

# Resettlement Framework

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September 2013

## TON: Climate Resilience Sector Project

Prepared by the Ministry of Lands, Environment, Climate Change and Natural Resources for the Asian Development Bank.

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**C. ABBREVIATIONS**

ADB	Asian Development Bank
APs	Affected People/ Persons
DMS	Detailed measurement survey
EA	Executing Agency
EMA	External Monitoring Agency
ESU	Environment and Social Unit
GFP	Grievance Focal Point
JNAP	Joint National Action Plan on Climate Change Adaptation and Disaster Risk Management
IA	Implementing Agency
IR	Involuntary Resettlement
LAR	Land Acquisition and Resettlement
LARF	Land Acquisition and Resettlement Framework
MLECCNR	Ministry of Land, Environment, Climate Change and Natural Resources
NGO	Non-government Organization
PIU	Project Implementation Unit
PMU	Project Management Unit
PPCR	Pilot Program for Climate Resilience
RF	Resettlement Framework
RP	Resettlement Plans
RRP	Report and Recommendation of the President
SPCR	Strategic Program for Climate Resilience
SPS	Safeguard Policy Statement 2009

## D. GLOSSARY OF TERMS

<p><b>Affected persons:</b> Term used to describe all people that are affected by the project impacts. In the context of this document, it refers to those that are economically or physically displaced by the project.</p>
<p><b>Compensation:</b> Means payment in cash or kind for an asset to be acquired or affected by a project at replacement cost at current market value.</p>
<p><b>Cut-off date:</b> Means the date after which people will NOT be considered eligible for compensation, i.e., they are not included in the list of APs as defined by the census. Normally, the cut-off date is the date of the detailed measurement survey.</p>
<p><b>Displaced persons:</b> In the context of this document, displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of involuntary acquisition of land involuntary restrictions on land use or on access to legally designated parks and protected areas. This project is not expected to create any physical displacement.</p>
<p><b>Entitlement:</b> Means the range of measures, comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation due to business restoration that are due to affected people, depending on the type and degree of their losses, to restore their social and economic base.</p>
<p><b>Inventory of losses:</b> Means the pre-appraisal inventory of assets as a preliminary record of affected or lost assets. Also referred to as the detailed measurement survey (DMS).</p>
<p><b>Involuntary Land acquisition:</b> Means the process whereby a person is compelled by a public agency to alienate all or part of the land s/he owns or possesses to the ownership and possession of that agency, for public purposes, in return for fair compensation.</p>
<p><b>Meaningful consultation:</b> A process that (i) begins early in the project preparation stage and is carried out on an ongoing basis throughout the project cycle; (ii) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to APs; (iii) is undertaken in an atmosphere free of intimidation or coercion; (iv) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and (v) enables the incorporation of all relevant views of affected people and other stakeholders into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.</p>
<p><b>Non-titled:</b> Means those who have no recognizable rights or claims to the land that they are occupying and includes people using private or state land without permission, permit, or grant, i.e., those people without legal lease to land and/or structures occupied or used by them. ADB's policy explicitly states that such people cannot be denied compensation.</p>
<p><b>Physical displacement:</b> Relocation, loss of residential land, or loss of shelter as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas. This project is not expected to create any physical displacement.</p>
<p><b>Poor:</b> The poverty line established is T\$1638 per capita per year. It is estimated that 27% of Tongan households received incomes below that line, meaning that they experienced periodic difficulties in meeting their daily costs of living for food and other essential expenditures.</p>
<p><b>Replacement cost:</b> Means the method of valuing assets to replace the loss at current market value, or its nearest equivalent, and is the amount of cash or kind needed to replace an asset in its existing condition, without deduction of transaction costs or for any material salvaged.</p>
<p><b>Significant impact:</b> For the purpose of this document, defined as; acquisition of more than 10% of household land; acquisition of any other household assets, such as buildings or businesses; and/or physically displacing of a household.</p>
<p><b>Vulnerable:</b> Means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and includes (i) female-headed households with dependents, (ii) disabled household heads, (iii) poor households (within the meaning given previously), (iv) landless, (v) elderly households with no means of support, (vi) households without security of tenure, (vii) ethnic minorities, and (viii) marginal farmers (with landholdings of 2.023 ha or less).</p>

### CURRENCY EQUIVALENTS (as of 31 May 2013)

T\$1.00	=	USD .5714
USD 1.00	=	T\$ 1.75

## II. INTRODUCTION

1. This Land Acquisition/Resettlement Framework (RF) has been prepared for the proposed Strategic Program for Climate Resilience (SPCR) in Tonga. It outlines the resettlement policy principles, procedures, and institutional arrangements to mitigate risks and offer sustainable livelihood and development opportunities to the people affected by the project. It is based on applicable laws and regulations of Tonga and the Safeguard Policy Statement (SPS) of the Asian Development Bank (ADB).

### A. General Project Description

#### a. Background

2. The Strategic Program for Climate Resilience (SPCR) has been prepared by Tonga under phase I of the Pilot Program for Climate Resilience (PPCR). The Program will mainstream climate resilience into development planning and address country priorities focusing on the most vulnerable sectors and communities. The Program will (i) build capacity in climate change adaptation and disaster risk management at community, sector and national levels; (ii) provide information, tools, and legislative frameworks needed to introduce climate change considerations into government and sector planning and budgeting processes; and (iii) provide access to resources (technical, human, financial) to address the climate change risk priorities of the Government, as well as those of vulnerable communities through a combination of soft and hard measures. This will lead to a progressive increase in the resilience of ecosystems and infrastructure; the foundations of the country's sustainable development aspirations. The Program will be financed on a grant basis from the Strategic Climate Fund which is one of two funds within the design of the Climate Investment Funds.

3. Tonga reported that all key sectors are likely to be significantly affected by climate change, with major environmental, economic, and social consequences. Particular concerns include impacts on agricultural production, water supply, and coastal infrastructure and resources. The effects of climate change are exacerbating natural hazards such as tsunamis, cyclones, coastal flooding, and droughts. Over the last few decades, Tonga observed a higher variability of rainfall causing localized flooding as well as droughts related to El Niño events. Increased ocean temperatures have caused coral bleaching and destruction of habitats for reef species. Sea level rise, estimated in the order of 6 millimeters/year, is contributing to coastal erosion and subsequent damage to infrastructure and properties. Increased exposures to tropical cyclones and storm surges have caused significant economic losses to Tonga's economy (e.g., tropical cyclones Waka in 2002 and Rene in 2010 inflicted losses of \$60 million and \$22 million respectively). In the next 50 years, Tonga has a 50% chance of experiencing an annual loss exceeding \$175 million and casualties larger than 440 people due to natural hazards.

4. While there is country commitment and a national strategy—the Joint National Action Plan on Climate Change Adaptation and Disaster Risk Management (JNAP)—to address climate and related disaster risk challenges facing Tonga, efforts to date have been constricted due to severe resource-constraints. During the design and capacity building phase of the PPCR, the Government of Tonga and other stakeholders identified impediments to a more effective response including: (i) a limited pool of qualified and trained experts to mainstream climate change adaptation and disaster risk management at community, sector, and national levels; (ii) lack of information, tools, and legislative frameworks for relevant sectors and stakeholders to develop and implement adaptation strategies; and (iii) challenges in accessing adequate climate change financing for priority adaptation needs. This requires a systematic and integrated approach toward climate change resilience and disaster risk reduction.

5. The Asian Development Bank (ADB) has developed a strong partnership with the Government of Tonga. Both ADB's Pacific Approach 2010–2014, and country operations business plan 2013–2015 for Tonga, emphasize the need for integration of climate change adaptation and disaster risk management to deal with climate-induced natural disasters. Current ADB programming under the Integrated Urban Development Sector Project, Implementing Strategic Economic Management Technical Assistance, and Public Finance Management Road Map provides ADB with a clear understanding of the challenges Tonga faces in mainstreaming climate change considerations into government operations. This includes the need for increased capacity, coordination, whole-of-government involvement, donor harmonization as well as consideration of recurrent costs for the sustainability of critical investments.

## **2. I. A. 2. The Strategic Program for Climate Resilience (SPCR)**

6. The proposed SPCR Program consists of three components with the following objectives/ outputs: (1) to strengthen the capacity of vulnerable communities and relevant sectors to support transformation to a climate resilient development path; (2) to establish a national support system to provide vulnerable communities (in particular women) and priority sectors access to financing for climate adaptation; and (3) to strengthen ecosystem resilience and climate proofing of critical infrastructure supported by selected communities, sectors and national agencies.

7. The SPCR Program consist of the following 3 Components with multiple projects, sub-projects and elements. Please refer to **Annex A** for further details of candidate sub-projects.

### **Component 1:**

- 1.1 Scholarship and Professional Training Project,
- 1.3 Improving the legal framework for CCA/DRM in Tonga,
- 1.4 Establishing a Program Management Unit (PMU),
- 1.5 Support with relation to strengthening the vulnerability assessment mechanism for communities, through coordination of the Community Plan (ComP) process
- 1.6 Support to the proposed National Hydro-Meteorological and Coastal Monitoring and Data Dissemination System, Water Resource Inventories, Management and Early Warnings (HMCMS);
- 1.7 Development of Integrated Water Resource Management (IWRM) plans,

### **Component 2:**

- 2.1 Operation of the Climate Change Trust Fund (CCTF)

### **Component 3:**

- 3.1 Establishment of Special Management Areas (SMA)
- 3.2. Support for mangrove assessments and planting
- 3.3 Support for the detailed design and implementation of pilot climate change adaptation of infrastructure

## **B. I. B. Potential Resettlement Impacts**

8. Among proposed projects, impacts may arise from the following 'additional candidate projects' proposed in Component 3.3 (**Annex A**), as follows:

- (i) Relocation of Niu'ui Hospital to an elevated location;
- (ii) Evacuation road in suburb of Popua;
- (iii) Climate proof of existing marine landings in outer islands.

There are no impacts evident in the other proposed projects as all repairs and improvements are contained within the current boundaries.

9. Sub-project design will aim to avoid significant impacts defined as follows: acquiring more than 10% of household land; acquiring any other assets, such as buildings or businesses; and/or physically displacing a household.

10. Given some of the subprojects may have unexpected LAR impacts, this framework has been developed to guide how any LAR issues are addressed. The project is classified as Category C and this RF also outlines the processes that will be followed if its resettlement category is unexpectedly altered. This RF is developed in compliance with Tonga's laws and regulations and ADB's Safeguards Policy Statement (SPS) 2009.

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

### **III. OBJECTIVES AND POLICY FRAMEWORK**

#### **A. II. A. Objectives of the Land Acquisition and Resettlement Framework**

12. This RF is a government document reflecting Tonga's relevant laws and policies and ADB's specific requirements under the ADB Safeguard Policy Statement, 2009. The RF provides a compensation/rehabilitation framework detailing agreed upon compensation/rehabilitation provisions that are shared by the government and the ADB. It also provides specific guidance on the particular ADB requirements for planning and implementing LAR under the sector grant and uses ADB language and terminologies.

13. This RF applies to all land holders and displaced person, should there be any, with land status affected permanently or temporarily due to the construction, including purchase and temporary use during construction. It also applies to people whose use of land, registered or not, changes as the result of the investment.

14. The RF does not apply to State land that is transferred from one authority to another, or is used for construction, unless third parties are adversely affected by the transfer or use.

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

##### **1. II.B. 1. Land Tenure in Tonga**

15. Under the Constitution of Tonga (1875) all land in the Kingdom belongs, in principle, to the Crown and is classified as (i) King's estate, (ii) hereditary Royal Family estates, (iii) hereditary estates of Nobles, or (iv) crown land. The latter two categories are subdivided into allotments for the rest of the people of Tonga. In theory, every Tongan male over the age of 16 is entitled to an agricultural (tax) allotment of 3.3 hectares (ha), and a residential (town) allotment of between 758 m<sup>2</sup> and 1,618 m<sup>2</sup> for residential purposes. In practice, there is now little land available for distribution, particularly in the Nuku'alofa area.

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

##### **2. II. B. 2. Involuntary Land Acquisition and Resettlement in Tonga**

17. There are no laws or legislation in Tonga that specifically address matters related to involuntary resettlement. Rather land acquisition is governed by the following laws:

- (i) Constitution of Tonga
- (ii) Government Act
- (iii) The Land Act



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

- (i) Roads Act
- (ii) Transport Services Act
- (iii) Harbors Act
- (iv) Emergency Management Act
- (v) Building Control and Standards Act
- (vi) Building Code Regulations
- (vii) Shipping Act
- (viii) National Spatial and Management Act

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

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

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

21. In summary, the King or the relevant Minister can compel any holder of land to grant an easement to the Crown. If land, crops or premises are taken, the government will pay fair value or an amount determined annually by Government. People have the right to voluntarily relinquish land for public purposes for no compensation.

### **3. II. B. 3. ADB's Safeguard Policy Statement: Requirements on Involuntary Resettlement**

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

23. In the context of involuntary resettlement, the objectives of the SPS are to: (i) avoid involuntary resettlement wherever feasible, and minimize involuntary resettlement through assessing project alternatives and alternative project designs. (ii) enhance or at least restore the livelihoods of all affected people (APs) in real terms relative to pre-project levels and improve the standards of living of the affected poor and other vulnerable groups. The SPS principles on involuntary resettlement are: (1) Screen early and assess resettlement impacts; (2) Carry out consultations with APs and develop a grievance redress mechanism; (3) Improve/restore livelihoods of APs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate; (4) Provide appropriate assistance to physically displaced APs; (5) Improve living standards of poor APs and other vulnerable groups; (6) develop transparent procedures for negotiations; (7) provide assistance and compensation to non-titled APs for loss of non-land assets; (8) Prepare RPs; (9) disclose RPs to APs and other stakeholders and document the consultation process; (10) conceive and execute resettlement as part of the project; (11)

deliver entitlements to APs before their physical or economic displacement; and (12) monitor and assess resettlement outcomes.

**4. II. B. 4. Comparison of ADB Safeguard Policy and Tonga Laws, Regulations and Procedures**

24. The detailed comparison of Tonga laws/regulation and the ADB SPS requirements on land acquisition/resettlement and necessary gap-filling measures are outlined in **Annex C**.

25. Comparison of the Tonga LAR laws with the ADB requirements on involuntary resettlement under the SPS indicates that key elements of the ADB Policy are present in Tonga laws—particularly those related to valuation of immovable property. ADB's principle of avoidance or minimization of resettlement is also reflected in Tongan Legislation.

**5. II. B. 5. Remedial Measures to Bridge the Gap**

26. Identified differences have been resolved by identifying gap-filling measures to comply with the ADB policy requirements, particularly in areas where practices are less subject to independent oversight (**Annex C**).

**6. II. B. 6. Principles and Policies of the Project**

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

(i) The cut-off date for identifying affected lands, families and people will be identified at the conclusion of the detailed measurement survey (DMS). This will be when the original subproject scoping takes place and when any affected people within the proposed subproject routes/boundary are informed.

(ii) Project planning will avoid or minimize the need for acquisition of land and will avoid acquisition of houses and other buildings.

(iii) Where there will be permanent or temporary acquisition of land, identification of impacts and compensation and assistance for the same will be provided prior to any construction commencing.

(iv) All affected person will receive compensation or assistance at replacement cost, even if they are without lease or formal recognition.

(v) All construction through agricultural land will be timed to avoid any impacts on the income and activities of adjoining land parcels. If impacts do occur, compensation will be provided to affected land and crops.

(vi) All construction over public rights of way – footpaths, driveways and roads—will be undertaken rapidly and without undue delay to avoid inconvenience to businesses and residences.

(vii) Detailed seminars and consultations will be available for all affected households to keep them informed of the process. Representatives of affected households will be meaningfully consulted, including involving in valuation meetings. Negotiation will be conducted in a fair, transparent and equitable manner.

(viii) A grievance procedure will be established. When a land leaseholder or user does not agree with a decision regarding compensation or change of the land use (lease), it may not be exercised before the dispute is resolved judicially. In addition, any person who feels that s/he in any way worse off can take her/his grievance to the highest level, at the cost of the project.

(ix) Project design will aim to avoid significant impacts (i.e., acquiring more than 10% of household land and/or physically displacing a household). Should significant impacts occur, such households will receive additional support, assistance, and compensation.

(x) If a land plot becomes unviable due to acquisition, then the whole land plot will be compensated.

(xi) Vulnerable groups, including female-headed households, the poor, disabled, or families with significant numbers of elderly or disabled members, will receive

additional support, assistance, and compensation to ensure that they are not severely affected.

(xii) Affected persons may use and exercise their rights to a land plot and make necessary expenditures in compliance with its purpose after notification of acquisition for public needs until compensation is agreed upon. However, there will be no entitlement to additional compensation based on these improvements if made after the cut-off date.

## IV. ENTITLEMENTS AND VALUATION PROCESS

### A. III. A. Entitlements to Compensation

28. The following groups of affected people are included:
- (i) all people/ households losing land either with legal lease, lease holding land rights or without legal status;
  - (ii) owners of buildings, crops, plants, or other objects attached to the land, if any; and
  - (iii) people losing business, income, and/or salaries, if any.

APs and their affected assets will be identified through a Detailed Measurement Survey (DMS). The DMS end date will be the cut-off date for compensation eligibility. APs settling in affected areas after this date will not be eligible for compensation. They, however, will be given sufficient advance notice to vacate and dismantle the affected land/structures. Their dismantled structures will not be confiscated nor will they will be fined or sanctioned.

### B. III. B. Compensation and Valuation of Land and Assets

#### 1. III. B. 1. Calculation of Compensation for Land

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

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

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

32. In the case where land is used by a person who does not have a formal lease at the cut-off date, the preferable course of action will be that all land used (leased or unleased) is combined under one lease, without fees, taxes or charges. In case the owner does not wish to lease the unleased land, an alternative plot will be found in a nearby area and combined with the users existing plot. The land will then be compensated as per a normal leaseholder. It is important to note that the relevant owner/authorities will not charge historical lease or registration fees or evict potentially affected persons following initial identification of the project, even if it is undertaken prior to the official survey. Eviction can occur only after alternate plots have been found and the affected person/s has moved and had livelihood restored.

33. Workers, if any, who lose their incomes due to land acquisition will be provided a cash compensation corresponding to their salary (in cash and in kind) for the remaining part of the agricultural year/or contractual period, or 6 months – whichever is the greater amount.

34. Should any of the sub-projects case significant impact, as defined for the purpose of this document, a severe impact allowance will be paid. This will be equal to an additional payment equivalent to the net income from crop, tree and fruit production and the waiving of taxes and fees. This is in addition to the agricultural compensation paid.

35. In the case of temporary land use for the placement of easements and use for construction, a lease agreement (for the total land used) will be signed for the use of the land. After the use, the land will be restored to its original condition or improved in quality

and returned to the registered owner. An easement fee of 15% of the land value will be paid each year for the declared easement.

**2. III. B. 2. Calculation of Compensation for Loss of Agricultural Production**

36. Agricultural production will be calculated for all farms and subsistence households and provide values for crops, trees, orchards, and gardens. For businesses and households calculations will be made for gardens and trees. Calculations will be made based on Department of Agriculture compensation rates (as determined by the government) and adjusted to reflect maximum market rates – the higher figure being selected for application.

37. Annual crops (whether or not on titled land) that cannot be harvested will be valued at full market rate as determined by purchase prices in the local market. Assessment will take account of more than one crop on a particular parcel in a year.

38. Compensation for trees will be done based on type and productivity. Non-productive fruit trees (young trees) will be compensated for seedlings and for plantation costs of the seedlings. Compensation for productive trees will be calculated based on the age of the tree and future loss of profit till the end of the tree's productivity period. Compensation for trees used for production of merchantable wood will be based on the market price for the timber that would be produced once it reaches maturity.

**3. III. B. 3. Calculation of Compensation for Structures**

39. This project is not expected to require acquisition of any buildings.

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

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

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

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

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

**4. III. B. 4. Calculation of Compensation for Businesses**

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

46. Should any business be either permanently displaced or have their operations temporarily impacted by the project, compensation is payable in either case. Compensation for the loss of business/income will be calculated based on estimated income—on the basis of tax declarations, imputed earnings or average income in this area – multiplied by the amount of time an independent valuer determines the business will be interrupted. The

valuer will be appointed and paid for by the relevant authorities. The owner has the right to alter this amount if delay or hardship is encountered, through formal application to the grievance process.

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

48. Unregistered businesses will be first registered by the relevant authority at no cost to the affected person/s. They will then be subject to compensation as per registered businesses.

49. All business owners will receive the full replacement cost of buildings destroyed.

### **5. III. B. 5. Calculation of Compensation for Community Assets**

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

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

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

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

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

### **6. III. B. 6. Livelihood Restoration**

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

55. Should project result in displacement of any people and impact livelihoods, the project will be responsible for ensuring that the livelihoods of all displaced people are enhanced, or at least restored to, relative to pre-project levels, and the standards of living of the displaced poor and other vulnerable groups are improved.

56. All displaced persons will be entitled to priority for employment in project-related jobs, training opportunities, self-employment and wage employment assistance, and community activities provided by the project.

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

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

### **C. III. C. The Valuation Process**

59. **Cash compensation (sublease):** This might be the most preferred method of compensation in this project. In the case that the land user wishes to sublease land (rather than a land-for-land swap described below) the PMU will determine the leasehold price of

similar land nearby and enter into a sub-lease for the required land. The lease will be for the period that the land is expected to be required (project life).

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

(i) identification of all physically and/or economically displaced households, if any, their leased land and connected services, also identification of lands that are used but remain unleased;

(ii) in discussion with nearby registered and traditional owners, undertake preliminary identification of appropriate land parcels for land-for-land reallocation prior to discussions with APs;

(ii) preparation of a draft implementable land reallocation plan outlining proposed new land parcels for each AP; any voluntary land contributions from farmers; land preparation requirements (cost and locations of water, gas, roads, etc.); associated maps; and a draft agreement for each AP (containing lease number, total land size, new location and services/facilities to be provided) signed by the PMU and AP; note that this plan will be fully implementable, subject only to final detailed design of the project.

61. **Asset valuation.** At the beginning of each subproject, the valuation will be undertaken or updated by the project management unit (PMU). Affected people will be involved in the valuation and revaluation. If the AP agrees with the valuation, then this will be used as the basis of negotiation. If the AP disagrees with the valuation, the project will allow for her/him to utilize an independent valuer that will be paid for by the project.

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

63. If assets will become unviable following land acquisition, then they will be added to the assets to be acquired and compensated in the same way.

64. In the case where a candidate subproject's resettlement impact is considered 'significant', then an external monitoring agency will be appointed and actively participate in all discussions with APs.

65. The Entitlement Matrix, that is compensation and rehabilitation entitlements for each item that might be affected by the sub-projects, is presented in the table below.

**Table 1. Entitlement Matrix**

Loss type	Specification	Affected People	Compensation Entitlements
Permanent loss of rural or town land	All land losses independent of impact severity	Tofi'a – King and Nobles Landholders	Long-term lease based on the market value of the affected land and provision of all legal and other expenses associated with it Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs
		=Api'uta or =Api'kolo registered landholder (tax or town allotment)	Land-for-land grant with plots of equal value/productivity, comparable location and services to plots lost with registration Registered owner has option of long-term lease based on the market value of the affected land. In all cases (land or lease),

			provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs
		Api'lisi leaseholder –	Leaseholder has the option of land-for-land grant with plots of equal value/productivity, comparable location, and services to plots lost; or, long term sub-lease based on the market value of the affected land. In all cases (land or lease), provision of all legal and other expenses (transfer, moving, reconnections) associated with the transfer/lease. Unaffected portions of a plot will also be compensated if they become unviable or have their usage rights altered after impact occurs. If the owner/registered user resumes control of the land from the leaseholder/user, the project will find an appropriate, nearby, and similar piece of land for the leaseholder/user to lease/use and provide all removal, reestablishment and transaction costs.
		Unregistered land user	All land used (leased or unleased) combined under one lease without fees, taxes or charges Alternative leasehold provided for formal lease
		Agricultural workers losing their job/contract	Cash indemnity corresponding to their salary (in cash and in kind) for the remaining part of the agricultural year, contractual period or 6 months - whichever is the greater
	Additional provisions for severe impacts on rural land (> 10% of total rural land loss)	All land holders, registered lease, permit or users (legal or not).	Severe impact allowance equal to the net income from annual crop (crop, tree, and fruit) production and the waiving of taxes and fees
<b>Loss type</b>	<b>Specification</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>
Temporary loss of rural or town land	Easements and/or land used for construction	All land holders, registered lease, permit or users (legal or not).	A lease agreement will be signed for the use of the land. After the use, the land will be restored to its original condition or improved quality and returned to the registered owner. An easement fee of 15% of the land value will be paid each year.
<b>Loss type</b>	<b>Specification</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>
Agricultural production	Crops affected	All APs	Cash compensation equivalent to the gross income from the crop calculated at the maximum annual market value of the total annual produce from affected land or the formal government rate – whichever is greater
	Trees affected	All APs	Fruit trees. The full cost of seedling, cost of preparation of a garden and lost profit at annual income (using maximum annual market values) multiplied by the number of years of fruiting remaining or the formal government rate, whichever is greater Timber trees. The full cost of seedling, cost of preparation of a garden, and maximum market value of maximum timber production per tree (at full maturity) or the formal government rate, whichever is greater
	Livelihoods	Vulnerable APs	An additional allowance equal to at least 3 months at minimum salary. Priority for employment in project-related jobs, training



			opportunities, self-employment and wage-employment assistance. Training programs to improve livelihood opportunities for vulnerable persons, including indigenous peoples, if identified..
<b>Loss type</b>	<b>Specification</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>
Housing and structures	Full or partial loss of structures	Owners (with/without house or building registration)	Cash compensation at full replacement rate for affected structure/fixes assets free of salvageable materials, depreciation, and transaction costs. Salvageable material will be allowed to be taken away by owner at no cost Cost of replacing existing water, electricity, gas, and phone connections will be included in the compensation For partial impacts (structure wall, fences, etc.), cash compensation at replacement rates to restore remaining structure Unaffected portions of the structure will also be compensated if they become unviable after impact occurs
		Landlords	Compensation of income (cash or in kind) lost as a result of the loss of the tenancy of houses, buildings, and structures for the remaining period of lease justified by legal document Landlords without formal notarized lease to show other burden of proof or evidence in order to claim compensation
		Tenant	New lease by landlord or 3 months cash equivalent
<b>Loss type</b>	<b>Specification</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>
Business/employment	Permanent or temporary loss of business or employment	Registered business owner	Independent valuer (paid by relevant authority) to determine business interruption, and profit/loss to establish or suspend business For permanent loss, cash compensation equal to 6 month's income or the period of interruption, whichever period is greater Compensation is estimated on the basis of tax declarations, imputed earnings, or average income in this local area for business type
		Unregistered business owner	Business is registered at no cost (fees, charges) to AP, then as per registered business owner
		Worker/employees	Indemnity for lost wages (including fixed by oral agreement with employer) paid for the amount of work time interruption; the time is established by the independent valuer.
		Tenants of affected buildings	Compensation for lost rent paid in advance plus cash compensation equal to the amount of work time interruption. The time is established by the independent valuer. Compensation is estimated on the basis of tax declarations, imputed earnings or average income in this local area for similar businesses.
<b>Loss type</b>	<b>Specification</b>	<b>Affected People</b>	<b>Compensation Entitlements</b>
Relocation	Transport/	All APs affected by	Provision of cash compensation to cover

	transitional livelihood costs	relocation	transport expenses and livelihood expenses for one month.
Community assets	Loss/damage to public infrastructure/utilities		Rehabilitation/replacement of affected structures/utilities (i.e. roads, schools, health centres, etc..) to pre-project level
Any unforeseen or unintended impacts		APs	Compensation and assistance in line with the principles in this RF to ensure the APs better off than before the project

## V. IMPACT ASSESSMENT AND MITIGATION

### A. IV. A. Subproject Screening

66. Each sub-project in the component 3.3 will be screened for resettlement impacts. The screening will assess if there will be any impacts. The screening form will be completed after site visits, and, as relevant, in consultations with potential APs to understand land use/ownership arrangements. The screening process will cover (i) brief description of the site and proposed work, (ii) whether the subproject will require land acquisition, (iii) land status and ownership arrangements, (iv) land usage, and (v) characteristics of affected persons. A screening form is attached in **Annex D**.

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

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

### B. IV. B. Preparation of Resettlement Plan

68. Where screening identifies that a subproject will require land acquisition/resettlement, a Resettlement Plan (RP) will be prepared. The scope and level of detail of RP will vary depending on the magnitude and complexity of land acquisition issues. This document includes an example outline of a RP (**Annex E**) as required by the ADB SPS and, where required, RPs will be prepared accordingly.

69. The PMU will carry out consultations with the district and town officers and APs and conduct necessary surveys including inventory of losses (IOL) and census of APs. The IOL and census will be undertaken covering all APs after detailed design. It will be conducted in a participatory manner to estimate the losses and impacts.

70. A cut-off date will be established as the date of the completion of the IOL and this will be publicized by the PMU. The landowners and/or users that have claims of affected land, crops, trees, and/or structures as of the cut-off date will be eligible for compensation and/or rehabilitation assistance.

71. The IOL will document the losses and impacts resulting from the land and/or resource/asset acquisition. The survey will also contain a number of questions about the socioeconomic status of APs in order to furnish information required for the elaboration of livelihood restoration and stabilization measures.

72. The RP will include sufficient budget and specify source of funds. The budget will be based on published rates from relevant government authorities and will include additional grants, if required, to ensure that compensation rates for affected land and assets are at replacement cost. The RP will also include an implementation schedule linked with civil

works to ensure that civil works will not commence until compensation and/or assistance has been paid to APs.

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

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

(i) The King may call on a landholder to give up possession of land provided that the Privy Council is satisfied that the land is required for public purposes.

(ii) The Minister of Land shall give notice in writing to the landholder of the resumption of land. This notice must be given at least thirty days before the date on which it is intended to resume possession of the land.

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

76. In the absence of detailed procedures for land acquisition, the PMU should ensure that any land to be resumed should have its ownership confirmed and be fully mapped, surveyed, and valued prior to submission to the Department of Lands for processing.

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

#### **C. IV. C. Vulnerable People and Gender Considerations**

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

79. Each RP will reference and utilize the overall project safeguards processes to ensure minimization of project externalities on gender and the local community and target them as beneficiaries of the project. PMU will support capacity development for the district and town committees and the local communities living within the project area. Activities may include, but not be limited to:

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

## VI. CONSULTATION, PARTICIPATION AND DISCLOSURE

### A. V. A. Project Stakeholders

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

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

81. Women and vulnerable groups will be fully included in the consultation and implementation process. They will have representation at meetings at the district and national levels. Women will have separate meetings during the census process; and their numerous concerns and ideas will be reflected in the RP recommendations and the updated gender action plan (GAP).

### B. V. B. Consultation and Participation

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

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

84. Project stakeholder engagement plan' and communication strategy will be updated to include specific requirements of the RP consultation process.

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

- (i) Public consultations. These are the formal public information campaigns undertaken at the district or town level. They include environmental, social, and resettlement presentations. The meeting is widely advertised in the media. Attendance is normally by government agencies, informed and mobile APs, and concerned citizens. Due to the distance from project sites, poorer APs may find it difficult to attend and will be paid a pre-set attendance fee (currently T\$10) to assist with fuel and transport costs. An attendance list for all consultations will be recorded.
- (ii). Public information brochure. A Public Information Brochure will be developed for relevant sub-projects and will outline details of the project, its locations, potential impacts, entitlements and compensation, the project implementation timeline, the grievance redress mechanism, and answers to frequently asked questions. It will be developed as part of RP preparation, and a Tongan version will be distributed to every affected household/business during the Census. It will be available at the all meetings and focus group discussions for other interested parties. It will be updated as the project progresses, incorporating new questions and more details on the implementation process.

(iii) Socioeconomic survey and Project census. The household survey will include a brief overview of the project and will elicit comments on impacts. Each respondent will be provided with contact details for any follow-up questions. This will ensure that the basic project concept is made widely known throughout the project-affected areas. Similar to socioeconomic survey, the project census will also use an information exchange with APs. A more detailed outline of the project will be provided at the beginning of each survey in the form of the public information brochure.

(iv) In-Depth interviews. These will be undertaken with relevant stakeholders to gain a better understanding of issues highlighted in the socioeconomic survey or census. The interviews will mainly assess views on the potential project impacts (positive and negative), mitigation measures, and suggestions for improvement.

(v) Focus group discussions. These will be undertaken with APs, in particular the less powerful and poorer APs and women, who may not have the resources or time to attend the official public consultations due to distance, time, and/or cost. The sessions will elicit further understanding about issues raised in the census. It will be conducted in the local community (to reduce distance travelled) and be sensitive to the potential of influence (from government, church, elders) so as to reduce any feelings of intimidation, obligation, or coercion.

vi) Media coverage. Newspaper, radio and TV coverages will be used as a means of disseminating information to ensure outer islands receive information in an effective and timely manner.

#### **1. V. B. 1. Vulnerable People and Gender Considerations**

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

#### **2. V. B. 2. Further Information Disclosure**

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

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

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

90. The full RP (in English) will be disclosed on the PMU and ADB websites.

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

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

#### **A. VI. A. Compensation**

92. The PMU will finalize all requirements for compensation in consultation with MLECCNR and MAFFF prior to land acquisition. The executing agency, the Ministry of Finance and national Planning, will be responsible for the timely allocation of funds to implement the RP. The budget for the RPs will be disbursed in cash by the PMU, in conjunction with the district/town officer, to APs. Once all land acquisition, resettlement and

compensation activities have been completed, the PMU will obtain a signed declaration from each AP that all activities have been satisfactorily completed as per the final RP.

**B. VI. B. Income Restoration**

93. Income restoration assistance to displaced persons includes both short- and medium-term strategies. Short-term income restoration strategies are for immediate assistance during relocation and include the following as detailed in the entitlements matrix:

- (i) compensation for land, structures, and all other lost assets to be paid in full before construction activity begins;
- (ii) APs losing an entire structure are entitled to a subsistence allowance and moving costs in cash;
- (iii) assistance in finding replacement land for continuation of livelihood/living arrangements;
- (iv) advance notice to harvest standing seasonal crops;
- (v) for vulnerable groups, additional subsistence allowance and prioritized engagement in any project employment;
- (vi) PMU will work with district and town leaders to ensure that all APs maintain cultural relationships and other forms of social capital.

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

**C. VI. C. Opportunities to Derive Development Benefits**

95. Each RP will reference and utilize the overall project safeguards processes to ensure minimization of project externalities on gender and the local community and target them as beneficiaries of the project. Consulting services in the PMU will support capacity development for the district and town committees and the local communities living within the project area. Activities may include, but not be limited to

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

**D. VI. D. Relocation**

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

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

98. The final RP will ensure that the following are in place prior to relocation starting:

- (i) final project boundaries/alignment;
- (ii) environment and social unit (ESU) establishment. The PMU will ensure that the ESU is appointed and staffed with adequate background, skills and experience to ensure the quality of preparation and implementation of RP documents; and
- (iii) external monitoring agency (EMA) such as an independent national consultant, if subproject is significant.

## **VIII. GRIEVANCE REDRESS MECHANISMS**

### **A. VI. A. Grievance Coordination**

99. The grievance focal point (GFP) will be the district or town officer, who will coordinate and address all complaints and concerns arising from the project. The contact details will be provided to all APs.

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

### **B. VI. B. Grievance Procedures**

101. Affected persons will be informed that they may ask any questions or discuss grievances with their community leader (the district or town officer) by phone or in person, or they may approach project staff visiting the area.

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

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

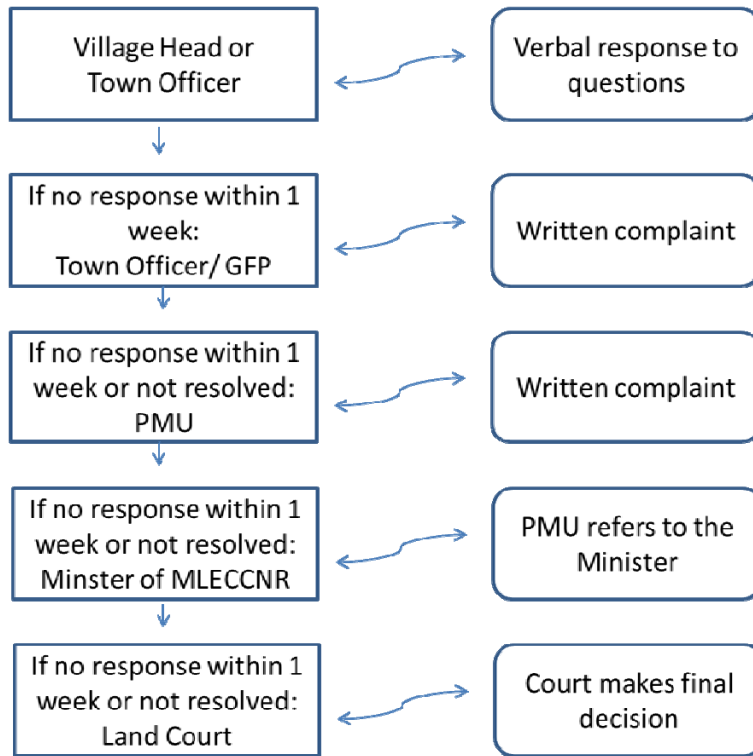
104. In the event that a satisfactory answer cannot be provided, the AP may lodge the complaint with the Project Management Unit and will receive a reply within 7 days.

105. Affected Persons will have the right to take the dispute to the Minister of Land, Environment, Climate Change and Natural Resources (MLECCNR), who will also have 1 week to respond.

106. In the event that the situation is not resolvable, or they do not accept the decision, the affected person(s) may have recourse to the land court (or other relevant court). All court costs incurred by the AP (preparation and representation) will be paid for by the project unless it can be demonstrated the action was unreasonable and/or the outcome mirrors the answers provided by the Minister (MLECCNR).

107. This process is summarised in Figure 1.

### **Figure 1. Grievance Procedure**





## IX. IMPLEMENTATION, BUDGETING AND MONITORING

### A. VII. A. Institutional Arrangements

108. The Program executing agency is the Ministry of Finance and National Planning (MFNP). The Coordinating Implementing Agency is the Ministry of Land, Environment, Climate Change and Natural Resources (MLECCNR). Sub-project Implementing Agencies are Ministry of Education and Training (MOET); Ministry of Infrastructure (MOI); Ministry of Health (MOH) and Ministry of Agriculture, Forestry, Food and Fisheries (MAFF).

109. The PMU within MLECCNR will be responsible for the day-to-day management of the project including cross-agency coordination, and via the RP preparation, implementation, and monitoring the compensation and disbursement. An Environmental and Social Safeguard Unit (ESU) will be established within the PMU. The social and land acquisition aspect of the ESU will be staffed by a social development/ gender specialist and will be assisted by an international consultant/ safeguards. The ToRs for the national social development/ gender specialist (60 months) and the international safeguards specialist (3 months, intermittent) are provided in **Annex F**. Both positions will be funded by the project grant and included in the budget. Responsibilities of various parties are summarised in Table 2 below.

110. The ESU and PMU will plan, implement, and coordinate land acquisition, resettlement, and environmental activities. The Crown Law Office will provide overall guidance on Tonga's requirements and legal issues relating to land acquisition. All PMU staff and consultants will be funded through this Program.

111. Each sub-project will have its detailed design supervision consultant. During design, the design supervision consultants will collaborate and work closely with the PMU to:

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

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

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

**Table 2. Responsibilities for Resettlement Implementation**

Activities	Responsible Agency
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#### A. Preparation and Implementation of RP

Subproject preliminary design	PMU / ESU
Subproject disclosure and public consultation	PMU / ESU
Survey and marking of subproject sites	PMU / ESU
Loss assessment	PMU / ESU, district & town officer/MLECCNR
Survey and establishment of market unit prices	PMU with MAFFF/MOI/MCTL
Consultation and agreement on compensation	PMU, district & town officer/MLECCNR
Review and approval of draft RP	ADB
Update of the RP	PMU / ESU, district & town officer
Disclosure to the APs and the public by IA and posting on ADB website	PMU and ADB

#### B. RP Implementation

Approval and release of funds for compensation	EA and PMU / ESU
Verification of APs	PMU / ESU, district and town officer
Monitoring	PMU / ESU, district and town officer
Grievance and redress	district and town officer, PMU, Ministry of Lands
Preparation of land acquisition documentation	MLECCNR
Payment of compensation	PMU
Acquisition of affected lands	MLECCNR
Submission of compliance documents to ADB	PMU / ESU and EA
Monitoring of compliance of RP implementation	MLECCNR and ADB

#### C. Construction Stage

Confirmation of —No Objection for the beginning of civil works	ADB
Hiring of APs and mobilization of labour force	Contractor
Subproject construction	Contractor

#### D. Post Construction

Restoration and return of temporarily affected lands	PMU/ Contractor/MLECCNR
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### B. VII. B. Implementation Activities

113. As previously mentioned, the PMU will prepare a RP for a subproject at the preliminary design stage following the format shown in **Annex E**. They will undertake a brief verification and update of the RP once sub-project details are finalized by the detailed design consultants. Any modifications to the RP will be made, and verified with the PMU and ADB, and fully disclosed prior to any LAR activities commencing. The revised RP will include the full details of all RPs, including verification by the APs. It is expected that this will take place prior to approval by ADB.

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

115. The APs will sign a document signifying their satisfaction with and receipt of the compensation package. Proposed Implementation Schedule is provided in Table 3.

**Table 3: Implementation Schedule**

Activities	Indicative Timing
Mobilize consultants and safeguards specialist	Month 1
Establishment of grievance focal point	Month 1
Establish internal monitoring program (incl. monthly reporting)	Month 1
Identify sub-project (preliminary design)	Month 1
Conduct detailed measurement survey (based on detailed design)	Month 1-3

Distribute resettlement booklet and entitlement framework to APs & communities	Month 1 -3
Consultation with local officials, APs and concerned groups/departments	Month 1-3
Continue, information dissemination, participation programs & grievance resolutions	Ongoing
Contract and mobilize design and construct supervision consultants	Month 2-3
Detailed design	Month 3-6
Submissions to local authorities/utilities for all clearances	Month 5 (ongoing)
Finalize list of entitled persons, replacement cost survey and compensation rates	Month 8
Submit final RP to EA and ADB	Month 8
EA and ADB approval of final RP	Month 9
Prepare and distribute copies of approved resettlement plan	Month 9
Approved resettlement plan disclosed on ADB's website	Month 9
Ensure appropriate advance evacuation notification (notice to clear construction area)	Month 10 (ongoing)
Effect compensation payments and implement land transfer procedures	Month 11 (ongoing)
Submission of monitoring report (on plan implementation) to ADB	Month 11 (ongoing)

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

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

117. In order to ensure that sufficient funds are available for LAR tasks, the project will allocate 100% of the cost of compensation at replacement cost and expected allowances estimated in each RP plus contingencies before RP implementation. As the executing agency, the Ministry of Finance and National Planning will be responsible for the timely allocation of funds to implement the RPs. Allocations will be reviewed based on budget requirements indicated in the RPs.

118. The executing agency will be responsible for including RP funds for project activities in each fiscal years government budget. The executing agency will also be responsible to allocate adequate budget for the PMU to conduct their tasks and responsibilities during the projects activities. These budgets will be based on the amounts of compensation required to cover all losses and impacts, including: (i) the costs of acquiring required land at market prices; (ii) compensation for lost crops and trees based on replacement and/or market values; (iii) lost income from the temporary use of land for spoil; and, (iv) loss of traditional use rights and community properties and resources, compensated by replacement of similar common property resources or as cash compensation if the former is not possible. Ten percent will be allowed for physical contingencies. Budgets will be shown as per unit costs required to cover replacement of all losses.

119. The full costs of developing, disclosing, staffing and implementing the RP will be borne by the Government and will be considered as counterpart funding. The Government will commit adequate budgetary support and release the funds necessary for the implementation of the subproject RP. Prior to implementation, the PMU will establish a chart of accounts to capture compensation and resettlement administrative costs.

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

120. The primary objective of monitoring is to identify as early as possible the activities achieved and the cause(s) of constraints so that the arrangements in the RP implementation can be adjusted. Monitoring is important because RP implementation is often the critical path for any project where civil works is involved, due to issues on land acquisition, compensation and resettlement that may cause delay in civil works. The early identification of the causes of

delay will enable the PMU (with support from the consultants), to prepare the mitigating measures during RP implementation.

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

122. Specific internal monitoring indicators will be:

- (i) information campaign and consultation with APs;
- (ii) status of land acquisition and payments on land compensation,
- (iii) compensation for affected structures and other assets,
- (iv) relocation of APs,
- (v) payments for loss of income,
- (vi) selection and distribution of replacement land areas,
- (vii) income restoration activities, and
- (viii) ensure the gender mitigation measures are adhered to during the internal monitoring and reporting process.

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

124. In the event that an external monitoring agency (EMA) is required, their duties will include the following:

- (i) Review and verify internal monitoring reports prepared by the PMU
- (ii) Review of the socio-economic and census and inventory of losses baseline information of pre-displaced persons
- (iii) Identification and selection of impact indicators
- (iv) Assess impact through formal and informal surveys of the affected person
- (v) Consult APs, officials, and community leaders for preparing a review report
- (vi) Assess the efficiency, effectiveness, impact and sustainability of resettlement drawing lessons for future resettlement policy formulation and planning
- (vii) Ensure that gender mitigation measures are implemented.

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

## E. ANNEX A. Details of the SPCR Program

The SPCR Program consists of the following 3 Components with multiple projects, sub-projects and elements, as follows:

### **Component 1**

Component 1 includes the following sub-component activities/projects:

- 1.1 Scholarships and Professional Training, which will support the building of local capacity (12 courses) to in CCA/DRM related subjects as well as those identified by the JNAP-TWG namely: Environmental Impact Assessment (in particular coastal development; Building (Development) Code, Climate Proofing Infrastructure and Coastal Protection Development and Climate Change and Financial Management; In addition, the project will provide budget and expertise for government officials to attend short professional courses (less than 3 months) and twining arrangements, with professional placements in Climate Change Adaptation specialised institutions. These trainings will target government officials. Scholarships, which will support persons to undertake graduate and post graduate courses on Climate Change Adaptation in the University of South Pacific. The scholarships will be administered by the Scholarship Unit of the MOET.
- 1.2 Improving the legal framework for CCA and DRM by incorporating climate change adaptation and DRM considerations and standards in relevant legislation and building codes.
- 1.3 Establishing a Program Management Unit (PMU) to manage SPCR activities, including support to the individual Project Implementation Units (PIU) and liaise with GoT, especially through support for the JNAP-TWG.
- 1.4 Strengthening the vulnerability assessment mechanism for communities, through coordination of the Community Plan (ComP) process by agreeing a unified future Methodology, Procedures and Institutional set-up for ComPs through discussions with agencies, organisations and donors involved in ComP preparation; dissemination of data through the a searchable Central Depository of existing ComPs (V&A, IWRM, DRM) in the form of a regularly updated database linked to a GIS which will be available on-line through the MLECCNR web page; and examining existing ComPs, agree priority projects within communities and prepare approved applications (50 ComPs included in the project) for onward transmission to the CCTF, as well as monitoring and evaluating ongoing and completed projects in communities, including those funded both through and outside the CCTF, to assess and apply lessons learnt;
- 1.5 support to the proposed National Hydro-Meteorological and Coastal Monitoring and Data Dissemination System, Water Resource Inventories, Management and Early Warnings (HMCMS) which is a multi-agency initiative to be funded by the SPCR, which will provide monitoring data to increase national and community climate resilience by: improving the management of the nation's and communities natural resources (especially freshwater, agriculture and coastal zones); improving the delivery of early warning systems for cyclones (extreme wind and rain), storm surges, drought and tsunamis; and improving the design of national and communal infrastructure to increase its resilience to, and performance during climate related hazards. The HMCMS includes components addressing meteorology (rainfall, wind speed, cyclone tracking), hydro-geology (groundwater and surface water), coastal land (erosion and sedimentation) and sea (mean level, storm and tsunami wave) monitoring,

- 1.6 development of 4-6 Integrated Water Resource Management (IWRM) plans to collectively capture different land/water/coastal issues/ concerns/priorities, especially those pilot climate proofing infrastructure projects identified elsewhere in Component 3 as well as have geogRPhical and key stakeholder spread/diversity. IWRM Plans as a coherent and adopted strategy to increasing community resilience to climate change, would provide an appropriate mechanism (together with ComPs) by which the CCTF could identify and hence support applications for funding support,

### **Component 2**

Component 2 focuses on the operation of the Climate Change Trust Fund (CCTF) which was established by Cabinet Policy Resolution in May 2013 and which will operate under the Public Finance Management Act 2002. The CCTF will provide community grants (mostly small but some medium grants according to available funds) to implement community climate change risk management measures.

### **Component 3**

Component 3 includes the following sub-component activities/projects:

- 3.1. establishment of 6 Special Management Areas (SMA) to cover islands/villages with a combined population of some 1,046 persons to add to the existing 8 areas and thereby establish comprehensive baselines for biodiversity, ecological health, socio-economic status and governance arrangements in the SMA network; strengthen eco-system resilience to climate change will be strengthened in the 6 pilot sites and in the broader MPA SMA network, which will in turn support increased marine biomass, larger breeding fish populations, increased ability for the SMA to support local livelihoods; and strengthened ability of the ecosystem to recover after climate related events, e.g. cyclone, coral bleaching,
- 3.2. support for mangrove assessments and planting
- 3.3. supports the detailed design and implementation of five pilot climate proofing infrastructure projects with numerous sub-projects, as follows, the results of which are intended to be used to build national capacity in implementation, monitoring and evaluation, as well as building a knowledge base to be able to undertake similar such projects throughout Tonga and provide regional lessons:
  - a. Evacuation and Post-Disaster Access roads (3 roads totalling 5.95 kms) in Eastern Tongatapu and the island of Eua, the improvement of which will benefit some 5093 residents. The expected benefits are improving the security of the local population (in Eastern Tongatapu) in the event of a major climate related event by both allowing for evacuation and allowing post disaster access by emergency vehicles, enhancing the livelihoods of the local population through facilitating their access to economic centers such as markets and providing employment and training opportunities for local and national workers.
  - b. Coastal Protection: construction and monitoring of five sections of coastline (2.75 kms ) in Eastern Tongatapu using different hard and soft engineering and bioengineering techniques to control coastline erosion, and limit sediment runoff, which will benefit 2,164 residents. The expected benefits are reduction in building and road damage, household income loss, statistical value of life loss and emergency costs, due to mitigating flood and wave effects; mangrove benefits such as improved breeding grounds for fish, carbon sequestration and run-off

nutrient filtering; as well as recreation and amenity benefits from preserving the shoreline and beaches;

c. Study of the water supply requirements for the island of Niuafo'ou (population 524) to identify a clear way forward for the provision of a sustainable water supply to be maintained through periods of drought for the island; and development of a guide manual on rainwater harvesting and drought management to enable the development of comprehensive rainwater harvesting projects for communities to mitigate climate change drought effects; and

d. Climate proofing of 5 schools to provide climate resilience on Tongatapu, Ha'apai and Vava'u (number of pupils losing days through floods is 922), which consists of upgrading the school compounds and road access to control wet-season flooding and provision of a long-term sustainable water harvesting system. The expected benefits are: avoided income/time loss resulting from school closures; inconvenience to parents; avoided damage to schools due to the flooding; piped water cost and drought alleviation reduction at Ha'apai High School; and disaster relief provided by the large source of drinking water at the Ha'apai High School, which is the designated island's evacuation centre. Additional 5 to 7 schools will be identified and included as candidate sub-projects

e. Plan retreat of Ha'apai Hospital to higher ground.

f. 5 to 7 Marine Landings in outer islands to be identified for rehabilitation and climate proofing, ensuring livelihood to fishing communities and access to the island in the event of a climate related disaster.

## **F. ANNEX B. Brief Outline of Tongan Laws Relating to Land Acquisition and Resettlement**

### **A. Compensation Generally**

#### **1. Constitution**

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

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

### **B. Easements**

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

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

4. Section 112 A (3) Kind of easement permissible –  
(i) Right of way  
(ii) Right to convey water  
(iii) Right to drain water  
(iv) Right to drain sewage

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

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

7. Section 112D Form of easement

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

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

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

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

10. Section 141



(i) The King may, with the consent of Cabinet, call upon any holder to give up possession of land held by him provided that the Cabinet is satisfied that the land is required for public purposes.

(ii) In all cases the Minister of Land shall, to the holder of the land to be resumed

(a) in respect of the crops being grown on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act;

(b) in respect of the land to be resumed, at the Minister's own discretion, either grant other land in its place, or pay money compensation to be calculated at the rates and in the manner provided in this Part of this Act, or both grant other land and pay money compensation;

(c) in respect of buildings or buildings erected on the land to be resumed, pay money compensation to be calculated at the rates and in the manner provided by this Part of this Act.

(iii) The power of resumption shall not preclude any one voluntarily relinquishing land for public purposes for no compensation either in land or money.

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

12. Section 143

(i) The King may, with the consent of Cabinet, make regulations from time to time specifying the rates of money compensation to be paid for land resumed by the Crown under this Part of this Act; and for crops being grown and for buildings on such land and the method of calculations of such matters.

(ii) Money compensation to be paid on said rates will be paid within 30 days of said notice in Section 142.

**G. ANNEX C. Comparison of Tonga Law and ADB Safeguard Policy Statement (SPS) on Land Acquisition and Resettlement**

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives.	Not specified in Tongan law.	ADB policy will be followed.	ADB policy will be followed.
Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Improve the standards of living of the displaced poor and other vulnerable groups.	Tongan law does not provide for compensation to improve livelihoods or housing, or specify the type or timing of compensation payable for assets.	Gap	ADB policy will be followed.
Screen the project early on to identify past, present, and future involuntary resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons, including a gender analysis, specifically related to resettlement impacts and risks.	Not specified in Tongan law.	Gap	ADB policy will be followed.
Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.	<p>No specific policy in Tongan Law.</p> <p>However, customary practice is to consult with all affected and potentially affected people. APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.</p> <p>There is no specific provisions for vulnerable people in Tongan law. However such practice is embedded in the customs and traditions of Tonga and the land tenure system.</p> <p>No specific policy in Tongan Law distinguishing between rich and poor; all citizens are treated equally.</p>	Tongan practice is in line with ADB policy.	Customary practice will be followed, with additional inclusion of specific ADB requirements.
Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary	<p>Grievance redress mechanisms are approved by Tonga on a project-by- project basis.</p> <p>Given traditional and customary processes of communication, community structures and</p>	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.	leadership, procedures are often well communicated.  However, these same societal structures can allow for power differentials to occur.		
Improve, or at least restore, the livelihoods of all displaced persons through (i) land-based resettlement strategies when affected livelihoods are land based where possible or cash compensation at replacement value for land when the loss of land does not undermine livelihoods, (ii) prompt replacement of assets with access to assets of equal or higher value, (iii) prompt compensation at full replacement cost for assets that cannot be restored, and (iv) additional revenues and services through benefit sharing schemes where possible.	Land Act, Section 141 provides powers to the Minister of Lands in case of loss of land for compensation in the form of land and/or cash.  Land Act, Section 141 (2) provides for the payment of cash compensation for loss of structures.  Tongan Land law provides for compensation to legal land users for crop/tree losses at rates determined by the government and established by Ministry of Agriculture.  In practice, compensation is generally paid within a timeframe prior to the action of the civil works.	Tongan policy complies with ADB policy.	None required.
Provide physically and economically displaced persons with needed assistance, including the following: (i) if there is relocation, secured tenure to relocation land, better housing at resettlement sites with comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.	No specific policy in Tongan Law.  Tongan customs and traditions provide support for certain groups.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
Improve the standards of living of the displaced poor and other vulnerable groups, including	Tongan law does not provide for compensation to improve livelihoods or housing.	Gap.	ADB policy will be followed.

ADB SPS Requirements on Involuntary Resettlement	Tonga's Law on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and Tonga's Law	Gap-filling Measures for the Project
women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.	Tongan customs and traditions provide support for certain groups. There is no law relating to this provision.		
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.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets	Land users with no legal registration have no rights.	Gap.	ADB policy will be followed.
Prepare a resettlement plan elaborating on displaced persons' entitlements, the income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	Not specified in Tongan law.	Gap.	ADB policy will be followed.
Disclose a draft resettlement plan, including documentation of the consultation process in a timely manner, before project appraisal, in an accessible place and a form and language(s) understandable to affected persons and other stakeholders. Disclose the final resettlement plan and its updates to affected persons and other stakeholders.	Land Act, Section 142 requires the Minister of Lands to notify affected persons of Government's intention to acquire land at least 30 days prior to resumption.  In practice, APs are informed and consulted on the project, plans, and the actions to be taken particularly in respect to compensation entitlements and options.	Tongan practice is in line with ADB policy.	Tongan practice will be used for the project in compliance with ADB policy.
Conceive and execute involuntary resettlement as part of a development project or programme. 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	Not specified in Tongan law.	Gap.	ADB policy will be followed.

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

## H. ANNEX D. Land Acquisition and Resettlement Screening Form

### A. Introduction

Each subproject of the Strategic Program for Climate Resilience (SPCR) is assigned an involuntary resettlement category depending on the likelihood and the significance of the probable involuntary resettlement impacts.

### B. Information on Subproject

Sub-project name:	
Location:	
Scope of subproject (description of the nature and scope of works):	

### C. Screening Questions for Resettlement Categorization

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

### D. Involuntary Resettlement Category

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

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

If Category B, please provide the following information:

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

Prepared By:  Signature: _____ Name: _____ Position: _____ Date: _____
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## **I. ANNEX E. Outline of a Resettlement Action Plan**

### **I. EXECUTIVE SUMMARY**

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

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

### **II. PROJECT DESCRIPTION**

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

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

### **III. SCOPE OF LAND ACQUISITION AND RESETTLEMENT**

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

### **IV. SOCIOECONOMIC INFORMATION AND PROFILE**

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

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

This section identifies project stakeholders, especially primary stakeholders, describes the consultation and participation mechanisms to be used during the different stages of the project cycle; describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders; 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; confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and describes the planned information disclosure measures (including the type of information to be disseminated and



the method of dissemination) and the process for consultation with affected persons during project implementation.

## **VI. GRIEVANCE REDRESS MECHANISMS**

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.

## **VII. LEGAL FRAMEWORK**

This section:

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

## **VIII. ENTITLEMENTS, ASSISTANCE AND BENEFITS**

This section:

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

## **IX. RELOCATION OF HOUSING AND SETTLEMENTS**

This section:

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

## **X. INCOME RESTORATION AND REHABILITATION**

This section:

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

## **XI. RESETTLEMENT BUDGET AND FINANCING PLAN**

This section:

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

## **XII. INSTITUTIONAL ARRANGEMENTS**

This section:

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

## **XIII. IMPLEMENTATION SCHEDULE**

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

## **XIV. MONITORING AND REPORTING**

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.

## **J. ANNEX F. Draft Terms of Reference for Consultants**

### **A. International Planning, Gender and Social Safeguards Specialist**

*(3 person-months, intermittent)*

The specialist will have academic qualifications in planning, economics, social science or a closely related field, and a minimum of 10 years' experience in social assessments and the preparation of social impact assessments for infrastructure projects in developing nations. Experience in resettlement and participatory planning and implementation, gender mainstreaming activities, excellent management, and communication skills, and in-depth knowledge and experience with ADB's resettlement policies are also required. Demonstrated experience in the training of national personnel in the assessment of social impacts is essential. Experience in the training of national personnel in the planning and implementing of social surveys and preparation of land acquisition and resettlement plans would be viewed favorably. The specialist shall report directly to the PMU team leader and will be responsible for the implementation of the social and resettlement aspects of the project as defined in the scope of works.

### **B. National Gender, Engagement and Social Safeguards Specialist**

*(60 person-months- full time)*

The specialist will have appropriate training and experience as a social development specialist and at least 5 years professional experience including the planning, design, and implementation of social aspects of infrastructure projects. Specific experience will include gender and pro-poor mainstreaming activities and/or implementation of resettlement plans. The specialist shall report to the International Specialist and in their absence to the PMU team leader, and will assist the PMU with liaison and the day-to-day management of the components of the project.