

# Resettlement Plan

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June 2014

## Mongolia: Darkhan Wastewater Management Project

Prepared by the consultant team on behalf of Darkhan-Uul Aimag government for the Asian Development Bank.

## CURRENCY EQUIVALENTS

(as of 30 June 2014)

Currency unit	–	togrog (MNT)
MNT1.00	=	\$0.000549
\$1.00	=	MNT1,821.50

## ABBREVIATIONS

ADB	–	Asian Development Bank
AP	–	affected person
CBO	–	community-based organization
DAG	–	Darkhan-Uul Aimag government
DMS	–	detailed measurement survey
GAF	–	grievance action form
GOM	–	Government of Mongolia
GRM	–	grievance redress mechanism
LAD	–	Land Administration Department
LARP	–	land acquisition and resettlement plan
LRCUDD	–	Land Relations, Construction and, Urban Development Department
MNT	–	Mongolian currency
NGO	–	nongovernmental organization
PIU	–	project implementation unit
PMU	–	project management unit
ROW	–	right-of-way
SPS	–	Safeguard Policy Statement
TOR	–	terms of reference
UDSP	–	Urban Development Sector Project
WG	–	working group

## GLOSSARY

affected persons	–	in the context of involuntary resettlement, affected persons are those who are physically and economically displaced as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access
compensation	–	cash or in-kind payment of the replacement cost of an asset lost due to project-related impacts
economical displacement	–	loss of land, assets, access to assets, income sources, or means of livelihood as a result of (i) involuntary acquisition of land or (ii) involuntary restriction on land use or access to legally designated parks and protected area
entitlement	–	range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to affected people, depending on the nature of their losses, to restore their economic and social base
income restoration	–	reestablishment of income sources and livelihoods of affected entities

involuntary resettlement	–	full or partial, permanent or temporary physical displacement (relocation, loss of residential land or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a consequence of development projects, compelling affected entities to rebuild their lives, incomes and asset bases
land acquisition	–	the process whereby a person is compelled by a government agency to relinquish their land or land use rights to the government (i) for a public purpose and (ii) in return for compensation. This land may be either owned or possessed by the affected person
physical displacement	–	relocation or loss of shelter. Loss of shelter and assets resulting from the acquisition of land with a project that requires affected persons to move another location
rehabilitation	–	compensatory measures provided under the ADB Policy Framework on Involuntary Resettlement other than payment of the replacement cost of acquired assets
replacement cost	–	the value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material
temporary land-use impacts	–	when land outside the proposed ROW is required temporarily to carry out construction, persons may be affected in terms of temporary land loss, damage to attachments or disruption of living or business conditions, for which compensation or mitigation is required to offset such impacts
vulnerable groups	–	distinct group of people (poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement effects

#### **NOTE**

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Preparation of a Wastewater Management Project for Darkhan City  
(MON-37697)

## **Draft Land Acquisition and Resettlement Plan**

**Prepared by the Consultant team on behalf of Darkan-Uul Aimag Government**

**June 2014**

## DEFINITION OF TERMS

**Affected Persons:** In the context of involuntary resettlement, affected persons are those who are physically and economically displaced as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access.

**Economical displacement:** Loss of land, assets, access to assets, income sources, or means of livelihood as a result of (i) involuntary acquisition of land or (ii) involuntary restriction on land use or access to legally designated parks and protected area.

**Physical displacement:** Relocation or loss of shelter. Loss of shelter and assets resulting from the acquisition of land with a project that requires affected persons to move another location.

**Compensation:** Cash or in-kind payment of the replacement cost of an asset lost due to project-related impacts

**Entitlement:** Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation, which are due to affected people, depending on the nature of their losses, to restore their economic and social base

**Income Restoration:** Reestablishment of income sources and livelihoods of affected entities

**Involuntary Resettlement:** Full or partial, permanent or temporary physical displacement (relocation, loss of residential land or shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a consequence of development projects, compelling affected entities to rebuild their lives, incomes and asset bases

**Land Acquisition:** The process whereby a person is compelled by a government agency to relinquish their land or land use rights to the government (i) for a public purpose and (ii) in return for compensation. This land may be either owned or possessed by the affected person.

**Rehabilitation:** Compensatory measures provided under the ADB Policy Framework on Involuntary Resettlement other than payment of the replacement cost of acquired assets

**Replacement Cost:** The value determined to be fair compensation for various types of agricultural and residential land, crops, trees, and other commodities based on current market rates; the cost of rebuilding houses and structures at current market prices of building materials and labor, without depreciation or deductions for salvaged building material

**Temporary Land Use Impacts:** When land outside the proposed ROW is required temporarily to carry out construction, persons may be affected in terms of temporary land loss, damage to attachments or disruption of living or business conditions, for which compensation or mitigation is required to offset such impacts

**Vulnerable Groups:** Distinct group of people (poor, elderly, disabled and female headed households) who may suffer disproportionately from resettlement effects

## ABBREVIATIONS

ADB	Asian Development Bank
AP	Affected person / Entity
GOM	Government of Mongolia
DAG	Darkhan-Uul Aimag Government
DMS	Detailed Measurement Survey
LAD	Land Administration Department
LARP	Land Acquisition and Resettlement Plan
MNT	Mongolian currency
PIU	Project Implementation Unit
PMU	Project Management Unit
WG	Working group
GRM	Grievance Redress Mechanism
GAF	Grievance action form
ROW	Right of Way
TOR	Terms of Reference
SPS	Safeguard Policy Statement
UDSP	Urban Development Sector Project
NGO	Non Governmental Organization
CBO	Community Based Organization
LRCUDD	Land Relations, Construction and Urban Development Department



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танай \_\_\_\_\_-ны № \_\_\_\_\_-т

**АЗИЙН ХӨГЖЛИЙН БАНКНЫ МОНГОЛ  
ДАХЬ СУУРИН ТӨЛӨӨЛӨГЧИЙН  
ГАЗАРТ**

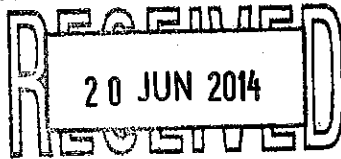
Дархан-Уул аймгийн Дархан хотын "Бохир усны менежментийн төсөл"-ийн газар чөлөөлөлт, нүүлгэн шилжүүлэлтийн төлөвлөгөөний төсөлтэй танилцлаа.

Зарчмын хувьд дэмжиж байна.

ОРОН СУУЦЭНИЙТИЙН АЖ АХҮЙН  
БОДЛОГЫН ХЭРЭГЖИЛТИЙГ ЗОХИЦУУЛАХ  
ГАЗРЫН ДАРГА **ЭРДЭНЭЦЭЦЭГ**



ASIAN DEVELOPMENT BANK



MONGOLIA RESIDENT MISSION

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**ДАРХАН-УУЛ АЙМГИЙН  
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2014.09.03 № 2-1993

танай \_\_\_\_\_-ны № \_\_\_\_\_-т

Нүүлгэн шилжүүлэлтийн талаар

Дархан-Уул аймгийн Засаг даргын Тамгын газар нь "Дархан хотын цэвэрлэх байгууламжийн шинэчлэлийн ажлын хүрээнд нүүлгэн шилжүүлэлтийн төлөвлөгөө болон үндэслэлийг Монгол Улсын хууль дүрэм, АХБ-ын аюулгүй байдлын бодлогын баримтлалд нийцүүлэн боловсруулсан. Нүүлгэн шилжүүлэлтийн төлөвлөгөө нь ТЭЗҮ-ийн зураг төсөл дээр үндэслэсэн бөгөөд хэмжилтийн судалгаа болон тухайн нутаг дэвсгэрийн иргэдийн тоо баримт дээр тулгуурлан нарийвчилсан зураг төслийг бэлтгэх үед дахин шинэчлэгдэх болно.

Дархан-Уул аймгийн Засаг даргын Тамгын газар нь цаашдаа нүүлгэн шилжүүлэлтийн төлөвлөгөөний агуулгыг баталж, газар чөлөөлөлт болон нүүлгэн шилжүүлэлтийн төлөвлөгөөний төсвийг цаг хугацаанд нь хуваарилахыг үүгээр мэдэгдэж байна.

Азийн хөгжлийн банкны зөвлөгч нүүлгэн шилжүүлэлтийн төлөвлөгөөг тухайн нутаг дэвсгэрт 2014 оны 08 дугаар сарын 29 ний өдөр танилцуулсан болно.

ДАРГА



Ч.ЧҮЛТЭМБАТ

## EXECUTIVE SUMMARY

1. This document constitutes the Land Acquisition and Resettlement Plan (LARP) for the Darkhan Wastewater Management Improvement Project Technical Assistance (TA) for the Preparation of a Wastewater Management Project for Darkhan city. This LARP is prepared in accordance with applicable laws of Mongolia and the Asian Development Bank's (ADB) 2009 Safeguard Policy Statement (SPS, safeguard requirement 2 for involuntary resettlement.

2. **Project site and ROW:** The project will improve the sewerage system of Darkhan City of Darkhan Uul Aimag through (i) renewing the central treatment facility, (ii) renovation of pump station of Shine Omnod industrial area and construction of 1.4km length sewerage pipeline which is planned to be constructed on the right side of the railway, (iii) renovation of 2nd pump station and 50m sewerage pipeline, (iv) 600 m length sewerage pipeline in 5th bag area. The sewerage system will benefit around 80 000 residents Darkhan City. In order to minimize resettlement impact, the right of way (ROW) of the pipelines, which traverse the project areas in various directions, will be reduced to 5m in accordance with the Construction Standard and Rules of Mongolia for Water Supply, External Networks and Structures BNBD 40-02-06 once the detailed design prepared.

3. **Scope of land acquisition and resettlement impact:** Rehabilitation of some sewerage pipelines right-of-way will involve land acquisition and resettlement; other portions will be constructed on either public land or possessed land by Darkhan-Uul Suvag agency. A total of 8 affected entities including two small enterprises, three commercial entities and three state owned institutions will be affected by land acquisition and resettlement. These 5 affected entities will lose a total of 2711.1 m<sup>2</sup> of land and all these losses are partial (i.e., no relocation is required). The affected land plots are possessed by the state institutions and private companies. No residential land or structures will be affected by the project. Fences and gates totaling 112 m in length and belonging to 3 affected entities will need to be moved or replaced. Other affected structures include 2 entrance ways to the food shop and hair and beauty salon, speed bump and an advertisement board.

4. **Indigenous peoples and gender impact:** Ethnic Mongols account for about 98.9% of the population of Darkhan City. The Khalkhs make up 82.8% of the population of the city. The remaining 16.9% includes Duruvud, Bayad, Zakhchin and Buriad and others. The project components are all focused on urban areas of Darkhan. The project investments will benefit all residents. No specific communities of ethnic minorities or groups are living separately and no adverse impacts are expected. Therefore, the ADB Policy on Indigenous Peoples will not be triggered by this subproject. The project benefits men and women equally, including improved housing conditions and living environment, health benefits, and job creation. Therefore, adverse differential gender impact by the project on either men or women is not expected.

5. **Legal and policy framework:** Land acquisition and resettlement by the government for projects in urban areas is based on negotiation and contracts with affected persons according to the Civil Code of Mongolia. All APs are eligible for entitlements, as stipulated in this LARP, including owners, possessors, users, legalizable occupants, non-titled occupants and lessees. The eviction of unlicensed APs is a violation of the ADB SPS. The eligibility and entitlements for specific types of losses in the project are summarized in the Entitlement Matrix in Table 5 of this LARP.

6. **Consultation and grievance redress:** Information, consultation and participation of APs are ensured through individual and public meetings throughout the LARP preparation and implementation process. To date one public meeting to prepare the APs for resettlement was held in October 2013. A three-step grievance mechanism with a clearly defined timeline of 5 weeks for each case will be established. A grievance action form initiating and tracking the grievance process for each complaint has been prepared.

7. **Institutional arrangements and monitoring:** The Darkhan-Uul Aimag Government (DAG) has overall responsibility for the land acquisition and resettlement of the project. This includes preparation, implementation and financing of all LAR tasks and cross-agency coordination and linkages. DAG exercises its functions through the PIU. The PIU is responsible for planning and implementation of all LAR tasks. A working group (WG) made up of representatives from concerned agencies and chaired by Governor of Darkhan-Uul Aimag will be established to oversee the project LAR implementation and make high level decisions, including resolving or serving as a final decision-making body for AP grievances. With the support of the WG, the PIU will ensure resettlement safeguard compliance prior to any resettlement, or the award of civil works contracts. Close coordination and commitment between all stakeholders are facilitated by the participation of the WG members.

8. **Compensation strategy and budget:** Losses of land and structures, as well as transaction and relocation costs for each AP are covered. The budget for resettlement in the Darkhan City Project is MNT **74,003,207**million or about USD **42,928** for compensation, administration as well as contingency costs which will be funded from the aimag government budget.

## A. INTRODUCTION

9. This document constitutes the Land Acquisition and Resettlement Plan (LARP) for the Technical Assistance (TA) for the Preparation of a Wastewater Management Improvement Project for Darkhan City for Mongolia, which proposed to use financing from the Asian Development Bank (ADB). This LARP is prepared in accordance with applicable laws of Mongolia and ADB's 2009 Safeguard Policy Statement (SPS).

10. This draft LARP serves as the foundational document for all related resettlement activities undertaken for the Darkhan City Project. These activities are expected to include acquisition of land, removal and reestablishment of physical structures and utilities.

11. This draft LARP is prepared based on preliminary project design. Therefore, the assessments of potential impacts and cost estimates are also preliminary. The resettlement consultant has visited the project site and worked with land officer and engineer from Darkhan-Uvsuvag agency. The consultant conducted (i) preliminary measurement of affected land, (ii) a socioeconomic survey of affected entities, and (iii) consultation with government officers and potentially affected people/entities. A Detailed Measurement Survey (DMS) of affected land plots has been done by officers of Land Relations, Construction and Urban Development Department (LRCUDD).

12. This draft LARP needs to be updated based on the final detailed design, and/or if project implementation delays more than two years. The Project Implementation Unit (PIU) will update and finalize the LARP in coordination with related government agencies. The final LARP will be submitted to the Darkhan Aimag Government, Ministry of Construction and Urban Development (MCUD) and ADB, for review and approval before award of related civil works and before commencement of any resettlement activities.

13. This draft LARP provides (i) an assessment of the scope of land acquisition and resettlement, (ii) an overview of the socio-economic situation of affected entities, (iii) the LAR policy framework and entitlements, (iv) the procedures for consultation and public participation, (v) a description of institutional arrangements and the LAR grievance redress mechanism, (vi) the compensation strategy, (vii) a resettlement budget, (viii) LARP implementation arrangements, (ix) monitoring and evaluation procedures and (x) a implementation schedule.

14. The project will improve the sewerage system of Darkhan City through (i) renewing the central treatment facility, (ii) renovation of 1<sup>st</sup> pump station of Shine Omnod industrial area and construction of 1.4km length sewerage pipeline which is planned to be constructed in right side of the railway, (iii) renovation of 2<sup>nd</sup> pump station and 50 m sewerage pipeline, (iv) renovation of 600m length sewerage pipeline in 5<sup>th</sup> Bag area. The sewerage system will benefit around 80 000 residents Darkhan City. Acquisition of land is required only for some activities of the project, namely, for renovation of 1st pump station of Shine Omnod industrial area and renovation of 600 m length sewerage pipeline in 5th Bag area.

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

### Potential Resettlement Impacts

15. The resettlement consultant identified the potentially affected persons/entities on the basis of preliminary project design and conducted an assessment of LAR impacts. The assessment of LAR impacts is based on the standard right of way (ROW) width of 10m for the sewerage pipelines. In order to minimize LAR impact, the right of way of the pipelines, will be reduced to the minimum 5 m in accordance with the Construction Standard and Rules of Mongolia for Water Supply, External Networks and Structures BNBD 40-02-06 once the detailed design prepared.

16. Only the replacement of 1.4km length sewerage pipeline and renovation of 600 m length sewerage pipeline in 5th Bag area will require some LAR. No land acquisition will be carried out neither on areas for renovation of the existing pump stations nor for the rehabilitation of the wastewater treatment facility. As informed by Land Relations, Construction and Urban Development Department (LRCUDD), no land acquisition is envisaged at the site, where the rehabilitation of existing waste water central treatment facility is planned. No LAR is required for replacement of the 50 m length sewerage pipeline which is currently not in operation and connected to the 2<sup>nd</sup> pump station.

17. A detailed measurement survey of affected plots and structures, and a socioeconomic survey of potentially affected persons/entities were conducted in October, 2013. Results of the surveys show that a total of 8 entities located on 5 affected plots in Darkhan City will experience LAR impacts induced by the project. No physical displacement, loss of livelihood is envisaged. Major LAR impacts are partial land loss, removal of structures, and temporary business loss.

18. Two private companies (AP-07, AP-08) will be affected by losing their possession land partially for ROW of 1.4 km length sewerage pipeline. At the time of impact assessment both land plots were undeveloped: no fences, constructions or structures and crops. No agricultural (pasture) land is affected since this is an industrial zone and 1.4 km length sewerage pipeline is planned to be constructed along the right side of the railway.

19. Six entities will be affected during replacement of existing 600m length sewerage pipeline: of which three (AP-03, AP-04, AP-06) government budget organizations, two (AP-01, AP-02) small enterprises, and one (AP-05) private company. LAR impacts on these entities are not significant, as they will experience partial land loss, removal and reestablishment of the some of their affected structures. No permanent impact on businesses is envisaged. Two enterprises (AP-1, AP-2) will be temporary affected and closed for a short period during construction work, while removing and reestablishing the affected entrance ways/staircases, which were built on public land. They can continue their operations during the construction period and after completion of the project. Nonetheless, a budgetary provision is made to compensate for 7 days work stoppage.

20. Several public assets will be affected by the project and budget for restoration will be included in quantities and budget of the civil works for the entire project. These are: (i) cement square built between the Health center II and the Jiguur secondary school, (i) some part of cement square within school and health center areas, (iii) sidewalk nearby Khaan Bank's fence, and (iv) two-

lane road, where sewerage pipes cross. Rehabilitation of these affected public assets is not part of this LARP because the relevant rehabilitation budget for those assets has been included in the civil works budget. Although these impacts are covered under the civil work contract, they will be properly monitored and documented in the PMU/PIU semi-annual resettlement monitoring reports.

21. Resettlement impacts identified in this LARP preparation needs to be updated and reaffirmed at the stage of Detailed Engineering Plan. The LAR impact assessment, valuation of affected assets and social impact analysis will be updated in the final LARP.

### **Impact on land**

22. The project will affect 2711,1 m<sup>2</sup> of possessed land which belongs to 5 affected companies/institutions. As shown in Table 1, all land losses are partial, minimum 0.36% and maximum 33% of possessed land. Business activities of the affected companies/institutions can be continued on the remaining land, therefore, physical displacement and allocation of replacement land is not required. Advertisement board that belongs to AP-06 is located within the boundary of the KHAAN Bank plot. Therefore, this entity will not lose any land. Preliminary assessment of land losses is based on the DMS made by land specialists of LRCUDD of Darkhan-Uul Aimag.

**Table 1: Impact on Land**

Plot Name		Plot number	Land use	Ownership status	Validity Period	Size of total plot land(m <sup>2</sup> )	Size of affected land(m <sup>2</sup> )	Percentage of land loss
AP-03	"Jiguur" 16th school complex	080100387	Education	Possession	Unknown	19,700	72	0.36%
AP-04	Health center II	080100241	Health care	Possession	Unknown	2,701	121.6	32.84%
AP-05	KHAAN Bank	080100140	Banking service	Possession	Unknown	742	200	126.9%
AP-07	Montech Co., LTD	080100492	Commercial	Obtained possessor certificate in 2011	5 years	150,000	1997.5	1.3%
AP-08	"Nogoon burd" Co., LTD	080153837	Commercial	Obtained possessor certificate 2011	5 years	10,000	320	3.2%



### **Impact on Buildings and Structures**

23. Three affected entities will have their iron fences of a total length 103 m and gates of length 9 m moved back from the edge of their property to accommodate the renewing of sewerage pipes. AP-03 will remove and reestablish total of 30 m length metal fence with 60 cm high concrete foundation and 30 m length wooden bench placed on the fence foundation, fence metal door and speed bump. AP-04 will remove and reestablish 33 m length metal fence with concrete foundation and metal gate. AP-05 will remove and reestablish 40 m length newly constructed metal fence with 60 cm high concrete foundation. The DMS indicates that two entrance ways, an advertisement board that belongs to the government agency needs to be removed. Once the project design is finalized, there will be a strong focus on minimizing or avoiding the impacts presented above. All affected assets shown in Annex 1.

**Table 2: Affected structures**

Type of loss	Unit		Number of entities
Iron fence	m	103	3 - AP-03, AP-04, AP-05
Iron gate	item	2	2 - AP-03, AP-04
Speed bump	item	1	1 - AP-03
Advertisement board	item	1	1 - AP-06
Entrance ways	item	2	2 - AP-01, AP-02

### **Impact on trees**

24. Impacts on trees are minimal. There are about 16 decorative trees affected at one location near the KHAAN Bank. The ownership of these trees is not clear at this stage.

### **Impact on Businesses**

25. AP-01 and AP-02 will have temporary business income losses for short period. Entrance ways need to be removed during civil work of renovation of sewerage pipelines and reestablished once civil work completed. Business losses will be compensated on the basis of an average daily net income for the period of business interruption. A budgetary provision is made to compensate for 7 days work stoppage.

### **Socioeconomic profile of affected entities**

26. A socio-economic survey of affected parties was conducted in 2013. Five affected entities were consulted and provided with information on the project. During the meeting in October 2013, information required for the socio-economic survey has been collected through individual interviews. Table 3 indicates the number and types of affected entities impacted by the Project. A total of 8 entities including public services, such as school, health center and government agency will be affected.

**Table 3: Summary of Project Impacts by Affected Companies/Institutions**

	<b>Name of company/institution</b>	<b>Business activity</b>	<b>LAR impacts</b>
AP-01	“Russian food” Co., LTD	Grocery shop	Removal and reestablishment of entrance way, temporary business loss
AP-02	“Munk-Altangegee” Co., LTD	Beauty salon	Removal and reestablishment of entrance way, temporary business loss
AP-03	“Jiguur” 16 <sup>th</sup> school complex	Secondary school	Partial land loss, 30 m fence, gate and speed bump
AP-04	Health center II	Healthcare service, in and outpatient treatment, diagnosis	Partial land loss, 33 m fence and gate
AP-05	KHAAN Bank	Banking service	Partial land loss, 40 m fence and 16 trees
AP-06	Local Property Agency	Property registration	Removal of an electronic advertisement board
AP-07	Montech LLC	Unknown	Partial land loss
AP-08	“Nogoon burd” Co., LTD	Unknown	Partial land loss

27. Two affected small businesses (AP 1 and 2) are owned and run by individuals located on the first floor of an apartment block building. AP-01 “Russian food” shop employs 1 full time salesperson and serves residents of surrounding area. The shop earning is declining because of prohibition of tobacco and alcohol sales. Nowadays shop’s daily net income is around 80,000 MNT. AP-02 “Munk-Altan gegee” Co., LTD runs hair and beauty salon with 4 hairdressers and 2 cosmetologists. The owner of the company works as a hairdresser at the salon. All other staff are lessees and pay monthly rent 150,000MNT to the owner. Each person earns approximately 40,000-45,000MNT per day.

28. AP-03: 16<sup>th</sup> school “Jiguur” complex has around 1400 pupils, 90 teachers and 10 other staff. The schoolteachers receive basic salary approximately 450,000MNT plus additional salary for class teaching, etc. Average salary for other staff ranges between 320,000-360,000MNT. The land has been possessed by the school. However the building belongs to Russian company since 1990s. The school rents the building.

29. AP-04: Health center services around 30,000 residents of Old Darkhan and has more than 100 staff including doctors, laboratory assistants, technicians and service staff. The staff salary ranges between 280,000 up to 680,000MNT.

30. AP -05: Darkhan Khan Bank's central office is located in left side of the Health Center II and it has 40 staff persons. The bank directly serves the banking needs of a community of 15,000 to 60,000 people.
31. AP-06: Local Property Agency of Darkhan-Uul Aimag is responsible for registration, usage and control of the local properties.
32. AP-07 and AP-08. Information is not available at this stage.

## C. LAR OBJECTIVE AND POLICY FRAMEWORK

33. The objective of this LARP is to stipulate all relevant entitlements, procedures and compensation, relocation and rehabilitation measures due to entities affected by the acquisition of land under the proposed Darkhan Wastewater Management Improvement Project. In particular, the LARP is meant to safeguard people's livelihoods and quality of life, meaning that the assistance they will receive is designed to ensure they maintain a level of well-being which is at least equivalent to or better than what it would have been without the project. To achieve this, affected entities must be fully informed, closely consulted, compensated for their losses, assisted to gain possession or ownership of replacement land and property, in order to reestablish their living conditions and enterprises. All affected entities should be provided opportunities to participate in any decision making pertinent to involuntary resettlement (IR).

34. All provisions of this LARP are in accordance with the applicable Mongolian Laws<sup>1</sup> and the ADB's 2009 Safeguard Policy Statement (SPS). The relevant stipulations of national law and ADB policy are summarized below and the Project's entitlement framework is presented.

35. The basic legislative framework for land acquisition and resettlement under the existing legal framework consists of the Constitution (1992), the Land Law (2006) and the Law on Allocation of Land to Private Citizens (2003), as well as the Civil Code. The Land Law specifies three kinds of private land tenure: (i) ownership, which may be granted only to citizens of Mongolia; (ii) possession, granted under license, to Mongolian citizens, economic entities and organizations, for terms of 15 to 60 years, extendable up to 40 years at a time; and (iii) use, granted under contract or lease to foreign countries and legal entities.

36. The Constitution of Mongolia states, inter alia, that "The State shall have the right to hold landowners responsible in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security" and "If the State and its bodies appropriate private property on the grounds of exclusive public need, they shall do so with due compensation and payment" respectively.

37. The Land Law governs expropriation of land allocated for possession or use. The Law on Allocation of Land to Mongolian Citizens for Ownership contains provisions respecting expropriation of land under private ownership. Non-titled occupants of land are considered illegal land users and can be evicted on the basis of Article 27.4 of the Land Law, which states that "possessing land without a valid license is prohibited".

38. Article 13.1 of the Land Law lists special needs for which land in private possession can be acquired by the state: (i) land under special government protection; (ii) border strip lands; (iii) land for ensuring national defense and security; (iv) land for foreign diplomatic missions and consulates, as well as resident offices of international organizations; (v) free zone area; (vi) land for scientific and technological tests, experiments and sites for regular environmental and climatic observation; and (vi) aimag level reserve rangelands.

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<sup>1</sup> Civil Code of Mongolia, 2002; Law of Mongolia on Land, 2002, amendments 2003/04/05/06; Law on Allocation of Land to Mongolian Citizens for Ownership, 2003, amendments 2005/08

39. Article 32 of the Law on Allocation of Land to Mongolian Citizens for Ownership includes among the special needs “to build roads, lines and networks and other objects of national scale” (32.1.3). Article 13 of the Land Law defines land under roads and networks as “land outside cities, villages and other urban settlements” (13.1). Article 3 of the Law on Auto Roads defines as national scale roads those which connect the capital city to aimag cities, aimag cities to aimag cities and aimag cities to border points and defines local scale roads as those which connect soums, districts, cities and urban settlements in the territory of the capital city and aimags (3.1.8).

40. Consequently, urban roads, water supply and sewerage facilities and district heating facilities, belonging to cities, villages and other urban settlements, are on a local scale. Accordingly, the civil works under the Project is not of a national scale, so exercise of eminent domain under current legislation is not possible.

41. In the absence of legal provisions regulating land acquisition and resettlement in the context of local scale infrastructure facilities, including roads and sewerage networks, the Civil Code provides a legal framework which place land acquisition and resettlement in the context of negotiated settlement. This implies that the State or its legally appointed agents and affected persons engage with each other contractually as equal and autonomous legal persons and participants in a civil legal relationship (Article 1). Citizens and organizations, as well as aimags, the capital city, soums and districts are able to enter into civil legal relations with regard to objects of material and non-material wealth and their acquisition and possession (Articles 6, 7 and 8).

42. The right of a landowner to dispose of owned land through sale ‘according to relevant procedures’ (notarized contract) is guaranteed in Article 27 of the Law on Allocation of Land to Mongolian Citizens for Ownership. Possessors, according to Articles 35 and 38 of the Land Law, are also entitled to transfer their possession licenses via a notarized contract, but need to seek the approval of the governor of the soum or district.

43. The local practice of land acquisition and resettlement among district or soum and khoroo or bag level land administration officers, sanctioned by the Directors of the Capital City or Aimag Property Relations Departments, does to some extent reflect the legal framework of the Civil Law based on contracts between autonomous legal persons, but also contains certain elements of involuntary land acquisition and resettlement. After identification of the required properties, affected persons are sent official notifications or “demand letters” by the Property Relations Department, often repeatedly, if no positive response to the government’s claim to land is forthcoming. Thereafter, negotiations about the terms of compensation take place with titled affected persons (owners and possessors) and eventually a written agreement is reached. The land administration officers generally follow Cabinet Resolution 103 of 13 April 2003, which determines land valuation tariffs. Once at least 50 percent of the agreed compensation is paid, the land is acquired; when structures have been moved or land is vacated so construction works can commence, the remaining compensation is paid.

#### ADB Involuntary Resettlement Policy Requirements

44. The 2009 ADB Safeguard Policy Statement (SPS) outlines the requirements that ADB borrowers/clients are required to meet in delivering involuntary resettlement (IR) safeguards<sup>2</sup> to ADB supported projects. The overriding objectives of the safeguards are: (i) avoid involuntary resettlement wherever possible; (ii) minimize IR by exploring project and design alternatives; (iii) improve, or at least restore the assets, living conditions and livelihoods of affected persons; and (iv) improve the standards of living of vulnerable displaced groups.

45. SPS main principles are:

- 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.
- Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- 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.
- 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 comp cultivated 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.
- Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- 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.

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<sup>2</sup> Refer to Appendix 2 of the SPS – “Safeguard Requirements for Involuntary Resettlement”.

- Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets (8) 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.
- 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.
- Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- 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.

46. The ADB's IR safeguards state that eligibility includes all people with formal legal rights to affected land (in whole or part) and those who have claims to the affected land that is recognized under national laws. People without formal legal rights or recognized claims, but who have occupied the land or structure prior to the agreed upon and publicized cut-off date, are eligible for compensation for non-land assets and resettlement assistance.

47. The ADB's IR principles also describe the compensation and assistance that will be provided, including: adequate and appropriate replacement land and structures, or cash compensation at full replacement cost without depreciation, transaction costs, accrued interest, transitional/restoration costs and any other payments; where feasible preference for land-based (not cash) resettlement strategies; assistance with relocation and improved housing with comparable access to employment/productive opportunities, civic infrastructure and community services; transitional support and development assistance; and opportunities to share in project benefits. For those who are economically displaced, they will be compensated for loss of income, and be assisted in restoring, and where possible improving, their earning capacity, production levels and standard of living.

48. Project proponents are expected to carry out meaningful consultations with affected persons and other stakeholders, including disclosure of information on entitlements and resettlement options, participation in the resettlement planning process, and establishment of a transparent and effective Grievance Redress Mechanism (GRM), and, wherever possible, negotiate fair settlements to avoid forcible evictions.

49. Project proponents are also expected to undertake a comprehensive Social Impact Assessment (SIA) in order to understand fully who will be displaced and how it will impact them currently and into the future. The SIA is to include an inventory of affected people, their assets, their income and livelihoods, and should be disaggregated based on gender. The SIA should also describe the people who might be more vulnerable to negative impacts, and suggest targeted measures the proponent will put in place to ensure vulnerable people do not suffer disproportionately and can share equally in the project opportunities and benefits.

50. The ADB’s SPS requires preparation and disclosure of the LARP. The LARP should describe in detail affected people’s entitlements; income and livelihood restoration strategy (including measures for vulnerable people); institutional arrangements; consultation, participation and disclosure; GRM; monitoring and reporting framework (including external monitoring for projects with significant land related impacts), budget and time-bound implementation schedule. Displacement may not occur prior to implementation of the Resettlement Plan, including payment of compensation and provision of other resettlement entitlements.

**Assessment of Policy Gaps**

51. There are several significant policy gaps between the Mongolian legal framework and the ADB IR safeguard requirements. According to Mongolian law or practice: (i) non-titled occupants of land (without ownership or possession license), including lessees of land and structures, are not eligible for compensation and rehabilitation entitlements; (ii) compensation for affected land is based on a government compensation tariff, not market rates, although there is room for negotiation with individual APs; (iii) a depreciation coefficient is applied in the valuation of affected structures; (iv) income and livelihood rehabilitation is not normally considered in local land acquisition practice; (v) transaction costs are not included in compensation payments; (vi) there are no project internal grievance procedures preceding dispute resolution by governors and the courts; (vii) public consultation and information disclosure is not practiced; (viii) an eligibility cut-off date is not declared; (ix) there is no limitation on commencement of civil works until after completion of all land acquisition procedures; and (x) there is no need to prepare an LARP or to undertake monitoring and evaluation activities.

52. Table 4 outlines the key provisions of existing Mongolian laws and practices relevant to land acquisition and resettlement and indicates their compatibility or inconsistency with the ADB IR safeguard requirements.

**Table 4: Comparison of IR related provisions in Mongolian Law and the ADB SPS**

IR issues	Provisions of Mongolian law	ADB policy requirements
Involuntary Resettlement	Invoking eminent domain is only legally recognized when taking back land for special needs of the State including, lines and networks and other objects of national scale (Law on Allocation of Land to Private Citizens, Articles 32 and 37; Land Law, Articles 42 and 43). This law does not apply to the Project and consequently, the Civil	Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing land acquisition and replacement of lost assets and rehabilitation of livelihoods. Affected entities to be at least as well-off as without project.



IR issues	Provisions of Mongolian law	ADB policy requirements
	<p>Code will apply.</p> <p>Current practice by government in local scale projects entails a demand letter with threat of sanctions and offer of payment of compensation.</p>	
Negotiated Settlement	<p>The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from affected entities to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).</p>	<p>Recognition of negotiated settlement, where there is a willing buyer and a willing seller. If the seller has no option, then the IR policy requirements apply.</p>
Eligible Affected Entities	<p>Licensed owners, possessors and users of land can transfer their titles to other legal persons recognized under the Land Law (Articles 35 and 38) and the Law on Allocation of Land to Private Citizens (Article 27).</p> <p>Non-titled occupants of land as illegal possessors are not eligible to transfer the land occupied or receive compensation (Land Law, Article 27.4).</p> <p>The Civil Code recognizes the right of a long term non-owner occupant of ownerless immovable property (incl. land) to own it after 15 years, if registered in the State register (104.2).</p>	<p>Titled and non-titled affected entities are eligible to receive different entitlements. Titled affected entities are entitled to compensation and rehabilitation for affected land and non-land assets at replacement cost. Non-titled affected entities are eligible for entitlements for non-land assets at replacement cost and to rehabilitation assistance, possibly including replacement land, such that they are no worse off than before the project.</p>
Compensation for land	<p>Contractually agreed payment for land transferred to the government.</p> <p>Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with affected entities as well. Replacement land can be provided if an affected entity's entire land or large part thereof is acquired.</p>	<p>Land compensation at replacement cost based on land valuation at average market value within 1 year before the delivery of compensation or replacement land of similar size and quality.</p>
Compensation for structures	<p>Contractually agreed payment for transfer of structures located on land acquired.</p> <p>The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.</p>	<p>Valuation of structures is based on current market value, i.e. replacement cost of new construction of the structure without deduction of depreciation. Affected entities can be permitted to salvage materials.</p>
Joint property ownership	<p>The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128).</p> <p>Common property ownership requires permission of other owners to dispose of part of the property (108.4).</p> <p>Family property includes 'other properties accrued since the marriage, notwithstanding in which name of spouses or family members the property is registered' (126.2.4). Disposal of immovable (incl. land) family property requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).</p>	<p>No conflict with ADB SPS. Joint signatures are encouraged.</p>
Easement (property servitude)	<p>Legal provision for easements or property servitude, allowing the use of another person's property for specific public or private purposes is permitted under local</p>	<p>No conflict with ADB SPS.</p>

IR issues	Provisions of Mongolian law	ADB policy requirements
	law; mutual agreement and payment of a fee are required (Civil Code, Article 151, Land Law, Article 48 and Law on Allocation of Land to Private Citizens, Article 33).	
Rental of land or house	The Civil Code, Chapter 25 regulates the lease of property, including land and houses. If ownership is transferred the new owner incurs all rights and obligations of a lessor (Article 297). No provisions for lessee rights in case of land acquisition for a project, except that termination of a lease requires a 3 month notice (Article 294.3)	Lessee is considered an affected entity and eligible to receive entitlements based on the type and degree of impacts.
Community and public resource losses	Affected community and public assets can be transferred through contractual agreement under the Civil Code. The cost of moving affected infrastructure is included in cost of civil works under the Project.	Common property resources or public structures and infrastructure affected by land acquisition are eligible for compensation.
Income and livelihood rehabilitation	No provisions in contractual agreements for transfer of property.	Assistance for economic and social rehabilitation due to loss of jobs, incomes and livelihoods, including (i) income compensation or support for the period of interruption of business or employment, and (ii) priority employment in project civil works, especially to poor and vulnerable households.
Relocation and transaction costs	The Mongolian Law on State Registration of Property Allocation Rights and Other Related Rights requires payment of registration duties and service fees for the registration of immovable property with the State Administrative Authority in charge of state registration of property rights (Article 9). All registration and other fees, as well as cost of relocation, are responsibility of parties to a contract and can be included in a contract.	Relocation and transfer expenses, including fees for the registration of properties and other administrative charges, are part of the replacement cost of lost assets and included in compensation.
Grievance procedure	The Land Law refers disputes over land to the governors of administrative units and eventually the courts (Article 60). The Civil Code and Law on Allocation of Land to Private Citizens refer various types of disputes to the courts.	An adequate GRM for affected people is required.
LARP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	Affected entities are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised LARP is to be disclosed and discussed, as well as published on ADB's website.
Cut-off date	Not applicable	An eligibility cut-off date is to be set when the project is officially notified, the project area is delineated or the census of the affected population is taken, to prevent influx of non-eligible persons and land speculation.
Right of way	Water pipes up to 1000 mm diameter require a safety zone of 10 m (5 m from	No conflict with SPS.

IR issues	Provisions of Mongolian law	ADB policy requirements
	center of pipe) in dry soil. It may be narrowed in built-up areas. (Mongolian Law on Water Supply and Sewerage System Utility of Cities and Settlements, Article 12.6; Construction Standard and Procedure of Mongolia BNBD 40-02-06, paragraph 10.20).	
Notification period for vacating property and commencement of civil works	Time period for vacating a property may be defined in contract. Civil works commence in parallel with acquisition of property, but without defined waiting period.	Notification periods are not specified by ADB. Cash compensation and/or replacement of assets must be completed before displacement; land acquisition procedures, except for rehabilitation measures, must be completed before commencement of civil works.

**D. ELIGIBILITY AND ENTITLEMENTS**

53. To bridge the gap between Mongolian Law and the ADB’s SPS, this LARP presents the project’s entitlement provisions, which integrate both. In addition, the following principles guided the development of entitlements.

- Design and implementation of the project will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.
- The project will adopt a negotiated land acquisition practice involving contractual agreements on the basis of the Civil Code of Mongolia.
- All compensation and allowances will be determined and paid or provided as specified in the contractual agreements, and all agreements will be certified by a notary and registered with the State Administrative Authority in charge of state registration of property rights.
- An adequate GRM will be established.
- All affected entities will be eligible for compensation and rehabilitation entitlements irrespective of their property status, including unlicensed occupants of land, and of the type of use of their property (residential, commercial, public or community<sup>3</sup>).
- Affected land will be compensated either at replacement cost based on market rates for comparable land or the applicable government compensation tariff, whichever is higher, or, in the case of full loss of a plot of land, with replacement land, including land preparation and restoration of utility services (electricity, water, etc.), as applicable. The Land Relations, Construction and Urban Development Department (LRCUDD) will assist the affected persons to identify and approve the relocation plot. The loss of 50% or more of a plot is considered a full loss eligible for compensation for the entire plot, if the affected person so desires.

<sup>3</sup> Not applicable if the replacement of public structures (electricity, water supply lines, etc) is covered under civil works contracts.

- Unlicensed occupants in case of full loss of land (i.e. greater than 50 percent) will be provided relocation assistance sufficient for them to restore their standard of living at an adequate alternative site with security of tenure (through grant of possession license), as well as compensation at full replacement cost for loss of non-land assets, such as dwellings and other improvements to the land.
- All affected entities agreeing to receive replacement land or affected entities with pending license approval for ownership or possession or affected entities with possession licenses seeking ownership status, will be provided with ownership licenses prior to displacement and the affected entity will be registered with the State Administrative Authority in charge of state registration of property rights.
- Affected structures will be compensated at replacement cost based on prevailing market rates for comparable types of structures determined through professional valuations by a certified valuator without deduction of depreciation. Materials may also be salvaged by the affected entities.
- Temporary disturbances, including removal of fences and civil works on land outside the ROW, will be compensated in cash based on negotiated agreements with affected entities. Affected entities will enjoy continued access to land and residences. Civil works contractors will move fences and will restore land and fences upon completion of works.
- Temporary loss of employment income will be compensated for the period of interruption of employment. Permanent loss of employment will be compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1 month wage. The affected persons with permanent loss of employment shall be provided also (a) other labor benefits and retrenchment allowances according to the national labor law, (b) skills development trainings for new employment opportunities, and (c) assistance to find new employment.
- Temporary loss of business income to the owner will be compensated through cash compensation equivalent to net profit after tax , i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas.
- For permanent business loss, compensation shall include also any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the APs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within 1 year of displacement.
- Vulnerable and poor households will be provided preferential employment in subproject-related workforce, if available and desired by DPs. Depending on type and severity of impact of the project, , other support may include: cash assistance up to a maximum of six months, guaranteed at the rate of minimum wage and assistance in reconstituting affected business or employment; assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot; and, assistance with

house relocation and other construction activities (new construction should meet minimum standards), registration of property titles, relocation expenses, or a minimum housing guarantee.

- All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the contract price of the affected properties.
- An eligibility cut-off date will be set for the subproject with land-take at the time of the census and detailed measurement of affected land and property.
- Civil works shall not commence unless all compensation and relocation activities have been completed, and short-term financial assistance for loss of income has been paid.
- Cash compensation will not be taxable, and all fees and transaction costs to register property will be paid by the project owner.

54. The entitlements described above are summarized in the Entitlement Matrix presented in Table 5 below. Not all the types of loss described in this section have currently been identified to date as expected project impacts. Nevertheless these impact categories are in this section and included in the entitlement matrix so that should they emerge in the future, they may be addressed in accordance with this LARP.

**Table 1: Entitlement Matrix**

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
LAND (residential/ commercial/public/ community)	Full loss of plot (=>50%)	Owner, possessor	The AP may choose between the following alternatives: Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration; OR Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price
		Unlicensed occupant of land	Relocation assistance sufficient to restore standard of living equal to MNT 192,000 per month at an adequate alternative site with security of tenure (i.e. possession license). All taxes, registration and transfer costs are waived or included in compensation price OR Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
		User	Replacement plot with use license OR, if feasible and desired Ownership license and State registration; All taxes, registration and transfer costs are waived or included in compensation price
		Lessee	The AP may choose between the following alternatives: Allocation of plot with ownership license and State registration All taxes, registration and transfer costs are waived or included in compensation price OR Cash refund at rental fee rate and proportionate to duration of remaining lease period
	Partial loss of plot (<50%)	Owner, possessor	Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes are waived or included in compensation price
		Unlicensed occupant of land	Possession license and State registration for adjacent unlicensed land will be provided by government; All taxes, registration and transfer costs are waived
		User	Continuation of use license on remaining land
		Lessee	Cash refund at rental fee rate and proportionate to duration of remaining lease period
STRUCTURES ( residential/ commercial/public/ community)	Full loss of structure and relocation	Owner, possessor, unlicensed occupant of land	Cash compensation for replacement of lost structure at market rate determined through professional valuations by a certified valuer without deduction of depreciation, based on contractual agreement, and no deduction for salvaged materials
Temporary disturbance	Removal of fence, civil works on land outside ROW, restoration of land and fences	Owner, possessor, unlicensed occupant of land	Cash compensation fee negotiated with AP. Access to land and residences Fences will be moved by civil works contractor There is no deduction for salvaged materials
Businesses	Any business loss due to land acquisition or construction activities by Project	All APs so temporarily affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
		All APs so permanently affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas. AND Any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the DPs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within 1 year of displacement.
Employment	Any employment loss due to land acquisition or construction activities	All temporarily laid-off employees of affected businesses	Compensation for loss of employment income for the period of interruption of employment.
		All permanently laid-off employees of affected businesses	Compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1-month wage. AND Other labor benefits and retrenchment allowances according to the national labor law, Skills development trainings for new employment opportunities Assistance to find new employment.
Vulnerable and/or severely affected APs <sup>4</sup>	Permanent loss of livelihood	All vulnerable and/or severely affected APs	Preferential employment in subproject-related workforce, if available and desired by APs;  Cash assistance up to a maximum of six months at guaranteed lowest living level and assistance in reconstitution of business or employment;
	Loss of land	All vulnerable and/or severely affected APs	Assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot;
	Loss of structure	All vulnerable and/or severely affected APs	Assistance with house relocation and other construction activities (new housing should meet minimum standard), registration of property titles, relocation expenses, minimum housing guarantee.

<sup>4</sup> Vulnerable groups are distinct groups of people (poor, elderly, disabled, and female headed households) who may suffer disproportionately from resettlement. Severely affected APs include those whose remaining landholdings are no longer fit for original purpose.

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
	Livelihood support	Any household member of a vulnerable AP	Preferential treatment for temporary employment during construction; Employment training (3–6 months).
	Temporary disturbance	All vulnerable	Preferential treatment to avoid, minimize or mitigate disturbance as quickly as possible.

55. Compensation eligibility will be limited by a cut-off date to be set at the time of the census and DMS following preparation of detailed designs. All affected entities settling in affected areas after that date or existing affected entities who alter their assets and who cannot prove that they are the rightful owners/users of affected plots will not be eligible for compensation. Local people will be informed of the cut-off date and notifications will be posted in the project affected areas.

56. Disclosure of entitlements and all other relevant subproject information will be conducted in a timely way. This disclosure will be done in accessible formats that give affected people the means to participate effectively from an informed position. This means that affected people will have sufficient time between the provision of information and the consultative decision making process to reflect upon the input they want to provide. For more information on consultation activities see Section E.

57. A detailed account of the resettlement impact and compensation of losses for each AP is presented in Table 6.



**Table 6: List of Affected Entities and Assets with Compensation Strategy**

	Total licensed land (m <sup>2</sup> )	Affected land (m <sup>2</sup> )	Affected land as proportion of total land (%)	Total compensation for land (MNT)	Type of affected structure(s)	Total compensation of affected structures (MNT)	Days of Business Loss	Compensation of Business Loss (MNT)	Total Compensation (MNT)
AP-01				0	Entrance way	3,327,708	7	685,000	4,012,708
AP-02				0	Entrance way	5,546,180	7	1,855,000	7,401,180
AP-03	19,700	72	0.36%	756,000	Iron fence with concrete foundation , speed bump, gate	2,726,000	-	0	3,482,000
AP-04	2,701	121.6	32.84%	1,276,800	Iron fence with concrete foundation, gate	2,813,600	-	0	4,090,400
AP-05	742	200	26.9%	2,100,000	Iron fence with concrete foundation, trees	8,400,000	-	0	10,500,000
AP-06				0	Board	5,000,000	-	0	5,000,000
AP-07	150,000	1997.5	1.3%	20,973,750	None	0	-	0	20,973,750
AP-08	10,000	320	3.2%	3,360,000	None	0	-	0	3,360,000
Totals				28,466,550		27,813,488		2,540,000	58,820,038

## **E. CONSULTATION AND PUBLIC PARTICIPATION**

58. According to ADB SPS policy principles affected entities must be fully informed, closely consulted, and encouraged to participate in any decision making pertinent to land acquisition and resettlement for the project, including the final design of infrastructure facilities, preparation of contractual agreements, determination of prices for assets to be transferred, selection of replacement plots and the restoration of livelihoods. For this purposes the consultant has organized a public meeting with representatives of potentially affected entities.

59. A public meeting took place in October 2013. Participants were informed about the project, potential LAR impacts induced by the project, ADB SPS. Preference of compensation was also discussed with APs and relevant info was collected. Registration page of the meeting is attached as Annex 2.

60. Such disclosure of information to and consultation with affected entities ensures that they can express their opinions, apprehensions and objections. Project proponents, including government stakeholders, can address the issues raised and, upon careful consideration, incorporate them in subproject design, insofar as they are compatible with applicable local law and the ADB SPS.

61. The final LARP will include a full list of all consultation activities conducted and planned activities during implementation, and a detailed description of the consultation process, which will at minimum involve the following.

- Individual consultations with affected entities during and after the full census, DMS, and socio-economic survey, to ensure that they have understood the subproject's parameters and their own rights, and have had the opportunity to provide input.
- Public consultation meeting open and accessible to all affected entities to inform these entities and other stakeholders about the land acquisition and resettlement planning process, its guiding legal and policy framework and its anticipated scope of impact.
- Public consultation meeting open to all affected entities to announce declaration of the entitlement cut-off date and identify its geographical scope.
- Public consultation meeting with all affected entities to disclose the draft LARP, including eligibility and entitlements, grievance procedures and monitoring, and to discuss changes and the concerns of the affected entities and other stakeholders.
- Continued individual consultations to prepare contract negotiations and address individual concerns.
- Individual negotiations of contract terms with affected entities.
- Public consultation meeting with all affected entities to disclose and discuss revised draft LARP.

- Public consultation meeting with all affected entities to disclose approved LARP and to announce the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements.
- Additional individual and public consultation meetings will be held throughout the planning and implementation of the LARP as required in response to emergent issues.
- Maintenance of up to date attendance lists and minutes of all public consultations (to be appended to the project's LARP and subsequent monitoring reports.
- Documentation of the consultation and participation process

62. During disclosure of the draft and final LARP, rights and entitlements will be fully explained to affected entities. English version of the LARP has been submitted to the ADB for review and approval. Final LARP for the project has been endorsed by the Darkhan-Uul Aimag Government (DAG) and MCUD. APs have been provided with a Mongolian language LAR Information Brochure during the preparation of this draft LARP. LARP will be disclosed on the ADB website (Mongolian and English versions).

## F. INSTITUTIONAL ARRANGEMENTS

63. Organization and administrative arrangements for the effective preparation and implementation of the LARP will be identified and in place prior to the commencement of the process. This will include the provision of adequate human resources for supervision, consultation, and monitoring of land acquisition and rehabilitation activities.

64. The executing agency for the project is MCUD, which will exercise its functions through the PMU located in Ulaanbaatar. The PMU is responsible for all management, communication and coordination work during project preparation and implementation periods.

65. DAG has overall responsibility for the land acquisition and resettlement of the project. This includes preparation, implementation and financing of all LAR tasks and cross-agency coordination and linkages. DAG exercises its functions through the PIU. The PIU is responsible for planning and implementation of all LAR tasks, including identifying the possessors and occupants of affected land and valuing the properties of APs. The PIU will be staffed with at least one resettlement/social specialist who will work part time. Under the guidance of the Loan Implementation Resettlement Consultant, the resettlement specialist will be responsible for the update and implementation of the LARP, including (but not limited to) (i) updating LARP based on detail design; (ii) setting up and coordinating the grievance redress mechanism; (iii) monitoring LARP implementation to ensure compliance with the LARP provisions; (iv) preparing semi-annual monitoring reports on project LARP implementation to MCUD and ADB; (v) coordinating consultation with affected people, etc.

66. A working Group<sup>5</sup> (WG) made up of representatives from concerned agencies and chaired by Governor of Darkhan-Uul Aimag will be established to oversee the project LAR implementation and make high level decisions, including resolving or serving as a final decision-making body for AP grievances, in order to avoid their being referred to the Courts. WG will include representatives of the DAG, LRCUDD, Property Relations Agency and “Darkhan-Us Suvag” agency. With the support of the WG, the PIU will ensure resettlement safeguard compliance prior to any resettlement, or the award of civil works contracts. Close coordination and commitment between all stakeholders are facilitated by the participation of the WG members.

67. The main activities of the PIU in terms of LAR includes:

- Organizing regular public consultation meetings;
- Preparing documentation of the consultation and participation process;
- Documentation and timely follow up of grievances according to grievance redress mechanism;
- Information to and updating of APs on the implementation schedule and other LAR related activities requiring AP participation;

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<sup>5</sup> Members of WG for land acquisition are as follows: Governor of Darkhan-Uul Aimag (Chairman), Governor of Bag (Vice Chairman), Land acquisition specialist of PIU, Representative from the Darkhan-Us Suvag, representative from the Property Relations Department, representative from LRCUDD of Darkhan-Uul Aimag, representatives of the APs, representative from a CBO or NGO registered by the government, if available.

- Assistance to APs in preparing all the necessary documents pertaining to the preparation of contractual agreements and payment of compensation, i.e. licenses of possession or ownership and transfer agreements for land;
- Information to APs about the schedule of payments, relocation arrangements, if any, and the commencement of civil works once the compensation and entitlement estimates have been completed for each AP;
- Validation of the inventory of affected assets, and negotiation of contractual agreements with the affected households;
- Information of the APs about the date, venue, and time of the payment of agreed property transfer prices and other compensation or entitlements after negotiation and conclusion of notarized agreements;
- Provision of an updated land management map prepared by the city or aimag Land Administration Department indicating all lands that are eligible for ownership to APs to be relocated and assist the process of allocation of land ownership to these APs;
- With assistance of WG facilitation of the process of consolidation, review, approval and allocation of compensation for the project's APs by the aimag land administration and governor, as well as the MCUD; and
- Internal monitoring and reporting to MCUD and ADB.

## G. GRIEVANCE REDRESS MECHANISM

68. The Working Group will serve as the initial committee for grievance redress and will provide a forum for raising objections and holding discussions to resolve conflicts. An aggrieved AP may submit grievances to any member of the Working Group, who will log a complaint in the GAF and request the chairman to call a meeting, where it will be presented, addressed and resolved within 1 week. The Working Group will record its deliberations and inform the concerned parties within the same week of its findings and recommendations and present these to the *Aimag* and *Soum* Governors for action. If the grievance is not resolved within 2 weeks from its lodging, the grievance will be submitted to the LRCUDD by the Working Group member of Land Administration Department (LAD) and its resolution is recommended to the Aimag Governor for approval and action within 1 more week. If still unresolved within another week the Aimag Governor will seek to resolve the issue and initiate action within another week.

69. In cases where an affected entity does not get any response for their actions or their interests has been violated by some conducts breaking the ADB's Safeguard Policy Statement, they can report problems to ADB according to ADB Accountability Mechanism<sup>6</sup> (2012).

**Table 7: Grievance mechanism**

Steps	Actors / actions	Timing
1	AP lodges grievance with Working Group (WG) member	1 week
	WG member prepares GAF and initiates WG meeting	
	WG addresses grievance, informs AP and proposes resolution to Governor (aimag/soum)	
	Governor initiates action for resolution	1 week
If grievance is not resolved		
2	LRCUDD WG member submits grievance to LAD	1 week
	LRCUDD addresses grievance, informs AP and proposes resolution to Aimag Governor	
	Aimag Governor initiates action for resolution	1 week
If grievance is not resolved		
3	Aimag Governor addresses grievance and initiates action for resolution	1 week

70. The above mentioned grievance mechanism does not limit the citizen's rights to submit the case to the court of law at any point in time of the grievance process.

71. A Grievance Action Form (GAF) will be designed to cover the various aspects of the land acquisition process, for use in the grievance redress process. GAFs serve to log and follow up grievances in a consistent and transparent manner (a sample GAF is appended in Annex 3). All grievances submitted will be recorded on a GAF, and a copy of the GAF provided to the person submitting the grievance. The GAF will at minimum contain the following:

<sup>6</sup> Before reporting problems to departments related to accountability mechanism, the APs shall solve problems effectively via the executive departments of ADB. If dissatisfaction is still unsolved, they can report to departments related to accountability mechanism. For more details, please refer to <http://www.adb.org/Accountability-Mechanism/main>.

- Basic information about affected entity / entities submitting the GAF, including names and contact information.
- Category of grievance filed (legal, technical/engineering, social, or financial).
- Detailed description of grievance.
- Type of action taken (resolved at the WG level or referred to higher authorities).

## **H. LAND ACQUISITION AND RESETTLEMENT IMPLEMENTATION PROCESS AND SCHEDULE**

72. The schedule for this LARP finalization and implementation is based on the overall Project Implementation program. All activities related to the finalization of the LARP and implementation of land acquisition and resettlement have been planned to ensure that compensation is paid prior to displacement and commencement of civil works. The LARP finalization will be carried out since the end of 2014 by PIU based on final detailed design.

73. The activities will be taken as follows:

- Detailed technical design map of project facilities should be incorporated in the LARP
- Review LAR impact and consider optimization of design to avoid impacts, if possible
- Review list of all affected persons
- Notification of APs and notification of cut-off date
- Review census of APs, socio-economic survey
- Detailed measurement survey and valuation of affected land and structures by specialized valuers
- Update Draft LARP
- Disclosure of Final draft LARP and public consultation meetings with APs
- Negotiations and consultations on contract terms
- Disclosure of revised Final draft LARP to APs
- Submission of final draft LARP to DAG and ADB for review and approval
- Resolution for funding of project LAR to DAG
- Conclusion of contract agreements
- Transfer of 100% of LAR funds to land department
- Disbursement of contractual payment for land transfer and other compensation
- Relocation of structures
- Acquisition of land and structures and commencement of civil works
- LAR supervision, monitoring and reporting
- Evaluation of LAR implementation and prepare completion report.

74. The final implementation schedule for the project will be developed in coordination with the PIU once it has been established. The next step in the development of project activities in Darkhan City to finalize the engineering and other technical designs, so that the planning of project activities can move forward. Table 8 below presents a list of actions to be carried out and indicative timing prior to the proposed commencement of civil works, which is estimated to commence in October 2014.



**Table 8: Implementation schedule**

Activities	2013 (in months)					2014 (Qtr)				2015 (Qtr)				2016 (Qtr)		
	08	09	10	11	12	1	2	3	4	1	2	3	4	1	2	3
<b>Preparation of Draft LARP</b>																
Preliminary infrastructure designs	■	■	■													
Identification of LAR scope an initial survey of Project impacts				■												
LARP drafting				■	■	■	■									
Review by ADB							■									
<b>LARP Update</b>																
Establishment of WG								■								
Establishment of PMU and PIU								■								
Detailed design								■	■							
Notification of APs and of cut-off date									■							
Land and property measurements and valuation surveys									■							
Census and socio-economic survey, and identification of vulnerable persons/HHs									■							
AP consultation & disclosure of draft final LARP										■						
Preparation of draft final LARP										■						
Revision of draft final LARP										■						
AP consultation: disclosure of revised draft LARP										■						
ADB review and approval										■						
Endorsement by DAG										■						
Disclosure of approved LARP on ADB website and in AP community										■						
<b>LARP Implementation</b>																
Funding for LAR compensation											■	■				
Conclusion of contractual agreements											■	■				
Disbursement of compensation											■	■				
Acquisition of land and other assets											■	■				
Commencement of civil works											■	■	■	■	■	>
Internal Monitoring											■	■	■	■	■	>

## I. COMPENSATION AND REHABILITATION STRATEGY

75. This section presents the compensation standards for each type of loss as well as transaction and relocation costs. It also presents the rehabilitation strategy regarding household that may be vulnerable.

76. All affected assets will be compensated at replacement cost based on market value for comparable assets estimated by the valuation team including resettlement specialist, property valuation specialists of Property Relations Agency and LRCUDD of Darkhan-Uul Aimag and a representative of affected entities, and agreed with affected persons. The PIU will be responsible for follow-up and facilitation of the processes for estimation of the replacement values for land and non-land assets and losses.<sup>7</sup>

77. Estimated basis of compensation negotiation for key items are presented below. Rates are based on information provided by the land department and affected entities. Values will be reviewed and finalized during LARP finalization based on replacement costs estimated through assessment and market value surveys of comparable assets conducted by the valuation team.

- Land: it is currently estimated that land will be compensated for at an average rate of MNT 10,500 per m<sup>2</sup>.
- Entering stairs of AP-01 and AP-02 will be fully dismantled and rebuilt. Unit costs for the stairs will be at the rate of MNT 1,109.236 per m<sup>2</sup> according to the Cabinet Resolution 336 dated 2010 on unit costs for buildings, which includes price inflation provisions.
- Iron fence: Iron fences of 3 affected entities will be dismantled and rebuilt. During replacement the foundations of fences will be destroyed. Therefore, all foundations and some parts of dated fences will be renewed. In review of inflation, the valuation made based on valuations provided by the affected entities. It is currently estimated that iron fences of AP-03 and AP-04 will be compensated for at a rate of MNT 79,200 per meter as while for the fence of AP-05 will be compensated at the rate of MNT 200,000 per meter.
- A speed bump will be relocated within the fence it is currently on. Compensation for this is currently estimated at a rate of MNT 150,000.
- Iron gates: 2 iron gates that need to be removed will be compensated at the rate of MNT 200,000 each.
- An electronic advertisement board will be relocated and compensation for relocation will include costs for labor and transportation. Compensation will be at the rate of MNT5,000,000.
- Business losses will be compensated in cash equal to daily net income based on tax declaration with the number of days (7 days) of business stoppage. AP-1 will be compensated at the rate of MNT 560,000 while AP-2 receives MNT 175,000).

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<sup>7</sup> In case of disagreements over the compensation rates during the negotiation process with APs, the PIU will be able to engage an independent private valuation specialist and re-assess the compensation rates offered to the APs and disclose the results to the APs.

- In addition, 7 employees of AP-1 and AP-2 will be compensated for their employment loss based on period of employment interruption at the rate of MNT 1,885,000.
- Total of 16 trees will be removed and relocated on an appropriate location and will be compensated at the rate of MNT 50,000 each. For the biggest 8 trees that require a vehicle to move, compensation for transport cost will be allocated amount of MNT 500,000.
- Transaction costs will be covered by the project. This includes any fees for notary services, preparation of cadastral maps, property rights registration and service fees. Total of MNT 345,000 has to be allocated for the project. This will be reevaluated following the DMS.

78. DAG will ensure that no physical or economic displacement will occur until compensation at full replacement cost and other entitlements have been provided to each affected person and a comprehensive income and livelihood rehabilitation program, supported by an adequate budget, is in place to help affected persons to improve, or at least restore, their incomes and livelihoods.

## J. RESETTLEMENT BUDGET

79. Table 9 presents the budget for LAR of the project based on the compensation strategy discussed in Section H. It provides the unit rates, the number of units affected and the compensation, costs for relocation and transaction. The contingency cost, at 12% of total compensation and administration, is intended to cover unanticipated impacts and costs arising during LARP implementation. Costs for compensation, transaction and relocation for each AP are covered in the Project cost. The total resettlement budget is MNT 74,003,207 million.

**Table 9: Summary of LARP Implementation Budget**

Asset Type	Unit	Unit Rate		Quantity	Cost Estimate	
		MNT	USD		MNT	USD
<b>1. Land</b>						
Land	m <sup>2</sup>	10,500	6.1	2711.1 m <sup>2</sup>	28,466,550	16,513
<b>2. Structures</b>						
Entrance ways	m <sup>2</sup>	1,109,236	643	8 m <sup>2</sup>	8,873,888	5,148
Iron fence	m	79,200	46	63 m	4,989,600	2,894
Iron fence	m	200,000	116	40 m	8,000,000	4,641
Speed bump	item	150,000	87	1	150,000	87
Iron gates	item	200,000	116	2 pieces	400,000	232
<b>3. Temporary Business Disruption/Business Losses</b>						
Business loss (1)	Days	80,000	46	7 days	560,000	325
Business loss (2)	Days	25,000	15	7 days	175,000	101
Employment loss (1)	Days	17,857	10	7 days/1 person	125,000	73
Employment loss(2)	Days	240,000	139	7 days/6 persons	1,680,000	974
<b>4. Relocation Costs</b>						
Advertisement board	item	5,000,000	2900	1 piece	5,000,000	2900
Trees	Item	50,000	29	16 pieces	800,000	464
Transport for trees	item	500,000	290	1 piece	500,000	290
<b>5. Transaction Costs</b>						
Notary fees (contracts MNT 1 to 10 million)	Lump sum	10,000	6	5.8	60,000	35
Notary fees (contracts MNT 10 and 25 million )	Lump sum	25,000	2	14.5	50,000	29
Cadastral map survey	Lump sum	35,000	20	5	175,000	102
Service fees including property registration rights	Lump sum	12,500	7	5	62,500	36
<b>Sub-total Compensation</b>					<b>60,067,538</b>	<b>34,844</b>
Administration (10% of total compensation)					6,006,754	3,484
Contingencies (12% of total compensation and administration)					7,928,915	4,599
<b>Total</b>					<b>74,003,207</b>	<b>42,928</b>

November 2013

80. The PIU will work under PMU and with DAG, LRCUDD, and other state agencies to manage the process of formal contractual agreements with affected entities and disbursement of compensations. After having concluded contractual agreements related to the transfer of the affected assets from the affected entities to the government, the LRCUDD will consolidate all financial commitments of the contracts and refer these to the DAG. The DAG will then initiate the transfer of funds to the PIU. The PIU, with the assistance of the resettlement/social specialist will be responsible for delivery of entitlements to affected entities.

81. Payment of at least 50% of compensation will be made within one month of the time of conclusion of contractual agreements. The remaining 50 percent will be paid at the time of vacating or providing access to the affected assets. Disbursement of compensation and entitlements will be carried out through the APs bank accounts. No land will be acquired by the government or handed over to the PIU for commencing construction works prior to implementation of the approved Final LARP, and full payment of due compensation and provision of other resettlement entitlements to the affected entity.

## **K. MONITORING AND EVALUATION**

82. The implementation of this LARP will be monitored internally. The key objective of LARP monitoring and evaluation is to ascertain the effectiveness of the process of LAR planning (including data collection, review, and verification and final LARP preparation by the respective consultants) and LALARP implementation (including the delivery of compensation and allowances, consultation and grievance redress).

83. The objectives of internal monitoring will be to ensure: (i) proper execution of the responsibilities of key stakeholders; (ii) protection of the rights of affected entities under Mongolian laws, the ADB Safeguard Requirements for IR, and this LARP; (iii) adequate and prompt payment of compensation; and (iii) timely grievance redress. Internal monitoring indicators will include, but not be limited to (i) status of land acquisition and payment on land compensation; (ii) payment of compensation for affected structures and other assets; (iii) relocation of APs (iv) resolution of grievances;



84. Internal monitoring will cover 100% of the APs identified during the impact assessment surveys. Monitoring data will be collected through the desk review of relevant documents and face to face interviews.



85. The PIU resettlement/social specialist with assistance of loan implementation resettlement consultant will be responsible for monitoring LARP compliance during implementation and reporting the progress semiannually to MCUD and ADB.

86. In addition to the semiannual monitoring reports, the PMU will include the results of LAR internal monitoring in its quarterly progress reports to the MCUD and ADB. The Project mid-term review will include a separate section on the progress of LARP implementation. Upon completion of LAR activities, the PMU will prepare a resettlement completion report and submit to MCUD and ADB.

87. The Audit Department of the Darkhan Aimag Government will independently audit and monitor the agencies involved in the land acquisition and resettlement process, based on relevant laws and regulations. The PIU will periodically review audits, and report any irregularities to the ADB, to allow for the early identification and resolution of problems encountered.

### Annex 1: Asset inventory

<b>AP-01</b>							
<i>Picture 1: Part of unlicensed land to be acquired</i>				<i>Picture 2: Entering gate to be moved</i>			
							
<b>Affected assets and replacement/compensation costs</b>							
ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-01	Entrance way	Entering stairs	Dismantle and rebuild	m <sup>2</sup>	3	1,109,236	<b>3,327,708</b>
<b>Total</b>							<b>3,327,708</b>

<b>AP-02:</b>							
<i>Picture 1: Part of unlicensed land to be acquired</i>				<i>Picture 2: Entering gate to be moved</i>			
							
<b>Affected assets and replacement/compensation costs</b>							
ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-02	Entrance way	Stairs	Dismantle and rebuild	m <sup>2</sup>	5	1,109,236	5,546,180
<b>Total</b>							<b>5,546,180</b>

**AP-03:**

*Picture 1: Part of possessed land to be acquired*



*Picture 2: Iron fence, speed bump and gate to be moved*



**Affected assets and replacement/compensation costs**

ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-03	Land	Possessed land	Acquire land partially	m2	72	10,500	756,000
	Iron fence	Fence with concrete foundation and wooden bench placed on the fence foundation	Dismantle and rebuild within the boundary	m	30	79,200	2,376,000
	Iron gate	Movable gate	Remove within the boundary	item	1	200,000	200,000
	Speed bump	Movable	Remove within the boundary	item	1	150,000	150,000
<b>Total</b>							<b>3,482,000</b>

**AP-04**

*Picture 1: Part of possessed land to be acquired*



*Picture 2: Iron fence and gate to be moved*







Affected assets and replacement/compensation costs							
ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-04	Land	Possessed land	Acquire land partially	m <sup>2</sup>	121.6	10,500	1,276,800
	Iron fence	Fence with concrete foundation	Dismantle and rebuild within the boundary	m	33	79,200	2,613,600
	Iron gate	Movable gate	Remove within the boundary	item	1	200,000	200,000
<b>Total</b>							<b>4,090,400</b>

**AP-05**

*Picture 1: Part of possessed land to be acquired*



*Picture 2: Iron fence with concrete foundation to be rebuild*



Affected assets and replacement/compensation costs							
ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-05	Land	Possessed land	Acquire land partially	m <sup>2</sup>	<b>200</b>	10,500	2,100,00
	Iron fence	Fence with concrete foundation	Dismantle and rebuild within the boundary	m	40	200,000	8,000,000
	Trees	Trees	Remove within the boundary	item	8	50,000	400,000
<b>Total</b>							<b>10,500,000</b>

**AP-06**

*Picture 1: Advertisement board to be replaced*



*The board locates within the boundary of AP-05.*



*No land will be acquired.*

**Affected assets and replacement/compensation costs**

ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-06	Advertisement board	Electric board	Remove	item	1	5,000,000	5,000,00
<b>Total</b>							<b>5,000,000</b>

**AP-07:**

*Picture 1: Part of possessed land to be acquired*



This land has been allocated to Montech company in 2011. Since then no structures have been built.

**Affected assets and replacement/compensation costs**

ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-07	Land	Possessed land	Acquire land partially	m <sup>2</sup>	1997.5	10,500	20,973,750
<b>Total</b>							<b>20,973,750</b>

**AP-08:***Picture 1: Part of possessed land to be acquired*

This land has been allocated to 'Nogoon burd' LLC in 2011 and no structure has been built yet.

**Affected assets and replacement/compensation costs**

ID	Asset type	Description and characteristics	Activity	Unit	Q'ty	Unit rate (MNT)	Cost (MNT)
AP-08	Land	Possessed land	Acquire land partially	m <sup>2</sup>	320	10,500	3,360,000
<b>Total</b>							<b>3,360,000</b>

**Annex 2. Registration page of meeting**

**БҮРТГЭЛИЙН ХУУДАС**

Дархан сум

2013.10.30

Уулзалт хийсэн газар: "Оршилур цагаалдар" н  
байрлал. 14<sup>дугаар</sup>

№	Нөлөөлөлд өргөгчийн нэр	Хаяг	Утас	Гарын үсэг
1	Мессинг Мэлмэлэр	Бр бай.	95768670	<i>[Signature]</i>
2	Д.С.Н. Бат Дархан сум	Бр бай	99084358	<i>[Signature]</i>
3	Х.М.Оршилур	5-8 ал	95754228	<i>[Signature]</i>
4	М. Галд Итэв	✓	99032004	<i>[Signature]</i>
5	Оршилур	Ч.сүхэн	99575702	
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### Annex 3. Grievance Action Form (GAF)

The Project welcomes complaints, suggestions, queries and comments regarding project implementation. We encourage persons with grievance to provide their name and contact information to enable us to get in touch with you for clarification and feedback.

Should you choose to include your personal details but want that information to remain confidential, please inform us by checking box requesting CONFIDENTIALITY below.

Request for Confidentiality

#### CATEGORY OF GRIEVANCE

Legal  Administrative  Social  Financial  Technical  Environment  Other

Date	Place of registration	Project site:
Name (if not confidential)		
Home address		
Bag		
Phone number/email:		
Description of grievance/comment or suggestion:		
If includes attachment/note/letter, please tick here: <input type="checkbox"/>		

#### FOR OFFICIAL USE ONLY

Registered by: (Name and signature of officer registering grievance)
Mode of communication: Note/Letter E-mail Verbal/Telephonic
Reviewed by: (Names/Positions of Official(s) reviewing grievance)
Action Taken:
Whether Action Taken Disclosed: <input type="checkbox"/> Yes <input type="checkbox"/> No
Means of Disclosure:

**Annex 4. Project information brochure**

**PROJECT INFORMATION BROCHURE**

Darkhan Wastewater Management Improvement Project MON: 37697

**JUNE 2014**

## EXECUTIVE SUMMARY

1. This brochure will provide you with brief information on draft resettlement plan for the Darkhan Wastewater Management Improvement Project city including legislation or policy complied with development of the plan, affected person's right to assistance or support and where a grievance can be lodged with. During the implementation of the project, the PIU will be responsible for approval and implementation of the Resettlement Plan with the support of the Land Department and provide the affected persons and businesses with detailed information on the plan.
2. The Land Acquisition and Resettlement Plan (LARP) for the Darkhan Wastewater Management Improvement Project Technical Assistance (TA) is a preparation of a Wastewater Management Project for Darkhan City. The LARP is prepared in accordance with applicable laws of Mongolia, the Asian Development Bank's (ADB) 2009 Safeguard Policy Statement (SPS) and Land Acquisition and Resettlement Framework (LARF) for the Loan 2301-MON: UDSP.
3. **Project site and ROW:** The project will improve the sewerage system of Darkhan City of Darkhan Uul aimag through (i) renewing the central treatment facility, (ii) renovation of pump station of Shine Omnod industrial area and construction of 1.4 km length sewerage pipeline which is planned to be constructed on the right side of the railway, (iii) renovation of 2nd pump station and 50 m sewerage pipeline, (iv) 600 m length sewerage pipeline in 5th bag area. The sewerage system will benefit around 80,000 residents of Darkhan City. In order to minimize resettlement impact, the right of way (ROW) of the pipelines, which traverse the project areas in various directions, will be reduced to 5 m in accordance with the Construction Standard and Rules of Mongolia for Water Supply, External Networks and Structures BNBD 40-02-06 once the detailed design is prepared.
4. **Scope of resettlement impact:** Rehabilitation of some sewerage pipelines right-of-way will involve land acquisition and resettlement; other portions will be constructed on either public land or possessed land by Darkhan-Uls Suvag agency. A total of 8 affected entities including two small enterprises, three commercial entities and three state budget institutions will be affected by land acquisition and resettlement. Five affected entities will lose a total of 2,711.1 m<sup>2</sup> of land and all these losses are partial. The affected land plots are possessed by the state institutions and private companies. No residential land or structures will be affected by the project. Fences and gates totaling 112 m in length and belonging to three affected entities will need to be moved or replaced. Other affected structures include two entrance ways to the food shop and hair and beauty salon, speed bump and an advertisement board.
5. **Indigenous people and gender impact:** Ethnic Mongols account for about 98.9% of the population of Darkhan City. The Khalkhs make up 82.8% of the population of the city. The remaining 16.9% includes Duruvud, Bayad, Zakhchin and Buriad and others. The project components are all focused on urban areas of Darkhan. The project investments will benefit all residents. No specific communities of ethnic minorities or groups are living separately and no adverse impacts are expected. Therefore, the ADB Policy on Indigenous People will not be triggered by this subproject. The project benefits men and women equally, including improved housing conditions and living environment, health benefits, and job creation. Therefore adverse differential gender impact by the project on either men or women is not expected.
6. **Legal and policy framework:** Land acquisition and resettlement by the government for projects in urban areas is based on negotiation and contracts with affected persons according to

the Civil Code of Mongolia. The ADB SPS recognizes negotiated LAR as long as there are willing and free buyers and sellers and eligibility and entitlements are clearly defined and agreed. All APs are eligible for entitlements, as stipulated in the LARF for the Project, including owners, possessors, users, legalizable occupants, non-titled occupants and lessees. The eviction of unlicensed APs is a violation of the ADB SPS. The eligibility and entitlements for specific types of losses in the project are summarized in the Entitlement Matrix in Table 5 of this LARP.

7. **Consultation and grievance redress:** Information, consultation and participation of APs are ensured through individual and public meetings throughout the LARP preparation and implementation process. To date one public consultation meeting to prepare the APs for resettlement was held in October 2013. A four-step grievance mechanism with a clearly defined timeline of 5 weeks for each case will be established. A grievance action form initiating and tracking the grievance process for each complaint has been prepared.

8. **Institutional arrangements and monitoring:** Darkhan-Uul aimag has overall responsibility for the land acquisition and resettlement of the project. This includes preparation, implementation and financing of all LAR tasks and cross-agency coordination and linkages. The aimag government exercises its functions through the PIU. The PIU is responsible for planning and implementation of all LAR tasks. A working group (WG) made up of representatives from concerned agencies and chaired by Governor of Darkhan-Uul Aimag will be established to oversee the project LAR implementation and make high level decisions, including resolving or serving as a final decision-making body for AP grievances, in order to avoid their being referred to the Courts. With the support of the WG, the PIU will ensure resettlement safeguard compliance prior to any resettlement, or the award of civil works contracts. Close coordination and commitment between all stakeholders are facilitated by the participation of the WG members.

## A. INTRODUCTION

9. This document constitutes the Land Acquisition and Resettlement Plan (LARP) for the Technical Assistance (TA) for the Preparation of a Wastewater Management Improvement Project for Darkhan City for Mongolia (Loan 37697-MON). This LARP is prepared in accordance with applicable laws of Mongolia, the Asian Development Bank's (ADB) 2009 Safeguard Policy Statement (SPS).

10. This draft LARP is in compliance with the Safeguard Policy Statement of ADB, which serves as the foundational document for all related resettlement activities undertaken in Darkhan City. These activities are expected to include acquisition of land, removal and reestablishment of physical structures and utilities.

11. This draft LARP is prepared based on preliminary project design. Therefore the assessments of potential impacts and cost estimates are also preliminary. The resettlement consultant has visited the project site, and conducted a Detailed Measurement Survey (DMS) of affected land plots with support of officers of Land Relations, Construction and Urban Development Department (LRCUDD), socioeconomic survey of affected entities, consultation with government officers and potentially affected people/entities.

12. This draft LARP needs to be updated based on the final detailed design, and/or if project implementation delays more than two years. The Project Implementation Unit (PIU) will update



and finalize the LARP in coordination with related government agencies. The final LARP will be submitted to the Ministry of Construction and Urban Development (MCUD) and ADB, for review and approval before award of related civil work and before commencement of any resettlement activities.

13. This draft LARP provides (i) an assessment of the scope of land acquisition and resettlement, (ii) an overview of the socio-economic situation of affected entities, (iii) the LARP policy framework and entitlements, (iv) the procedures for consultation and public participation, (v) a description of institutional arrangements and the land acquisition and resettlement grievance redress mechanism, (vi) the compensation strategy, (vii) a resettlement budget, (viii) LARP implementation monitoring and evaluation procedures, and (ix) an implementation schedule.

14. The project will improve the sewerage system of Darkhan City through (i) renewing the central treatment facility, (ii) renovation of 1st pump station of Shine Omnod industrial area and construction of 1.4 km length sewerage pipeline which is planned to be constructed on the right side of the railway, (iii) renovation of 2nd pump station and 50 m sewerage pipeline, (iv) renovation of 600 m length sewerage pipeline in 5th bag area. The sewerage system will benefit around 80,000 residents of Darkhan City. Acquisition of land is required only for some activities of the project, namely, for renovation of 1st pump station of Shine Omnod industrial area and renovation of 600 m length sewerage pipeline in 5th bag area.

**Table 1: Summary of Project Impacts by Affected Companies/institutions**

	<b>Name of company/institutions</b>	<b>Business activity</b>	<b>LAR impacts</b>
AP-01	“Russian food” Co., LTD	Grocery shop	Removal and reestablishment of entrance way, temporary business loss
AP-02	“Munk-Altangegee” Co., LTD	Beauty salon	Removal and reestablishment of entrance way, temporary business loss
AP-03	“Jiguur” 16 <sup>th</sup> school complex	Secondary school	Partial land loss, 30m fence, gate and speed bump
AP-04	Health center II	Healthcare service, in and outpatient treatment, diagnosis	Partial land loss, 33m fence and gate
AP-05	KHAAN Bank	Banking service	Partial land loss, 40 m fence and 16 trees
AP-06	Local Property Agency	Property registration	Removal of an electronic advertisement board
AP-07	Montech LLC	Unknown	Partial land loss
AP-08	“Nogoon burd” Co., LTD	Unknown	Partial land loss

Again, the resettlement plan will be updated upon preparation of final design.

## **B. OBJECTIVE AND POLICY FRAMEWORK**

15. The objective of this LARP is to stipulate all relevant entitlements, procedures and compensation, relocation and rehabilitation measures due to entities affected by the acquisition of land under the L2301-MON: Urban Sector Development Project. In particular, the LARP is meant to safeguard people's livelihoods and quality of life, meaning that the assistance they will receive is designed to ensure they maintain a level of well-being which is at least equivalent to or better than what it would have been without the project. To achieve this, affected entities must be fully informed, closely consulted, compensated for their losses, assisted to gain possession or ownership of replacement land and property, in order to reestablish their living conditions and enterprises. All affected entities should be provided opportunities to participate in any decision making pertinent to involuntary resettlement (IR).

16. All provisions of this LARP are in accordance with the applicable Mongolian Laws<sup>8</sup>, and the ADB's 2009 Safeguard Policy Statement (SPS). The relevant stipulations of national law and ADB policy are summarized below and the Project's entitlement framework is presented.

17. The basic legislative framework for land acquisition and resettlement under the existing legal framework consists of the Constitution (1992), the Land Law (2006) and the Law on Allocation of Land to Private Citizens (2003), as well as the Civil Code. The Land Law specifies three kinds of private land tenure: (i) ownership, which may be granted only to citizens of Mongolia; (ii) possession, granted under license, to Mongolian citizens, economic entities and organizations, for terms of 15 to 60 years, extendable up to 40 years at a time; and (iii) use, granted under contract or lease to foreign countries and legal entities.

18. The Constitution of Mongolia states, inter alia, that "The State shall have the right to hold landowners responsible in connection with the manner the land is used, to exchange or take it over with compensation on the grounds of special public need, or confiscate the land if it is used in a manner adverse to the health of the population, the interests of environmental protection and national security" and "If the State and its bodies appropriate private property on the grounds of exclusive public need, they shall do so with due compensation and payment" respectively.

19. The Land Law governs expropriation of land allocated for possession or use. The Law on Allocation of Land to Mongolian Citizens for Ownership contains provisions respecting expropriation of land under private ownership. Non-titled occupants of land are considered illegal land users and can be evicted on the basis of Article 27.4 of the Land Law, which states that "possessing land without a valid license is prohibited".

20. Article 13.1 of the Land Law lists special needs for which land in private possession can be acquired by the state: (i) land under special government protection; (ii) border strip lands; (iii) land for ensuring national defense and security; (iv) land for foreign diplomatic missions and consulates, as well as resident offices of international organizations; (v) free zone area; (vi) land

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<sup>8</sup> Civil Code of Mongolia, 2002; Law of Mongolia on Land, 2002, amendments 2003/04/05/06; Law on Allocation of Land to Mongolian Citizens for Ownership, 2003, amendments 2005/08

for scientific and technological tests, experiments and sites for regular environmental and climatic observation; and (vi) aimag level reserve rangelands.

21. Article 32 of the Law on Allocation of Land to Mongolian Citizens for Ownership includes among the special needs “to build roads, lines and networks and other objects of national scale” (32.1.3). Article 13 of the Land Law defines land under roads and networks as “land outside cities, villages and other urban settlements” (13.1). Article 3 of the Law on Auto Roads defines as national scale roads those which connect the capital city to aimag cities, aimag cities to aimag cities and aimag cities to border points and defines local scale roads as those which connect soums, districts, cities and urban settlements in the territory of the capital city and aimags (3.1.8).

22. Consequently, urban roads, water supply and sewerage facilities and district heating facilities, belonging to cities, villages and other urban settlements, are on a local scale. Accordingly, the civil works under the Project is not of a national scale, so exercise of eminent domain under current legislation is not possible.

23. In the absence of legal provisions regulating land acquisition and resettlement in the context of local scale infrastructure facilities, including roads and sewerage networks, the Civil Code provides a legal framework which place land acquisition and resettlement in the context of negotiated settlement. This implies that the State or its legally appointed agents and affected persons engage with each other contractually as equal and autonomous legal persons and participants in a civil legal relationship (Article 1). Citizens and organizations, as well as aimags, the capital city, soums and districts are able to enter into civil legal relations with regard to objects of material and non-material wealth and their acquisition and possession (Articles 6, 7 and 8).

24. The right of a landowner to dispose of owned land through sale ‘according to relevant procedures’ (notarized contract) is guaranteed in Article 27 of the Law on Allocation of Land to Mongolian Citizens for Ownership. Possessors, according to Articles 35 and 38 of the Land Law, are also entitled to transfer their possession licenses via a notarized contract, but need to seek the approval of the governor of the soum or district.

25. The local practice of land acquisition and resettlement among district or soum and khoroo or bag level land administration officers, sanctioned by the Directors of the Capital City or Aimag Property Relations Departments, does to some extent reflect the legal framework of the Civil Law based on contracts between autonomous legal persons, but also contains certain elements of involuntary land acquisition and resettlement. After identification of the required properties, affected persons are sent official notifications or “demand letters” by the Property Relations Department, often repeatedly, if no positive response to the government’s claim to land is forthcoming. Thereafter, negotiations about the terms of compensation take place with titled affected persons (owners and possessors) and eventually a written agreement is reached. The land administration officers generally follow Cabinet Resolution 103 of 13 April 2003, which determines land valuation tariffs. Once at least 50 percent of the agreed compensation is paid, the land is acquired; when structures have been moved or land is vacated so construction works can commence, the remaining compensation is paid.

## **ADB Involuntary Resettlement Policy Requirements**

26. The 2009 ADB Safeguard Policy Statement (SPS) outlines the requirements that ADB borrowers/clients are required to meet in delivering involuntary resettlement (IR) safeguards<sup>9</sup> to ADB supported projects. The overriding objectives of the safeguards are: (i) avoid involuntary resettlement wherever possible; (ii) minimize IR by exploring project and design alternatives; (iii) improve, or at least restore the assets, living conditions and livelihoods of affected persons; and (iv) improve the standards of living of vulnerable displaced groups.

27. SPS main principles are:

- i. 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.
- ii. Carry out meaningful consultations with affected persons, host communities, and concerned nongovernment organizations. Inform all displaced persons of their entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programs. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations. Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.
- iii. 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.
- iv. 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 comp cultivated 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.
- v. Improve the standards of living of the displaced poor and other vulnerable groups, including women, to at least national minimum standards. In rural areas provide them with legal and affordable access to land and resources, and in urban areas provide them with appropriate income sources and legal and affordable access to adequate housing.
- vi. 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.

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<sup>9</sup> Refer to Appendix 2 of the SPS – “Safeguard Requirements for Involuntary Resettlement”.

- vii. Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of non-land assets (8) 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.
- viii. 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.
- ix. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.
- x. Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.
- xi. 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.
- xii. Disclose monitoring reports.

28. The ADB's IR safeguards state that eligibility includes all people with formal legal rights to affected land (in whole or part) and those who have claims to the affected land that is recognized under national laws. People without formal legal rights or recognized claims, but who have occupied the land or structure prior to the agreed upon and publicized cut-off date, are eligible for compensation for non-land assets and resettlement assistance.

29. The ADB's IR principles also describe the compensation and assistance that will be provided, including: adequate and appropriate replacement land and structures, or cash compensation at full replacement cost without depreciation, transaction costs, accrued interest, transitional/restoration costs and any other payments; where feasible preference for land-based (not cash) resettlement strategies; assistance with relocation and improved housing with comparable access to employment/productive opportunities, civic infrastructure and community services; transitional support and development assistance; and opportunities to share in project benefits. For those who are economically displaced, they will be compensated for loss of income, and be assisted in restoring, and where possible improving, their earning capacity, production levels and standard of living.

30. Project proponents are expected to carry out meaningful consultations with affected persons and other stakeholders, including disclosure of information on entitlements and resettlement options, participation in the resettlement planning process, and establishment of a transparent and effective Grievance Redress Mechanism (GRM), and, wherever possible, negotiate fair settlements to avoid forcible evictions.

31. Project proponents are also expected to undertake a comprehensive Social Impact Assessment (SIA) in order to understand fully who will be displaced and how it will impact them currently and into the future. The SIA is to include an inventory of affected people, their assets,

their income and livelihoods, and should be disaggregated based on gender. The SIA should also describe the people who might be more vulnerable to negative impacts, and suggest targeted measures the proponent will put in place to ensure vulnerable people do not suffer disproportionately and can share equally in the project opportunities and benefits.

32. The ADB's SPS requires preparation and disclosure of the LARP. The LARP should describe in detail affected people's entitlements; income and livelihood restoration strategy (including measures for vulnerable people); institutional arrangements; consultation, participation and disclosure; GRM; monitoring and reporting framework (including external monitoring for projects with significant land related impacts), budget and time-bound implementation schedule. Displacement may not occur prior to implementation of the Resettlement Plan, including payment of compensation and provision of other resettlement entitlements.

### **Assessment of Policy Gaps**

33. There are several significant policy gaps between the Mongolian legal framework and the ADB IR safeguard requirements. According to Mongolian law or practice: (i) non-titled occupants of land (without ownership or possession license), including lessees of land and structures, are not eligible for compensation and rehabilitation entitlements; (ii) compensation for affected land is based on a government compensation tariff, not market rates, although there is room for negotiation with individual APs; (iii) a depreciation coefficient is applied in the valuation of affected structures; (iv) income and livelihood rehabilitation is not normally considered in local land acquisition practice; (v) transaction costs are not included in compensation payments; (vi) there are no project internal grievance procedures preceding dispute resolution by governors and the courts; (vii) public consultation and information disclosure is not practiced; (viii) an eligibility cut-off date is not declared; (ix) there is no limitation on commencement of civil works until after completion of all land acquisition procedures; and (x) there is no need to prepare an LARP or to undertake monitoring and evaluation activities.

34. Table 2 outlines the key provisions of existing Mongolian laws and practices relevant to land acquisition and resettlement and indicates their compatibility or inconsistency with the ADB IR safeguard requirements.

**Table 2: Comparison of IR related provisions in Mongolian Law and the ADB SPS**

IR issues	Provisions of Mongolian law	ADB policy requirements
Involuntary Resettlement	<p>Invoking eminent domain is only legally recognized when taking back land for special needs of the State including, lines and networks and other objects of national scale (Law on Allocation of Land to Private Citizens, Articles 32 and 37; Land Law, Articles 42 and 43). This law does not apply to the Project and consequently, the Civil Code will apply.</p> <p>Current practice by government in local scale projects entails a demand letter with threat of sanctions and offer of payment of compensation.</p>	<p>Eminent domain is generally recognized and subject to policy provisions aiming at avoiding and minimizing land acquisition and replacement of lost assets and rehabilitation of livelihoods. Affected entities to be at least as well-off as without project.</p>
Negotiated Settlement	<p>The Civil Code of Mongolia is the legal basis for contractual agreements on the transfer of land in the ROW from affected entities to the government (Chapter 15, Articles 1, 6, 7, 8, 109 and 112, among others).</p>	<p>Recognition of negotiated settlement, where there is a willing buyer and a willing seller. If the seller has no option, than the IR policy requirements apply.</p>
Eligible Affected Entities	<p>Licensed owners, possessors and users of land can transfer their titles to other legal persons recognized under the Land Law (Articles 35 and 38) and the Law on Allocation of Land to Private Citizens (Article 27).</p> <p>Non-titled occupants of land as illegal possessors are not eligible to transfer the land occupied or receive compensation (Land Law, Article 27.4).</p> <p>The Civil Code recognizes the right of a long term non-owner occupant of ownerless immovable property (incl. land) to own it after 15 years, if registered in the State register (104.2).</p>	<p>Titled and non-titled affected entities are eligible to receive different entitlements. Titled affected entities are entitled to compensation and rehabilitation for affected land and non-land assets at replacement cost. Non-titled affected entities are eligible for entitlements for non-land assets at replacement cost and to rehabilitation assistance, possibly including replacement land, such that they are no worse off than before the project.</p>
Compensation for land	<p>Contractually agreed payment for land transferred to the government.</p> <p>Local practice applies the government land valuation tariff (Cabinet Resolution 103, 2003), but negotiates with affected entities as well. Replacement land can be provided if an affected entity's entire land or large part thereof is acquired.</p>	<p>Land compensation at replacement cost based on land valuation at average market value within 1 year before the delivery of compensation or replacement land of similar size and quality.</p>
Compensation for structures	<p>Contractually agreed payment for transfer of structures located on land acquired.</p> <p>The value of structures is determined at market rates, with depreciation deducted from gross value of the structure.</p>	<p>Valuation of structures is based on current market value, i.e. replacement cost of new construction of the structure without deduction of depreciation. Affected entities can be permitted to salvage materials.</p>
Joint property ownership	<p>The Civil Code recognizes common property ownership and family property rights (Articles 108, and 125-128).</p> <p>Common property ownership requires permission of other owners to dispose of part of the property (108.4).</p> <p>Family property includes 'other properties accrued since the marriage, notwithstanding in which name of spouses or family members the property is registered' (126.2.4). Disposal of immovable (incl. land) family property requires mutual agreement (128.1) and certified written permission from an adult family member (128.2).</p>	<p>No conflict with ADB SPS. Joint signatures are encouraged.</p>
Easement (property servitude)	<p>Legal provision for easements or property servitude, allowing the use of another person's property for specific public or private purposes is permitted under local law; mutual agreement and payment of a fee are required (Civil Code, Article 151, Land Law, Article 48</p>	<p>No conflict with ADB SPS.</p>

IR issues	Provisions of Mongolian law	ADB policy requirements
	and Law on Allocation of Land to Private Citizens, Article 33).	
Rental of land or house	The Civil Code, Chapter 25 regulates the lease of property, including land and houses. If ownership is transferred the new owner incurs all rights and obligations of a lessor (Article 297). No provisions for lessee rights in case of land acquisition for a project, except that termination of a lease requires a 3 month notice (Article 294.3)	Lessee is considered an affected entity and eligible to receive entitlements based on the type and degree of impacts.
Community and public resource losses	Affected community and public assets can be transferred through contractual agreement under the Civil Code. The cost of moving affected infrastructure is included in cost of civil works under the Project.	Common property resources or public structures and infrastructure affected by land acquisition are eligible for compensation.
Income and livelihood rehabilitation	No provisions in contractual agreements for transfer of property.	Assistance for economic and social rehabilitation due to loss of jobs, incomes and livelihoods, including (i) income compensation or support for the period of interruption of business or employment, and (ii) priority employment in project civil works, especially to poor and vulnerable households.
Relocation and transaction costs	The Mongolian Law on State Registration of Property Allocation Rights and Other Related Rights requires payment of registration duties and service fees for the registration of immovable property with the State Administrative Authority in charge of state registration of property rights (Article 9). All registration and other fees, as well as cost of relocation, are responsibility of parties to a contract and can be included in a contract.	Relocation and transfer expenses, including fees for the registration of properties and other administrative charges, are part of the replacement cost of lost assets and included in compensation.
Grievance procedure	The Land Law refers disputes over land to the governors of administrative units and eventually the courts (Article 60). The Civil Code and Law on Allocation of Land to Private Citizens refer various types of disputes to the courts.	An adequate GRM for affected people is required.
LARP information disclosure and public consultation	No provision for public consultation and information disclosure. In practice, all cases involve a period of negotiation.	Affected entities are to be fully informed and closely consulted on compensation and resettlement options. Draft, final and revised LARPs is to be disclosed and discussed, as well as published on ADB's website.
Cut-off date	Not applicable	An eligibility cut-off date is to be set when the project is officially notified, the project area is delineated or the census of the affected population is taken, to prevent influx of non-eligible persons and land speculation.
Right of way	Water pipes up to 1000mm diameter require a safety zone of 10m (5m from center of pipe) in dry soil. It may be narrowed in built-up areas. (Mongolian Law on Water Supply and Sewerage System Utility of Cities and Settlements, Article 12.6; Construction Standard and Procedure of Mongolia BNBD 40-02-06, paragraph 10.20).	No conflict with SPS.
Notification period for	Time period for vacating a property may be defined in contract.	Notification periods are not specified by ADB. Cash compensation and/or



IR issues	Provisions of Mongolian law	ADB policy requirements
vacating property and commencement of civil works	Civil works commence in parallel with acquisition of property, but without defined waiting period.	replacement of assets must be completed before displacement; land acquisition procedures, except for rehabilitation measures, must be completed before commencement of civil works.

In case of gap between ADB policy and Mongolian related laws and regulations, ADB IR policy requirements will be applied.

### C. ELIGIBILITY AND ENTITLEMENTS

35. To bridge the gap between Mongolian Law and the ADB SPS, this LARP presents the project's entitlement provisions, which integrate both. In addition, the following principles guided the development of entitlements.

- i. Design and implementation of the project will make every effort to avoid and minimize land acquisition and resettlement impacts, including temporary impacts during construction.
- ii. The project will adopt a negotiated land acquisition practice involving contractual agreements on the basis of the Civil Code of Mongolia.
- iii. All compensation and allowances will be determined and paid or provided as specified in the contractual agreements, and all agreements will be certified by a notary and registered with the State Administrative Authority in charge of state registration of property rights.
- iv. An adequate GRM will be established.
- v. All affected entities will be eligible for compensation and rehabilitation entitlements irrespective of their property status, including unlicensed occupants of land, and of the type of use of their property (residential, commercial, public or community).<sup>10</sup>
- vi. Affected land will be compensated either at replacement cost based on market rates for comparable land or the applicable government compensation tariff, whichever is higher, or, in the case of full loss of a plot of land, with replacement land, including land preparation and restoration of utility services (electricity, water, etc.), as applicable. The will assist the affected persons to identify and approve the relocation plot. The loss of 50% or more of a plot is considered a full loss eligible for compensation for the entire plot, if the affected person so desires.
- vii. Unlicensed occupants in case of full loss of land (i.e. greater than 50 percent) will be provided relocation assistance sufficient for them to restore their standard of living at an adequate alternative site with security of tenure (through grant of

<sup>10</sup> Not applicable if the replacement of public structures (electricity, water supply lines, etc) is covered under civil works contracts.

possession license), as well as compensation at full replacement cost for loss of non-land assets, such as dwellings and other improvements to the land.

- viii. All affected entities agreeing to receive replacement land or affected entities with pending license approval for ownership or possession or affected entities with possession licenses seeking ownership status, will be provided with ownership licenses prior to displacement and the affected entity will be registered with the State Administrative Authority in charge of state registration of property rights.
- ix. Affected structures will be compensated at replacement cost based on prevailing market rates for comparable types of structures determined through professional valuations by a certified valuator without deduction of depreciation. Materials may also be salvaged by the affected entities.
- x. Temporary disturbances, including removal of fences and civil works on land outside the ROW, will be compensated in cash based on negotiated agreements with affected entities. Affected entities will enjoy continued access to land and residences. Civil works contractors will move fences and will restore land and fences upon completion of works.
- xi. Temporary loss of employment income will be compensated for the period of interruption of employment. Permanent loss of employment will be compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1 month wage. The affected persons with permanent loss of employment shall be provided also (a) other labor benefits and retrenchment allowances according to the national labor law, (b) skills development trainings for new employment opportunities, and (c) assistance to find new employment.
- xii. Temporary loss of business income to the owner will be compensated through cash compensation equivalent to net profit after tax , i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas.
- xiii. For permanent business loss, compensation shall include also any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the APs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided within 1 year of displacement.
- xiv. Vulnerable and poor households will be provided preferential employment in subproject-related workforce, if available and desired by DPs. Depending on type and severity of impact of the project, , other support may include: cash assistance up to a maximum of six months, guaranteed at the rate of minimum wage and assistance in reconstituting affected business or employment; assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot; and, assistance with house relocation and other construction activities (new construction should

meet minimum standards), registration of property titles, relocation expenses, or a minimum housing guarantee.

- xv. All relocation, transfer and transaction expenses (fees and duties) will either be waived by government or included in the contract price of the affected properties.
- xvi. An eligibility cut-off date will be set for the subproject with land-take at the time of the census and detailed measurement of affected land and property.
- xvii. Civil works shall not commence unless all compensation and relocation activities have been completed, and short-term financial assistance for loss of income has been paid.
- xviii. Cash compensation will not be taxable, and all fees and transaction costs to register property will be paid by the project owner.

36. The entitlements described above are summarized in the Entitlement Matrix presented in Table 3 below. Not all the types of loss described in this section have currently been identified to date as expected project impacts. Nevertheless these impact categories are in this section and included in the entitlement matrix so that should they emerge in the future, they may be addressed in accordance with this LARP.

**Table 3: Entitlement Matrix**

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
LAND (residential/ commercial/public/ community)	Full loss of plot (=>50%)	Owner, possessor	The AP may choose between the following alternatives: Land for land compensation through provision of replacement plot of comparable value and location as lost plot; Ownership license and State registration; OR Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price
		Unlicensed occupant of land	Relocation assistance sufficient to restore standard of living equal to MNT 192,000 at an adequate alternative site with security of tenure (i.e. possession license). All taxes, registration and transfer costs are waived or included in compensation price OR Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes, registration and transfer costs are waived or included in compensation price
		User	Replacement plot with use license OR, if feasible and desired Ownership license and State registration; All taxes, registration and transfer costs are waived or included in compensation price

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
		Lessee	<p>The AP may choose between the following alternatives:  Allocation of plot with ownership license and State registration  All taxes, registration and transfer costs are waived or included in compensation price  OR  Cash refund at rental fee rate and proportionate to duration of remaining lease period</p>
	Partial loss of plot (<50%)	Owner, possessor	Cash compensation at market rates or the government compensation tariff, whichever is higher, based on contractual agreement All taxes are waived or included in compensation price
		Unlicensed occupant of land	Possession license and State registration for adjacent unlicensed land will be provided by government; All taxes, registration and transfer costs are waived
		User	Continuation of use license on remaining land
		Lessee	Cash refund at rental fee rate and proportionate to duration of remaining lease period
STRUCTURES ( residential/ commercial/public/ community)	Full loss of structure and relocation	Owner, possessor, unlicensed occupant of land	Cash compensation for replacement of lost structure at market rate determined through professional valuations by a certified valuer without deduction of depreciation, based on contractual agreement, and no deduction for salvaged materials
Temporary disturbance	Removal of fence, civil works on land outside ROW, restoration of land and fences	Owner, possessor, unlicensed occupant of land	Cash compensation fee negotiated with AP. Access to land and residences Fences will be moved by civil works contractor There is no deduction for salvaged materials
Businesses	Any business loss due to land acquisition or construction activities by Project	All APs so temporarily affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas.
		All APs so permanently affected	Cash compensation equivalent to the loss, i.e. for the period of interruption of business based on tax receipts/other valid documents or, if these are not available, based on the average net income of typical road businesses in subproject areas. AND Any costs required for physical and financial reestablishment of business. If the business needs to be relocated, the following options will be provided to the DPs: (a) government will provide replacement land/shop space prior to relocation; or (b) if an acceptable plot of land/space cannot be agreed upon, net income loss of 1 year will be paid and, in consultation with the affected persons; the replacement land/shop space will be provided

Type of Loss/Application	Specification	Eligibility	Compensation entitlements
			within 1 year of displacement.
Employment	Any employment loss due to land acquisition or construction activities	All temporarily laid-off employees of affected businesses	Compensation for loss of employment income for the period of interruption of employment.
		All permanently laid-off employees of affected businesses	Compensated with cash indemnity for 3 months wages for workers/employees that have been engaged for at least 1 year; otherwise entitlement is 1-month wage. AND Other labor benefits and retrenchment allowances according to the national labor law, Skills development trainings for new employment opportunities Assistance to find new employment.
Vulnerable and/or severely affected APs <sup>11</sup>	Permanent loss of livelihood	All vulnerable and/or severely affected APs	Preferential employment in subproject-related workforce, if available and desired by APs;  Cash assistance up to a maximum of six months at guaranteed lowest living level and assistance in reconstitution of business or employment;
	Loss of land	All vulnerable and/or severely affected APs	Assistance with selecting a replacement plot and with preparation of contracts and administrative process of provisions of replacement plot;
	Loss of structure	All vulnerable and/or severely affected APs	Assistance with house relocation and other construction activities (new housing should meet minimum standard), registration of property titles, relocation expenses, minimum housing guarantee.
	Livelihood support	Any household member of a vulnerable AP	Preferential treatment for temporary employment during construction; Employment training (3–6 months).
	Temporary disturbance	All vulnerable	Preferential treatment to avoid, minimize or mitigate disturbance as quickly as possible.

37. Compensation eligibility will be limited by a cut-off date to be set at the time of the census and DMS following preparation of detailed designs. All affected entities settling in affected areas after that date or existing affected entities who alter their assets and who cannot prove that they are the rightful owners/users of affected plots will not be eligible for compensation.

38. Disclosure of entitlements and all other relevant subproject information will be conducted in a timely way. This disclosure will be done in accessible formats that give affected people the means to participate effectively from an informed position. This means that affected people will have sufficient time between the provision of information and the consultative decision making process to reflect upon the input they want to provide.

<sup>11</sup> Vulnerable groups are distinct groups of people (poor, elderly, disabled, and female headed households) who may suffer disproportionately from resettlement. Severely affected APs include those whose remaining landholdings are no longer fit for original purpose.

## **D. INSTITUTIONAL ARRANGEMENTS**

39. The executing agency for the project is MCUD, which will exercise its functions through the PMU located in Ulaanbaatar. The PMU is responsible for all management, communication and coordination work during project preparation and implementation periods.

40. Darkhan-Uul aimag has overall responsibility for the land acquisition and resettlement of the project. This includes preparation, implementation and financing of all LAR tasks and cross-agency coordination and linkages. The aimag exercises its functions through the PIU. The PIU is responsible for planning and implementation of all LAR tasks, including identifying the possessors and occupants of affected land and valuating the properties of APs. The PIU will be staffed with at least one resettlement/social specialist who will work part time (resettlement, social development specialist). Under the guidance of the aimag government, the resettlement specialist will be responsible for the update and implementation of the LARP, including (but not limited to) (i) updating LARP based on detail design; ii) setting up and coordinating the grievance redress mechanism (GRM, see below); (iii) monitoring LARP implementation to ensure compliance with the LARP provisions; (iv) preparing semi-annual monitoring reports on project LARP implementation to the to the Ministry of Construction and Urban Development (MCUD) and ADB; (v) coordinating consultation with affected people, etc.

41. A working Group made up of representatives from concerned agencies and chaired by Governor of Darkhan-Uul Aimag will be established to oversee the project LAR implementation and make high level decisions, including resolving or serving as a final decision-making body for AP grievances, in order to avoid their being referred to the Courts. WG will include representatives of the Government of Darkhan-Uul aimag, LRCUDD, Property Relations Agency and “Darkhan-Us Suvag” agency. With the support of the WG, the PIU will ensure resettlement safeguard compliance prior to any resettlement, or the award of civil works contracts. Close coordination and commitment between all stakeholders are facilitated by the participation of the WG members.

## **E. GRIEVANCE REDRESS MECHANISM**

42. The Working Group will serve as the initial committee for grievance redress and will provide a forum for raising objections and holding discussions to resolve conflicts. An aggrieved AP may submit grievances to any member of the Working Group, who will log a complaint in the GAF and request the chairman to call a meeting, where it will be presented, addressed and resolved within 1 week. The Working Group will record its deliberations and inform the concerned parties within the same week of its findings and recommendations and present these to the Aimag and Soum Governors for action. If the grievance is not resolved within 2 weeks from its lodging, the grievance will be submitted to the LRCUDD by the Working Group member of LAD and its resolution is recommended to the Aimag Governor for approval and action within 1 more week. If still unresolved within another week the Aimag Governor will seek to resolve the issue and initiate action within another week.

43. In cases where an affected entity does not get any response for their actions or their interests has been violated by some conducts breaking the ADB's Safeguard Policy Statement, they can report problems to ADB according to ADB Accountability Mechanism<sup>12</sup> (2012). APs

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<sup>12</sup> Before reporting problems to departments related to accountability mechanism, the APs shall solve problems effectively via the executive departments of ADB. If dissatisfaction is still unsolved, they can report to departments

and NGOs/CBOs operating in the area can be actively involved in all stages of the grievance redress procedures. The grievance redress mechanism will include the following steps:

44. The above mentioned grievance mechanism does not limit the citizen's rights to submit the case to the court of law at any point in time of the grievance process.

45. A Grievance Action Form (GAF) will be designed to cover the various aspects of the land acquisition process, for use in the grievance redress process. GAFs serve to log and follow up grievances in a consistent and transparent manner (a sample GAF is appended in Annex 1). All grievances submitted will be recorded on a GAF, and a copy of the GAF provided to the person submitting the grievance. The GAF will at minimum contain the following:

- i. basic information about affected entity / entities submitting the GAF, including names and contact information;
- ii. category of grievance filed (legal, technical/engineering, social, or financial);
- iii. detailed description of grievance; and
- iv. type of action taken (resolved at the WG level or referred to higher authorities)

**Table 4: Grievance mechanism**

Steps	Actors / actions	Timing
1	AP lodges grievance with Working Group (WG) member	1 week
	WG member prepares GAF and initiates WG meeting	
	WG addresses grievance, informs AP and proposes resolution to Governor (aimag/soum)	
	Governor initiates action for resolution	1 week
If grievance is not resolved		
2	LRCUDD WG member submits grievance to LAD	1 week
	LRCUDD addresses grievance, informs AP and proposes resolution to Aimag Governor	
	Aimag Governor initiates action for resolution	1 week
If grievance is not resolved		
3	Aimag Governor addresses grievance and initiates action for resolution	1 week

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related to accountability mechanism. For more details, please refer to <http://www.adb.org/Accountability-Mechanism/main>.