

Resettlement Framework

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Kiribati: Outer Island Transport Infrastructure Investment Project

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ABBREVIATIONS

ADB	-	Asian Development Bank
AP	-	Affected persons
BSR	-	Basic Schedule of Rates
CEF	-	Compensation and Entitlement Form
DD	-	Due Diligence
DMS	-	Detailed Measurement Survey
EA	-	Executing Agency
GoK	-	Government of Kiribati
GRM	-	Grievance Redress Mechanism
IA	-	Implementing Agency
MELAD	-	Ministry of Environment, Lands and Agricultural Development
MFED	-	Ministry of Finance and Economic Development
MIA	-	Ministry of Internal Affairs
MICTTD	-	Ministry of Information, Communication, Transport & Tourism Development
MISE	-	Ministry of Infrastructure and Sustainable Energy
OI	-	Outer Island
OIIU	-	Outer Islands Implementation Unit
RF	-	Resettlement Framework
RP	-	Resettlement Plan
TOR	-	Terms of Reference
WB	-	World Bank

DEFINITION OF TERMS¹

Affected Persons In the context of involuntary resettlement, affected 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.

Council means a local government council

Compensation payment in cash or kind for an asset to be acquired or affected by a project at replacement cost at current market value.

Cut-off Date the date after which people will NOT be considered eligible for compensation, i.e., they are not included in the list of APs as defined by the census.

Economic displacement loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

Entitlement the range of measures comprising cash or in-kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, relocation assistance, and/or business restoration assistance that are due to APs, depending on the type and degree nature of their losses, to restore their social and economic base.

Foreshore means the shore of the sea or a channel that is alternatively covered and uncovered by the sea at the highest and lowest tides

Indigenous peoples is a generic term used to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by other groups; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region.

Inventory of Losses the appraised list of assets as a preliminary record of affected or lost assets.

Land acquisition 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.

Meaningful Consultation is a process that (i) begins early in the PPTA and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to affected people; (iii) is undertaken in an

¹ As per legislation of Republic of Kiribati and ADB SPS 2009

atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision-making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation measures. This follows the principles of free, prior, and informed consent (FPIC).

Non-titled those who have no recognizable rights or claims to the land that they are occupying, including people using private or state land without permission, permit, or grant, i.e., those people without legal title to land and/or structures occupied or used by them.

Native means any aboriginal inhabitant of the Islands and a descendant of any aboriginal inhabitant, whether wholly or partly of aboriginal descent, who has not acquired non-native status under the Native Status Ordinance; (*Cap20 of 1973*)

Native Land means land owned by a native or natives

Physical displacement means relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.

Public Land means land declared to be for public purpose, which include the following:

- (a) exclusive Government use;
- (b) general public use;
- (c) the laying out of a new township, Government station or housing scheme;
- (d) the extension or improvement of an existing township, Government station or Government housing scheme;
- (e) the making of sanitary improvements of any kind;
- (f) the obtaining of control over land contiguous to a port, road or other public works of convenience, constructed or to be undertaken by the Government;
- (g) the purpose of or purposes connected with the construction, maintenance or improvement of a highway;
- (h) any other purpose declared by the Beretitenti, acting in accordance with the advice of the Cabinet, or by a law, to be a public purpose.

Sea-bed means the bed of all territorial and inland tidal waters

Significant impact the loss of 10% or more of productive assets (income generation) or physical displacement and/or both.

Vulnerable any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement, including (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 hectares acres or less).

A. INTRODUCTION

1. Background

1. The proposed project development objective is to improve the safe and resilient transport connectivity of selected outer islands in the Gilbert Islands Chain of Kiribati, and in the event of an eligible crisis or emergency, to provide an immediate response to the eligible crisis or emergency. The Government of Kiribati (GoK) plans to implement the project with proposed co-financing between World Bank (WB) and Asian Development Bank (ADB), through a US\$30 million IDA grant and a US\$12 million ADB grant.
2. The GoK has prioritized four islands as priority investments for this project, namely Abaiang, Nonouti, Beru and Tabiteuea South. Social safeguards specialists engaged to assist the GoK to prepare the project visited these outer islands (OIs) between August 12th and September 2nd 2019 to assess potential involuntary resettlement impacts associated with the planned project activities.
3. The Resettlement Framework (RF) has been prepared to address potential resettlement impacts associated with land that may be affected by proposed infrastructure or any economic displacement that may arise from the loss of valuable assets or income sources or means of livelihoods during project implementation. The Project will follow applicable laws of Kiribati and safeguard policies of ADB and WB to ensure its social and environmental sustainability. The Ministry of Information, Communications, Transport & Tourism Development (MICTTD) will be the implementing agency for maritime components and the Ministry of Infrastructure and Sustainable Energy (MISE) will be the implementing agency for land transport components. The Outer Island Implementation Unit (OIIU), housed under the executing agency Ministry of Finance and Economic Development (MFED) will be established to support the MICTTD and MISE in managing the project.
4. The RF was prepared during the project preparation phase of the project. Given that the project activities will be geographically disbursed and that detailed design for various components will take place at different stages during project implementation, the RF serves as a guide for addressing impacts as they are identified throughout the project. The RF describes principles, entitlements, procedures, and implementation arrangements on land and at sea, subject to construction activity under KOITIIP. It also describes procedures and instruments required for anticipated as well as other potential impacts that may be identified during project design and implementation. It is based on existing GoK Native Lands Ordinance, the Foreshore and Land Reclamation Act and other relevant legislations. It is focused on land currently or soon to be leased to the 4 Island Councils as well as other losses that will be identified during implementation. The RF is prepared in respect of applicable laws and regulations of Kiribati and meets the requirements of the ADB Safeguard Policy Statement (2009) and the WB's Operational Policy on involuntary settlement. Where gaps exist between Kiribati laws and the safeguards requirements of ADB and WB, the RF sets out agreed gap filling measures to be applied for this project.

2. Project Description

5. The project will improve the safety of inter-island navigation and build resilient outer island access infrastructure on the four selected OIs of Abaiang, Nonouti, Beru and Tabiteuea South. This will be achieved through 4 key components:

Component 1. Safety of Inter-island navigation improved through hydrographic surveying, which will be essential for safe shipping access and the key enabler for future infrastructure investments

Component 2. Resilient outer island access infrastructure; through a) improvements of ship to shore transfer (maritime navigation aids) and b) rehabilitation of island access infrastructure (i) concrete boat ramps, (ii) small

multipurpose maritime and maintenance facility/workshop, (iii) maritime infrastructure covering jetties, small scale dredging, and related investments and c) rehabilitation of lagoon crossings (causeways).

Component 3. Institutional Strengthening of Implementing Agencies (IAs) Ministry of Information, Communication, Transport & Tourism Development (MICTTD) and Ministry of Infrastructure and Sustainable Energy (MISE) to ensure sustainable investment and operations. It will also provide operational support for project management and operational costs for the Outer Islands Implementation Unit (OIIU) and Kiribati Fiduciary Services Unit (KFSU).

Component 4. Contingency Emergency Response

3. Anticipated and Potential Resettlement Impacts

6. The project is expected not to involve compulsory land acquisition. Land already leased to Government of Kiribati (GoK) has been identified for marine facilities in two locations and public land for a third location. In two locations, where government land was *not* available, native land has been proposed for a marine facility and a passenger shelter. The project will conduct meaningful consultation and negotiation with the native land owners and seek to enter into a voluntary, long-term lease agreement. These proposed sites are not immutable, meaning they could be changed if negotiation fails and will not result in compulsory acquisition. All causeway works will take place on government land. No relocation of housing or settlements will be required. Compensation for loss of agricultural assets is anticipated on a minor scale as detailed in Table 1.
7. Long-term land acquisition will be based on meaningful consultations with native land owners who wish to enter into a lease agreement with GoK. Owners of land leased by the Government will receive annual lease payment for the life of the lease agreement. Lands to be leased will be fully compensated based on the new revised standard rate² per acre to be released in 2020 to reflect the current market value. Lease payments will be paid quarterly by Ministry of Environment, Lands and Agricultural Development (MELAD), as part of the current GoK payment system, for the life of the lease agreement.
8. Short term impacts associated with the contractor works, such as temporary land use for laydown areas, borrow pits, sourcing of aggregate, mitigating access restrictions during works, etc. will be the responsibility of the contractor to fully mitigate and compensate as required. Requirements to mitigate such impacts are set out in the project's Environment and Social Management Framework (ESMF) and the Environment and Social Management Plan (ESMP).
9. This framework sets out the consultation processes, laws, and mechanisms for calculating market value and replacement costs for land and other assets, a system for addressing grievances, and other institutional arrangements that will apply. A Resettlement Plan (RP) has been drafted and will be updated following the detailed design.
10. The following describes the assessment of impacts associated with the various components and activities.
11. **Component 1.** Hydrographic survey will require no involuntary settlement or compensation of any kind as ownership of the foreshore and sea-bed is vested with the State.
12. **Component 2.1.** Locations for installation of new maritime navigation aids will be guided by the hydrographic and charting outputs (Component 1). This may involve placement of

² The current standard rate is currently \$1,400 per acre

aid to navigation (AtoN) markers at sea, where the sea-bed is considered property of the state. On-land AtoN locations would require verification of land ownership and potential land lease agreements. Refurbishment of existing navigation beacons is proposed for Tebikeriki, Beru. The existing beacons are situated on land identified as public land and refurbishment of the beacons will not require the relocation of any houses or settlement or income restoration nor loss of non-land assets.

13. **Component 2.2.** Concrete boat ramps with shelters are proposed for construction on **Abaiang (Taburao) and Nonouti (Matang)** on land already leased by the Island Council. At Matang, the works will likely require the removal of 1 mature coconut tree and the landowner will be compensated for this. Land lots are narrow within the Nonouti Council lease. The project needs to ensure that payment for all relevant plots are up-to-date and that all landowners are fully informed of the project plans. The Island Police toilet at Matang which is also expected to be removed is a temporary type structure made of native materials.
14. Refurbishment of an existing concrete boat ramp is proposed on **Beru (Tebikeriki)**. The Beru boat ramp location is considered public land and is situated at the foreshore. GoK legislation deems the foreshore as any land that is alternatively covered and uncovered by the sea at the highest and lowest tides and its ownership is vested with the State. The works will not cause the loss of non-land assets.
15. Dredging of the approach channel at Tebikeriki, Beru will bring significant benefits to all inhabitants of the island as inter-island vessels will have improved access to shore, eliminating the requirement and risk of using tender vessels to carry passengers and cargo to shore. Additionally, heavy equipment and vehicles will be delivered to the island more efficiently
16. A concrete boat ramp and shelter is proposed for construction on **Tabiteuea South (Buariki)**. The landowners of the proposed site have been confirmed and have expressed their willingness to enter into a lease agreement with the Island Council. Further consultation with the landowner family and a detailed measurements survey are required in order for the Island Council and MELAD to negotiate a long-term lease agreement with the landowners.
17. Potential resettlement impacts mentioned above are minor and can be mitigated through compensation. No resettlement of housing is anticipated nor severe impacts on livelihood. Establishing maritime facilities on Abaiang, Tabiteuea South and Nonouti will improve the safe movement of people and cargo between the islets and the main island. The proposed shelters will be multi-purpose, enabling; safe storage of council barge, shelter for passengers and cargo and a place of commerce for island women.
18. **Component 2.3** provides for improvements to 5 lagoon crossings (causeways) on Nonouti, 4 causeways on Tabiteuea South and 2 on Beru. Lagoon crossings, or causeways, are considered public highways, as per the GoK Public Highways Protection Act, 4 of 1989, and as such are property of the State. Potential coastal infrastructures, if required, to prevent erosion will be confirmed following further studies and investigations. Landowners adjacent to the ends of the causeways may benefit from a decrease in erosion and land loss or may experience a decrease in accretion and land gains.
19. Table 1 summarizes the proposed infrastructure by location, the type of land and the anticipated impact.

Table 1: Proposed Infrastructure and Anticipated Impact

Location	Proposed Infrastructure	Site Description	Impact
Abaiang, Taburao	- multi-purpose boat/passenger/cargo shelter - on-ramp pontoons 30m long x 1.5m wide and a 20m long x 7m wide concrete ramp and a winch	GoK land under a 99-year lease agreement (1959 to 2058)	Land is already under a lease agreement to the Island Council.
Beru, Tebikeriki	-dredge the channel and create a turning basin -AtoN markers at entrance of channel and service existing shoreside AtoN markers -repair existing seawall and concrete overlay over existing boat ramp	Channel is State-owned, as is set out in the legislation of Kiribati. The existing boat ramp location is considered 'foreshore' as its location is alternatively covered and uncovered by the sea at the highest and lowest tides and has been confirmed by the Merewen Beru (Elders Council) as public land.	Refurbishment of an existing channel and boat ramp on public land.
Beru, Tebikeriki	-construction of a small shelter some 55m to 60m back from the foreshore	Land ownership to be confirmed. Preliminary information indicates that it may be church-owned land. Proposed site is adjacent to land leased to the Island Council and sub-leased to Kiribati Oil Company (KOIL).	Voluntary negotiation of a new lease required. There are no dwellings on or near the proposed site. Landowners will need to be compensated for removal of coconut trees.
Beru, N. Kaairaira Causeway	- Potentially coastal structures and salt tolerant species to counter erosion but subject to further investigation and analysis during the detailed design .	Causeways are considered public highways and as such are property of the State.	Refurbishment of an existing causeway on Government land. Construction works not likely to disturb any valuable assets
Beru, S. Teteirio Causeway	-possible additional rehabilitation works based on further assessment.	Ownership of the sea-bed is vested with the State.	Refurbishment of an existing causeway on Government land. Spiritual site on the north side of west end of the causeway must not be disturbed (covered under ESMP).
Nonouti, Matang	-concrete boat ramp -multi-purpose shelter with rainwater tank	Site is situated over several narrow plots of land already leased to the Island Council. GPS Coordinates needed to confirm which plots are involved.	Proposed site is on land already leased to Island Council. Need to remove Council Police toilet (temporary structure of native materials).
Nonouti, Causeways	5 x causeways to receive a range works including; a. General surfacing clean up; b. Structural repairs ; c. Install 2 culverts (S Causeway); d. Potentially coastal structures and salt tolerant species to counter erosion but subject to further investigation and analysis during the detailed design	Causeways, are considered public highways and as such are property of the State. Ownership of the sea-bed is vested with the State.	Refurbishment of 5 existing causeways on government land. No dwellings and no coconut trees in close proximity to the ends of any of the causeways on Nonouti
Tabiteuea South, Buariki	-concrete boat ramp -multi-purpose shelter with rainwater tank	Native land that will require the development of new long-term lease	Voluntary negotiation of a new lease required.

Location	Proposed Infrastructure	Site Description	Impact
Tabiteuea South, Causeways	4 x causeways to receive a range of works including; a. General surfacing clean up; b. Renew road edging; c. Install additional culverts and scour protection; d. Potentially coastal structures and salt tolerant species to counter erosion but subject to further investigation and analysis during the detailed design e. Empty the contents of the stagnant pond at Causeway 3 – subject to further environmental assessments	Causeways, are considered public highways and as such are property of the State. Ownership of the sea-bed is vested with the State.	Refurbishment of 4 existing causeways on government land. Further studies during detailed design on whether fish ponds will be drained. Any impacts will be compensated in accordance with World Bank and ADB safeguards policies.

B. OBJECTIVES, POLICY FRAMEWORK AND ENTITLEMENTS

20. **The Resettlement Framework (RF).** The RF aims to serve as a practical guideline to prepare and implement the process for securing of land access requirements and compensation planning, and implementation processes with sound planning principles and requirements of the prevailing legal norms and practices of Kiribati and in compliance with current ADB and WB policies. This RF particularly applies to the works related to construction and refurbishment of maritime facilities and causeways in relation to resettlement safeguard policies of ADB, WB and the legal instruments of the Republic of Kiribati.
21. The RF for KOITIIP recognises that locations and anticipated impacts of some component subprojects are known in general terms, but the impact of *all* subprojects may not be fully known at the KOITIIP approval stage. The RF will clarify safeguard principles and requirements governing social assessment, and preparation and implementation of safeguard plans for subprojects to be prepared after KOITIIP approval and following detailed design of the respective component activities. The RF will be posted on ADB and WB and GoK websites.
22. **RF Objectives.** Consistent with the WB policy on Involuntary Resettlement and ADB Safeguards Policy Statement (2009), the resettlement framework recognizes that involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. Therefore, the following objectives and principles will guide the development of this Resettlement Framework:
- (i) avoid resettlement impacts wherever possible;
 - (ii) minimize impacts by exploring project design alternatives;
 - (iii) enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels; and
 - (iv) improve the standards of living of the affected and displaced poor and other vulnerable groups. The policy covers both economic and physical displacement.
23. The RF is built on the laws and regulations of the the Government of Kiribati and the safeguards policy requirements of both ADB and WB. Where gaps exist, the RF sets out gap filling measures which are presented below in this chapter.

Relevant Laws and Regulations of the Government of Kiribati

24. **Legal Instruments for Land Acquisition and Resettlement in Kiribati.** The policy and legal framework for the project is based on WB policy OP 4.12 on involuntary resettlement and ADB's safeguard requirements on involuntary resettlement as embedded in the SPS (2009), and the Constitution and the laws of Kiribati. Where differences exist between Kiribati law and ADB and WB requirements, the resettlement policy will be resolved in favor of ADB and WB safeguards requirements.
25. **Under the Kiribati constitution (1979)** all land in the Gilbert Islands belongs to the I-Kiribati people and may be leased for a period of up to 99 years. Government has leased land to establish Island Council offices and residences on the project islands, namely; Abaiang, Nonouti, Beru and Tabiteuea South. There are also lands that have been gifted to the Church on each island.

26. Lands are owned by families through customary means, usually inheritance. There are some situations in which title to land is transferred as a gift. There are also situations where land is 'swapped' or traded, though the owners may not register these titles the families understand and respect the arrangement. The various customs governing the acquisition of interests and rights to land are defined in the Gilbert and Phoenix Islands Lands Code (1956). The Code documents customs and practices as of 1956 and, despite changes to a market economy, these customs and practices continue to be highly relevant in Kiribati society today.
27. Kiribati land legislation states that land cannot be alienated by sale, gift, lease or otherwise to a person who is not a native. The Native Lands Ordinance (1956) in no way prohibits or restricts the alienation of native land to the Crown, Island Council, the Housing Corporation, a society registered under the Co-operative Societies Ordinance or the National Loans Board. The State can acquire any land, by agreement or compulsorily, for any public purpose.
28. The legal and policy framework for the acquisition of land, land access and user rights is defined in the following legislation:
- I. Constitution of Kiribati
 - II. Foreshore and Land Reclamation Act 2005 (rev 1977)
 - III. State Acquisition of Lands Ordinance 1954 (rev 1979)
 - IV. Native Lands Ordinance 1956 (rev edition 1977)
 - V. Magistrate's Courts Ordinance 1977
 - VI. State Lands Act 2001
 - VII. The Land Registration Grievance Tribunal Act 2002
 - VIII. Native Lands Amendment Act 2011
 - IX. Government Approved Compensation Rate for Trees, Crops and Buildings (2011 Cabinet minutes 45/11)
29. **The Constitution of Kiribati.** The Constitution of Kiribati declares that all natural resources of Kiribati are vested in the people and their Government. Chapter 2, Section 8; Protection from deprivation of property states that "no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied: (a) the taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilization of any property for a public purpose. (b) there is reasonable justification for the causing of hardship that may result to any person having an interest in or right over the property; and (c) provision is made by a law applicable to that taking of possession or acquisition (i) for the payment of adequate compensation within a reasonable time; and (ii) securing to any person having an interest in or right over the property a right of access to the High Court, whether direct or on appeal from any other authority, for determination of his interest or right and the amount of any compensation to which he is entitled, and for the purpose of obtaining that compensation".
30. **Foreshore and Land Reclamation Act 2005 (rev 1977).** This legislation seeks to strengthen the customary rights over the foreshore and Section 4 emphasises the right of landowners to be compensated for the gravel or sand removed from their land, except in the case of construction of causeways and land-places. Foreshore is defined as the shore of the sea or of channels that is alternately covered and uncovered by the sea at the highest and lowest tides. Section 3 declares ownership of the foreshore and sea-bed as vested with the State. The ordinance provides for 'reclamation of land' for construction of causeways, wharves, landing-places and other structures.
31. The Foreshore and Land Reclamation Act gives the Minister authority to authorise the reclamation of land and sets out the safeguards processes for objections. However,

Section 5 states that “nothing in section 4 (safeguards) shall apply to the construction of causeways and of landing-places by, or on behalf of, the Government or by local government councils. Section 7 sets out limitations of claims and states “any person whose private right may have been extinguished by the construction of a causeway or landing-place may within 3 months of the completion of such causeway or landing-place, submit a claim for compensation, in respect of the extinguishment of that right, to the public body responsible for the construction of the causeway or landing-place”.

32. **State Acquisition of Lands Ordinance 1954 (rev 1979).** Section 5 empowers the Minister to acquire “...on behalf of the Republic, any lands required for any public purpose, paying such consideration or compensation as may be agreed upon or determined under the provisions of this Ordinance. Acquisition of land under subsection (1) of this section includes: (a) the acquisition of the freehold; (b) the surrender of a lease, sublease, or licence; and (c) the acquisition for a term of years as the Minister may think proper. Definitions of ‘public purpose’ include (f) obtaining of control over land contiguous to a port; and (g) the purposes connected with the construction, maintenance or improvement of a highway; and (h) and other purpose declared to be a public purpose.
33. In determining the amount of compensation to be awarded for land acquired under this Ordinance; (a) the High Court shall take into consideration; (i) the market value of the land at the date of the notice of intention to take such land; and (ii) the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of taking possession thereof; and (iii) the damage, if any, sustained by the person interested, at the time of taking possession of the land, by reason of severing such land from his other land; and (iv) the damage, if any, sustained by the person interested, at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings; (v) if, in consequence of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.
34. **Native Lands Ordinance Cap 61 (1956).** Part VI of the Native Lands Ordinance provides for leases. It defines ‘native land’ as land owned by any aboriginal inhabitant or their descendant. The ordinance reaffirms the inalienability of native land to a person who is not a native, but grants exemptions for alienation of land to the State for public purposes (Section 5(2)). The Native Lands Ordinance states that “no lease or sub-lease shall be granted for a longer period than 99 years”.
35. With regard to compensation, the Native Lands Ordinance states “Whenever it appears that any trees, crops or other growth or any fence or other property will require to be removed, damaged or destroyed, a surveyor shall first assess the amount of compensation to be paid and shall give to the owner thereof notice in writing of that amount”.
36. The Native Lands Ordinance covers transfer of lease and sub-letting (the lessee will not sub-let the land comprised in the lease or sub-lease without the consent of the lessor) but it does not cover changes to the purpose or usage of the leased land. It can be assumed that where an Island Council has leased land for Council purposes, they are free to establish a maritime facility on that land.
37. **Magistrate’s Courts Ordinance 1977** gives the Magistrate’s Court the power to hear and adjudicate in all cases concerning land matters in accordance with the provisions of the Lands Code, and where the Lands Code is not applicable, in accordance with customary law. Land matters concerning land boundaries, transfers, registration of native lands and

any disputes concerning the possession and utilization of native land are dealt with by the Magistrate's Court.

38. **The State Lands Act 2001** empowers the State, as the owner of land, to make land available for development purposes including for the permanent settlement of citizens and their families. The State is equally empowered to reverse the transfer of land back to the State, or to another party.
39. **The Land Registration Grievance Tribunal Act 2002.** The Tribunal was established to hear outstanding complaints by direct descendants of persons who were by mistake or fraud deleted from or denied entry on a land registry in the Gilbert Group. For some time citizens have complained that in the period 1940 to 1980 persons who should have been registered with an interest in land were overlooked. The descendants of these persons, who might have inherited the interest in land have complained that this injustice should be looked into. The Tribunal does not have the independent power to make awards to a successful griever without written consent, (S.4(3)). Instead, it is for the Government to consider what should be done in the circumstances of each case. The Act recognizes the legal concepts of grievance in the functions of the Tribunal.
40. **Native Lands Amendment Act 2011** amends Section 4 of the Native Lands Ordinance to address the concerns of I-Kiribati who feel they have lost their lands as a result of fraud committed by those who are currently registered over the disputed lands or by their predecessors. The amendment seeks to give aggrieved people the opportunity to challenge those titles in Lands Court.
41. **Government Approved Compensation Rate for Trees, Crops and Buildings** sets out the current compensation rates for all trees, crops and building structures approved by Cabinet. These 2011 rates will apply in settings where coconut tree(s) need to be removed. No other trees of values were sighted at any of the proposed sites. The compensation rates provide three different values for coconut trees; AUD \$80 for fruit bearing, \$40 for non-fruit bearing with trunk and \$2 for non-fruit bearing without trunk top, however, local norms suggest that all coconut trees (copra being the main source of income on OIs) be compensated at the rate of \$80.

Current Practices in Resettlement and Land Acquisition for Government Purposes in Kiribati

42. Government of Kiribati has acquired land on the outer islands for the establishment of Island Council offices and residences, health facilities and schools, airports and roads. Safeguards due diligence processes have sighted Island Council leases dated from the 1970' and 1980's with terms back-dated as far back as 1959 and for a period of 99 years. On some islands, landowners agreed to share the wealth of the Island Council lease income and divided up the land into narrow plots, some as small as 0.085 of an acre. Initially the Island Councils were responsible for direct payment of rent to landowners, however the Ministry of Lands and Agricultural Development (MELAD) assumed the responsibility of rent payments around 2014/15. Rent payments are made on a quarterly basis at a current rate of AUD 1400.00 per acre.
43. Island Council lease agreements stipulate that any damage to land, trees plants or other fixtures will be compensated at the termination of the lease, through agreement between the landowner and the tenant. However, in most cases the usufruct has been retained by the landowners, in which case the trees and plants are excluded from this condition. In the case where the Island Council, as tenant, wish to remove a tree or plant, law requires that they compensate the landowner at the Government approved rate.

Safeguards Policy Requirements of ADB and WB

44. ADB policies relevant to the resettlement plan are the Safeguard Policy Statement (SPS 2009), Accountability Mechanism, Gender and Development, and Public Communications Policy. ADB's Policy on Involuntary Resettlement is set out in its SPS, 2009.
45. The WB has a series of Operational Policies (OP) and Bank Procedures (BP) relating to social safeguards which outline that project designs are to be informed by appropriate social assessments. The key relevant WB policy to the RF is OP4.12 on Involuntary Resettlement.
46. The policy requirements of ADB and WB with respect to involuntary resettlement are very similar. Key Principles of ADB and WB safeguards policy on resettlement are as follows:
- (i) Screen early the projects resettlement impacts and risks. Determine the scope of the resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to settlement impacts and risks;
 - (ii) Carry out meaningful consultations with affected persons, host communities, and other stakeholders in the design, planning, implementation and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups and ensure that free, prior and informed consultation is carried out throughout project design and implementation;
 - (iii) 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;
 - (iv) Improve, or at least restore, the livelihoods of displaced persons, to at least pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher, through (i) land-based resettlement or cash compensation at replacement value as relevant, (ii) prompt replacement of assets, (iii) Prompt compensation at full replacement cost, and (iv) additional revenues and services through benefit sharing schemes where possible;
 - (v) Provide physically and economically displaced persons with needed assistance including i) if there is relocation, secure tenure to relocated 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; and iii) civic infrastructure and community services as required;
 - (vi) Improve, or at least restore, the standard of living of the displaced poor and other vulnerable groups, including women, to at least pre-displacement levels or levels prevailing prior to the beginning of project implementation, whichever is higher. 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;
 - (vii) Develop procedures in a transparent, consistent and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status;
 - (viii) Ensure that displaced persons without titles to land are eligible for resettlement assistance and compensation for loss of land and non-land assets;

- (ix) Prepare a resettlement plan elaborating on displaced persons entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget and time-bound implementation schedule.;
- (x) 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 understandable to the affected persons, displaced persons and other stakeholders. Disclose the final resettlement plan and its updates to affected and displaced persons and other stakeholders;
- (xi) Conceive and execute 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 resettlement component of the project as a stand-alone operation;
- (xii) Pay compensation and provide other entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout the project implementation; and
- (xiii) Monitor and assess resettlement outcomes and 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.

Comparison of Land Acquisition and Resettlement in Kiribati and ADBs SPS 2009 and WB OP.4.12

47. Table 2 provides a comparison between ADB and WB policy requirements and applicable laws of Kiribati:

Table 2: Comparison of Policy Requirements and Applicable Laws of Kiribati

Kiribati's Land Acquisition Policy	ADB SPS and WB OP.4.12 Requirements	Gaps and Consistencies between GOK and ADB policies
<p>The Constitution of Kiribati generally guarantees against deprivation of property without adequate compensation.</p> <p>In situations where property is compulsorily taken possession of or an interest or right over property is compulsorily acquired, compensation must be paid within a reasonable time.</p> <p>The Native Lands Ordinance 1956 makes clear that native land cannot be alienated to a non-native, and the Non-Native Lands Ordinance 1974 restricts the alienation of non-native land except to the State.</p> <p>The State Acquisition of Lands Ordinance 1954 empowers the Minister to acquire land compulsorily on behalf of the Republic, or with the agreement of landowners, any land which is required for the construction, maintenance or improvement of any road designated as a highway (S.10(1)). The Ordinance prohibits the Minister from acquiring land on either side of a public highway, except by agreement with landowners.</p>	<p>ADB; Screen the project early to avoid Involuntary resettlement wherever possible.</p> <p>WB; Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.</p>	<p>Both the Constitution and the State Acquisition of Lands Act 1954 safeguards against the deprivation of property without compensation.</p> <p>There are no explicit provisions preventing involuntary resettlement but the restrictions on the alienation of native lands to non-natives, and the mechanism for reacquiring non- native lands by the State potentially provide for the State the opportunity to intervene in these situations to prevent involuntary resettlement.</p> <p>Kiribati's policy is therefore consistent with ADB and WB policies. The provision for prior agreement of landowners is important in this regard.</p>
<p>The Constitution and State Acquisition of Lands Ordinance guarantee compensation for land, crops and other</p>	<p>ADB; Where population displacement is unavoidable, it should be minimized by providing viable livelihood</p>	<p>The requirement for prior notice and the duration of no less than 6 months is clearly intended for affected people to relocate in a</p>

Kiribati's Land Acquisition Policy	ADB SPS and WB OP.4.12 Requirements	Gaps and Consistencies between GOK and ADB policies
<p>assets vital to livelihoods that are damaged.</p> <p>The 1954 Ordinance also provides for prior notice to all affected people of no less than 6 months to give up possession of such lands, unless the Minister considers it urgently required. In the conduct of preliminary investigation preceding the acquisition of any land for public purpose, agents of the Minister are authorized to enter the land, take measurements, soil samples, etc., to ascertain if land under consideration is 'adapted for such purpose but shall not enter into any building or upon any enclosed land attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least 7 days notice of the Minister's intention to do so.</p>	<p>options.</p> <p>WB; Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons³ should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p>	<p>prepared and orderly manner, with compensation. Likewise the restraints on the Minister's agents from entering homes without prior notice during preliminary investigations are to minimize disturbance and adverse impacts.</p> <p>There is no explicit statement requiring the provision of viable livelihood options, but the intent of the legislation to minimize hardship on affected people is clear. In this regard, Kiribati and ADB and WB policies are partly consistent and there is a need for GOK to put in place additional measures to ensure full compliance.</p>
<p>The State Acquisition of Lands Ordinance 1954 (S.5) empowers the Minister to acquire lands for any public purpose, "...paying such consideration or compensation as may be agreed upon or determined under the provisions of this Ordinance."</p> <p>S. 16 (a) lists all matters to be considered in determining compensation which covers the market value of land at the date of notice of intention to take such land.</p> <p>S.17 also provides for compensation to affected people for loss of rents and profits.</p>	<p>ADB; Enhance, or at least restore, the livelihoods of all DPs in real terms relative to pre-project levels. All compensation is based on the principle of replacement cost.</p> <p>WB; Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The Ordinance is consistent on the principle of replacement cost based on market value. The Ordinance is also cognizant of the secondary impacts of any land acquisition on the affected persons' livelihood and source of income, which is an important aspect of both WB and ADB policy.</p>
	<p>ADB; Improve the standards of living of the affected poor and other vulnerable groups. This covers both economic and physical displacement.</p> <p>WB; Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The government has no written policy consistent with or equivalent to that of ADB and WB. ADB SPS 2009 and WB Op.4.12 will be enforced. In the event of displacement, vulnerable DPs will be provided with support to ensure that living standards are restored or where possible improved from pre-project levels.</p>
<p>State Acquisition of Lands Ordinance 1954 provides for prior notification of no less than 6 months during which time, the affected people may seek compensation or otherwise lodge a complaint with the High Court should there be disagreements over the amount</p>	<p>ADB; Carry out meaningful consultations with participation of APs. Inform all APs of their entitlements and resettlement options.</p> <p>ADB; Resettlement information is to be disclosed to APs at</p>	<p>Close consultation regarding compensation is implied in the Acquisition of Lands Ordinance as part of the process of reaching agreement or otherwise, in which case the matter is referred to the High Court for resolution.</p>

Kiribati's Land Acquisition Policy	ADB SPS and WB OP.4.12 Requirements	Gaps and Consistencies between GOK and ADB policies
<p>of compensation or disputes over evidence supporting the claim.</p> <p>Foreshore and Land Reclamation Act 2005 (S.4) Notification of proposed reclamation shall be published in 2 successive issues of a GoK publication, broadcast on 2 successive days over the radio and posted at each police station on the island where the land is to be reclaimed. (S.7.) states "any person whose private right may have been extinguished by the construction of a causeway or landing-place may within 3 months of the completion of such causeway or landing-place, submit a claim for compensation in respect of the extinguishment to the public body responsible for the construction of the causeway or landing-place".</p>	<p>key points, and specific opportunities provided for them to participate in planning and implementation options. Pay particular attention to the needs of vulnerable groups.</p> <p>WB; Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.</p> <p>WB; Displaced persons are (i) informed about their options and rights pertaining to resettlement; (ii) consulted, offered choices and provided with technically and economically feasible resettlement alternatives.</p>	<p>The Foreshore and Land Reclamation Act sets out the process for information sharing and compensation.</p> <p>While less explicit, GoK policy is consistent with that of ADB and WB. The difference is that GoK puts the onus on the affected people to seek compensation, while ADB and WB policies ensure that the project is proactive in paying due compensation to people.</p>
<p>S.13 of the State Acquisition of Lands Ordinance 1954 – Dispute as to compensation and title to be settled by High Court.</p> <p>S.8 of the Foreshore and Land Reclamation Act states claims of less than \$3000 will be settled at the Magistrates Court and in other cases at the High Court.</p>	<p>ADB; Grievance redress mechanisms for APs are to be established. Where adversely affected people are particularly vulnerable groups, resettlement planning decisions will be preceded by a social preparation phase to enhance their participation in negotiation, planning, and implementation.</p> <p>WB; Appropriate and accessible grievance mechanisms are established for displaced persons and their communities.</p>	<p>The 1954 Ordinance and Foreshore and Land Reclamation Act 2005 clearly establish the mechanism for resolving disputes and grievances. But there is no explicit provision for safeguarding the interests of affected people that are particularly vulnerable. GoK needs to put in place specific strategies for ensuring the timely redress of all grievances as part of the project design, as well as provisions for safeguarding the interests of affected people who are particularly vulnerable.</p>
<p>Under S.28 of the Native Land Ordinance 1956, the Gilbert and Phoenix Islands Lands Code was declared to be the code of laws governing native land rights from 1 March 1963 in each of the 18 populated islands of Kiribati. The Code, codifying custom, describes the system of native land tenure and regulates the distribution or transfer of native lands, fish ponds and fish traps to the owner's spouse and children (legitimate, illegitimate and adopted). The Code also regulates gifts of land for nursing a landowner who is incapacitated by illness; gifts for wet nursing babies (that is where a child is cared for and raised by persons other than the child's natural parents), and gifts of land by a husband to his wife or a wife to her husband during marriage. Customs pertaining to land have changed and cognizant of this, the Minister (under S.8 of the Native Lands Ordinance) is obliged to lay before</p>	<p>ADB; Affected people are to be assisted to integrate economically and socially into host communities so that adverse impacts on the host communities are minimized and social harmony is promoted.</p> <p>WB; Patterns of community organization appropriate to the new circumstances are based on choices made by the displaced persons. To the extent possible, the existing social and cultural institutions of resettlers and any host communities are preserved and resettlers' preferences with respect to relocating in preexisting communities and groups are honored.</p>	<p>The Land Code is consistent with ADB and WB policies</p>

Kiribati's Land Acquisition Policy	ADB SPS and WB OP.4.12 Requirements	Gaps and Consistencies between GOK and ADB policies
Parliament at its next meeting, any of the orders made incorporating the changes.		
<p>Kiribati has no ethnic minorities. In the State Lands Act 2001, the transfer of rights to land via leases distinguishes between natives and non-natives. Unlawful occupation of native lands is an offense under S.35 of the Native Lands Ordinance. The unlawful occupant may be ordered by the Court to pay to the proprietor compensation for the period of the unlawful occupation (S.35 (2)). In terms of State-owned lands, the Minister under S.13 may allow a third party with close family connections to the lessee to occupy the land or part of it. This family member or owner may receive financial compensation, at the sole discretion of the Minister, up to no more than the current value of improvements on the plot, when the plot is transferred and registered under a new owner (S.16).</p>	<p>ADB; Indigenous groups, ethnic minorities, pastoralists, people who claim for such land without formal legal rights, and others, who may have usufruct or customary rights to affected land or other resources, often have no legal title to their lands. The absence of a formal legal title to land is not a bar to ADB policy entitlements.</p> <p>WB; DPs may be those who do not have formal legal rights to land but have a claim to such land or assets--provided that such claims are recognized under GoK laws or become recognized through a process identified in the resettlement plan.</p>	<p>For leased State-owned land, affected people permitted to occupy land under S.13 of the State Lands Act 2001 are entitled to compensation for any improvements on the land. For native lands, occupants without title have no such rights.</p> <p>There is inconsistency between ADB/WB policy and those of the Government of Kiribati with respect to occupants without titles on native lands.</p> <p>To comply with ADB and WB Policy, the GoK will ensure that affected people who have legitimate claims to crops, trees and/or land are compensated regardless of whether or not they have formal legal title</p>
<p>All lands (native, state-owned) are registered in the register of native lands (S.2 Native Lands Ordinance) and State-owned lands respectively (S.4 (1) State Lands Act 2001). The Leases Register and Sub-Leases Register are also maintained for native lands (S.2 Native Lands Ordinance).</p>	<p>The APs are to be identified and recorded as early as possible in order to establish their eligibility through a population record or census that serves as an eligibility cut-off date, preferably at the project identification stage, to prevent a subsequent influx of encroachers or others who wish to take advantage of such benefits.</p> <p>WB; Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project</p>	<p>Existing registers allow for the early identification of affected people and facilitate the establishment of their eligibility. There are also unsurveyed plots with titles unconfirmed, which need boundary surveys before inventory of assets and census of affected people can be finalized.</p> <p>GoK policies and ADB and WB requirements are consistent.</p>
<p>Under S.28 of the Native Land Ordinance 1956, the Gilbert and Phoenix Islands Lands Code was declared to be the code of laws governing native land rights from 1 March 1963 in each of the 18 populated islands of Kiribati. The Code, codifying custom, describes the system of native land tenure and regulates the distribution or transfer of native lands, fish ponds and fish traps to the owners spouse and children (legitimate, illegitimate and adopted). The Code also regulates gifts of land for nursing a landowner who is incapacitated by illness; gifts for wet nursing babies (that is where a child is cared for and raised by persons other than the child's natural parents), and gifts of land by a husband to his wife or a wife to her husband during marriage. Customs pertaining to land have changed and cognizant of this, the Minister (under S.8 of the Native Lands Ordinance) is obliged to lay before</p>	<p>ADB; Particular attention must be paid to the needs of the poorest APs, and vulnerable groups that may be at high risks of impoverishment. This may include those without legal title to the land or other assets, household headed by female, the elderly or disabled and other vulnerable groups, particularly indigenous peoples.</p> <p>WB; particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.</p>	<p>The Gilbert and Phoenix's Land Code under the Native Land Ordinance 1956 provides for vulnerable groups including women, children, and the elderly. It is consistent with ADB and WB policies.</p>

Kiribati's Land Acquisition Policy	ADB SPS and WB OP.4.12 Requirements	Gaps and Consistencies between GOK and ADB policies
Parliament at its next meeting, any of the orders made incorporating the changes		
Kiribati legislation (State Acquisition of Lands Ordinance) provides for compensation of land based on market value at the date of notification of intent to take such land. Government lease rates for Government leased lands are determined at market rates and reviewed every three years, the most recent in 2009. Compensation for crops is similarly valued and the last update for Government Approved Compensation Rates for Trees, Crops and Building Structures was passed by Cabinet in 2011.	<p>ADB; The full resettlement costs are to be included in the presentation of project costs and benefits. This includes cost of compensation, relocation and rehabilitation, social preparation and livelihood programs as well as the incremental benefits over without project situation (which are included in the presentation of project costs and benefits). The budget also includes cost for planning, management, supervision, monitoring and evaluation, land taxes, land fees, and physical and price contingencies. Where loans include subprojects, components or investments prepared only after project approval and loans through financial intermediaries that are likely to cause involuntary resettlement, sufficient contingency allowance must be allocated for resettlement prior to approval of the loan. Similarly, resettlement plans should also reflect the timeframe for resettlement planning and implementation.</p> <p>WB; provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.</p>	<p>Kiribati policy for calculation of compensation for land, crops and other assets is based on current market value, i.e., consistent with the ADB replacement value policy. The existing legislation is silent with regards to social preparation and livelihoods programs as part of compensation and resettlement assistance. On the other hand, recent practice wherein Government lending institutions provide preferential terms for housing loans for people affected by Government projects point to compliance in practice with ADB and WB policy.</p> <p>GoK updated its schedule of rates for valuing crops and trees to reflect current market value for compensating calculations, in 2011 as part of the Kiribati Road Improvement Project. In 2020 the Compensation Rate for Trees, Crops and Building Structures will be well overdue for review. The project will ensure the appraisal of compensation rates to ensure that compensation is at replacement cost.</p>
	<p>ADB; Conceive and execute involuntary resettlement as part of a development project. Include the full costs of resettlement in the presentation of project cost.</p> <p>WB; The borrower is responsible for preparing, implementing, and monitoring a resettlement plan, a resettlement policy framework, that conform to the policy.</p>	<p>The Government of Kiribati has budgetary provisions for lease payments on existing lands leased by the State for public purposes. For all compensation arising out of the project, the Government will be requested to include eligible costs of compensation, relocation and rehabilitation in the ADB and WB loan financing for the project.</p>

AP = affected persons, DP = displaced persons GoK = Government of Kiribati

Strategies for Bridging Gaps between the GoK and ADB Policies

48. In bridging gaps between the GoK and the ADB and WB policies on land acquisition, the following principles and policies will govern the project, with due consideration for the customs and traditions of local communities:

- (i) Acquisition of freehold native lands will be minimized and resettlement of people avoided. The preferred mode of securing access to lands will be through negotiated long-term lease;
- (ii) (ii) Where population displacement is unavoidable, it will be minimized by providing viable livelihood options;
- (iii) Any and all outstanding rent payments will be paid against leases held by Island Councils, at sites proposed for marine facilities, prior to the commencement of project implementation;
- (iv) All APs will be systematically informed and consulted on the acquisition and compensation of affected land, other affected assets, the rights and options available to them on the proposed mitigating measures, and to the extent possible, APs will be involved in the decisions to avoid any delay in RP implementation;
- (v) In the consultation process, MISE will include leaders of AP communities, and will encourage and facilitate the participation of women, the elderly and vulnerable people. Local NGOs and CSOs will also be invited to participate;
- (vi) The customs and traditions as well as the religious practices and observances of the local communities will be respected, and historical or cultural landmarks, spiritual sites and reservation areas will be preserved and protected;
- (vii) Compensation will be at replacement value at time of payment of compensation. Government schedule rates maintained by MELAD will be reviewed at time of valuation with assistance from OIIU and where needed supplementary compensation (either in cash or in kind) will be provided for affected assets such as trees, crops and structures to ensure compensation at replacement cost;
- (viii) Lack of formal legal rights to land will not deprive APs from receiving compensation and other entitlements for lost assets on the affected land . The census of APs will be appropriately designed to ensure APs without title to land are clearly identified;
- (ix) Particular attention will be given to socially and economically vulnerable groups like female-headed households, children, the landless, elderly people without support structures and people living in extreme hardships during the resettlement plan implementation process;
- (x) The titleholders will be involved in decision making related to land acquisition and resettlement and they will be assisted by the IA to mitigate the adverse impacts of resettlement;
- (xi) The full cost of land acquisition and resettlement must be incorporated into MFED budget planning and approved by the Council of Ministers with a clear and agreed implementation period;
- (xii) Appropriate internal reporting (including auditing and redress functions), monitoring and evaluation mechanisms will be established by the IA as part of the resettlement management system;
- (xiii) Land acquisition, compensation, resettlement and rehabilitation activities will be satisfactorily completed and the project areas cleared of all obstructions before civil works begin;
- (xiv) Affected populations that stand to lose only part of their physical assets will not be left with a proportion that will be inadequate to sustain their current standard and convenience of living, such a minimum size being identified and agreed upon during the resettlement planning process;
- (xv) Community facilities and infrastructure damaged due to the project will be restored or repaired, as the case may be, at no cost to the community;
- (xvi) (xvii) APs whose land or assets are temporarily taken by the works under the project will be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The contractor will negotiate with landowners for fair and documented compensation for temporary use of lands. The contractor will also ensure that all temporarily acquired land and structures are returned in their pre-project state; and

(xvii) Where local communities or individuals elect to make voluntary contributions of affected land without compensation, or in accordance with traditional practices, this will be acceptable only if the following safeguards are in place:

- full consultation with landowners and any non-titled affected people on site selection;
- voluntary donations should not severely affect the living standards of affected people;
- any voluntary donation will be confirmed through written record and verified by an independent third party such as a nongovernment organization (NGO) or legal authority; and
- adequate grievance redress mechanism should be in place.

49. **Resettlement Plan (RP).** Any civil works undertaken for the project that will result in involuntary resettlement impacts will require the preparation and implementation of a resettlement plan (RP). All compensation, assistance and mitigation required under such RPs are to be implemented in full prior to the commencement of civil works on any affected sites. Where a Draft RP is prepared during project preparation, such RPs will need to be updated based on detailed design information during project implementation. An outline of RP is attached to the RF as Annex 2. When sites and land requirement boundaries are confirmed following detailed design (or engineering study in the case of activities using a design and build approach), due diligence will be undertaken and either a RP will be prepared (in the case of resettlement impacts) or a due diligence report prepared confirming the absence of resettlement impacts.

50. The following sets out the main steps required to prepare a RP.

- Identification of owners of affected land by MELAD in collaboration with Island Council. MELAD and the Island Council maintain a registry of land records and ownership. The current status of land ownership and land use will be confirmed by the Island Council.
- In the event that the land is under current long-term lease, due diligence will be conducted by the Outer Islands Implementation Unit (OIIU) to assess boundaries and status of the lease and payments.
- In the event that a new lease is required, the lease will be negotiated with the land owner by MELAD as described in the section below.
- Consultations with relevant stakeholders including affected persons regarding the project design and objectives, findings of the detailed design, RP preparation arrangements, entitlements, implementation arrangements and grievance redress mechanism.
- A census and inventory of losses will be undertaken by OIIU supported by MISE or MITCCD and will help determine the compensation entitlements that will be presented in the updated entitlement matrix. Once specific sites are fully determined, a list of APs including an inventory of losses will be formulated and budget prepared. MELAD will conduct a detailed measurements survey for new land leases to arrive at a total acreage for calculation of lease payment. Long-term leases will be drawn up and initial payment made prior to the start of civil works.
- Once the community has been consulted, and assets assessed, there will be a “cut off” date for eligibility for compensation and rehabilitation assistance. Landowners and users that have documented claims to affected land, crops, trees, or structures at the cut-off date will be eligible for compensation.
- Valuation of affected assets at replacement cost by MELAD and OIIU. In the event that current Government rates are indicated not to be at replacement cost, top up measures will be determined in consultation with affected persons to ensure compensation is at replacement value.

- RP is prepared by OIIU covering identified affected persons, losses, and compensation and assistance described in an entitlement matrix and costed. The RP will be endorsed by KPSU for ADB and WB concurrence.
- The RP will be publicly disclosed on the websites of GoK, ADB and WB following approval and a copy provided to the Island Council.
- RP implementation, including the provision of compensation and assistance to APs required under the RP prior to the commencement of civil works. A compensation completion report will be prepared by OIIU confirming full disbursement of compensation and assistance.
-

Preparation of Land Lease Agreements. Land required for the project needs will be either designated public land or will be provided through long-term leases by the Government from the legal land owners. The status of land lease agreements and lease payments that is under current lease will need to be confirmed and lease payments will need to be up to date. For new land leases the following steps will be undertaken to arrange and secure the lease.

Steps	Activity	Responsible Agency
1	Identification of Landowners at the proposed sites to be leased	Island Council and MELAD
3	Conduct boundary survey, detailed measurement survey and valuation for all the portion of land to be leased including all affected assets	MELAD and MISE with support from project's safeguards.
4	Information disclosure on the outcome of the survey/detailed assessment and inventory of losses and undertake further assessment/ resolve outstanding issues as required.	Island Council & MIA and MELAD, MISE and MICCTD
5	Prepare cabinet submission for the proposed long-term lease for the project	MISE/MICCTD and MELAD
6	Facilitate the signing of the lease agreement by the landowners following the cabinet approval.	Island Council, MELAD and MICCTD and MISE
7	Signing of lease agreement by Minister of Lands and verification from third party	MELAD
8	Release of the first rental payment to the landowners.	MELAD and Island Council

51. The project will seek to avoid involuntary resettlement through the following processes:
- (i) By using government leased land where feasible;
 - (ii) By choosing sites that will avoid resettlement impacts;
 - (iii) By conducting meaningful consultation with landowners and non-titled affected people on site selection and due diligence;
 - (iv) By conducting meaningful consultation with landowners and non-titled affected people in preparation and finalisation of the resettlement plan and during project implementation;
 - (v) By consulting with landowners and non-titled affected people to seek voluntary negotiation of long-term agreements for lease of native lands;
 - (vi) By utilising, wherever possible, existing rights of way for access during construction and by consulting and negotiating with landowners for access where there are no existing rights of way; and
 - (vii) By restoring all disturbed areas and areas temporarily used to their former state or better at the end of the construction period.

Number of Affected person and Level of Physical and Economic Displacement

52. The number of affected persons and their affected assets will be finalized when the detailed measurement surveys (DMS) are completed.

Eligibility Criteria and Entitlement for Affected/Displaced Persons

53. The project intends to engage in meaningful consultation with landowners to seek voluntary negotiation of new lease agreements, where required, with an aim to ensuring that any proposed site is not immutable and therefore alternate sites will be explored if required. There are 2 sites, currently proposed, which are expected to require new lease agreements. These are not inhabited by homes, business or settlement of any kind. There is a small number of coconut trees on these proposed sites that will need to be compensated.

54. Batching and borrow sites will need to be determined once the Civil Works Contractor is involved.

55. The following categories of persons might be affected by land acquisition based on assessment of the project components:

- Persons losing land with a legal title, or with a legitimate claim as native land owner but without registered title;
- Owners of buildings, structures, crops, trees or other non-land assets, with or without legal claim to the affected land;
- People losing business, income or livelihood, with or without legal claim to the affected land;

56. Affected persons compensation and entitlements are described in detail in Table 4. Entitlement Matrix.

57. The GoK offers timeframes for claims through the Foreshore and Land Reclamation Act of 2005, with specific reference to causeways and landing-places. The Land Reclamation Act provides that persons affected by the construction of a causeway or landing-place may, within 3 months of the completion of such causeway or landing-place, submit a claim for compensation to the public body responsible for the construction of the causeway or landing-place. Information regarding this cut-off date will be documented and disseminated throughout the project islands.

C. SOCIOECONOMIC INFORMATION

58. There are 11 causeways slated for refurbishment and 4 proposed sites for refurbishment or construction of marine facilities as well as potential sites for aid to navigation beacons. No involuntary resettlement is anticipated and minimal impact on livelihoods. The approach to surveys and information-gathering is recommended as follows:
59. **Baseline Socioeconomic Survey.** A socioeconomic survey of affected persons will be designed and implemented by OIIU with support from MISE or MITCCD on the 4 outer islands to better understand the social impacts of project activity. A survey of all APs will be conducted to gather information on (i) socioeconomic characteristics of the respondents and their families; age, level of education, sources of income, transportation access, land tenure, land holding, with information disaggregated by sex; (ii) nature of land acquisition requirements, i.e., temporary or permanent, the use of land and the tenure arrangement; (iii) the impacts of land acquisition i.e. if there are trees or fish pond that will be affected; and (iv) classification of vulnerable people, if any. This information, combined with census and inventory data, will be used by MELAD to design a compensation and entitlement form (CEF) form for each AP to serve as the record of ledger for APs and their entitlements.
60. **Land Ownership Status Review.** MELAD will work with Island Councils to conduct a review of land records to determine the legal status of all land plots to be occupied by marine facilities and/or AtoN beacons. Rightful ownership of the land will be determined. Where land is already leased by GoK the review will ensure that lease payments are up-to-date and rectify any outstanding payments prior to project implementation. Where a new lease is required, MELAD will consult with landowners and, if the landowner is amenable, develop a long-term lease agreement. MELAD will conduct a detailed measurement survey (DMS) and develop lease agreements based on current GoK rates. If new lease agreements have not been finalised before project approval, MELAD will be asked to draw-up a Memorandum of Agreement with the landowners stating that both parties have agreed to enter into a lease and due process will be undertaken and completed prior to any civil works.
61. **Census and Inventory of Losses.** A census of 100% of APs, including inventory of losses (IOL) and basic socioeconomic information will be undertaken by OIIU with support from MISE or MITCCD with assistance from MIA after detailed design. The IOL documents the value loss of land, trees, livelihoods, and assets. Annex 1 provides a sample IOL form. This information will provide a demographic overview of the site-specific landowners and will cover valuable assets and sources of livelihood and help determine the compensation entitlements that will be presented in the revised entitlement matrix. Once specific sites are fully determined, a list of APs including an inventory of losses will be formulated and budget prepared.
62. **Land Surveys and Measurements.** Detailed measurements survey (DMS) will be conducted by MELAD with support from OIIU to arrive at a total acreage for calculation of lease payment. The DMS will be conducted after detailed design is agreed and prior to implementation of civil works. Boundaries will be marked by global positioning system (GPS) coordinates and survey's documented as part of the lease agreement and stored on MELADs digital land resources database.
63. **Methods for Valuing Affected Assets.** Owners and land users will be compensated for lost income, non-land assets such as fruit trees, and other losses at replacement value. MELAD maintains a list of government scheduled rates for compensation of various types of affected assets requiring compensation. If the list of government scheduled rates at the time of preparation of the RP do not reflect the full replacement value (including transaction costs), additional compensation, such as top-up compensation (whether in cash or in kind) will be provided under the RP to meet the requirements of compensation at replacement value.

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64. Valuations will be conducted after the detailed design phase and information will be used to update the inventory of losses. This information will be captured in a RP (or updated RP where a draft RP has been prepared and submitted for review and concurrence by ADB and WB. All compensation and assistance required under the approved RP together with initial lease payment, where applicable, must be fully disbursed prior to commencement of civil works. The OIU safeguards specialists will collaborate with MELAD to ensure that compensation and assistance is consistent with the requirements set out in the RP.
65. **Principles for determining replacement cost of acquired assets.** ADB SPS and WB resettlement policy require that valuation of assets and compensation paid for acquired land, housing, and other assets, be at full replacement cost. Full replacement cost is the cost of replacing an expropriated asset of the same or better quality in the current land and/or housing market. Full replacement includes the following elements:
- a) **Fair market value.** Fair market value for land leases on the OIs is determined by GoK and is consistent across all government leased lands. MELAD will need to provide evidence of payment against any existing or new lease agreements under the subprojects.
 - b) **Transaction costs.** These may include the legal and documentation expenses associated with updating land records to reflect leases, as well as the legal expenses associated with registering property titles. Transport costs may also be included. These costs will not be paid by the displaced person, but by the project and are counted as part of the replacement cost.
 - c) **Transitional and restoration costs.** Transitional cost involve a short-term subsistence allowance to support the displaced persons through a period of income loss due to a project. It may also include agricultural extension, training and other poverty reduction or capacity building programs. Restoration cost refers to necessary improvements on land or to housing to achieve the objectives of enhancing or at least restoring, livelihoods, compared with pre-project levels.
 - d) Depreciation is not a factor in ADB and WB policy, and is not considered when valuing compensation for expropriated structures or assets. Compliance with ADB and WB policy is required. For losses that cannot easily be valued or compensated for in monetary terms, attempts are made to establish access to equivalent and culturally acceptable resources and earning opportunities.

D. PARTICIPATION AND DISCLOSURE

66. The following mechanisms will be adopted to ensure meaningful consultation with affected persons and for enabling their informed participation in project preparation, implementation and monitoring:
67. **Stakeholder Analysis.** The first step is identification of stakeholders who will be involved in planning and implementation of the social aspects of the project: APs, landowners, Elders, Women and Youth leaders, NGO's, CSOs, Island Councillors and Council staff and local officials from; MELAD, MISE, MIA, MICTTD will all be critical to the process. A stakeholder analysis should be prepared by the safeguards staff to facilitate the consultation process and ensure no important individuals or agencies are forgotten.
68. **Public Consultation.** The project aims and objectives, project design concepts and affected persons rights in terms of grievance redress mechanism (GRM), access and entitlements, will be disclosed. Consultations will be carried out during project preparation phase and again during project implementation and will disclose safeguards documents and their further updates. Meetings will ask for stakeholders to raise comments and concerns and these will be documented by the facilitators. Women and youth will be encouraged to participate.
69. **Consultation during project preparation phase.** Consultation processes will be supported by visual aids and the project information booklet, sharing the preliminary design concept and later the detailed design concepts with all stakeholders. A variety of mechanisms will be employed to consult with stakeholders and APs during preparation and implementation of LARPs including; (i) Meetings held in village Maneabas organised through the Island Councils, utilising the network of Village Wardens and Church leaders to advertise the consultation meetings; (ii) Land Ownership Status Review meetings will be held with land owners and land users affected directly by the project (iii) separate meetings with women APs and vulnerable households; (iv) key informant interviews with GoK service staff (island council staff, local teachers, health workers, women's support workers etc), community leaders, women, religious and youth leaders; (v) socio-economic survey will consult with women and men APs and affected communities; (vi) participatory compilation of the Inventory of Losses affecting APs, and (vi) informal conversations with passers-by and transport users near the subproject sites. Consultations will be undertaken in Gilbertese language on the outer islands. While MIA and the Island Council will support community consultations, MISE will have the responsibility for ensuring that meaningful consultation is conducted and documented.
70. **Project Information Booklet.** An information booklet will be prepared for each island, detailing (i) the aims and objectives of the project, design concepts and locations (ii) the key social and environmental issues, including the GRM and (iii) land related issues and impacts to land.
71. **Further Consultations with Affected People and Communities during Implementation.** Further consultations with affected people including women and youth will take place during the project implementation phase. Consultations will also help to identify and confirm land ownership and assist contractors in identifying sites for borrow sites, temporary structures and parking of heavy machinery and equipment (arrangements for such temporary impacts during construction will be detailed in the ESMP).
72. **Disclosure of the LARP.** Public meetings will be held in Village Maneabas on the 4 OIs to disclose details of the RF and subsequent RPs or DDR. These documents will be published on the websites of ADB and WB as well as those of the Government, including MFED, MISE and MITCCD. Hard copies of the safeguards documents will be distributed to the respective Island Councils. Salient aspects of the safeguards documents will be disclosed to all levels of stakeholders from the relevant national and local government

agencies to those directly affected by the project through public meetings, radio broadcasts and the Project Information Booklet (PIB). At the project sites, local meetings for consultation and information dissemination as well as PIBs will be delivered in Gilbertese.

73. A consultation plan has been prepared covering key issues to guide communication, information dissemination and disclosure activities during project design and implementation. The outline plan is presented in the table below.

Table 3: Consultation Plan

Issue	Target Audience	Means of Communication	Responsible	Timing
<p>Free Prior and Informed Consultation.</p> <p>Presentation of information about the project, impacts and mitigation measures to confirm community support for the project.</p>	<p>Island Councils, village leaders, local communities, and their traditional leaders.</p>	<p>Consultation meetings.</p> <p>Presentation of plan/project/ activity, land requirements.</p> <p>Consensus building/ decision making.</p>	<p>OIIU, MISE, MITCCD.</p>	<p>During project design</p>
<p>Works schedule</p> <p>Anticipated dust, noise and other works related impacts.</p> <p>Hazards and safety requirements</p> <p>Workers accommodation arrangements and community relations.</p> <p>GRM</p>	<p>Island Councils, village leaders, local communities, and their traditional leaders.</p>	<p>Consultation meetings with Island Councils and communities.</p> <p>Public notice boards/ signs</p>	<p>Contractors</p>	<p>Prior to commencement of works and during works as needed.</p>
<p>Contractor community relations and issues</p>	<p>Island Councils, village leaders and traditional leaders</p>	<p>Regular meetings throughout works period.</p>	<p>Contractor</p>	<p>Throughout works.</p>
<p>Disclosure of RP</p>	<p>Island Councils, village leaders, local communities, and their traditional leaders.</p>	<p>Consultation meetings to present RP/updated RP.</p> <p>Additional separate meetings with APs and their traditional leaders.</p> <p>Presentation of plan/project/ activity, Consensus building/ decision making.</p> <p>Public posting of updated PIB in Island Council notice boards and dissemination to traditional leaders and APs.</p> <p>Hard copy of approved RP provided to Island Councils for public</p>	<p>OIIU, MISE, MITCCD</p>	<p>During preparation RP</p>

Issue	Target Audience	Means of Communication	Responsible	Timing
		access.		
	General public	Public disclosure on websites of ADB, WB and GoK websites (MFED, MISE, MITCCD)	ADB, WB, GOK (MFED, MISE, MITCCD)	Following approval of the RP
Compensation disbursement schedule	Affected households	Notices to individual households	OIIU, MELAD	Minimum 1 week prior to disbursement

E. COMPENSATION, INCOME RESTORATION AND RELOCATION

74. This section describes the measures proposed for income restoration, including compensation and special measures to help vulnerable households improve their living standards and measures for replacement land if needed.
75. **Avoiding or minimizing land acquisition.** In order to minimize land acquisition and resettlement impacts, the preliminary design has sought to utilize government leased land or public land where possible. Where public and government leased land is not available, the project proposes to enter into negotiation with native land owners for the long-term lease of land that is not inhabited by homes, business or settlement of any kind. Long-term lease approach will not disadvantage the affected persons and will actually enhance their livelihoods as leases provide a steady and reliable source of income. Where non-land assets are affected, these will be compensated at replacement cost.
76. **Negotiated use of lease of native land.** The project anticipates long-term impact at two proposed sites, which require new lease agreements to be negotiated, if landowners are amenable. The proposed sites are not inhabited by homes, business, settlement or structures of any kind. There are a very few coconut trees on these proposed sites that will need to be compensated. (The arrangements for creating new long-term lease agreements are described in Section B of the RF.)
77. **Compensation for removal or damages to fish ponds, trees, crops and structures.** Cultivation of crops is not widely practiced on the target outer islands, and no crops were sighted anywhere near the proposed maritime sites or causeways. However, in the case of removal of crops, to the extent possible, APs will be encouraged to harvest the crops before clearance of any land, and in this case, no compensation will need to be paid. Loss of trees, fish ponds, structures or other unanticipated impacts will be compensated at full replacement cost.
78. If there will be permanent impacts on livelihood and source of income will be compensated through livelihood restoration program that will be acceptable to the affected persons.
79. **Fences and animal shelters.** Loss of these assets will be compensated for at full replacement cost (per meter) for similar fencing, planting, or building materials.
80. **Structures.** APs will be provided with compensation at replacement cost to cover this activity, and they may also be eligible for an allowance due to disruption of their businesses.
81. Additional land requirements are not expected to affect any residential structures or other permanent buildings. Nonetheless, if such structures are affected, they too will be compensated at full replacement cost for the materials and labor. In addition, these APs are entitled to a moving allowance to relocate their possessions.
82. **Graves.** Graves and sacred sites are expected to be avoided by the project design. Where there is potential for graves to be removed and with the full prior agreement of the affected household, graves may be considered for removal. Compensation will be paid for all associated costs for affected graves to be relocated in a better site to the satisfaction of the affected household.
83. **Payment of compensation.** MISE will ensure that all procedures are followed properly, funds are disbursed in a fair and transparent manner, and that payment is made prior to the start of civil works.
84. **Other allowances.** The project will support APs to restore their living conditions and standards in the most efficient, effective manner possible, and will provide allowances and

assistance to achieve this. Other allowances and entitlements may be added to the entitlement matrix as needed, especially in the case of unanticipated impacts to ensure that the policy objectives set out in this RF are achieved.

- 85. Construction-related impacts.** Temporary use of land areas for batching, borrow and contractor facility sites, may also require compensation and this will be negotiated between the Works Contractor and the Land Owner or land user, with support from MELAD and the Island Councils, to ensure a fair and transparent process. The full extent of such construction-related requirements will not be fully known until the hydrographic survey and DMS is completed and batching, borrow and contractor facility sites are identified. Arrangements and any required compensation or payments for such temporary impacts during construction will be covered in the ESMP.
- 86. Vulnerable Aps.** The project will assist the following vulnerable households: (i) APs with monthly income of less than AUD 64.36 (Kiribati Basic Needs Poverty Line, which includes an allowance for essential non-food expenditure is estimated at AUD \$16.09 per capital adult equivalent); (ii) AP household heads whose age is 65 or older; (iii) female-headed household heads; and (iv) household heads who are physically and/or mentally incapacitated (disabled). Female-headed households, in particular widows, face particular disadvantages. Initial social impact assessment encountered female headed households, where the widow was originally from another island, but continued to live on the outer island of her deceased husband, long after his death. It is particularly difficult for these women to claim rights to their husband's lands. The project must ensure that their livelihoods, resources, and indeed, lives are not jeopardized or put at further risk through project activities.
- 87. Timing and Coordination of Land Acquisition Activities with Civil Works.** If payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates to ensure that APs receive compensation at full replacement cost at the time of compensation payment. Changes to government compensation schedule amounts will be verified and approved by the office of the Valuer General. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until (i) compensation and relocation of APs have been satisfactorily completed; (ii) agreed rehabilitation assistance is in place; and, (iii) the site is free of all encumbrances. A Compensation Completion Report will be submitted to ADB and WB confirming satisfactory completion of these requirements.
- 88.** The anticipated types of losses and entitlements are set out in the entitlement matrix shown in Table 4 below.

Table 4: Entitlement Matrix

Type of Losses	Entitled Person	Entitlement	Responsibility
Loss of homestead land, agricultural land or vacant plot – through negotiated long term lease	Landowner; title holder or non-titled landowner	a) Lease payment based on the revised rate in 2020 or latest standard rate at the time of the commencement of the lease. Payment by MELAD on annual basis disbursed through the Island Council b) Documentation of lease agreement to reflect land use rights transferred to GoK for the period of the lease, without cost to the landowner	MELAD and relevant Island Council
Loss of livelihood	Landowner; title holder or non-titled landowner, business owners, tenants, leaseholders	a) Cash compensation for temporary loss of income until the income loss is restored b) Cash compensation and provision of suitable livelihood	Ministry of Finance, MELAD and relevant Island Council

Type of Losses	Entitled Person	Entitlement	Responsibility
		restoration program for permanent loss of income	
Loss of crops/gardens and trees, including fruit and timber trees of economic value	Landowner; title holder or non-titled landowner	a) Provision of 60 days' notice to harvest standing seasonal crops. If harvest is not possible, cash compensation for crops (or share of crops) equivalent to full replacement cost. b) Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by average number of years for a seedling to reach maturity. c) Cash compensation equivalent to prevailing market price of timber for non-fruit trees.	MELAD and relevant Island Council
Impacts on vulnerable affected persons	All vulnerable affected persons	Vulnerable households will receive (i) land-for-land where possible (ii) priority for any employment in construction and maintenance works; and (ii) additional cash allowances for loss of land, or non-land assets	Amounts to be determined by MELAD following DMS and socio-economic assessments.
Temporary use of homestead land, agricultural land or vacant plot – utilized by the project for batching plant, borrow site, construction camps, etc. and temporary loss of physical access to land structure and right of way	Landowner; title holder or non-titled landowner or tenant	Specific entitlements and mitigation measures will be dealt with under the ESMP as guided by ADB and WB safeguards policy.	Civil Works Contractor with support from MELAD on applicable rates
Disturbance to Spiritual Site	APs, landowners, concerned persons	Disturbance of spiritual sites will be avoided. Spiritual sites will be identified in advance in consultation with local communities and demarcated by the contractor. The ESMP and CESMP will define procedures to avoid disturbance of these sites.	Civil works contractors with assistance from the Island Council.
Unanticipated loss, impact asset loss, or livelihood impacts	Unanticipated involuntary impacts shall be documented and mitigated based on the RF's policy principles and ADB's safeguards policy requirements.		

F. GRIEVANCE REDRESS MECHANISM

89. A mechanism to address grievances and complaints will be set up to provide support to APs on problems arising from land impacts and as a means to resolve these issues. The Island Council, through the Village Councillors, will have primary responsibility to receive, record and respond to complaints and grievances raised by community members. In addition, the Civil Works Contractor and MISE as Works Contractor, will assign a member of staff to serve as Community Liaison Officer (CLO). Due to a lack of cellular network and landlines on most outer islands, the CLO will attend monthly meetings of the Village Council during project implementation, to ensure that they are informed of any complaints or grievances raised. Monthly Council Meeting minutes will document the complaint or grievance and track the response until a resolution is reached. Special meetings between the relevant Village Councillor(s) and the CLO may be called when an urgent response is required.
90. A system will be established for identifying if the concern raised is a) a request for information or b) a complaint or c) a grievance. Project Implementation Consultants will support the establishment of the GRM structure and system and diligently monitor its progress, revising the approach where necessary. Guidance will be provided to Village Councillors on the redress system so that they can assist community members to raise their concerns.
91. For minor complaints, such as noise or dust nuisance, the complaint will be communicated to the Works Contractor by the Village Councillor and a response provided to the complainant within 48 hours. If appropriate action is not taken, the complainant will be made aware of his/her right to raise the complaint to the Magistrate's Court.
92. For major issues, such as occupation of land without consent, damage to property, personal injury, etc, it may be necessary to call a special Council Meeting, with the CLO in attendance, to address the issue. An initial response should be provided to the complainant within 24 hours, with an aim to resolve the issue within seven days. If a satisfactory solution is not reached, the complainant may file the complaint or grievance with the Magistrate's Court, which involves a registration fee of \$3.00. This fee will be paid by MISE. If a lawyer is needed and the complainant cannot afford one, a lawyer will be provided at no cost to the complainant through the Office of the Attorney General. The Magistrates ruling will be binding on all parties.
93. A register of inquiries, complaints and grievances will be maintained by the Island Council, recording dates, names of complainants, action taken and persons involved. All concerns will be documented and shared on a monthly basis as an appendix to the regular monthly Council meeting minutes. The register will be available to the public and for monitoring purposes. Sex-disaggregated data will be prepared to identify the sex of complainants and the nature of their complaint.

G. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

94. **Institutional Responsibilities.** The Ministry of Finance and Economic Development (MFED) is the Executing Agency for the project. The MICTTD will be the implementing agency for maritime components and the MISE will be the implementing agency for land transport components. Each of these agencies will be responsible for contributions to the monitoring and implementation of safeguards. Kiribati Fiduciary Services Unit (KFSU) will be responsible for financial management and overall coordination. The KFSU is under the oversight of the MFED.
95. **The Outer Island Implementation Unit (OIIU).** The Outer Island Implementation Unit (OIIU), housed under, MFED will be established to support the MICTTD and MISE in managing the project. The OIIU project management functions include ensuring that safeguards activities are monitored and reported against. The safeguards staff will include national environmental and social safeguards specialists and an international safeguards specialist full time for six years.
96. **MISE** will be responsible for (i) Working with MIA and MICTTD and MELAD to coordinate public consultations; (ii) Conducting baseline surveys, census and inventory of losses; (iii) ensuring land ownership status review is carried out and payments are processed in a timely manner for lease agreements and payment of non-land assets (iv) working with MELAD to finalise the location of maritime facilities and develop new lease agreements where needed; and (v) Compile and submit monitoring reports on implementation of the LARP during project preparation, project implementation and at the end of the project.
97. It is planned that MISE will implement the physical works for all causeways and tow of the island access infrastructure activities on Nonouti and Tabiteuea South. An International Contractor is expected to undertake the maritime facilities on Abaiang and Beru. All works will be under the supervision of an Engineering Consulting Firm. Where MISE implements civil works, the Ministry of Internal Affairs (MIA) will play a significant role in supporting Island Councils for implementation of the grievance redress mechanism.
98. **MICTTD** will be responsible for implementation of the hydrographic surveys and installation of AtoN beacons. Where AtoN beacons are to be installed on land, there may need to be compensation paid to landowners. MICTTD will be responsible for (i) Working with MIA and MISE and MELAD to coordinate public consultations; (ii) Conducting baseline surveys, census and inventory of losses, if required for on-land AtoN sites; and (iii) ensuring land ownership status review is carried out and all compensation payments are processes in a timely manner, if required for on-land AtoN sites; and (iv) contributing to due diligence reports and LARP updates.
99. **MELAD** will be responsible for; (i) implementing the land ownership status review (ii) conducting, or possibly supporting the implementation of detailed measurement surveys of maritime facility sites (iii) develop new lease agreements where required and assess total acreage calculation for compensation payments (iv) making payments against lease agreements.
100. **MIA** will be responsible for (i) providing support to MISE for baseline socioeconomic surveys, census and inventory of losses and (ii) providing support and supervision to Island Councils to implement the grievance redress mechanism and public consultations
101. **MFED:** will ensure that budget is provided to support the implementation of safeguards.
102. **Project implementation support consultants** will work under the direction of MISE, MICTTD and MFED to further develop and implement and report on safeguards. Project Implementation Consultants will support the preparation of safeguards action plans as well as support the establishment of the GRM system and monitor its progress, revising the

approach where necessary. Consultants will provide guidance to Village Councillors on the GRM and safeguards policies so that Councillors can assist community members to raise their concerns and seek redress.

103. Table 5 presents the preliminary implementation process and tentative schedule.

Table 5: Institutional Responsibilities and Tentative Schedule

Steps	Activity	Responsibility	Indicative Timeline
1	Improvement of Ships to Shore Transfer		
1.1	Identification of installation and replacement of AtoNs following conduct of hydrographic survey	Consulting firm	Q1 2021-Q1 2022
1.2	Consultations with relevant stakeholders and communities	Island Council, International Safeguards Consultant (individual) with support from OIIU safeguards staff	Q1 2021-Q1 2022
1.3	Preparation of safeguards due diligence report for all the identified sites for AtoN and submit to ADB and WB for clearance. Preparation of a stand-alone updated RP (building on and updating the draft RP) in the event of any resettlement impacts (not anticipated at this stage) for submission to ADB and WB	OIIU safeguards staff supported by international safeguards consultant (individual) Submission to ADB and WB by MICCTD	Q1 2022
1.4	Disclosure of the draft safeguards document to the affected persons and relevant stakeholders	MICCTD, Island Council	Q1 2022
1.5	ADB and WB no-objection on the draft safeguards document	ADB and WB	Q2 2022
1.6	Provision of compensation to affected persons if required and submission of compensation completion report to ADB and WB for no-objection	MELAD, Island Council and MICCTD with support from the OIIU safeguards staff	Q2 2021
1.7	Commencement of civil works for the commencement of AtoN installation and replacement	Consulting firm	Q1 2023-Q4 2024
2	Rehabilitation of Island Access Infrastructure -Maritime facilities for Abaiang and Beru		
2.1	Detailed design for the maritime facilities in Abaiang and Beru	Design-build contractor	Q1 2023
2.2.	Consultations with relevant stakeholders including affected persons regarding the findings of the detailed design	Island Council, OIIU safeguards staff supported by international safeguards consultant (individual)	Q1 2023
2.3	Boundary survey, detailed measurement survey, census and inventory of losses based on the detailed design	MELAD and Island Council with International Safeguards Consultant (individual) and OIIU safeguards staff	March 2023
2.4	Preparation of a stand-alone updated RP (building on and updating the draft RP) for these components for submission to ADB and WB	OIIU safeguards staff supported by international safeguards consultant (individual)	April 2023
2.5	Disclosure of the final updated RP to the affected persons and relevant stakeholders	MICCTD. Island Council with support from OIIU safeguards staff	
2.6	ADB and WB clearance on the updated RP	ADB and WB	May 2023
2.7	Preparation of the lease agreement for the maritime facilities in Beru and any additional sites if necessary	MELAD and MICCTD; Islands Council	March – May 2023
2.8	Completion of all the signatures required for the lease agreement and disbursement of the first payment to the affected persons	MELAD and MICCTD; Island Council	June 2023
2.9	Submission of the Compensation Completion Report for ADB and WB clearance prior to civil works	MICCTD; Island Council	
2.10	Commencement of civil works	Design and build contractor	Q3 2023
3.	Rehabilitation of Island Access Infrastructure - Maritime infrastructure facilities in Nonouti and Tab-South		
3.1.	Detailed design for the maritime facilities in Abaiang and Beru	MISE with support from mentoring firm	Q4 2021- Q3 2022

Steps	Activity	Responsibility	Indicative Timeline
3.2	Consultations with relevant stakeholders including affected persons regarding the findings of the detailed design	Island Council, OIIU safeguards staff supported by international safeguards consultant (individual)	Q4 2021-Q3 2022
3.3	Boundary survey, detailed measurement survey, census and inventory of losses based on the detailed design	MELAD and Island Council with support from International Safeguards Consultant (individual) and OIIU safeguards staff	Q1-2022
3.4	Preparation of a stand-alone updated RP (building on and updating the draft RP) for these components for submission to ADB and WB	OIIU safeguards staff supported by international safeguards consultant (individual)	April 2022
3.5	Disclosure of the final updated RP to the affected persons and relevant stakeholders	MISE and Island Council with support from OIIU safeguards staff	April 2022
3.6	ADB and WB clearance on the updated RP	ADB and WB	May 2022
3.7	Preparation of the lease agreement for the maritime facilities in Tab-South and any additional sites if necessary	MELAD and MISE	April 2022-June 2022
3.8	Completion of all the signatures required for the lease payment and disbursement of the first payment to the affected persons	MELAD and MISE; Island Council	July 2022
3.9	Submission of the Compensation Completion Report to ADB and WB for no-objection prior to civil works	MISE	August 2022
3.10	Commencement of civil works	MISE	Q4 2022
4	Rehabilitation of causeways in Beru, Nonuiti, and Tab-South		
4.1	Detailed design for causeways in Beru, Nonuiti and Tab-South	MISE with support from mentoring firm	Q1 2021-Q4 2021
4.2	Undertake consultations with relevant stakeholders including affected persons, if any, regarding the findings of the detailed design	MISE, Island Council with support from International Safeguards Specialist (individual) and OIIU safeguards	Q1 2021-Q4 2021
4.3	Undertake boundary survey, detailed measurement survey, census and inventory of losses based on the detailed design (unlikely to be required)	MELAD, Island Council with support from International Safeguards Specialist (individual) and OIIU safeguards	Q2- 2021
4.4	Prepare a stand-alone updated RP (building on and updating the draft RP) for these components for submission to ADB and WB	International safeguards consultant (individual) with support from OIIU safeguards staff	Q3 2021
4.5	Disclosure of the final updated RP to the affected persons and relevant stakeholders	Island Council and MISE with support from the OIIU safeguards staff	Q3 2021
4.6	ADB and WB clearance on the updated RP	ADB and WB	Q3 2021
4.7	Provision of compensation to affected persons if required and submission of compensation completion report to ADB and WB for no-objection prior to civil works	MELAD, Island Council and MISE	Q3 2021
4.8	Commencement of Civil Works	MISE	Q1 2022
5	Construction Phase		
5.1	RP monitoring visits and consultations to outer islands	OIIU safeguards staff; MISE, MICTTD	Start of civil works until completion
5.2	Submit semi-annual LARP monitoring reports to ADB and WB	MISE and MICCTD	From project approval until completion

104. **Organizational Procedures for Delivering Entitlements.** Annual payment of land leases will be carried out by MELAD, with verification signatures collected by the Island Council for island-based landowners.

105. If land acquisition is required, meaningful consultation and negotiation will be carried out by MELAD with support from MIA and the relevant Island Council. MELAD will carry out a detailed DMS. The DMS will determine the amount of acreage involved and a lease agreement will be developed based on current market value. If the new lease agreements have not been finalized before project approval, MELAD will be asked to draw-up a Memorandum of Agreement with the landowners stating that both parties have agreed to enter into a lease agreement. Due diligence processes will be undertaken to determine

that payment has commenced against any new lease or existing lease, prior to the start of civil works.

106. The delivery of other entitlements, for example; payments for temporarily occupied lands, disturbed sites, alternative access, etc., will be negotiated and paid by MISE (as Works Contractor) and the Works Contractor, under the supervision of the Island Councils. Payments will be processed as works progress and before working crews and machinery vacate a location.

107. The identification of APs will need to be verified by the Island Councils and a record of all payments will be kept by the Island Council, MISE and the Works Contractor. Cash payment records will form part of the Island Council monthly meeting minutes and will be sent to MIA along with the minutes.

H. BUDGET AND FINANCING

108. MFED, as executing agency, will be responsible for obtaining financing for all costs related to implementation of the resettlement framework. This includes the cost of new long-term leases, compensation and entitlements for impacts caused by the project, compensation for loss of trees, and relevant administrative costs. GoK fiscal year corresponds to the calendar year. Financial planning for the fiscal year starts in October of the previous year.
109. Detailed measurement surveys will need to be conducted by MELAD to determine the cost of new lease agreements, which are required on Beru and Tabiteuea South and any other potential sites to be determined during the detailed design. MELAD will provide the valuations of land area and loss of income of income from fruit trees and other impacts as required.
110. GoK will need to plan for the cost of public consultations, before and during project implementation as well as cost included for implementation of the grievance redress mechanism and monitoring of the RF and subsequent preparation/updates and implementation of Resettlement Plans.

I. MONITORING AND REPORTING

111. The project anticipates only voluntary land acquisition and minimal resettlement impact. Therefore, it is assumed that internal monitoring will be sufficient. Should land acquisition and resettlement impacts become significant, external expertise would be utilised to verify the monitoring information. MISE will recruit external expertise in consultation with ADB and WB and submit external monitoring reports to ADB and WB.
112. MISE and MICTTD will be responsible for preparation of semi-annual monitoring reports against their respective components. Monitoring will be carried out with assistance from OIIU safeguards and MIA. Reports will include a list of all APs, their entitlements and the status of delivery of cash compensation.
113. **Internal monitoring** will include checks against the following:
- (i) staffing – adequacy, resources, and competence;
 - (ii) land acquisition - lease agreement and payment process;
 - (iii) delivery of AP entitlements – CEFs showing name and sex of APs, date, amount of compensation received and signatures
 - (iv) public consultation – record of consultations;
 - (v) response of severely affected households, if any, to resettlement and compensation packages;
 - (vi) reestablishment of income levels;
 - (vii) grievance redress mechanism – record of inquiry, complaints and grievances and the response
114. **External Monitoring.** It is not anticipated that external monitoring will be required for this project. If unanticipated safeguard impacts required it, external monitoring would be carried out by an independent agency or individual, an NGO or an academic institution. It is highly recommended that monitor be sourced locally. Budget for external monitoring will be met by MFED. The external monitor would be tasked to verify that compensation and voluntary land acquisition had been implemented following the procedures set out in the RF. The external monitor would also review the grievance redress mechanisms to ensure that concerns raised by APs are acceptably addressed.

Annex 2: Land Acquisition and Resettlement Plan Outline

A. Executive Summary

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

B. Project Description

This section provides a general description of the project, discusses project components that result in land acquisition, involuntary resettlement, or both and identify the project area. It also describes the alternatives considered to avoid or minimize resettlement. Include a table with quantified data and provide a rationale for the final decision.³

C. Scope of Land Acquisition and Resettlement

This section:

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

D. Socioeconomic Information and Profile

This section outlines the results of the social impact assessment, the census survey, and other studies, with information and/or data disaggregated by gender, vulnerability, and other social groupings, including:

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

E. Information Disclosure, Consultation, and Participation

This section:

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

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

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

F. Grievance Redress Mechanisms

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

G. Legal Framework

This section:

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

H. Entitlements, Assistance and Benefits

This section:

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

I. Relocation of Housing and Settlements

This section:

1. describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
2. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs
3. provides timetables for site preparation and transfer;
4. describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
5. outlines measures to assist displaced persons with their transfer and establishment at new sites;
6. describes plans to provide civic infrastructure; and explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

This section:

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

K. Resettlement Budget and Financing Plan

This section:

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

L. Institutional Arrangements

This section:

1. describes institutional arrangement responsibilities and mechanisms for carrying out the measures of the resettlement plan;
2. includes institutional capacity building program, including technical assistance, if required;
3. describes role of NGOs, if involved, and organizations of affected persons in resettlement planning and management; and
4. describes how women's groups will be involved in resettlement planning and management.

M. Implementation Schedule

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

N. Monitoring and Reporting

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

Annex 3. DRAFT TERMS OF REFERENCE FOR SOCIAL SAFEGUARDS SPECIALISTS

A. Introduction

1. This TOR has been prepared for social safeguards specialists to assist the project in updating and implementing the Resettlement Plan during implementation of the project.
2. Following ADB and Government of Kiribati policies on recruitment of consultants, the resettlement specialists will be recruited with the implementation consultants bidding and will be made up of qualified international and national specialists.

B. Scope of Works

3. The main responsibility of the consultants will be to ensure that the project is implemented in accordance with the Resettlement Framework/Plan prepared during the project preparatory technical assistance (PPTA) and relevant safeguard policies, handbooks, and guidelines of ADB and World Bank OP 4.12 policy and the government. The consultants' scope of works includes, but is not limited to the following tasks:

- Review previous loan and PPTA documentation with the view of improving methodology for preparing social safeguards of the project.
- Coordinate with engineers and other team members on-site to identify land and household areas that will be impacted by the project activities, requiring temporary or permanent resettlement or land acquisition.
- Undertake a socioeconomic baseline survey of 15% to 25% affected persons (APs), to gather information on (i) socioeconomic characteristics of the respondents and their families; age, level of education, sources of income, transportation access, land tenure, land holding, with information disaggregated by sex; (ii) nature of land acquisition requirements, i.e., temporary or permanent, the use of land and the tenure arrangement; (III) the impacts of land acquisition i.e. if there are trees or fish pond that will be affected; and (iv) classification of vulnerable people, if any
- Conduct a census and inventory of losses of 100% of APs, recording all losses of land and structures and livelihood as a result of the project.
- Prepare Resettlement Plan updates, as per ADB's safeguard policies on involuntary resettlement; the Project Resettlement Framework; and government laws.
- Prepare a revised budget for resettlement and land acquisition, as per the entitlement matrix and update the entitlement matrix to suit the subproject situation.

C. Staffing Inputs and reporting

4. The resettlement team will consist of one international and one national specialist with demonstrated experience in resettlement following ADB and WB safeguard policies. A representative from MELAD will be involved to ensure that all compensations are calculated and approved within the laws of Kiribati. Furthermore, the RP and any updates, and its implementation, compensation, and completion will be approved by ADB and WB at the completion of each of these stages.

5. The following reports will be required for submission:
 - b) Resettlement Plan and any necessary budget updates
 - c) Full details of persons consulted
 - d) Public Consultation materials
 - e) Internal evaluation reports and completion report