

Resettlement Framework

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Papua New Guinea: Highlands Region Road Improvement Investment Program

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CURRENCY EQUIVALENTS

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Currency Unit – Kina (K)

K1.00 = \$0.44

\$1.00 = K2.28

ABBREVIATIONS

ADB	-	Asian Development Bank
AP	-	Affected people
BM&E	-	Benefit Monitoring and Evaluation
CEP	-	Community Engagement Program
COA	-	Certificate of Alienability
CRP	-	Community Relations Program
DLO	-	District Lands Officer
DLPP	-	Department of Lands and Physical Planning
DMS	-	Detailed measurement survey
DOW	-	Department of Works
EA	-	Executing Agency
EHP	-	Eastern Highlands Province
GoPNG	-	Government of Papua New Guinea
HH	-	Highlands Highway
HRMG -	-	Highlands Region Maintenance Group
HRRIIP	-	Highlands Region Roads Improvement Investment Program
IA	-	Implementing Agency
IMO	-	Independent monitoring organization
LIR	-	Land Investigation Report
LLCM	-	Local Land Court Magistrate
LLG	-	Local-Level Government
LSD	-	Lands and Survey Division
MFF	-	Multi-Tranche Financing Facility
M&E	-	Monitoring and Evaluation
MOA	-	Memorandum of Agreement
NGO	-	Non-governmental organization
NRA	-	National Roads Authority
NTDP	-	National Transport Development Plan
PA	-	Provincial Administrator
PLO	-	Provincial Land Officer
PNG	-	Papua New Guinea
RF	-	Resettlement Framework
RP	-	Resettlement Plan
SHP	-	Southern Highlands Province
SP	-	Subproject Profile
SPF	-	Special Project Facilitator
T1	-	Tranche 1
T2	-	Tranche 2
WHP	-	Western Highlands Province

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I. INTRODUCTION

1. The Resettlement Framework (RF) for the Highlands Region Road Improvement Investment Program (HRRRIIP) had been prepared originally in line with the ADB Involuntary Resettlement Policy (1995) at the time of processing of the overall Multi-Tranche Financing Facility (MFF) and Tranche 1 (T1). The RF has been updated during the preparation of Tranche 2 (T2) changing the policy reference from ADB's Involuntary Resettlement 1995 to Safeguard Policy Statement 2009 (SPS) and clarifying some provisions particularly the negotiated agreement with landowner groups on use of required land for road widening and the compensation for affected assets. The amended RF will guide the preparation of the T2 and subsequent subprojects where land acquisition is required.¹ At the beginning of the subsequent tranche of the HRRRIIP, the policies and provisions of the RF will be further reviewed and, as required, updated to reflect the conditions and requirements for upgrading roads, but without lowering the standards set out in the present RF. Resettlement Plans (RPs) have been prepared for two sub-projects under the T1 and three subprojects under the T2. RPs will be prepared for subsequent tranches as well, if subprojects involve land acquisition/resettlement impacts.

A. Project Description

1. Overview of the Highlands Region Roads Improvement Investment Program for Papua New Guinea

2. The HRRRIIP is a comprehensive 10-year (2008-2018) program to upgrade, rehabilitate and maintain roads in the Highlands Highway (HH) network in Papua New Guinea (PNG).² The Government of Papua New Guinea (GoPNG) is undertaking this program with assistance from the Asian Development Bank (ADB) in the form of an MFF of approximately US\$400 million.

3. The goals of the HRRRIIP are to support economic growth by improving rural access to market centers, leading to increased exports and integration of the Highlands Region and its population into the mainstream economy of PNG; and, to facilitate access to social and education facilities in the region. The economic and social benefits of a comprehensive road transport network will contribute to poverty reduction in the Highlands region.

4. The Executing Agency (EA) for the HRRRIIP is the Department of Works (DOW); the Implementing Agencies will be (i) the Highlands Region Maintenance Group (HRMG) for all civil works for road upgrading and rehabilitation and (ii) the National Roads Authority (NRA) for ongoing road maintenance works for designated national roads.

2. Eligibility Criteria for Inclusion of Roads in HRRRIIP

5. The following criteria are used to determine the eligibility of road sections for inclusion in the HRRRIIP.

- i. It is an existing or former road, that is, the road bench exists and restitution of a trafficable road does not require major earthworks or construction of structures.

¹ The term "land acquisition" in the RF has been used as a process to obtain land through negotiation. The land expropriation or compulsory land acquisition is not expected under the program.

² The Highlands Highway network includes a total of 2,490 km of national and provincial roads that constitute the key trunk and feeder roads in the seven Highlands provinces. Recently completed and ongoing works have been financed by ADB, AusAID and the GoPNG to upgrade, rehabilitate and/or maintain approximately 1,100 km of roads in the Highlands Highway network; about 700 km of these roads are presently in maintainable condition.

- ii. It connects area(s) with a population greater than 10,000 people and/or potentially significant economic activities to the existing highway network.
- iii. The actual or anticipated traffic on the candidate road exceeds 400 vehicles per day.
- iv. The subproject meets a target benefit/cost ratio.
- v. The subproject does not duplicate a road that is already part of the HRRIP or other funding programs to upgrade, rehabilitate and maintain roads in the Highlands region. If some diversion of existing traffic is expected, the implication on the viability of the existing route must be taken into account in the analysis.
- vi. The local population as well as district and provincial administrators have clearly stated their support for upgrading and rehabilitation of the candidate road, for example, as expressed in community consultations or through other forums.
- vii. The proposed works does not involve significant displacement of residential structures or other permanent structures.
- viii. The candidate road is on State-owned land (as per the Land Act), or there is a negotiated agreement with affected communities and landowners to use customary land.
- ix. The candidate road and the works to upgrade, rehabilitate and maintain do not endanger or provide access to at-risk fauna or flora.
- x. The candidate road and the works to upgrade, rehabilitate and maintain do not have any other significant adverse environmental or social impacts.

6. These criteria will be used during a subproject screening process to identify eligible subprojects (see also, Section V.A, below). With specific reference to potential impacts resulting from the acquisition of land, the screening process will identify the types and nature of potential impacts and provide adequate measures to address them so as to ensure that affected persons (Aps) are (i) informed about their options and rights; (ii) included in a consultation process and given the opportunity to participation in the selection of eligible subprojects; and, (iii) provided with prompt and effective compensation at replacement cost for loss of or damage to affected assets.

7. In the event that the candidate road does not comply with these criteria, DOW and HRMG will review the proposed works and modify them to ensure acceptability of the road for inclusion in the HRRIP.

3. Scope of HRRIP Tranche 1 (T1)

8. The scope of the first tranche (T1) of the HRRIP includes two components: (i) upgrading, rehabilitation and maintenance of 113.796 km of priority national roads in Enga Province and Southern Highlands Province (SHP) composed of the Mendi-Kandep road (49.602 km) and the Laiagam-Porgera road (64.194 km); and (ii) ongoing maintenance of 368 km of maintenance (routine and periodic) -only sections of the Highlands Highway.

4. Scope of HRRIP Tranche 2 (T2)

9. The Tranche 2 (T2) comprises three subprojects: (i) Lalibu – Kagua (31.78 km) in Southern Highlands Province, (ii) Kotna – Lapramp (31.65 km) in Western Highlands Province and (iii) Mendi – Tambul (55.53 km) in Southern and Western Highland Provinces. These three subprojects under tranche 2 have a total length of 118.96 km. There is also a maintenance component for 10 years involving the same three subprojects in the T2 roads (routine and periodic) – only sections of the Highlands Highway after the completion of construction component.

B. Scope of HRRIP Land Acquisition and Impacts

10. A key objective of the HRRIP is to avoid the acquisition of land to upgrade and rehabilitate roads in the HH network and, where that is not possible, to minimize the impacts of land acquisition on the people, communities and economic activities along the HRRIP road sections. However, engineering design to meet agreed standards requires additional land, e.g., to widen the bench or upgrade road drainage structures.

11. The detailed designs for T1 and T2 roads indicate that the amount of additional land for the upgraded road infrastructure (inclusive of the drainage structures) varies from 4.0 – 5.0 meters beyond the existing road width. The types of impacts that are incurred include losses of the following assets: (i) make shift (bush materials) houses (ii) semi-permanent trade stores, that will be shifted back a few meters (iii) food crop gardens, primarily sweet potato and Irish potato; (iv) cash crop gardens, predominantly vegetables; (v) damage to fences; (vi) graves, (vii) loss of hardwood trees planted adjacent to roads. Temporary land acquisition will occur where contractors need to establish construction camps. Resettlement impacts under T1 and T2 are summarized in Table 1 below.

Table 1 Land Acquisition Impacts under T1 and T2

Details	Unit	T1 Roads	T2 Roads
Length	Kilo meter	113.796	118.96
Affected Land Area	Square meter	1,091,357.36	1115692.75
Number of APs			
Tribe/Clan	Tribe/Clan	67	24
Households	Households	4409	1988
Affected Assets			
House	Number of Houses	21	10
Trade Store	Number of trade stores	26	25
Other Structures	Number of farm structures	44	14
Fences	Meter of fences	78979.43	13456

Graves	Number of graves	882	21
Tree Crops	Number of trees	29481	3,523
Single Plants & Trees	Number of plants and trees	213555	18,681
Clump Plant & Trees	Number of plants and trees	542958	63,389
Trees and Plants by area	Square meter	285848	374
Edible Single Plants	Number of plants	122172	5,842
Vines or Clump Plants	Number of plants	23114	1,231
Mound Plants	Number of mound	48949	2,659
Forest Trees	Number of trees	139709	26,097

Source: T 1 and T2 DMS results

12. The T1 and T2 projects are classified as Category B with respect to involuntary resettlement, due to the assessment that land acquisition impacts will not be significant as per ADB policies. RPs have been prepared for subprojects that require additional land to upgrade and rehabilitate roads (see Section V.C, below). Subsequent tranches will be assessed for any potential land acquisition/resettlement issues at the time of their feasibility and RPs will be prepared following the RF. The routine and periodic maintenance of roads under the HRRIP will not require the acquisition of any land; all maintenance will be carried out within the existing roadway.

C. Land Tenure in PNG

13. This section identifies the existing situation regarding land tenure along roads in the Highlands region. Issues regarding customary land in PNG are summarized in Appendix 1: Issues on Acquiring Customary Land.

14. Only about 3% of lands are state-owned while 97% of lands are under customary land rights recognized in the Constitution and the legal system of PNG.

15. The Lands and Survey Division (LSD) of DOW has confirmed that all T1 and T2 road sections are located on customary land that has not been alienated to the State as per the Land Act. Subsequent subproject roads are also expected to be on customary lands. However, there is a 297 meter stretch of government-owned land in the Mendi-Kandep sub-project and some parcels of affected private land in the Laiagam-Porgera sub-project under T1.

16. The HRRIP adopts that the DOW will collaborate with the Department of Lands and Physical Planning (DLPP) to negotiate a Memorandum of Agreement (MOA) with community leaders and affected landowners to use the minimum additional land necessary to upgrade the road. See Appendix 2: HRRIP Approach in Obtaining MOA on Use of Customary Lands. For private land owners, they will be compensated for their affected lands. AllIPs will be compensated for loss of or damage to crops, trees, structures or other assets on the additional land needed to upgrade the road, as per the policies of this Resettlement Framework. This is discussed further in Section III, below.

II. POLICY AND LEGAL FRAMEWORK

17. The policy framework and entitlements for land acquisition/resettlement are based on the laws, regulations and policies of the Government of Papua New Guinea (GoPNG) and the ADB safeguard policy. The principal PNG laws include: (i) the 1975 Constitution; (ii) the 1996 Land Act; and, (iii) the 2000 Land Disputes Settlement Act; (iv) Fairness of Transaction Act (1993) (v) Land Group Incorporation (Amendment) Act (2009), and (vi) Customary Land Registration Act (2009).

18. While T1 was prepared under the ADB Policy on Involuntary Resettlement (1995), T2 and subsequent tranches will follow the SPS.

A. PNG Legal Framework

19. In PNG, the majority of land is customary land where ownership of specific territorial areas is vested in descent groups or clans. Clan members or “primary right holders” are co-owners, with rights to use but not to alienate land. They own/possess these lands as stewards for future generations. Land ownership and use is an integral part of the identity, the sustenance and the social relations of clans; property rights are inherited from ancestors and maintained in trust for future generations.

20. The State has no authority over customary land other than the provisions of the Land Act to acquire customary land for public purposes upon payment of just compensation. Provincial roads as well as many national “feeder” roads have generally been developed on customary land that has not been alienated by the State. The use of customary land requires agreement of customary landowners.

1. PNG Constitution

21. The 1975 Constitution explicitly provides for the adoption of custom as part of the underlying law of PNG (Schedule 2), thus recognizing the property rights attached to customary land. During the colonial administration, the 1963 Customs Recognition Act stated that “custom shall be recognized and enforced by, and may be pleaded in, all courts...” (Art. 3(1)(a)). Following independence, these principles were reaffirmed in the Constitution and, subsequently, in the 2000 Underlying Act. Customary law is defined as the rules, rights and obligations pertaining to an individual or group by custom and tradition; and, according to the 2000 legislation, it shall apply and be recognized by the courts where written and underlying laws do not apply and except as it is inconsistent with written law.

22. The Constitution also guarantees the right of PNG citizens to protection from unjust deprivation of property (Art. 53). No land or interest in land may be acquired compulsorily by the State except as it is required for public purposes or other justifiable reasons. Moreover, in the event of expropriation of land, “just compensation must be made on just terms by the expropriating authority” (53(2)).

2. Land Act

23. The Land Act (No. 45 of 1996) sets out the conditions and procedures for the State to acquire customary land required for public purposes such as roads, tracks, bridges, culverts and quarries. The key provisions of the Act are in Appendix 3: Salient Provisions of 1996 Land Act.

3. Land Disputes Settlement Act

24. The Land Disputes Settlement Act (No. 10 of 2000) was initially adopted in 1975. It sets out rights and procedures related to the resolution of disputes involving customary land. It recognizes as parties to these disputes, customary kinship groups, customary descent groups and customary local groups or communities (S2). It also requires that proceedings take into account relevant customs (S35 (1) (d)). The Act provides for the establishment of a Provincial Land Disputes Committee, as well as Land Courts at the local (LLG), district and provincial levels. The Committee can appoint land mediators for specified land mediation areas where disputes occur; a mediator may be the Local Land Court Magistrate (LLCM), a Village Magistrate, a Local Councillor or other senior person of good standing with the litigants. The Act promotes a process for resolution of land disputes through (i) a first step of mediation; if mediation fails, it is followed by (ii) appeal to the designated courts. The mediation process is based on the principles of traditional dispute settlement in PNG.

4. Fairness of Transaction Act (1993)

25. The Fairness of Transaction Act of 1993 relates to the effect of certain transactions, to ensure that they operate fairly without causing undue harm to, or imposing too great a burden on, any person, and in such a way that no person suffers unduly because he is economically weaker than, or is otherwise disadvantaged in relation to, another person. The purposes of this Act are to (a) ensure the overall fairness of any transaction which (i) is entered into between parties in circumstances where one party is for reasons of economic or other advantage predominant and the other is not able to exercise a free choice; or (ii) for one reason or another, without attaching any evil design or bad faith, appears to be manifestly unfair or not to be genuinely mutual; and (b) allow for the re-opening and review of any transaction irrespective of fault and validity, enforceability or effect of any agreement; and (c) ensure the fair distribution and adjustment of rights, benefits, duties, advantages and disadvantages arising out of a transaction. Transaction means any contract, promise, agreement, dealing or undertaking of an economic or commercial nature whether supported by consideration or not entered into between parties, and includes (a) an informal, complete or incomplete transaction; and (b) a transaction governed by customary law.

5. Land Group Incorporation (Amendment) Act and Voluntary Customary Land Registration Act

26. These Acts were brought into effect in 2011, following recommendations from the National Land Development Taskforce. The Acts recognize the corporate nature of customary groups and allow them to hold, manage and deal with land in their customary names, and for related purposes. These also facilitates the voluntary registration of customary land, to be known as "registered clan land", and makes that land available for development through the use of Incorporated Land Groups (ILGs). These laws encourages (a) greater participation by local people in the national economy by the use of the land; (b) better use of such land; (c) greater certainty of title; (d) better and more effectual settlement of certain disputes; (e) legal recognition of the corporate status of certain customary and similar groups, and (f) conferring on them, as corporations, of power to acquire, hold, dispose of and manage land, and of ancillary powers; and (g) encouragement of the self-resolution of disputes within such groups.

B. ADB Safeguard Policy Statement

27. SPS became effective and applicable on January 1, 2010. The SPS was formulated to address the emerging challenges of development, respond to lessons learned from its experience with its old safeguard policies, and adapt to its new lending modalities and financing instruments. Under an MFF arrangement such as the HRRIP, if the management review on any tranche is done after the effectivity of the SPS, the tranches are governed by the SPS. This means that the applicable ADB policy on involuntary resettlement for tranche 2 (T2) and subsequent tranches will be the SPS.

28. The SPS, Safeguard Requirements 2: Involuntary Resettlement aims to avoid or minimize the impacts on people, households, businesses and others affected by the land acquisition required by a project. The scope of the policy includes physical and economic displacement as a result of (i) involuntary acquisition of land, (ii) involuntary restriction on land use and (iii) involuntary restriction of access to legally protected areas. The objectives are to: (i) avoid involuntary resettlement wherever feasible, and minimize involuntary resettlement through assessing project alternatives and alternative project designs. (ii) enhance or at least restore the livelihoods of all APs in real terms relative to pre-project levels and improve the standards of living of the affected poor and other vulnerable groups.

29. The SPS's policy principles on involuntary resettlement are as follow: (1) Screen early and assess resettlement impacts; (2) Carry out consultations with APs and develop a grievance redress mechanism; (3) Improve/restore livelihoods of APs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate; (4) Provide appropriate assistance to physically displaced APs; (5) Improve living standards of poor APs and other vulnerable groups; (6) develop transparent procedures for negotiations; (7) provide assistance and compensation to non-titled APs for loss of non-land assets; (8) Prepare RPs; (9) disclose RPs to APs and other stakeholders and document the consultation process; (10) conceive and execute resettlement as part of the project; (11) deliver entitlements to APs before their physical or economic displacement; and (12) monitor and assess resettlement outcomes.

30. The SPS, Safeguard Requirements 3: Indigenous Peoples defines indigenous peoples (IPs) as "those with a social or cultural identity distinct from the dominant or mainstream society, which makes them vulnerable to being disadvantaged in the processes of development." The SPS recognizes the potential vulnerability of IPs or ethnic minorities in the development process; that IPs or ethnic minorities must be afforded opportunities to participate in and benefit from development equally with other segments of society; and, have a role and be able to participate in the design of development interventions that affect them.

31. The ADB Accountability Mechanism Policy (2012) provides an independent and effective forum for people adversely affected by ADB-assisted projects to voice their concerns and seek solutions to their problems, and to request compliance review of the alleged non-compliance by ADB with its operational policies and procedures that may have caused or is likely to cause, them direct and material harm. It consists of two separate but complementary functions: (i) the problem solving function led by the Special Project Facilitator who will respond to problems of local people affected by ADB-assisted projects through a range of informal and flexible methods; and, (ii) the compliance review function led by the Compliance Review Panel to investigate alleged non-compliance by ADB with its operational policies and procedures that has caused or are likely to cause, direct and material harm to project-affected people. The relevant ADB operations department has the

initial responsibility to respond to the concerns of affected people in coordination with project executing agencies.

32. The following table provides the comparison of PNG laws and ADB SPS requirements on land acquisition and resettlement, the assessment of equivalence or gaps between ADB SPS and PNG laws, and gap-filling measures included in the RF. When HRRRIIP roads require land acquisition and resettlement, measures adopted in the RF will apply wherever a gap exists between PNG laws and ADB SPS. While there were some challenges on timely completion of negotiated agreements on land use, updated RPs and compensation at replacement cost for affected assets under T1, these measures will be pro-actively implemented under T2 and subsequent tranches.

Comparison of PNG Laws and ADB SPS on Land Acquisition and Resettlement

ADB SPS Requirements on Involuntary Resettlement	PNG Laws on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and PNG Laws	Gap-filling Measures
Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives.	The National Constitution (NC) National Goal 5(4) calls for 'traditional villages and communities to remain as viable units of Papua New Guinean society'. Section 53 protects citizens from 'unjust deprivation of property' by limiting the justification for compulsory acquisition by the State.	No explicit reference to the need for avoidance or minimizing resettlement impacts.	The RF includes measures on avoiding/minimizing land acquisition. Subprojects RPs identify specific measures for the same.
Enhance, or at least restore, the livelihoods of all displaced persons in real terms relative to pre-project levels. Improve the standards of living of the displaced poor and other vulnerable groups.	General principles of compensation for damage or destruction of physical and economic assets are set out in NC s.53, Land Act (LA) s.23.	PNG Laws do not prescribe measures of replacement cost or restore/improve standard of living.	The RF and RPs include measures on compensation at replacement cost for affected assets and to restore/improve living standard of APs.
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.	LA sets out the process for Land Investigation Report which includes identification of affected clans/tribes and their assets.	No specific requirements for census, cut-off date, impact assessment and resettlement planning.	The RF includes measures on survey/census, cut-off-date, assessment of impacts and resettlement planning. Subprojects RPs include specific information on these aspects.
Carry out meaningful consultations with APs, host communities, and concerned NGOs. Inform all displaced persons of their	NC National Goal 2(9) calls for every citizen to be able to participate, either directly or through a representative, in the	No specific provisions for preparing and implementing	The RF includes measures on consultations with APs, including vulnerable groups, during preparation and implementation of RPs.

ADB SPS Requirements on Involuntary Resettlement	PNG Laws on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and PNG Laws	Gap-filling Measures
<p>entitlements and resettlement options. Ensure their participation in planning, implementation, and monitoring and evaluation of resettlement programmes. Pay particular attention to the needs of vulnerable groups, especially those below the poverty line, the landless, the elderly, women and children, and Indigenous Peoples, and those without legal title to land, and ensure their participation in consultations.</p>	<p>consideration of any matter affecting his interests or the interests of his community.</p>	<p>RP based on meaningful consultations with APs, including the poor, the landless, elderly, women, and other vulnerable groups</p>	<p>Subproject RPs document specific consultation, information and participation measures.</p>
<p>Establish a grievance redress mechanism to receive and facilitate resolution of the affected persons' concerns. Support the social and cultural institutions of displaced persons and their host population. Where involuntary resettlement impacts and risks are highly complex and sensitive, compensation and resettlement decisions should be preceded by a social preparation phase.</p>	<p>Land Disputes Settlement Act provides for measures on resolution of disputes and grievances through both local mediation as well as court process.</p>	<p>No requirements for a project-specific grievance redress mechanism.</p> <p>No specific requirement for a social preparation phase for highly complex and sensitive projects.</p>	<p>The RF and RPs include measures on project-specific grievance redress mechanism.</p> <p>The Program is not expected to involve highly complex and sensitive projects, so it is not needed to have a separate phase.</p>
<p>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</p>	<p>Principles of compensation set out in NC s.53, LA s.23.</p>	<p>No specific requirement for land-based resettlement, replacement of assets, compensation at replacement cost, and benefit sharing.</p>	<p>The RF and RPs include measures of on-site relocation/replacement of affected structures, compensation at replacement cost for affected assets on additional land and priority of project employment to APs.</p>

ADB SPS Requirements on Involuntary Resettlement	PNG Laws on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and PNG Laws	Gap-filling Measures
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 comparable access to employment and production opportunities, integration of resettled persons economically and socially into their host communities, and extension of project benefits to host communities; (ii) transitional support and development assistance, such as land development, credit facilities, training, or employment opportunities; and (iii) civic infrastructure and community services, as required.	PNG allow people eligible for compensation to receive their entitlements in cash.	PNG laws have no specific provisions on relocation, transitional support and civil infrastructure and services.	The RF and RPs include measures on-site relocation of affected structures to the adjoining land and transitional allowances.
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.	NC and LA include general principles of compensation for damages or losses.	PNG Laws do not prescribe measures on improvement of living standard and restoration of livelihoods.	The RF includes measures on restoration/improvement of livelihoods APs. Subprojects RPs identify specific number of such APs and additional assistance to them.
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	NC National Goal 2(9) calls for 'every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community'.	PNG Laws do not specifically require third-party verification of negotiated agreement.	The RF describes procedures for the negotiation on use of additional land with landowner groups through memoranda of agreements (MOAs) to be verified by a third-party. Subprojects RPs include MOAs signed with respective landowner groups.

ADB SPS Requirements on Involuntary Resettlement	PNG Laws on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and PNG Laws	Gap-filling Measures
and livelihood status.	<p>LA sets out procedures for outright purchase or lease.</p> <p>The Land Group Incorporation Act and Voluntary Customary Land Registration Act enable incorporation of land groups and to register titles to customary land. These laws allow negotiated lease or transfer of such land.</p> <p>The Fairness of Transaction Act sets out rules on fairness of transactions.</p>		
Ensure that displaced persons without titles to land or any recognizable legal rights to land are eligible for resettlement assistance and compensation for loss of nonland assets	LA s.13-15 provides some entitlement to compensation to any people with 'an interest' in land over which the State exercises its power of compulsory acquisition.	PNG Laws do not provide entitlement to non-titleholders who do not have legal interest on land.	The entitlement matrix for the project provides for resettlement assistance and compensation for non-land assets to non-titled APs without legal interest.
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.	NC National Goal 2(3) calls for 'every effort to be made to achieve an equitable distribution of incomes and other benefits of development among individuals and throughout the various parts of the country'.	PNG Laws have no provision of preparing RP.	The RF includes measures on preparation of RP for subprojects involving land acquisition/resettlement impacts.
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.	NC National Goal 2(9) calls for 'every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community'.	No specific requirements on disclosures.	The RF includes disclosure measures, including posting of RF and RPs on ADB website, providing clan leaders/APs with a summary RP or information brochure in a local language.

ADB SPS Requirements on Involuntary Resettlement	PNG Laws on Land Acquisition/Resettlement	Equivalence or Gaps between ADB SPS and PNG Laws	Gap-filling Measures
Conceive and execute involuntary resettlement as part of a development project or programme. Include the full costs of resettlement in the presentation of project's costs and benefits. For a project with significant involuntary resettlement impacts, consider implementing the involuntary resettlement component of the project as a stand-alone operation.	No equivalent provision	Gap.	Land acquisition/resettlement costs will be included and financed out of the project cost.
Pay compensation and provide other resettlement entitlements before physical or economic displacement. Implement the resettlement plan under close supervision throughout project implementation.	No equivalent provision	Gap.	The RF includes measures on payment of compensation for affected assets before start of civil works on affected land. Subproject RPs include implementation schedule accordingly.
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.	No equivalent provision	Gap.	The RF and RPs include monitoring measures, including requirements of semi-annual safeguard monitoring report by EA and third party monitoring.

III. HRRIP ENTITLEMENT AND COMPENSATION POLICIES

33. The HRRIP will comply with both ADB's safeguard requirements and PNG's laws and regulations applicable to land acquisition and resettlement. The resettlement objectives and policy principles for HRRIP are as follows:

- Land acquisition and resettlement will be avoided or minimized through careful engineering design.
- APs will be consulted meaningfully and effective mechanisms will be established for hearing and resolving grievances.
- Social assessment will be undertaken and RPs will be prepared for roads involving land acquisition/resettlement.
- APs will receive compensation at replacement cost for their loss of assets and

- necessary assistance to ensure that they will be as well off as without the project.
- Such compensation will be paid to APs prior to commencement of civil works.
 - Absence of formal title will not be a bar to compensation or assistance. Particular attention will be paid to women, the elderly and other vulnerable people.
 - Land acquisition and resettlement will be conceived of as part of the project and related costs will be included in and financed out of the project cost.
 - Resettlement impacts, including any unforeseen losses that may occur during construction will be monitored and remedial steps taken as required

34. The following section elaborates on key aspects of HRRIP policies, including: a) measures to avoid and minimize land acquisition/resettlement; b) entitlements to compensation; c) entitlements to rehabilitation assistance; d) eligibility for compensation and rehabilitation assistance; e) financing and payment of compensation and allowances; and, f) coordination of land acquisition activities and civil works.

A. Avoiding and Minimizing Land Acquisition/Resettlement

35. In order to avoid or minimize land acquisition/ resettlement impacts, the inclusion of a candidate road as an HRRIP subproject is contingent on compliance with the agreed eligibility criteria (Section I.A.2, above). The engineering design for road upgrading and rehabilitation will avoid or minimize the need to acquire additional land outside the existing road, to the extent feasible and consistent with agreed design standards and good engineering practice.

B. Compensation Entitlements

36. In the PNG context, the land acquisition impacts of the upgrading, rehabilitation and maintenance of the HRRIP roads may include one or more of the following (i) permanent use of customary land, as required to permit upgrading and rehabilitation of the road; (ii) temporary use of customary land, as required to establish construction camps; and, (iii) damages to crops, trees and/or structures on affected lands and/or due to ancillary works. Table 3 (Section III. D) summarizes the compensation entitlements in an Entitlement Matrix. The following sections describe the process for negotiation, entitlements, and calculation of compensation costs.

1. Negotiation for Use of Customary Lands

37. For most public works in PNG, the government authorities often consult with landowners who claim an interest in the land and obtain land through negotiation. The project will continue this tradition of negotiation. When an HRRIP subproject involves a road that is located on customary land, the HRMG will collaborate with the Provincial Land Officer (PLO) and/or the District Land Officer (DLO) in order to enter into negotiations with landowners to acquire the right to use additional land required to upgrade and rehabilitate the road or on a temporary basis to accommodate other activities related to the HRRIP. The use of customary land needed to upgrade or rehabilitate the road will be negotiated through a MOA with the community leaders and affected landowners and this will be verified by a third-party. The continued use of customary land where the existing road is located will also be negotiated at the same time and relevant provision included in the MOA. See Appendix 4: Memorandum of Agreement and third-party verification format. The experience so far shows that agreements with leaders of landowner groups and communities can be achieved through successful negotiations, but the process requires concerted efforts and time. According to subproject selection criteria, the road will not be funded under HRRIP if such

an agreement cannot be reached. Private affected lands, if any, will be compensated based on the prevailing market rates of land in the area.

2. Compensation for Damages to Crops, Trees and Structures

38. Crops and trees may be damaged or lost due to the civil works, as a result of earthworks, upgrading drainage structures and other works. Semi-permanent and temporary structures such as roadside trade stores, fences or animal shelters may need to shift back or be relocated to accommodate civil works or to ensure they are in a safe location. Roadside graves will also be affected.

39. APs who own crops, trees and/or structures that are damaged or lost are entitled to compensation to replace these assets. The compensation rates and amounts shall be determined in the following manner:

a. Annual Crops

40. In the first instance, APs will be encouraged to harvest annual crops; the clearance of the additional land will be timed, to the extent possible, to enable APs to harvest. In this case, no compensation will be paid for crops because APs will be able to use the crops to meet household consumption needs and/or to generate cash income.

41. If APs are unable to harvest prior to clearance of the land, compensation will be paid at replacement cost based on current market prices in the subproject areas.

b. Perennial Crops and Trees

42. For perennial crops and fruit trees, APs will be encouraged to harvest the current year's crop; the clearance of the additional land will be timed, to the extent possible, to enable APs to harvest. In this case, no compensation will be paid for the current crop because APs will be able to use the crops to meet household consumption needs and/or to generate cash income.

43. Compensation for lost plants and/or trees will be paid at replacement cost based on current market prices. The HRRIP will also pay an additional grant equal to the lost income for the period of time until new perennial plants or fruit trees produce a yield similar to the lost plants and trees. For example, in the case of mature coffee trees, the lost income would be incurred over a 3- or 4-year period. If APs have not been able to harvest the current year's crop, the grant for lost income will take this into consideration.

44. For timber trees, APs will be required to cut the trees prior to clearance of the additional land; they will be permitted to harvest the trees and sell the timber.

c. Fences

45. For fences constructed of wood, metal or concrete, APs will be provided the compensation at replacement based on current market price (per meter) for similar fencing materials, as determined in the subproject area plus labor costs.

46. For vegetation fences, the compensation will be paid in accordance with replacement cost of plant material used or their commercial value plus labor costs, whenever applicable. Trees used as fences or part of fences will be compensated separately as fruit or timber trees.

e. Structures

47. Along HRRIP roads, semi-permanent or temporary structures have been constructed as trade stores. As they are located close to the road, it may be necessary to shift these buildings back in order to upgrade the road. In this instance, APs will be provided compensation at replacement cost to cover the costs of this activity. They may also be eligible for an allowance due to disruption of their businesses (see below, Section III.C.1 and 2).

48. The additional land required to upgrade roads is not expected to affect residential structures or other permanent structures. Nonetheless, if such structures are affected, APs are entitled to compensation at replacement cost for the materials and labor to repair or reconstruct a similar structure. In addition, these APs are entitled to a moving allowance to relocate their possessions (see below, Section III.C.3).

e. Graves

49. Compensation will be paid at replacement cost ensuring that the compensation received is equal to the costs for reburial and construction of new graves which are similar to the affected graves. Specific costs will be determined for each RP.

3. Calculation and Payment of Compensation

50. The initial assessment of affected assets will be made at the time of feasibility study, to be followed by the detailed measurement survey (DMS) and valuation/replacement cost survey (RCS) after completion of the detailed engineering design (see also, Section VI.C.2, below, for details). Compensation rates will be negotiated with APs based on RCS/valuation. For this purpose, DOW will engage a valuer/appraiser to review the applicability of available rates, undertake survey of current market prices and recommend compensation rates at replacement costs for subprojects. DOW will negotiate with APs and finalize these rates.

51. All compensation rates and the amount of the compensation for damaged crops, trees and structures will be verified and approved by the office of the Valuer General.

52. APs are entitled to payment of all compensation prior to clearance of land and start of civil works. HRMG will ensure that all procedures are followed to facilitate payment of APs prior to the start of civil works.

53. In the case of affected crops, trees and structures, the compensation owed will be paid directly to the person who owns these assets. For example, if women cultivate affected gardens, the compensation will be paid to the affected women.

54. In the event that the losses or damages incurred during civil works are different from those assessed during the DMS and RCS, HRMG will make appropriate adjustments in the compensation amounts, seek verification and approval from the Valuer General and ensure that APs are paid promptly.

C. Entitlements to Rehabilitation Assistance

55. The HRRIP will support APs to restore their living conditions and standards in the most efficient, effective manner possible; and will provide assistance in the following situations:

1. Shifting Allowance

56. APs that own a structure that is used as a trade store or for other business purposes that must be shifted a short distance to a location outside the area designated for the road are entitled to an allowance to cover the loss of business income while the structure is being shifted. The value of the allowance will be calculated based on the RCS and DMS.

57. At the time that the shifting allowance is paid, the structure owner will sign an agreement with HRMG and/or DLO regarding the date by which the structure will be removed from the land required to upgrade/rehabilitate the road.

2. Business Disruption Allowance

58. APs that own a trade store whose business is disrupted due to lack of access caused by civil works are entitled to an allowance to cover the loss of business due to this disruption. The value of the allowance will be calculated based on RCS and DMS for a period equal to number of days of disrupted business.

3. Moving Allowance³

59. APs that relocate housing are entitled to a moving allowance to cover the costs of moving their possessions to the new location. This allowance will be paid in cash or, if organized by HRMG and/or LLG officials, in the form of provided transport.

4. Vulnerable APs

60. The proposed project will assist the following vulnerable households: (i) APs with monthly income of less than 130 kina (i.e., the country's national poverty threshold or US\$60, the international poverty threshold); (ii) AP household heads whose age is 65 or older; (iii) female-headed household heads; and (iv) household heads who are physically and/or mentally incapacitated (disabled).

61. It is possible that some APs fall in more than one of these vulnerable groups; they are therefore eligible to receive the allotted entitlements for each count of vulnerability. Nearly all households in the high lands are headed by men and those headed by women are among the poorest.

62. While initial findings show that there are few women-headed households, women in the project areas generally appear to be at-risk considering the following:

- i. Women literacy rates are lower than men (men literacy is from 10% to 40%).
- ii. Women equally, if not, even more than the men bear economic responsibilities for the family by doing farm work and vending of produce.
- iii. High maternal mortality rates (370 deaths per 100,000 live births).
- iv. 87% of HIV+ people are in the rural areas and men in PNG commonly have multiple sexual partners and therefore wives and their newborns are at risk.

³Allowance to be given should there be AP's whose house will be affected

- v. Women who engage in commercial sex in vehicle stops along the high way.
- vi. High degree of sexual violence within marriages.

63. However, a positive characteristic of the priority HRRIP areas is the presence of organized women's groups that can serve as vehicles of change for empowering the women to rise above their unfavorable state.

HRRIP will implement:

- i. Contractor specifications for provision of HIV/AIDS awareness and prevention programs as well as health promotions in construction camps and surrounding communities.
- ii. Extensive community relations and participation program involving women linked to different aspects of subproject preparation and implementation.
- iii. Long-term participatory social monitoring study to track benefits among different road user groups.
- iv. Priorities for employment of local men and women for civil works and routine road maintenance.

5. Project Employment

64. People affected by permanent or temporary loss of land or by damage or loss of crops, trees or structures will be given priority for employment by contractors for civil works and/or maintenance works on the road, in accordance with their qualifications to do the work.

6. Income Restoration Measures

65. Field investigations conducted so far suggested that mostly existing makeshift/temporary structures will just have to shift back (outside of the maximum road width as determined in the detailed design) to accommodate the road upgrading. Roadside businesses of vending stall owners will resume after settling in the new positions of stalls. Shifting allowance will be provided to cover the loss of business income while the structure is being moved.

66. There will be use of land during construction and/or maintenance periods, e.g., construction camps and temporary storage for materials and equipment, and as a result will disrupt business activities on land near the road. However, use of land will be temporary in nature and incomes from businesses will be restored once construction and maintenance activities cease. Disruption allowance will be provided to people whose businesses will be temporarily affected due to construction and maintenance work.

67. In case any subproject involves significant impacts to APs livelihoods, income restoration measures will be included in the RP for the subproject.

7. Indigenous Peoples

68. The HRRIP project areas have the following principal linguistic/tribal groups: the Huli and Duna in western SHP; people belonging to Angal and other Mendi-speaking groups in central SHP; and, Enga-speakers and Iplii in Enga Province. Following the ADB definition of

Indigenous People “as those with a social or cultural identity distinct from the dominant or mainstream society which makes them vulnerable to being disadvantaged in the processes of development”, the project will not need an Indigenous People Plan because while APs may fall under 5 different tribal/linguistic groups, they are considered as part of the mainstream society and of the population living in highland areas which generally characterizes PNG. Inspection of the project areas and interaction with the people in the proposed project sites reveals that the people experience the same social problems and opportunities as other tribes and linguistic groups. Social divides are more pronounced in clans and sub-clans, and living in urban or rural areas rather than by tribe or linguistic group.

D. Entitlement Matrix

69. The following Entitlement Matrix summarizes the entitlements to compensation and rehabilitation assistance for the HRRIP.

Table 3: HRRIP Entitlement Matrix

Type of Impact	Entitled Person	Entitlement	Expected Results	Implementation
Affected Land				
Temporary use of land	Customary land: Land users as recognized by clan leaders	Use of the land will be acquired through negotiated lease with landowners. Rent as negotiated under the lease. In the case of extraction of materials (e.g., gravel) from the land, the civil works contractor will negotiate directly with the landowner to reach agreement regarding the payment of royalties.	Compensation (in form of land lease) for use of land.	The agreement to use customary land whether temporarily or permanently will be negotiated based on the following conditions: a) landowners agree to and support the upgrading and rehabilitation of the road; b) landowners are consulted and make informed decisions regarding agreements to use land; and c) they guarantee on behalf of all clan members that they will not disrupt the project in other ways.
	State-owned land: Users or occupants	No compensation will be paid for use of the land. Cash compensation at replacement cost will be paid for any damaged crops, trees, fences or other structures on project-affected land (see below).		
Permanent use of land	Customary land: Land users as recognized by clan leaders	Use of the land will be acquired through a negotiated Memorandum of Agreement with landowners.	Agreements on use of customary land.	In the case of customary land used temporarily, the cost of restoration of the land following its use will be the responsibility of Contractors as part of their Contracts.
	State-owned land: Users or	No compensation will be paid for use of the land. Cash compensation at		

Type of Impact	Entitled Person	Entitlement	Expected Results	Implementation
	occupants	replacement cost will be paid for any damaged crops, trees, fences or other structures on project-affected land (see below).		
Other Affected Assets				
Annual crops	Owners of the crops	<p>Compensation for loss of or damage to annual crops on project-affected land as follows:</p> <p>a) APs given notice to harvest crops before clearance or removal from required land; OR, if APs are not able to harvest</p> <p>b) cash compensation calculated at replacement cost based on local market prices.</p>	Compensation for damage to or loss of standing crops to ensure income restoration	<p>DOW will engage a valuer/appraiser to determine compensation rates at replacement cost based on market prices.</p> <p>All compensation rates and amounts will be verified and approved by the office of the Valuer General.</p>
Perennial crops and trees, including timber trees	Owners of crops and trees	<p>Compensation for losses or damages as follows:</p> <p>a) APs given notice to harvest crops before clearance or removal from required land; AND,</p> <p>b) cash compensation for lost plant or tree calculated at replacement cost based on market prices.; AND,</p> <p>c) in the case of perennial crops and trees, a grant equal to the lost income for the period of time until new plants or trees produce a yield similar to the lost plants/trees; OR</p> <p>d) in the case of timber trees, APs will be permitted to harvest trees and sell the timber.</p>	Compensation for damage to or loss of perennial crops and trees to ensure income restoration.	<p>All compensation assessed according to the DMS and RCS shall be paid in full prior to the beginning of civil works. If further damage or loss occurs during civil works, HRMG will carry out supplementary assessments and take steps to get approvals for and payment of additional compensation to which APs are entitled as rapidly as possible.</p>
Fencing	Owners of fencing	<p>For wood and metal fences, cash compensation equal to the replacement cost at local market prices for the type of fencing materials lost or damaged.</p> <p>For vegetation fences, cash</p>	Restoration of affected structures.	<p>All compensation shall be paid to the owners of the affected assets. If, for example, women's gardens are affected, the</p>

Type of Impact	Entitled Person	Entitlement	Expected Results	Implementation
		compensation at replacement cost for the appropriate type of plant material.		compensation will be paid to the affected women.
Graves Sites and Graves	Owners of graves	Compensation will be paid at replacement cost ensuring that the compensation received is equal to the costs for reburial and construction of new graves	Restoration of affected structures	
Residential and other permanent structures	Owners of the structures	Cash compensation for loss or damage of structures on project-affected land at replacement cost (i.e., full value of replacement materials and labor at current market value, together with any other transaction costs).	Restoration of Affected structures	For structures, no deductions will be made to compensation paid for depreciation or the value of salvaged materials
Allowances				
Shifting back of Semi permanent and temporary structures	Owners of structures	A shifting allowance to compensate for lost business revenues while shifting the structure to a location outside the area designated for the road.	Restoration of livelihood / economic activities.	The allowances for shifting structures and loss of business income will be assessed by a valuer or RCS in the RP based on the duration of impacts, e.g., to shift a structure and the loss of income.
Disruption of business activities due to civil works	Owners of trade stores and other roadside businesses	A disruption allowance equal for the number of days that business is disrupted due to lack of access or other consequences of civil works	Restoration of livelihood / economic activities	At the time that the shifting allowance is paid, the trade store owner will sign an agreement with HRMG and/or DLO regarding the date of removal from the land required for upgrading the road.
Relocation of housing	Owners of residential structures	A moving allowance to cover the costs of moving personal possessions, paid in cash or in kind (e.g., provision of transport).	Restoration of living conditions.	
Vulnerable APs	APs that are female	Additional one-time cash grant to head of AP	Livelihood restoration,	

Type of Impact	Entitled Person	Entitlement	Expected Results	Implementation
	household heads, handicapped and/or elderly, as determined during census and social surveys	household according to severity of impacts and vulnerability. Specific amounts to be specified in the RP.	poverty reduction and social development	
Subproject affected people	APs including vulnerable APs.	<p>Priority for paid work for civil works and/or ongoing maintenance for subproject road, assuming qualifications to do the work.</p> <p>Contractor specifications for provision of HIV/AIDS awareness and prevention programs in construction camps and surrounding communities</p> <p>Extensive community relations and participation program involving women linked to different aspects of subproject preparation and implementation</p> <p>Long-term participatory social monitoring study to track benefits among different road user groups</p>	Poverty reduction measure and social development	
Unforeseen Impacts	Unforeseen impacts will be documented and mitigated based on the principles agreed in this RF and ADB SPS.			

E. Eligibility for Compensation and Rehabilitation Assistance

70. In order to avoid or minimize the incidence of encroachment onto land required for upgrading and rehabilitation of roads, the identification of APs and affected assets and the negotiation of entitlements to compensation and/or rehabilitation assistance will occur following detailed engineering design and immediately prior to the initiation of civil works. This will be done in a manner to ensure full consultation with and disclosure to APs and communities regarding the requirements for land acquisition, as well as the policies and procedures of the HRRIP (see also, Section IV.A.3, below). The date of community consultations to address land acquisition will be deemed, for the community in question, to be the "cut off" date for eligibility for compensation and rehabilitation assistance:

- i. Landowners and/or users that have documented claims to affected land, crops, trees and/or structures as of the cut-off date will be eligible for compensation and/or rehabilitation assistance as per the project policy.
- ii. Any person or group that occupies or uses land required for upgrading and rehabilitation of the road after the cut-off date will not be eligible for any compensation and/or rehabilitation assistance; they will be required to remove from the land as per the provisions of the Land Act.

F. Payment of Compensation and Resettlement Activities

71. The HRRIP adopts the principle that all compensation for affected assets will be paid at replacement cost based on current market prices. DOW will coordinate with DLPP and local authorities for effective and efficient implementation of compensation payment and relocation activities. The RP for subprojects will describe detailed activities and schedule on implementation.

72. If payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates (e.g. PNG Consumer Price Index) to ensure that APs receive compensation at replacement cost at the time of compensation payment. Changes to compensation amounts will be verified and approved by the office of the Valuer General.

G. Coordination of Land Acquisition Activities with Civil Works

73. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until (i) compensation and relocation of APs have been satisfactorily completed; (ii) agreed rehabilitation assistance is in place; and, (iii) the site is free of all encumbrances.

IV. CONSULTATION, DISCLOSURE AND GRIEVANCE REDRESS

74. In compliance with GoPNG and ADB policies and priorities, the HRRIP will ensure a transparent and accountable process for land acquisition/resettlement as required, to upgrade, rehabilitate and maintain roads in the Highlands Highway network. This section presents and discusses the HRRIP procedures for stakeholder consultations, disclosure and grievance redress.

A. Consultations and Information Dissemination

75. Dissemination of information and consultation with stakeholders will occur at different points in the preparation and implementation of tranches/subprojects, to ensure that APs and other stakeholders have timely information about land acquisition/resettlement and compensation. The HRMG working in collaboration with the Department of Lands and Physical Planning (DLPP), Provincial Administrations (PA) and local authorities will organize the following information and consultation activities. The updated RF and RPs of the sub-projects will be published in the ADB website and relevant information properly disclosed to all levels of stakeholders from the concerned national and local government agencies, communities, to the directly affected persons prior to the appraisal of T2 or any succeeding tranches. Community consultations which may be facilitated by government and NGO representatives, popular media broadcasts and/or written materials such as a public

information booklet (PIB) in the local language or dialect shall be used as means for disclosure.

1. Consultations during Preparation of the HRRIP, Tranche 1 and Tranche 2

76. During preparation of the overall HRRIP, Tranche 1 and Tranche 2, consultations were held in Enga, SHP and WHP with provincial and district authorities, as well as representatives of Provincial AIDS Councils, Provincial and District Women's Councils, development enclaves, private business houses, local radio stations, NGOs and community organizations. Community consultations and women's focus groups were conducted in several villages on each of the T1 and T2 roads; and, small sample surveys were conducted with households, market sellers, trade store owners and PMV drivers and passengers. A number of people and organizations involved in these consultations also made the effort to communicate their views in writing. Main points raised during the consultations are:

- i. Unanimous support for the upgrading, rehabilitating and maintaining roads in the Highlands region due to a wide range of economic and social benefits (e. rehabilitation of coffee gardens, diversification of coffee factories, expansion of cash cropping for wider markets because of improved accessibility, reduced cost for transport of goods, and better access to health care, education and other services, improved family ties and social network, among others) identified by the participants. Women understand that road improvements offer them particular benefits related to their responsibilities to grow food, opportunity to engage in businesses, and better care for the health and education of their children.
- ii. Communities are prepared to make customary land available without compensation in order to facilitate the upgrading and rehabilitation of roads. However, there were some questions on the compensation of affected trees and crops that were affected by previous efforts of DOW to upgrade and rehabilitate one of the roads proposed under Tranche 2. Further consultations with affected clans/tribes have been undertaken and corrective actions included in the resettlement planning document for the relevant road section.
- iii. Some concerns have, nonetheless, been raised by participants: road safety and accidents, risk of HIV/AIDS due to improved mobility of population, and other social problems such as drug and alcohol abuse, increased prostitution, tribal conflicts, road blocks, and banditry. Among people who may be directly affected by additional land requirements, some trade store owners are concerned that their businesses will be disrupted and/or they will have to move.

2. Further Consultations during Implementation

77. During implementation of the HRRIP, further consultations will be carried out with provincial and district administrations, APs and other stakeholders during the work to conduct the initial screening of candidate roads and to prepare the Subproject Profile (SP)⁴. During these consultations, HRMG will disclose information regarding the scope and objectives of the HRRIP and the subproject; the policies, principles and procedures for land acquisition/resettlement; and, preliminary estimates of land acquisition/resettlement requirements and impacts.

⁴See also Section V, below, for a description of the HRRIP procedures for preparation of the SP.

a. Consultations with Affected People and Communities

78. As part of the development of HRRIP subprojects to ensure safeguards planning, HRMG will implement a Community Relations Program (CRP) with communities located along subproject roads. The CRP will be organized with the collaboration of provincial, district and local-level government (LLG) authorities; and, will involve consultations and other activities related to land acquisition/resettlement, enhancement of benefits for communities and mitigation of adverse environmental and social impacts. HRMG will organize to ensure the involvement of other stakeholders in the CRP as appropriate including, among others, the Department of Land and Physical Planning (DLPP) and National Road Authority (NRA).

79. An important component of the CRP is community consultations when it is required to prepare a Resettlement Plan (RP). Following detailed engineering design for a subproject HRMG will organize consultations with each community affected by land acquisition/resettlement. Participants will include appointed and traditional leaders in the village, affected landowners and all other interested members of the community. Village leaders will encourage all community members to attend including women, elderly people and young people; because women are often reluctant to speak in general community meetings, as relevant, separate meetings may be held with them to understand and discuss their preferences and concerns. HRMG will be joined by the PLO and/or DLO and representatives of the office of the Valuer General, LLG Ward Councillors and local police. See Appendix 5: Scope of CRP Consultations.

b. Socio-Economic Profiles of Subproject Communities

80. Various surveys to be undertaken under HRRIP will also facilitate consultation with and information disclosure to APs. The HRRIP will include provisions for longitudinal monitoring of the social benefits associated with upgrading, rehabilitating and maintaining roads in the Highlands Highway network. In conjunction with the preparation of detailed engineering design, a baseline social survey will be conducted in communities along the subproject road. For subprojects where additional land is required for road improvements, the design and implementation of the social survey will ensure appropriate baseline data including:

- i. Inclusion of 10% of APs and 20% of severely affected APs in the samples of households and business owners that are surveyed;
- ii. Baseline data to document the existing social, economic and poverty conditions of AP households; indicators will include, among others, demographic, education, income and occupational profiles; livelihood and production systems, economic activities, income sources and poverty levels; access to and use of land and natural resources, tenure security and common property resources; and, social and cultural systems and networks. All data must be disaggregated, as relevant, by gender, tribal group and income group.

3. Disclosure of the RP

81. The summary brochure containing relevant information including the entitlement matrix, grievance procedures, and timing of payments will be disclosed to APs at each subproject site involving land acquisition. The full RP will be made available in English, the official administrative language in PNG, in accessible public locations, such as the LLG office. Village leaders and AP households will be provided with a summary RP or brochure prepared in *TokPisin* (the official local language of PNG).

B. Grievance Redress

82. A grievance redress process will be established to ensure that all AP grievances on any aspect of the rights to use additional land and/or compensation for affected assets are resolved in a timely and satisfactory manner. The grievance redress mechanism will apply equally to the negotiation of the MOA. APs will be made fully aware of their rights (both verbally and in writing) and informed how they can access to the grievance redress mechanism.

83. APs can initiate a project related complaint by filing a written or oral complaint addressed to HRMG as the implementing agency. Within 5 days upon receipt of complaint, the HRMG will furnish a written summary of the complaint to the AP, provincial land officer and/or district land officer and the tribe/clan where the AP belongs with a notice of a conciliation meeting not later than 10 days from the receipt of the complaint of the AP.

84. During the meeting, HRMG will receive, clarify and simplify the issues involved and would try its best efforts to resolve the issues involved which would be acceptable to the AP and DOW. If there is no agreement reached, HRMG may schedule a final conciliation meeting to provide both parties the final opportunity to re-think and consolidate their positions.

85. The schedule of the final hearing should be not more than 10 days after the first hearing. Both parties may re-negotiate the offer made during the first hearing and may introduce new arguments and evidences to support their respective positions. After the summation of their respective positions, the HRMG shall decide the issues involved based on the policies governing HRRIP, prevailing laws of PNG and customary laws of the place where the dispute arose.

86. If the AP is not satisfied with the HRMG's decision, the AP may then take the grievance to the PNG judicial system. In this case, HRMG and DLO will hold the compensation amounts in escrow. Compensation will be paid in full upon final resolution of the case in the courts or other forum, in accordance with the entitlements of the affected person as decided by the court of competent jurisdiction.

87. The Land Disputes Settlement Act establishes judicial procedures for resolution of landownership disputes on customary land. It has a mediation process whereby a designated mediator meets with the disputing parties to resolve grievances. This process is closely allied with the village court system and traditional mediation procedures that draw on the skills of recognized local leaders and elders.

V. HRRIP Procedures for Assessment of Impacts and Preparation of Resettlement Plan

88. For each HRRIP subproject, the HRMG will supervise and manage the preparation of a Subproject Profile (SP) that summarizes the engineering design and feasibility assessments for the proposed upgrading and rehabilitation works, including issues of

additional land requirements⁵. The steps in this process include an initial subproject screening, preparation of the SP and, as required, preparation of a Resettlement Plan (RP); and, internal and external monitoring of land acquisition activities.

A. Subproject Eligibility

89. During the initial stage of the preparation of HRRIP subprojects, the Department of Works (DOW) and the Highlands Region Maintenance Group (HRMG) will assess the compliance of the candidate road with the agreed eligibility criteria (see Section I.B.1, above).

90. The screening process will identify the types and nature of potential impacts associated with the acquisition of land/resettlement and identifies measures to avoid or minimize impacts.

91. In the event that the candidate road does not comply with these criteria, DOW and HRMG will review the proposed works and modify project design to ensure that land acquisition/resettlement impacts are minimized.

B. Subproject Profile – Scope of Land Acquisition and Compensation

92. The HRMG (or its engineering consultant) is responsible for preparation of the Subproject Profile (SP). The scope of the SP includes (i) preliminary engineering design for works to upgrade and rehabilitate the road; and, based on that, (ii) assessments of economic, environmental, social and land acquisition impacts and (iii) estimates for the costs for civil works and mitigation of impacts.

93. With respect to any anticipated requirements for additional land/resettlement to upgrade the road, HRMG and/or its consultant will assess the scope of these requirements and their impacts by completing a Subproject Screening Form as found in Appendix 6. On the basis of the screening, HRMG (and/or its consultant) will recommend one of the following approaches to the further development of the subproject:

- i. Further redesign of the subproject to minimize the extent and the costs associated with requirements for additional land/resettlement.
- ii. The preparation of an RP for the subproject if there are land acquisition/resettlement impacts including losses of or damage to crops, trees, fences and other structures.
- iii. In the event of no physical or economic displacement, this will be reported in the SP along with a due diligence report confirming that there is no need to prepare the RP. The Due Diligence Report will include:
 - a brief description of the site including a location map and pictures
 - a description of proposed works and type of activities
 - confirmation of land status, ownership, and usage (supported by deeds of title/records)
 - findings of the field visit and observations on the subproject site
 - process and outcome of consultations with land owners/users and other relevant stakeholders. Records of meetings (attendance, minutes etc)
 - confirmation whether there are any land issues and whether a RP is needed.

⁵ As noted above (Section I.A.2), maintenance-only subprojects do not require the acquisition of additional land. Therefore, this section focuses on the formulation and implementation of resettlement plans for subprojects to upgrade and rehabilitate existing roads, as required.

94. The SP will be submitted to DOW and ADB for approval for funding under the MFF; the Subproject Screening Form and all other relevant information about land acquisition requirements and impacts will be included in the SP.

C. Subproject Resettlement Plan

95. A Resettlement Plan (RP) (See Appendix 7: Outline of a Resettlement Plan as per SPS 2009) will be prepared for each HRRIP subproject that, based on detailed engineering design, will involve additional land/resettlement impacts to upgrade and rehabilitate the road. The RP will be prepared by the HRMG (and/or its consultants) with assistance from provincial, district or LLG authorities in the subproject area, and with close consultation with village leaders, landowners and other APs. The RP must be submitted to and approved by ADB prior to DOW and/or HRMG awarding a contract for civil works for the subproject. The preparation of a subproject RP will include the following steps and activities:

- i. The HRMG will organize consultations with communities affected by land acquisition/resettlement (see also Section IV.A.3, above). The purpose of the consultations is to inform the community about the scope of works to upgrade and rehabilitate the subproject road; and, the land acquisition/resettlement requirements. In the presence of village leaders, landowners and other stakeholders, HRMG will identify the affected land and assets on the ground.
- ii. The HRMG will conduct a detailed measurement survey (DMS) based on detailed engineering design and demarcation of land to be acquired⁶. The DMS will survey 100% of APs, and include a) a census and socio-economic survey of APs, b) measurement and inventory of affected land and other assets and c) replacement cost survey (RCS) of affected land and assets. Socio-economic data will be collected from at least 10% of all APs and 20% of severely affected APs. All DMS data will be entered into APs database and the analysis and presentation of the results will be included in the RP.
- iii. A draft RP will report of the types and amounts of additional land that will be required; and, the agreements negotiated for use of this land. In accordance with agreed policies and entitlements for the HRRIP, it will also summarize the numbers of APs; how they are affected by the loss of and damage to structures, crops and trees; other assistance to which they are entitled; and, the amounts of compensation and allowances. The RP will include an implementation schedule linked with the civil works ensuring that civil works will not commence until compensation and/or assistance has been paid to APs.
- iv. The draft RP will be presented to APs and other stakeholders in a public meeting. APs will be encouraged to express concerns and make suggestions about compensation and land acquisition activities. Copies of the draft RP and/or summary brochures will be available during these consultations.

⁶ The detailed measurement survey (DMS) is the term used in the ADB involuntary resettlement/safeguard policy. The DMS objective and scope are similar to the Land Investigation Report (LIR) as set out in the 1996 Land Law, namely, to document land and other assets (or land and improvements on land) that are affected by the additional land required to upgrade and rehabilitate roads

- v. The subproject RP will be finalized, incorporating the comments and suggestions of APs. The final RP will be produced in English, with summaries in Tok-Pisin; and, as appropriate, local languages.
- vi. The RP will be submitted for approval to DOW and ADB. It will be disclosed in accordance with ADB's Public Communications Policy⁷ to the affected communities and on ADB's website after it has been approved.

VI. Monitoring and Evaluation of Land Acquisition Activities

1. Internal Monitoring

96. The HRMG will monitor all activities associated with land acquisition and payment of compensation to APs. The scope of internal monitoring includes: (i) compliance with the agreed policies and procedures for land acquisition; (ii) prompt approval, allocation and disbursements of funds and payment of compensation to APs, including supplemental compensation for additional and/or unforeseen losses; (iii) the availability of other resources and efficient, effective use of these resources; and, (iv) requirements for remedial actions.

97. During the implementation of the RP, the HRMG will prepare semi-annual safeguard monitoring reports and submit these reports to ADB in addition to regular quarterly progress reports as part of project performance monitoring. HRMG will also submit a subproject land acquisition completion report to ADB when compensation has been paid and request approval to proceed with civil works.

2. External Monitoring

98. The HRMG will recruit an independent monitoring organization (IMO) to conduct external monitoring for HRRIP subprojects that require land acquisition. The external monitoring will focus on the social impacts of the subprojects and whether APs are able to restore, and preferably improve, their pre-project living standards, incomes, and productive capacity.

99. The IMO will be specialized in social sciences and experienced in resettlement monitoring. It will be recruited and mobilized from the first tranche of the HRRIP; and, will monitor all activities related to land acquisition, community consultations, preparation of RPs and payment of compensation. Proposed terms of reference for the IMO are found in Appendix 8.

100. The IMO will prepare bi-annual monitoring reports; and, conduct post-acquisition evaluations twelve (12) months after compensation is completed for each subproject. All IMO reports will be submitted to HRMG and ADB.

VII. INSTITUTIONAL ARRANGEMENTS AND RESPONSIBILITIES

A. Department of Works

101. As Executing Agency (EA) for the HRRIP, Department of Works (DOW) has overall responsibility to manage the planning, implementation and monitoring related to acquiring

⁷ADB, 2011, Public Communications Policy. Manila

use rights for additional land to implement HRRIP subprojects, as well as compensation for damages on project-affected land.

B. Highlands Region Maintenance Group

102. The HRMG, as the Implementing Agency (IA) for HHRIP subprojects to upgrade and rehabilitate roads, has the responsibility delegated by the DOW to carry out the planning, implementation and monitoring for land acquisition/resettlement activities, as required. These include but may not be limited to the following:

- i. Collaborate with and assist PLO and/or DLO to carry out their work in compliance with the HRRIP policies and ADB requirements;
- ii. Provide qualified personnel to conduct and/or assist PLO and/or DLO to carry out surveys including fieldwork to support the subproject screening and preliminary assessment of additional land requirements; and, as required, a census of affected people, the detailed measurement survey (DMS), RCS, and socio-economic baseline survey;
- iii. Collaborate with PLO and/or DLO for negotiations regarding Memoranda of Agreement (MOA) and leases for use of land;
- iv. Coordinate and carry out consultations with affected communities, including leaders, affected people and other interested community members; and, ensure that all stakeholders are informed in a timely manner about the project, its policies and procedures; ensure that all requirements are carried out concerning public disclosure of the provisions for land acquisition and compensation; and, oversee and monitor the grievance redress process;
- v. Review and endorse the draft RP as prepared by HRMG and/or its consultant prior to submitting it to DOW and, subsequently, to ADB for approval, making sure that all matters related to land acquisition/resettlement are complete and properly reported;
- vi. Monitor the process of allocation and disbursement of funds for compensation at both the national and provincial levels, and ensure that funds are available and compensation is paid in a timely manner as per the provisions of the RF;
- vii. Carry out all other activities related to internal monitoring of land acquisition activities and collaborate with and support the work of the independent monitoring organization;
- viii. Coordinate with civil works contractors to ensure that required land is cleared in a timely manner, that unforeseen damages and losses are recorded and compensation paid and that all other steps and measures are taken to complete the civil works in an efficient manner.

C. Provincial Administrations

103. The Provincial Land Officer (PLO) will collaborate with HRMG to plan, implement and monitor land activities for HRRIP subprojects in the province and/or delegate responsibility to the relevant District Land Officers (DLO). The PLO responsibilities include:

- i. Conducting surveys of land required permanently or temporarily for the subproject;
- ii. Negotiating and signing a Memorandum of Agreement for permanent use of customary land with the leaders and affected landowners in communities;
- iii. negotiating and signing leases for temporary use of land required for the subproject; and,
- iv. Consulting with and advising affected communities about the HRRIP, the policies and procedures when additional land is required and the rights and responsibilities of affected people and other stakeholders.

104. The Provincial Governor and/or Provincial Administrator (PA) in coordination with DOW are responsible to ensure that funds are allocated and disbursed to pay compensation and allowances for provincial (and/or district) roads that are included in the HRRIP.

D. District and LLG Administrations

105. The DLO, as delegated by the PLO, will collaborate with HRMG to plan, implement and monitor land activities for HRRIP subprojects in the district, including:

- i. Conducting surveys of land required permanently or temporarily for the subproject, and preparing land investigation reports;
- ii. Negotiating and signing a Memorandum of Agreement for use of customary land with the leaders and affected landowners in communities will land is affected;
- iii. negotiating and signing leases for temporary use of land required for the subproject; and,
- iv. Consulting with and advising affected communities about the HRRIP, the policies and procedures when additional land is required and the rights and responsibilities of affected people and other stakeholders.

106. LLG Ward Councillors will be effective participants in all consultations with local communities, affected people and other stakeholders. They will be responsible for collaborating with HRMG to organize and carry out these consultations.

E. Institutional Capacity for Land Acquisition Activities

107. The National Department of Lands and Physical Planning (DLPP) and the Lands and Survey Division (LSD) situated within the DOW are well-organized to assist the Executing Agency (EA) to oversee and manage the land acquisition and compensation process; and, in particular, to support the work of the IA and others with respect to identification of land tenure, review and endorsement of procedures and plans, as well as facilitation of requests for allocation and disbursement of funds to pay compensation.

108. As the IA, the HRMG has experience in dealing with issues related to community consultations and negotiation of Memorandum of Agreements (MOA) for additional land required to upgrade and rehabilitate national and provincial roads, as well as other aspects of compensation for lost and damaged assets as per the GoPNG procedures. Similarly, the personnel of the PLO and DLO in most jurisdictions also have experience with MOA and compensation issues.

109. However, the key issues related to the effectiveness of these agencies relate to insufficient personnel and incomplete understanding of ADB policies and procedures.

110. The HRRIP will train and provide other assistance for DOW, HRMG and PLO and DLO staff in HRRIP subproject areas to carry out the work necessary to acquire the additional land necessary to upgrade HRRIP roads. The scope of capacity building support is discussed in Section VIII, below; proposed TOR for the training and capacity building/safeguard consultant are provided in Appendix 5.

VII. CAPACITY BUILDING AND SUPPORT FOR LAND ACQUISITION

111. The HRRIP will provide support related to activities to acquire the land for upgrading HRRIP road. This support will include training and technical and financial support.

112. A training program will be established within HRMG to build capacity in the following areas: (i) GoPNG policies and procedures for acquisition of customary land, including MOA; (ii) ADB policies and procedures for land acquisition and compensation; (iii) applying GoPNG and ADB policies and procedures to the requirements of the HRRIP; and, (iv) other technical support related to, among others, surveys and data collection to prepare a detailed measurement survey (DMS), RCS and Land Investigation Report (LIR), community consultations and awareness programs.

113. The training will target people from DOW and HRMG, provincial and district lands officers in HRRIP subproject areas, relevant staff of the Valuer General and any other organizations involved in land acquisition and compensation activities. The HRRIP support will also include technical and financial support to strengthen the resources of DOW, HRMG and provincial and district lands offices. This support will take the form of assessment and recommendations to increase staffing, developing terms of reference for work related to land acquisition and compensation activities and providing financial support for the work related to fieldwork, for example, to carry out sub-project resettlement planning, detailed measurement surveys (DMS), RCS, and/or prepare Land Investigation Reports (LIR) and RPs.

114. The HRRIP will also finance an international consultant for a period of eighteen (18) months and a national consultant for a period of thirty six (36) months. These consultants will (i) develop and implement a training program on land acquisition policies and procedures for HRRIP; and, (ii) provide technical support to HRMG and/or its consultant for the preparation of RPs. These persons will be recruited by DOW and/or HRMG in accordance with ADB procurement procedures, to work as part of the HRMG team. Appendix 9 provides terms of reference for qualifications and responsibilities of these consultants.

VIII. HRRIP COSTS FOR LAND ACQUISITION AND COMPENSATION

A. Sources of Funding for Land Acquisition and Compensation

115. All costs for the HRRIP related to land acquisition, compensation and allowances, operation and administration costs, surveys, monitoring and reporting will be financed by GoPNG using counterpart funds.

- i. In the case of designated national roads, DOW will request the National Economic Council (NEC) to allocate and disburse funds for compensation and allowances

related to additional land required to upgrade and rehabilitate HRRIP subproject roads.

- ii. In the case of provincial roads included in the HRRIP, the Provincial Administrator (PA) makes a request to the Governor to ensure that the Provincial Assembly allocates the funds and that they are disbursed to pay compensation and allowances related to additional land required to upgrade and rehabilitate HRRIP subproject roads.
- iii. As agreed between DOW and the Provincial Administrator, the DOW may assume responsibility for allocation and disbursement of compensation funds for a HRRIP subproject that is a provincial road. In this case, the procedure will be as described above in item (i).
- iv. In all instances, the HRMG acting on behalf of the DOW, the HRRIP EA, will monitor the process to ensure that there are minimum delays in the allocation, disbursement and payment of compensation funds.

B. Costs to Acquire Additional Land to Upgrade Roads

116. The costs related to additional land requirements for T1 and T2 are presented in Table 4 below.

117. Based on the average cost per kilometer for T1 and T2, the estimated costs for compensation and allowances for the 1,400 km of roads to be included in the HRRIP are Kina 80.82 million (US\$ 35.45 million).

Table 4: Compensation Costs, HRRIP T1 and T2 Roads (Kina)

Component	T 1 Roads	T 2 Roads
A. Compensation		
Land	Through MOAs/ 545,432.40	Through MOAs
Houses & Other Structures	782,166.28	132,350.00
		562,252
Crops and trees	3,631,645.68	
Fences	355,552.85	73,122.00
Graves Sites & Graves	1,398,900.00	35,050.00
Sub-Total	6,713,697.21	855,416.54
B. Allowances		
		3,240
Shifting Allowance	15,360.00	
		16,560
Vulnerable Allowance	51,120.00	
Sub-Total	66,480.00	20,400.00
C. Total (A+ B)	6,780,177.21	875,816.54

		164,515
D. Physical Contingencies	1,356,035.44	
		82,257
E. Price Contingencies	678,017.72	
		160,402
F. Administrative Expenses	1,322,134.56	
G. Independent Monitoring		213,869
	1,762,846.07	
H. Grand Total (C-G)	11,899,211.00	1,443,617

C. Training and Capacity Building Costs

118. The HRRIP will provide funds to assist with training and capacity building related to land acquisition. The two components of this assistance include:

- i. An amount of US\$175,000 to engage an international and national consultant to develop and implement a training program for HRMG and provincial and district land officials.
- ii. An amount of US\$450,000 to assist DLPP with the costs of preparing the Land Investigation Reports (LIR).

APPENDIX 1—Issues on Acquiring Customary Land

1. In the Highlands region, the social structure of tribal groups is patriarchal and clans include people who can share a common ancestry through their father's lineage. Each clan has a specific territory; sub-clans or extended family groups are granted rights to use some of the clan territory to meet their basic needs for housing and gardens. Primary rights are reserved for people who are recognized as members of a clan (or its sub-clans); other people may earn secondary rights to a clan's territory through marriage. In all cases, clan territory cannot be alienated.
2. Access to land is a fundamental and defining asset in the livelihood and cultural traditions of the Highlands people. Land is, first and foremost, the basis of subsistence agriculture that provides for the needs of rural households. It is common practice to produce small surpluses that are distributed in kind or in cash (after sale of crops at local markets) to members of the house line or sub-clan; this represents repayment into the social capital of the group (Rivers, 2004). The land is where sacred sites are located; and, where people bury their dead, often at visible locations in order to venerate a community leader who has passed away. Allegiance to one's clan territory remains strong among people who migrate from their communities for short or longer periods. Land is what a family transfers to its next generation as the basis for the continuing cycle of social reproduction.
3. As PNG develops the difficulties inherent in how to mobilize customary land for new economic and physical development become more and more apparent. With respect to works to upgrade road networks, several approaches have been employed. These are identified here as background to the proposed HRRIP approach that is discussed in the next section.
 - i. the implementation of the ADB Loan 1709-PNG DOW negotiated a Memorandum of Agreement (MOA) with affected communities and landowners to acquire the use of customary land without payment of compensation for the upgrading of national and provincial roads.
 - ii. In consultations during the preparation of the HRRIP, people and communities in the Highlands region strongly supported proposals to upgrade and rehabilitate roads, recognizing that this is a necessary condition to improve accessibility and living conditions.
 - iii. Most people in the region consider that existing roads are located on State land, whether or not there has been a formal process to alienate customary land. However, there were some stakeholders who insisted that these roads are located in customary land and are still unpaid when these lands were first used as roads.
 - iv. Moreover, in consultations during preparation of T1 and T2 roads for the HRRIP, provincial and district authorities as well as communities along the roads repeatedly indicated their willingness to contribute additional land to enable roads to be upgraded (see also, Section V.A.1, below).
 - v. However, there have been some complaints about the past road upgrading and rehabilitation activities regarding outstanding issues on affected improvements

which may influence the acceptability of projects and/or impede the construction of roads in the HRRIP.

APPENDIX 2 -- HRRIP Approach in Obtaining MOA on Use of Customary Lands for Road Improvement

1. HRMG with assistance from the PLO and/or DLO will organize a full consultation with local officials (LLG and Ward officials), community leaders, affected people (APs), other community members and other stakeholders; APs include all individuals and families that have rights to use land and/or own crops and structures affected by additional land requirements to upgrade or rehabilitate the road. The purpose of the consultation is that all APs and other stakeholders are fully informed about the HRRIP subproject, the scope of road improvements, the benefits that this will bring to individuals and the community and the strategies to acquire use of land to permit road rehabilitation to proceed, including the use of the MOA; and, the policies and procedures that will apply to the establishment of a public road reserve.
2. During consultations, the community leaders and affected landowners will be asked whether they agree that the use of this land for road improvements a) is directly linked to benefits they and their community will receive and b) does not severely affect their living conditions, livelihoods and incomes; and, they are satisfied that c) community sanctioned measures are in place to replace any losses that are agreed to through written record by affected people.
3. The agreement will be confirmed by a Memorandum of Agreement (MOA) that waives the customary interest in the land in lieu of the public infrastructure. An example of an MOA is included in Appendix 4. The MOA will be signed by (i) community leaders and affected landowners and representatives of (ii) the PLO and (iii) HRMG (and/or DOW); and, will be verified by an independent third-party such as a designated non-government organization or legal authority. The third-party verification format is included in Appendix 4. The signed MOA will be copied to the Secretary of DLPP.
4. The PLO and/or DLO will inform community leaders, landowners, other APs and stakeholders about the HRRIP grievance redress mechanisms that are available for APs and others who have complaints and/or grievances related to the MOA or other aspects of the HRRIP (see Section IV.B regarding grievance redress mechanisms).
5. The experience so far shows that MOA with leaders of landowner groups and communities can be achieved through successful negotiations. However, the process requires concerted efforts and time and DOW will take pro-active measures on this. According to subproject selection criteria, the road will not be included under HRRIP if such an agreement cannot be reached.

APPENDIX 3 - Salient Provisions of the 1996 Land Act

1. The Minister may acquire land through a) agreement or b) compulsory purchase, including acquisition of developments to or improvements on the land (Art. 7 and 8). Improvements on land include, among others, buildings, fences, wells, reservoirs, gardens, plantations or fixtures constructed to manage or use land and/or to raise livestock.
2. Acquisition of customary land by agreement shall be on the terms and conditions agreed between the Minister and the customary landowners. However, the Minister may not acquire land that is required or likely to be required by the customary landowners. Further, if the land is likely to be required in the future by customary landowners, the Minister may lease the land (Art.10).
3. In the case of compulsory purchase, the date of acquisition is the expiration of a two month period following the publication of a notice to treat in the National Gazette (Art. 12). The notice to treat must also be served to all landowners or such of them as can, after diligent inquiry, be ascertained; prior to the end of this period, landowners are required to provide particulars regarding their interest in the land, as well as the amount requested to sell their interests to the State (Art. 13). The National Land Commission (NLC) shall hear landowners and shall determine and recommend to the Minister the amounts to be paid.
4. The value of compensation for land acquired under compulsory purchase shall take into consideration a) the value of the land at the date of acquisition, b) the damage (if any) caused by the severance of the land from other land in which the claimant has an interest and c) the enhancement or depreciation in value of the claimant's interest in other land adjoining or severed from the acquired land by virtue of the purpose for which the land is acquired. This enhancement or depreciation in value shall be deducted from or added to, as the case requires, to the amount of compensation otherwise payable (Art. 23).
5. The value of compensation to be paid shall be determined a) by agreement between the Minister and the claimant prior to or after the acquisition (Art. 25 and 26) or b) by arbitration as per the procedures of the Arbitration Act, as agreed by the Minister and the claimant (Art. 27).
6. It is an offence punishable by fines and/or imprisonment of persons who trespass on or unlawfully enter, occupy or use State or customary land, or who refuse to leave that land within 14 days of being notified to do so (Art. 144-146).
7. The procedures for compulsory acquisition of land for major highways (e.g. Highlands Highway) as implemented by the Department of Works (DOW) include:
 - a. When the road design is complete, the Lands and Survey Division (LSD) of DOW commissions a private surveyor to determine the boundaries of the land to be acquired as well as the location, sizes and areas of affected customary land¹⁸. The completed surveys are submitted to the Surveyor General for registration.

- b. Upon receipt of the registered survey plans, the DOW requests the Department of Land and Physical Planning (DLPP) to issue an instruction to the relevant Provincial Administration (PA) to carry out a land investigation for the proposed acquisition.
- c. The relevant Provincial Land Officer (PLO) (and/or District Land Officer (DLO)) conducts the land investigation and prepares a Land Investigation Report (LIR) including ownership genealogy, rights and interests held in the land; and, an assessment of the value of improvements to land prepared in accordance with the Economic Trees and Plant Price Schedule.
- d. The LIR is submitted to the PA for his/her recommendation for alienation of the land. A copy of the LIR is sent to the Office of the Valuer General to conduct a valuation of the land and improvements.
- e. A copy of the LIR is also sent to the Department of Provincial Affairs that prepares Certificates of Alienability (COA). The COA certifies that there is no impediment to the acquisition of the customary land; it is signed by the Secretary for Provincial Affairs, as well as representatives of affected Local-Level Governments (LLGs).
- f. DOW receives the valuation report and COAs, raises cheques based on the valuation amounts and prepares purchase documents that are forwarded to the Secretary of DLPP for his/her signature. The signed documents and cheques are sent to the PA for execution and payment to landowners.
- g. The DLO, with all relevant forms, makes the offer to the landowners. If accepted, the forms are executed and the money is handed over in accordance with the requirements of the landowners. If rejected, it then goes to the Minister of Lands for a negotiated settlement.

APPENDIX 4 – Memorandum of Agreement

This **Memorandum of Agreement** entered into by and between;

The Independent State of Papua New Guinea as represented by the Department of Works;

---AND---

The community of (_____) (Name of Ward), Mendi, Province of Southern Highlands represented by its wards leaders, district leaders, leaders of clans and sub-clans, the names of which are enumerated at the end of this document;

---WITNESSETH---

Whereas, the State through the Department of Works is formulating, administering and implementing the Highlands Region Roads Improvement Investment Program (HRRIP), an ADB funded loan (No. 2496/2497) for the upgrading, rehabilitation and maintenance of selected roads in the Highlands Region Road Network;

Whereas, one of the qualification of a road for the HRRIP is that it is an existing or former road, that is, the road bench exists and restitution of a trafficable road does not require major earthworks or construction of structures and the local population as well as district and provincial administrators have clearly stated their support for upgrading and rehabilitation of the pre-selected road;

Whereas, the Mendi - Kandep road section has been pre-selected by the State through the Department of Works (DOW) and approved by the Asian Development Bank (ADB) based on certain assumptions including two conditions namely that the right to use (a) existing road carriage has been negotiated in the past when such road was constructed, and (b) additional land to be required for the HRRIP project has been negotiated with the customary owners;

Whereas, after diligent searches and inquiries from the relevant government agencies, the existence of a writing document on the agreement for the use of customary land in the past cannot be ascertained and that the agreement may not have been put into writing;

Whereas, the absence of any proof of the existence of previous agreements for the use of the existing road carriage and the use of additional road for the HRRIP project by the government might jeopardize the continued inclusion of the pre-selected road to the HRRIP because the previous assumptions of the existence of these documents for the use of existing road and additional land may not be defensible;

Whereas, there is an urgent need to cure any deficiencies that may affect the eligibility of the pre-selected Mendi - Kandep road section with the HRRIP and may create or foster future conditions that would give rise to misunderstandings, resentments and possible conflicts on the right to use the customary lands;

Whereas, the clans and communities who jointly own the customary land are fully aware of the benefits of an upgraded and rehabilitated road for their communities such as faster travelling time and cheaper transport costs, better access to health and educational facilities, increase economic activities, better access of farm products to markets among others;

Whereas, the clans and communities, who jointly own the affected customary land that will be needed by the government for road improvements, are fully supportive of the proposed project to improve the existing road section passing through their communities, wards and districts;

Whereas, the clans and communities, who jointly own the affected customary land are desirous for the road section which is located in their customary land, to retain its status as a pre-selected road of HRRIP subject to a feasibility study including qualifications of the project's eligibility criteria and detailed engineering design;

Whereas, there is an urgent need for a close public – private partnership between the Independent State of Papua New Guinea as represented by the Department of Works who has the legal mandate to undertake infrastructure development in the country and the clans and communities who jointly own the customary land where the proposed road development will be constructed;

NOW, THEREFORE, for and in consideration of the foregoing premises and covenants hereinafter stipulated, the Independent State of Papua New Guinea, represented in this Memorandum of Agreement by the Department of Works (DOW) and the clans and communities who jointly own the customary land where the existing road carriage is located and the additional land that will be required to improve the existing road:

1.0 Identification and Location of Road Section

1.1 DOW has considered the road section from _____ as a pre-selected road for the HRRIP. This road section has a length of around _____ Km and will start at chainage 0+000 located at _____ and will end at chainage _____ km at _____.

1.2 We certify that we, as individuals and representatives of our communities and clans, are the exclusive customary owners of the road section that is a pre-selected road for the HRRIP. The particulars of our customary land are described below;

Road _____ section
 (name): _____
 Km to km (chainage): From _____ to _____
 Ward: _____
 District: _____ Province: _____

2.0 Additional Land Requirements

The upgrading and rehabilitation of this pre-selected road will require additional customary land and that based on the existing road and the proposed road, both described below, the preliminary estimate of the DOW for the additional land requirement is _____ hectares,

Existing Road	Proposed Road
Carriageway _____ meters	Carriageway _____ meters
Formation width _____ meters	Formation width _____ meters
Total width _____ meters, to outside of drainage structures	Total width _____ meters of construction limits
Total area _____ hectares of existing road within the customary land.	Total area _____ hectares of proposed road

Difference of area between existing road and proposed road _____
(additional land required)

3.0 Agreement

3.1 Responsibilities and Commitments of Clans and Communities

1. We, members and representatives of the clans and communities who jointly own the customary lands on the above mentioned road section agree to permit the Independent State of Papua New Guinea (State), as represented by DOW, to use our additional customary land for the upgrading, rehabilitating and maintaining the road section described above exclusively under the HRRIP and guarantee the unimpeded use of the road by the public;
2. That we enter into this agreement on the basis of our free and prior informed choice and consent, having been provided with full information by the State through the DOW and DLPP about the HRRIP project and are fully aware of the consequences for our tribes, clans/sub-clans and communities and waive any and all customary interests over the additional lands in lieu of public infrastructure;
3. That we are aware that the State will be using public funds for the improvement of roads situated in customary lands and if the issue of land use is not properly addressed now, future generations of customary owners may restrict and limit public and private vehicles from using the improved road that may cause conflict and unrest in our communities and villages;
4. That our full permission for the State to use the additional land is premised on the existence of the said road and in the event that the use of our customary land as a road is discontinued for any cause, our permission will also cease and the use of the land will revert to the former owners and users of the land at the time of taking;
5. That we are validating and reiterating the permission given by our ascendants to permit the State through the DOW, to use our customary lands where the existing road carriage is located and in the event that the use of our customary land as a road is discontinued for any cause, our permission will also cease and the use of the land will revert to the former users of the land at the time of taking;
6. In the event that the State will seek to use or establish a public road reserve beyond the actual construction limits of the proposed road under the HRRIP, the required additional lands is not included in the subject matter of this MOA and will require a separate agreement with the customary land owners;
7. That if there are any dislocations on land use that will be caused to any member of our clans and community because of the additional land requirement of the road, in considerations for the positive effects of the project, our clans and communities involved will address this issue based on our customs and traditions and provide for adequate land replacement;
8. That we are representing all the clans and communities that jointly owned the land as described in Section 2 of this agreement and that we will all be jointly responsible to control and police our ranks in complying with the terms and conditions of this agreement.
9. That we are guaranteeing the State on behalf of all members of this community and its clans that there will be no land claims or grievances on the existing road as well

as on the additional land required and that there will be no disruption and/or disturbance of the civil works to upgrade and rehabilitate the road;

10. That in the event that there is disruption and/or disturbance of data gathering for planning, surveys and during the implementation of civil works of the above road section, the clan and/or community involved will be jointly liable for the appropriate compensation and the erring person who may be criminally liable, be surrendered to the proper authorities for the appropriate legal measures.

3.2 Responsibilities and Commitments of the State through the Department of Works

1. The DOW has minimized as far as possible additional land requirements for the improvement of the existing road based on existing road standards to ensure the safety of passengers and vehicles using the improved road. However, there are instances that improvements in the hairpin curves sections, relocation of some bridges and improvement in the drainage system will result in using more lands than expected which are unavoidable but necessary to improve the safety of the existing road carriage.
2. DOW has conducted a detailed measurement survey to determine the additional land required to upgrade, rehabilitate and maintain the above mentioned road section based on the detailed engineering design and has a list of all the affected persons (APs) and their affected assets such as annual crops, perennial plants and trees, fences, structures, and graves and these will all be compensated at replacement cost;
3. The clans and communities will ensure that after the detailed measurement survey, there will be no new structures built or crops, plants, trees planted within the construction limits. Structures built and improvements planted or made after the detailed measurement survey (cut-off date) will not be compensated.
4. *Temporary Use of Land* – The road contractor will negotiate with customary land owners for the temporary use of customary land for the construction camps, motor pools, stockpile areas for aggregates, etc. The road contractors will be responsible for the restoration of the area after the completion of the road as part of their contract.
5. *Compensation for Loss of Annual Crops* -- APs will be encouraged to harvest their annual crops, in this case, no compensation will be paid; however, If the annual crop is not yet harvestable upon land taking, compensation will be provided at replacement cost;
6. *Compensation for Loss of Perennial Plants and Trees* -- Compensation for lost plants and/or trees will be paid at replacement cost. An additional grant equal to the lost income for the period of time until new perennial plants or fruit trees produce a yield similar to the lost plants and trees. For timber trees, APs will be required to cut the trees prior to clearance of the additional land; in lieu of compensation, they will be permitted to harvest the trees and sell the timber.
7. *Compensation for Loss of Fences* -- Fences constructed of wood or metal will have a compensation rate equal to the current market price (per meter) for similar fencing

materials, as determined in the subproject area. For vegetation fences, the compensation will be at replacement cost for the type of plant material used.

8. *Compensation for Loss of Semi-Permanent or Temporary Structures* -- Semi-permanent or temporary structures may be located close to the road and it may be necessary to shift these buildings back in order to upgrade the road. In this instance, APs will be provided with a shifting allowance to cover the costs of this activity. If such structures cannot be moved, APs are entitled to compensation at replacement cost for the materials and labor to repair or reconstruct a similar structure.
9. *Compensation for Loss of Graves* -- Compensation will be paid for the affected graves at replacement cost.
10. *Construction Employment* -- People affected by permanent or temporary loss of land or by damage or loss of crops, trees or structures will be given priority for employment by contractors for civil works and/or maintenance works on the road, preferably on road sections where they own the customary land, provided that these applicants are qualified to perform the work required.
11. *Shifting Allowance* --The value of the shifting allowance will be calculated through valuation for the duration of the shifting. At the time that the shifting allowance is paid, the landowner will sign an agreement with DOW and/or DLO regarding the date by which the structure will be removed from the land required to upgrade/rehabilitate the road.
12. *Business Disruption Allowance* -- APs that own a temporary or semi-permanent structure that is used as a trade store or for other business purposes that must be shifted a short distance to a location outside the area designated for the road are entitled to an allowance to cover the loss of business income while the structure is being shifted calculated through a valuation.
13. *Time for Valuation of Assets* -- The valuation of assets (at replacement cost) will be made by a valuation specialist at the time of the detailed measurement survey (DMS) conducted following completion of detailed engineering design and assessing the requirement for additional grants and the grant amount based on existing conditions in the subproject area.
14. *Delayed Payment* -- If payment of compensation is delayed, compensation rates will be updated regularly based on inflation rates to ensure that APs receive compensation at replacement cost at the time of compensation payment. Changes to compensation amounts will be verified and approved by the office of the Valuer General.
15. *Full Payment of Compensation* -- APs are entitled to payment of all compensation based on the DMS prior to clearance of land and start of civil works. DOW will ensure that all procedures are followed to facilitate payment of APs prior to the start of civil works. In the case of affected crops, trees and structures, the compensation owed will be paid directly to the person who owns these assets.
16. All land acquisition activities will be coordinated with the civil works schedule. Civil works contractors will not be issued a notice of possession of the site until (i)

compensation and relocation of APs have been satisfactorily completed; (ii) agreed rehabilitation assistance is in place; and, (iii) the site is free of all encumbrances.

4.0 General Conditions

1. If this negotiated agreement for the use of additional customary land to upgrade and rehabilitate the existing road have not been attained or did not push through for any cause, both parties agree that this memorandum of agreement will become null and void and unenforceable to any or both parties; In this case, the State through the DOW will inform in writing the clans and communities through their leaders and representatives about this development and this is sufficient notice for the State to invoke the unenforceability of the MOA;
2. The State through the DOW and its consultant together with the provincial, district and ward administrations will conduct periodic consultations and encourage active participation of affected clans and communities covered by this road section to inform and update all stakeholders of the development of the project;
3. The State through the DOW in collaboration with the provincial and/or district land officer will institute a grievance process based on the accepted practices of mediation to address any complaint or issue regarding the valuation of asset or any resettlement related matter. If the complaint or issue is not resolved in this level, the HRRIP will adopt procedures to refer matters to the system of land courts as set out in the Land Disputes Settlement Act;
4. In the event of grievances that cannot be resolved through mediation at the local level, the State through the relevant authorities will hold the compensation amounts in escrow. Compensation will be paid in full upon final resolution of the case in the courts or other forum, in accordance with the entitlements of the affected person;
5. This MOA repeals and/or supersedes any written or verbal agreement for the use of customary land on the existing road carriage and the proposed road referred to in Section 2 of this MOA issued previously by either the DLPP, DOW and the customary land owners;
6. No amendment or additional terms and conditions to this MOA shall be deemed binding between the parties unless mutually agreed upon by them in writing.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this ____ day of _____ 201__.

**By and on behalf of the Independent State
of Papua New Guinea Minister for Lands**

(Name and Signature)

(Designation)

Witness:

I, _____, a Provincial Lands Office of _____ Province, a public servant of Papua New Guinea, do hereby certify that the contents of this Agreement were read over by _____ in the _____ language that is

understood by the signatories to this Agreement and I further certify that to the best of my knowledge and belief the contents of this Agreement are understood by the signatories hereto.

Dated at _____ this _____ day of _____

Signature: _____

Designation:

Name	Signature	Ward/Village	Clan/Sub-Clan	Date

Third Party Verification Letter

We provide the independent verification of the Memorandum of Agreement (MOA) signed on _____ (insert date) between the Government of PNG represented by the Department of Works and landowners clans of _____ (insert address of landowners) on the use of _____ ha land for widening of the _____ (insert name of relevant subproject) road under the Highland Regions Roads Improvement and Investment Program (HRRRIIP) that (i) the landowners support the upgrading and widening of the road and have agreed to provide affected land; (ii) consultations and negotiations with landowners have been undertaken meaningfully, freely and in good faith and the landowners have made informed decisions on use of land, and (iii) terms and conditions of the MOA have been explained to and understood and agreed by the landowners. The verification is based on our independent:

- Review of the documentation on the identification of affected landowners and the consultation and negotiation process leading up to the signing of the MOA;
- Validation that consultations with the landowners have been undertaken and that they were provided with relevant information as per the HRRRIIP resettlement framework (RF);
- Validation that the agreement is voluntary (free of coercion) and that the landowners have fully understood and agreed to the MOA terms and conditions;
- Validation that the landowner representatives signing the MOA duly represent the landowners;
- Validation that the contribution of the land to the project will not cause undue hardship to any third-party or individuals;
- Validation that the loss of all assets on land (structures, trees, crops, etc.) have been identified and sufficiently addressed for compensation in the resettlement plan (RP);
- Validation that compensation for loss of assets on the land included in the RP represents a fair and reasonable replacement cost based on market prices; and
- Validation that the MOA is in compliance with applicable laws of PNG, including _____ (specify applicable law) as well as safeguard requirements stipulated in the RF.

The verified copies of the MOAs are attached herewith.

Signature:

Date:

Name of NGO or Magistrate:

Official Stamp:

APPENDIX 5 -- Scope of Community Relations Program and Consultations

The scope of the consultations will include:

1. HRMG will review the scope of works to upgrade and rehabilitate the road; and, the land acquisition requirements. In the presence of village leaders and landowners, HRMG will identify the affected land on the ground; the boundaries of parcels will be staked and/or GPS or other coordinates will be recorded.
2. HRMG and the PLO and/or DLO will lead a discussion with village leaders and affected landowners to reach a negotiated agreements regarding access to land required on a permanent or temporary basis.
3. HRMG and the PLO and/or DLO will also inform village leaders and affected landowners about the policies and procedures regarding compensation and allowances for affected structures, crops and trees, including procedures for grievance redress. In addition, HRMG will inform the community about when and how compensation will be paid to eligible affected people (APs).
4. In conjunction with these discussions, HRMG and PLO/DLO representatives will interview each of the affected landowners to collect relevant information about the affected assets; the survey form will be signed by the landowner and witnessed by village leader(s), LLG Ward Councilor(s) and local police.
5. Prior to completion of the RP, HRMG will conduct public meetings and/or provide written information such as a Public Information Booklet (PIB) in the local language to village leaders and APs summarizing the results of the data collection on affected assets, proposed compensation rates and entitlements, schedule for payment of compensation, as well as grievance redress and monitoring procedures.

APPENDIX 6 – Subproject Screening Form

SUBPROJECT SCREENING FORM

Project Title: Highlands Region Road Infrastructure Investment Program (HRRRIIP)					
Tranche/Project No:					
Subproject Title:					
Short Subproject Description:					
Location and Impact Area:					
Possible Land Acquisition Impacts	Yes	No	Not Known	Possible	Remarks
Will the project include any physical construction work?					
Does the project include upgrading or rehabilitation of existing physical facilities?					
Is land acquisition likely to be necessary?					
Is the site for land acquisition known?					
Is the ownership status and current usage of the land known?					
Will easements be utilized within an existing right-of-way?					
Are there any non-titled people who live or earn their livelihood at the site or within the right-of-way?					
Will there be loss of housing?					
Will there be loss of agricultural plots?					
Will there be losses of crops, trees and fixed assets?					
Will there be loss of businesses or enterprises?					
Will there be loss of incomes and livelihood?					
Will people lose access to facilities, services or natural resources?					
Will any social or economic activities be affected by land use-related changes?					
If involuntary resettlement impacts are expected:					
Are local laws and regulations compatible with the ADB <i>Safeguard Policy Statement</i> ?					
Will coordination between government agencies be required to deal with land					

acquisition?					
Are there sufficient skilled staff in the Executing Agency for resettlement planning and implementation?					
Are training and capacity-building interventions required prior to resettlement planning and implementation?					
<i>Whenever possible, consider also any future subprojects or investments.</i>					
<p>Information on Affected Persons (APs):</p> <p>Any estimate of the likely number of households that will be affected by the subproject? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many? _____</p> <p>Are any of them poor, female heads of households or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, briefly describe their situation _____</p> <p>Are any APs from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, please explain: _____</p>					

APPENDIX 7 – Resettlement Plan Outline

(Source: Safeguard Policy Statement 2009)

This outline is part of the Safeguard Requirements 2. A resettlement plan is required for all projects with involuntary resettlement impacts. Its level of detail and comprehensiveness is commensurate with the significance of potential involuntary resettlement impacts and risks. The substantive aspects of the outline will guide the preparation of the resettlement plans, although not necessarily in the order shown.

A. Executive Summary

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

B. Project Description

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

C. Scope of Land Acquisition and Resettlement

This section:

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

D. Socioeconomic Information and Profile

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

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

E. Information Disclosure, Consultation, and Participation

This section:

1. identifies project stakeholders, especially primary stakeholders;
2. describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
3. describes the activities undertaken to disseminate project and resettlement information during project design and preparation for engaging stakeholders;

4. summarizes the results of consultations with affected persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
5. confirms disclosure of the draft resettlement plan to affected persons and includes arrangements to disclose any subsequent plans; and
6. describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with affected persons during project implementation.

F. Grievance Redress Mechanisms

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

G. Legal Framework

This section:

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

H. Entitlements, Assistance and Benefits

This section:

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

I. Relocation of Housing and Settlements

This section:

1. describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and/or self-selection (ensure that gender concerns and support to vulnerable groups are identified);
2. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs
3. provides timetables for site preparation and transfer;
4. describes the legal arrangements to regularize tenure and transfer titles to resettled persons;

5. outlines measures to assist displaced persons with their transfer and establishment at new sites;
6. describes plans to provide civic infrastructure; and
7. explains how integration with host populations will be carried out.

J. Income Restoration and Rehabilitation

This section:

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

K. Resettlement Budget and Financing Plan

This section:

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

L. Institutional Arrangements

This section:

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

M. Implementation Schedule

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

N. Monitoring and Reporting

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

APPENDIX 8 -- TOR for Independent Monitoring Organization

A. External Monitoring Objectives

1. The objectives for external monitoring are to provide an independent review and assessment of (i) the achievement of HRRIP resettlement objectives and principles, (ii) the effectiveness, impact and sustainability of entitlements, (iii) the need for further mitigation measures if any, and (iv) to identify strategic lessons for future policy formulation and planning.

B. Hiring, Qualifications and Timing

2. In accordance with ADB requirements for consultant procurement, HRMG will engage an individual or organization for the independent monitoring and evaluation of RP implementation. The individual or organization, to be called the Independent Monitoring Organization (IMO), will be a) a specialist and/or specialized in social sciences and b) experienced in resettlement monitoring for international agencies. All candidates will be academically trained as social anthropologists and/or sociologists or equivalent qualification.

C. Monitoring and Evaluation Indicators

3. The following indicators will be monitored and evaluated by the IMO:
 - a. Public consultation and disclosure: a) APs and other stakeholders should be fully informed and consulted about land acquisition activities; b) the monitoring team should attend public consultation meetings to monitor procedures, problems and issues that arise during the meetings and solutions that are proposed; c) public awareness of the compensation policy and entitlements will be assessed among APs.
 - b. Identification of APs and their entitlements: a) all APs identified and informed of their rights and entitlements; b) participatory process to collect data on affected assets; c) calculation of compensation and allowances according to HRRIP policies.
 - c. Payment of compensation: a) full payment to be made to all APs sufficiently before land acquisition; adequacy of payment to replace affected assets; b) prompt attention to unforeseen damages or losses, to ensure APs are fully compensated for losses.
 - d. Co-ordination of resettlement activities with construction schedule: The completion of land acquisition and resettlement activities for any sub-project to be completed prior to the approval to award of the civil works contract for that sub-project.
 - e. Restoration of productive activities: Affected persons should be monitored regarding restoration of productive activities so as to ensure the process is satisfactory for the APs.
 - f. The level of satisfaction of APs with various aspects of the RP: This will be assessed, reviewed and recorded, and the operation of the mechanisms for grievance redress and the speed of grievance redress will be monitored.

D. Methodology

4. The methodology for monitoring and evaluation of the preparation and implementation of land acquisition activities associated with HRRIP tranches will include the following activities:

1. Detailed Measurement Survey

5. The detailed measurement survey (DMS) is to provide data on 100% of APs. The DMS will establish a database for each AP in terms of his/her social-economic status, the nature and extent of losses suffered, compensation and entitlements etc. Data will be disaggregated according to LLG and district. This database will become the basis for compensation and for monitoring the benefits as well as entitlements the AP receives during the process of implementation.
6. As soon as the detailed engineering design is finalized and marked on the ground, the HRMG, PLO/DLO and LLG officials for each road section will carry out the DMS with the full participation of all APs. The IMO will monitor the DMS process. The resulting data will be made available to the IMO to enable them to create their initial database.

2. Socio-Economic Survey

7. In conjunction with the preparation of detailed engineering design, HRMG will conduct a baseline social survey in communities along the subproject road. The IMO will collaborate with the HRMG to ensure that data are collected to provide a baseline for external monitoring, including:
 - a. Inclusion of 20% of APs in the samples of households and business owners that are surveyed.
 - b. Baseline data to document the characteristics of AP households including demographic, education, income and occupational profiles; livelihood and production systems, economic activities, income sources and poverty levels; access to and use of land and natural resources, tenure security and common property resources; and, social and cultural systems and networks. All data must be disaggregated, as relevant, by gender, tribal group and income group.
8. Special attention should be paid so that women, elderly persons and other vulnerable target groups are not omitted and/or overlooked. The sample should have, as far as possible, equal representation of male and female respondents. Certain set questions in the interview should be specifically marked and answered only by female members of the household and/or those who are vulnerable (such as the lonely elderly, people with disabilities etc). Data should be disaggregated according to gender, age, ethnicity and socio-economic status where appropriate.

3. Participatory Rapid Appraisals

9. The IMO will conduct periodic participatory rapid appraisals (PRA) to consult with the various stakeholders (local government, implementing agencies, social organizations, community leaders and APs). PRA will involve obtaining information, identifying problems and finding solutions through participatory means, which will include the following:
 - a. Key informant interviews with selected local leaders at village, LLG and district levels; and, informal surveys and interviews with APs, vulnerable groups and other stakeholders.
 - b. Community public meetings to discuss community losses and impacts and construction work employment; as required, separate meetings will be organized with women or other groups who because of cultural constraints are less likely to contribute in general community meetings'

- c. Structured direct field observations on the status of land acquisition activities in addition to individual and groups interview for cross-checking purposes.

E. Database Management and Storage

10. The IMO will collaborate with HRMG to establish and maintain a database of resettlement monitoring information. It will contain certain files on each affected household and, as required, will be updated based on information to reflect changes in socio-economic conditions. All databases compiled will be fully accessible by all implementing agencies and those involved in the management of land acquisition activities.

F. Reporting

11. The IMO is required to file monitoring reports at intervals to be agreed (generally, once or twice per year). These monitoring reports shall be directly submitted to HRMG and the ADB. The report should contain the following topics:

- a. Progress of land acquisition and compensation activities;
- b. Deviations, if any, from the provisions and principles of the RP and an explanation thereof;
- c. Identification of problem issues and recommended solutions so that implementing agencies are informed about the ongoing situation and can resolve problems in a timely manner; and
- d. Progress of the follow-up of problems and issues identified in the previous report.

G. Monitoring Report Follow-up

12. The monitoring reports will be discussed in a meeting between the IMO, HRMG and the other implementing agencies (e.g., PLO/DLO) held immediately after submission of the report. Necessary follow-up action will be taken based on the problems and issues identified in the reports and follow-up discussions.

H. Evaluation

13. For each HRRIP subproject, the IMO will conduct an evaluation of the resettlement process and outcomes 6-12 MONTHS after completion of all land acquisition and compensation activities, using the same survey questionnaire and sample as used during the monitoring activities.

APPENDIX 9 -- TOR for Social/Resettlement Specialist/Training Consultants

A. Scope and Objectives

1. In accordance with ADB requirements for consultant recruitment, DOW as Executing Agency for the project will engage social/resettlement consultants (18 months international and 36 months national) to provide capacity building training and other assistance to HRMG and other participants in the HRRIP related to land acquisition activities for subproject roads. The consultants will be (i) specialists and/or specialized in social sciences, (ii) experienced in resettlement monitoring for international agencies and (iii) knowledgeable about customary land tenure and other relevant conditions in Papua New Guinea. All candidates will be academically trained as social anthropologists and/or sociologists or equivalent qualifications.
2. The term of this consultancy will be concurrent with the initial stages of implementation of the first and second tranches of the HRRIP. The objectives of the consultancy are to assist DOW, HRMG, PLOs and DLOs in subproject areas and other stakeholders in the following areas:
 - a. Review the required resources and procedures to support the work of HRMG to carry out activities related to acquiring land to upgrade and rehabilitate roads in compliance with the HRRIP policies.
 - b. Preparation of Subproject Profiles and, as required, Resettlement Plans for T1 and T2 roads, including all requirements for consultations, data collection, screening and documentation of AP entitlements and compensation; this work should serve as a training process for HRMG, PLO and DLO personnel to enable them to proceed with preparation of subsequent HRRIP tranches.
 - c. Conduct formal and on-the-job training related to the policy and legal framework for land acquisition (GoPNG and ADB), data collection, consultation and participatory planning methods and other issues relevant to the range of issues associated with land acquisition for the HRRIP.
 - d. Support DOW and relevant agencies in the implementation and monitoring of resettlement activities.

B. Review of Land Acquisition Resources

3. The consultants will collaborate with HRMG and relevant groups at DOW (e.g., Lands and Survey Division) to identify methods and procedures to assist HRMG to integrate land acquisition activities into the process of preparing and implementing HRRIP subprojects. This will include, among others, assistance:
 - a. Establish procedures to facilitate consultation and collaboration with all provincial and district authorities involved in land acquisition and compensation activities for HRRIP subprojects. This will include, among others, the Provincial Land Office (PLO) and District Land Office (DLO) that will be directly involved in land acquisition activities; the LLG and Ward Councillors who will assist with village consultations; and, the Provincial Administrator who will be responsible for ensuring compensation funding for provincial roads.
 - b. Assess the personnel and logistical requirements of HRMG and other participants and draw up strategies to ensure adequate and qualified personnel and other resources.

C. Preparation of T1 and T2 Subproject Profiles and Resettlement Plans

4. The consultant will assist HRMG to prepare Subproject Profiles (SP) for T1 and T2 roads and, as required, Resettlement Plans (RP). This is intended as a learning-by-doing process and activities will include, but not be limited to the following:
 - a. Evaluate all candidate roads to ensure they comply with eligibility criteria and, where necessary, undertake reviews of project design and standards to facilitate compliance with criteria that are related to additional land requirements.
 - b. Conduct subproject screening related to land acquisition impacts, using the Subproject Screening Form; and, report on land acquisition requirements and impacts in the Subproject Profile.
 - c. Organize community consultations to inform village leaders, affected landowners, other affected people and the remainder of the community about the HRRIP, its objectives, the requirements for additional land to upgrade roads, entitlements for compensation and procedures to document and pay compensation, etc.
 - d. Design survey tools and conduct detailed measurement surveys (DMS) with full participation of APs. Assess AP entitlements and compensation in accordance with HRRIP policies.
 - e. Assist DOW and HRMG (and/or their consultants) to design and carry out baseline socio-economic surveys in communities along T1 and T2 roads, ensuring that samples include people affected by loss of or damage to assets.
 - f. Assist HRMG to prepare and disclose RPs to affected communities; and, to facilitate resolution of complaints and grievances through local mediation processes.

D. Formal and On-the-Job Training on Resettlement and Social Assessment

5. The consultant will develop methods and materials and provide formal and on-the-job training, as follows:
 - a. Provide formal and on-the-job training for DOW, HRMG, PLOs and DLOs related to resettlement, gender assessment and social impact assessment.
 - b. Provide training sessions on, but not limited to the following: (a) policies, procedures and best practices related to resettlement, social preparation, social impact/assessment, gender and social development; (b) social assessment methodologies; (c) stakeholder analysis; (d) participatory rapid appraisal; (e) participatory monitoring and evaluation; and, (f) basic social research methodologies.
 - c. Provide training and assistance on consultation and public participation methods, including methods to increase the participation of women and other vulnerable groups.
 - d. Develop and implement capacity building strategy for DOW, HRMG and PLO/DLO to sustain and coordinate all resettlement, social impact/assessment, gender and social development-related activities.

E. Implementation and Monitoring of RPs

- a. Support and coordinate with DOW, DLPP and provincial authorities in implementation of the RPs.
- b. Monitor implementation of the RPs and prepare semi-annual monitoring reports on resettlement/social safeguards.
- c. Coordinate with other specialists and provide safeguard inputs to overall project reports (e.g. quarterly progress reports).

- d. Coordinate with the Independent Monitoring Organization (IMO) for external monitoring and ensure that the Terms of Reference are properly and effectively achieved.