

# Involuntary Resettlement Guidelines

---

Project No.: 52129-001  
May 2018

## Tonga: Cyclone Gita Recovery Project

Prepared by Tonga Power Limited, Kingdom of Tonga and the Ministry of Finance and National Planning, Kingdom of Tonga, for the Asian Development Bank (ADB)

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



## CONTENTS

### ABBREVIATIONS

### GLOSSARY OF TERMS

I.	INTRODUCTION	1
A.	Project Component and Activities	2
B.	Local Infrastructure Requirements	2
C.	Implementation Arrangement and Schedule	2
D.	Potential Resettlement Impacts	3
II.	OBJECTIVES	3
A.	Objectives of the Land Acquisition and Involuntary Resettlement Guidelines	3
B.	Comparison of Tongan Laws on Land Acquisition and Compensation and ADB Safeguard Policy Statement	3
C.	ADB's Safeguard Policy Statement: Requirements on Involuntary Resettlement	5
D.	Comparison of ADB Safeguard Policy and Tonga Laws, Regulations and Procedures	6
E.	Principles and Policies of the Project	10
F.	Project Screening	11
G.	Preparation of Safeguards Documents	11
III.	SOCIOECONOMIC INFORMATION	12
IV.	ENTITLEMENTS AND VALUATION PROCESS	12
A.	Eligibility Criteria for Defining Types of Displaced Persons	12
B.	Calculation of Compensation for Land	13
C.	Calculation of Compensation for Loss of Agricultural Production	14
D.	Calculation of Compensation for Structures	14
E.	Calculation of Compensation for Businesses	15
F.	Calculation of Compensation for Community Assets	15
G.	The Valuation Process	15
H.	Vulnerable People and Gender Considerations	19
V.	CONSULTATION, PARTICIPATION, AND DISCLOSURE	20
A.	Project Stakeholders	20
B.	Consultation and Participation	20
C.	Vulnerable People and Gender Consideration	21
D.	Further Information Disclosure	21



VI.	COMPENSATION, INCOME RESTORATION, AND RELOCATION	21
	A. Compensation	21
	B. Income Restoration	22
	C. Relocation	22
VII.	GRIEVANCE REDRESS MECHANISMS	23
	A. Grievance Coordination	23
	B. Grievance Procedures	23
VIII.	IMPLEMENTATION, BUDGETING, AND MONITORING	24
	A. Institutional Arrangements	24
	B. Implementation of Activities	25
	C. Budget and Financing	26
	D. Monitoring, Evaluation, and Reporting	26
ANNEXES		
	A. Brief Outline of Tongan Laws Relating to Land Acquisition and Resettlement	28
	B. Land Acquisition and Resettlement Screening Form	30
	C. Outline of a Resettlement Action Plan	32
	D. Terms of Reference for Environment and Social Unit	36

#### FIGURES

1. Locations of Project Areas on Country (Tongatapu) Map
2. Grievance Procedure

#### TABLES

1. Comparison of Tonga Law and ADB Safeguard Policy Statement of Land Acquisition and Resettlement
2. Entitlement Matrix
3. Responsibilities for Resettlement Implementation



## ABBREVIATIONS

ADB	-	Asian Development Bank
APs	-	Affected People/ Persons
DFAT	-	Department of Foreign Affairs and Trade (Australia)
DMS	-	Detailed measurement survey
EA	-	Executing Agency
EMA	-	External Monitoring Agency
ESU	-	Environment and Social Unit
GFP	-	Grievance Focal Point
IA	-	Implementing Agency
IR	-	Involuntary Resettlement
LAR	-	Land Acquisition and Resettlement
MEIDECC	-	Ministry of Meteorology, Environment, Information, Disaster Management, Energy, Climate Change and Communication
MFAT	-	Ministry of Foreign Affairs and Trade (New Zealand)
MFNP	-	Ministry of Finance and National Planning
MPE	-	Ministry of Public Enterprises
PMU	-	Project Management Unit
RP	-	Resettlement Plans
RRP	-	Report and Recommendation of the President
SPS	-	Safeguard Policy Statement 2009
TPL	-	Tonga Power Limited





## GLOSSARY OF TERMS

<p><b>Affected persons:</b> Term used to describe all people that are affected by the project impacts. In the context of this document, it refers to those that are economically or physically displaced by the project. In the context of a resettlement plan (RP) it refers to those that are economically or physically displaced by the project. It is increasingly being replaced by the term “displaced person” following ADB Safeguard Policy 2009 – but is still in common use in the field.</p>
<p><b>Compensation:</b> Means payment in cash or kind for an asset to be acquired or affected by a project at replacement cost at current market value.</p>
<p><b>Cut-off date:</b> Means the date after which people will NOT be considered eligible for compensation, i.e., they are not included in the list of affected persons (APs) as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey.</p>
<p><b>Displaced persons:</b> In the context of involuntary resettlement, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. This project is not expected to create any physical displacement.</p>
<p><b>Economic displacement:</b> Loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.</p>
<p><b>Encroachers:</b> Mean those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project.</p>
<p><b>Entitlement:</b> Means the range of measures, comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation due to business restoration that are due to affected people, depending on the type and degree of their losses, to restore their social and economic base.</p>
<p><b>Inventory of losses:</b> Means the pre-appraisal inventory of assets as a preliminary record of affected or lost assets. Also referred to as the detailed measurement survey (DMS).</p>
<p><b>Land acquisition:</b> Means the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns or possesses to the ownership and possession of that agency, for public purposes, in return for fair compensation.</p>
<p><b>Meaningful consultation:</b> A process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to APs; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.</p>
<p><b>Non-eased (Non-titled):</b> Means those who have no recognizable rights or claims to the land that they are occupying and includes people using private or state land without permission, permit, or grant, i.e., those people without legal lease to land and/or structures occupied or used by them. ADB’s policy explicitly states that such people cannot be denied compensation.</p>
<p><b>Physical displacement:</b> Relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. This project is not expected to create any physical displacement.</p>
<p><b>Poor:</b> The poverty line established is T\$1638 per capita per year. It is estimated that 27% of Tongan households received incomes below that line, meaning that they experienced periodic difficulties in meeting their daily costs of living for food and other essential expenditures.</p>
<p><b>Replacement cost:</b> Means the method of valuing assets to replace the loss at current market value, or its nearest equivalent, and is the amount of cash or kind needed to replace an asset in its existing condition, without deduction of transaction costs or for any material salvaged.</p>



**Significant impact:** Means 200 people or more will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive (income-generating) assets.

**Vulnerable:** Means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and includes (i) female-headed households with dependents, (ii) disabled household heads, (iii) poor households (within the meaning given previously), (iv) landless, (v) elderly households with no means of support, (vi) households without security of tenure, (vii) ethnic minorities, and (viii) marginal farmers (with landholdings of 2.023 ha or less).



## I. INTRODUCTION

1. This Involuntary Resettlement Guidelines (IRG) has been prepared for the proposed Cyclone Gita Recovery Project (the Project). The purpose is to address any unanticipated involuntary land acquisition and resettlement impacts from implementation of replacing and climate proofing the network. It outlines the resettlement policy principles, procedures, and institutional arrangements to mitigate risks and offer sustainable livelihood and development opportunities to the people affected by the project. It is based on applicable laws and regulations of Tonga and the Safeguard Policy Statement (SPS) of the Asian Development Bank (ADB).
2. The Cyclone Gita Recovery Project has been prepared to support the Government of Tonga reconstruct and climate proof the main electricity grid network in the Nuku'alofa Area which were damaged by Tropical Cyclone Gita. On the evening of 12 February and early morning of 13 February 2018, Tropical Cyclone Gita passed directly through the main island of Tongatapu and the nearby island of 'Eua causing substantial damage. An estimated 80,000 people were directly affected (around 75% of the population) and an estimated 800 homes were destroyed and a further 4,000 damaged. The electricity network was also substantially damage, disconnecting all Tonga Power Limited (TPL) customers in Tongatapu and 'Eua.
3. The government declared a state of emergency for the whole of Tonga on 12 February 2018 and led a post-disaster rapid assessment with assistance from development partners including ADB. The assessment estimated the total value of effects caused by the cyclone to be approximately \$164.3 million, equivalent to about 38% of the nominal 2017 gross domestic product in Tonga. The total recovery and reconstruction cost is estimated at \$148.7 million, of which \$45.9 million is for the energy sector, including the cost of reconstruction of the power grid infrastructure assets on Tongatapu to a higher disaster resilience standard.
4. The project will finance reconstruction and "building back better" of priority areas of the Nuku'alofa electricity network particularly from Mataki'eua, Tofa to Fanga composed of around 11 villages. The project will finance the reconstruction and of the immediate priority areas of the Nuku'alofa electricity network, identified as the most affected by the cyclone. The project will restore access to electricity supply and upgrade them to a higher disaster resilience standard.
5. All the physical components included in the project are located in the Nuku'alofa Area on the island of Tonga. Nuku'alofa is the capital and largest city of Tonga, and it is located on the island of Tongatapu. More than 73% of Tonga's total population live on the main island of Tongatapu, with 34% of this lives in Nuku'alofa. As per 2016 census, the total population of Tongatapu was 109,008, with 31,375 living in the Nuku'alofa area, and 6,255 households. The Nuku'alofa Area covers a total land area of 9.4 square miles.

**Figure 1: Locations of Project Areas on Country (Tongatapu) Map**



Source: [http://www.lib.utexas.edu/maps/islands\\_oceans\\_poles/tonga\\_pol\\_1989.pdf](http://www.lib.utexas.edu/maps/islands_oceans_poles/tonga_pol_1989.pdf)

## A. Project Components and Activities

6. The project will rehabilitate the existing 11 kilovolt (kV) overhead network and the existing low voltage overhead network using disaster resilience measures including modern aerial-bundled conductors; and install new 11/0.4 kV distribution transformers and new underground service cables to customer premises with new smart meters. The main components of the project are listed below:

(i)	km of HV network	-	16 km
(ii)	No. of HV/LV trafos	-	35 tx's (10new and 25 rebuilds)
(iii)	km of LV network	-	58km
(iv)	No. of meters	-	1736

## B. Local Infrastructure Requirements

7. The local infrastructure requirements for the project are the roads, existing/planned generation units and the pre-existing distribution grids. The roads need to be available to transport necessary material and equipment during installation. It is estimated that a maximum of nine trucks will be moving daily for a maximum 3-4 days at each location during peak construction time. The upgraded grid system will be connected to the existing/new generation units which will feed energy to it.

## C. Implementation Arrangement and Schedule

8. The government through its Ministry of Finance and National Planning (MFNP) will be the executing agency (EA) of the Project. The implementing agency (IA) will be Tonga Power Limited (TPL). TPL has key hands-on expertise and will nominate counterpart staff with adequate capacity in engineering and power system planning, finance, environment, and social areas. Specifically, an Environment and Social Unit (ESU) will be established within TPL Project Management Unit

(PMU) to implement and monitor safeguards with capacity building support provided by the project. TPL will also carry out the operations and maintenance (O&M) of the network. During project implementation a project steering committee chaired by the MFNP will supervise project implementation. An assessment of TPL, the proposed implementing agency, confirmed that the organization is well capable of taking on and managing the proposed Project. TPL has the necessary resources, experience and technical and commercial services to ensure a successful outcome. It is envisaged that the project will be implemented between June 2018 and December 2020.

#### **D. Potential Resettlement Impacts**

9. It is acknowledged that there are no impacts evident in the proposed components as all upgrade works are contained within the current boundaries that are owned or have existing land arrangements with TPL. Any further designs will also avoid significant impacts defined as follows: (i) acquiring more than 10% of household land; (ii) acquiring any other assets, such as buildings or businesses; and/or (iii) physically displacing a household.

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

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

## **II. OBJECTIVES**

### **A. Objectives of the Land Acquisition and Involuntary Resettlement Guidelines**

12. This IRG is a government document reflecting Tonga's relevant laws and policies and ADB's specific requirements under the ADB SPS 2009. The IRG provides a compensation/rehabilitation guide detailing agreed upon compensation/rehabilitation provisions that are shared by the government and the ADB. It also provides specific guidance on the particular ADB requirements for planning and implementing LAR under the grant.

13. This IRG applies to all landholders and affected person, should there be any, with land status affected permanently or temporarily due to the installation of power poles, high-voltage and low-voltage network, installation of meters (including dredging), and temporary or permanent storage during construction. It also applies to people whose use of land, registered or not, changes as the result of the investment. The IRG does not apply to state land that is transferred from one authority to another, or is used for construction, unless third parties are adversely affected by the transfer or use.

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

14. **Land Tenure in Tonga.** Under the Constitution of Tonga (1875) all land in the Kingdom belongs, in principle, to the Crown and is classified as (i) King's estate, (ii) hereditary Royal Family estates, (iii) hereditary estates of Nobles, or (iv) Government land. The latter two categories are

subdivided into allotments for the rest of the people of Tonga. In theory, every Tongan male over the age of 16 is entitled to an agricultural (tax) allotment of 3.3 hectares (ha), and a residential (town) allotment not exceeding 1,618 square meter for residential purposes. In practice, there is now little land available for distribution, particularly in the Nuku'alofa area.

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

16. **Involuntary Land Acquisition and Resettlement in Tonga.** There are no laws or legislation in Tonga that specifically address matters related to involuntary resettlement. Rather land acquisition is governed by the following laws:

- (i) Constitution of Tonga,
- (ii) Government Act, and
- (iii) Land Act.

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

- (i) Roads Act,
- (ii) Transport Services Act,
- (iii) Harbors Act,
- (iv) Emergency Management Act,
- (v) Building Control and Standards Act,
- (vi) Building Code Regulations,
- (vii) Shipping Act,
- (viii) National Spatial Planning and Management Act,
- (ix) District and Town Officers Act, and
- (x) Land Use Policy

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

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

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



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

- (i) The King may call on a landholder to give up possession of land provided that the Privy Council is satisfied that the land is required for public purposes.
- (ii) The Minister of Land shall give notice in writing to the landholder of the resumption of land. This notice must be given at least 30 days before the date on which it is intended to resume possession of the land.

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

22. In the absence of detailed procedures for land acquisition, the PMU should ensure that any land to be resumed should have its ownership confirmed and be fully mapped, surveyed, and valued prior to submission to the Ministry of Lands and Natural Resources (MLNR) for processing.

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

### **C. ADB's Safeguard Policy Statement: Requirements on Involuntary Resettlement**

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

25. In the context of involuntary resettlement, the objectives of the SPS are to:

- (i) avoid involuntary resettlement wherever feasible, and minimize involuntary resettlement through assessing project alternatives and alternative project designs; and
- (ii) enhance or at least restore the livelihoods of all affected people (APs) in real terms relative to pre-project levels and improve the standards of living of the affected poor and other vulnerable groups. The SPS principles on involuntary resettlement are:
  - a. screen early and assess resettlement impacts;
  - b. carry out consultations with APs and develop a grievance redress mechanism;

- c. improve/restore livelihoods of APs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate;
- d. provide appropriate assistance to physically displaced APs;
- e. improve living standards of poor APs and other vulnerable groups;
- f. develop transparent procedures for negotiations;
- g. provide assistance and compensation to non-titled APs for loss of non-land assets;
- h. prepare RPs;
- i. disclose RPs to APs and other stakeholders and document the consultation process;
- j. conceive and execute resettlement as part of the project;
- k. deliver entitlements to APs before their physical or economic displacement; and
- l. monitor and assess resettlement outcomes.

#### **D. Comparison of ADB Safeguard Policy and Tonga Laws, Regulations and Procedures**

26. The detailed comparison of Tonga laws/regulation and the ADB SPS requirements on land acquisition/resettlement and necessary gap-filling measures are outlined in Table 1 below. Comparison of the Tonga Land and Acquisition and Resettlement (LAR) laws with the ADB requirements on involuntary resettlement under the SPS indicates that key elements of the ADB Policy are present in Tonga laws—particularly those related to valuation of immovable property. ADB's principle of avoidance or minimization of resettlement is also reflected in Tongan Legislation.

**Table 1: Comparison of Tonga Law and ADB Safeguard Policy Statement on Land Acquisition and Resettlement**

<b>ADB SPS Requirements on Involuntary Resettlement</b>	<b>Tonga's Law on Land Acquisition/Resettlement</b>	<b>Equivalence or Gaps between ADB SPS and Tonga's Law</b>	<b>Gap-filling Measures for the Project</b>
Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives.	Not specified in Tongan law.	Gap	ADB policy will be followed.
Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Improve the standards of living of the displaced poor and other vulnerable groups.	Tongan law does not provide for compensation to improve livelihoods or housing, or specify the type or timing of compensation payable for assets.	Gap	ADB policy will be followed.
Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement	Not specified in Tongan law.	Gap	ADB policy will be followed.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.			
Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and IPs, and those without legal title to land, and ensure their participation in consultations.	<p>No specific policy in Tongan Law.</p> <p>However, customary practice is to consult with all affected and potentially affected people. APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.</p> <p>There are no specific provisions for vulnerable people in Tongan law. However, such practice is embedded in the customs and traditions of Tonga and the land tenure system.</p> <p>No specific policy in Tongan Law distinguishing between rich and poor; all citizens are treated equally.</p>	Tongan practice is in line with ADB policy.	Customary practice will be followed, with additional inclusion of specific ADB requirements.
Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.	<p>Grievance redress mechanisms are approved by Tonga on a project-by-project basis.</p> <p>Given traditional and customary processes of communication, community structures and leadership, procedures are often well communicated.</p> <p>However, these same societal structures can allow for power differentials to occur.</p>	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
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	Land Act, Section 141 provides powers to the Minister of Lands in case of loss of land for compensation in the form of land and/or cash.	Tongan policy complies with ADB policy.	None required.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.	Land Act, Section 141 (2) provides for the payment of cash compensation for loss of structures.  Tongan Land law provides for compensation to legal land users for crop/tree losses at rates determined by the government and established by Ministry of Agriculture. In practice, compensation is generally paid within a timeframe prior to the action of the civil works.		
Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.	No specific policy in Tongan Law.  Tongan customs and traditions provide support for certain groups.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas, provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	Tongan law does not provide for compensation to improve livelihoods or housing.  Tongan customs and traditions provide support for certain groups. There is no law relating to this provision.	Gap.	ADB policy will be followed.
Develop procedures in a transparent, consistent, and	Not specified in Tongan law.	Gap.	ADB policy will be followed.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.			
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 non-land assets.	Land users with no legal registration have no rights.	Gap.	ADB policy will be followed.
Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	Land Act, Section 142 requires the Minister of Lands to notify affected persons of Government's intention to acquire land at least 30 days prior to resumption.  In practice, APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary	Not specified in Tongan law.	Gap.	ADB policy will be followed.

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

**E. Principles and Policies of the Project**

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

- (i) The cut-off date for identifying affected lands, families and people will be identified at the conclusion of the detailed measurement survey (DMS) following the detailed design or when any affected people within the proposed subproject routes/boundary are informed.
- (ii) Project planning will avoid or minimize the need for acquisition of land and will avoid acquisition of houses and other buildings.
- (iii) Where there will be permanent or temporary acquisition of land or assets affected, identification of impacts and compensation and assistance for the same will be provided prior to affecting any assets or commencing civil works.
- (iv) All APs will receive compensation or assistance at replacement cost, even if they are without lease or formal recognition.
- (v) All construction through agricultural land will be timed to avoid any impacts on the income and activities of adjoining land parcels. If impacts do occur, compensation will be provided to affected land and crops.
- (vi) All construction over public rights-of-way—footpaths, driveways, and roads—will be undertaken rapidly and without undue delay to avoid inconvenience to businesses and residences.

- (vii) Detailed consultations will be available for all affected households and businesses to keep them informed of the process. Representatives of affected households and businesses will be meaningfully consulted, including involving in valuation meetings. Negotiation will be conducted in a fair, transparent and equitable manner.
- (viii) A grievance procedure will be established. When a land leaseholder or user does not agree with a decision regarding compensation or change of the land use (lease), it may not be exercised before the dispute is resolved judicially. In addition, any person who feels that s/he in any way worse off can take her/his grievance to the highest level, at the cost of the project.
- (ix) Project design will aim to avoid significant impacts (i.e., physical displacement or acquiring 10% or more of income-generating assets). Should significant impacts occur, such households will receive additional support, assistance, and compensation.
- (x) If a land plot becomes unviable due to acquisition, then the whole land plot will be compensated.
- (xi) Vulnerable groups, including female-headed households, the poor, disabled, or families with significant numbers of elderly or disabled members, will receive additional assistance to ensure that they are not severely affected.
- (xii) APs may use and exercise their rights to a land plot and make necessary expenditures in compliance with its purpose after notification of acquisition for public needs until compensation is agreed upon. However, there will be no entitlement to additional compensation based on these improvements if made after the cut-off date.

## **F. Project Screening**

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

## **G. Preparation of Safeguards Documents**

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

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

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

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

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

### **III. SOCIOECONOMIC INFORMATION**

32. In order to assess socioeconomic impacts, a social impact assessment will take place including:

- (i) A socioeconomic survey focusing on APs’ income-earning activities, livelihoods and standards of living. This should include secondary data sources, supplemented by information obtained from a survey of affected communities, carried out on a sample basis. Indicators for the socioeconomic survey will include, among others, (a) demographic, education, income, and occupational profiles; (b) livelihood and production systems, economic activities, income sources and poverty levels; (c) access to and use of land and natural resources, tenure security, and common property resources; and, (d) social and cultural systems and networks. All data must be disaggregated, as relevant, by gender and income group.
- (ii) Identification of present and future potential social impacts, based on baseline socioeconomic data collection and analysis.
- (iii) A census of displaced persons (100%) including basic demographic and socioeconomic data such as household size, age, gender, clan identity, religion, ethnicity, occupation, household income, and vulnerability.
- (iv) An inventory of their affected assets within the designated project area or construction limits, including land of various types (residential, commercial, and agricultural) and other immovable property (buildings, fences, sheds, irrigation canals, wells, water pipes, and other structures), where quantities and relevant measurements are clearly determined. This will be undertaken through a DMS.
- (v) Valuation of these assets at replacement costs as discussed above and according to local market prices, without deductions for age-related depreciation, recovery of salvageable materials, surveys or registration fees and other transaction costs.
- (vi) Collection of gender-disaggregated information pertaining to the economic and sociocultural conditions of APs.
- (vii) Analysis of potential impacts on identified vulnerable individuals and groups.

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



34. Apart from quantitative surveys, qualitative tools to be used include focus group discussions, interviews with key informants, participant observation, and other participatory techniques.

#### IV. ENTITLEMENTS AND VALUATION PROCESS

##### A. Eligibility Criteria for Defining Types of Displaced Persons

35. The main categories of displaced persons eligible for compensation include:
- (i) APs with formal legal rights (Type 1). This category also includes any leaseholders with formal legal rights as tenants.
  - (ii) Persons whose rights are not formal or legal, but whose claims on land or assets are recognized under national or customary laws, such as those having usufruct rights or informal leases on customary land. (Type 2).
  - (iii) Persons with no legal rights to land or assets at the time of assessment or census. (Type 3). This may include internally displaced people, squatters, or wage laborers, who depend upon the land acquired. They have neither legal rights nor recognizable ownership claims, but if the project land acquisition destroys their livelihoods, they are considered displaced persons and are entitled to receive resettlement assistance.

36. Owners of building, crops, plants, and other objects attached to the land, if any and people losing business, income and/or salaries are included as APs. APs and their affected assets will be identified through a DMS. APs settling in affected areas after the cut-off date will not be eligible for compensation. They, however, will be given sufficient advance notice to vacate and dismantle the affected land/structures. Their dismantled structures will not be confiscated nor will they will be fined or sanctioned.

##### B. Calculation of Compensation for Land

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

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

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

40. In the case where land is used by a person who does not have a formal lease at the cut-off date, the preferable course of action will be that all land used (leased or unleased) is combined under one lease, without fees, taxes or charges. In case the owner does not wish to lease the unleased land, an alternative plot will be found in a nearby area and combined with the users

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

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

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

### **C. Calculation of Compensation for Loss of Agricultural Production**

43. Agricultural production will be calculated for all farms and subsistence households and provide values for crops, trees, orchards, and gardens. Calculations will be made based on Ministry of Agriculture, Food, Fisheries and Forestry (MAFFF) compensation rates (as determined by the government) and adjusted to reflect current market rates.

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

### **D. Calculation of Compensation for Structures**

45. This Project is not expected to require acquisition of any buildings.

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

47. A detailed 'per unit cost' table will be established that covers the initial valuation for all housing types in an area. At the minimum it will detail square-meter costs for structures of different wall and roof types, finished and unfinished, improved and unimproved. In the case of new sites, the full land preparation costs will be calculated to ensure that the full cost for providing services and leases is understood by the relevant agencies. For partial impacts (structure wall, fences,

etc.), cash compensation at replacement rates will be paid to restore the remaining structure to its original state. Unaffected portions of a structure will also be compensated if they become unviable after impact occurs.

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

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

#### **E. Calculation of Compensation for Businesses**

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

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

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

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

#### **F. Calculation of Compensation for Community Assets**

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

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

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

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

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

#### **G. The Valuation Process**

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

60. **Land for Land.** The PMU will need to enter into negotiations with the traditional holder or other nearby registered land holders if this option is to be selected. Associated infrastructure requirements—service roads, drainage, sanitation, water supply, and electricity facilities—will be provided as part of site-preparation costs. All relocation activities will be carried out with the consent and cooperation of the APs. The relevant government authority will be instrumental in carrying out resettlement activities as scheduled. Utility corporations (water and power) will be compensated by the project for the provision of services (as with any other business), irrespective of whether the existing infrastructure is legal or not. The process for undertaking the land-for-land reallocation will include the following steps:

- (i) identification of all physically and/or economically displaced households, if any, their leased land and connected services, also identification of lands that are used but remain unleased;
- (ii) in discussion with nearby registered and traditional owners, undertake preliminary identification of appropriate land parcels for land-for-land reallocation prior to discussions with APs;
- (ii) preparation of a draft implementable land reallocation plan outlining proposed new land parcels for each AP; any voluntary land contributions from farmers; land preparation requirements (cost and locations of water, gas, roads, etc.); associated maps; and a draft agreement for each AP (containing lease number, total land size, new location and services/facilities to be provided) signed by the PMU and AP. Note that this plan will be fully implementable, subject only to final detailed design of the project.

61. **Asset valuation.** At the beginning of each component, the valuation will be undertaken or updated by the PMU and ensure replacement cost. APs will be involved in the valuation and revaluation. If the AP disagrees with the valuation, the project will allow for her/him to utilize an independent valuer that will be paid for by the project.

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

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

64. The Entitlement Matrix, that shows compensation and rehabilitation entitlements for each item that might be affected by the project, is presented in Table 2 below.

**Table 2: Entitlement Matrix**

Loss type	Specification	Affected People	Compensation Entitlements
Permanent loss of rural or town land	All land losses independent of impact severity	Tofi'a – King and Nobles Landholders	Long-term lease based on the market value of the affected land and provision of all legal and other expenses associated with it. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs.
		'Api 'Uta or 'Api Kolo registered landholder (tax or town allotment)	Land-for-land grant with plots of equal value/productivity, comparable location and services to plots lost with registration. Registered owner has option of long-term lease based on the market value of the affected land. In all cases (land or lease), provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs.
		Api Lisi – leaseholder	Leaseholder has the option of land-for-land grant with plots of equal value/productivity, comparable location, and services to plots lost; or, long-term sublease based on the market value of the affected land. In all cases (land or lease), provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs. If the owner/registered user resumes control of the land from the leaseholder/user, the project will find an appropriate, nearby, and similar piece of land for the leaseholder/user to lease/use and provide all removal, reestablishment and transaction costs.
		Unregistered land user	All land used (leased or unleased) combined under one lease without fees, taxes, or charges. Alternative leasehold provided for formal lease.
		Agricultural workers losing their job/contract	Cash indemnity corresponding to their salary (in cash and in kind) for the remaining part of the agricultural year, contractual period or 6 months - whichever is the greater.
	Additional provisions for severe impacts on rural land	All land holders, registered lease, permit or users (legal or not).	Severe impact allowance equal to the net income from annual crop (crop, tree, and fruit) production and the waiving of taxes and fees.

Loss type	Specification	Affected People	Compensation Entitlements
	(> 10% of total rural land loss)		
Temporary loss of rural or town land	Easements and/or land used for construction	All landholders, registered lease, permit or users (legal or not).	A lease agreement will be signed for the use of the land. After the use, the land will be restored to its original condition or improved quality and returned to the registered owner. An easement fee of 15% of the land value will be paid each year.
Agricultural production	Crops affected	All APs	Cash compensation equivalent to the gross income from the crop calculated at the maximum annual market value of the total annual produce from affected land or the formal government rate—whichever is greater.
	Trees affected	All APs	<u>Fruit trees.</u> The full cost of seedling, cost of preparation of a garden, and lost profit at annual income (using maximum annual market values) multiplied by the number of years of fruiting remaining or the formal government rate, whichever is greater. <u>Timber trees.</u> The full cost of seedling, cost of preparation of a garden, and maximum market value of maximum timber production per tree (at full maturity) or the formal government rate, whichever is greater.
	Livelihoods	Vulnerable APs	An additional allowance equal to at least 3 months at minimum salary. Priority for employment in project-related jobs, training opportunities, self-employment and wage-employment assistance. Training programs to improve livelihood opportunities for vulnerable persons, including indigenous peoples, if identified.
Housing and structures	Full or partial loss of structures	Owners (with/without house or building registration)	Cash compensation at full replacement rate for affected structure/fixed assets free of salvageable materials, depreciation, and transaction costs. Salvageable material will be allowed to be taken away by owner at no cost. Cost of replacing existing water, electricity, gas, and phone connections will be included in the compensation. For partial impacts (structure wall, fences, etc.), cash compensation at replacement rates to restore remaining structure. Unaffected portions of the structure will also be compensated if they become unviable after impact occurs
		Landlords	Compensation of income (cash or in kind) lost as a result of the loss of the tenancy of houses, buildings, and structures for the remaining period of lease justified by legal document Landlords without formal notarized lease to show other burden of proof or evidence in order to claim compensation.
		Tenant	New lease by landlord or 3 months' cash equivalent.

Loss type	Specification	Affected People	Compensation Entitlements
Business/ employment	Permanent or temporary loss of business or employment	Registered business owner	Independent valuer (paid by relevant authority) to determine business interruption, and profit/loss to establish or suspend business. For permanent loss, cash compensation equal to 6 month's income or the period of interruption, whichever period is greater. Compensation is estimated on the basis of tax declarations, imputed earnings, or average income in this local area for business type.
		Unregistered business owner	Business is registered at no cost (fees, charges) to AP, then as per registered business owner.
		Worker/employees	Indemnity for lost wages (including fixed by oral agreement with employer) paid for the amount of work time interruption; the time is established by the independent valuer.
		Tenants of affected buildings	Compensation for lost rent paid in advance plus cash compensation equal to the amount of work time interruption. The time is established by the independent valuer. Compensation is estimated on the basis of tax declarations, imputed earnings or average income in this local area for similar businesses.
Relocation	Transport/transitional livelihood costs	All APs affected by relocation	Provision of cash compensation to cover transport expenses and livelihood expenses for one month.
Community assets	Loss/damage to public infrastructure/utilities		Rehabilitation and/or replacement of affected structures/utilities (i.e. roads, sidewalks, schools, health centres, etc..) to pre-project level.
Any unforeseen or unintended impacts		APs	Compensation and assistance in line with the principles in this Involuntary Resettlement Guidelines to ensure the APs better off than before the project.

## H. Vulnerable People and Gender Considerations

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

66. The RP will reference and utilize the overall project safeguards processes to ensure minimization of project externalities on gender and the local community and target them as beneficiaries of the project. PMU will support capacity development for the district and town officers and the local communities living within the project area in close consultation with the Local Government Division of the Ministry of Internal Affairs. Activities may include, but not be limited to:

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

## **V. CONSULTATION, PARTICIPATION, AND DISCLOSURE**

### **A. Project Stakeholders**

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

- (i) affected person, businesses, and institutions;
- (ii) local officials from district and town councils;
- (iii) project communities and women's groups at relevant level;
- (iv) representatives from groups who will benefit from the subprojects; and
- (v) commercial representatives – businesses, chambers of commerce.

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

### **B. Consultation and Participation**

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

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

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



- (i) **Public consultations.** These are the formal public information campaigns undertaken at the district or town level. They include environmental, social, and resettlement presentations. The meeting is widely advertised in the media. Attendance is normally by government agencies, informed and mobile APs, and concerned citizens. Due to the distance from project sites, poorer APs may find it difficult to attend and will be paid a pre-set attendance fee (currently T\$10) to assist with fuel and transport costs. An attendance list for all consultations will be recorded.
- (ii) **Public information brochure.** A Public Information Brochure will be developed for relevant subprojects and will outline details of the project, its locations, potential impacts, entitlements and compensation, the project implementation timeline, the grievance redress mechanism, and answers to frequently asked questions. It will be developed as part of RP preparation, and a Tongan version will be distributed to every affected household/business during the Census. It will be available at all meetings and focus group discussions for other interested parties. It will be updated as the project progresses, incorporating new questions and more details on the implementation process.
- (iii) **In-depth interviews.** These will be undertaken with relevant stakeholders to gain a better understanding of issues highlighted in the socioeconomic survey or census. The interviews will mainly assess views on the potential project impacts (positive and negative), mitigation measures, and suggestions for improvement.
- (iv) **Focus group discussions.** These will be undertaken with APs, in particular the less powerful and poorer APs and women, who may not have the resources or time to attend the official public consultations due to distance, time, and/or cost. The sessions will elicit further understanding about issues raised in the census. It will be conducted in the local community (to reduce distance travelled) and be sensitive to the potential of influence (from government, church, elders) so as to reduce any feelings of intimidation, obligation, or coercion.
- (v) **Media coverage.** Newspaper, radio, and TV coverage will be used as a means of disseminating information to ensure the general public receive information in an effective and timely manner.

## **B. Vulnerable People and Gender Considerations**

72. During the RP preparation and implementation, the PMU will assign staff to:
- (i) persuade housewives to be with their husband when receiving payment for compensation and assistance from the PMU; and
  - (ii) involve women of affected households and vulnerable groups in the locality in addressing the unanticipated social and environmental impacts during Project implementation.

## **D. Further Information Disclosure**

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

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

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

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

## **VI. COMPENSATION, INCOME RESTORATION, AND RELOCATION**

### **A. Compensation**

77. The PMU will finalize all requirements for compensation in consultation with MLNR and MAFFF prior to land acquisition. The executing agency, the Ministry of Finance and National Planning, will be responsible for the timely allocation of funds to implement the RP. The budget for the RPs will be disbursed in cash by the PMU, in conjunction with MLNR, to APs. Once all land acquisition, resettlement and compensation activities have been completed, the PMU will obtain a signed declaration from each AP that all activities have been satisfactorily completed as per the final RP. Compensation include the following as detailed in the entitlements matrix:

- (i) compensation for land, structures, and all other lost assets to be paid in full before construction activity begins;
- (ii) APs losing an entire structure are entitled to a subsistence allowance and moving costs in cash;
- (iii) assistance in finding replacement land for continuation of livelihood/living arrangements;
- (iv) advance notice to harvest standing seasonal crops;
- (v) for vulnerable groups, additional subsistence allowance and prioritized engagement in any project employment;

### **B. Income Restoration**

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

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

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

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

### **C. Relocation**

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

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

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

## **VII. GRIEVANCE REDRESS MECHANISMS**

### **A. Grievance Coordination**

85. The grievance focal point (GFP) will be the TPL Project Manager and Village Head/Town Officer who will coordinate and address all complaints and concerns arising from the project. The contact details will be provided to all APs.

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

### **B. Grievance Procedures**

87. APs will be informed that they may ask any questions or discuss grievances with the district or town officer by phone or in person, or they may approach project staff visiting the area.

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

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

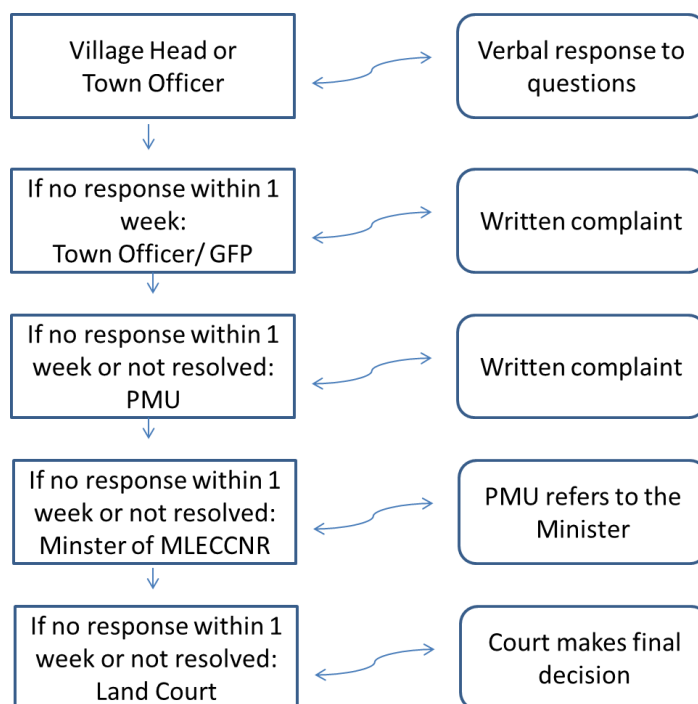
90. In the event that a satisfactory answer cannot be provided, the AP may lodge the complaint with the PMU and will receive a reply within 7 days.

91. APs will have the right to take the dispute to the MLNR, who will also have 1 week to respond.

92. In the event that the situation is not resolvable, or they do not accept the decision, the APs may have recourse to the land court (or other relevant court). All court costs incurred by the AP

(preparation and representation) will be paid for by the project unless it can be demonstrated the action was unreasonable and/or the outcome mirrors the answers provided by the Minister (MLNR).

93. This process is summarized in Figure 2.

**Figure 2: Grievance Procedure**

## VIII. IMPLEMENTATION, BUDGETING, AND MONITORING

### A. Institutional Arrangements

94. The project executing agency is MFNP. The Implementing Agency is TPL.

95. The PMU within TPL will be responsible for the day-to-day management of the project. This includes planning, implementation, and coordination of land acquisition, resettlement, and environmental activities and overseeing any unanticipated LAR through the ESU. The terms of reference of the ESU is in Annex D. The MLNR legal officer will provide overall guidance on Tonga's requirements and legal issues relating to land acquisition. All PMU staff and consultants working on this project will be funded by TPL.

96. The ESU/PMU is responsible for designing the project and ensuring the following:

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

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

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

**Table 3: Responsibilities for Resettlement Implementation**

Activities	Responsible Agency
<b>A. Preparation and Implementation of RP</b>	
Subproject preliminary design	PMU
Subproject disclosure and public consultation	PMU
Survey and marking of subproject sites	PMU
Socioeconomic survey, census/loss assessment	PMU, district and town officer
Survey and establishment of market unit prices	PMU with Ministry of Agriculture
Preparation of the draft RP	PMU, district and town officer
Disclosure of the draft RP to affected persons	PMU, district and town officer and MLNR
Review and approval of draft RP	ADB
Disclosure to the public by IA and posting on ADB website	PMU and ADB
<b>B. RP Implementation</b>	
Approval and release of funds for compensation	EA and PMU
Verification of APs	PMU, district and town officer
Monitoring	PMU, district and town officer
Grievance and redress	District and town officer, MLNR
Preparation of deeds of sale	MLNR
Payment of compensation	PMU
Acquisition of affected lands	MLNR
Submission of compliance documents to ADB	PMU and EA
Monitoring of compliance of RP implementation	MLNR and ADB
<b>C. Construction Stage</b>	
Confirmation of — No Objection for the beginning of civil works	ADB
Hiring of APs and mobilization of labor force	Contractor
Subproject construction	Contractor
<b>D. Post Construction</b>	
Restoration and return of temporarily affected lands	PMU, Contractor

## **B. Implementation of Activities**

98. As previously mentioned, the PMU through the ESU will be responsible for the preparation of an RP following the format shown in Annex C. The final RP will include the full details including verification by the APs and findings from the detailed measurement survey and census. The final RP will be the basis of compensation.

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

100. The APs will sign a document signifying their satisfaction with and receipt of the compensation package.

101. PMU will ensure that the IRG is implemented in coordination with the requirements set in the Environmental Assessment and Review Framework.

### **C. Budget and Financing**

102. As the executing agency, MFNP will be responsible for the timely allocation of funds from each fiscal years' government budget to implement the RP. Allocations will be reviewed based on budget requirements indicated in the RP which include, among others: (i) the costs of acquiring required land at market prices; (ii) compensation for lost crops and trees based on replacement and/or market values; (iii) lost income from the temporary use of land for spoil; and, (iv) loss of traditional use rights and community properties and resources, compensated by replacement of similar common property resources or as cash compensation if the former is not possible.

103. The full costs of developing, disclosing, staffing, and implementing the RP will also be borne by the government and will be considered as counterpart funding. Prior to implementation, the PMU will establish a chart of accounts to capture compensation and resettlement administrative costs.

### **D. Monitoring, Evaluation, and Reporting**

104. The primary objective of monitoring is to identify as early as possible the progress of RP implementation and the cause(s) of delays so that RP implementation can be adjusted, if necessary. Regular monitoring is important because RP implementation is often the critical path to commence with civil works, due to issues on land acquisition, compensation and resettlements which need to be sorted out prior to any civil works. The early identification of the causes of delay will enable the PMU to prepare the mitigating measures during RP implementation.

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

106. Specific internal monitoring indicators will be:

- (i) information campaign and consultation with APs,
- (ii) status of land acquisition and payments on land compensation,
- (iii) compensation for affected structures and other assets,
- (iv) relocation of APs,
- (v) payments for loss of income,
- (vi) selection and distribution of replacement land areas,
- (vii) income restoration activities, and

- (viii) ensure the gender mitigation measures are adhered to during the internal monitoring and reporting process.

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

108. In the event that an external monitoring agency is required, their duties will include the following:

- (i) review and verify internal monitoring reports prepared by the PMU;
- (ii) review of the socioeconomic, census and inventory of losses baseline information of pre-displaced persons and identify and select relevant impact indicators for monitoring;
- (iii) assess the efficiency and effectiveness of resettlement implementation drawing lessons for future resettlement policy formulation and planning;
- (iv) assess the implementation of activities to mitigate adverse impacts against women and vulnerable groups;
- (v) assess RP impact through formal and informal surveys of the affected person; and
- (vi) consult APs, officials, and community leaders for preparing the report.

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



## **Brief Outline of Tongan Laws Relating to Land Acquisition and Resettlement**

### **A. Compensation Generally**

#### **1. Constitution**

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

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

### **B. Easements**

#### **1. Land Act**

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

4. Section 112 A (3) Kind of easement permissible –

- (i) Right of way
- (ii) Right to convey water
- (iii) Right to drain water
- (iv) Right to drain sewage

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

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

7. Section 112D Form of easement

### **C. Resumption of Land**

#### **1. Land Act**

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

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

10. Section 141

- (i) The King may, with the consent of Cabinet, call upon any holder to give up possession of land held by him provided that the Cabinet is satisfied that the land is required for public purposes.
- (ii) In all cases the Minister of Land shall, to the holder of the land to be resumed
  - (a) in respect of the crops being grown on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act;
  - (b) in respect of the land to be resumed, at the Minister's own discretion, either grant other land in its place, or pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act, or both grant other land and pay money compensation;
  - (c) in respect of buildings or buildings erected on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided by this Part of this Act.
- (iii) The power of resumption shall not preclude any one voluntarily relinquishing land for public purposes for no compensation either in land or money.

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

12. Section 143

- (i) The King may, with the consent of Cabinet, make regulations from time to time specifying the rates of money compensation to be paid for land resumed by the Crown under this Part of this Act; and for crops being grown and for buildings on such land and the method of calculations of such matters.
- (ii) Money compensation to be paid on said rates will be paid within 30 days of said notice in Section 142.

## Land Acquisition and Resettlement Screening Form

### A. Introduction

Each subproject of the Cyclone Gita Recovery Project (CGRP) is assigned an involuntary resettlement category depending on the likelihood and the significance of the probable involuntary resettlement impacts.

### B. Information on Subproject

Subproject name:	
Location:	
Scope of subproject (description of the nature and scope of works):	

### C. Screening Questions for Resettlement Categorization

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

Will any social or economic activities be affected by land use-related changes?			
---	--	--	--

**D. Involuntary Resettlement Category**

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

[ ]	Category B, Not significant* land acquisition and resettlement impacts: a Resettlement Action Plan (RP) is required. RP to be submitted to ADB by [insert date]_____
	* Not significant: Less than 200 people (approximately 35 households) will experience major impacts that are defined as (i) being physically displaced from housing and/or shops or (ii) losing 10% or more of productive land or other income-generating assets.
[ ]	Category C, No land acquisition and resettlement impacts: No RP is required

If Category B, please provide the following information:

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

<p>Prepared By:</p> <p>Signature: _____</p> <p>Name: _____</p> <p>Position: _____</p> <p>Date: _____</p>
--

## OUTLINE OF A RESETTLEMENT ACTION PLAN

### I. Executive Summary

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

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

### II. Project Description

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

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

### III. Scope of Land Acquisition and Resettlement

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

### IV. Socioeconomic Information and Profile

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

### V. Information Disclosure, Consultation, and Participation

5. This section

- (i) identifies project stakeholders, especially primary stakeholders;
- (ii) describes the consultation and participation mechanisms to be used during the different stages of the project cycle;

- (iii) describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;
- (iv) summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- (v) confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
- (vi) describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

## **VI. Grievance Redress Mechanisms**

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

## **VII. Legal Framework**

7. This section:
- (i) describes national and local laws and regulations that apply to the project and identify gaps between local laws and ADB's policy requirements; and discuss how any gaps will be addressed.
  - (ii) describes the legal and policy commitments from the executing agency for all types of displaced persons;
  - (iii) outlines the principles and methodologies used for determining valuations and compensation rates at replacement cost for assets, incomes, and livelihoods; and set out the compensation and assistance eligibility criteria and how and when compensation and assistance will be provided.
  - (iv) describes the land acquisition process and prepare a schedule for meeting key procedural requirements.

## **VIII. Entitlements, Assistance, and Benefits**

8. This section:
- (i) defines displaced persons' entitlements and eligibility, and describes all resettlement assistance measures (includes an entitlement matrix);
  - (ii) specifies all assistance to vulnerable groups, including women, and other special groups; and
  - (iii) outlines opportunities for affected persons to derive appropriate development benefits from the project.

## **IX. Relocation of Housing and Settlements**

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

- (ii) describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- (iii) provides timetables for site preparation and transfer;
- (iv) describes the legal arrangements to regularize tenure and transfer leases to resettled persons;
- (v) outlines measures to assist displaced persons with their transfer and establishment at new sites;
- (vi) describes plans to provide civic infrastructure; and
- (vii) explains how integration with host populations will be carried out.

## **X. Income Restoration and Rehabilitation**

10. This section:

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

## **XI. Resettlement Budget and Financing Plan**

11. This section:

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

## **XII. Institutional Arrangements**

12. This section:

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

- (iv) describes how women's groups will be involved in resettlement planning and management.

### **XIII. Implementation Schedule**

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

### **XIV. Monitoring and Reporting**

14. This section describes the mechanisms and benchmarks appropriate to the project for monitoring and evaluating the implementation of the resettlement plan. It specifies arrangements for participation of affected persons in the monitoring process. This section will also describe reporting procedures.



## TERMS OF REFERENCE FOR ENVIRONMENT AND SOCIAL UNIT

1. The Environment and Social Unit (ESU) is a team based in the TPL PMU with the responsibility to ensure all project activities are undertaken in line with the ADB Safeguards Policy Statement (2009) and national laws and regulations. It is recommended that the ESU comprises of a minimum of three members; the PMU team leader, a Social Focal Point, and an Environmental Focal Point. In addition, there can be additional members, as it is seen as an opportunity for capacity building with TPL staff.
2. In addition to the ADB SPS, the points of reference for the ESU are the following project documents:
  - (i) Project Grant Agreement,
  - (ii) Project Administration Manual,
  - (iii) Environmental Assessment and Reporting Framework, and
  - (iv) Involuntary Resettlement Guidelines.
3. The ESU has four main roles which is (i) assessment, (ii) implementation, (iii) monitoring and (iv) reporting.
  - A. Assessment**
    - (i) All new subprojects must have potential social and environmental impacts identified, minimized and mitigated, through Initial Environmental Examination reports and/or Resettlement Plans.
    - (ii) In the case of unforeseen impacts occurring during implementation, such as a court
    - (iii) dispute over land use or an environmental incident, the ESU must report this
    - (iv) immediately to ADB and prepare a Corrective Action Plan.
  - B. Implementation**
    - (i) The ESU is responsible for implementing the Resettlement Plan, ensuring all entitlements are paid, and that affected persons are kept well informed.
    - (ii) The ESU ensures that TPL prepare a Construction Environmental Management Plan (CEMP).
    - (iii) The ESU reviews and approves the CEMP and monitors compliance.
  - C. Monitoring**
    - (i) The ESU must complete regular environmental monitoring reports for all works under the project.
    - (ii) For social aspects, the Entitlements Matrix within the Resettlement Plan must be
    - (iii) updated on an as needs basis
  - D. Reporting**
    - (i) On a quarterly basis, all environmental monitoring and other activities of the ESU must be summarized into a brief report, which is included as an annex in each Quarterly Project Report(QPR) for the ADB.
    - (ii) On a semi-annual basis, this information is collated and presented as a Safeguards Monitoring Report and submitted to the ADB. This is a public report and will be disseminated via the ADB website.

4. A key requirement for the ESU is transparency. Information disclosure to potentially affected parties, stakeholders and to the ADB is essential to minimize the potential for disputes. A clear process for addressing grievances is also important. The grievance redress mechanism is contained in the EARF and subproject IEE and RP and must be adhered to in the case of complaints raised.