

Resettlement Plan

March 2014

BHU: SASEC Road Connectivity Project

Phuentsholing Bypass Road

Prepared by the Phuentsholing Thromde for the Asian Development Bank.

CURRENCY EQUIVALENTS

(as of 12 March 2014)

Currency unit – Bhutanese Ngultrum
Nu 1.00 = \$ 0.01637
\$1.00 = Nu 61.0800

ABBREVIATIONS

ADB	–	Asian Development Bank
DH	–	Displaced household
DP	–	Displaced person
EA	–	Executing Agency
GRC	–	Grievance Redressal Committee
IA	–	Implementing Agency
ROW	–	Right-of-way
RP	–	Resettlement plan
SPS	–	Safeguard Policy Statement

NOTE

In this report, "\$" refers to US dollars.

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TABLE OF CONTENT

EXECUTIVE SUMMARY	1
I. PROJECT DESCRIPTION	1
II. SCOPE OF LAND ACQUISITION	2
III. SOCIOECONOMIC INFORMATION AND PROFILE	2
IV. PUBLIC CONSULTATION AND DISCLOSURE OF INFORMATION	3
V. GRIEVANCE REDRESS MECHANISMS	5
VI. LEGAL FRAMEWORK	6
VII. ENTITLEMENTS, ASSISTANCE AND BENEFITS	7
VIII. RELOCATION OF HOUSING AND SETTLEMENTS	8
IX. INCOME RESTORATION AND REHABILITATION	8
X. RESETTLEMENT BUDGET AND FINANCING PLAN	8
XI. INSTITUTIONAL ARRANGEMENT	9
XII. IMPLEMENTATION SCHEDULE	9
XIII. MONITORING AND REPORTING	10
APPENDIX 1: LEGAL FRAMEWORK	11
APPENDIX 2: COMPARISON OF ADB POLICY REQUIREMENTS AND THE LAND POOLING RULES OF THE RGOB 2009	16

EXECUTIVE SUMMARY

A. Project Background

1. The Royal Government of Bhutan (RGoB), through the Department of Roads (DOR) and the Phuentsholing Thromde (PT), has proposed to implement the SASEC Road Connectivity Project with financial the assistance of the Asian Development Bank (ADB). The Project components will be (a) improved land transport and trade infrastructure, comprising (i) 68km of National Highway between Nganglam and Dewathang and about 1.2km access road from an Indian border constructed at Pasakha area, (ii) a mini-dry port in Phuentsholing and Alay land custom station; and (iii) about 2.7km of bypass road in Phuentsholing city. This resettlement plan (RP) covers the subproject of 2.7km of bypass road in Phuentsholing.

2. The proposed project would eliminate most of the congestion around the Phuentsholing area and provide improved connectivity between the improved mini-dry port and Pasakha access road. The subproject is a 2.7 km 2-lane road starting at the exit of the mini-dry port inside of Phuentsholing and ends at the existing Phuentsholing-Thimphu Road. The bypass mostly follows an existing alignment with the exception of the last section where a high bridge will cross a river before connecting to the main Phuentsholing-Thimphu Road. The required land is located prior to the new high bridge. The right-of-way (ROW) required for the bypass road varies between 12m and 18m. Temporary land acquisition will not be required.

B. Land Acquisition and Resettlement Impacts

3. The RP aims to mitigate all such unavoidable negative impacts caused due to the project and resettle the displaced persons and restore their livelihoods. This Resettlement Plan has been prepared on the basis of subproject census survey findings and consultations with various stakeholders. The plan complies with ADB Safeguard Policy Statement (2009) and RGoB rules and regulations. The subproject is categorized as “B” as per ADB SPS and is not significant.¹ The subproject requires an acquisition of private land from one household totaling 32,234 sq.ft or about 0.74 acres. The PT is pursuing land pooling method to acquire the land.

C. Resettlement Principles for the Project

4. In land pooling, all land owners contribute up to 25% but not exceeding 30% of their landholdings to provide the area required for infrastructure and amenities and retain the balance area. However, land acquisition cannot be ruled out completely and may be necessary under certain circumstances if the displaced household does not agree to land pooling. The affected household will be entitled to a combination of compensation packages and resettlement assistance, depending on the nature of ownership rights on lost assets and scope of the impacts, including socio-economic vulnerability of the affected persons and measures to support livelihood restoration if livelihood impacts are envisaged. This Entitlement Matrix (Table 4) has been formulated according to the resettlement principles for this Project and specifically reflects various types of losses resulting out of this particular subproject and specific compensation and resettlement packages.

¹ As per ADB SPS 2009, involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).

D. Grievance Redress Mechanism

5. Implementation of the proposed Phuentsholing subproject will be fully compliant to ADB's safeguards requirement on grievance redress mechanism. Phuentsholing shall disclose the proposed mechanism in public consultations during detailed design and in meetings during the construction phase. The Project will be conducted with a participatory process with the local communities. Through this, and the provision of good compensation and support mechanisms, acceptance of the Project will be enhanced and complaints reduced. There may nevertheless be individuals or groups who feel that they are not given adequate support, or that their needs are not properly addressed. The Project will therefore establish a Grievance Redress process in the existing mechanism of local committees which will hear complaints and facilitate solutions. If the issue is not resolved, the individual/group may approach PT through the office of the local executive engineer. If the issue remains unresolved, people would have the right to approach RGoB as per traditional practices.

E. Public Consultation and Disclosure of Information

6. Consultations and discussions were held along the subproject with the affected Household and other stakeholders.

F. Institutional Framework

7. For implementation of RP there will be a set of institutions involved at various levels and stages of the Project. The primary institutions who will be involved in this implementation are the following; (i) PT, (ii) Dzongkhag (District Administration)/Dungkhag (Sub-district Administration), (iii) Project Management Office, (iv) Dzongkhag Land Record Officer, Dzongkhag Survey Officer, (v) Surveyors, (v) Grievance Redressal Committees, and (v) Design, Procurement Assistant and Supervision Consultant (DPSC).

G. Resettlement Management

8. The DoT will be the executing agency (EA) for the Project. A Project Implementation Unit (PIU), headed by a Project Coordinator (PC) will be established and will be responsible for the overall execution of the Project. The PC, in coordination with the Dzongkhag (District Administration) and Dungkhag (Sub-district Administration), will be responsible for implementing the resettlement and rehabilitation activities, and ensuring availability of budget for land acquisition and resettlement activities. The PC will request the concerned Dzongkhag/Dungkhag to appoint surveyors to conduct cadastral survey to assist resettlement activities. The Supervision Consultant will provide with a weeklong training and orientation program for implementation of the RP to all surveyors and concerned officials of the Dzongkhag and Dungkhag.

H. Implementation Schedule

9. Land acquisition and resettlement process of the displaced person (DP) must be completed before the start of the civil works. All land is to be provided free of encumbrances. DP will be given sufficient notice prior to start of civil works.

I. Monitoring and Evaluation

10. Internal monitoring will be conducted by the Resettlement Specialist of the PIU and external monitoring will be undertaken by the Design, Procurement Assistant and Supervision

Consultant (DPSC). The results of this monitoring should be summarized in reports that will be submitted to the Project authorities and to the ADB on a biannual basis.

I. PROJECT DESCRIPTION

A. Introduction

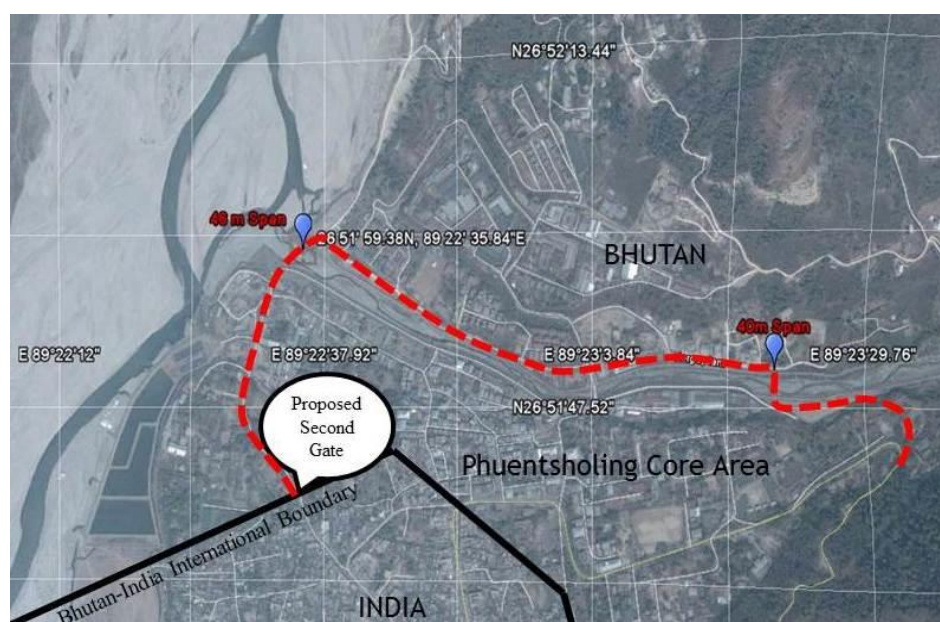
1. The Royal Government of Bhutan (RGoB), through the Department of Roads (DOR) and Phuentsholing Thromde (PT), has proposed to implement the SASEC Road Connectivity Project with financial the assistance of the Asian Development Bank (ADB). The Project components will be (a) improved land transport and trade infrastructure, comprising (i) 68km of Southern East-West Highway between Nganglam and Dewathang and about 1.2km access road from an Indian border constructed at Pasakha area, (ii) a mini-dry port in Phuentsholing and Alay land custom station; and (iii) about 2.7km of bypass road in Phuentsholing city. This resettlement plan (RP) covers the subproject of 2.7km of bypass road in Phuentsholing.

B. Subproject Description

2. The major border crossing for Bhutan is at Phuentsholing, which is located in the south of the country bordering India on Asian Highway 48. The crossing is very congested, mainly to the use of a single entry gate for all vehicle traffic and that processing of both inward and outward freight movements are conducted in areas immediately adjacent to this entry/exit gate. The proposed project would eliminate most of the congestion around the Phuentsholing area and provide improved connectivity between the mini-dry port and Pasakha access road, also to be improved under the SASEC Road Connectivity Project.

3. The subproject is a 2.7 km 2-lane road starting at the exit of the mini-dry port inside of Phuentsholing and ends at the existing Phuentsholing-Thimphu Road. The bypass mostly follows an existing alignment with the exception of the last section where a high bridge will cross a river before connecting to the main Phuentsholing-Thimphu Road. The required land is located prior to the new high bridge. The right-of-way (ROW) required for the bypass road varies between 12m and 18m. A map of the project area is included in Figure 1.

Figure 1: Map of Project Area



C. Alternatives Considered and Measures to Minimize Impact

4. During the feasibility study, 3 design options were considered for the bridge/flyover. The final design option was selected based on financial feasibility, potential for expansion in the future, and amount of land required. The ROW for certain sections of the road has been reduced to 12m which encompasses 9m of carriageway and 1.5 m of paved shoulder. The reduction in design will not have any adverse impact to achieving project goals. This measure has reduced land requirement for the subproject.

D. Scope and Objective of the RP

5. The RP aims to mitigate all such unavoidable negative impacts caused due to the project and resettle the displaced persons and restore their livelihoods. This Resettlement Plan has been prepared on the basis of subproject census survey findings and consultations with various stakeholders. The plan complies with ADB Safeguard Policy Statement (2009) and RGoB rules and regulations.

6. The subproject is categorized as “B” as per ADB SPS and is not significant.² The subproject requires and acquisition of private land from one household totaling 32,234 sq.ft or about 0.74 acres.

II. SCOPE OF LAND ACQUISITION

7. The subproject impacts can broadly be categorized as loss of private land. According to the subproject census survey, a total of one affected household has been identified. A summary of subproject impacts in terms of affected assets and displaced persons identified during the course of the census is presented in Table 1. The affected area is uncultivated and not occupied. There are no structures on the affected land. The affected land is owned by private company with large land holding across the country. The total size of the plot is 708,721 Sq.ft or about 16.27 acres. The portion to be acquired is 4.5% of the total plot. Temporary land acquisition will not be required. However, if the contractor requires temporary space for storage of equipment and supplies, the contractor will enter into a temporary lease with willing land owner for required space.

Table II: Summary Profile of Project Affected Assets

Impacts	Number
Total land affected	32,234 Sq.ft /0.74 acres
Total number of affected households (TH)	1
Total number of affected persons (TH)	1
Total number of structures affected (TH)	0

III. SOCIOECONOMIC INFORMATION AND PROFILE

8. A socio-economic survey was carried out in June 2013. The census survey assessed the impact of the subproject.

² As per ADB SPS 2009, involuntary resettlement impacts of an ADB-supported project are considered significant if 200 or more persons will experience major impacts, which are defined as (i) being physically displaced from housing, or (ii) losing 10% or more of their productive assets (income generating).

9. Phuentsholing is a municipality in southern Bhutan and borders India. The city is the economic hub of Southern Bhutan and is located in the Chukha District. Phuentsholing lies opposite the Indian town of Jaigaon, and cross-border trade has resulted in a thriving local economy. The municipality has a population of 20,537 and is the second largest city in the country. People residing in the Project area are 91% Buddhists, 3% Muslim and 6% Hindus.

10. The one affected household does not reside on the affected land.

IV. PUBLIC CONSULTATION AND DISCLOSURE OF INFORMATION

11. To ensure peoples' participation in the planning and detail design phase of this subproject and to treat public consultation and participation as a continuous two way process, numerous events were arranged at this stage of subproject preparation. Aiming at promotion of public understanding (DP and other beneficiaries) and fruitful solutions of developmental problems such as local needs and problem and prospects of resettlement, various sections of DP and other stakeholders were consulted through focus group discussions and individual interviews.

A. Methods of Public Consultation

12. Consultations and discussions were held along the subprojects with the affected household and other stakeholders including head of households, business communities. The primary stakeholders of the Project have been identified as those residing in and around the vicinity of the proposed roads. Apart from the DP, the other stakeholders identified are; PT, Department of Road, Department of Trade, Land and Survey Division, and Revenue Survey Officers.

13. Focus group discussion (public consultation) was conducted with the affected persons at Phuentsholing during the time of preliminary study for the 3 options and during feasibility design study. This meeting was organized to get wider public input from both the primary and secondary stakeholders. The same affected persons were once again gathered and discussed individually during the time of when the design option was finalized.

B. Scope of Consultation and Issues

14. During the consultation process along with census and socio-economic survey, efforts were made by the study teams to: (i) ascertain the views of the DP, with reference to land acquisition and road alignment; (ii) understand views of the community on resettlement and rehabilitation issues and rehabilitation options; (iii) identify and assess the major socio-economic characteristics of the villages to enable effective planning and implementation; (iv) obtain opinion of the community on issues related to the impacts on community infrastructure and relocation of the same; (v) examine DP's opinion on problems and prospects of road related issues; (vi) identify people's expectations from subprojects; and (vii) establish an understanding for identification of overall developmental goals and benefits of the Project.

C. Major Findings of the Consultations

15. During consultation process, it has been observed that DP have raised similar concerns like poor infrastructure facilities in the area, poor road conditions hindering transportation of agricultural products to market and access to schools and perceptions about resettlement

impacts and relocation concerns and their priority etc. Some of the major issues that were discussed and feedback received from the affected persons during the course of the consultations are summarized in the Table 2.

Table 2: Summary of Consultation

Positive Impacts	Negative Impacts
Easy transportation of agricultural products	Road creates environmental pollution
Decrease in truck traffic in core part of the city	Unwanted visitors may come
Improved access and decreased congestion within Phuentsholing	Road safety issues
Employment opportunity to work at road during construction, upgrading and maintenance	
Shops can be opened at road side	
Land value at road side will increase by manifold.	

D. Plan for further Consultation in the Subproject

16. The effectiveness of the resettlement and rehabilitation of DP is directly related to the degree of continuing involvement of those affected by the subproject. Several additional rounds of consultations with DP will form part of the further stages of subproject preparation and implementation. The PT will be entrusted with the task of RP implementation and will be conducting these consultations during RP implementation, which will involve agreements on compensation, assistance options, and entitlement package and income restoration measures suggested for the sub-project. The consultation will continue throughout the sub-project implementation.

17. The following set of activities will be undertaken for effective implementation of the RP: (i) during planning phase, the DP and other stakeholders will be consulted in selection of road alignment for minimization of resettlement impacts, and development of mitigation measures, (ii) during the implementation of RP, PCC officials will organize public meetings, and will appraise the communities about the progress in the implementation of subproject works, including awareness regarding road construction; and (iii) efforts will be made to include women in the consultation process.

E. Disclosure of RP

18. To keep more transparency in planning and for further active involvement of DP and other stakeholders, the subproject information will be disseminated through disclosure of Resettlement Planning document. A resettlement information leaflet containing information on compensation, entitlement and resettlement management adopted for the sub-project will be made available in local language and distributed to the AP. The AP will be provided information regarding specific entitlements. The PT will keep the AP informed about the impacts, the compensation and assistances proposed for them and facilitate addressing any grievances. A copy of the RP will be disclosed through the PT website and also in the ADB website. The cut-off date for those who have legal titles of their land/asset is the date of 1st notification of acquisition under the Land Act of 1979 (amended in 2007). The PT will act as Public Information Centres at the district headquarters closer to the Project site, which will be in a possession of all documents relating to the subproject, including compensation packages and grievance redress procedures, and will provide any information regarding compensation and grievance redress.

Through public consultations, the AP will be informed that they have a right to grievance redress from the PT.

V. GRIEVANCE REDRESS MECHANISMS

19. The Project will be conducted with a participatory process with the local communities. Through this, and the provision of good compensation and support mechanisms, acceptance of the Project will be enhanced and complaints reduced. There may nevertheless be individuals or groups who feel that they are not given adequate support, or that their needs are not properly addressed. The Project will therefore establish a Grievance Redress process in the existing mechanism of local committees (Geog Yargay Tshogchung, Dzongkhag Yargay Tshogdu), and the Dzongkhag/Dungkhag which will hear complaints and facilitate solutions. If the issue is not resolved, the individual/group may approach PT through the office of the local executive engineer. If the issue remains unresolved, people would have the right to approach the higher authority as per traditional practices including the Royal Government of Bhutan or His Majesty the King. The Complainants will be able to access the higher authorities and courts at any time should they be not satisfied with the proposed resettlement measures.

A. Procedures and Time Frame for Grievance Redress

20. A grievance redress mechanism will be established to receive and facilitate the resolution of concerns, complaints and grievances of affected people and relevant agencies on the social and environmental performance of the project in a time bound and transparent manner. The project specific GRM is not intended to bypass the government's own redress process, rather it is intended to address project affected people's concerns and complaints promptly, making it readily accessible to all segments of affected persons and is scaled to the risks and impacts of the project. While the affected person or party may submit their complaints concerning the project to any relevant agency, the steps recommended for the GRM are:

Step 1: If any affected person or party faces grievances related to environment, land acquisition or resettlements, he/she can approach the contractor, construction supervision consultants or PT site staff directly at the site level.

Step 2: If grievances are not addressed at the site level, the affected person or party can lodge a written grievance to the grievance redress committee (GRC) comprising of Sector Heads of the Dzongkhag Administration as well as Geog Officials. The affected person or party may also skip step 1 and directly file written grievance to the GRC. All grievances which cannot be address at the site level should be forwarded to the grievance redress committee within 15 days from the receipt of complaint. The committee must respond within 15 days. Further, the GRC will treat grievances of both male and female affected persons equally and address them fairly.

Step 3: If the affected person or party is not satisfied with the decision or he/she receives no response within 15 days of registering the grievance, he/she can approach the PT and finally, can appeal to the Royal Government of Bhutan or His Majesty the King.

VI. LEGAL FRAMEWORK

21. The resettlement policy, compensation and entitlements of displaced persons developed in this RP are based on the relevant laws being enforced in ADB SPS and RGoB. The private land required for the subproject will be acquired through Land Pooling. The relevant laws and the land pooling rules in RGoB are included in Appendix 1. If the DP does not agree to the land pooling process, the entitlement matrix present in Table 3 shall be followed.

A. Comparison of ADB Policy and RGOB Policy

22. The 2009 Land Pooling Rules that serves as the implementing rules and regulations in land acquisition for local area planning (LAP) has the elements required in planning preparation and implementation, such as: (i) public disclosure; (ii) public consultation; (iii) compensation for or replacement of loss of land and properties based on fair market value; and (iv) grievance and redress mechanism. By comparing the provisions of 2009 Land Pooling Rules as to their equivalence in ADB's SR 2, there are gaps noted from the policy of the former that need to be strengthened. These gaps are presented in **Appendix 2**.

B. Project Compensation Policy

23. In filling up the policy gaps, the following compensation and entitlement policy shall be applied for the subproject:

- (i) All displaced persons (titled and non-titled) will be fully informed and provided information on compensation (based on replacement cost of affected lands and other assets), entitlements and resettlement assistance, which are written in local language they fully understand;
- (ii) Non-agreeing landowners and absentee landowners will be compensated through depositing their compensation to escrow account for land and assets lost based on replacement value;
- (iii) Affected lands of displaced persons covered in land pooling will be confirmed in written records signed by the landowners, *dsongkhag tshogdu* or *thromde tshogdu*, and verified by the Office of Legal Affairs (OLA) – with copies will be retained by the three concerned parties;
- (iv) Any voluntary “donation” of land will be confirmed through verbal and written record and verified by an independent third party such as a designated non-government organization or legal authority, and ensures that such donation shall not severely affect the living standards of the displaced persons, and are linked directly to their benefits, with community sanctioned measures to replace any losses that are agreed upon through their written consent;
- (v) No additional land shall be acquired for any physical infrastructure components that will exceed the 30% maximum ceiling contributed by landowners to land pooling;
- (vi) Displaced persons, regardless of their ownership status on affected lands and whether the affected lands are part of the land pooling or not, shall be fully consulted and informed on the schedule of construction of physical infrastructures including the timeframe of delivery of compensation and benefits;
- (vii) There will be no physical or economic displacement in connection with the Project until: (i) compensation and other entitlements have been provided to affected people in accordance with the resettlement plan; and, (ii) a comprehensive income and livelihood restoration program has been established in accordance with the resettlement plan.

- (viii) The EA, to the extent possible, will include government lands for the proposed subproject to minimize the acquisition of lands from and its impacts to landowners;
- (ix) All eligible non-titled displaced persons who are affected by land acquisition are entitled to receive assistance to restore their income and livelihood at pre-project standards, and all vulnerable displaced persons are entitled to receive additional assistance on top of their compensation;
- (x) Resettlement identification, planning and management will ensure that gender concerns are incorporated, including gender specific consultation and information disclosure. This includes special attention to guarantee women's assets, property, and to ensure the restoration of their income and living standards.
- (xi) Adequate grievance mechanism will be in place with displaced persons having recourse with regards to non-delivery of benefits, prior to resettlement plan implementation;
- (xii) Institutional arrangements will be in place to timely and effectively design, plan, consult and implement land acquisition, compensation, resettlement and rehabilitation program;
- (xiii) Appropriate reporting, monitoring and evaluation mechanisms will be set in place as part of the resettlement management system. Where there are significant impacts, monitoring and evaluation of land acquisition under UIP, resettlement and rehabilitation processes and the final outcomes will be conducted by an independent monitor.
- (xiv) Land acquisition shall not be implemented without prior approval of resettlement plan from ADB; and
- (xv) Adequate budgetary support will be fully committed by the executing agency and made available to cover the compensation due to displaced persons and entitlements to vulnerable displaced persons.

VII. ENTITLEMENTS, ASSISTANCE AND BENEFITS

24. As indicated in Section VI. Land pooling will be the primary method for acquiring private land for the subproject. For non-agreeing titleholders of the land pooling process, the entitlement matrix present in Table 3 shall be followed.

Table 3: Entitlement Matrix

Item	Type of Loss/ Application	Entitled Person	Compensation Policy	Responsible Agency
1	Loss of land and assets	Non-agreeing Landowner or Absentee Landowner	Alternative land with equivalent characteristics if the affected land is the only land owned by the DP; OR compensation at market rates in accordance with PAVA rates. Lump sum shifting allowance of Nu. 1,500. Compensation for all structures and immovable assets on the land acquired in accordance with PAVA rates. Rights to salvage materials from structure improvements and other	ADB will confirm that PAVA rates are replacement value. Compensation for perennial crops and trees will be determined by the LARC through an assessment of market values in compliance with the Land Act of

Item	Type of Loss/ Application	Entitled Person	Compensation Policy	Responsible Agency
			assets constructed by the DP. Notice to harvest standing seasonal crops and trees. Compensation for perennial crops and trees based on market value. Provision of six-month notice. (Absentee landowners are entitled to all compensation valued at the same time land pooling civil works is initiated and deposited in the escrow accounts).	2007.
6.	Any other loss not identified.		Unanticipated involuntary impacts of land acquisition will be documented and mitigated based on the principles provided in ADB SPS	The implementing agency will document the unanticipated impacts.

VIII. RELOCATION OF HOUSING AND SETTLEMENTS

25. The subproject will not require any relocation of housing and settlements.

IX. INCOME RESTORATION AND REHABILITATION

26. The affected household will not require any income restoration or rehabilitation.

X. RESETTLEMENT BUDGET AND FINANCING PLAN

27. Land pooling will not require any cost aside from administrative cost, including monitoring of the land pooling process. Should the titleholder disagree with land pooling, then PT shall acquire the land in accordance to RGoB law, either through land-for-land or cash-for-land compensation. In case land pooling fails, the total budget needed for the resettlement is Nu. 11,666,629 including a 10% contingency.

Table 4: Estimated Resettlement Budget

	Items	Unit	Unit Cost	Total (Nu)
1	Compensation of private land (estimated based on replacement cost in case land pooling fails)	32,234 sq ft	325.93	10,506,027
2	Implementation of RP (including monitoring, consultation, and GRC)	1	Lump sum	100,000
Sub Total of A				10,606,027
Contingency (10% of the total cost)				1,060,602
Grand Total				11,666,629

XI. INSTITUTIONAL ARRANGEMENT

A. Institutional Requirement

28. For implementation of RP, there will be a set of institutions involve at various levels and stages of the subproject. For successful implementation of the RP, the proposed institutional arrangement with their role and responsibility has been outlined in this section. The primary institutions, who will be involved in this implementation process, are the following: (i) Phuentsholing Thromde; (ii) Project Management Office; (iii) Land Record Officer; (iv) Grievance Redressal Committees; and (v) Design, Procurement Assistance and Supervision Consultant (DPSC).

B. Resettlement Management

29. The PT will be the executing agency and implementing agency (EA/IA) for the subproject. A Project Implementation Unit (PIU), headed by a Project Coordinator (PC) will be established and be responsible for the overall execution of the subproject. Within the PIU, there will be Resettlement Specialist. The PT will ensure availability of budget for land acquisition. The PT administration will appoint a group of trained surveyors to assist resettlement activities through cadastral survey. The DPSC will providing monitoring of RP implementation. The DPSC will undertake the detailed design responsibility which includes updating the RP, if necessary.

30. The concerned PT officials will work in close coordination on the day-to-day activities of the resettlement plan and implementation. The PT officials will execute and monitor the progress of the work and ensure coordination between relevant departments, the Grievance Redress Committee and the DP.

XII. IMPLEMENTATION SCHEDULE

31. All land acquisition and resettlement process of the displaced persons must be completed before the start of the civil works. All land is to be provided free of encumbrances. Displaced persons from the affected households have to be given sufficient notice prior to start of civil works. The implementation schedule for the subproject is provided in Table 5.

Table 5: Tentative Implementation Schedule

Project Activity	2013				2014				2015				2016				2017			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Preliminary and Feasibility Study	■	■																		
Finalization of RP based on FS			■	■																
Approval of RP based on FS				■																
Disclosure of RP				■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Consultation with AP			■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Establishment of GRC							■	■												
Detailed Design								■	■	■	■	■								
Updating of RP per detailed design								■	■	■	■	■								
Submission and approval of Updated RP								■	■	■	■	■								
Disclosure of Updated RP								■	■	■	■	■								
Valuation and Compensation								■	■	■	■	■								
Handover of land to contractor												■								
Civil Works												■	■	■	■	■				
Monitoring												■	■	■	■	■	■	■	■	■

XIII. MONITORING AND REPORTING

32. The PIU officials will systematically monitor implementation of the RP. Since land pooling is the preferred method of acquiring private land, an external monitor will be in place to ensure that the land pooling procedures are followed and the process is undertaken free from coercion. External monitoring will be conducted by the DPSC.

33. The results of this monitoring should be summarized in reports that will be submitted to the Project authorities and to the ADB on a biannual basis.

APPENDIX 1: LEGAL FRAMEWORK

1. The appendix outlines all the relevant policies and regulations.

A. The Land Act of 2007

2. The Land Act of 2007 is the primary legal instrument in Bhutan in which overall objective is to manage, regulate and administer the ownership and use of land for socio-economic development and environmental well-being of the country. Enforced in January 2008, the law has also created the National Land Commission (NLC) vested with autonomous character and empowered to formulate policies, programs, regulations and guidelines which are previously exercised by the Ministry of Agriculture. The NLC was also given the authority to issue the *lag thram* (ownership certificate), register the land, or amend changes in the *thram*. The Commission is empowered to acquire land, allot substitute land and approve compensation. The salient features of the Act are:

3. Any land transaction taking place within the municipality will be approved by the NLC Secretariat. Landowners need not go to court to transfer the *thram*. It can now be done at the local level (i.e. *Dzongkhag*, *Gewog*, *Thromde*).

4. From 20 land categories, the Act has reduced them into seven categories, such as: (a) *Chhuzhing* (wetland), (b) *Kamzhing* (dry land including orchard), (c) *Khimza* (residential land), (d) industrial land, (e) commercial land, (f) recreational land, and (g) institutional land.

5. Power over land management has been streamlined and decentralized to local authorities like the *gewog tshongde*, *dzongkhag tshogdu*, and *Thromde*. The local bodies are empowered to resolve land disputes, endorse land transactions and conversion of land categories.

6. The Act recognizes the common disputes among landowners emanating from unclear land boundaries. It provides that before establishing any structure that is likely to affect the boundary of land, the landowner planning to construct a new structure would have to verify and ascertain the boundary with the landowner of the adjoining land and the local land record office.

7. Landowner with an independent *thram* has the exclusive right to transact his/her land or surrender the land to the government. Transaction of a piece of land registered under joint ownership should have the consent of all co-owners to the extent of the share of the owner transacting the land if specified in *thram*.

8. The Government is empowered to acquire a registered land for public interest with the owner will be provided with substitute land or cash payment or both as compensation. The landowner has the option to choose land or cash compensation in the rural areas.

9. Land owners in the *Thromdes* will receive cash compensation calculated by the Property Assessment and Valuation Agency (PAVA), created by the Act under the Ministry of Finance, for any land and property acquired. PAVA shall revise the compensation rate every three years. The government may provide substitute land if the plot acquired is the only land of the landowner.

10. Any government institutions may acquire registered private lands for public purpose. As required, the government agency applying for land acquisition must submit the application to the NLC for approval. If approved, the *Dzongkhag* Land Acquisition Committees (DLAC) shall serve

notices to the landowners at least three months prior to acquisition. The DLAC shall look for substitute land and process for forestry and environmental clearance. The compensation and valuation estimates for crops, land, fruit trees and structures must be processed accordingly. The DLAC shall prepare a detailed report and submit it to NLC within one month. Land shall be acquired only after the substitute land has been registered and the acquiring government agency has fully paid the cash compensation to the landowners.

B. The Thromde Act of 2007

11. The *Thromde* Act of 2007, which became effective in February 2008, empowers the RGOB to establish certain geographical, administrative or economic area in the country as a *thromde* or *throm* (urban area). The *thromde* or *throm* is a local government unit that may be further classified into a *gyelyong thromde*, *dzongkhag thromde*, *yenlag throm*, or *gewog throm* according to their respective socio-economic profile. They are responsible for providing urban infrastructure, services and land use development plans. The *thromde* or *throm* is established based on population, population density, land area, revenue and type of economic activity in the area. The *Thromde* Act of 2007 authorizes the *thromde* or *throm* to avail of loan for infrastructure development in accordance with the country's laws and regulations, with prior approval from the Government.

12. The *Thromde* Act of 2007 includes the provision for land pooling guided by land development in carrying out planned development in line with the government goal of ensuring the timely and sustainable provision of urban services. Also defined in the Act is the mechanism for land registration, prohibition of land transactions and land use conversions in areas subject to land pooling.

C. The Land Pooling Rules in the Kingdom of Bhutan, 2009

13. The rules and regulations on land pooling in Bhutan was an offshoot from the Land Act and the *Thromde* Act which were enacted by the Government in 2007. While both legislations have emphasized the need for land pooling (Section 112 and Section 118, respectively), they did not provide the guidelines or procedures for the implementation of the unified servicing and subdivision of separate landholdings for planned urban development. But on 12 August 2009, the MoWHS has issued a circular (I/UPDD/DUDES/Adm/2009/832) that promulgated for the adoption of the Land Pooling Rules and Regulations which was approved by RGOB. Such promulgation justifies the following key points over the need for land pooling:

14. By year 2020, 51% of Bhutan population will live in urban areas.

15. Owing to the country's hilly terrain, development of towns is resource intensive and mobilization of land for urban areas is extremely expensive and difficult.

16. Land acquisition is unpopular and brings a series of complications owing to irregular shapes of land plots held by land owners.

17. Bhutan with a total land area of 38,816 km² is a rapidly urbanizing country. In the preparation for the emerging urban trends, the MoWHS has prepared the National Urbanization Strategy (NUS) for the development of its limited land resources. It has identified about 58 urban centres, both existing and those with potential, where developments need to be managed.

18. In land pooling, all land owners contribute up to 25% but not exceeding 30% of their landholdings to provide the area required for infrastructure and amenities and retain the balance

area. This approach is a win-win arrangement for the Government and the landowners since the former saves the resources required for land acquisition and the latter retain the lands in which values are enhanced. However, land acquisition cannot be ruled out completely and may be necessary under certain circumstances. Land pooling undertakes two general processes, briefly described as follows:

D. The Planning Process

19. **Land ownership.** Copies of land ownership certificates are first collected. The certificates are then validated with the latest land survey records maintained by the local or city government. If there are any discrepancies noted, these shall be resolved by agreement between the local or city government and the landowners.

20. **Small plots.** If some existing plots are small (less than 4,000 square feet) they may become less than the minimum permitted size after they have been pooled. Such plots will be consolidated with other smaller plots. The new plot will be within the same local area with similar physical characteristics.

21. **Contribution ratios.** The contribution ratio will be similar among landowners to the extent possible. Since there is already an approved policy on land pooling under UIDP, the contributions required to optimize to land pooling averages to 29% and will not exceed beyond 30%. The contribution ratio may vary within the site to reflect the proportion of land that a landowner may have already contributed to create existing access roads.

22. **Moratoriums.** The Project Implementation Unit will approve the pooling of land. Following the official endorsement of land pooling, a moratorium (prohibition) of all physical development will be declared, including all development plans that have not been approved. Moratorium shall be at least 18 months on an extendable basis. Public notices will be displayed on the site subject to land pooling and printed in mass media for the announcement of the start of the land pooling process.

E. The Legal Process

23. **Property Ownership issues.** If the landowner has no certificate of land ownership and if the local information can substantiate the claims, the land will be registered and a temporary certificate is issued to his/her name, prior to the issuance of a permanent certificate after the pooling. Only land with proper title, free of encroachment, and free of disputes will be included in land pooling.

24. The land pooling will include clear building by-laws that define the regulations for the development of a plot that covers (a) plots coverage, (b) maximum height, (c) set back and side margins, (d) architectural appearance, (e) wastewater disposal, (f) fire protection, etc., consistent with the Development Construction Regulations in Bhutan. It will also include planning by-laws that regulates the land uses/activities that may take place within the development site as determined in the dominant land use zones. The by-laws will be established by the Government and agreed upon with landowners. The by-laws shall be enforced when LAP layout plans are formally approved and the moratorium is lifted. Illustrated in **Figure 1** is the flowchart for land pooling currently enforced in Bhutan.

F. Potential Issues in Land Pooling

25. Certain issues are associated with land pooling with respect to participation by land owners. While there are landowners who shall agree, there are also those landowners who would not agree or who could not be reached as they are in another place. Landowners who agree on land pooling are considered participating landowners who shall be the direct beneficiaries of urban services and in the increase on the economic value of their lands due to reclassification from agricultural to urban residential areas. The agreeing landowners will sign the agreement of their participation in land pooling. In the final analysis, the value of urban residential land is much greater than the amount of compensation the agreeing landowners will receive for all their affected houses and lands which are currently valued for agricultural use.

26. The non-agreeing landowners will not be eligible to receive benefits from land pooling. The Government will acquire the land and will be provided with: (i) alternative land with equivalent characteristics if the affected land is the only land of the displaced person; or (ii) compensation at market rates in accordance with PAVA rates. (The rates are subject to confirmation by ADB if the rate applied under PAVA is replacement value). The displaced person will also be compensated for all assets on the land acquired at replacement value.

27. There shall be landowners in the subproject areas that live elsewhere and shall be considered as absentee landowners. If all efforts have been done but owners cannot be reached, their lands and immovable assets thereon will be acquired. Compensation for affected properties will be valued the same as that of the non-agreeing landowners and will be deposited in escrow accounts.

G. ADB's Social Safeguard Policy Requirements

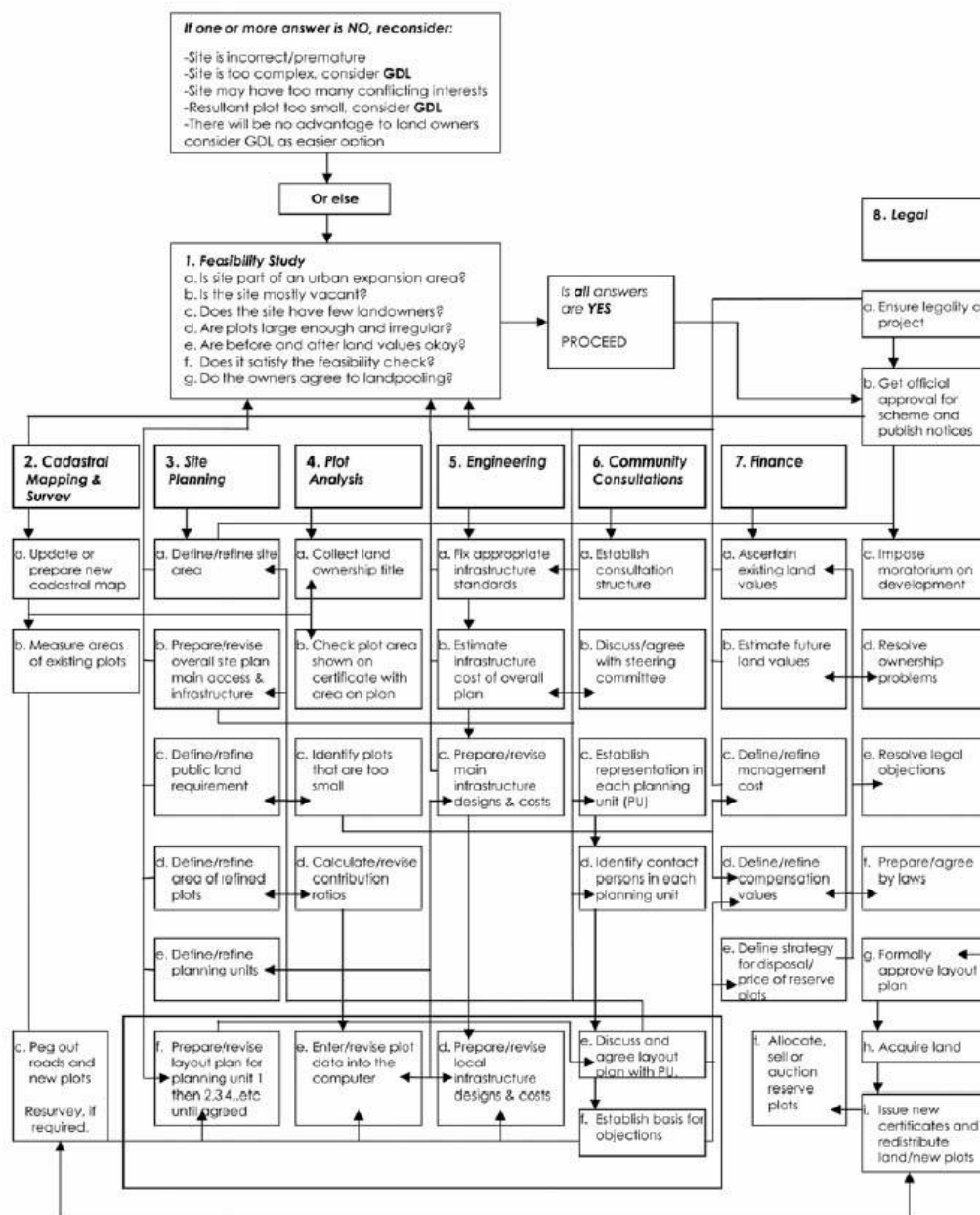
28. Defined in ADB's 2009 SPS, the objectives of involuntary resettlement are: (i) avoid involuntary resettlement whenever feasible; (ii) minimize involuntary resettlement by exploring project and design alternatives; (iii) enhance the livelihoods of all displaced persons in real terms relative to pre-project levels; and (iv) improve the standards of living of the displaced poor and other vulnerable groups. Its scope range from physical displacement (relocation, loss of residential land, or loss of shelter) to economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of (a) involuntary acquisition of land, or (b) involuntary restrictions on land use or on access to legally designated parks and protected areas. Further, it stipulates whether such losses and involuntary restrictions are full or partial, permanent or temporary.

H. Other ADB's Cross-cutting Policy Themes

29. The Bank's other cross-cutting policy themes consist of: (i) Gender and Development (1998) which adopts gender mainstreaming as a key strategy for promoting gender equity, and for ensuring that women participate and that their needs are explicitly addressed in the decision-making process for development activities; (ii) Public Communications Policy (2012) that seeks the active participation of affected people and other stakeholders during the development and review of safeguard policies on ADB-assisted programs and projects. The Project Executing Agency (EA) shall make available the RP to affected people; and (iii) Accountability Mechanism (2003) which is part of ADB's continued efforts to enhance its capacity in responding to and/or resolving the problems associated with the implementation of its policies in all programs or projects it assists. It consists of a consultation phase and a compliance review phase, by which the problems or issues raised by the affected people and/or stakeholders are investigated and

resolved. Prescriptions from these cross-cutting policy themes of the Bank shall be incorporated and defined in the appropriate sections of the RP.³

Figure 1: Flowchart of Land Pooling Process in Bhutan⁴



³ ADB's policies are revised from time to time, and if the policies above are revised during implementation, they will be applied to the project only upon agreement with the government.

⁴ Adopted from the Revised Resettlement Framework for Land Pooling-related works of Component A (Thimpu): Bhutan Urban Infrastructure Development Project (November 2010); Project Number 38049; downloaded from ADB website.

APPENDIX 2: COMPARISON OF ADB POLICY REQUIREMENTS AND THE LAND POOLING RULES OF THE RGOB 2009

Points of Policy Comparison	ADB SPS, 2009	2009 Land Pooling Rules	Measures to Bridge Gaps
1. Project Disclosure	The public, stakeholders and DP should be fully informed about the: (i) project and its components; (ii) project benefits; (iii) environmental and social impacts; (iv) compensation policy and assistance measures; (v) grievance and redress mechanism; (vi) schedule of project execution, among others.	After the feasibility study for LAP has been initiated, the <i>thromde</i> may advertise the propose declaration of land pooling in newspaper, television and radio.	For infrastructure projects to be implemented, PT will fully inform the public, stakeholders and displaced persons and provide them PIB, in addition to advertisement in newspaper, television and radio. The ADB policy requirements should be followed with respect to disclosure of infrastructure projects which the Bank assists.
2. Consultation	Meaningful consultation is required which needs the active participation of stakeholders and the DP in all stages of the Project cycle. Public should be consulted on how to minimize the impacts of land acquisition. DP should be consulted and incorporate their recommendations, where appropriate, in the Resettlement Plan.	Consultation is extensive in land pooling process. It involves presentations and meetings with local area representatives. Further consultations are conducted with the public and considered the outcome of the consultation in finalizing the LAP.	Both the 2009 Land Pooling Rules and SR 2 are consistent in consultation policy requirements.
3. Compensation	The absence of title to the land is not a bar to compensation. Compensation for land and other immovable assets thereon should be based on replacement value; Compensation for house and structures should be based on replacement value without provision for deduction of	Compensation to landless is not directly expressed in 2009 Land Pooling Rules. If landowner has other landholdings, cash compensation based on PAVA rates; If land acquired is	Compensation to landless displaced persons should be categorically expressed in the resettlement plan. Cash compensation on land based on PAVA rates shall be adopted if they are equivalent to replacement values acceptable to ADB. The executing agency shall be responsible for

Points of Policy Comparison	ADB SPS, 2009	2009 Land Pooling Rules	Measures to Bridge Gaps
	accumulated depreciation or salvageable value of construction materials.	substituted with undeveloped land, landowner is compensated with half the cost of acquired land. Families who become landless will be allotted with land per Land Act of 2007. Compensation for house and structures is based on Bhutan Scheduled Rates (BSR) without provision for depreciation. BSR rates are 5% higher than market rates as it includes cost of materials and labor. Compensation for other immovable assets is also based on replacement cost.	issuance of new title named to both husband and wife. If land is substituted with undeveloped land, this should be acceptable to displaced persons in written agreement with executing agency shall spend for the issuance of a title named to both husband and wife. The 2009 Land Pooling Rules on compensation for house and other structures is consistent with ADB's Safeguard Requirements 2. The same is observed in the compensation for immovable assets.
4. Category of Displaced Persons	The DP consist of (i) person with formal legal rights to the land lost; (ii) person with no formal legal rights to such lands but with claims to such lands that are recognized or recognizable under national laws; and (iii) person with neither formal legal rights nor recognized or recognizable claims to such land.	As the provisions in 2009 Land Pooling Rules suggests, the categories of affected persons are titled landowners and non-titled families. The titled landowners are further sub-classified as agreeing landowners, non-agreeing landowners and absentee	Both the 2009 Land Pooling Rules and SR 2 are consistent in the category of displaced persons, they only differ in terminology. For emphasis in resettlement plan, the category of displaced persons in 2009 Land Pooling Rules should be adopted in resettlement plan.

Points of Policy Comparison	ADB SPS, 2009	2009 Land Pooling Rules	Measures to Bridge Gaps
		landowners.	
5. Vulnerable Persons	Provision of allowances and assistance on top of compensation to vulnerable groups.	There is no definition of and provision for assistance to vulnerable persons.	Allowance and assistance should be provided to vulnerable groups. These should be included in resettlement plan Entitlement Matrix.
6. Gender and Development	Promotes gender equity and ensures that women participate and their needs are explicitly addressed in the decision-making process for development activities.	There is no clear provision on gender. But in practice, gender equity is observed in Bhutan, and women are involved in family decision-making.	Gender equity should be reflected as compliance in resettlement plan to ensure that women participate and their needs are explicitly addressed in the decision-making process for development activities.
7. Grievance Redress Mechanism	The mechanism should facilitate the resolution of displaced persons concerns about physical and economic displacement and other project impacts paying particular attention to the impacts on vulnerable groups.	The grievance mechanism is clearly defined. It provides for Consultative Committee including the number of its members.	Traditional systems of grievance redressal is strong.
8. Monitoring and Evaluation	Both the internal and the external monitoring are directly focused on the social aspect of land acquisition. The former is for the achieving the list of compliance while the latter is for the quality of compliance and achievement of resettlement objectives.	PT will perform internal monitoring and the DPSC will perform external monitoring.	To ensure that internal and external monitoring are clearly defined, the prescriptions in SR 2 should be adopted in preparing and implementing the resettlement plan.