT Project Khae Rai-Min Buri			

<sup>7</sup> MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation.

## 2.2 Scope of Land Acquisition and Resettlement Impacts Per 2017 Asset Inventory

25. The construction of the Pink Line entails the acquisition of 43.6 hectares (Table 3). This acquisition will affect 534 land owners and holders of land rights. Since the average household size in the Bangkok Metropolitan Region has 2.7 members, this number of land owners and rights holders can be translated to 1,442 affected people. This is assuming that one land owner and rights holder is equivalent to one household. But only 45 or 8.4% will lose residential land. Accounting for 68.9% of the land owners and right holders will lose a commercial land. Around 46 of the affected land owners and right holders are government entities.

26. There are 611 structure owners or rights holders who will be affected. They may be land owners or right holders as well. This number is equivalent to 1,650 people if one structure owner or right holder is equivalent to one household. Only 17.2% of the owners or right holder use their structure for residence. Most at 76.9% use their structure for commerce. Around 9 of the structure owners or right holders are government entities. The total estimated value of the affected assets is 129,908, 314.01 USD. Around 93.7% of this amount is the value of land. The value of structure amounts to only 5.7 percent.

**Table 3**  
**Total Number of Affected Land, Structures, Other Assets and Their Estimated Value As of February 2018**

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

## 2.3 Scope of Land Acquisition and Resettlement Impacts Per List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

### Number and Ownership Status and Gender of Affected Persons

22. The 215 affected persons in the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation include property owners and tenants (Table 4). The affected person is the one identified as the owner or renter of the property. The property includes land, structures, trees and business. Around 11.6% of them are in Nonthaburi Province while 88.4% are from Bangkok Metropolis. Those from the Bangkok Metropolis are from five districts. But 71.6% of the total affected persons are from Bangkok Metropolis Minburi District.

27. Among the affected persons, only 13 or 6.1% are tenants. They are all in Minburi District. Around 45.6% of the affected persons are men. The women comprise 50.7 percent. The rest are corporations. There are almost equal number of men and women among tenants (7 men and 6 women). But there are more women than men among property owners (103 versus 91).

**Table 4**  
**Number of Affected Property Owners and Tenants Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated by Gender**

District	Property Owners					Total	%
	Owners			Tenants			
	Men	Women	Corporation	Men	Women		
Nonthaburi Province							
Nonthaburi	6	12	2	0	0	20	9.3
Pakret	0	5	0	0	0	5	2.3
Bangkok Metropolis							
Laksi	2	2	1	0	0	5	2.3
Bang Khen	5	14	2	0	0	21	9.8
Khan Na Yao	3	5	1	0	0	9	4.2
Bueng Khum	0	1	0	0	0	1	0.5
Minburi	75	64	2	7	6	154 <sup>1</sup>	71.6
Total	91	103	8	7	6	215	
Percentage	42.3	47.9	3.7	3.3	2.8		100.0
Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation							
<sup>1</sup> One male whose name is still in the Title but is identified as dead is excluded from the count.							

### Affected Land and Ownership

28. Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation, 110 of the affected persons are land owners (Table 5). They hold a total 149 titles, each title representing one land parcel. One land owner can have more than one parcel. The highest number of parcels in the name of one owner is ten. One parcel can also have more than one owner. The highest number of owners of one parcel is six. The multiple owners of a parcel can belong to one household or each may have a separate household.

29. A number of parcels can have the same multiple owners. Three owners in Minburi have their names together in the title of 22 parcels. There are 149 parcels. This means that the 110 land owners have an average of 1.3 parcels.

30. The smallest parcel is 1.0  $wa^2$  in Nonthaburi District, Nonthaburi Province and the largest is 14,050  $wa^2$  in Minburi District, Bangkok Metropolis. The average parcel is 741  $wa^2$ . An average land owner has around 1,004  $wa^2$  of land. The average land size to be expropriated per land owner is 865  $wa^2$ ).

31. The biggest area under one parcel to be expropriated is 12,941  $wa^2$  and the smallest is 0.3  $wa^2$ . Overall, 86.2% of the total area of the affected parcels owned will be expropriated. The depot and park-and-ride facilities are in Minburi and therefore the largest percentage (88.2%) of the affected parcels owned to be expropriated is in this district. The depot and park-and-ride facilities requires the expropriation of 75,000  $wa^2$  of private land belonging to 155 landowners. The land is covered with grass and marsh with pockets of banana and trees.

32. Among the landowners, 50.9% are women (Table 6). The men compose 43.6% and the rest are corporate land owners. Around 80% of the landowners are in Bangkok Metropolis mostly in Minburi District. The other 20% are in Nonthaburi Province.

**Table 5**  
**Number of Land Owners, Titles, Land Area Owned and Acquired Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated**

District	Number of Land Owners	Number of Titles Held	Land Owned in Expropriated Area (in wa <sup>2</sup> )	Size of Expropriated Land (in wa <sup>2</sup> )	Percent of Expropriated Land to Total Area Owned
Nonthaburi Province					
Nonthaburi	17	18	403.0	17.7	4.4%
Pakret	5	1	2,667.0	1653.0	62.0%
Bangkok Metropolis					
Laksi	5	6	120.0	6.6	5.5%
Bang Khen	21	20	480.1	28.6	5.9%
Khan Na Yao	9	9	531.1	44.9	8.4%
Bueng Khum	1	1	372.5	20.5	5.5%
Minburi	52	79	105,848.5	93,381.0	88.2%
Total	110	149	110,422.2	95,152.3	86.2%

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

**Table 6**  
**Gender of Landowners Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated**

District	Men	Women	Corporation	Total	Percent
Nonthaburi Province					
Nonthaburi	5	11	1	17	15.5
Pakret	0	5	0	5	4.5
Bangkok Metropolis					
Laksi	2	2	1	5	4.5
Bang Khen	5	14	2	21	19.1
Khan Na Yao	3	5	1	9	8.2
Bueng Khum	0	1	0	1	0.9
Minburi	33	18	1	52	47.3
Total	48	56	6	110	
Percentage	43.6	50.9	5.5		100.0

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

33. Among the affected land owners, only land will be expropriated for 23.5% (Table 7). For 32.6%, expropriation will cover both land and structures. But expropriation will only affect structures for 43.9 percent. Around 189 structures will be affected (Table 8). Among these structures, 74% are in Minburi District. Only 21 of these structures owned by 21 persons entail the removal of the whole building. The impact on most will be on parts of the building. Among these parts are awnings, fences and parking space.

**Table 7**  
**Number of Affected Land and Structure Owners Based on the List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation**

District	Land Only	Land and Structure	Structure Only	Total
Nonthaburi Province				
Nonthaburi	0	17	5	20
Pakret	5	0	0	5
Bangkok Metropolis				
Laksi	0	5	0	5
Bang Khen	0	21	0	21
Khan Na Yao	1	8	0	9
Bueng Khum	0	1	0	1
Minburi	40	12	81	133
Total	46	64	86	196
Percentage	23.5	32.6	43.9	100.0

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

34. Apart from land acquisition and effect on structures, there are other resettlement impacts. Among the affected persons, 6.1% are tenants whose lease will be pre-terminated (Table 8). Those whose trees will be affected compose 31.2 percent. Around 42.3% has business that will be affected. Around 31.6 have to relocate either their home or their business and have to be provided for transfer expenses.

**Table 8**  
**Number of Persons With Other Resettlement Impacts Based on List of the Determination of Initial Prices of Immovable Property to be Expropriated**

District	Tenants with Unexpired Rent	Trees	Damage Due to Expropriation of Whole House	Damage to Business	Damage Due to Provision of New Residence or Business Location
Nonthaburi Province					
Nonthaburi	0	2	0	6	0
Pakret	0	5	0	5	0
Bangkok Metropolis					
Laksi	0	0	0	0	0
Bang Khen	0	0	0	0	0
Khan Na Yao	0	1	0	6	0
Bueng Khum	0	1	0	0	0
Minburi	13	58	21	74	68
Total	13	67	21	91	68
Percentage to Total Affected Property Users	6.1%	31.2%	9.8%	42.3%	31.6%

Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation

### Value of Losses

35. The total amount of losses is valued at 2,489,170,226 THB using the estimated total compensation for the 215 owners and tenants as basis (Table 9). The largest portion of this amount is the value of land comprising 97.86% of the total. The smallest portion is the value of the unexpired lease of tenants. Among the districts, the largest parcel of land being acquired is in Minburi and therefore the district has 87.17% of the total amount of estimated compensation.

**Table 9**  
**Total Amount of Compensation Based on List of the Determination of Initial Prices of Immovable Property to be Expropriated**

District	Land (THB)	Structures (THB)	Tenant's Unexpired Lease (THB)	Trees (THB)	Other Damages (THB)	Total (THB)	Percentage
Nonthaburi Province							
Nonthaburi	3,480,210	672,970	0	8,940	230,794	4,395,077	0.18%
Pakret	287,791,675	0	0	4,000	828,833	288,624,508	11.51%
Bangkok Metropolis							
Laksi	1,782,044	70,805	0	0	40,000	1,892,849	0.07%
Bang Khen	7,675,246	568,418	0	0	150,000	8,393,664	0.34%
Khan Na Yao	10,468,241	266,612	0	4,920	132,218	10,873,990	0.44%
Bueng Khum	4,995,030	9,206	0	4,430	10,000	5,018,666	0.20%
Minburi	2,119,961,615	43,733,475	85,250	853,750	9,134,231	2,169,971,472	87.17%
Total	2,436,154,061	45,321,486	85,250	871,610	10,526,076	2,489,170,226	100.00%
Percentage	97.86%	1.82%	0.01%	0.03%	0.42%	100.00%	
Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation							

## 2.4 Scope of Land Acquisition and Resettlement Impacts Per Reconnaissance Result

36. The extent of land acquisition and resettlement impact by station was identified as a result of the two reconnaissance surveys. Based on their result, 11 stations will not affect any private land and 13 stations will not affect any private structure (Table 10). Among these stations, 6 stations (5, 12, 19, 20, 24 and 27) will affect neither private land nor private structures.

37. Fourteen stations which will require acquisition of private land will take only 3 meters or less from the boundary of public easement. Only three stations will require larger acquisition of private land. Station 6 and 29 will need such larger land to accommodate the curve while Station 30 will have the depot and park-&-ride building as associated facilities. Station 30 has the largest land acquisition requirement at 30 hectares. The area was partly paddy field and grassland with one house and building.

38. For the affected structures, whole buildings or houses will be removed in six stations (6, 10, 14, 21, 29 and 30). In Station 14, three buildings and the parking lot of a mall (IT Park) will be affected. The more detailed description of the affected assets per station is shown in Appendix 2.

39. The scope of resettlement and land acquisition was identified as such as of the last meeting with MRTA on 21 March 2018. But the continuing modification and redesign of parts of the project to respond to individual complaints, public interest and greater technical efficiency does not preclude unexpected resettlement impacts. These impacts will be monitored and addressed using the procedures in the Thai laws and MoT Compensation Manual and MRTA



practices. It is established that MRTA has the mechanism and resources to respond to these impacts in a manner consistent with ADB’s applicable requirements.

**Table 10  
Identified Losses Based on Reconnaissance Survey on 17-20 October and 7-13 November 2017**

Affected Private Assets	Stations	Number of Stations
<b>Affected Land</b>		
None	2, 4, 5, 11, 12, 16, 19, 20, 24, 27, 28	11
3 meters or less from public easement boundary	1, 3, 7, 8, 9, 13, 15, 17, 18, 22, 23, 25, 26	13
More than 3 meters up to 5 meters from the public easement boundary	21	1
More than 5 meters up to 10 meters from the public easement boundary	14	1
Larger land area	6, 29, 30	3
Unknown	10	
<b>Total</b>		<b>30</b>
<b>Affected Structures</b>		
None	1, 5, 9, 12, 13, 15, 18, 19, 20, 22, 24, 26, 27	13
Awnings	2, 3, 4, 11, 23, 28	6
Part of parking lot	17	1
Parking lot and wall	7	1
Parking lot and shop	8	1
Part of a structure	16, 25, 14	3
Whole structures	6, 10, 21, 29, 30	5
<b>Total</b>		<b>30</b>

40. Based on the reconnaissance survey in November 2017, some ambulant street vendors may need to move back during construction but their business operation are expected to continue. If there are further impacts that may occur, they will be informed on the start of civil works in a specific section at-least three (03) months in advance by the MRTA Project Team to find a new business location. If they have difficulties in finding such location they may street-vendor inform the MRTA Complaint Section of Public Affairs and Communications Division and MRTA, with assistance from its Construction Contractor, will assist them in getting a new location. MRTA has provided the same assistance before to street-vendors affected by its other projects. If their livelihoods will be affected, those in Bangkok can directly call the Smile Line 1567 Call Center of Damrongdham Center of Ministry of Interior. The street-vendors in Nonthaburi Province can also go to the district office for assistance or directly call to the 1300 Call Center of Ministry of Social Development and Human Security. The impacts on the street-vendors and assistance needed will be included in the subjects of both internal and external monitoring.

## 2.4 Measures to Reduce Land Acquisition Impacts

41. The project reduced land acquisition requirement in three ways: (i) selection of train technology; (ii) selection of station location; and (iii) modification of station design. For the train technology, the need to reduce land acquisition was one of the criteria used to opt for an elevated straddle monorail.<sup>8</sup> This was also the main consideration in the decision to put the facility in the

<sup>8</sup> The other criteria are: capacity, speed, gradient rate, turning radius rate, construction cost, system safety, noise and vibration impact and sunlight dispersal impact. Mass Rapid Transit Authority of Thailand. The MRT Pink Brochure Line



middle of the road instead of off-the-road. The manner land acquisition requirement is reduced by the train technology selected is explained below:

- **Straddle Monorail:** The straddle monorail requires only 6.7-7.3 meters ROW and minimum turning radius of 70 meters. In contrast, the heavy rail system requires 9.0 meters ROW and a minimum turning radius of 200 meters. Shorter ROW width and turning radius means smaller space ground required. The ROW space requirement of the straddle monorail at maximum width of 7.3 meters is equivalent to 25.2 hectares. The heavy rail system ROW requirement will be 31.1 hectares or 5.6 hectares more the straddle monorail.
- **Elevated Railway:** The elevated railway limits the ground space used for the foundation supporting the viaduct structure. An on-the-ground rail uses a bigger space resulting to road constriction which may necessitate land acquisition and jeopardize one of the project's objective of reducing road traffic.
- **On-the Road Location:** The 7.3 meters width and 34.5 km right of way requires 25.2 hectares of land. This area would have been acquired if the location is off-the-road. By locating the route in the middle-of-the road, land acquisition, particularly of private land, was substantially curtailed. As a result, land acquisition is only largely necessary for the stations, depot and the bends and in smaller scale.

42. The selection of train stations also considered the need to reduce acquisition of private land together with other considerations.<sup>9</sup> For this reason, government land were preferred locations. There are seven stations where non-road government lands will be used (Table 11). This preference resulted to minimal or no land acquisition of private land for these stations.

**Table 11**  
**Stations Where Non-road Government Land is Used and Government Unit Owning the Land**

Station Number	Station Name	Government Owner
1	Nonthaburi Government Center	Nonthaburi Provincial Government
5	Royal Irrigation Department	Royal Irrigation Department
9	Mueang Thong Thani	Expressway Authority of Thailand
12	Government Complex	Department of Consular Affairs
13	TOT	Telephone Organization of Thailand
14	Lak Si	Provincial Electricity Authority and Provincial Waterworks Authority
16	Wongwian Lak Si	Royal Police of Thailand

43. But even when the station location is already selected, locational adjustment is still made to further reduce land acquisition. Station 13 was moved 30 meters from the previous location to the left side of the project route.<sup>10</sup> The adjustment avoided a footpath in Chaeng Watthana Road in front of Phranakhon Rajabhat University and Max Value Supermarket (Lak Si Square Branch) which resulted to reduced impact on land and structures.

<sup>9</sup> The other considerations are as follows: (i) connectivity to other planned lines, (ii) proximity to high-density business and residential areas, (iii) projected expansion of existing business and residential areas, (iv) accessibility of government offices, (v) distance between stations, (vi) aesthetics, and (vii) complementation with other planned government projects. Team Consulting Engineering and Management Co Ltd. 2015. Amendment Report. EIA Report: The Pink Line MRT Project: Khae Rai-Min Buri. October.

<sup>10</sup> Team Consulting Engineering and Management Co Ltd. 2015. Amendment Report. EIA Report: The Pink Line MRT Project: Khae Rai-Min Buri. October.

44. There were also over 30 modifications in the station design so far for similar purpose. One of these was the slight change in the alignment of the line from near Station 14 (Lak Si) where less than 10 households of informal settlers along a canal would have been under the safety zone of the rail right of way and would have been affected. Examples of modifications are presented in Appendix 5. The modification and adjustments are expected to be continuously done until the compensation process is complete.

45. These modifications and adjustment further decreased of the number of parcels to be acquired and the increase of the number of stations with no land acquisition requirement. It was estimated in October 2015 that the land requirements of the Pink Line Project will affect 648 parcels. But the number of affected parcels was reduced to 568 in October 2017.<sup>11</sup> In the amended EIA only three of the 30 stations (including the depot and Park& Ride areas) will not require any acquisition of private land. This number increased to 11 stations during the October and November 2017 reconnaissance survey.

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<sup>11</sup> MRTA. Undated. Bangkok MRT Pink and Yellow Lines Information Request

## Chapter 3: Legal Context

46. The land acquisition process of the Pink Line Project follows the requirements of the Government of Thailand as interpreted by MRTA in its practices. To determine the extent of the alignment of MRTA practices to ADB requirements, these are juxtaposed with those requirements and assessed.

### 3.1 Government of Thailand Laws and Regulations

47. The Thai laws that have most bearing on the resettlement issues in the Pink Line Project are the 2017 Constitution, Expropriation of Immovable Property Act of B.E. 2530 (1987) and the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). Section 37 of the constitution guarantees the right of a person to own and inherit properties. At the same time, it mandates the expropriation of immovable properties for public interest through a Royal Decree. It requires fairness to the affected persons.

48. The Section 41 of the 2017 Constitution upholds the person's and community's right to be informed and have access to public data or information in possession of a State agency as provided by law and present a petition to a State agency and be informed of the result of its consideration in due time. A person or a community can also take legal action against a State agency as a result of an act or omission of a government official, official or employee of the State agency. Section 34 also guarantees a person's right to express opinions.

49. These constitutional provisions are translated to specific requirements in the Expropriation of Immovable Property Act of B.E. 2530 (1987) which are largely mirrored in the Procurement of Immovable Property for Public Transportation Enterprises BE 2540 (1997). The key requirements in the Expropriation of Immovable Property Act of B.E. 2530 (1987) relevant to the construction of the Pink Line Project are as follows:

- i. **Entitled Affected People:** The following person shall be entitled to compensation: (i) legal owners; (ii) owners of buildings or other structures on the land to be expropriated that cannot be demolished on the date the Royal Decree comes into force (i.e., legal cut-off date); (iii) buildings constructed after the cut-off date with permission of the officer; (iv) lessees of the land, buildings, or other structures on the land to be expropriated; for which the lessee has a valid contract on the date the officer takes possession of the property; (v) owners of perennial crops growing on the land; (vi) owners of buildings or other structures that can be demolished, but the affected person is not required to demolish; and (vi) any person losing a right of way or right to install water pipes, drain pipes, electricity lines, or other utilities (Immovable Property Expropriation Act 1987 Section 18).
- ii. **Land Use Restriction.** Compensation of a person who lost his right of way or right to lay down utility lines through the land to be expropriated if the affected person is paying to the landowner for such right (Immovable Property Expropriation Act 1987 Section 18).
- iii. **Unviable Remaining Affected Assets.** If a portion of a piece of land is excluded from expropriation and such portion is less than 25 square wa<sup>12</sup> or any side of the remaining

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<sup>12</sup> Wa is a subunit of *ngan*. One *rai* equals four *ngan*.

land is shorter than five wa and the remaining portion is not adjacent to any other plot of land owned by the same owner, it can be also expropriated upon the request of the owner (Immovable Property Expropriation Act 1987 Section 20). If normal use of the property is prevented, the owner may request for its expropriation (Procurement of Immovable Property for Public Transportation Enterprises 1997. Section 28)

- iv. **Compensation Rate of Losses.** A committee will appraise the immovable property to be expropriated and estimate the amount of compensation to be paid. (Immovable Property Expropriation Act 1987 Section 9). The following shall be considered in determining the amount of compensation: (1) commercial price of immovable property on the date the Royal Decree comes into force; (2) price of Immovable property appraised for collection of local tax; (3) price of immovable property appraised for collection of tax on registration of right and juristic act; (4) conditions and location of that immovable property; (5) objectives and purposes of such expropriation in order to balance between the right of Individual and public benefit. (Immovable Property Expropriation Act 1987 Section 21). The compensation will not exceed the price appraised by the Committee under section 9 (Immovable Property Expropriation Act 1987 Section 10)
- v. **Compensation for Lost Business Income.** If the legal owner lives or runs business or legally work in the property and has to leave due to damage, compensation for such damage shall also be determined (Immovable Property Expropriation Act 1987 Paragraph 21).
- vi. **Timing of Compensation.** Payment must be made prior to the taking of possession or using of that land. (Immovable Property Expropriation Act 1987 Section 13) If the price is unable to agree upon, the officer or his entrusted person can possess or use that Immovable property after the compensation is deposited on the affected person's account (Immovable Property Expropriation Act 1987 Section 13)
- vii. **Cut-off Date.** The commercial price of immovable property to be expropriated will be determined on the date the Royal Decree comes into force; (Immovable Property Expropriation Act 1987 Section 21).
- viii. **Information Disclosure and Consultation.** When the Royal Decree comes into force, a copy shall be posted together with its annexed map or plan to be seen by the public at the following places: (1) Office of the Officer which in this case is the MOT Minister; (2) Bangkok Metropolitan Administration, Khet Office, Khwaeng Office, Changwat Office, Amphoe or King---Amphoe Office, Tambol Office, Village Master Office, as the case may be, where the immovable property to be expropriated is located; (3) Changwat Land Office and Amphoe Land Office where the immovable property to be expropriated is located. (Immovable Property Expropriation Act 1987 Section 7). The appraised price and compensation shall be completed and published at the place under Section 7 within 180 days from the date the Committee has been appointed (Immovable Property Expropriation Act 1987 Section 9) While the Royal Decree is being enforced, the officer or his entrusted person shall deal with the legal owner of the immovable property with a view to buy it, to negotiate the price of, or compensation to be paid (Immovable Property Expropriation Act 1987 Immovable Property Expropriation Act 1987 Section 10).
- ix. **Grievance Redress Mechanism.** The entitled person who is not satisfied with the price of immovable property or amount of compensation set by the Committee may appeal to the Minister executing the Royal Decree within 60 days from the date of receipt of written

notice to collect that compensation. The Minister shall appoint a Committee to advise him composed of not less than five qualified members in field of law and immovable property appraisal. The Minister shall deliver his decision on such appeal within 60 days after receiving the appeal (Immovable Property Expropriation Act 1987 Section 25). If the entitled person is not satisfied with the decision of the Minister or if the Minister fails to deliver his decision within 60 days, he has the right to bring the case to Court within one year from the receipt of the minister's decision or at the expiration of the prescribed period. This grievance redress process will not prevent expropriation from taking place. (Immovable Property Expropriation Act 1987 Section 26).

50. The land acquisition process based on the 1987 Land Expropriation Act and as implemented by MRTA begins as one track. This track starts with the enactment of the expropriation decree and ends with the government agency offering the property owner the compensation contract. The track diverges into two tracts from thereon.

51. Track 1 is followed when the property owner accepts the compensation offer. In this track, the owner signs the compensation agreement, receives the compensation, clears and vacates his property and hands it over to MRTA (Table 12). Track 2 is followed when the property owner refuses the expropriation or the compensation offer (Table 13). The track begins with the MRTA depositing the compensation amount in the name of the person entitled to compensation. The 1997 Procurement of Immovable Property for Public Transportation Enterprises Act requires that the depository will be any of the three government arms: (i) court of law, (ii) Office of Deposit of Property; and (iii) state bank (Section 24). An account will be created for the entitled person. The property owner can appeal to the minister of the responsible agency and if unsatisfied with the judgement of the minister, he can elevate it to the judicial process.

52. The appeal of the property owner and the subsequent court litigation will not hinder the expropriation process. If the expropriation process is deemed delayed, the cabinet can declare the project as urgent and property owners will be compelled to vacate their property. When the situation calls for it, the force of the state through the police and the local authorities can be employed if the property owner is adamant in his refusal to give up his property. Such cabinet declaration was requested for the Pink Line Project.

53. The MRTA expropriation process is closely hewed to the process prescribed in the 1987 Land Expropriation Act and 1997 Procurement of Immovable Property for Public Transportation Enterprises. There are slight differences in the execution details such as in the number of compensation committees formed and the collection of information on the owner and the property. But these details are adjustment to the scale of the project and the availability of better recording technology.

54. For the Pink Line Project, the committee appointed by the MOT is composed of the representatives of the following: (i) MRTA (Chair), Bangkok City Council, District Council, Land Department; and Community. In Nonthaburi Province which is covered by the Pink Line, each district has a committee with representatives from the Department of Local Administration. The MRTA will be the secretary of the committee. Minutes of meetings of the committee are documented and compiled by the MRTA and shared with the public. The committee receives all the data from the survey of affected properties from MRTA and use these to determine the compensation for each affected household.

55. The MRTA pays the property owner. One check is issued to the name of the property owner. The property owner may issue a special power of attorney to designate another person to

receive the compensation. The burden of proving property ownership is with the owner. A standing asset is only paid if the owner of the land allowed its construction and acknowledged such asset. If a standing asset is a house, its residents get disturbance allowance (30,000-100,000 THB) depending on its appraised value. MRTA will pay the cost of transferring the ownership of the land from the owner to MRTA Land Department.

Table 12 Steps Prescribed by 1987 Land Expropriation Act and MRTA Acquisition Process for Privately Owned Land for Acceptable Compensation

No	General	MRTA
1	Enact Decree on proposed expropriated land and issue urgent notification	Announce the Royal Decree
2	Post copy of the decree at the site	Post copy of the decree at the site
3	Issue letter informing the owner of site inspection	Inform the owner of site inspection 15 days in advance
4	Conduct site inspection	Conduct site inspection and identify ownership
5	Set-up committee for preliminary land price estimation	Set-Up the committee per district within 30 days from the enforcement of the decree
6	Set compensation price	MRTA legal officers and contractors collect information from tenant and landowner with handwritten record of the meeting signed by the MRTA officer and the landowner
7	Post compensation price	Consultants collect the data (with photos, maps and diagrams) for land and structure and submits these to MRTA legal division. Separately compile the detailed data
8	Inform beneficiary to settle all issues on property for expropriation	MRTA submit the records and data to the Committee for price appraisal.
9	Offer and sign a compensation agreement with the owner with or without the right to appeal	Committee set the prices and announces these in public places
10	Give the owner written notice to receive the compensation	Property owner is invited in writing to sign a compensation contract within 60 days after receipt of invitation and informing them of the appeal process
11	Upon receipt of compensation, the owner will request for cadastral survey if the property is partially expropriated and registration if the whole property is expropriated	Property owner and the MRTA Governor sign the contract
12	Advise the owner to move out on a specified time (within 60 days) and the date to take over the land	After the contract signing, the owner is invited in writing to receive the compensation. A second letter is sent advise the owner to vacate the property.
13	After the owner clears his property, it will be turned over to the responsible agency with the transfer of ownership	MRTA will pay the owner within 120 days and the interest for any delay in payment
14		MRTA will transfer the land to the Developer (BTS/BSR).
Source: Immovable Property Expropriation Act 1987, MRTA. Chart of for Land Expropriation Referring to Land Expropriation Act 1987		

56. The 1989 Regulation of the Office of the Prime Minister on Roles and Method in Making a Deposit at the Court or Deposit Office or Savings Bank specifies the steps to make the deposit. The entitled person is notified within 120 days from the date the committee has determined the compensation. If the entitled person refuses to receive the compensation, the responsible official will deposit the compensation at the Government Savings Bank within the area where the expropriated property is located. The depository may be the court or deposit office if the responsible official deems that this is more beneficial to the expropriation process or the person has specified in writing his preference for any of these two depositories.

In the Government Savings Bank, the following steps are followed to deposit and withdraw the compensation: (i) the responsible official deposits the compensation in a current account in the name of the entitled person indicating the exact amount of compensation; (ii) to get the compensation, the entitled person will notify the responsible official 60 days in advance; (iii) the entitled person provides a proof of his identity to the responsible official; (iv) the responsible official will confirm the identity of the entitled person; and (v) the responsible official will disburse the compensation to the entitled person.

57. If the compensation is deposited in the court or deposit office, the steps to deposit and withdraw the compensation are as follows: (i) the responsible official will deposit the exact amount of compensation in the name of the entitled person with the detailed description of the expropriated property and other compensated assets and damages. (ii) the responsible official will notify the entitled person of the deposit and the method of getting such compensation; (iii) the entitled person will submit a motion to the court or deposit office in accordance with the Regulations on Security Deposit of the Ministry of Justice to get the compensation.

58. After compensation is paid or deposited to the account of the affected person, he will be notified that his property will be possessed or demolished within 60 days from receipt of the notification (Section 30 1987 Immovable Property Expropriation Act). In case the Cabinet declares expropriation urgent and necessary, the affected person must be notified at least 60 days before his property is possessed and only after compensation is paid or deposited to his account (section 13 1987 Immovable Property Expropriation Act. The MRTA observes at least 60 days notification to the affected person before taking over the property.

Table 13 Steps Prescribed by 1987 Land Expropriation Act 1987 and MRTA Acquisition Process for Privately Owned Land in Case of Refusal of Compensation

No	General	MRTA
1	Deposit the compensation in Government Savings Bank	If the property owner does not agree with the compensation amount, it is deposited in an escrow account within 1-2 days after the 60 day-period after the invitation letter was sent lapses. The account is opened in the name of the owner listed in property certificate.
2	Inform in writing the property owner to receive the compensation	The property owner can appeal in writing within 60 days to the Minister of Transport (MOT). There is no specific form for an appeal.
3	Propose the application of Expropriation Act if the owner refuse to sell the property	The MOT Appeal Committee must respond to the appeal within 60 days.
4	Inform the property owner of specified date to use or occupy the property and demolish it	If the property owner is not satisfied with the decision of the Minister through the Appeal Committee, he can bring the case to the judicial process within one year.
3	Owner may appeal to the minister within 60 days after receipt of written notice	If the expropriation process delays the construction, the Cabinet can declare the project urgent authorizing MRTA to expropriate the needed properties while compensation is being negotiated or litigated.
4	If the decision of the minister is not acceptable or if there is decision within 60 days the owner can bring it to the judicial process within a year	After declaration of urgency, the owner is informed that the compensation amount is deposited in escrow. All property owners are informed in writing that the MRT will take over their properties.
5		MRTA Land Acquisition Department goes to the property owners to negotiate one by one on the date they can vacate the property.
6		If the property owner refuses to vacate his property, he will be requested in writing to do so.

		If the property owner will not voluntarily vacate his property, police and local administration office will help MRTA to take the movable assets to a place he indicates or put these in a warehouse.
7		If there are still property owners who refuse to move, the Parliament can issue a second expropriation decree.
8		MRTA will take over the property and transfer it to the developer (BTS/BSR).
Source: Immovable Property Expropriation Act 1987, MRTA. Chart of for Land Expropriation Referring to Land Expropriation Act 1987		

59. To obtain compensation for lost income due to disruption of business from commercial assets, the owner must show tax receipt for the business enterprise. If no tax receipt is shown, the owner will get the minimum compensation based on lowest income tax bracket of 15,000 THB per year. The compensation is 7500 THB. The compensation for the commercial property is reckoned separately from the compensation of lost business income and its compensation is computed as a physical asset.

60. For encroachers on government land, the MRTA first establishes the controlling agency of the land. The controlling agency is requested to compensate the assets of the encroachers of the land. The coming into force of the Royal Decree serves as the cut-off to encroachers. Construction is no longer allowed in the encroached government land afterward although business activities may continue. But the Pink Line has no case of encroachment.

**3.2 ADB 2009 Social Safeguards Policy Statement**

61. While land acquisition is being undertaken not in anticipation of ADB financing, the audit considered the extent to which MRTA practices are in line with ADB’s SR2 requirements. ADB’s SR2. ADB’s Involuntary resettlement safeguards covers physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use. It covers full and partial as well as permanent and temporary losses and involuntary restrictions. The objectives of involuntary resettlement safeguards are the following: (i) avoid involuntary resettlement wherever possible; (ii) minimize involuntary resettlement by exploring project and design alternatives; (iii) enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iii) to improve the standards of living of the displaced poor and other vulnerable groups. To achieve these objectives, the SPS requires that project activities must adhere to the following principles:

- i. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks;
- ii. Carry out meaningful consultations with affected persons, host communities, and concerned NGO;
- iii. Inform all displaced persons of their entitlements and resettlement options;
- iv. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and those without legal title to land, and ensure their participation in consultations;
- v. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons’ concerns;



- vi. Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored;
- vii. Provide physically and economically displaced persons with needed assistance;
- viii. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards;
- ix. Develop procedures... if land acquisition is through negotiated settlement to ensure that those who enter into negotiated settlements will maintain the same or better income and livelihood status;
- x. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets;
- xi. Pay compensation and provide other resettlement entitlements before physical or economic displacement;
- xii. Implement the resettlement plan under close supervision throughout project implementation;
- xiii. Monitor and assess resettlement outcomes, their impacts on standard of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.

### 3.3 Gap Analysis

62. The land acquisition for the Pink Line Project was carried out within the context of the Thai legal framework. The main law defining this framework is the 1987 Land Expropriation Act. This law was interpreted for more specific application to public transportation system in the 1997 Procurement of Immovable Property for Public Transportation Enterprise. Based on these two laws, the MOT produced the Determination of Compensation Manual (2013) which specifies the steps in setting the compensation rate for affected properties and income. In its preface, it is stated that the manual is to raise the awareness of the affected people on their legal rights, assist the expropriating agency in delivering prompt and fair performance and reduce the chance of disputes.

63. The relevant provisions of these laws and manual as well as the written and unwritten practices of MRTA and its concessionaire are compared with the ADB requirements (Table 14). These requirements are on the following: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) attention to the needs of vulnerable groups; (v) grievance redress mechanism; (vi) livelihood restoration through compensation at full replacement cost; (vii) assistance provision of displaced persons; (viii) improvement of living standards of vulnerable groups; (ix) negotiated settlement procedures; (x) non-land compensation and assistance to those without land titles; (xi) compensation payment before displacement; and (xii) monitoring of resettlement outcomes.

64. The comparison below will determine if the provisions of the Thai laws and the MOT manual as well as the practices of the MRTA for the Project are consistent with ADB's SPS SR2 requirements.

**Table 14 Thai Law Requirements, MRTA Practices Alignment with ADB Involuntary Safeguards Principles**

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
<p>1 Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.</p>	<p>The map or plan that demarcate the area to be expropriated and all land plots within the demarcated area shall be made and annexed with the Royal Decree and shall be deemed as an integral part of the Royal Decree. (Section 6: LEA):</p> <p>When the Royal Decree comes into force, the officer or his entrusted person shall complete the survey...to obtain.. information relating to immovable property to be expropriated within 180 days. (Section 8 and 9: LEA)</p> <p>The appraised price and compensation shall be completed and published ... within 180 days from the date the Committee has been appointed Section 7 LEA).</p> <p>Once the Royal Decree ... comes into effect, a competent official shall display copies of the Royal Decree along with the map or lay-out that is an appendix...in the following places (Section 9: PIPTE)</p> <p>Within the time period in which a Royal Decree remains in effect, competent officials shall have to power to conduct surveys ... to ascertain facts concerning the immovable property that needs to be expropriated (Section 10, PIPTE).</p>	<p>Surveyed market price will refer to the characteristics of the land and structure (Additional Note page 13); The survey and price estimation based on the characteristics of the structure will determine the compensation (Section 3.2.1)</p>	<p>(i) Inspect site and identify ownership                      (ii) MRTA legal officers and contractors collect information from owner and renter handwritten record of the meeting signed by the MRTA officer and the landowner; (iii) consultants collects the data using camera, maps and diagrams for land and structures; (iv) validation of land acquisition data through monthly meetings of MRTA, TEAM Consultants and NBM; and (v) resurvey in case of the data of MRTA and its consultants are inconsistent;</p>	<p>Gender analysis not required under Thai laws.</p>
<p>2 Carry out meaningful consultations with affected persons, host</p>	<p>When the Royal Decree comes into force, the officer or his entrusted person shall post the copy of Royal</p>	<p>The MOT Compensation Manual provides guidance on how to calculate</p>	<p>1 Consultations and focused group discussions were made as part of EIA preparation.</p>	<p>Aligned</p>

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
<p>communities, and concerned nongovernment organizations..</p>	<p>Decree together with its Annexed map or plan to be seen by the public at the following places.. (Section 7: LEA)</p> <p>When the Act on Immovable property expropriation ...comes into force, the officer or his entrusted person shall post the copy of that Act together with its annexed map or plan and list of the owner ... to be seen by the public.. (Section 28: LEA)</p> <p>The appraised price and compensation shall be completed and published ... within 180 days from the date the Committee has been appointed Section 7 LEA).</p> <p>While the Royal Decree ... being in force, the officer or his entrusted person shall have the power to deal with the owner of ...immovable property to be expropriated with a view to buy,. negotiate the price..or compensation.(Section 10: LEA). For taking action under (inspect, utilize, and temporary occupy the property) and ( ..remove obstacles or move objects...and to collect other objects for surveying), the competent official shall notify the owner or legal occupant .. in writing of intended actions and the unavoidable necessity no less than 15 days prior... (Section 10 PIPPTE)</p> <p>Once the announcement (of urgency and necessity of expropriation) is</p>	<p>compensation. It is meant to supplement the law. All requirements for notifications of affected people are in accordance with law. However, the Compensation Manual provides guidance on three circumstances where the affected person can participate in making decision in handling of expropriation and corresponding adjustment in compensation: (i) the affected building owner can express intention to move out from the building or move the whole building to another location and the compensation agreement will be made case-to-case (Section 3.2.2 Note); (ii) the affected building owner can request for the expropriation of a remaining part of the building which is rendered unusable (Section 3.2.3) ; and (iii) for rented property, the officer will explain the entitled person based on the rental agreement the compensation and compensated items and will ask the landlord and the tenant to agree on the items in order to share the compensation (Section 3.5.1 Note).</p> <p>[Example of Specific provisions in the</p>	<p>2 Consultation with the owners is done in the meeting to collect data the property and owners and negotiation to vacate the property when the cabinet declared the project as urgent;</p> <p>3 Several individual and group consultation meetings were done with affected people;</p> <p>4. Information sharing and engagement with communities during construction phase</p> <p>5 Notification to affected people 15 days before the asset survey</p> <p>6 Issuance of Compensation Committee's announcement of appraised prices more than 10 , times in public places</p> <p>7. Information on appeal procedure in a letter of invitation to meet with MRTA after announcement of appraised prices. MRTA Land Acquisition</p> <p>8. Continuous consultation and exchange of information with IT Square owners due to the proposed modification of Station 14.</p>	

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
	made, the authorized competent official has the power to enter the property but must notify the owner or lawful occupant in writing in no less than 60 days prior the entry... (Section 19: PIPTE)	Compensation Manual page 32 Section 3.2.2 and 3.2.3 where property owner can make a request on moving the affected house or a request to purchase the remaining unaffected structure and then a discussion and negotiation follows ---]		
3 Inform all displaced persons of their entitlements and resettlement options.	Once the Royal Decree ... comes into effect, a competent official shall display copies of the Royal Decree along with the map or lay-out that is an appendix...in the following places (Section 9: PIPTE)	See previous comment. The Compensation Manual provides guidance in disclosing information in the following circumstances: (i) for mortgage property, the responsible officer will notify the mortgagee to receive the compensation (Part 2, Note); (ii) for rented property, the officer will explain the entitled person based on the rental agreement the compensation and compensated items and will ask the landlord and the tenant to agree on the items in order to share the compensation (Section 3.5.1 Note); and (iii) for deposit of compensation, the responsible officer will notify the entitled person of the deposit and method of getting getting it (Appendix 5.2.3: 1989 Regulation of the Office of the Prime Minister on Roles and Method in Making a Deposit at the Court or Deposit Office or Savings Bank; Article 8) .	Posting of royal decree and property price appraisal results in public places: Written notice to owners and renters on site inspection, compensation contract, availability and deposit of compensation, appeal process, requirement to vacate the property and appeal decision in case of complaint. Public disclosure of the minutes of the meeting of Compensation Committee. Continuous consultation and exchange of information Dedicated web site: <a href="http://www.mrta.co.th/pinkline.th/pinkline/index.htm">http://www.mrta.co.th/pinkline.th/pinkline/index.htm</a>	Aligned

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
<p>4 Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations..</p>	<p>The following person shall be entitled to compensation: ... owner of tenement or other constructions which are unable to demolish and existed on the land to be expropriated on the date the Royal Decree enacted...or constructed later by permission of the officer (Section 18: LEA);</p> <p>If the owner .. of immovable property to be expropriated, lives or runs business or other legally works on the ..property.. and such person may be susceptible to damage...that he has to leave that property, compensation for such damage shall also be determined. (Section 21: LEA)</p> <p>In case where there is no need to expropriate the immovable property, the competent official is authorized to make an agreement with the owner.. to specify the burden on the property as required to carry out the enterprise and determine the compensation (Section 13: PIPTE)</p> <p>Compensation shall be paid to owners of houses or other structures which exists on the land the day on which the Royal Decree ... comes into effect or are constructed afterwards with permission of the responsible agency (Section 26; PIPTE)</p> <p>In case where access to utilize the immovable property will prevent the owner or legal occupant with no land title .. (he) may request that the agency purchase or expropriate the property (Section 28: PIPTE)</p>	<p>No provision to identify the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land but structures will be compensated regardless of the tenure of land where it is standing...</p>	<p>None</p>	<p>Based on the October-December 2017 survey of 29 households with affected properties and 500 households with unaffected properties along the route, none lives below the national poverty line who can be considered vulnerable</p>
<p>5 Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns.</p>	<p>In considering an appeal, the minister shall appoint a committee to give him an advice. Such committee shall be composed of not less than five qualified members in the field of law and</p>	<p>The Compensation Manual follows the appeals processes as provided by law. The Handbook gives specific guidance in three cases: (i) for the purchase of the remaining part of the parcel, the</p>	<p>The complainant can appeal in writing to the MOT minister. The Appeals Committee advises the minister on the decision of the complainant. If the decision is unacceptable, the complainant can bring the case to court within one year</p>	<p>Aligned with SR2 requirement to have a grievance mechanism.</p>

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
	<p>immovable property appraisal (Section 25: Lea)</p> <p>In case where the person entitled to compensation who does not satisfy with the decision of the Minister...or where the Minister fails to deliver his decision within the period prescribed ...that person shall have the right to file the case to the Court within one year as from the date he receives the decision of the Minister or at the expiration of the aforesaid period.. (Section 26: LEA).</p> <p>In considering the appeal.. the minister shall appoint a committee to provide its recommendation... The committee shall consists of a chairperson, one legal expert, one engineering expert and 3 persons having expertise in assessing properties (Section 36: PIPPTE)</p> <p>If a person... is not satisfied with the ruling of the minister ..or if the minister did not rule on the appeal within specified period, such person has the right to file a case in court within two years from the date of notification of minister's ruling (Section 37 PIPPTE).</p>	<p>landowner has the right to appeal on the price (Section 3.1.3 Note) (ii) for expropriation of remaining part of the structure, the owner has the right to appeal for additional compensation apart from the original compensation (Section 3.2.3) ; and (iii) for dispute between landlord and tenant, the responsible official will explain the amount of compensation and details of compensation items and ask them to agree on the items in order to share the compensation.</p> <p>[Example: Note in Section 3.5.1 of the Compensation Manual says official shall tell tenant about the compensation to be received, details of each compensation item in order to reach an agreement to resolve dispute between landlord and tenant.]</p>		
<p>6 Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt</p>	<p>The following shall be taken into consideration in determining the amount of compensation to be paid to the entitled person under section 18: (1) commercial price of immovable property ..on the date the Royal Decree enacted; (2) price of immovable property appraised for collection of local tax; (3) price of immovable property appraised for collection of tax on registration of right and juristic act; (4) conditions and location of that immovable property; (5) objectives and purposes of expropriation... for balancing.. between the right of individual who has been expropriated and public benefi. (Section 21: LEA)</p>	<p>Provision of compensation and methods for setting the amount for land (Section 3.1), structures (3.2), land with structure (Section 3.3), perennials (Section 3.4) and damages from vacating the property (Section 3.5).</p> <p>Compensation for loss of income from business and occupation (Section 3.5.3 (2) 3; Section3.5.4)</p> <p>Compensation for tenants exiting from property before end of rental agreement (Section 3.5.1)</p>	<p>The Committee receives all property records and data from MRTA, appraise the properties and set the compensation.</p> <p>Compensation of lost business and occupational income based of tax receipt within past 3 years or other evidence of income</p>	<p>Compensation principles are aligned.</p>

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
<p>compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.</p>	<p>If it appears to the Minister... that the land price goes up high after the appraised price of the land... wholly or partly, has been notified and the price of ... property paid by the officer... or the price of immovable property appraised and notified by the Committee ...becomes unfair to the person.. the Minister shall, with approval of the Council of Ministers, order the Committee ... or the Committee which has been newly appointed in accordance with the rule under section 9 to justify the price of,, property or the appraised price in accordance with the rules and conditions approved by the Council of Ministers. The justified price of ... property shall be deemed the sale price as agreed upon and the justified price shall be deemed the price appraised by the Committee... Section 10: LEA)</p> <p>Compensation means monetary compensation for the burden of immovable property and shall include other kinds of compensation (Section 3: PIPPTE)</p> <p>The Committee shall take into account the following factors in determining the compensation amount: (i) price of the property on the day which the committee determines the compensation; Size, location, conditions and nature of utilization of the property; (3) use of the land in surrounding areas; (4) condition and nature of the burden on the property caused on its access and utilization; (5) benefits or damage to the owner receives due to accessing and utilization of the property (Section 30: PIPPTE)</p> <p>In cases where the minister... determine the burden on the ... property... holds that the compensation determined or</p>			

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
	paid in full or in part, is not fair to the persons for reason that the facts used in determining the compensation are inaccurate, the minister, with the Council of Minister's approval has power to instruct the committee... or newly appointed committee to rectify the amount of compensation. This shall follow the rules and conditions approved by the Council of Ministers (Section 32: PIPTE)			
7 Provide physically and economically displaced persons with needed assistance, including the following:..., (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities;	No provision for assistance for displaced person	Compensation for cost of removal, relocation and reconstruction (Part 2, Chart; Compensation for transfer cost for leasers (Section 3.5.2; 3.5.3 and 3.5.4 Compensation for cost of interacting with expropriating agency (Section 5.5.5)	Disturbance allowance between 30,000-100,00 THB for house owners  Compensation for the cost of removal, relocation and reconstruction	Aligned with requirements for resettlement assistance.
8 Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards... in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	Apart from paying just compensation for affected properties owned, no specific requirements on implementing programs to improve standards of living of poor and vulnerable people to national minimum standards, While LEA Section 10 and PIPTE Section 32 provides that the Minister can rectify the compensation amount if it is deemed unfair, there is no provision for losses and allowances assistance to help transition which applies to all affected people regardless of socio-economic condition.	No provision	The concessionaire through its contractors are required to participate in community activities such as scholarship granting (Section 9, Attachment 1, MRTA Requirements, Part 1 Civil Works, Appendix 5, Environmental Protection Requirements  The BSR Consortium Companies provides the following as part of its Corporate Social Responsibility Program which can be directed to vulnerable affected households: health care and medical services (BTS); scholarships (STECON); and health and skills training for the elderly in Nonthaburi (RATCH) (BTS Group Holding PCL. Annual Report 2016/17; Sino-Thai Engineering and Construction PCL. Annual Report 2016; and Ratchaburi Electricity Generating Holding PCL. Annual Report 2016)	Aligned.
9 Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated	In case where it is necessary for the State to acquire any immovable property for the provision of any necessary public utility .... or for other public purposes, if the transfer of ownership of such ..	No provision for negotiated settlement	Negotiated settlement is conducted in straightforward buyer and seller transaction	Not applicable. Land is being expropriated.



ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status..	<p>property is not agreed upon.. the expropriation under this Act shall apply. (Section 5: LEA)</p> <p>In case where an agency has the need to use an immovable property without the necessity of ownership, unless both parties agree, otherwise the agency shall follow the provisions of this act (Section 6: PIPPTE)</p>			
10 Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets..	<p>The following person shall be entitled to compensation: ... owner of tenement or other constructions which are unable to demolish and existed on the land to be expropriated on the date the Royal Decree enacted...or constructed later by permission of the officer (Section 18: LEA);</p> <p>If the owner .. of immovable property to be expropriated, lives or runs business or other legally works on the ..property.. and such person may be susceptible to damage...that he has to leave that property, compensation for such damage shall also be determined. (Section 21: LEA)</p> <p>In case where there is no need to expropriate the immovable property, the competent official is authorized to make an agreement with the owner.. to specify the burden on the property as required to carry out the enterprise and determine the compensation (Section 13: PIPPTE)</p> <p>Compensation shall be paid to owners of houses or other structures which exists on the land the day on which the Royal Decree ... comes into effect or are constructed afterwards with permission of the responsible agency (Section 26; PIPPTE)</p> <p>In case where access to utilize the immovable property will prevent the</p>	Persons with rights to compensation include owners of structures and perennials, tenants of structures and users of right of way and utilities lost in expropriation (Part 2)	All owners and renters are compensated	Aligned.

ADB Involuntary Resettlement Safeguards Principles	1987 Land Expropriation Act (LEA) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (PIPPTE)	MOT Manual of Compensation	MRTA Practices	Remarks
	owner or legal occupant with no land title .. (he) may request that the agency purchase or expropriate the property (Section 28: PIPPTE)			
11. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	In case of land expropriation, such payment shall be made prior to the taking of possession or using of that land...If it is necessary to demolish any construction, to displace of property or to do any act relating to such ... property, the officer or his entrusted person shall, upon payment or deposit of compensation...have written notice to the owner of, or the person who legally takes possession of, that immovable property to conduct such demolition... within the period specified therein, but not less than 60 days as from the date the notification has been sent. (Section 13; LEA)  ...the officer shall have the right to take possession of or use that immovable property only upon payment or deposition of compensation as prescribed by this Act. (Section 15; LEA): The competent officer shall also arrange for the specified compensation to be paid or deposited prior to entry to the immovable property (Section 19: PIPPTE)	No provision	Compensation is paid before the notice of eviction is issued and land is turned over to BTS/BSR	Aligned.
12 Monitor and assess resettlement outcomes, their impacts on the standards of living of displaced persons, and whether the objectives of the resettlement plan have been achieved by taking into account the baseline conditions and the results of resettlement monitoring. Disclose monitoring reports.	No provision for monitoring	No provision for monitoring	MRTA LAD has dedicated Pink and Yellow Line teams to implement, monitor progress and report land acquisition, resettlement and compensation progress. For the Pink Line Environmental auditor to conduct one-time pre-construction sample survey among directly affected people and residents within 500 meters from the ROW, Depot and Park&Ride. The MRTA will do the same survey among residents within 500 meters from the ROW, Depot and Park&Ride in construction phase (2X per year) and operation phase (1 X per year) .	Report for government use only. No report will be generated by MRTA for ADB since MRTA is not ADB's Borrower/Client.

65. The assessment of the MRTA land acquisition process for the Pink Line against 12 applicable ADB principles showed alignment in nine requirements. These requirements are on the following: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes.

66. The requirement on negotiated settlement procedures is not applicable because the land requirement of the Pink Line Project is all under expropriation. On the requirement on attention to the needs of vulnerable groups in consultation, the result of pre-construction survey identified no household living below the country's poverty line who can be considered vulnerable.

67. On the requirement of livelihood restoration, it is necessary if Project is (i) affecting the place of business and (ii) if people require to move and need a place to live which subsequently may affect their job security. In both circumstances, livelihood can be restored if the affected people are compensated for their lost land, structure and income at replacement cost and provided with assistance to reestablish their place their residence and livelihood. The compensation at replacement cost will enable them to buy assets of similar characteristics and location as the lost ones and will serve as their platform to restore livelihood.

68. The MOT Manual provides compensation for lost land at market rates. The step by step process to calculate market rates for land is explained by MRTA as follows:

*Step 1 MRTA hires a competent valuation agency*

*Step 2 Contracted valuation agency checks the district valuation of the parcel of land being acquired*

*Step 3 Contracted valuation agency finds records of sales in 12 locations (with detailed description of property being acquired and dates of sale)*

*Step 4 Contracted valuation agency deducts the value of the structure to obtain the land sale price per square wa*

*Step 5 Contracted valuation agency obtains the Sales/Asset valuation factor or S/A factor by dividing the land sale price from Step 3 by the district valuation for each of the 12 parcels of land*

*Step 6 Contracted valuation agency ranks the values obtained in Step 4 obtains the middle value as the S/A factor*

*Step 7 Contracted valuation agency multiplies the district valuation of the parcel of land being acquired (from Step 1) with the S/A factor in Step 4*

*Step 8 Contracted valuation agency obtains the EIRR from MRTA R&D Department [The government updates the land valuation every 4 years. MRTA acknowledges that prices of land have increased over time so its R&D Department estimates the price escalation over that period of time]*

*Step 9 Contracted valuation agency multiplies the value from Step 6 with the EIRR and uses that as the basis for calculating the compensation offer to be submitted to the District Committee*

*Step 10 District Committee reviews the MRTA offer if acceptable. If there is any change required, the Committee makes such recommendation [committee usually decides in favor of the affected people so the compensation rate typically would increase not decrease]*

69. MRTA covers the transaction cost by registering the acquired land and compensating for the entitled person's expenses incurred in dealing with government representatives involved in the expropriation process.<sup>13</sup> The registration is exempted from fees and stamp duty. The entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.<sup>14</sup> The damage incurred during the survey of the land and other assets will also be fairly compensated.<sup>15</sup>

70. For lost structures, owners will be compensated for 10 cost items that will be incurred in its demolition and reconstruction as well as two forms of assistance (Table 15). The cost items compensated are as follows: (i) demolition cost; (ii) cost of materials; (iii) cost of labor; (iv) cost of damage to materials of the demolished structures and adjacent structures; (v) cost of transfer of materials; (vi) cost of government permit for demolition and construction; (vii) cost of prevention of accidents during demolition and construction; (viii) cost of design and supervision; (ix) cost of installation of utilities; and (x) cost of administration, interest, profit and tax. The audit finds that the MOT Manual covers every lost item and cost of reconstruction.

71. For the assistance, one form is 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces. Another form is the damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000 THB. In addition, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.<sup>16</sup>

72. For lost structure used as place of business or work, the owner will be compensation for lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof. The 12,000 THB per month is the minimum taxable income amount. Being based on actual income registered in income tax return, the compensation amount must be at replacement value. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.<sup>17</sup>

73. The duration of the monthly compensation is between six and or 12 months depending on the type of business or work (Table 16). This duration is expected to be sufficient to enable the affected person to re-establish his business or work and restore his income if he can replace the lost structure and previous location with similar ones. The reason for such expectation is the ease of establishing business in Thailand which can take only 4.5 days.<sup>18</sup> Further, the four of the five steps of the business establishment process are free of charge. Only the registration of

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<sup>13</sup> 1987 Immovable Property Expropriation Act (Section 11), 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 15) and MOT Manual of Compensation (Section 3.5.5).

<sup>14</sup> MOT Manual of Compensation (Section 3.5.5)

<sup>15</sup> 1987 Immovable Property Expropriation Act (Section 13) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 19).

<sup>16</sup> MOT Manual of Compensation Section 3.5.5

<sup>17</sup> MOT Manual of Compensation Part 6 Appendix 5.3

<sup>18</sup> World Bank Group. 2018. Doing Business: Reforming to Create Jobs: Economy Profile Thailand. A World Bank Group Flagship Report. Washington D.C..

memorandum of association to apply for company registration and to obtain a Tax Identity Number (TIN) is paid.

**Table 15**  
**Entitlement for the Physically-Displaced Structure -Owners Based of the MOT Manual of Compensation**

Entitlement	Owners of Structure Used for Dwelling	Owners of Structure Used for Both Dwelling and Livelihood	Owners of Structure Used for Livelihood
1.0 Items Compensated for Demolished Structure			
1.1 Demolition cost (generally 15%-20% of construction labor cost but it can be determined for each case if the structure is unique)	X	X	X
1.2 Cost of materials (based on government index value on the date of the compensation committee's determination)	X	X	X
1.3 Cost of construction labor (based on the price of similar structure of the Budget Standard Bureau)	X	X	X
1.4 Cost of damage to the materials of the demolished structure and adjacent structures (based on the price of Bureau of Trade and Economic Indices or Provincial Commercial Office with no depreciation deduction except for abandoned structures)	X	X	X
1.5 Cost of the transfer of materials (determined for each case)	X	X	X
1.6 Cost of government demolition and construction permit	X	X	X
1.7 Cost of prevention of accidents during demolition and construction (based on lump-sum price survey)	X	X	X
1.8 Cost of Design and Supervision (4.0% of construction cost for 0-10 Million THB structure and 3.5% for over 10 Million THB structure.	X	X	X
1.9 Cost of installation of utilities (based on actual amount paid)	X	X	X
1.10 Cost of Factor F: Administration, Interest, Profit and Tax <sup>1</sup>	X	X	X
2.0 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces	X	X	X
3.0 Damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000THB	X	X	X
4.0 Compensation for lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof for at least 6 months		X	X
<p><sup>1</sup> There will be a specification of parameter Factor F of job cost not exceeding Baht 50,000 by combining difference of administration cost and profit of job cost not exceeding Baht 50,000 with job cost note exceeding Baht 1 million of original parameter Factor F table. The difference of administration = 3.50 (10.00-6.50) and profit difference = 7.50 (18.50-11.00) combined with administration cost and profit of parameter Factor F table as announced on the date when the basic price determination committee has determined price compensation. Then, there is a calculation to determine parameter r Factor F of job cost not exceeding 50,000 pursuant to this path. In the even that cost is within the range of specified job Factor F pursuant to the rules and there is a result of parameter Factor F equaling to 1.3903. If the cabinet resolution has specified new parameter Factor F which differs from the original rate, there shall be an amendment of parameter cost, there shall be a comparison to determine the ration for determining parameter Factor F pursuant to formula as follows:</p> <p align="center"><b>Parameter Factor F of Job Cost A = D – {(D – E) x (A – B)/C – B}</b> = Baht A</p> <p>If the job cost = Baht B  Job cost is lower than A = Baht B  Job cost is higher than A = Baht C  Parameter Factor F of job cost B = D  Parameter Factor F of job cost C = E</p>			
Source: MOT Manual of Compensation			

**Table 16**  
**Number of Monthly Compensation for Lost Income by Type of Income Source**

No.	Type of Business	Period for Compensation Determination
1.	<b>General Trading and Service</b> such as shop selling goods and service, minimart, food shop, restaurant, on line service, internet café, tailor shop, cloth shop, beauty salon, clinic, decorative selling shop, gold shop, jewelry shop, shop selling agricultural equipment and animal feed, veterinarian shop, shop selling electrical and water appliances, shop selling construction materials and equipment (shop house), antique shop, shop selling and exchanging used car and motorcycle, shop selling car decorations, car and motorcycle repair garage, rent house and shop house for rent, etc.	6 months
2.	<b>Medium Sized Business</b> such as shop selling construction materials and equipment (has a nature of being a fully integrated construction material business operation related to construction work except shop selling construction materials and equipment in the form the of shop house), etc.	8 months
3.	<b>Large Sized Business</b> bigger than Item 2 such as apartment, condominium, petrol station, market and factory, etc.	12 months
Source: MOT Manual of Compensation		

### 3.4 Eligibility and Entitlement

74. The entitlement matrix shows the components of the compensation package that an entitled person will get as practiced by MRTA (Table 17). Fair market price is the main basis for compensation in ADB requirements to ensure that affected households will get the amount at replacement cost. But market price is just one of the factors considered by the MOT Compensation Manual and by the MRTA Compensation Committee in setting the compensation amount for the affected households. While the methods of calculating the amount of compensation is provided in the Compensation Manual, the equivalence of the outcome with the market rate is only determined by comparing the final compensation amount with prices in the open property market.

**Table 17**  
**Entitlements of Affected People in Pink Line Project and Gaps Under ADB Safeguards Policy**

<b>Type of Loses</b>	<b>Entitled Household</b>	<b>Entitlement Based on MRTA Practice</b>	<b>Remarks</b>
Loss of land	All households with title and recognizable claims to land	i. Compensation based on surveyed market price and characteristics of the property.  li Disturbance fee	Compensation is paid to all entitled households at an amount generally at market price. Disturbance fee is provided
Total and partial loss structures	All types of structure owners	i. Compensation based on surveyed market price taking into account the location, space size, quality and type of materials and form of the structure, rebuilding cost and demolition cost	All types of structures are compensated with market price as one of the basis
Residual land	All households with title and recognizable claims to land	I Compensation is lower than the land portion expropriated taking into consideration the purpose of expropriation, impact of the project on the condition, size, shape of the land after the expropriation of the other portion, accessibility and distance from the from other land of the owner and legal restrictions imposed on land use.  ii Paid land transfer expenses including registration  iii. Option for replacement land if the lost land is adjacent to other land owned by the same person.	Residual land is compensated and all transfer fees are paid
Trees	All types of land tenure	i. Compensation based on the price set by the Provincial Agriculture Office or expropriation done in the vicinity or market price	All affected trees are compensated
Business income	All business owners	i. Compensation based on income tax return or other evidence of income of the last 3 years  ii. Percentage of replacement cost of the structure where the business is conducted.	Lost business income and business structure are compensated
Temporary impact during construction	All types of tenure and type of ownership	i. In case of complaints about environmental problems, the concessionaire shall without delay take remedial action at its expense	The concessionaires and contractors are monitored ensure immediate response too construction impacts
Losses of the vulnerable groups	All vulnerable groups	Special measures from the concessioner and members of the consortium such as scholarships, health and medical services and health and skills training for the elderly	No poor household is identified in the October-December 2017 survey.

## Chapter 4: Assessment of Land Acquisition and Compensation Undertaken for the Project

### 4.1 MRTA Compensation Package

75. MRTA's compensation package comprises a combination of : (i) fair market value for the land; (ii) compensation for affected structures, (iii) compensation for trees, (iv) compensation fee for damages on whole house; (v) compensation fee for disruption of business operations; (vi) compensation fee for damages incurred in procuring a new business/residence; (vii) other expenses and (viii) compensation fee for damages under 1987 Immovable Property Expropriation Act Section 21 final paragraph. The compensation fee for damages incurred in procuring a new business/residence is 5.0% of total compensation of lost structure located in Bangkok or 2.5%-5.0% of total compensation of lost structure located in provinces. The other expenses include those incurred by the entitled person in dealing with government representatives involved in the expropriation process<sup>19</sup> For these expenses, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process. The compensation under Section 21 of the 1987 Immovable Property Expropriation Act is for other damages directly resulting from expropriation for which the entitled can present a proof.<sup>20</sup> The amount of compensation is determined for each case.

#### 4.1.1 Assessing MRTA Land Prices

76. The objective of assessing MRTA land prices is to determine if these are equivalent to fair market value as required under Thai Law and whether MRTA compensation offers are aligned with ADB's requirement to compensate at replacement cost. Replacement cost for lands under ADB's SPS calculation of full replacement cost comprises (a) fair market value; (b) transaction costs; (c) interest accrued, (d) transitional and restoration costs; and (e) other applicable payments. MRTA covers the transaction cost by registering the acquired land and compensating for the entitled person's expenses incurred in dealing with government representatives involved in the expropriation process.<sup>21</sup> The registration is exempted from fees and stamp duty. The entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.<sup>22</sup> The damage incurred during the survey of the land and other assets will also be fairly compensated.<sup>23</sup>

77. When analyzing whether compensation is paid at replacement cost, this audit looked at whether compensation for land is paid at fair market value, confirm that transition and restoration costs are paid if required, and that no transaction costs were required to be paid by the property owner. In case of delay in payment of compensation, the entitled person will receive the interest earned determined based on the maximum interest rate of as savings account in the Government

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<sup>19</sup> MOT Manual of Compensation (Section 3.5.5)

<sup>20</sup> MOT Manual of Compensation (Section 3.5.5)

<sup>21</sup> 1987 Immovable Property Expropriation Act (Section 11), 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 15) and MOT Manual of Compensation (Section 3.5.5).

<sup>22</sup> MOT Manual of Compensation (Section 3.5.5)

<sup>23</sup> 1987 Immovable Property Expropriation Act (Section 13) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (Section 19).



Savings Bank for the full amount of compensation.<sup>24</sup> The amount of interest will be calculated from the day after the required time period for payment or deposit of compensation has lapse.

78. The MRTA land prices are contained in the List of Determination of Initial Prices of Immovable Property. The document lists 149 parcels but only 134 have corresponding price (Appendix 3). These parcels constitute 23.6% of the total number of parcels identified to be affected in October 2017.<sup>25</sup> One parcel corresponds to one title. The parcels are classified by district (Table 18). There are seven districts.

**Table 18**  
**Name of Districts and Number of Parcels with Listed Land Prices**

District	Number of Parcels With Listed Land Prices
Nonthaburi Province	
Nonthaburi	18
Pakret	1
Bangkok Metropolis	
Laksi	6
Bang Khen	20
Khan Na Yao	9
Bueng Khum	1
Minburi	79
Total	134
Source: MRTA. List of the Determination of Initial Prices of Immovable Property to be Expropriated and the Amount of Compensation	

79. The MRTA land prices are compared to prices quoted in three valuation sources: Department of Treasury, Internet advertisements and Agency for Real Estate Affairs (AREA). The last one is a private property consulting company specializing in property appraisal.<sup>26</sup> The appraised land value of the Department of Treasury is an assessed value used to determine the amount of tax that must be paid. The assessed value is assigned to parcels which are in government database and to wholesale blocks.<sup>27</sup> The Department of Treasury valuation price of the parcels in the MRTA's List of Determination of Initial Prices of Immovable Property is obtained and used in the comparison with MRTA price.

80. The asking price of land plots advertised for sale in various web sites between May 2013 and January 2018 were collected for six districts (Appendix 4) with a total number of 36 prices obtained. None was obtained for Khan Na Yao District. But the number of prices obtained for the other districts is as follows: (i) Nonthaburi (4); (ii) Pakret (5); (iii) Lak Si (5); (iv) Bang Khen (3); (v) Bueng Kum (4); and Minburi (5). The internet advertised prices were on land for sale along the same road or within the same sub-district as the MRTA-acquired parcels.

81. The AREA land valuation prices are available by zone. One zone has five parcels with a range of prices. The zones are separated from each other with no standard distance in between. To approximate the valuation price of a parcel, the price determined for one or two zones nearest to it and used as the reference price in comparing with the MRTA land price for each parcel.

<sup>24</sup> 1987 Immovable Property Expropriation Act (Section 33) and 1997 Procurement of Immovable Property for Public Transportation Enterprise (section 34).

<sup>25</sup> MRTA. Undated. Bangkok MRT Pink and Yellow Lines Information Request

<sup>26</sup> <http://www.area.co.th/english/about>

<sup>27</sup> <https://www.samuiforsale.com/real-estate/registered-land-value.html>

#### 4.1.2 Assessing MRTA Compensation payments for Structures

82. Compensation for structure is determined based on the requirements of the MOT Manual of Compensation (Table 19).

**Table 19**  
**MOT Manual of Compensation Requirements in Determining Structure Compensation**

No	Factors Considered in Compensation Determination	Method of Amount Determination
1	<b>Cost of Property Movement:</b> cost in moving the property inside the House or Building which is subject to removal including cost of transportation and loading/unloading	Price search pursuant to the facts of each area.
2	<b>Cost of Removal</b> of House or other building from the land which is subject to expropriation; and <b>Cost of Removal Permit and Accident Prevention:</b> fees in making an application for removal paid to the responsible government agency who will grant a permit such Bangkok Metropolitan Administration, municipality, Sub-district Administration Organization, etc. including cost in preventing the materials and dust from falling	<b>Method of Determination</b> General building is subject to a rate of 15-20% of labor cost. However, the price estimator will use appropriate discretion to align with the nature and type of building which is subject to expropriation but the price shall not be lower than minimum wage of 2 workers working for 1 day in the expropriation area. Building with special nature such as Thai style building, high building, etc. as appeared in the fact stating that the cost of removal is higher than specified rate. The official will appropriately review along with reasons and supporting document on case by case basis
3	<b>Cost of Movement of Materials:</b> the cost of moving all removed materials including the transportation and loading/unloading	Use of price of price search in accordance with the facts of each area.
4	<b>Cost of Construction Materials:</b> damage of materials for construction of the removed House and other Building caused by the removal.	Use of price of Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office by excluding value added tax. If the price of any construction materials is not available, use the search of selling price within the expropriation area whereby the price does not include value added tax. There shall not be any depreciation deduction of the materials unless the building has been abandoned until it is in a deteriorated condition.
5	<b>Cost of Construction Labour</b> refers to the cost of construction labour in constructing new building of similar nature to the original form.	In Bangkok Metropolitan Region, there shall be the use of wage rate list for duplication and calculation of benchmark price of building construction of Budget Standard Bureau, Bureau of the Budget most recently announced for use. In the event that the minimum wage of Ministry of Labour changes from the rate used as a base for determination of wage list of the most recent year, there shall be an adjustment in proportion with the minimum wage rate which has changed

No	Factors Considered in Compensation Determination	Method of Amount Determination
6	<b><u>Cost of Factor F (Cost of Administration, Interest, Profit and Tax)</u></b>	There will be a specification of parameter Factor F of job cost not exceeding Baht 50,000 by combining difference of administration cost and profit of job cost not exceeding Baht 50,000 with job cost note exceeding Baht 1 million of original parameter Factor F table. The difference of administration = 3.50 (10.00-6.50) and profit difference = 7.50 (18.50-11.00) combined with administration cost and profit of parameter Factor F table as announced on the date when the basic price determination committee has determined price compensation. Then, there is a calculation to determine parameter Factor F pursuant to the rules and there is a result of parameter Factor F equaling to 1.3903.
7	<b><u>Cost of Design and Work Supervision</u></b> refers to hiring cost for designing, drawing the layout plan, hiring engineer to calculate the building structure and cost of work supervision.	For 0 – 10 Baht million Construction Cost: 4% of Cost of Construction ( <b>Cost of Design at 2% and Work Supervision at 2%</b> ) For Excess of 10 Baht million Construction Cost: Excess of Baht 10 million, the rate is at 3.50% of Cost of Construction ( <b>Cost of Design at 1.75% and Work Supervision at 1.75%</b> )
8	<b><u>Cost of construction permit application and accident prevention:</u></b> fees for construction permit payable to the responsible government agency including cost in preventing falling materials and dust	For construction application and permit fees which is specified in accordance with the government charged rate for cost in preventing the materials and dust from failing, there shall be use of lump sum price search.
9	<b><u>Other expenses:</u></b> cost in movement and installation of electrical equipment, water, telephone, air-conditioner, television signal receiver, etc.	The determination of other expenses shall be in accordance with actual amount paid to the relevant agency which is responsible for the charge or with actual charge.

Source: MOT Manual of Compensation, Section 3.2 pages 19-32.

#### 4.1.3 Assessing MRTA Compensation payments for Trees and Crops

83. The compensation rate is determined based on the requirements of MOT Compensation Manual. In case of general perennial plant, determination of the cost of perennial plant shall be in accordance with the price list specified by Provincial Agricultural Extension Office. If such list is not available, compensation determination shall be based on price list previously specified in the expropriation project in the nearby zone of other agency. In case that there is no price as mentioned above, price search in the market on the date when the Royal Decree is entered into force. However, the use of price list of Provincial Agricultural Extension Office or expropriation project of other agency, there shall be a reference to market selling price on the date when the Royal Decree is entered into force.

84. In the case that the perennial plant is grown for earning a living and the products have been harvested, there shall be a determination of compensation as above requirement. Damage for loss of income from products harvested is at 10% of tree compensation or there shall be a determination pursuant to the fact in the case that there is a proof showing that the damage is higher than such rate. The compensation for seasonal crops is already included in the land

compensation. The condition of the land is one of the five factors considered in determining land compensation.<sup>28</sup>

#### Assessing MRTA Compensation payments for Business Disruption

85. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.<sup>29</sup> The ruling serves to validate that the basis used to determine the compensation for lost income is fair or the compensation if equivalent to what is lost.

## 4.2 Results of Assessment of Average MRTA Land Prices

86. The MRTA offered prices are higher than the valuation prices of the Department of Treasury, internet advertisements and AREA based on their average values. The higher MRTA prices compared to the Department of Treasury valuation prevails in all districts. (This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)...

87. In addition to paying compensation at market rates, MRTA also covers administrative or transaction costs, among other assistance which aligns MRTA practices with ADB SPS SRS2 requirements for compensation at replacement cost. Where there are MRTA compensation offers that are perceived lower than the internet advertised prices or with real estate appraisal company's valuation or both, this is likely due to several reasons (i) internet advertised asking prices most likely shows the price of land and structures given that the Project area is in a heavily built urban metropolis, (ii) the parcel's peculiarities – shape of land or the distance of the parcel from the area referenced in the real estate appraisal company's valuation; (iii) lack of data on sales of land in the vicinity. Nevertheless, MRTA has a robust grievance mechanism where the affected household can file as case in the grievance mechanism. If it is deemed the prices paid is unfair to the affected person, the law provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

## 4.3 Results of Assessment of MRTA Compensation payments for Structures

88. MRTA attests that owners are being compensated for the following cost items following MOT Compensation Manual: (i) demolition cost; (ii) cost of materials; (iii) cost of labor; (iv) cost of damage to materials of the demolished structures and adjacent structures; (v) cost of transfer of materials; (vi) cost of government permit for demolition and construction; (vii) cost of prevention of accidents during demolition and construction; (viii) cost of design and supervision; (ix) cost of installation of utilities; and (x) cost of administration, interest, profit and tax. While the MOT Manual covers every lost item and cost of reconstruction, the equivalence of the compensation of the lost structure is not validated against third party valuation.

89. In addition is assistance is provided in the form (i) 5.0% of total compensation of lost structure located in Bangkok; (ii) damage fee of 100,000 THB for lost structure compensated for at least 100,000 THB and Minimum damage fee of 30,000 THB but not more than 100,000 THB for lost structure compensated for less than 100,000THB. In addition, the entitled person regardless of the type and extent of loss will get a lump sum payment of 5,000-10,000 THB (co-

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<sup>28</sup> 1987 Immovable Property Expropriation Act (Section 21) and MOT Manual of Compensation Section 3.1.1.(3)

<sup>29</sup> MOT Manual of Compensation Part 6 Appendix 5.3

ownership shall be deemed as single ownership) for the expenses incurred in its interaction with the representatives of the government involved in the expropriation process.<sup>30</sup> Payment of this assistance are observed in the sample list of indicative compensation amounts provided to the audit team.

#### **4.4 Results of Assessment of MRTA Compensation payments for Trees and Crops**

90. MRTA also attests that the owner is also being compensated in accordance with the MOT Compensation Manual.

#### **4.5 Results of Assessment of MRTA Compensation payments for Business Disruption**

91. Where lost structure is used as place of business or work, MRTA attests that the owner is also being compensated in accordance with the MOT Compensation Manual. For lost net income based on income tax return filed in the last three years before Royal Decree is effective or 12,000 THB per month in the absence of proof. The 12,000 THB per month is the minimum taxable income amount. Being based on actual income registered in income tax return, the compensation amount must be at replacement value. The Supreme Administrative Court ruled on an appeal that the determination of compensation as equivalent to income from occupation based on income tax return in the past one year is appropriate.<sup>31</sup> The ruling serves to validate that the basis used to determine the compensation for lost income is fair or the compensation if equivalent to the lost equivalent.

92. The duration of the monthly compensation is between six and or 12 months depending on the type of business or work. This duration is expected to be sufficient to enable the affected person to re-establish his business or work and restore his income if he can replace the lost structure and previous location with similar ones. The reason for such expectation is the ease of establishing business in Thailand which can take only 4.5 days.<sup>32</sup> Further, the four of the five steps of the business establishment process are free of charge. Only the registration of memorandum of association to apply for company registration and to obtain a Tax Identity Number (TIN) is paid.

### **Chapter 5: Socio-economic Baseline**

93. The EIA does not provide the socioeconomic information of the affected households. This information gap is filled up by the result of supplementary socioeconomic survey done on October-December 2017. The survey covered 29 households with affected assets and 500 households living along the Pink Line route but whose assets are not affected. From the survey result can be gleaned the basic characteristics of the households and their sources of information. For the households with affected assets, the severity of the impact on their assets is revealed as well.

#### **5.1 Households with Affected Assets**

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<sup>30</sup> MOT Manual of Compensation Section 3.5.5

<sup>31</sup> MOT Manual of Compensation Part 6 Appendix 5.3

<sup>32</sup> World Bank Group. 2018. Doing Business: Reforming to Create Jobs: Economy Profile Thailand. A World Bank Group Flagship Report. Washington D.C..

94. The respondents for the households with affected assets are almost equally divided between men and women (Table 20). All of them were native-born and has been living in Bangkok or Nonthaburi since birth. Close to 70% are earning over 50,000 THB a month and no one earns less than 5000 THB a month. This means that no household is living below the 2015 poverty line of 2,644 THB per month.

95. The structure affected for 58.6% is commercial in use. For 13.7%, it is a residential house. Around 89.7% own the structure while 10.3% are renters. Only 10.3% will have the structure they are using fully demolished. For the rest, the damage will be confined to a part of the structure.

96. Among the sources of information on the Pink Line, the respondents mentioned the MRTA staff 52.5% of the times. The other sources of information mentioned, albeit, at less frequency are their relatives and neighbors, TV and the social media. Around 65.5% reported to have received information on land acquisition procedures directly from MRTA staff. The rest may not have received yet as land acquisition was on-going during the survey.

## 5.2 Households with Unaffected Assets

97. The respondents for the surveyed households with unaffected assets were 63.4% women (Table 21). Around 65% of the respondents were the household head. Those who were born in either Bangkok Metropolis or Nonthaburi compose 59 percent. The rest were from outside and migrated into their present area of residence. About 67.2% have more than elementary education. Some 16.4% have university diploma or even pursued post-graduate studies. Mostly were informed about the Pink Line Project. Only 3.6% did not have any information. TV and word-of-mouth were cited as the main information sources accounting for 35.2% and 32.2% of the sources mentioned.

98. The modal household size is between four to seven members (Table 22). The number of members of 61.8% of the households is within this range. Most of the households derive income from commerce. Around 71.6% reported that the primary occupation of the household head is either as a trader or business owner. Their income is relatively high with 56.0% earning between 20,000-40,000 THB a month. Around 31.2% are earning over 40,000 THB a month. Only 1.4% are earning between 5000 to 10,000 THB a month. No one is below the country's 2015 poverty line of 2,644 THB a month.

**Table 20**  
**Result of the Survey Among Households with Assets Affected by the Pink Line (N=29)**

Item	Percentage
Gender of Respondents	
Men	48.3
Women	51.7
Total	100.0
Place of Birth of Respondents	
Bangkok Metropolis	55.2
Nonthaburi Province	44.8
Others	0
Total	100.0
Distribution by Income Level (THB)	
5,000-10,000	3.4
10,001-20,000	0
20,001-30,000	10.3
30,001-40,000	13.8
40,001-50,000	3.4
50,000 and over	69.0
Total	100.0
Type of Affected Structure	
Commercial Building	58.6
One-storey house	3.4
Two-storey house	10.3
Others (Shop house, Rented Property)	27.6
Total	100.0
Tenure of Structure	
Owned	89.7
Rented	10.3
Total	100.0
Severity of Damage to the Structure	
Total	10.3
Partial	89.7
Total	100.0
Source of Information on Pink Line	
MRTA Staff	52.5
TV	9.4
Relatives and neighbors	17.0
Social media	7.5
Others (e.g., newspaper)	13.2
Total	100.0
Receipt of Information from MRTA on Land Acquisition Procedures	
Received information from MRTA	65.5
Did not receive information from MRTA	34.5
Total	100.00

Source: UAE October-December 2017 Household Survey

**Table 21**  
**Characteristics of the Respondents for Households Surveyed Along the Pink Line with Unaffected Assets (N=500)**

Item	Percentage
Gender of Respondents	
Men	36.6
Women	63.4
Total	100.0
Position of Respondents in the Household	
Head	65.0
Spouse	22.2
Son or Daughter	8.0
Others	4.8
Total	100.0
Place of Birth of Respondents	
Bangkok Metropolis	42.2
Nonthaburi Province	16.8
Others	41.0
Total	100.0
Education of the Respondent	
Primary	32.8
Secondary	34.4
Vocational	16.4
University Graduate	14.8
Others (e.g., Postgraduate)	1.6
Total	100.0
Information About the Pink Line	
Informed	96.4%
Not informed	3.6%
Total	100.0%
Sources of information	
MRTA Staff	2.2
TV	35.2
Poster and billboard	6.1
Radio	1.6
Relatives and neighbors	32.2
Social media	11.2
Flyers	2.3
Website	3.2
Others (e.g., newspaper)	6.0
Total	100.0
Source: UAE October-December 2017 Household Survey	

99. Their level of income and source reflect the type structure they use along the Pink Line route. Around 48.0% are users of commercial structure. The other 0.4 are using it as an office or for other income generating activity. Only 50.8% are using the structure primarily for residence. About 75.2% own the structures they use. The rest are renters.



**Table 22**  
**Selected Characteristics Households with Unaffected Assets Along the Pink Line (N=500)**

Item	Percentage
<b>Household Size</b>	
1.3 members	33.4
4-7 members	61.8
8-10 members	3.8
Over than 10 members	1.0
Total	100.0
<b>Occupation of Household Head</b>	
Private employee	14.6
Trader	35.8
Government employee	2.2
General services	6.2
Business owner	35.8
Others (Retired, Housewife, Unemployed)	2.4
Total	100.0
<b>Distribution by Income Level (THB)</b>	
5,000-10,000	1.4
10,001-20,000	11.6
20,001-30,000	25.2
30,001-40,000	30.8
40,001-50,000	19.2
50,000 and over	12.0
Total	100.0
<b>Type of Structure Used</b>	
Commercial Building	48.0
Town house	21.6
One-storey house	11.0
Two-storey house	18.2
Condominium	0.8
Office	0.2
Others (Shop house)	0.2
Total	100.0
<b>Tenure of Structure Used</b>	
Owned	75.2
Rented	24.0
Others	0.6
Total	100.0
Source: UAE October-December 2017 Household Survey	

## **Chapter 6: Information Disclosure, Consultation and Participation activities**

### **6.1 ADB Policies on Information Disclosure and Stakeholders' Participation**

100. As part of its Public Communications Policy, ADB recognizes the right of people to seek, receive and impart information and ideas about ADB-assisted activities.<sup>33</sup> The rationale of this policy is that the views of stakeholders are needed for ADB-assisted activities to meet demands and be effective. This rationale complements ADB Safeguards Policy which considers consultation and participation central to the achievement of safeguard policies objectives.<sup>34</sup>

### **6.2 Type of Stakeholders and Project Impact**

101. The Pink Line Project has five direct stakeholder groups: commuters, property users, business operators along the route, private service providers (hospitals, schools and temples) and government offices along the route (Table 23). The property users are divided into two: households with expropriated assets and those whose unaffected properties. In the long-term, all the stakeholder groups, except the households who will lose all their lands or structure and will move out far from their present location, will benefit from the project. Those who will lose their land or structure will be compensated at replacement cost.

102. The commuters, business operators along the route, private service providers and government offices will gain easier point-to-point access. Further, the property owners with unaffected properties and those with affected properties but will stay in the area along the route will gain from increased property value. The easier access may also redound to the higher business intensity among business operators along around the stations. But in the short-term, the commuters and property users along the route will bear the brunt of the increased traffic, dust and vibration during construction. These property users will also be exposed to the risks that the presence of workers may pose including communicable diseases and social disturbance

### **6.3 Information Disclosure and Consultations in EIA Preparation**

103. The information disclosure and consultation activities were conducted between June and September 2012 as part of the EIA preparation. During this period, information was disclosed using multi-media channels (Table 24). These channels include the conventional media (TV, radio and print), distribution of leaflets and brochure, video, exhibition boards and a dedicated website. A press conference was held with 18 mass media outlets attending. Around 5,000 leaflets and

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<sup>33</sup> ADB. 2011. Public Communications Policy. Manila. Paragraph 30

<sup>34</sup> ADB. 2009. Safeguard Policy Statement. June. Paragraph 32

2,000 brochures were distributed. The Pink Line website was opened and is still currently operating.

Table 23 Project Stakeholders, Estimated Number of Persons and Impact

Stakeholder Groups	No of Person	Impact	Duration	
			Temporary	Permanent
Commuters	44,000 persons / hour/direction maximum	Increased Traffic	X	
		Easier travel		X
Property Users				
With Expropriated Assets	Owners of land parcels Owners of non-land assets and tenants	Loss of land and other assets		X
No Expropriated Assets	65,550 persons living within 500 meters from the route <sup>1</sup>	Increased traffic, dust and vibration	X	
		Risk generated workers	X	
		Increased property values		X
Business Operators Along the Route	No information on exact number	Easier access		X
		Increased business		X
Private Service Providers	5 schools, 4 hospitals and one temple	Easier access		X
Government Offices	8 ministries; 3 independent constitutional bodies; judicial courts; 1 provincial office; 1 district office; 2 departments	Easier access		X
<sup>1</sup> 34.5 km length x 1 m impact area width (500 meter per side) = 34.5 km <sup>2</sup> x 1900 persons/km <sup>2</sup> = 65,550 persons				

Table 24 Information Dissemination Activities for EIA Preparation

Medium	Unit of Measure	Remarks
Press conference	1 event	Participants are 18 mass media outlets: 2 TV channels; 1 radio station and 14 newspaper and magazines; Held on 25 September 2017
Leaflets Distribution	5000 leaflets	Distributed in consultation meetings and made available to the public in MRTA office
Brochure Distribution	2000 brochures	Distributed in meetings and seminars. Available in English and Thai
Exhibition Board	10 Boards	Installed in entrance halls of meetings and seminar
Video	2 sets	One in animation and one in pictures; Posted in the internet; Available in English.
Dedicated website	1 site	<a href="http://www.monorailpinkline.com">www.monorailpinkline.com</a>
Source: Team Consulting Engineering and Management Co Ltd. 2015. Amendment Environmental Impact Assessment Report. The Pink Line MRT Project Khae Rai-Min Buri. Bangkok		

104. Within the same period, 26 consultation meetings were held (Table 25). Five were with the communities along the route. The number of consultation meetings with other stakeholder groups were as follows: eight with local government units (province, municipalities and districts); three with big business operators; four with private service providers; and one with water utility company. One multi-stakeholder assembly was additionally held with 526 participants.

105. In these meetings, available project details were disclosed and questions about the project and its impacts were answered in a two-way discussion format. Seven social concerns were raised during these meetings: (i) need for more public information; (ii) land acquisition; (iii) need to consult with households with affected property; (iv) construction impact on structures; (v) traffic generation; (vi) space and ventilation of the stations; and (vii) provision of emergency procedures.

106. The mitigation measures in the EIA and the MRTA requirements for concessioners address the concerns on traffic generation and construction impact on structures.<sup>35</sup> MRTA is responding to the need for more information through continuing disclosure. Through design modification, it is reducing land acquisition and consulting with affected property users. The station design provides for space and ventilation as well as emergency-response features.

## 6.4 Post-EIA Information Disclosure and Consultations

107. After the EIA preparation and its amendment in 2015, information about the project were continued to be disclosed by MRTA and the Ministry of Transportation. Between 2015 to the early part in 2018, 16 news articles on the Pink Line Project appeared in the Bangkok Post (Table 26). Although this is an English newspaper, it is read by the decision and opinion makers as well as by influencers in Bangkok Metropolitan Region. It has a daily circulation 110,000, 80% of which is in Bangkok. It also has substantial digital subscribers. News on the Pink Line Project also figures in print and broadcast media in Thai language as well.

108. It has also a Facebook page Pink Line Project Facebook (<https://www.facebook.com/CRSTECOMPINKLINE/>); and a discussion forum on the project is also available the internet ([https://www.tripadvisor.com/ShowTopic-g293916-i3687-k10166588-Pink\\_Line\\_Update-Bangkok.html](https://www.tripadvisor.com/ShowTopic-g293916-i3687-k10166588-Pink_Line_Update-Bangkok.html)). Bangkok Metropolitan Region has 69.2% internet penetration rate.<sup>36</sup> Around 70.3% are using the smart phone.<sup>37</sup> It also has 8.7 million Facebook users.<sup>38</sup>

**Table 25**  
**Consultations Done for EIA Preparation and Social Concerns Raised**

No	Type of Stakeholder	Group	Date of Meeting	Social Concerns Raised
1	Business establishment	Fashion Island Management	22 June 2012	Spacious and well-ventilated station for increasing number of passengers
2	Local government unit	Pak Kret Municipality	9 July 2012	Land acquisition; Construction impact on structures
3	Local government unit	Nonthaburi Municipality	18 July 2012	Construction impact on structures; Traffic generation; Need for public information
4	National government unit	Office of Asset Management, Administrative Court	18 July 2012	Need for public information; Spacious and well-ventilated station; Spacious and well-ventilated station; Emergency procedures

<sup>35</sup> Team Consulting Engineering and Management Co Ltd. 2015. Amendment Environmental Impact Assessment Report. The Pink Line MRT Project Khae Rai-Min Buri. Bangkok and MRTA's Requirements: Part 1 Civil Works: Appendix 5: Environmental Protection Requirements: Section 9

<sup>36</sup> National Statistics Office Thailand

<sup>37</sup> <https://www.emarketer.com/Article/More-than-90-of-Internet-Users-Thailand-Use-Smartphones-Go-Online/1015217>

<sup>38</sup> <https://www.aware.co.th/thailand-internet-use-highest-growth-globally/>

No	Type of Stakeholder	Group	Date of Meeting	Social Concerns Raised
5	Educational Institution	Satthabut Bamphen School	24 July 2012	None
6	Local Government Unit	Civil Department Bang Khen District Office	26 July 2012	None
7	Local Government Unit	Civil Department Khan Na Yao District Office	26 July 2012	Need for consultation with affected households;
8	Local Government Unit	Nonthaburi Province Governor's Office	6 August 2012	Affected houses and shops; Need for consultation with affected households;
9	Local Government Unit	Buri District Office	10 August 2012	Traffic generation
10	Local Government Unit	Bueng Kum District Office	14 August 2012	Land acquisition
11	Medical Facility	Nopparat Rajathanese Hospital	14 August 2012	None
12	Religious Institution	Wat Phra Si Maha That Woramahawihan	16 August 2012	Need for public information
13	Local Government Unit	Min Buri District Office	21 August 2012	Traffic generation
14	Educational Institution	Phranakhon Rajabhat University	22 August 2012	Land acquisition
15	Business establishment	IT Square Lak Si Department Store	23 August 2012	None
16	Business establishment	Max Valu Shopping Center	23 August 2012	None
17	Medical Facility	Central Chest Institute	24 August 2012	None
18	National Government Unit	Department of Highways	27 August 2012	None
19	Public Utility Company	Metropolitan Waterworks Authority, Bang Khen Office	27 August 2012	None
20	Community	Pak Kret Municipality	28 August 2012	Land acquisition
21	Community	Bang Khen District	28 August 2012	Land acquisition
22	Community	Nonthaburi Municipality	29 August 2012	None
23	Community	Lak Si District	29 August 2012	Need for public information
24	Community	Khan Na Yao District	30 August 2012	Traffic generation; Construction impact on structures
25	Community	Min Buri District	30 August 2012	Traffic generation
26	Multi-Stakeholders (526 participants)	Miracle Convention Center, Lak Si	25 September 2012	Land acquisition; Traffic generation; Need for public information
Source: Team Consulting Engineering and Management Co Ltd. 2015. Amendment Environmental Impact Assessment Report. The Pink Line MRT Project Khae Rai-Min Buri. Bangkok				

## 6.5 Information Disclosure and Consultation Activities With Affected Households

109. For the affected households the following information disclosure activities are done: (i) posting of royal decree and property price appraisal results in public places; (ii) written notice to owners and renters for site inspection, compensation contract, availability and deposit of compensation, appeal process, requirement to vacate the property and appeal decision in case of complaint; and (iii) public disclosure of the minutes of the meeting of Compensation Committee.

**Table 26**  
**Pink Project Features in Bangkok Post: 2015- 2018**

<b>Year</b>	<b>Number of News Features</b>	<b>Date Featured</b>
2018	2	8 January; 12 January
2017	3	18 April; 14 September; 2 November
2016	8	1 January; 1 March; 31 May; 21 August; 10 October; 10 November; 7 and 16 December;
2015	3	7 April; 8 June; 3 December
Total	16	

110. The consultations related to households with affected assets has been conducted in the neighborhood and household level. The more discreet mode of the consultation done is due to the delicate nature of the subject matter. It involves information on high-valued properties, authenticity of property ownership, prominent family names, family conflicts and in many instances, huge amount of actual compensation. The documentation of the consultation meetings with affected households is has restricted access.

111. Nonetheless, the minutes of the Fourth Monthly Meeting (25 December 2017) among NBM, MRTA and BTS shows that the consultation and exchange of information between MRTA and affected property owner are a continuous process. An example of information that the property owner provided is its building plan while the project provided the detailed station plan. Both plans are used by the two parties to discuss options to locate the stations or its main features to maximize mutual benefit. The project has no direct engagement with civil society groups.

## Chapter 7: Grievance mechanism (Formal and Project Level)

### 7.1 Formal Grievance Procedures

112. The 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises provide similar formal redress mechanism for two types of grievances. In the 1987 Immovable Property Expropriation Act, these grievances are the following: disagreement on the compensation set by the Compensation Committee (Sections 10 and 25); and (ii) need to expropriate unusable residual portion of a property after a portion is expropriated (Section 19 and 20). The steps to settle the first type of grievance per Section 25 and 26 of the 1987 law is described below:

- i. The complainant will send an appeal to the MOT Minister within 60 days from the date of receipt of written notice to collect the compensation;
- ii. The minister will form a committee to advise him on the complaint composed of five qualified members in the field of law and property appraisal;
- iii. The minister will send his decision to the complainant with 60 days from the receipt of the appeal;
- iv. If the complainant is dissatisfied with the minister's decision or the minister fails to deliver his decision within 60 days, the former can file a case in court. The prescribed period for filing is within one year from the date the decision is received or in the case of non-delivery of minister's decision, from the date of the prescribed period.
- v. If the Minister decides, or the Court rules, that additional compensation shall be paid, the complainant shall also be entitled to the interest of that additional compensation at the highest interest rate of the fixed-term account of the Government Saving Bank from the date that compensation has to be paid or deposited.

113. For the grievance on the need to expropriate residual portion of a property, the steps are as follows:

- i. The property owner sends a request to the expropriation officer to expropriate an unusable residual portion of a property;
- ii. If the officer rejects the request, the owner within 60 days as from the date he receives the written rejection, will send an appeal to the MOT Minister;
- iii. The Minister delivers the decision on the appeal within 60 days as from the date of the receipt of the appeal. If the decision is not delivered within this period, it decision is deemed favorable to the property owner.

## 7.2 Project Level Grievance Procedures

114. Through public information dissemination and consultation activities and individual meetings, affected property owners and tenants are informed on grievance redress procedures. This information is also contained in the pamphlets prepared and distributed by MRTA. The information at the back panel of the pamphlets include conditions and procedures for filing grievances (Table 27).

**Table 27**  
**Conditions and Procedures for Filing Grievances Contained in MRTA Pamphlets**

Conditions for filing grievances	Procedures for filing grievances
Provide details of grievances accompanied by documentation or photos showing damage.	Verification and registration of grievances.
Grievants must provide a name and location of grievances, and telephone numbers.	Prepare documentation for submission to administrators and inform concerned agencies to take necessary action.
Grievances must be for loss or damage resulting from construction or implementing project activities by officials.	Follow up on progress of resolving the grievance and inform results to the grievant.
If grievances have incomplete information or if information cannot be verified, investigations should be suspended and retained in a database.	
Source: MRTA Thai language pamphlets for AP regarding expropriation and encumbrances under the <i>Immovable Property Expropriation Act B.E. 2530 (A.D. 1987)</i> and the <i>Act on Procurement of Immovable Property for Public Transportation Enterprises, 2540 (1997)</i> .	

115. The grievance redress procedures for each MRT project is posted on the MRTA website. The affected person can file a complaint using any of the three options: (i) submit the complaint during MRTA consultation; (ii) send a video clip to MRTA as an email attachment or through the MRTA website ([http://www.mrta.co.th/th/comment/complaints\\_service/](http://www.mrta.co.th/th/comment/complaints_service/)) or thru Pink Line Project Facebook (<https://www.facebook.com/CRSTECOMPINKLINE/>); and (iii) file a grievance in person at the MRTA office, where forms are available to facilitate the process and MRTA staff are available to assist.

116. But the chance that a grievance is filed is reduced by the informal negotiation. The MRTA Land Acquisition and Legal Affairs Departments manage the expropriation process and conduct informal negotiations with the property owners and tenants. The negotiations are based on the (i) results of the AP assets registration survey; (ii) results of the socio-economic survey of location conditions; and, (iii) compensation rates determined by the appraisal committee (preliminary price determination committee) appointed by the Minister. The appraisal committee includes representatives of the MRTA, BMA, Land Department, and concerned government agencies, and representatives of concerned district government, and a real estate specialist from the private sector. When the negotiation does not result to an agreed compensation rate, that the affected property owner can resort to the grievance redress mechanism.

### **Grievance Redress Mechanism During the Construction and Operation Phase**

117. During the project construction and operation phases, MRTA, contractors, and any entities providing construction and project management services are responsible for taking preventive and remedial action to address any actual or perceived environmental problems/issues related to



the construction which caused or may cause environmental impacts or complaints and inform ONEP and other concerned agencies of such issues.

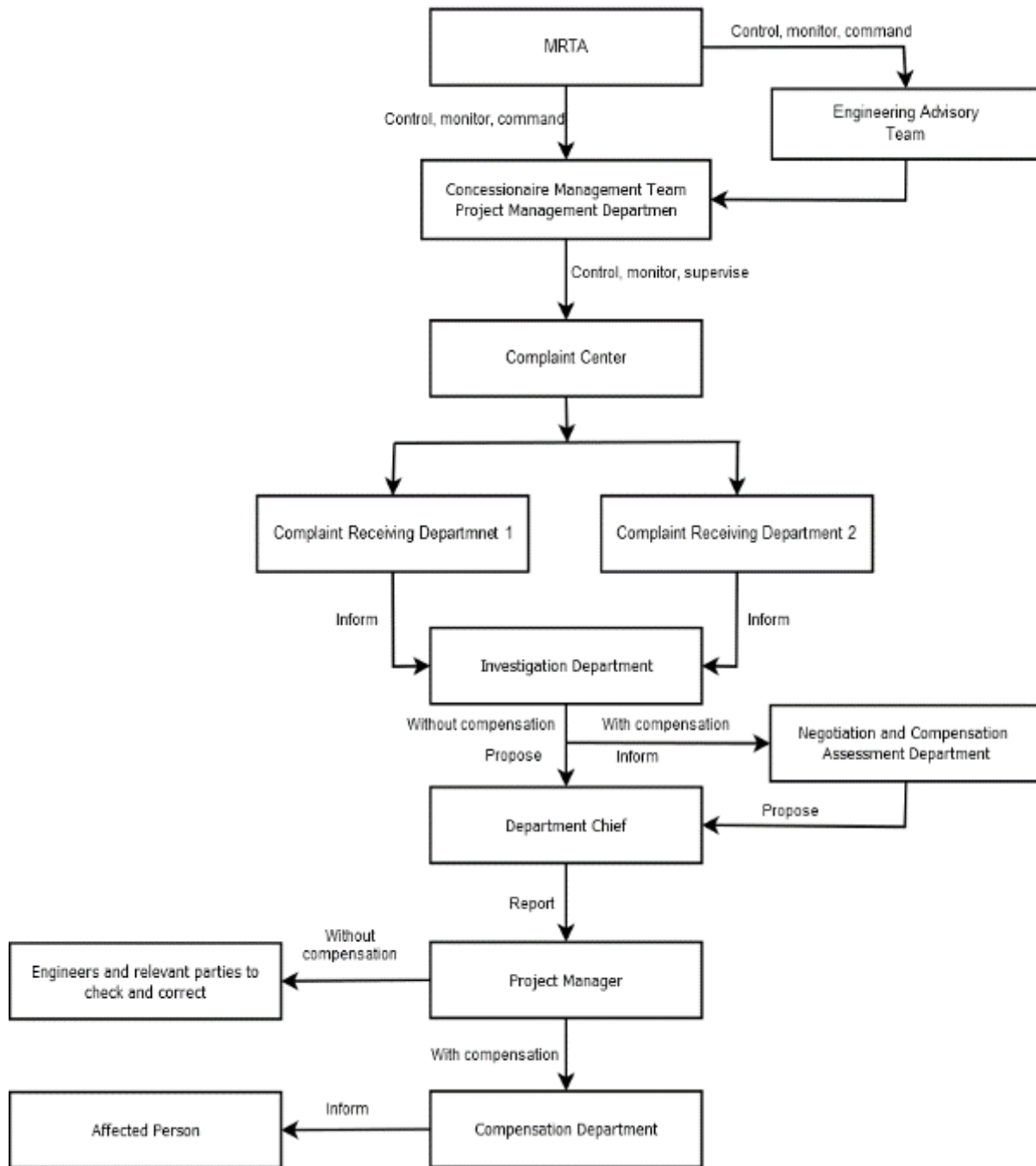
118. The Concessionaire will establish an Information and Complaints Center at the Project Office to receive information or complaints from the public and to publicize procedures for lodging complaints and communication channels, such as Call Center Numbers and E-mail Address. The center will provide staff throughout 24 hours to gather and process complaints and suggestions to solve problems. Such suggestions will be presented to MRTA once a month to help alleviate construction impacts to the general public.

119. If there are complaints from existing business operators and/or residents along the construction areas, affected persons have to be allowed to express their opinions about resolving or alleviating the problem under the “public participation” principle based on rights specified in the Constitution of the Kingdom of Thailand, B.E. 2550 (2017).

120. The Information and Complaints Center’s Complaints Receiving Department will be responsible for receiving and recording complaints from the public. The Complaints Receiving Department will forward the complaints to the Investigation Department. Complaints will be investigated and analyzed to determine if the damage was caused by the construction work and, if it is, to assess the damage and find a solution or provide immediate assistance to affected persons. Complaints that may require compensation will be referred to the Negotiation and Compensation Department who will propose fair compensation to affected persons. The proposed solution and/or compensation will be forwarded to the Department Chief for action of the Project Manager or the Compensation Department.

121. Solutions to complaints that do not require compensation will be reported to the Project Manager for immediate action of engineers and other relevant parties. The contractor will assign relevant staff to investigate the damage and will be responsible for the rectifying the damage and will bear the cost of rectifying the damage. Complaints requiring compensation will be forwarded to the Compensation Department for immediate information and payment to the affected persons. The steps and responsible parties for addressing complaints are presented in

**Chart 1 Information and Complaints Management Structure**



Source: Amended EIA Report for the Pink Line MRT Project Khae Rai-Min Buri

## Chapter 8: Institutional Arrangements for Land Acquisition and Compensation

### 8.1 Pre-construction Phase

122. **Project Planning.** The MRTA is lead organization in land acquisition and compensation process for the project. It was created under the Royal Decree on Establishment of the MRTA (2000) to operate the mass transit system in Bangkok and its vicinity as one of its functions. As a unit of the MOT, it is supervised by the Office of the Minister. It works with other units of the MOT in planning and implementing mass rapid transit projects. These units are the Department of Highways (DOH) and Office of Transport and Traffic Policy Planning (OTP) and its two state enterprises, State Railway of Thailand (SRT) and Expressway Authority of Thailand (EXAT). It also coordinates with other government agencies including the Bangkok Metropolitan Authority (BMA), Office of the National Environment Board (ONEB), Government Savings Bank (GSB), Ministry of Justice and the Provincial and District Offices.

123. MRTA's involvement in land acquisition starts when it submits a MRT project plan to OTP for approval. The approved plan is submitted to Council of Ministers for another approval. Based on the approved plan, MRTA conducts a preliminary survey on land conditions of the project area including land ownership and non-movable assets. The MRTA's Civil Engineering and Architecture and Land Acquisition Departments collaborate to carry out this survey (Chart 1). The following provisions of the 1987 Immovable Property Expropriation Act and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises govern the survey:

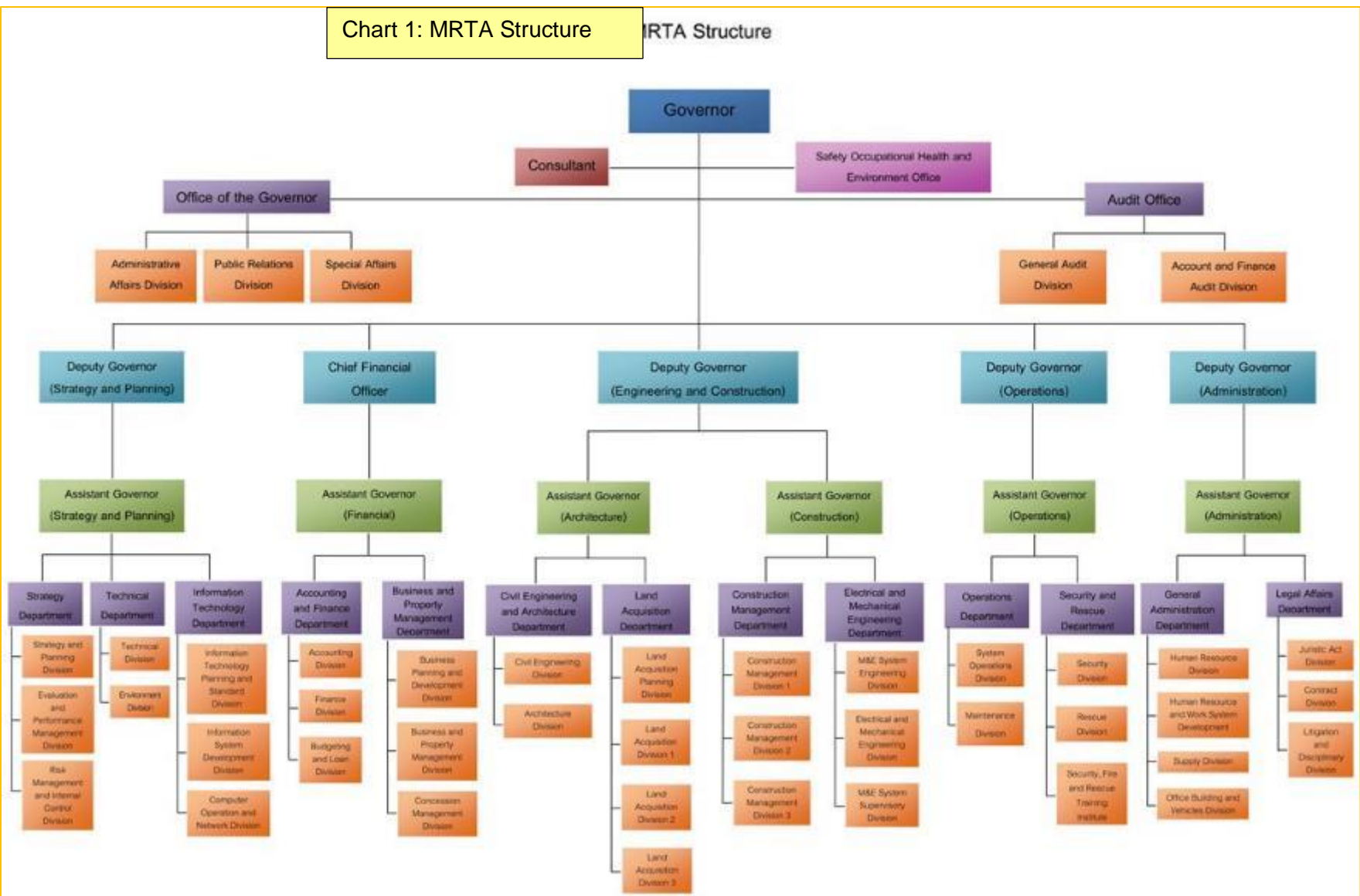
- Notification specifying the area to be surveyed in the preliminary survey is posed at local administration offices and public locations throughout the project area.
- Prior to entering in or on to private land for the survey, MRTA gives notice to the owner or occupant of the land at least 30 days in advance, specifying the date and time of the planned entry and stating any activity to be undertaken during the survey.
- After completing the survey, MRTA must return the land to its previous condition as much as possible.

124. **Decree Promulgation.** After the survey completion, MRTA Legal Affairs Department drafts a Royal Decree that specifies the right-of-way for the planned MRT line and area for expropriation. MRTA submits the draft decree to the MRTA governor and Transport Minister who in turn submit it to OTP for review. After the review, the draft Royal Decree is submitted to the Council of Ministers approval and for enactment by the King. The Royal Decree is effective upon being published in the Government Gazette and the date of issuance serves as the cut-off-date for properties eligible for entitlements. MRTA's Legal Affairs Department subsequently disseminates the Royal Decree by posting it in public places specified in the 1987 Immovable Property Expropriation Act (section 7) and the 1997 Act on Procurement of Immovable Property for Public Transportation Enterprises (Section 9).

125. The Royal Decree designates the Transport Minister as responsible for executing the Royal Decree. Following announcement of the Royal Decree, the MRTA Land Acquisition Department will gather information on the affected properties based on the map attached to the Royal Decree.

Chart 1: MRTA Structure

MRTA Structure



126. **EIA Preparation and Approval.** Land acquisition as an impact is covered by the EIA. The MRTA, as the project proponent, is responsible for preparing an EIA document. An EIA is prepared as early as possible in the project cycle, preferably in conjunction with the conduct of the feasibility study to incorporate its mitigating measures in the design. The MRTA engages a consulting firm to prepare the EIA and coordinates with the Office of Natural Resources and Environmental Policy and Planning (ONEPP) which is administrating the country's EIA process. Within MRTA, the Environment Division of the Technical Department works with consulting firm in conducting the various studies to complete the EIA document. The completed EIA document is submitted to the ONEPP and reviewed by an Expert Review Committee. The Council of Ministers, upon the recommendation of the National Environment Board (NEB) gives the final approval of the EIA because the proponent is a state enterprise.

127. **Compensation Determination.** Within 30 days after the MRTA's Civil Engineering and Architecture and Land Acquisition Departments surveyed the land for expropriation, MRTA proposes to the Minister to appoint an Appraisal Committee. Its task is to estimate the prices of immovable property to be expropriated and the amount of compensation to be paid. For the Pink Line Project, the MRTA representative serves as the chair. The members are the representatives of the Bangkok City Council, district councils, Land Department, Department of Local Administration and the community representative.

128. **Information Dissemination, Negotiation and Payment.** Compensation rates established by the appraisal committee are disseminated throughout the project area. The MRTA Legal Affairs and Land Acquisition Departments post the rates in locations designated by the 1987 Immovable Property Expropriation Act (Sections 7 and 9). Both departments also negotiate the purchase agreements with owners or legal occupants of immovable property. The MRTA Accounting and Finance Department is the one that pays compensation within 120 days of signing the agreement. The MRTA Concession Division and Legal Affairs and Land Acquisition Departments collaborate to process legal documents to acquire land that becomes part of the land concession for the MRT project.

129. Where the affected household disagree with the amount of compensation or fails to come forward to receive the compensation within the prescribed period, the MRTA Accounting and Finance Department deposits the compensation with the GSB or a government bank in an escrow account. The MRTA Legal Affairs or Business and Property Management Department publishes the notification of the deposit in a daily newspaper distributed in the project area.

130. **Monitoring and Reporting on Land Acquisition and Compensation Activities.** The land acquisition and compensation process is monitored through the monthly meetings among MRTA, BTS and MBN.<sup>39</sup> In these meetings, the progress of the land acquisition process and unanticipated resettlement impacts are reported and issues are identified. Solutions to the issues are agreed upon including conduct of investigation, consultation and exchange of information with the potential affected person and redesign of parts of the project such as the station and placement of the viaduct. In every meeting, the status of the issues raised in the preceding meeting and solutions agreed are revisited and, if needed, additional actions are again agreed upon. The minutes of the meeting are circulated among the attendants for confirmation. Any additional expropriation of land as a result of unanticipated project impacts will be undertaken by MRTA following the Thai legal framework, MOT Compensation Manual and MRTA practices. An external social monitor will be appointed to obtain updates from MRTA which will be included in the semi-annual monitoring reports to ADB.

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<sup>39</sup> Minutes of the Meeting on 24 November 2017 as Approved on 19 December 2017

## 8.2 Construction Phase Supervision

131. After MRTA acquires the land, it is handed over to BSR free of encumbrances. MRTA, directly engages a project construction supervision and management consultant (PSCMC, i.e. PCPK for the Pink Line) to provide construction supervision and management services during the construction phase.<sup>40</sup> The MRTA monitors and oversees the consultant and the concessionaire to ensure compliance to the environmental requirements specified in the EIA Addendum Report. Further, the MRTA appoints a committee to control and supervise the concessionaire on its compliance with environmental mitigation, protection and monitoring measures consistent with the EIA Addendum Report. The engagement of a project supervision and management consultant and the appointment of a committee are followed in the EMP (7 November 2017) through the following provisions in Section 2.1.1

(i) Monitor and supervise the design contractor and/or the construction and administration contractor to comply with the Environmental Impact Prevention, Correction, and Elimination Measures and the Environmental Impact Inspection Follow-up Measures as presented in the MRT Pink Line Project's Environmental Impact Assessment

(ii) Recruit third party to follow up the inspection of the implementation in accordance with the Environmental Impact Prevention, Correction, and Elimination Measures and the Environmental Impact Inspection Follow-up Measures as presented in the report, by setting total budget as part of the expenses related to the MRT Pink Line (Khae Rai – Min Buri) Project, under the supervision of the Mass Rapid Transit Authority of Thailand (MRTA), and designate the Committee to follow up the Inspection and the Implementation of the Environmental Measures, consisting of the *Office of Natural Resources and Environmental Policy and Planning*, the State Railway of Thailand, the Highways Department, the Pollution Control Department, Nonthaburi Province, Bangkok Metropolitan, the Office of the Consumer Protection Board, private development organizations, experts, etc., to monitor and follow up the environmental measure compliance for the entire project

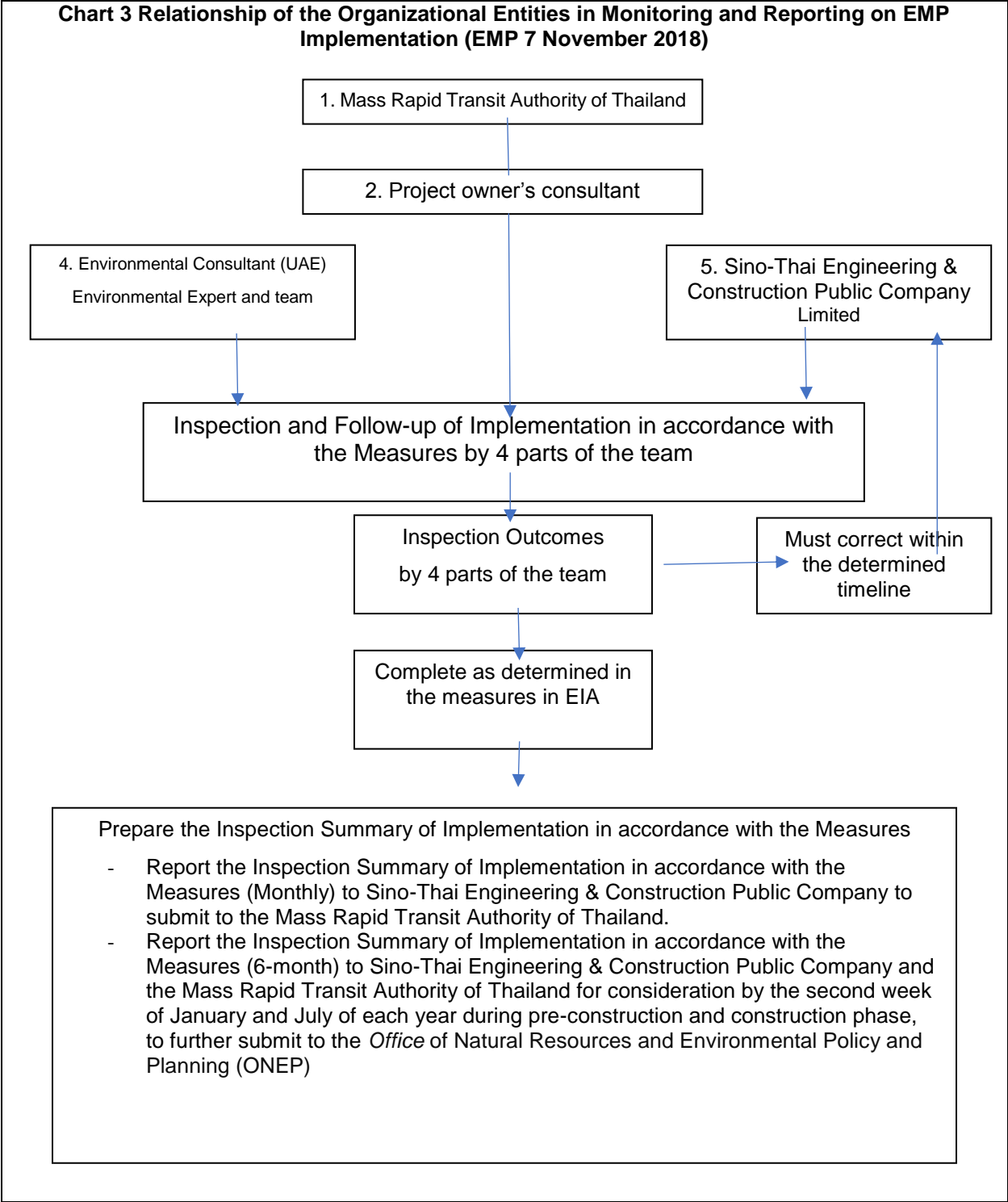
132. Monitoring activities consists of the following activities: (i) monthly monitoring and inspection by a representative of the committee; (ii) random inspection at night by the committee's representative; and (iii) periodic inspection by the committee as deemed appropriate. In case of complaints on environmental problems, the concessionaire is required to carry out remedial action without delay and at its own expense. These problems include damage incurred on private assets during construction. The steps in conduct in the monitoring inspection and reporting based on the EMP (7 November 2017) is in Table 28. The relationship among entities involved in monitoring and inspection is shown in Chart 3.

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<sup>40</sup> MRTA's Requirements: Part 1 Civil Works: Appendix 5: Environmental Protection Requirements: Section 9 i

**Table 28**  
**Steps in the Conduct of Monitoring Inspection and Reporting According to EMP (7 November 2017)**

- (i) Organize a joint meeting of the inspector team members, including consulting company, contractor, project owner, and project owner's consultant in order to inform of key purpose of implementing the measures and its contents that determine inspection processes.
- (ii) Jointly inspect the construction areas of actual implementation based on the measures in terms of potential impacts from implementing activities, as well as vulnerable points determined in the measures. During the inspection, the team is required to inquire details from the workers to know problems and, if the implementation cannot be performed or can be partially performed, the limitations must be addressed to support the proposal of recommendations to solve problems or to correct the implementation on the basis of reasonable academic theories.
- (iii) Record inspection outcomes during the inspection by using the prescribed Inspection Report Form for the Implementation in accordance with the Measures.
- (iv) At the end of each inspection, assess and summarize the inspection outcomes for contractor and project owner's information and, if there is any urgent environmental impacts, such as damaged road that may cause accidents, requiring prevention/solution, UAE must provide immediate guidelines to solve and to cease impacts first before proposing long-term solutions to eliminate the impacts further. In this regard, the summary needs to provide details with supporting pictures to create clear understanding on inspected issues.
- (v) Prepare inspection summary and provide to contractor and project owner for their reference within 5 days from the day of inspection.
- (vi) Prepare inspection summary and provide to contractor and project owner copies for their review and consideration by: (a) submitting the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures for pre-construction period within 30 days from the last days of inspection follow-up of pre-construction environmental impacts to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) (6 sets of summary in Thai language); (b) submitting monthly the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures within 30 days from the last days of inspection follow-up of pre-construction environmental impacts to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) (6 sets of summary in Thai language); and (c) submitting the Inspection Summary of Implementation in accordance with the Environmental Impact Prevention and Correction Measures and the Environmental Impact Inspection Follow-up Measures in accordance with conditions to submit report every 6 months (in January and July of every year during pre-construction phase and construction phase) to Sino-Thai Engineering & Construction Public Company Limited in order to further submit to the Mass Rapid Transit Authority of Thailand (MRTA) and the *Office* of Natural Resources and Environmental Policy and Planning (6 sets of summary in Thai language).

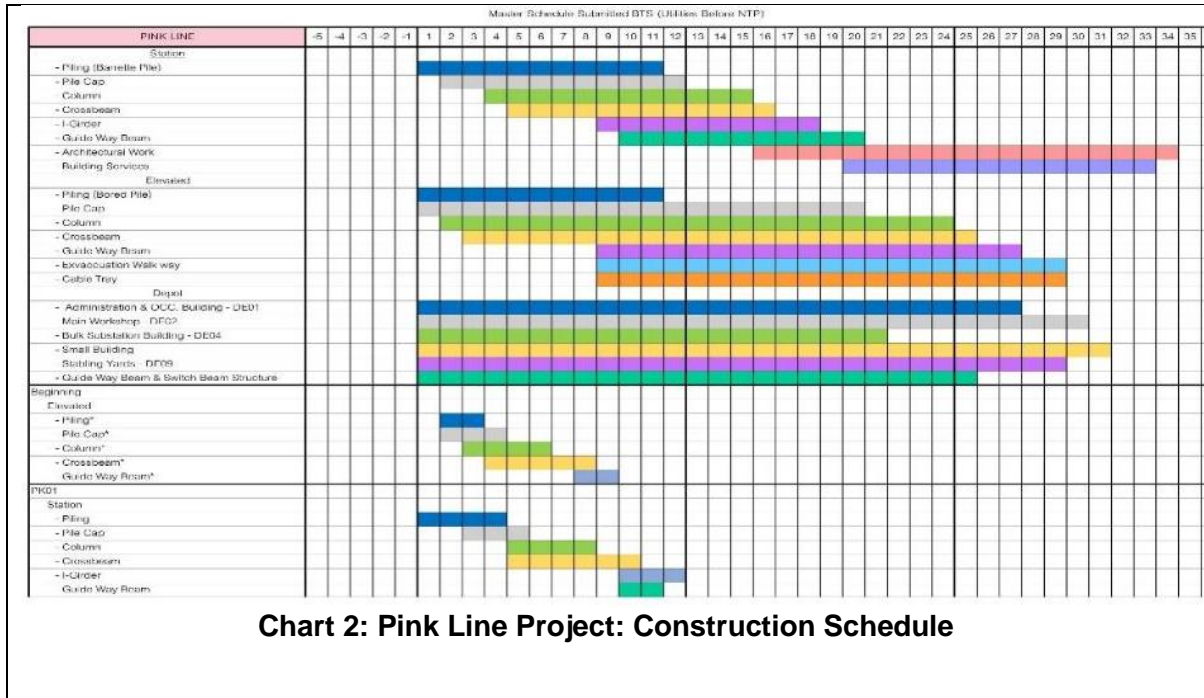


133. Apart from MRTA, other government agencies will also monitor the project on aspects within their legal mandate. These agencies are the Department of Labor Protection of the Ministry of Labor, ONEP of the Ministry of Natural Resources and Environment; BMA and concerned provincial and district offices.



## Chapter 9: Implementation Schedule and Budget

134. The Pink Line Project is scheduled to operate in 2020 with the construction period lasting 34 months (Chart 2). The land acquisition process started with the issuance of the Royal Decree on 16 December 2014. On August 2017, the full inventory of affected people and assets was done and land acquisition and compensation was 20% complete. The percentage of completion is expected to be 60% in March 2018 and full completion on May 2019. The total construction cost is estimated at 56,725,000 Million Baht (1,736,101 Million USD) with 6,847,000 Million Baht (209,553 Million USD) allocated for land acquisition.<sup>41</sup>



<sup>41</sup> <http://www.mrta.co.th/en/projectelectrictrain/pinkline/>

## Chapter 10: Conclusions and Recommendations

135. The audit finds that the land acquisition and compensation process followed the provisions of Thai laws and the MOT manual. During EIA preparation, MRTA requires the EIA preparer to assess the land acquisition and resettlement impacts and calculate the budget required, discloses information on project impacts, explain the land acquisition process and eligibilities of affected people. MRTA also participates in the consultations with affected people. Such information is documented and incorporated in the EIA. Following the approval of the EIA by the NEB, a decree is issued and the detailed resettlement planning and implementation process which follows are consistent with ADB requirements. MRTA has taken due care to assess the nature and scope of impacts on each affected property; conducted a census and full asset inventory, and disclosed information on impacts, entitlements and compensation to affected people. Compensation standards and methodology for valuating land have been validated.

136. The audit also shows that MRTA's practices on land acquisition and resettlement for the Pink Line are in line with ADB's SPS SR2 on Involuntary Resettlement. MRTA land acquisition process is aligned with the following ADB requirements: (i) survey or census of displaced persons specifically related to resettlement impacts; (ii) conduct of meaningful consultation; (iii) disclosure of information to displaced persons on their entitlement and options; (iv) grievance redress mechanism; (v) assistance provision of displaced persons; (vi) improvement of living standards of vulnerable groups; (vii) non-land compensation and assistance to those without land titles; (viii) compensation payment before displacement; and (ix) monitoring of resettlement outcomes. The comparison between these provisions and practices with ADB's requirements shows that the gaps are in negotiated settlement procedures and attention to vulnerable groups in consultation. But both requirements are not applicable to the Pink Line Project. With all private lands under expropriation, there will be no negotiated settlement. On the attention to vulnerable groups in consultation, the result of pre-construction survey identified that no affected household is living below the country's poverty line who can be considered vulnerable.

137. With respect to key principles, for example, the need to avoid and/or minimize impacts, the audit shows that Pink Line project implemented measures to reduce land acquisition through technology selection, station location and modification of station design. In October 2015, it was estimated to acquire 44.3 hectares belonging to 648 parcels. The number of parcels reduced to 568 parcels in October 2017 and correspondingly the area land for acquisition.

138. Where the audit found sufficient information to be able to compare the market prices for the land being acquired, the audit finds that compensation offers issued by MRTA for affected assets are equivalent to or above the market rate and therefore adheres to Thai legal requirements. . This is established by comparing the amount of compensation for land (per  $wa^2$ ) to three valuation (i) Department of Treasury valuation of the same affected parcel; (ii) the internet-advertised and (iii) real estate appraisal company's estimate of the price of land in the vicinity of the affected parcels. The MRTA land prices are higher than the valuation prices of the Department of Treasury, internet advertisements and AREA based on their average values. The higher MRTA prices compared to the Department of Treasury valuation prevails in all districts and the average MRTA land price is higher compared to the three valuation prices. *(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)* ... In addition to paying compensation at market rates, MRTA also covers administrative or transaction costs, among other assistance which aligns MRTA practices with ADB SPS SRS2 requirements for compensation at replacement cost. Where there are MRTA prices lower than the internet advertised prices or with real estate appraisal company's valuation or both, this is likely due several reasons (i) internet advertised asking prices most likely shows

the price of land and structures given that the Project area is in a heavily built urban metropolis, (ii) the parcel's peculiarities – shape of land or the distance of the parcel from the area referenced in the real estate appraisal company's valuation; (iii) lack of data on sales of land in the vicinity. Nevertheless, MRTA has a robust grievance mechanism where the affected household can file as case in the grievance mechanism. If it is deemed the prices paid is unfair to the affected person, the law provides that the minister with the approval of the Council of Ministers can order the Compensation Committee to reappraise the prices and reset the compensation rates.

139. Compensation offers for structures, other fixed assets, and lost income due to business disruption is following Thai laws. This audit these consistent with ADB SPS requirement to replace lost fixed assets and income. Where there are any grievances on structure compensation, those affected can easily obtain the price of building materials from the Bureau of Trade and Economic Indices, Office of Permanent Secretary of Ministry of Commerce, or Provincial Commercial Office. They can also get the labor cost from the Budget Standard Bureau, Bureau of the Budget and from the Ministry of Labor. For trees, the price estimate are in the Provincial Agricultural Extension Office. To check the computation, the affected person can refer to the MOT Manual of Compensation which is readily available.

140. Moreover, if the affected person is still dissatisfied with the compensation, the MRTA receives written complaints. The minutes of Monthly meetings between BTS, NBN and MRTA shows that complaints are referred to NBM for solution even before it is formally sent to the Minister which is the first step in the formal grievance redress process. There are examples of NBM resolving these complaints by accommodating the need of the complainant whenever it is technically feasible. If the complaint will proceed to the office of the Minister, the procedures are in place. If it will proceed further to the court, it will be heard in the Administrative Court, which is considered independent and impartial.<sup>42</sup>

141. Based on the replacement value of the amount of compensation for lost income, payment for various transfer costs, duration of monthly compensation payment and time required to establish a new business in Thailand, it is concluded that the MRTA arrangement would suffice to restore livelihood of affected person.

142. With respect to monitoring and reporting, MRTA requires monthly and semi-annual external monitoring of the Environmental Management Plan. However, this does not cover progress of land acquisition and resettlement. These are monitored by MRTA separately. ADB proposes to engage an independent social monitor to work with MRTA to prepare reports semi-annually of the progress of land acquisition and resettlement, including monitoring of unanticipated involuntary resettlement impacts resulting from adjustments in design for the Project upto completion.

143. MRTA has been continuously negotiating with affected people and provided information demonstrating a functional grievance mechanism which is responsive to people's concerns through various changes made in Project specifications in order to accommodate requests and minimize impacts to properties. This audit concludes that the reputational risk to ADB and risks to the Project of MRTA-led land acquisition and compensation activities is low.

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<sup>42</sup> Werachon P. and W. Werachon. Eminent Domain Expropriation of Land. <http://pattayatoday.net/property-business/legal-advice/eminent-domain-expropriation-of-land/>



## Appendix 1

### Land and Buildings Within the Right-of-Way and Areas to be Expropriated

Code	Category		Area		Structures (No of Rooms)		Value (THB)			Total Value
	Public	Private	Public	Private	Public	Private	Land	Structures	Other Items	
PK-01	4	0	6-3-43.76	0-0-0	0	0	413,786,515		41,378,552	466,164,067
PK-02	1	37	0-0-0.74	0-0-39.34	0	34	8,711,721	1,006,992	977,872	10,766,586
PK-03	0	26	0-0-0	0-0-62.43	0	24	11,963,084	979,776	1,293,287	14,225,147
PK-04	0	21	0-0-0	0-0-90.07	0	14	17,391,402	2,983,680	2,037,510	22,412,592
PK-05	2	0	0-0-39.67	0-0-0	0	0	2,561,087		256,109	2,817,196
PK-06	0	16	0-0-0	5-0-71.27	0	12	345,804,102	35,217,630	38,102,173	419,123,905
PK-07	0	19	0-0-0	0-0-70.6	0	16	20,467,519	435,456	2,090,299	22,993,274
PK-08	0	8	0-0-0	0-0-41.24	0	0	9,360,609		936,061	10,296,670
PK-09	5	3	2-0-22.6	0-0-85.57	1	2	155,841,972	23,363,676	17,920,566	197,126,213
PK-10	1	4	0-0-17	0-0-2.05	0	0	4,709,548		470,955	6,180,503
PK-11	1	36	0-0-0.18	0-0-94.01	0	0	34,717,469		3,471,746	38,189,214
PK-12	2	4	0-0-47.96	0-0-62.16	0	1	18,313,152	157,500	1,847,064	20,317,716
PK-13	1	10	0-0-31.3	0-0-31.3	0	0	12,331,106		1,233,110	13,564,215
PK-14	1	1	0-0-98	2-1-90.5	0	0	261,886,625		26,188,663	288,076,288
PK-15	1	1	0-1-4.17	0-0-3.75	0	0	14,183,056		1,418,306	15,601,360
PK-16	0	4	0-0-0	3-2-76.95.	0	0	275,686,840		27,568,684	303,266,524
PK-17	0	5	0-0-0	0-0-69.56	0	0	18,785,824		1,878,581	20,664,405
PK-18	0	5	0-0-0	0-0-53.72	0	0	15,937,350		1,593,736	17,531,086
PK-19	0	11	0-0-0	0-0-9.48	0	0	2,552,908		266,292	2,808,200
PK-20	0	33	0-0-0	0-0-36.14	0	0	10,336,040		1,033,604	11,369,644
PK-21	13	5	0-0-73.87	0-0-6.16	0	0	11,189,968		1,118,997	12,308,965
PK-22	0	5	0-0-0	0-0-42.91	0	1	8,192,613	167,626	836,025	9,186,254
PK-23	0	2	0-0-0	0-0-42.26	0	0	4,211,350		421,136	4,632,406
PK-24	0	12	0-0-0	0-0-37.65	0	0	7,029,143		702,915	7,732,068
PK-25	2	3	0-0-23.96	0-0-60.08	0	0	10,736,954		1,073,696	11,810,640
PK-26	0	0	0-0-0	0-0-0	0	0				
PK-27	0	1	0-0-0	0-0-20.02	0	0	744,344		74,434	818,778

PK-28	0	4	0-0-0	0-0-35.8	0	0	4,245,370		424,538	4,669,908
PK-29	1	31	0-0-34.9	0-0-21.98	0	0	12,404,678		1,240,467	13,646,146
Depot	0	79	0-0-0	229-0-43.94	0	9	1,797,124,259	105,607,908	190,273,221	2,093,005,388
9+500-11+100	8	52	2-3-69.01.	10-3-60.56	0	16	1,291,242,581	75,933,522	136,717,610	1,503,993,713
14+900-15+800	2	30	0-0-81.74	3-1-8.36	0	15	329,312,268	51,362,892	38,067,517	418,742,677
32+200-32+700	0	14	0-0-0	1-3-17.88	0	4	83,066,213	9,947,962	9,301,318	102,314,483
16+400-17+800	11	109	2-2-79,34	3-1-89.97	0	37	408,467,077	203,179,914	61,164,701	672,811,692
TOTAL	57	591	15-3-42.88	282-1-56.89.	1	184	5,623,342,745,	510,334,524	613,367,741	6,747,045,010

Source: TEAM Consulting Engineering and Management Co. Ltd. October 2015. Amendment Report: Environmental Impact Assessment. The Pink Line MRT Project Khae Rai-Min buri

## Appendix 2

### Identified Affected Assets in the Site Reconnaissance on 17-20 October and 7-13 November 2017),

Station	Affected Private Land and Structures
1: Nonthaburi Civic Center Station	Land: 2.5-meter width for two stair entrances Structure: None
2: Khae Rai Station	Land: None Structure: Awnings
3: Sanambin Nam Station	Land: Area under the awning of about 100 meter in length Structure: Awnings
4: Samakkhi Station	Land: None Structure: Awnings
5: Royal irrigation Department Station	Land: None Structure: None
6: Pak Kret Station	Land: Land tract 55 meters from the building frontage to accommodate a curve. Land for road widening of unspecified size. Structure: 4-storey unfinished building
7: Pak Kret Bypass Station	Land: 2 meters from the public easement boundary Structure: Concrete wall and part of parking lot
8: Chaeng Watthana-Pak Kret 28 Station	Land: 3 meters from the public easement boundary on each side. Structure: Within the 3 meters from the easement boundary one side is a bicycle shop and on the other side, part of a parking lot of Central Department Store
9: Mueang Thong Thani Station	Land: 1-3 meters from the boundary of public easement owned by Expressway Authority of Thailand (EAT) to accommodate a curve Structure: None
10: Si Rat Station	Land: Unspecified land area for the spur line Structure: Unspecified number of structures for the spur line
11: Chaeng Watthana	Land: None Structure: Awnings
12: Government Complex Station	Land: No private land; Unspecified area of government land Structure: Wall of Royal Thai Army building on one side and the Department of Consular Affairs on the other side
13: TOT Station	Land: 1-2 meters from the public easement boundary on one side; 10 meters from the public easement boundary. Structure: None
14: Lak Si Station	Land: 1-6 meters width to accommodate separate path for the train; Structure: Part of the parking lot of IT Square and of three private buildings
15: Rajhabat Phranakhon Station	Land: 1 -3 meters from the station on one side and 3 meters from the public easement including a part of an area of a temple. Structure: None
16: Wat Phra Si Maha That Station	Land: No Private land: Area serving as parking lot of police station Structure: Part of four-storey condominium and trees; roof of unspecified houses of informal settlers
17: Ram Inthra 3 Station	Land: One meter from the public easement boundary Structure: Part of the parking lot of Central Plaza

<b>Station</b>	<b>Affected Private Land and Structures</b>
18: Lat Pla Khao Station	Land: One meter from the public easement boundary Structure: None
19. Ram Inthra 31 Station	Land: None Structure: None
20. Maiyalap Station; Soi 39-41	Land: None Structure: None
21. Vachraphol Station/ Soi 57/61	Land: 4-5 meters from the public easement boundary Structure: One car repair building
22. Ram Inthra 40 Station	Land: One meter from the public easement boundary on one side and 2 meters on another side Structure: None
23: Khu Bon Station	Land: One meter from public easement boundary on one side Structure: Awnings
24: Ram Inthra 83 Station/ Soi 83	Land: None Structure: None
25: East Outer Ring Road Station	Land: One meter from public easement boundary on both sides. Structure: Frontage of one building
26: Nopparat Rajathanee Station	Land: One meter from the public easement boundary in some parts Structure: None
27: Bang Chan Station	Land: None Structure: None
28: Setthabutbamphen Station	Land: None Structure: Awnings
29: Min Buri Market Station	Land: i-2 meters on one side; 105 square meters occupied by a small building to be affected by a curve Structure: One 2-storey building in an area of 105 square meters area with 10 shops in the first storey; Temporary shops outside a private market
30: Min Buri Station; Depot, Park and Ride Area	Land: 30 hectares of grassland and paddy field with 155 land owners Structure: One building and one house



## **B. Site Visit Notes and Photos - Pink Line - October 19, 2017 (Updated Nov 2017)**

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

## **Appendix 3**

### **Result of Assessment of Average MRTA Land Prices**

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

## Appendix 4

### **Land Prices Gathered from Internet Advertisements by Location**

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)

## **Appendix 5 Examples of Modifications Based on Discussions with Affected People**

(This information has been removed as it falls within the exceptions to disclosure specified in para 97(v) of ADB's Public Communication Policy)