

**Samoa Climate Resilient Transport Project
(SCRTP) - P165782**

**Environmental and Social Management
Framework (ESMF)**

DRAFT

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**Land Transport Authority
Independent State of Samoa**

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1 Introduction

1.1 Purpose and Scope of the ESMF

This Environment and Social Management Framework (ESMF) has been prepared for the Samoa Climate Resilient Transport Project (SCRTP). The ESMF has the following objectives:

- i. To establish clear procedures and methodologies for the environmental and social planning, screening, review, approval and implementation of subprojects to be financed under the Project;
- ii. To specify appropriate roles and responsibilities, and outline the necessary reporting procedures, for managing and monitoring environmental and social concerns, including those relating to gender and different sub-groups within the beneficiary communities, that will arise from the subprojects;
- iii. To determine the training, capacity building and technical assistance needed to successfully implement the provisions of the ESMF;
- iv. To establish the project funding required to implement the ESMF requirements; and
- v. To provide safeguard tools and templates for implementing the ESMF.

The purpose of this ESMF is to guide the Implementing Agency (IA) – the Land Transport Authority (LTA) - and subproject proponents on the environmental and social screening and subsequent assessment of specific activities during project preparation, design and implementation.

The procedures outlined in the ESMF serve to ensure that potential adverse environmental and social impacts that may be generated as a result of each subproject activity are identified early, and appropriate safeguard instruments are prepared prior to implementation to avoid, minimize, mitigate and, in cases where there are residual impacts, offset or minimize adverse environmental and social impacts. The ESMF also contains safeguard instruments that may be triggered by certain activities, such as an Environmental Assessment (EA, OP4.01) and Land Acquisition and Resettlement Plan (LARP, OP4.12).

The scope of this ESMF includes a description of how safeguards issues will be dealt with by outlining:

- i. Types of activities that will not be supported by the project using the ‘negative list’ (Annex A);
- ii. Procedures for safeguard screening and assessment to determine the project category and early identification of potential safeguard issues (Section 6);
- iii. Project-specific safeguards instruments and procedures for activities that may trigger adverse environmental and/or social impacts;
- iv. Key responsibilities for ESMF implementation (Section 9); and
- v. Institutional and monitoring arrangements.

The ESMF will ensure a robust approach to consider environmental and social risks and impacts in line with World Bank safeguard policies¹, and to prepare appropriate good practice safeguard instruments for the actual mitigation and management measures identified in final activities plan/s.

¹ World Bank safeguard policies are available at www.worldbank.org/en/programs/environmental-and-social-policies-for-projects/brief/environmental-and-social-safeguards-policies

2 Project Description

2.1 Context

The Independent State of Samoa (Samoa) is a small and remote Pacific Island Country (PIC) with a population of approximately 197,000 people². Samoa consists of the two large islands of Upolu and Savai'i, and eight smaller islands, and has a total land area of approximately 2,935 km³. Like many PICs, Samoa is vulnerable to extreme weather events. The Pacific-Australia Climate Change Science and Adaptation Planning Program (PACCSAP)⁴ has suggested that the frequency and intensity of extreme weather and climate events, such as heavy rainfall, strong winds and storm surges is increasing, a trend projected to continue throughout the region. Such events cause severe damage to infrastructure and other economic assets, and have adverse effects on livelihoods. Samoa has been heavily impacted by natural disasters, particularly tropical storms and cyclones, including Cyclone Ofa (1990), Cyclone Val (1991) and Cyclone Evan (2012). The combined impacts of Ofa and Val included 21 fatalities, widespread damage and total economic losses estimated as high as US\$500 million⁵, which was equivalent to about four times the country's gross domestic product (GDP) at the time. According to the Damage and Loss Assessment⁶ following Tropical Cyclone Evan (TCE), the combined physical damage and economic losses to transport infrastructure, houses, and tourism facilities were estimated at US\$204 million, approximately 28 percent of the total value of goods and services produced in Samoa in 2011. Samoa also experiences high seismic activity, and on September 29, 2009, was hit by an earthquake-triggered tsunami. As a result, there were 143 reported deaths and nearly 5,300 people were affected, mainly on the southern, eastern and south-western coast of Upolu⁷.

Government officials are aware that the country's infrastructure assets, particularly roads and bridges, are vulnerable to climate change and more intense storms. Samoa is an active member of regional and global climate change fora and initiatives, and has put forth a robust program for developing economic infrastructure that addresses the risks posed by climate change. In 2013, Cabinet approved a plan to strengthen the climate resilience and longevity of road assets throughout the country, and is taking steps to strengthen the resilience of Samoa's economic assets to extreme climatic events. Building on this, in late 2017 the Government adopted the Vulnerability Assessment⁸ and Climate Resilient Road Strategy⁹ prepared under the World Bank (WB) funded Enhanced Climate Resilience of the West Coast Road (CRWCR) project, which identified hazards and prioritized areas for investment in the transport sector.

Samoa's transport network is of critical importance to the country's economic development. It provides connectivity that supports trade and promotes commercial activity by facilitating the movement of goods and services. It also provides safe and efficient access to social services including schools and health facilities. In addition, approximately 70 percent of the population in Samoa lives within one kilometer of the coast, and critical infrastructure including roads, hospitals, schools, places of employment, port facilities, tourist facilities, power plants and airports, are located primarily in the coastal zone. The transport network therefore faces a

2 Samoa Bureau of Statistics (2017).

3 CIA World Fact Book – Samoa <https://www.cia.gov/library/publications/the-world-factbook/geos/ws.html>

4 Climate Variability, Extremes and Change in the Western Tropical Pacific: New Science and Updated Country Reports. Pacific-Australia Climate Change Science and Adaptation Planning Program, 2014.

5 Country Risk Profile: Samoa. Pacific Catastrophe Risk Assessment and Financing Initiative (PCRAFI), September 2011.

6 Samoa Post-Disaster Needs Assessment, Cyclone Evan 2012. Government of Samoa, March 2013.

7 Samoa Post Disaster Needs Assessment, Following the Earthquake and Tsunami of 29 September 2009. GoS, December 2009.

8 Vulnerability Assessment of the Samoa Road Network. Government of Samoa, 2017.

9 Climate Resilient Road Strategy. Government of Samoa, 2017.

range of issues that increase vulnerability such as: (i) exposure to sea-level rise, storm surge, and wave action during cyclones and tsunamis; (ii) flooding and landslides associated with extreme rainfall events; (iii) damage from earthquakes; and, (iv) accelerated pavement deterioration due to extreme weather and rising water tables.

2.2 Project Components

The project development objective (PDO) is to improve the climate resilience of Samoa's road network and improve Government's ability to respond to an Eligible Crisis.

PICs want and need to act urgently to improve the climate resilience of their transport networks. According to the Pacific Possible Report on Climate Disaster and Resilience¹⁰, roads comprise the greatest share of PIC's combined spending on climate resilient investments: approximately 50 percent of the average costs in most PICs and over 90 percent of the average costs in Solomon Islands and Samoa. To address this challenge, the Pacific Climate Resilient Transport Program (PCRT) Series of Projects (SOP) aims to finance activities to systematically improve the resilience of transport networks in PICs to natural hazards and climate change. SCRT will address transportation challenges identified in Samoa, specifically focusing on ensuring connectivity within the transport sector and building resilience to external shocks, particularly climate change. Acknowledging the fundamental role of the transport sector in providing social and economic benefits, ongoing efforts will address sector wide challenges including: (i) capacity building; (ii) supporting reforms to address overlaps in agency and responsibilities relevant to climate resilient sector planning; and, (iii) mainstreaming climate resilience in Samoa's development.

The overall concept of the PCRT SOP is also in line with the Small Islands States Resilience Initiative (SISRI) that draws on the experiences from the WB and others in supporting climate and disaster resilience in small island states. The proposed components of PCRT also follow the four-pillared strategic framework for enhancing transport resilience adopted by the Bank's Transport and Digital Development global practice (GP)¹¹, which was subsequently incorporated into the GP's flagship report on *Moving Toward Climate Resilient Transport*¹² that was delivered at COP21. The *Climate and Disaster Resilient Transport in Small Island Developing States (SIDS) Report*¹³ furthermore identified a framework for integrating climate and disaster resilient transport interventions into decision-making and implementation to help build institutional capacity and co-ordination. Four key areas were identified that are also in line with the four-pillared approach of SCRT, including: (i) systems planning; (ii) engineering and design; (iii) operations and maintenance; and, (iv) contingency planning.

2.2.1 Component 1: Sectoral and Spatial Planning Tools

This component involves technical assistance that will improve the way that climate change is addressed in Samoa's road sub-sector, and allows for the financing of updates to analytical and sector planning tools to enable policymakers to make informed decisions based on the most accurate and up-to-date information available.

10 Pacific Possible: Climate and Disaster Resilience. World Bank, 2016.

11 Enhancing Road Resilience in Pacific Island Countries, World Bank Assisting Adaptation to Climate Change. World Bank, 2015.

12 Moving Toward Climate-Resilient Transport, The World Bank's Experience from Building Adaptation into Programs. World Bank, 2015.

13 Climate and Disaster Resilient Transport in Small Island Developing States: A Call for Action. World Bank, 2017.

2.2.2 Component 2: Climate Resilient Infrastructure Solutions

This component involves the study, design and construction of identified priority road assets to improve their resilience to climate-related hazards and/or events. The integration of climate change considerations into infrastructure activities will help to strengthen the resilience of assets and improve functionality of the transportation network.

2.2.3 Component 3: Strengthening the Enabling Environment

This component will provide funding to support institutional and regulatory reforms for road sector asset management and maintenance, including measures to strengthen local capacity and to increase the sustainability of sector investments. In addition, this component will help to strengthen coordination among relevant institutions, will look at ways in which road sector management can be improved, and will address any emerging priority issues that can help support the Government in addressing climate change risks.

2.2.4 Component 4: Contingent Emergency Response

Since PICs will remain vulnerable to climate change and severe weather events, even with the successful implementation of the first three components, supporting post-disaster recovery is an important feature of the PCRTP. This component is designed to provide swift response in the event of an Eligible Crisis or Emergency, through a project specific Contingency Emergency Response Component (CERC), by enabling the Government to request the Bank to re-allocate project funds to support emergency response and reconstruction. This component would draw from the uncommitted grant resources under SCRTP from other project components to cover emergency response.

2.3 Institutional Arrangements

SCRTP will utilize implementation arrangements that are new for Samoa and will address lessons learned from current and historic projects in the transport sector. Through establishing centralized units at two levels, the GoS will benefit from improved efficiency and capacity development with knowledge and resources shared amongst development projects. LTA Project Management Division (PMD).

LTA is responsible for planning, designing, constructing and maintaining the country's national road infrastructure. Road asset management is a core function of LTA and support has been provided to LTA through previous engagements to support core program management functions and enhance institutional capacity. LTA also oversees road use and is accountable for registering vehicles, issuing drivers' licenses, enforcing vehicle load limits and promoting road safety. Responsibility for the day-to-day management of SCRTP will fall to LTA who are the designated implementing agency (IA). This unit has had experience with WB projects over the past decade, and as such, it is familiar with Bank procedures and requirements, which reduces implementation risk. Historically, individuals and/or consulting firms have been hired to assist LTA's PMD with meeting the technical and fiduciary requirements of projects including financial management, safeguards and procurement. Under the new arrangements for SCRTP, support with these activities will come from the centralized TSCD. One exception to this is technical engineering support, with an individual consultant (Technical Advisor) funded under SCRTP to work closely with the PMD. Divisions of MNRE and MWTI may also serve as implementers for specific activities under Component 3, but will not be full IAs.

2.3.1 Transport and Infrastructure Sector Coordination Division (TSCD).

The TSCD will be staffed with local specialists including in the areas of financial management, monitoring and evaluation, safeguards and procurement who will assist the PMD with project implementation. They will serve

not only SCRTP, but also other transport sector projects. Their activities will be governed by the TSAC within MWTI who will serve a similar role to the Project Steering Committee, currently used under existing projects. As capacity and expertise for undertaking fiduciary duties in accordance with WB procedures is currently limited, the TISCD will require training and hands on support, which will be provided by the new CTSSU.

2.3.2 Centralized Technical Services Support Unit (CTSSU).

Housed in the Aid Coordination and Management Division of the MoF (the executing agency for SCRTP), the CTSSU will serve donor projects across all sectors. It will consist of high-level (likely international) specialists in the fields of procurement, financial management, monitoring and evaluation and safeguards. The specialists will work with the SCDs and PMDs across all sectors to provide implementation oversight, coordination and support. Hands on support will be provided, where required, particularly at the commencement of these arrangements while capacity development efforts are undertaken.

LTA will work in coordination with the following agencies in relation to environmental and social safeguards aspects of the project:

- Ministry of Works, Transport and Infrastructure (MWTI), Land Transport Division – for road closure and traffic disturbance during construction phase. The TSAC will also sit within MWTI and will house a Safeguards Specialist.
- Ministry of Natural Resources and Environment (MNRE), Land Management Division and Legal Division – for land management and administration; ensure cabinet approval for land registration and proclamations; negotiation with village chiefs and orators, matai and beneficial owner of affected customary land.
- MNRE Planning and Urban Management Agency (PUMA) – for development approval, community consultation, monitoring compliance of development activities in accordance with development consent conditions and approved environmental management plans;
- Ministry of Women, Community and Social Development (MWCSD) – to notify local leaders (Sui le o nu'u/malo, matai, etc) and communities of consultation activities with affected communities;
- Ministry of Finance (MoF) – to make compensation payments to affected persons for damage or loss of property or assets where applicable. MoF will also house the CTSSU, which will include a Safeguard Specialist.

Section 7 outlines responsibilities of key project stakeholders with regard to ESMF implementation and safeguards.

3 Potential Environmental and Social Impacts

The following environmental and social impacts are anticipated during the design, construction and operational phases of SCRTP. The predicted impacts trigger the WB's safeguards policies OP/BP 4.01 Environmental Assessment, OP/BP 4.12 Involuntary Resettlement, and OP/BP 4.11 Physical Cultural Resources. The Bank's renewed emphasis on social, health and safety impacts including the safety of women, girls and children is considered. The main potential impacts are discussed below.

3.1 Protection of Sensitive and Ecologically Important Areas

Component 2 have activities that require soil excavation and other earth-moving works to widen existing roads, protect and stabilize vulnerable slopes, improve existing or construct new drainage and replace at least two existing river crossings in Upolu and Savaii. These activities have the potential to cause impacts on the immediately surrounding and downstream environments. Likewise, during construction, any resulting contamination, sedimentation, spills, etc. will potentially have adverse consequences for fragile coastal ecosystems, including lagoons, mangrove areas and reefs, which many local households rely on for protein and income. Hence, the implementation of adequate mitigation measures during construction will be critical in protecting these ecological values.

3.2 Climate Change and Coastal Hazards

The coastal and low-lying location of the West Coast Road (WCR), and most of the East Coast Road (ECR) make them vulnerable to coastal flooding and erosion. Extreme weather events such as cyclones, strong winds, storm surges, king tides, and heavy rainfall, associated with climate change are now being experienced with increasing regularity and intensity. These events will directly affect the economic longevity of physical coastal infrastructure and in particular roads, drainage systems and crossings. In the longer term, predicted rising sea level is an important variable to be considered in project design, as it impacts the human population, physical infrastructure, social services and utilities – all of which are concentrated within the coastal zone.

3.3 Affected Lands and Properties

While the complete avoidance of new land acquisition is ideal, it is highly likely that the infrastructure works eligible for funding under Component 2 will affect land outside the road reserve and may involve the permanent and or temporary acquisition of customary and or private owned lands. Even without land acquisition, community and privately-owned assets such as fences, houses, community springs, and crops are frequently found encroaching into the road reserve and will be adversely affected i.e. either destroyed or otherwise be relocated. Land required for dedicated easements for stormwater management may extend into private or customary lands, and will affect crops and other non-land assets.

For easements, continuing access during the operational phase for maintenance purposes will impose limits for land usage on landowners where land ownership is not ceded to the Government. The resulting economic and financial losses for landowners need to be considered in project planning.

WB Safeguards Policy 4.12 Involuntary Resettlement and Samoa Government laws require that affected assets and land to be taken are fairly compensated with compensation to be fully paid before project construction.

3.4 Utility Services

Utility services have traditionally occupied the road reserve as a convenient corridor, with a number of services already located underground and alongside the existing roads. Generally, they are considered safe from

damage during construction. However, in some areas or stretches of the WCR and ECR, existing underground telecommunications network cables are less than the desired depth of 700mm to the top of the ducting. Similarly, recent experience has shown that SWA water supply mains and sub-mains are located very close to the existing road shoulder, and may need to be relocated to accommodate any planned road widening and sealed shoulders.

To improve future accessibility and to ensure that any new road pavement will not be affected should the utilities require servicing, minor feeder or supply conduits for underground power supply and telecommunications, as well as water pipes, along with power poles, will require relocation to a safe distance away from the edge of the carriageway.

3.5 Physical Cultural Resources

Physical cultural resources include tombs and gravesites of historically important personalities, cemeteries, other natural or manmade structures and sites. It is expected that most will not be within the road reserve and or construction corridor. Where some PCR are located inside or in close proximity of the road reserve, the project design will ensure any adverse impacts are avoided or otherwise minimized. Direct consultation with local communities and or affected households is critical to avoiding costly disruptions to project implementation (refer Annex E for Chance Finds Procedure).

3.6 Construction Impacts

Reduced air quality as a result of dust released from site works, vehicle fumes and smoke from burning wastes; vibration and noise from the use of heavy machinery and equipment, and potential changes to air moisture, wind speed and air as a result of vegetation removal – are typical impacts during construction in all project sites including quarries and borrow areas. Sensitive receptors such as homes, schools, recreational and religious buildings and public spaces within close proximity will be affected albeit temporarily. Appropriate mitigation measures are required to guide construction contractors.

While most construction impacts are often perceived as nuisances and or loss of amenities, health issues such as bronchial and respiratory illnesses resulting from the increase in air borne dust particles may lead to serious long if not permanent impact on directly affected populations.

3.7 Socio-Economic

Many families along the WCR and ECR have roadside stalls, often within the road reserve, selling fresh produce such as fruits, fish, root crops – and cooked food. Income from these activities contributes significantly to disposable household incomes. Stalls within the project construction zone will be relocated before construction starts. Recent experience found that many stall owners will simply ‘close shop’ until after project completion, with the resulting impact in terms of lost income more protracted thus more severe.

Road and crossing construction works will also disrupt normal traffic movement often due to road closures and route diversions to avoid construction sites. For traffickers and commuters including students, the resulting delays and increase in travel times are both an inconvenience and an indirect cost. These impacts are expected to be minor negative and temporary assuming proper traffic management control measures are in place.

3.8 Environment, Social, Health and Safety (ESHS)

Public health and safety is a concern during the construction phase. Residents along the entire length of the targeted roads, pedestrians, traffickers, project workers and visitors to the project site including laydown areas

and quarries - will be exposed to the risk of injury from on-going construction activities. Occupational health and safety is a concern for employers and especially workers who will be directly exposed during construction to hazards such as noise, fumes and vibration from moving equipment and vehicles, heavy lifting and others.

The adverse potential impacts of the project on the public and workers health and safety during construction are mitigatable. It requires contractor(s) to comply with the relevant Samoa Government legislation¹⁴ and policies and WB Safety Requirements/Standards.

3.9 Gender-based Violence (GBV) and Violence Against Children (VAC)

GBV and VAC related impacts are potential issues during the construction phase. Labour mobilization associated with project construction often transplant workers, especially foreigners, in unfamiliar cultural and social settings. Contractor offices in laydown areas and workers camps also attract men and women from surrounding communities looking for employment, as well as local vendors and sellers (including children) of fresh produce, cook food etc. As well, simply working in close proximity of local communities inevitably creates opportunities for social interactions. Some of these interactions may lead to culturally insensitive behaviour and relationships, including some that are disrespectful of local customs and village bylaws, and others fostering and or directly resulting in gender-based violence (GBV), violence against children (VAC), sexual harassment etc.

Avoiding such adverse social impacts is a shared responsibility with the Contractor having the onus of ensuring employees are sensitive to and respectful of local cultures and upholding an acceptable standard of behaviour when interacting with outsiders and local communities. Samoa's obligations as a party to the UN Convention on the Right of the Child, and the Convention for Eliminating Discrimination Against Women (CEDAW), requires that acceptable standards of behaviour are made understood by all parties involved, encouraged through various ways with enforceable measures for ensuring accountability for non-compliance agreed to.

SCRTP will address GBV and VAC issues through the mainstreaming of GBV and VAC codes of conduct and training to increase the protection of women and children.

¹⁴ Samoa's Occupation Health and Safety Act 2002 and Regulation 2017, COEP 12.2

4 Legal and Policy Framework and Regulatory Requirements

This section describes the applicable World Bank safeguard operational policies (OPs) and country specific policy, legal and administrative frameworks and rules and regulations applicable to the SCRTP. It also provides an overview of current gaps between Bank policies and existing country systems.

4.1 World Bank Safeguard Policies

The World Bank’s safeguard policies (also referred to as operational policies or OPs) cover environmental, social and legal aspects of proposed projects. Table 1 below contains a brief description of the aim of the safeguard policy, why the policy is triggered for the SCRTP, and the applicable safeguard instruments.

Since the project also envisages technical assistance (TA) for risk financing and the Interim Guidelines on the Application of Safeguard Policies to TA Activities in Bank-Financed Projects will be applied. As such, the safeguard documentation prepared for the project will apply equally to the TA component(s).

Table 1 Applicable World Bank Safeguard Operational Policies

Policies		Description of Policy and Applicability to SCRTP
Environmental Assessment OP/BP 4.01	Purpose	OP 4.01 Environmental Assessment requires the conduct of an environmental assessment (EA ¹⁵) of projects/programs proposed for Bank financing to help ensure that they are environmentally and socially sound and sustainable. This is the umbrella policy for the Bank's environmental and social safeguard policies. The EA needs to consider natural and social aspects in an integrated way.
	Justification of why this OP is triggered	The project is unlikely to cause any significant adverse environmental impacts and has been categorized as Category B under OP 4.01 (Environmental Assessment). Potential impacts are expected to be site-specific and few, if any, would be irreversible. Required mitigation measures are expected to be largely standardized; however, they will need to respond to the potential environmental risks identified during the environmental assessment. Importantly, the receiving environment of the proposed investments is highly sensitive and includes coral reef communities that contain significant biodiversity and are important for livelihoods. Many of the sub-project activities will be located close, or adjacent to, the coast hence the prevention of pollution from sedimentation and hydrocarbons will be critical.
	Safeguard Instrument	This Environmental and Social Management Framework (ESMF) includes the principles, rules, guidelines and procedures for screening and assessment of environmental impacts of project activities once they have been defined with sufficient detail to be specifically evaluated. The Safeguards Screening Form (Annex B) will be used to screen activities to determine the categorization in accordance with this policy, identify potential environmental and social impacts, and provide guidance on the level of detail required for an EA and EMP in line with national regulatory and OP4.01 requirements.

¹⁵ EA and EIA are used interchangeably in this ESMF.

Involuntary Resettlement OP/BP 4.12	Purpose	This policy aims to restrict the involuntary taking of land or any form of economic displacement of populations affected by World Bank financed activities; and where displacement is unavoidable, to assist persons to improve (or at least restore) their incomes and standards of living; and to identify and accommodate the needs of vulnerable groups.
	Justification of why this OP is triggered	It is expected that the majority of project activities will utilize existing government right of way. However, some involuntary resettlement impacts are expected in the form of marginal loss of private and customary land as well as loss of some non-land assets (secondary structures, trees and crops). Accordingly, this policy is triggered to ensure appropriate safeguards are in place should this occur.
	Safeguard Instrument	The Land Acquisition s and Resettlement Policy Framework (LARPF) guides the process in cases where land acquisition, loss of access, and/or removal of assets or access to assets could occur and provides guidance on whether additional safeguard instruments need to be prepared (e.g. Abbreviated Resettlement Action Plan (ARAP), Land Use Agreement (LUA), Land Access Agreement (LAA)).
Physical Cultural Resources OP/BP 4.11	Purpose	To ensure physical cultural resources of local and national significance are protected and not permanently degraded or lost as a result of the Project.
	Justification	Recent experience found that tombs and cemeteries or gravesites are often located near the road reserve and or within the construction zone. There are also excavation works associated with crossings, slopes stabilization, and possibly within easements for stormwater management that may stumble upon culturally important resources requiring the activation of Chance Finds Procedures. Considering this Policy triggered is a necessary precautionary measure.
	Safeguards Instruments	The ESMP will have mitigation measures for any potentially adverse impact on PCR within or near the road reserve. In the event of a “Chance Find”, Chance Finds Procedures are annexed to guide the contractor (Annex E).

Country-level social analysis undertaken as part of preparation of the World Bank’s Environmental and Social Safeguard Procedures and Instruments for Pacific Island Countries, determined that OP 4.10 is not typically triggered in Samoa¹⁶. However, a precautionary approach has been applied for this project through employing culturally appropriate communication processes to ensure that traditional community structures are respected and incorporated.

¹⁶ According to the Environmental and Social Safeguard Procedures and Instruments for Pacific Island Countries (PICs) developed by the World Bank (WB)’s East Asia and Pacific Regional Safeguard Secretariat (RSS), OP 4.10 is not typically triggered in the generally homogeneous island nations of Federated States of Micronesia, Kiribati, Marshall Islands, Palau, Samoa, Tonga and Tuvalu. Depending on the specific project context, persons meeting the four defining characteristics of OP 4.10 are likely to be found in Fiji, PNG, the Solomon Islands, Timor Leste and may be found in Vanuatu.

4.2 National Legislative and Regulatory Setting

This section provides a brief overview of the specific policies, administrative and institutional framework in relation to environmental and social safeguards applicable to the preparation and implementation of SCRTP in Samoa.

4.2.1 Governance

Samoa declared independence from New Zealand in 1962 and the Constitution was enacted in 1960. The country has a unique system of governance, blending a parliamentary government structure [comprised of the Legislature (Parliament or 'Fono'), Executive (Cabinet and Prime Minister) and the Judiciary] with the *fa'amatai* customary system in which traditional *matai*'s (leaders of extended families with chiefly status) are elected to serve in Parliament.

At the subnational level, the country is divided into sixteen districts across the islands of Upolu and Savai'i, and one urban area (Apia). The *Fono o Matai* (Village Councils) attend to civil matters at the village level, a role recognized under the *Village Fono Act (1990)*. The government representative in each village is called the *Sui o le Malo*. At the household level, *matai* administer customary land on behalf of the extended family.

The key legislative instruments relevant to SCRTP activities and environmental and social safeguards in Samoa include:

- *Planning and Urban Management Act (PUMA) 2004;*
- *Planning and Urban Management (Environment Impact Assessment) Regulations 2007;*
- *Planning and Urban Management (Development Consent and Fees) Regulation 2008;*
- *Samoa Codes of Environmental Practice 2007;*
- *Land Transport Authority Act 2007;*
- *National Parks and Reserves Act 1974;*
- *Lands, Surveys and Environment Act 1989;*
- *Waste Management Act 2010;*
- *Samoa Occupational Safety and Health Act 2002;*
- *Samoa Occupational Safety and Health Regulation 2017;*
- *Samoa Antiquities Ordinance 1954;*
- *Village Fono Act 1990;*
- *Taking of Land Act 1964;* and
- *Alienation of Customary Land Act 1965.*

4.2.2 Environment Assessment and Management

The Ministry of Natural Resources and Environment (MNRE) is responsible for environmental protection and management in Samoa. MNRE hosts the Land Registry, Planning and Urban Management Agency (PUMA), and the Meteorology Office for Samoa, among others.

PUMA is the lead agency for development approvals and environmental management of new developments. PUMA administers the *Planning and Urban Management (Environment Impact Assessment) Regulations 2007* (EIA Regulations) under the *Planning and Urban Management Act 2004* (PUM Act). PUMA has a dual role: (i) defining the requirements of environmental impact assessments (EIAs); and (ii) to review project EIAs

for development activities and consider findings and conditions for development consent. Specific requirements for environmental assessments are provided in the EIA Regulations 2007 and *PUM Regulation 2008* (Development Consent and fees).

The EIA Regulations set out what level of EIA is required, the components required for an EIA, and the process for review and approval. In addition, Codes of Environmental Practice (COEP) present methods and procedures to be followed for the avoidance or mitigation of adverse environmental effects that may arise from infrastructure projects or maintenance work (Annex G). PUMA personnel monitor the implementation of these COEP and specific development controls through development consent conditions. All other authorities monitor the implementation of the COEP through normal contract administration procedures.

Under the EIA Regulations 2007, environmental assessments (EA/EIA) are required for any public or private development proposal that triggers qualifying criteria. The qualifying criteria relate to potential negative impacts on people, property, places, habitats and a range of situations detailed in the regulations, including:

- Adverse impacts on people, an existing activity, building or land;
- Adverse impacts on a place, species or habitat of environmental (including social and cultural) importance;
- Adverse impacts in conjunction with natural hazard risks;
- Adverse impacts on or in the coastal zone;
- Adverse impacts on or in any waterway or aquifer;
- Adverse impacts arising from the discharge of any contaminant or environmental pollutant;
- Adverse impacts associated with land instability, coastal inundation or flooding
- Adverse impacts on the landscape or amenity of an area;
- Adverse impacts on public infrastructure;
- Adverse impacts on traffic or transportation; and
- Any other matter for consideration stated in s46 of the Act.

Depending on the nature and scope of the development, either a Preliminary Environmental Assessment Report (PEAR) or a Comprehensive Environmental Assessment Report (CEAR) is required for a development that meets the qualifying criteria. The PEAR is required where PUMA does not consider that significant adverse impacts on the environment are likely, and a CEAR where adverse impacts are likely to be significant. Once completed, the PEAR / CEAR is submitted with a Development Consent Application (DCA) including final design drawings, a site plan, certified survey plans, written consent from property owners, lease agreements, deeds of conveyance and a fee, to PUMA to be reviewed. The PEAR and CEAR are open for public comment before a final recommendation is made to the PUM Board. Projects with significant adverse impacts and projects with a value of SAT\$1 million or more must publish a public notice. A 28-day public notification period applies. The Board has representation of various ministries and public communities, and can therefore act independently of MNRE. The Board may approve the application, decline it or approve it with conditions. Once development consent for buildings and infrastructure is granted, a building permit from the Ministry of Works, Transport and Infrastructure (MWTI) is required. The development consent process is summarized in Figure 1.

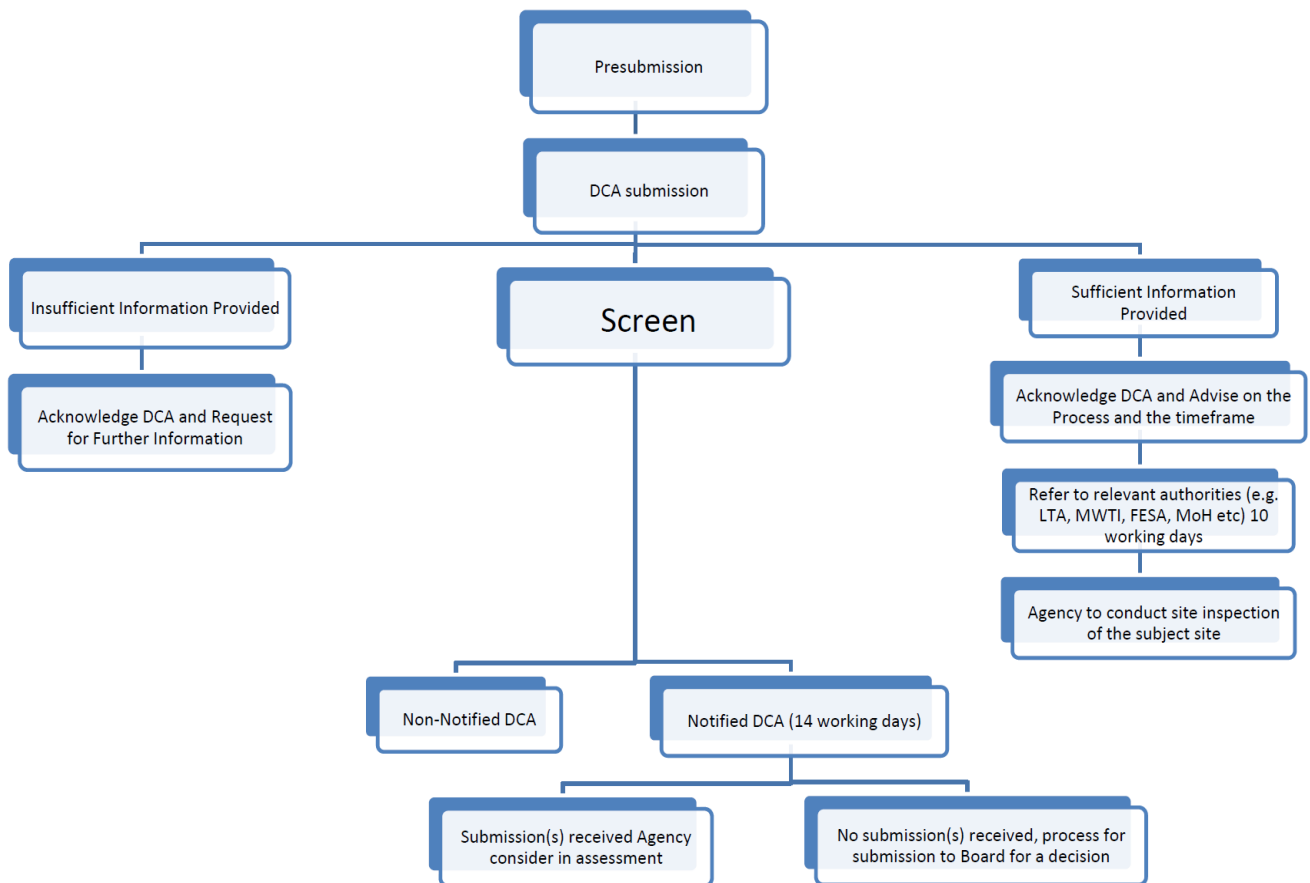


Figure 1 Development Consent Process Under PUM Act

The *Lands, Survey and Environment Act 1989 (LSE Act 1989)* also covers land allocation and the environmental management of land. Under the Act, regulations can be made to address specific issues including forest protection, regulation of various forms of land use, and biodiversity conservation.

4.2.3 Samoa Codes of Environmental Practice (COEP)

Samoa’s Code of Environmental Practice (COEP) was formally issued by PUMA in April 2007. The COEP’s intent is “...to define methods and/or procedures to be followed by consultants, designers and contractors for the avoidance or mitigation of adverse environmental effects that may arise out of infrastructure development projects or maintenance work.” The following is a summary of COEPs considered relevant to the SCRT. All COEPs are to be read in conjunction with COEP 1 – Administrative Procedures.

COEP 2: Road Planning, Design and Construction

In general road rehabilitation or upgrading works for existing roads, and the road alignment planning, design, and associated earthworks for new roads shall:

- Avoid as far as is practicable the disturbance, and or the resettlement of, villages, or individual buildings including houses;
- Avoid areas of land, foreshore, wetlands, waterways or other areas of habitat which have been set aside for the conservation of flora and fauna, and biodiversity;
- Avoid sites of archaeological, heritage, historical, traditional, and cultural importance;

- Avoid wherever possible National Parks, eco-tourism areas, foreshore reserves, forest reserves, nature reserves, riverbank reserves, traditional reserves, water catchment reserves, wetlands, and heritage and archaeological sites;
- If road user safety is not compromised, relax specified design standards in areas of steep and heavily vegetated slopes, sensitive coastal areas, and roads which could be part of a Scenic Roads Programme;
- Incorporate design features for the general improvement of environmental quality;
- Incorporate design features for the protection and enhancement of coastal margins and other areas that require particular sensitivity; and
- Incorporate measures and design features for the mitigation of adverse environmental effects.

The detailed design will meet the requirements and principles of general improvement of environmental quality by incorporating features that included the use of road marking, signage, sealed shoulders and dedicated bus stops. For the protection and enhancement of coastal margins and other areas that require particular sensitivity, the detailed design shall include the use of swales to help remove pollutants from road runoff. Design features and measures to mitigate adverse environmental effects include the use of drainage easements outfalls and seawalls.

COEP 3: Consultation

The basic principles of consultation, which should be applied to all development projects, are as follows:

- At the earliest opportunity, a community should be advised of potential projects and how the community can receive information about, and become involved with, such projects.
- The intentions/objectives of the consultation should be clearly and openly stated.
- Stakeholders and affected communities should have timely and meaningful inputs to, and participation in, any phases or aspects of projects that directly affect them and all inputs should be treated equitably and with respect.
- Consultation should be a two-way process and there should be an exchange of information where both the proponent and the affected communities should put forward their points of view and to consider other perspectives.
- Consultation is best undertaken at early stages in and throughout the decision-making process or at least on going communication after a decision has been made.
- All parties do not have to agree to a proposal, however as a result of undertaking consultation at least points of difference will become clearer or more specific.

Project proponents must comply with the requirements of the *Planning and Urban Management (Environment Impact Assessment) Regulations 2007* as they pertain to consultation during the environmental impact assessment process.

COEP 4: Land Acquisition and Compensation

Land acquisition shall be minimised. Where unavoidable, land acquisition shall be carried out in such a manner so as to minimise the adverse impacts on the affected people.

- Avoid, wherever possible, the need to relocate graves and/or burial sites. Where this cannot be avoided, such relocation shall be carried out in a manner that will minimise duress on the relatives of the deceased.

- Land acquisition and compensation issues should be clearly distinguished from labour and industrial related matters in following the procedures established in this COEP.
- Any acquisition of land shall be carried out in consultation with the people to be affected and in accordance with the project consultation strategy (as set out in COEP 3 – Consultation).

COEP 5: Construction Camps

COEP 5 provides guidelines on the selection, development, maintenance and restoration of construction campsites in order to avoid or mitigate against significant adverse environmental effects, both transient and permanent. This COEP shall be read in conjunction with COEP 1 - Administrative Procedures.

In accordance with Part V of the Planning and Urban Management Act 2004 and any other relevant legislation, any person who engages in the development of a construction camp shall first obtain a Development Consent from PUMA for the proposed activity.

Consent applications shall be on a form approved by PUMA and shall be submitted by the person undertaking the camp construction. In the case of land development, the land developer rather than the contractor or agent shall submit the application. Applications shall be made no later than one month before the proposed camp construction is scheduled to begin. Applications shall be accompanied by such other documents as PUMA may require.

At any time during the consent process, PUMA may convene a public hearing or hearings for the purpose of determining the facts on which to base a decision. Adequate notice of the hearing or hearings, adequate opportunity to appear and be heard, and adequate opportunity to provide written comment, shall be given to all interested persons.

PUMA may, upon issuance of a consent, impose any conditions or special requirements on the camp construction as it sees fit. All such conditions and requirements shall be listed in writing by PUMA and attached to the consent.

A camp construction consent issued by PUMA shall expire two years from the date of issuance. If the construction activity is ongoing at the time of consent expiration, a new consent application shall be submitted to PUMA one month before expiration of the consent.

COEP 6: Road Construction Erosion Control

COEP 6 defines measures for the prevention of erosion of exposed earth surfaces as a result of road construction activities, including post construction period, and to prescribe measures to be taken to avoid erosion of channels and drainage outlets. It also prescribes measures to be taken to mitigate significant adverse effects of the discharge of water containing suspended soil particles into natural watercourses or onto land adjacent to road works. This COEP shall be read in conjunction with COEP 1 – Administrative Procedures.

The planning and design of the alignment of any roading project is to be undertaken to avoid, so far as is possible, the disturbance of existing vegetation and as a consequence minimise the implementation of erosion control measures defined in this COEP.

In order to minimise the risk of water ponding adjacent to the toe of fill batters with the consequent risk of saturating fill materials with resulting batter failures, it is often necessary to construct toe drains.

Wherever they are installed road side drains shall be designed for their purpose and shall be protected against the effects of scour. The minimum protection shall be the establishment of suitable grasses (refer Annexure 1). Where flow velocities are anticipated to be high, scour protection shall be afforded by rip rap, concreted stone pitching, concrete dished channels or other equally effective protection.

Throughout the construction period and if necessary the maintenance period it is intended that the discharge of silt-laden water from construction sites to natural water courses is minimised. In ecologically sensitive areas and along any foreshore, untreated discharge must be prevented.

In order to protect the surface of road shoulders against erosion from surface water flows it is necessary to surface the shoulder with non-erodible material. Such surfacing has the secondary benefit of minimising the occurrence of edge break of adjacent sealed pavements.

COEP 8: Quarry Development and Operations

COEP 8 prescribes the safety requirements for the development and operation of quarries as well as to define procedures and works that shall be used to mitigate against adverse environmental effects. COEP 8 shall be read in conjunction with COEP 1 – Administrative Procedures and COEP 13 - Earthwork.

COEP 9: Gravel Extraction

COEP 9 provides the planning and construction guidelines for the extraction of river gravels for development projects with particular regard for the need to avoid or mitigate adverse environmental impacts from such work. In each case a proposal to extract river gravel for a development project must be compared in terms of economic cost and environmental cost with the alternative of obtaining gravel aggregates from existing or new quarries. This COEP shall be read in conjunction with COEP 1 – Administrative Procedures and COEP 13 - Earthwork.

COEP 11: Drainage

COEP 11 prescribes the procedures for the design, construction and maintenance of drainage structures and drainage channels to minimise short term and long-term adverse environmental effects. This COEP shall be read in conjunction with COEP 1 – Administrative Procedures and COEP 13 - Earthwork.

For the WCR project, culverts on natural watercourses have been designed to preserve or improve environmental conditions as far as possible with the culvert inverts set to allow the natural tidal movement in and out at the mouth of the stream.

The detailed design has also considered minimising the pollution load by the use of swales, earthen ditches and catchpits. Swales in particular attenuate the flow and encourage runoff to infiltrate the ground rather than discharge directly to the sea, the vegetation will provide some biological treatment and infiltration will filter out more of the pollution. The catchpits allow the drain to be blocked to allow clean-up in the case of a major accidental pollution incident such as spillage because of a road traffic accident.

COEP 12: Traffic Control During Construction

COEP 12 prescribes the methods that are to be used for the safety and control of traffic during the upgrading, reconstruction or maintenance activities on any road. This COEP shall be read in conjunction with COEP 1 - Administrative Procedures.

Note that the Contractor is to prepare a Traffic Management Plan (TMP) together with the Contractor's ESMP which shall be submitted for approval before the commencement of the works. Different sections of the WCR reconstruction may require special considerations and these will need to be highlighted in the TMP.

COEP 13: Earthworks

COEP 13 provides the planning and work guidelines for earthworks activities associated with development projects; with particular regard for the need to avoid or mitigate adverse environmental impacts from such work. This COEP shall be read in conjunction with COEP 1 – Administrative Procedures.

All earthworks activities shall be conducted in accordance with this COEP and in such a way as to prevent accelerated erosion, accelerated sedimentation and disturbance of potential cultural resources. To accomplish this, all persons engaging in earthwork activities shall design, implement and maintain erosion control, sedimentation control, and cultural preservation measures which effectively prevent accelerated erosion, accelerated sedimentation and adverse impact on cultural resources.

4.2.4 Cultural Preservation

The key legislation protecting relics, antiquities and sites of historical and cultural significance in Samoa is the *Samoa Antiquities Ordinance 1954*. This ordinance aims to prevent the loss of national heritage treasures by export to overseas buyers but excludes botanical or mineral collections or specimens. A Heritage Policy was also passed by the Cabinet in 2002 for the sustainable management of Samoa's natural and cultural heritage sites.

For SCRTP, the kinds of physical cultural resources likely to be affected either temporarily or permanently are tombs and cemeteries in close proximity of the roads. In some cases, they may need relocation, in other cases, temporary protective measures to avoid damage during construction will be necessary. These measures will be specified in the ESMP.

4.2.5 Land Acquisition

There are three types of land ownership in Samoa:

- i. Freehold land: Freehold land is privately owned and constitutes approximately 12% of land area in Samoa and it can be transferred, leased, mortgaged or otherwise.
- ii. Public land: Public land is owned by the Government of Samoa and constitutes approximately 7% of land in Samoa by area. Public land can be leased and, in certain circumstances, transferred.
- iii. Customary land: Customary land is owned by the community in accordance with traditional custom and usage. Approximately 81% of land area in Samoa is customary land. Customary land may be leased but may not be otherwise sold or transferred¹⁷. Both Upolu and Savai'i islands have predominantly customary land ownership, which extends to the high-water mark.

Key legislation in Samoa relevant to involuntary resettlement and compulsory land acquisition includes the *Taking of Land Act 1964*, *Alienation of Customary Land Act 1965* and the *Lands, Surveys and Environment Act 1989* (LSE Act), as well as the COEP 4 Land Acquisition and Compensation.

The LSE Act provides a process for the alienation¹⁸ of Government land¹⁹, land administration and other matters such as environmental protection, wildlife conservation and coastal zones. The Minister may approve purchase of any land for public purpose (s23) or lease of government land for up to 20 years (s37). The Land Board administers government land.

The *Taking of Land Act 1964* establishes the taking of lands for "public purposes" (i.e. alienation of freehold or customary land). Leases of public land and customary land are administered by MNRE and are based on

¹⁷ <http://www.joneslanglasallesites.com/investmentguide>

¹⁸ Defined to include limited disposal by lease.

¹⁹ Government land is a subclass of public land which is not set aside for any public purpose and includes land which has become the property of the Government as ownerless property.

standard terms²⁰. The Minister of Lands is appointed by the *Alienation of Customary Land Act 1965* to act for and on behalf of all beneficial owners in signing a lease for registration.

4.3 Gap Analysis

Table 2 highlights the differences between applicable Bank safeguard policies and national laws, standards and regulations, and relevant measures for addressing key gaps.

The existing environment and land management legislation provides a satisfactory framework for the implementation of SCRTP activities in accordance with safeguard policies, however key pieces of legislation are currently under review.

Table 2 Gap Analysis

WB Safeguard Requirements	National Requirements	Measure to fill gap (if any)
Environmental Assessment. EA evaluates a project's potential environmental risks and impacts in its area of influence; examines project alternatives; identifies ways of improving project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts; and includes the process of mitigating and managing adverse environmental impacts throughout project implementation. Environmental screening is undertaken to determine the appropriate extent and type of EA. Category B projects require preparation of an Environmental Assessment whose scope is commensurate with the associated environmental and social risks.	A Preliminary Environmental Assessment Report is prepared when the proposal is not likely to have a significant adverse impact on the environment. A Comprehensive EIA may be required where it is considered that a significant adverse impact on the environment is likely. The PUMA screens projects to determine when an EIA is required. Notwithstanding the level of impact, the contents of a Comprehensive EIA specified in the PUM Regulations are necessary to meet WB requirements.	Environmental assessments prepared for sub-projects will include the contents specified for a Comprehensive EIA to meet WB requirements.
<i>Physical Cultural Resources (or Heritage):</i> Avoid and mitigate adverse impacts from Bank-assisted projects on physical cultural resources (archaeological, paleontological, historical, architectural, religious, aesthetic or other cultural significance).	Prevent the export of, or damage to, sites of important national historical and cultural heritage.	Chance Finds Procedures (CFP) is included in Annex E and will be included in each site-specific Environmental Management Plan (EMP).

²⁰ Ibid

WB Safeguard Requirements	National Requirements	Measure to fill gap (if any)
<i>Consultation and Public Notification:</i> Affected persons/communities are provided timely and relevant information, and informed about their options and rights. Consultation with customary landowners and affected persons is essential, and may require their participation in a Social Assessment.	COEP 3 Consultation Does not specify the need for participation and consultation with vulnerable groups.	Consultation Framework (Annex C). Identification of affected persons must consider vulnerable persons (disabled, women, youth, etc). Notification periods should allow adequate time to salvage property being removed for the project (i.e. two weeks prior to any construction activity).
Monitoring & Evaluation: Requires monitoring and reporting on the effectiveness of EMP/ARAP implementation.	MNRE carry out monitoring and compliance audits.	Monitoring requirements are set out in this ESMF and LARF.
Involuntary resettlement should be avoided wherever feasible, or minimized, exploring all viable alternative project designs.	In Part IIA of the Taking of Land Act 1964 (TLA), Section 24F states that: “In the exercise of the powers conferred by this Part of this Act the Minister or his officers, workmen or others by his direction shall do as little damage as may be...”	The project design will seek to avoid physical and economic displacement. Where such impacts cannot be avoided, best efforts will be made to minimize impacts through design review. Acquisition of land will only be pursued once all viable alternatives have been considered.
Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.	TLA Section 14 stipulates public notification of the intention to take land and allows for objections to be lodged.	Affected persons will be meaningfully consulted throughout the preparation of implementation of resettlement plans. Any severely affected persons will be consulted on the development of mitigation measures for relocation or livelihood restoration.
Affect land and non-land property is required to be compensated at full replacement cost. ²¹	TLA Part III Section 25 refers to the right for ‘full and just’ compensation for all affected people as the basis for determining the offered value of the affected land.	Compensation will be provided at full replacement cost. For land, compensation will be based on market value plus transaction costs. For structures, compensation will be sufficient to replace the affected structure without depreciation plus the cost of any transaction costs such as registration fees. For non-land property that can be feasibly moved, assistance will be provided to restore the affected property.

²¹ For land, replacement cost is the market value of land of equal productive value or use in similar location plus the cost of any registration and transfer taxes. For houses and other structures, replacement cost is the cost to build a replacement structure or to repair partially affected structures plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account. Compensation in kind can be considered in lieu of cash.

WB Safeguard Requirements	National Requirements	Measure to fill gap (if any)
<p>Persons eligible for compensation and assistance include: (a) with formal legal rights to land; (b) without formal legal rights but with valid claims to land/assets; and (c) without either (a) or (b) to the land they are occupying. Persons in category (c) are not entitled to compensation for affected land, but are entitled to compensation for non-land assets as well as assistance to resettlement and livelihood restoration if severely affected.</p>	<p>Eligible persons include only those with formal legal rights to land</p>	<p>Persons without recognized legal entitlement to affected land will be compensated and assisted with respect to non-land assets and will be entitled to resettlement and/or livelihood restoration assistance if they are severely affected.</p>
<p>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The legislation allows for compensation but not transitional assistance.</p>	<p>Persons who are severely affected, in addition to compensation for lost assets, will be provided with transitional assistance to enable them to restore their living standards. Assistance provided to persons required to relocate, will be aimed at ensuring security of tenure of their replacement housing in a location of at least equivalent characteristics and advantages of location. Persons who suffer permanent loss of sources of income or productive resources of 20% or more will be provided with assistance aimed at restoring their income earning capacity.</p>
<p>Particular attention must be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.</p>	<p>TLA Section 28 stipulates that a claim for compensation may be made by anyone and that for persons not capable of making a claim due to age or impairment that arrangements will be made in the form of trustees or guardians.</p>	<p>The resettlement surveys will identify vulnerable persons. The resettlement plans will set out measures to ensure their needs are considered and additional measures provided if they are severely affected to ensure restoration of their living standards.</p>
<p>The Borrower must establish a grievance mechanism to receive and address specific concerns about compensation and relocation, including a recourse mechanism designed to resolve disputes in an impartial manner.</p>	<p>Customary and formal grievance mechanisms exist. People given the opportunity to make objections through 28-day public notification period.</p>	<p>A Grievance Redress Mechanism (GRM) that is accessible and responsive will be established and operate for the duration of the project (Annex C).</p>

5 Procedures to Address Environmental and Social Impacts and Risks

This ESMF was developed to ensure due diligence, to avoid causing harm or exacerbating risks or impacts. This section describes the procedures in place to determine: (i) the categorization of the project activity based on potential adverse environmental and social impacts of project activities, and (ii) how potential impacts will be addressed through the selection of appropriate mitigation and management plans. Approved SCRTP activities must be consistent with these procedures. Responsibilities for implementing these procedures are outlined in Section 7 of this ESMF.

5.1 Applicable Safeguard Instruments

A suite of safeguard instruments applicable to the SCRTP during preparation and implementation phases is listed in Table 3 below.

Table 3 Safeguard Instruments

Safeguard Policy	Type of Subproject	Applicable Instrument
OP4.01 Environmental Assessment	All subprojects or activities	An ESMF has been prepared as the project comprises a series of activities, and the impacts cannot be determined until the details have been identified during implementation. All subprojects require completion of the Safeguard Screening Form (Annex A).
	Category A Broad, diverse, potentially irreversible impacts; major resettlement; conversion of natural habitats; hazardous materials	Any sub-projects screened as Category A will be ineligible for financing. As all sub-projects will involve rehabilitation to existing infrastructure this eventuality is not anticipated.
	Category B Geographically-limited, readily identified impacts that can be mitigated	An environmental and social assessment (ESA) is undertaken for Category B subprojects that require additional subproject-specific data/information and further analysis including site assessment, and analysis of alternatives / environmental and technical constraints to determine the full extent of environmental and social impacts, which cannot be supplied by an Environmental Management Plan (EMP), Environmental and Social Management Plan (ESMP) and/or an Codes of Environmental Practice (COEP). It may also involve an environmental audit, hazard assessment, etc.
	Category C Negligible or minimal potential impacts that are easily mitigated	Category C projects do not require any safeguard instrument beyond screening and adhering to Environmental Code of Practice (ECOP) should be sufficient to address environment and social issues.
	Physical works/ Construction	Environmental Management Plan (EMP) developed in line with Environmental Codes of Practice (ECOPs) to address construction-related and site-specific environment and social issues (Annex F).

Safeguard Policy	Type of Subproject	Applicable Instrument
OP4.12 Involuntary Resettlement	All	Safeguard Screening Form
	Potential Physical and Economic Displacement	A Land Acquisition and Resettlement Policy Framework (LARF) is contained in the ESMF in the event that physical or economic displacement, or loss of assets or access to assets may occur as a result of the project (Annex D). It outlines criteria and procedures for the development of Abbreviated Resettlement Action Plan (ARAP).
	Small-scale involuntary land acquisition of customary or private land (short or long term)	Abbreviated Resettlement Action Plan (ARAP).
	Land gifted by private or customary landowner/s that directly benefit from the project	Voluntary Land Donation Protocol (VLDP) is a formal agreement with landowners to secure land for project-specific purposes (Attachment 1).
	Land access required on customary or private land (temporary or permanent)	Land Access or Land Use Agreement (LAA/LUA) is a formal agreement with landowners to secure land access for project-specific purposes (Annex E).
OP 4.11 Physical Cultural Resources	Affected roadside tombs and other cultural monuments	Mitigation measures will be incorporated into the ESMP
	Chance finds	Chance Find Procedures will be invoked. Refer to Annex E.

The LTA will be responsible for the preparation of safeguard instruments prior to the commencement of activities, and application of safeguard instruments during the implementation/operations phase. The screening process outlined below will identify which activities require environmental and/or social assessments and the preparation of an environmental management plan (EMP).

5.2 Environmental and Social Safeguard Procedures

A procedural process for identifying and assessing safeguard impacts of project activities and assessing impact mitigation measures is outlined below. These steps aim to ensure that the World Bank's safeguard policies are followed.

Each project will be *screened* by the LTA in consultation with experts and affected peoples. The LTA will review each proposed activity in the country according to decision-support tree in Figure 1 below and the screening process outlined in this section.

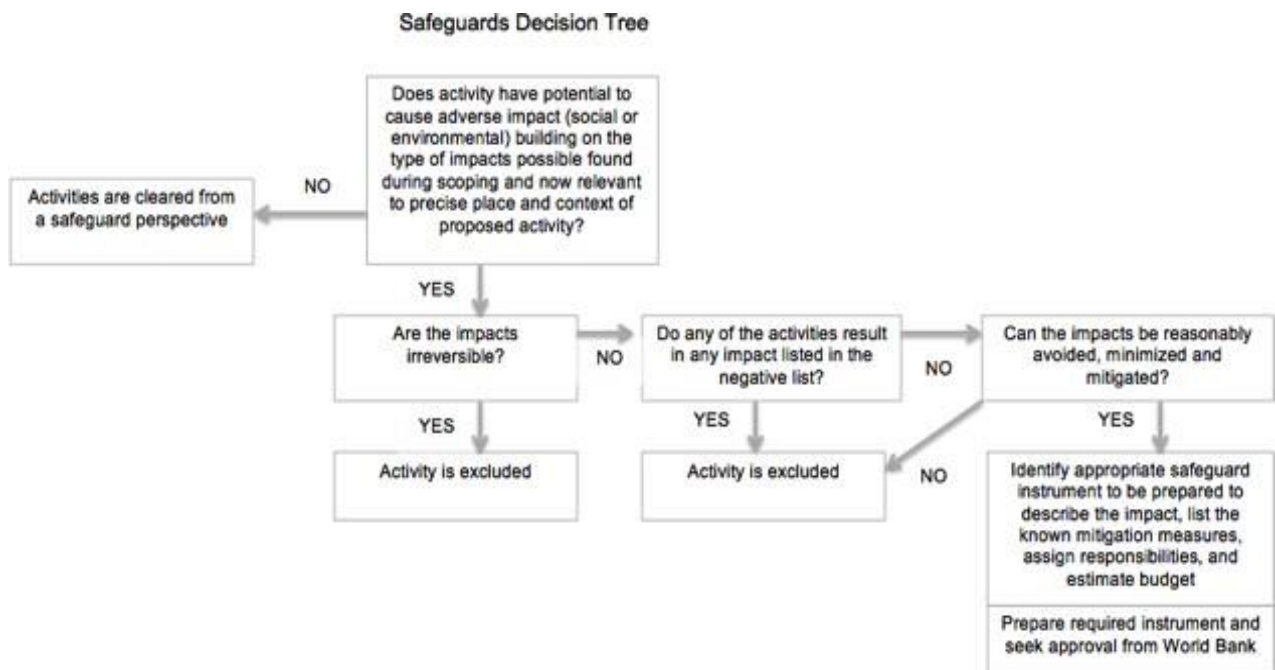


Figure 2: Safeguards Decision Tree

5.2.1 Step One – Eligibility Screening using Negative List

A **negative list** will be used by the LTA to ensure ineligible subprojects are not progressed and exclude activities with very high or significant adverse environmental or social impacts (Annex A).

5.2.2 Step Two – Scoping

Scoping will identify which specific activities are envisaged; any known environmental sensitivities; any sites with known or potential cultural, heritage or unique natural values that may involve environmental and social impacts and may require discussion with knowledgeable expert/s and local stakeholders.

5.2.3 Step Three – Technical Screening and Categorisation of Subprojects

All subprojects and activities are subject to the screening process using the Safeguards Screening Form in Annex B to determine the appropriate categorisation of the subproject according to the potential level of environmental and social impact and Bank guidelines (i.e. Category A²², B or C). The form is used by the LTA to determine the appropriate safeguard instrument required according to the type of activity and possible level of impact or disturbance.

In accordance with World Bank policies, project categorization is as follows:

²² Subprojects deemed to be Category A will not be funded under the SCRTP..

- Category A²³ subprojects are those that have potential significant adverse environmental and social impacts that are:
 1. Sensitive (i.e., a potential impact is considered sensitive if it may be irreversible)
 2. Diverse, or unprecedented; and/or
 3. Affecting an area broader than the sites or facilities subject to physical works (e.g., a dam that may affect downstream communities or road construction that may have induced impacts on nearby forests and natural habitats).
- Category B subprojects are those that have potential adverse environment and social impacts that are less adverse, site-specific, that can be readily addressed through mitigation measures; and few if any of the impacts are irreversible.
- Category C subprojects are those that have minimal or no adverse environmental and social impacts. Although they may not require formal assessment, their implications need to be closely monitored.

5.2.4 Step Four – Determine Safeguard Instrument

Following Step Three, a LTA Officer will assist in the preparation of the required documentation (including TORs where these may be tendered out). The primary safeguard instrument will be an environmental assessment (EA). Table 3 lists all safeguard instruments that may be applied depending on the categorisation of the subproject. It is anticipated that an EA and EMP will be required for all Category B subprojects, however in some cases where impacts are minimal, standard COEPs would apply. For activities classed as Category C, no safeguard instruments need to be applied.

5.2.5 Step Five – Assessment and Consultation

The requirements for EA/EIA regulations for Samoa have been outlined in Section 3.2. Parameters for environmental and social assessments (ESA) and associated studies should be defined by LTA in consultation with PUMA at the outset. ESAs will be undertaken by qualified consultants or technical specialists to identify the level of adverse impacts of subprojects and proposed activities prior to any works taking place. Impacts will be assessed according to an impact matrix outlined in the ESA report, which specifies the criteria that determined the adverse impacts to be either: negligible, minor, moderate, major or significant/irreversible in magnitude (or equivalent rankings such as high, medium, low).

Environmental Safeguards

Under Bank requirements, an EA will be required for Category B subprojects. Standardised Codes of Environmental Practice (COEPs) may be applied where Category B subprojects with limited impacts are identified in the screening process .

The level of detail in the EA for Category B subprojects will depend on the nature and scale of the proposed subproject. The process and preparation of EA documentation will primarily be guided by national legislation on EIA, COEPs, and development consent regulations where these are adequate to meet Bank safeguard requirements. For instance, if a project does not require an EA under local regulations but is Category B, an EA will be required under the project in full compliance with OP4.01.

²³ Under SCRTP, the proposed interventions are expected to be Category B. Any subprojects/activities identified as Category A will be excluded from financing.

The assessment should include a sound understanding of the existing environment and sociocultural context developed through conducting baseline environmental conditions includes land use, water and air quality, biodiversity, soils, geology, topography, pollution, climate, physical cultural resources, and socio-economic (census) baseline surveys. It should also take into account the local context, regulatory setting, institutional capabilities and country obligations under international treaties and conventions.

Mitigation measures will also form part of the EA documentation. Such measures will be developed in accordance with national legislation, applicable COEPs, design standards and technical specifications where relevant to help prevent potential environmental impacts. Standardized mitigation measures are included in Annex G of this ESMF and may be applied (and expanded on) if national COEPs do not meet Bank standards. The Bank will review and clear the safeguards instruments prepared by the subproject beneficiary for impact identification and appropriateness of proposed mitigation measures.

Social Safeguards

Where it has been identified that the subproject may cause some degree of physical or economic displacement or loss of assets or access to assets, the Land Acquisition and Resettlement Framework (LARF) will guide the preparation and implementation of any necessary safeguard instruments in accordance with OP4.12 (Annex D). The LTA/MNRE will validate the impacts of land acquisition (if any) in coordination and consideration of all stakeholder groups.

Assessments and proposed mitigation measure may have an inequitable impact on women or disadvantaged groups whom need careful consideration. The proposed design must consider viable alternatives and the overall inclusivity with regard to gender, disabled (e.g. hearing or sight impaired persons), and the needs of vulnerable groups or persons where applicable.

5.2.6 Step Six – Preparation of Plan/s

Once the appropriate safeguard instrument has been identified and a proper assessment of potential project-induced social and environmental impacts that could arise during implementation is complete, Management or Action Plans will be prepared. Project- and subproject-specific plans are prepared for Bank review and approval during implementation, as and when relevant information becomes available.

Environmental Safeguards

For subprojects with identified risks and impacts (Category B), an EMP/ESMP is included as part of the EA process for all subprojects and will form part of bidding documentation and contractual obligations for works. For subprojects with very limited risks and impacts, COEPs or equivalent guidelines will be applied.

The EMP will provide practical and relevant means to achieve compliance with environmental safeguards, i.e., a set of mitigation, monitoring and institutional measures to be taken during implementation and operation to eliminate adverse environmental and social impacts, offset them, or reduce them to acceptable levels. Safeguard documentation identifies feasible and cost-effective measures that may reduce potentially significant adverse environmental impacts to acceptable levels. The contractor will prepare an EMP and associated plans for initial approval by the PMU-LTA prior to the commencement of works. Mitigation measures will be detailed and costed by the contractor. Penalties for non-compliance must be included in the contract agreement. The EMP will contain:

- Description of the proposed subproject;
- Analysis of anticipated impacts including location, duration and magnitude;
- Detailed mitigation measures including drawings and costs; and
- Statement of responsibilities for implementing mitigation measures and overall EMP compliance.

If an EMP is required, it is the LTA's responsibility to ensure this is complete and provided to the World Bank for review prior to implementation. When a subproject is in the implementation phase, with the contractor appointed and mobilization planned, the LTA and relevant government agency will review the appropriateness and currency of the EMP to ensure its relevance. Responsibilities as allocated in the EMP are to be understood and agreed to by all parties involved. The capacity of each party needs to be evaluated as a part of the environmental assessment process, with appropriate training or capacity development incorporated into the subproject to underpin effective implementation.

Social Safeguards

Table 3 identifies circumstances that may trigger the need for an ARAP or other, which will be assessed once detailed descriptions of approved subprojects are available. A Consultation Plan may also be required to plan and manage an informed consultation with communities and affected persons (where required) in a transparent manner that is culturally appropriate and respectful of traditional protocols and decision-making processes. The participation of various stakeholder groups at national and local levels will inform details regarding the likelihood and magnitude of impacts (geographic, socioeconomic, gender-related) and appropriateness of mitigation activities and interventions. The process will allow for concerns to be raised and integrated into decision-making. A transparent process will likely facilitate establishing broad community support for the subproject.

5.2.7 Step Seven – Implementation of Mitigation Measures

Mitigation and management measures outlined in the EMP (e.g. site selection criteria, diligent construction management, control measures) will be implemented by contractors, and supervised by relevant environmental agencies and the LTA. The ARAP will be implemented by LTA and MNRE. Performance indicators should be defined to ensure the effectiveness of measures in place, which can be monitored and reported on throughout the project lifecycle.

5.2.8 Step Eight – Monitoring and Reporting

Monitoring is required to gather information to determine the effectiveness of implemented mitigation and management measures and to ensure compliance of the contractor with the approved EMP. Environmental indicators will be defined when mitigation measures are confirmed and the PMU (with support from relevant agencies) will be tasked with monitoring compliance by contractors throughout implementation. Monitoring methods must provide assurance that safeguard measures are undertaken effectively. Some activities may require monitoring beyond the construction phase or project life to address maintenance or rehabilitation issues and this will be determined in the design stage.

Bidding documents will confirm the reporting intervals with contractors, who will be required to submit regular reports on environmental and social indicators and any incidents that may have adversely impacted on the environment arising from the subproject. This will feed into quarterly reports of the IAs and substantiate semi-annual safeguard monitoring reports to the World Bank. The PMU and LTA reports to the Bank on: (i) findings and results of the EA and implementation of EMP

and agreed compliance measures; (ii) status of the implementation of mitigation measures; and (iii) findings of monitoring activities.

5.2.9 Step Nine - Completion Audit

An audit by qualified person will be required to guarantee standards have been met and management measures have been adequately implemented to avoid and/or minimize adverse environmental or social impacts.

5.3 Contingent Emergency Response Component (CERC)

The CERC is designed to provide swift response in the event of an Eligible Crisis or Emergency²⁴ through a portion of the undisbursed project envelope to address immediate post-crisis and emergency financing needs. The CERC may be used following natural disasters or other crises and emergencies, allowing funds to be reallocated from other components of the project. In the event of an emergency event, it is not anticipated that a reallocation of project funds will cause serious disruption to project implementation. The LTA will be the implementing agency for the CERC.

Activities under Component 4 will be governed by the World Bank Directive *Contingent Emergency Response Components (CERC)* (October, 2017). Disbursement of emergency financing under the CERC will be contingent upon: a) the recipient establishing a nexus between the disaster event and the need to access funds to support recovery and reconstruction activities (an “eligible event”); and b) submission to and no objection granted by the World Bank of an Emergency Action Plan (EAP). The EAP will include a list of activities, procurement methodology and safeguards procedures.

The EAP will require consideration of safeguard implications for any proposed emergency supplies procurement or reconstruction activities. The World Bank, through the no objection process, will closely examine the nature of the proposed activities, particularly those involving civil works, to ensure (i) that they are not prohibited under the negative list and (ii) that the recipient is aware of the required safeguard compliance documentation before initiating the process by which the proposed works will be prepared and implemented.

Emergency activities financed under the CERC will involve financing provision of critical goods or emergency recovery and reconstruction works and it is likely these will fall into Category B or C. Activities that fall under Category C could involve procurement of emergency supplies such as medicine and water and do not require the application of safeguard instruments, post-screening or assessment. Other emergency supplies, such as fuel products, will require safeguard instruments (such as Environmental Codes of Practice or EMPs) to ensure procurement, storage and dispensing procedures are adequate. Samoa has developed Environmental Codes of Practice (ECOPs) that incorporate environmental management prescriptions for temporary fuel storage.

Preparation of the EAP will have regard to this ESMF and safeguard instruments will require World Bank approval prior to commencement of activities. Importantly, the EAP will need to include procedures for:

- Consultation and disclosure;
- Integration of mitigation measures and performance standards into contracts; and

²⁴ Defined as “an event that has caused, or is likely to imminently cause, a major adverse economic and/or social impact associated with natural or man-made crises or disasters”, OP/BP 8.00, *Rapid Response to Crises and Emergencies*.

- Supervision/monitoring and reporting measures to ensure compliance.

In order to ensure that CERC subproject activities comply with the requirements of the Bank's Safeguard Policies, a positive and negative list has been developed to provide guidance on critical imports and/or for emergency works, goods or services which may be eligible for financing. The negative list and screening process (Annex A) will be retained, but will need to allow for a degree of flexibility and efficiency in processing potential subprojects. Further guidance will be detailed in the Finance Agreement (FA) and CERC Operations Manual (OM).

5.3.1 CERC Positive List

The purpose of the positive list is to indicate the types of critical imports and emergency works following a loss and needs assessment that would be acceptable to the Bank to be financed under Component 4 (CERC). Project funds allocated to the CERC Disbursement Category may be used to finance any expenditure of the Recipient that is consistent with the FA provisions.

The following subproject or activities will be deemed eligible under the CERC:

Critical Imports: Eligible expenditures on critical imports required by the public/private sectors (imported or locally manufactured) under the CERC include:

- Construction materials, equipment and industrial machinery
- Water, air, land transport equipment, including spare parts
- Purchase of petroleum and other fuel products;
- Any other item agreed to between the World Bank and the Recipient (as documented in an Aide-Memoire or other appropriate Project document)

Emergency Sub-projects: Eligible expenditures for emergency sub-projects initiated following the Declaration of a National Emergency/Disaster in response to damage, losses and needs caused by an event are as follows:

- Repair or reconstruct streets, roads, bridges, transportation and other infrastructure damaged by the event;
- Reestablish telecommunications infrastructure damaged by the event;
- Reestablish drainage systems damaged by the event;
- Remove and dispose of debris associated with any eligible activity;
- Stabilise heavy erosion along waterways via river trimming;
- Replace vegetation destroyed by the event using native (not invasive) species or repair/mitigate damage caused by the event to a protected area or buffer zone (such as mangroves).

5.3.2 CERC Negative List

Sub-projects with the following potential impacts will not be eligible for financing under the CERC component or the parent project:

- involve the significant conversion, clearance or degradation of critical natural habitats, forests, environmentally sensitive areas, significant biodiversity and/or protected conservation zones;

- will cause, or have the potential to result in, permanent and/or significantly damage to nonreplicable cultural property, irreplaceable cultural relics, historical buildings and/or archaeological sites;
- will negatively affect rare or endangered species;
- will result in large-scale involuntary land acquisition or significant physical displacement of affected communities, or relocation of Indigenous Peoples that would restrict or cease their access to traditional lands or resources;
- do not meet minimum design standards with poor design or construction quality, particularly if located in vulnerable areas;
- Require or involve:
 - purchase, application or storage of pesticides or hazardous materials (e.g. asbestos);
 - building a dam, structures that will alter coastal process or disrupt breeding sites such as retaining walls or seawalls;
 - sand mining or land reclamation;
 - land that has disputed ownership, tenure or user rights; or
 - a higher proportion of funding than is available.

6 Public Consultation, Information Disclosure and Grievance Redress

Engagement with the community and Government stakeholders regarding the potential investments to enhance resilience in Samoa has been ongoing, and extensive consultations with Government during preparatory missions were undertaken to agree on the key priorities of SCRTP.

6.1 Community Consultation

The basic principles of community consultation are embodied in Samoa Code of Environmental Practice 3 (COEP 3) and include:

- At the earliest opportunity, a community should be advised of potential projects and how the community can receive information about, and become involved with, such projects.
- The intentions/objectives of the consultation should be clearly and openly stated.
- Stakeholders and affected communities should have timely and meaningful inputs to, and participation in, any phases or aspects of projects that directly affect them and all inputs should be treated equitably and with respect.
- Consultation should be a two-way process and there should be an exchange of information where both the proponent and the affected communities should put forward their points of view and to consider other perspectives.
- Consultation is best undertaken at early stages in and throughout the decision-making process or at least on going communication after a decision has been made.
- All parties do not have to agree to a proposal, however as a result of undertaking consultation at least points of difference will become clearer or more specific.

COEP 3 also contains specific prescriptions for consulting with various Samoan community and stakeholders on road and infrastructure projects. The prescriptions are derived from *Social Assessment and Consultation Framework Study* (World Bank, 1998) which identifies key stakeholders, assesses their importance, degree of influence and interest in these projects.

Project proponents must also comply with the requirements of the *Planning and Urban Management (Environment Impact Assessment) Regulations 2007* as they pertain to consultation during the environmental impact assessment process.

6.2 ESMF Consultation and Disclosure

The development of the draft ESMF involved discussion with key stakeholders including Executing and Implementing Agencies, and Government agencies with an interest in potential road developments. Implementation requirements and responsibilities for safeguards relevant to SCRTP were discussed with key stakeholders and feedback was sought on the draft ESMF. The ESMF will be disclosed on the World Bank's external website and also disclosed in-country.

The preparation of the Environmental and Social Management Plan (ESMP) and Land Acquisition and Resettlement Plan (LARP) for the West Coast Road involved a series of consultations with stakeholders and community members along the alignment. These consultations are continuing through the remainder of the land acquisition process with compensation for lost assets and land to be paid prior to the commencement of construction. There was limited feedback received from the community on

the design of this sub-project; however, the World Bank team undertook a design ground-truthing exercise which enabled a substantial reduction in the extent of land acquisition.

6.3 Information Disclosure

Information disclosure is mandated by OP4.01, OP4.12 and the Bank's Disclosure Policy. Safeguard instruments are disclosed in a language and format accessible to people, communities and civil society who may be interested in, or affected by, Project activities to ensure sufficient understanding of the project activities, potential impacts and management arrangements, as well as the grievance redress mechanism. Disclosure occurs through:

- Draft safeguard instruments or project concepts are disclosed during the preparation phase to gather feedback and input from local communities and other stakeholders on the proposed activities and safeguard measures.
- Assessment documents (e.g. ESA) are disclosed during activities preparation and prior to their final review and approval.
- Final safeguard documents are disclosed to inform local communities of implementation measures and how their concerns have been considered.

The LTA is responsible for managing information dissemination, overseeing public consultation and assuring compliance to guidelines and procedures set out by safeguard instruments and ensure relevant personnel are trained.

6.4 Consultation Process

Two-way mechanisms for ongoing consultation are necessary throughout the life of the project, to disclose information and seek feedback. Consultation with relevant government officials, the businesses and civil society (NGOs, CBOs etc.) will assist in providing different perspectives and needs, and provoke discussion on practical alternatives relevant to the local context. Dedicated channels for information dissemination will be established to ensure consistent communication at national, subnational and local levels throughout the Project.

A Consultation Framework has been developed for SCRTP (Annex C) to guide the LTA and other agencies on the formal procedures and planning of public consultation and community engagement for the SCRTP. The principles of free, prior and informed consultation (FPIC) will be followed. A consultation Plan will detail methods (newspapers, pamphlets, community papers, interviews, community meetings and consultations, participatory tools) and means (radio broadcast, local TV, internet) used to inform and involve affected people and other stakeholders on environmental and social safeguard issues. These must be culturally appropriate, delivered in a timely manner and centrally managed to ensure a consistent and ongoing consultation process. Importantly, each consultation session / meeting must be well documented for reporting purposes.

The MNRE PUMA guidelines for the planning and implementation of consultations required for infrastructure projects are set out in its Code of Environmental Practice (COEP) – 3. The main requirements are reiterated below:

6.4.1 Consultations for EIA preparation

Project proponents must comply with the requirements of the Planning and Urban Management (Environment Impact Assessment) Regulations 2007 as they pertain to consultation during the

environmental impact assessment process. Report of this consultation will form part (as annex) of the EIA report or PEAR. A PUMA Affected Persons form listing affected persons and their signatures indicating they have been consulted will be required.

6.4.2 Consultations for Land Acquisition

The consultations required for the preparation of a LARP also follows the above principles. Details of LARP consultation is set out in the LARF.

6.5 Grievance Redress Mechanism

Each World Bank project is required to implement a grievance redress mechanism (GRM) to receive and facilitate resolution of affected peoples' concerns, complaints, and grievances about the project's performance, including concerning environmental and social impacts and issues.

A GRM, the Grievance Complaints Logging System (GCLS), has been implemented by the LTA for the management of complaints for road projects in Samoa (Annex C). The GRM is for people seeking satisfactory resolution of their complaints on the environmental and social performance of the project. The mechanism ensures that: (i) the basic rights and interests of every affected person by poor environmental performance or social management of the project are protected; and (ii) their concerns arising from the poor performance of the project during the phases of design, construction and operation activities are effectively and timely addressed.

In the early stages of engagement, project stakeholders and affected communities must be made aware of:

- how they can access the GRM;
- who to lodge a formal complaint with;
- anticipated timeframes for response;
- their rights to confidentiality, responsiveness and transparency; and
- alternative avenues where conflicts of interest occur.

The grievance process is based upon the premise that it imposes no cost to those raising the grievances (i.e., Complainants); that concerns arising from project implementation are adequately addressed in a timely manner; and that participation in the grievance process does not preclude pursuit of legal remedies under Samoan law. Local communities and other interested stakeholders may raise a grievance at any time to the IA/EA in Samoa or the World Bank's Inspection Panel.

The GRM operates at a number of levels, the lowest of which are existing traditional village level grievances redress processes. A typical traditional grievance redress process is described below, and which can be used to deal with a number of specific local grievances immediately once they surface.

6.5.1 Samoa Village Level Grievance Management

Some project related grievances experienced by villagers can be dealt with effectively at the village level and need not be referred to the Project Manager/IA unless village level redress mechanisms fail. Common among such grievances are local disputes over land boundaries, claims of ownership over crops and compensation distribution. Other common disputes involve contractors such as where non-land assets such as soil and rocks are used without prior consent of landowners; or where contractors fail to deliver on agreed terms for their use.

The traditional mechanism for grievance redress requires the aggrieved party to take his/her grievance to his/her extended family *matai*, who will assume responsibility for a resolution on their behalf. The aggrieved party's *matai* may seek redress directly with the Contractor or the other/opposing party, and would do his/her utmost to secure a satisfactory outcome. Failing this, the 'matai' will then take the grievance to the Village Council of Chiefs, through the Pulenuu/Sui o le Malo. Usually this is discussed during the monthly meeting of the Council of Chiefs. The Council of Chiefs will decide on how best to address the grievance including conveying the concern to the Contractor on behalf of the aggrieved party, or alternatively recommending that the aggrieved party seek a resolution directly with the responsible Government agency (i.e. LTA) and failing that, seeking redress with the Court.

In the case of local disputes over customary land boundaries, and ownership and use of non-land assets, the Council's decisions are final with the disputing parties well aware of the risk of non-compliance. Such decisions of the Village Council are now recognized by the Courts by virtue of the *Village Fono Act 2000*.

7 Institutional Capacity, Responsibilities and Budget

This section describes the institutional arrangements to implement the ESMF, from the screening of subprojects for environment and social issues, preparation of subproject safeguard instruments, and review and clearance of subprojects through to the monitoring of implementation. It also details specific tasks and responsibilities of key stakeholders involved in the SC RTP

7.1 Capacity

The key agencies involved in SC RTP – LTA, MNRE and MoF - have experience in implementation of Bank projects or similar initiatives and associated safeguard requirements. Safeguards capacity will be supplemented by the continued retention of a safeguards specialist in LTA and the formation of the CTSSU which will include a safeguards specialist. The Bank will provide ongoing support, as well as training and technical assistance to build institutional capacity.

7.2 Responsibilities

The LTA has the overall responsibility for ensuring that environmental and social issues are adequately addressed throughout the project cycle. These responsibilities are highlighted in Table 4 below.

Table 4 Key Responsibilities for Safeguards Implementation

	Tasks	Responsible party
Scoping	Review and clearance of ESMF	WB
	Disclose ESMF	LTA/MoF/WB
	Eliminate all activities that are included in the Negative List (Annex A)	LTA
	Confirm consultations are adequate	WB
Screening	Screen all proposed activities for adverse environmental and social impacts based on scoping exercise with Safeguard Screening Form (Annex B) and categorise subprojects	LTA
	Screening records filed for review	LTA/PMU
	Review screening process	WB
Subproject Preparation and Design	Undertake field surveys to inform subproject design and EA, ARAP and EMP as required	LTA/ Consultant
	Design subproject and activities in accordance with national and international standards and COEPs	LTA / Consultant
	Approve EMP	MNRE
	Prepare documentation or arrange/organize for preparation of documentation (i.e. EAs, EMPs, ARAP, etc.) for each subproject, in accordance with ESMF and national legislation and agreements	LTA / PMU
	Support review process and documentation	WB
	Disclose draft documents in country	LTA
	Undertake consultation with stakeholders and affected peoples as required	LTA/MWCSD

	Incorporate mitigation measures and stakeholder feedback into design	LTA
	Review and approval of design and EMP (and update existing EMPs if necessary)	MNRE
	Prepare cost estimates	LTA
	Approve budget	MoF
	Review safeguards instruments and confirm consultation process was adequate	WB
	Clearance of safeguard instruments	WB
	Effective implementation of mitigation measures required in EMP and ARAP	LTA/MNRE
	Update safeguard instruments in consultation with affected people when technical specifications are finalised	LTA
	Establish grievance focal point and address grievances	LTA
	Disclose final safeguard instruments	LTA
	Document the implementation of safeguard measures	LTA/PMU
	Periodic supervision of implementation process, safeguards and progress reports	WB
Capacity Building	Deliver safeguards training or support where necessary	IA / WB
	Clear TORs for consultants to ensure outputs meet safeguard requirements	WB
	Supervision and monitoring compliance with EMP (including ongoing maintenance) and ARAP	LTA/MNRE
	Safeguards monitoring and oversight	WB

The LTA/MoF is responsible for implementing this ESMF and will ensure that key staff are familiar with the environmental and social management measures and requirements for project implementation. In addition, they will conduct regular monitoring and evaluation of the project and reporting on these in quarterly progress reports to the PMU.

7.3 Implementation Budget

The preparation of the safeguard documents are financed under the project envelope, including the preparation of the ESMF/LARF and any following project specific assessments. In addition, the project has budgeted for the staff costs for safeguards advisors within the CTSSU, TISCD and within the LTA PMD. Under Component 3 – Strengthening the enabling Environment, the project has furthermore budgeted for the undertaking of the beneficiary survey.

As with other projects in the road subsector, the government has the ability and is aware of the need to commit funds for land compensation to affected owners, and the cost of land acquisition is included as part of client-counterpart funding.

The Bank will provide ongoing support, with a minimum of two trips per year scheduled and budgeted under the project for the environmental and social specialists to provide in country support.

Annex A Negative List

This negative list has been compiled to exclude certain activities that fulfill one or more of the following criteria: (i) high environmental risk; (ii) may create impacts that require more sophisticated planning and preparation of mitigation measures; (iii) have technical complexities and requirements that would go beyond the capacity normally available in-country; (iv) would trigger additional safeguards policies or change the project's safeguards category; and (v) are not aligned with public interests or do not benefit common goods or public services.

The following subproject or activities will be deemed ineligible for the SC RTP if they:

- Involve the significant conversion, clearance or degradation of critical natural habitats, forests, environmentally sensitive areas, significant biodiversity and/or protected conservation zones;
- Will cause, or have the potential to result in, permanent and/or significantly damage to non-replicable cultural property, irreplaceable cultural relics, historical buildings and/or archaeological sites;
- Will negatively affect rare or endangered species;
- Will result in large-scale involuntary land acquisition or significant physical displacement of affected communities (i.e. more than 200 persons), or relocation of Indigenous Peoples that would restrict or cease their access to traditional lands or resources;
- Do not meet minimum design standards with poor design or construction quality, particularly if located in vulnerable areas;
- Are located in international waterways or disputed territories;
- Require or involve:
 - Agro-forestry or agricultural activities, equipment and inputs, including seeds and fertilizer (excluding pesticide);
 - Purchase, application or storage of pesticides or hazardous materials (e.g. asbestos, toxic or explosive chemicals);
 - Building a dam, structures that will alter coastal process or disrupt breeding sites such as retaining or seawall;
 - Sand mining or land reclamation;
 - Sourcing or sand/gravel from illegal or unregistered quarries;
 - Land that has disputed ownership, tenure or user rights;
 - Land that is considered dangerous due to security issues or the presence of unexploded mines or bombs;
 - Political campaign materials or donations in any form or anti-democratic activities;
 - Weapons including (but not limited to) mines, guns and ammunition;
 - Any activity that will support drug crop production or processing of such crops; or
 - A high proportion of funding than is available.

Annex B Safeguards Screening Form

This form is to be used by the Implementing Agency (IA) to screen potential environmental and social safeguards issues in subprojects, and determine which safeguard instrument/s is to be prepared prior to implementation.

Questions	Answer			If Yes WB Policy triggered	Documents Required if Yes
	Yes	No	NA		
Are the project impacts likely to have significant adverse environmental impacts that are sensitive, ¹⁰ diverse or unprecedented? ¹¹ Please provide brief description:				<i>OP 4.01 Environmental Assessment</i> Category A	Environmental Assessment (EA) and Environmental and Social Management Plan (ESMP, Annex F)
Do the impacts affect an area broader than the sites or facilities subject to physical works and are the significant adverse environmental impacts irreversible? Please provide brief description:				<i>OP 4.01 Environmental Assessment</i> Category A	EA and ESMP
Is the proposed project likely to have no adverse environmental impacts? ¹² Please provide brief justification.				<i>OP 4.01 Environmental Assessment</i> Category C	Nothing further required
Is the project neither a Category A nor Category C as defined by the Bank? ¹³ Please provide brief justification.				<i>OP 4.01 Environmental Assessment</i> Category B	EA or limited EA, and ESMP; Follow Codes of Environmental Practice (COEPs)
Are the project impacts likely to have significant adverse social impacts that are sensitive, diverse or unprecedented? ¹⁴ Please provide brief description.				<i>OP 4.01 Environmental Assessment</i> Category A	EA and ESMP

¹⁰ Sensitive (i.e., a potential impact is considered sensitive if it may be irreversible, e.g., lead to loss of a major natural habitat, or raise issues covered by OP 4.04, Natural Habitats; OP 4.36, Forests; OP 4.10, Indigenous Peoples; OP 4.11, Physical Cultural Resources; or OP 4.12, Involuntary Resettlement; or in the case of OP 4.09, when a project includes the manufacture, use, or disposal of environmentally significant quantities of pest control products).

¹¹ Examples of projects where the impacts are likely to have significant adverse environmental impacts that are sensitive, diverse or unprecedented are large scale infrastructure such as construction of new roads, railways, power plants, major urban development, water treatment, waste water treatment plants and solid waste collection and disposal, etc.

¹² Examples of projects likely to have minimal or no adverse environmental impacts are supply of goods and services, technical assistance, simple repair of damaged structures, etc.

¹³ Projects that do not fall under Category A or Category C can be considered as Category B. Examples of Category B subprojects include small scale *in-situ* reconstruction of infrastructure projects such as road rehabilitation and rural water supply and sanitation, small schools, rural health clinics, etc.

¹⁴ Generally, subprojects with significant resettlement-related impacts should be classified as Category A. Application of judgment is necessary in assessing the potential significance of resettlement-related impacts, which vary in scope and scale from subproject to subproject. Subprojects that would require physical relocation of residents or businesses, as well as subprojects that would cause any individuals to lose more than 10 percent of their productive land area, often are classified as Category A. Scale may also be a factor, even when the significance of impacts is relatively minor. Subprojects affecting whole communities or relatively large numbers of persons (for example, more than 1,000 in total) may warrant Category A, especially for projects in which implementation capacity is likely to be weak. Subprojects that would require relocation of Indigenous Peoples, that would restrict their access to traditional lands or resources, or that would seek to impose changes to Indigenous Peoples' traditional institutions, are always likely to be classified in Category A.

Questions	Answer			If Yes WB Policy triggered	Documents Required if Yes
	Yes	No	NA		
Will the project involve the discharge of pollutants into air, water, soil and/or storage of chemicals, hazardous materials, etc. that pose risks to environmental and public health?				<i>OP 4.01 Environmental Assessment</i> Category B	ESMP with Hazardous Materials Management Plan
Will the project site be located near ²⁵ rivers, waterways or water bodies/ponds?				<i>OP 4.01 Environmental Assessment</i> Category A/B	EA or Limited EA and ESMP
Will the project adversely impact physical cultural resources? ²⁶ Please provide brief justification.				<i>OP 4.11 Physical Cultural Resources</i> Category B	ESMP with PCR Management Plan and/or Chance Find Procedures (CFP)

²⁵ In the riparian zone or within 20 meters from a body of water.

²⁶ Examples of physical cultural resources are archaeological or historical sites, including historic urban areas, religious monuments, structures and/or cemeteries, particularly sites recognized by the government.

Questions	Answer			If Yes WB Policy triggered	Documents Required if Yes
	Yes	No	NA		
Will any physical works be sited on private freehold, Crown or state land? Will this be acquired through market-based lease, government lease or sublease, purchase, or voluntary donation? Please provide a brief explanation:				<i>OP 4.12 Involuntary Resettlement</i> Category C	Evidence of Land Title or Voluntary Land Donation Protocol (Annex E)
Will any physical works be sited on communal or collective land? If so, is the land more than 5% of the community's area, and/or do gardens, crops or fixed assets exist on the nominated land? Please provide a brief explanation:				<i>OP 4.12 Involuntary Resettlement</i> Category B	Land Access and Resettlement Policy Framework (Annex E); Voluntary Land Donation Protocol
Does the project involve the donation of land (in-kind) from project-affected persons for facilities or investments that will be of benefit to the broader community? Please provide a brief explanation:				<i>OP 4.12 Involuntary Resettlement</i> Category C	Land Use Agreement; Voluntary Land Donation Protocol
Will any physical works be located on land that is used or occupied by persons?				<i>OP 4.12 Involuntary Resettlement</i> Category B	Land Access and Resettlement Policy Framework (Annex E)
Does the project involve large-scale ²⁷ involuntary land acquisition or physical relocation of people? Please provide brief explanation:				<i>OP 4.12 Involuntary Resettlement</i> Category A	Not eligible for financing
Does the project involve minor involuntary land acquisition, loss of assets or access to assets, or loss of income sources or means of livelihood? Please provide brief explanation:				<i>OP 4.12 Involuntary Resettlement</i> Category B	Land Access and Resettlement Policy Framework (Annex E)

²⁷ Physical and/or economic displacement of more than 200 affected people and/or more than 10% of productive assets are lost.

Annex C Consultation Framework & Grievance Redress

Consultation Framework

World Bank safeguard policies require consultation with the public and affected people (AP) and communities throughout the life of the project. This section outlines a Consultation Framework for SC RTP that meets national and World Bank requirements to be followed for the Project.

Samoa has a well-developed and culturally-embedded system of consultation guided by informal and formal guidelines. The Samoa Codes of Environmental Practice (COEP) (MNRE 2007) strictly prescribes acceptable procedures for carrying out consultations during the EIA process in the preparatory stage (Attachment 1). Public participation is also one of the key principles underlying the *Planning and Urban Management Act 2004* in Samoa.

Principles

The purpose of public consultation and community engagement is to inform stakeholders about the proposed activities, gather feedback on the design and how the proposal may affect them, provide notification prior to construction activities, and to gauge the effectiveness of mitigation measures once implemented. Consultation in Samoa must follow the key principles for free, prior and informed consultation (FPIC) which include:

- **FREE** – information should be transparent and free from coercion or bias;
- **PRIOR** – Consultation starts as early as possible in the project planning. This includes giving Indigenous Peoples sufficient time to go through the traditional processes of decision-making, deliberation and consensus-building;
- **INFORMED** - People must be given enough information, transparent about the project scale, and in such a way that allows them to understand fully the impacts being discussed with them and feed into the decision-making process where appropriate;
- **CONSULTATION** – A two-way process that allows Indigenous Peoples to participate meaningfully in decisions directly affecting them, including proposed management and mitigation measures and benefit sharing or distribution.

Schedule

Consultation activities occur throughout the life of the project, driven by a central agency (LTA) in collaboration with other key agencies and organisations. More specifically, there should be targeted engagement activities at the following stages:

- (i) When considering project concept, feasibility and alternatives;
- (ii) During the design phase to gather feedback on potential options;
- (iii) To inform the EIA and social assessments (including beneficiary surveys);
- (iv) Upon finalization of project design;
- (v) To raise awareness of construction activities at the onset of implementation phase; and
- (vi) Project completion.

Instrument

The Consultation process involves four key stages:

- (i) Awareness-raising with broader community
- (ii) Identification of affected persons, households, and villages
- (iii) Detailed consultation sessions with affected villages and persons
- (iv) Formal notification of works commencement.

A Consultation Plan for the Project should be developed to cover each of these stages to ensure proactive and ongoing communication with the public and community stakeholders. This should include a Work Plan and Schedule that reflects the overall project schedule and key milestones.

Stakeholder Identification

Consultation will need to be multi-tiered: general community consultation to describe the overall works program, village level consultation to detail impacts within discrete sections of the alignment; and household level consultation for property access, impacts, compensation etc. Careful consideration must be made of potential stakeholders with an interest in the project at the local, subnational and national levels. Stakeholder groups include:

- Directly affected persons / Impacted communities
- Government (subnational and national, pulenu'u)
- Traditional leaders (matai, sui o le nu'u/malo)
- Village council / mayor (fono o matai)
- Village Women representatives (Sui o Tamaitai) and Youth representatives (Sui o Talavou)
- Civil society and community-based organisations (CSO, CBO)
- Non-government organisations (NGO)
- Utility and service providers
- Businesses

This list is not exhaustive and should be detailed in the Consultation Plan.

Implementation

LTA has overall responsibility for community engagement and public consultation activities. The Public Relations Officer (or similar) shall work with key agencies such as MWCSO, MNRE and MWTI on engagement activities. Reporting on the outcomes of each consultation activity shall be centralized within LTA and copies forwarded to PMU for semi-annual reporting. Follow-up with communities on the outcome of consultation and participatory activities is also expected.

Community perceptions of the Project are as important to manage as the actual environmental and social impacts themselves. Misinformation and miscommunication are a key project risk where communities (and their anticipation of compensation in particular) are involved.

Effective coordination and communication between responsible agencies will be key. Meetings among respective villages with *sui o le nu'u*, *matai*, village councils and Project and government representatives will be initiated by the Ministry of Women, Community and Social Development (MWCSO) as per formal government process. Local consultations will be conducted using methods that are consistent to the social and cultural values of the local community. Liaison officers from MWCSO who can facilitate intergenerational and gender equal participation will support the Project consultation session

Methods

The Consultation Plan will detail which engagement methods are suitable for different consultation activities and stakeholder groups. Consultation sessions will include special outreach efforts tailored to the need of vulnerable groups such as women, elderly and disabled persons so that the process is socially inclusive and a range of stakeholder views and perspectives are adequately represented. Consultation methods will be designed in consideration of the different socio-cultural norms that inhibit the participation and input into decision-making from vulnerable groups and persons.

Individual households directly affected by the Project will be approached by MNRE's Land Management Division (LMD) and/or LTA regarding land arrangements (voluntary donation, involuntary acquisition, etc) and compensation entitlements prior to construction commencing.

Reporting

Consultation activities and public meetings will be well-documented and reported on in quarterly or progress reports. This will include the number of attendees and participants (gender disaggregation), topics discussed, feedback and issues raised by stakeholder groups, and outcomes or actions resulting from the consultation. Copies of all consultations undertaken must be forwarded to PMU for the preparation of semi-annual reports.

Grievance Redress Mechanism and Complaints Management

This section provides guidance for complaints management for World Bank-funded projects being implemented by the Land Transport Authority (LTA) in Samoa. The purpose is to provide a centralized 'grievance redress mechanism' (GRM) that can be applied to all road projects in Samoa to meet the Bank's safeguard requirements.

The GRM presented here outlines a process for documenting and addressing project grievances (complaints) that may be raised by affected persons or community members regarding specific project activities, environmental and social performance, the engagement process, and/or unanticipated social impacts resulting from project activities. It describes the scope and procedural steps and specifies roles and responsibilities of the parties involved. The GRM is subject to revision based on experience and feedback from stakeholders.

World Bank Requirements

The grievance process is based upon the premise that stakeholders are free to raise their concerns to relevant representatives at no cost or threat of any negative repercussions; that concerns arising from project implementation are adequately addressed in a timely and respectful manner; and that participation in the grievance process does not preclude pursuit of legal remedies under the laws of the country.

LTA will manage the GRM, utilising formal, informal and traditional grievance procedures suitable to the Samoan context. Generally, complaints and disputes will be resolved at the community level as much as possible. Grievances may be firstly referred to customary conflict mediation arrangements where appropriate, so long as they are not directly affiliated with traditional leaders who are party. If the issue cannot be resolved at this level, it will be raised to the next level and so on (Figure 2).

LTA will aim to address all complaints received, regardless of whether they arise from real or perceived issues. Any stakeholder who considers themselves affected by LTA's activities will have access to this

Procedure at no cost or threat of any negative repercussions. The statutory rights of the Complainant to undertake legal proceedings remain unaffected by participation in this process.

Limitations

The GRM does not deal with grievances relating to internal communication or disputes between the project team, Implementing Agency, other agencies; nor intra/inter-community conflicts that are not project-related.

Objectives

The GRM has the following objectives:

- Establish a prompt, easy to understand, consistent and respectful mechanism appropriate for the Samoan context to support LTA in receiving, investigating and responding to complaints from community stakeholders;
- Ensure proper documentation of complaints and any corrective actions taken; and
- Contribute to continuous improvement in performance through the analysis of trends and lessons learned.

Institutional Arrangements

The Grievance and Complaints Logging System (GCLS) has been developed by the World Bank to help ensure that projects are implemented in accordance with appropriate environmental and social practices. One of the keys to ensuring this is through proper engagement with civil society. GCLS is a key part of the GRM that helps record, assess, and resolve grievances and complaints during the implementation of a Project in as efficient, effective, and transparent manner as possible, and to inform the Government and donors of design and implementation changes that can be used to improve the systems.

The Project Management Division (PMD) at LTA will be responsible for managing grievances including updating the grievance database to track the progress of formal grievances for the duration of projects.

The PMD and Public Relations Officer in LTA will administer the grievance database. Nominated LTA staff will regularly update the grievance database in consultation with key agencies where complaints are raised (i.e. MNRE PUMA, MNRE LMD and Land Board). All project-related grievances should be captured in the database regardless of the agency they were raised with. LTA should be involved in the resolution of all project-related grievances that sit within their key functions, and shall support MNRE and other key agencies with adequate resources and staffing as necessary to ensure grievances are effectively resolved.

Project Phases

During the design phase, the LTA, MNRE and Design / Supervision Consultant (or equivalent) will be responsible for the coordination of community consultation and addressing key concerns, and advising community members on how to access the GCLS.

During the construction phase, the Contractor's Site Manager will log complaints and report these to LTA PMD on a regular basis. Where possible, the Contractor will liaise with affected parties, matai and other relevant parties to resolve any disputes on site. Complaints outside the scope of the contractor's

responsibilities will be referred to LTA or MNRE to resolve as appropriate. The issue should be responded to within 48 hours, and closed out within 30 days.

Upon project completion, LTA and MNRE will continue to work to resolving grievances resulting from the project if necessary.

Awareness of GRM

Training on the GCLS will be provided to LTA staff, relevant project teams, contractors and key agencies. LTA (and Contractors) will communicate the GCLS in an understandable manner to affected stakeholder groups. Confidentiality will be respected and LTA will take all reasonable steps to protect parties from retaliation. Communities and affected persons should be advised of the GCLS in the early stages of engagement, and be made aware of:

- How they can access the GRM (i.e. key people, complaint forms and website);
- Who to speak to and lodge a formal complaint;
- The timeframes for each stage of the process;
- The GCLS being confidential, responsive and transparent; and
- Alternative avenues where conflicts of interest exist.

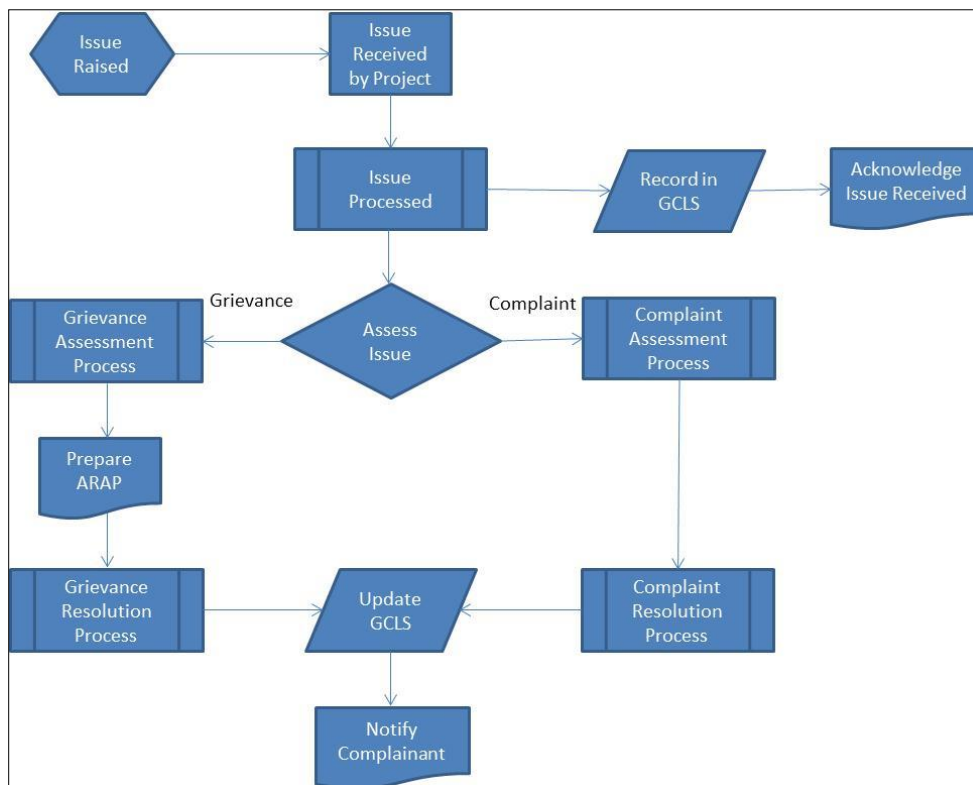
Grievance Procedure

All issues are logged and tracked in the GCLS, and are reviewed as part of the World Bank's and Government's compliance monitoring systems. Once the issue has been satisfactorily resolved with the member of the public who initiated the complaint (the 'complainant'), then the complaint will be closed. The complainant will be notified in accordance with the procedures as documented in the GRM, and this will be recorded in the GCLS. The GCLS allows:

- Full auditing of the process by which a complaint was addressed;
- Supervisors to review and comment on all grievances; and,
- The monitoring of service standards for resolving complaints—in accordance with the World Bank's 'Citizen Engagement Indicators'. The GCLS maintains statistics on number of and types of complaints, time taken to resolve, etc. These statistics can be easily published to a public website or included in reports.

The GCLS can be accessed via any device with an internet browser. Complaints may be lodged through a website, by SMS, in person, by telephone, e-mail, or letter. Website complaints are automatically logged in the system, while other forms are manually entered by the 'Complaints Administrator'.

Figure 1: Stages in the Grievance Resolution Process



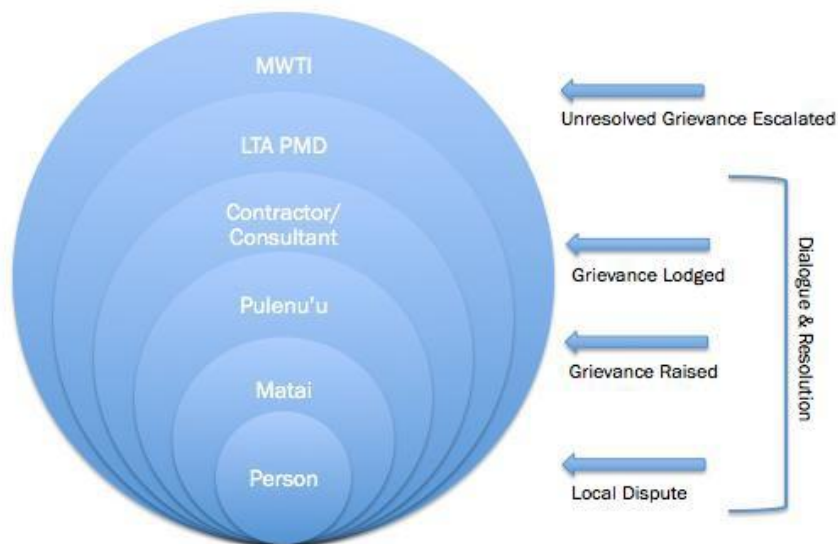
The November 2014 ‘Results Framework and M&E Guidance Note’ Annex C contains indicative citizen engagement indicators for Bank-financed projects. There are six areas of citizen engagement approach:

- Consultation
- Collecting, recording and reporting on inputs received from beneficiaries
- Grievance redress
- Citizen/community collaboration
- Citizen monitoring, evaluation and oversight
- Empowering citizens/communities with resources and decision-making powers
- Capacity building for engagement

The GCLS will provide the necessary data to meet the ‘grievance redress’ indicators. Specifically, it reports on (i) Grievances registered related to delivery of project benefits that are addressed (%); and, (ii) Grievances responded and/or resolved within the stipulated service standards (%). The GCLS resolution rates can be posted to the website which will help meet the third indicator: (ii) Project-supported organization(s) publishing periodic reports on GRM and how issues were resolved [including resolution rates] (Yes/No).

Figure 2 below outlines the levels of traditional and government authority that are involved in grievance resolution, depending on the severity of the grievance.

Figure 2: Levels of Grievance Resolution



Legislation

The grievance procedures defined by the Taking of Lands Act 1964 are only utilized as a last resort. It is more common for any differences to be settled by negotiation and consensus reached between the Government and the village or villagers involved and this is usually the first step in the resolution of any grievances.

Guidance for Contractors

The Contractor is responsible for community consultation regarding construction activities and recording complaints as per provisions contracts.

At the inception of the project, all employees of the Contractor should be briefed on the GRM and informed they are required to report any grievance to the Site Manager. The contractor/consultant shall nominate a staff member for the purpose of community consultation who will manage grievances, i.e., the Site Manager. The Site Manager will work in cooperation with LTA PMD and the Public Relations Officer on a regular basis. A phone number will need to be established and be made publicly available on project signage and public relations materials readily accessible and visible to the affected persons and communities.

During construction phase, it is recommended a suggestion box and complaint forms are located at the Site Office. The Site Manager will receive grievances on site and respond within 48 hours of the grievance being received. The response should confirm the nature of the grievance and indicative timeframe for resolution. The Site Manager shall record the grievance in a logbook or Complaint Register then provide a copy of the grievance to LTA PMD within two working days of the complaint being made. This logbook will be maintained throughout the construction or contract period.

Annex D Land Acquisition and Resettlement Framework

Introduction

The SCRTP triggered social safeguards policy OP4.12 Involuntary Resettlement. The objective of this policy is to ensure affected persons living standards are not adversely affected as a result of the Program or its interventions. As such, the Borrower is required to prepare appropriate social safeguard instruments to address all adverse impacts that will be generated as a result of project activities and subprojects. It is envisaged that the majority of land required for project purposes will occur through either formal land donation, land use agreements, leasing, subleasing or purchasing arrangements. However, a preliminary safeguard assessment has identified there is potential for small-scale involuntary land acquisition to occur.

This Land Acquisition and Resettlement Framework (LARF) has been prepared specially to address impacts cause by involuntary land acquisition, such as economic or physical displacement, or loss of assets or access to assets. It has been developed in accordance with the principles, objectives, procedures and rules set out in the World Bank Operational Policy OP4.12 Involuntary Resettlement. It provides guidance for preparing Abbreviated Resettlement Action Plans (ARAP) and associated documentation. It outlines the procedures and information requirements for ARAPs in accordance with policy requirements and national legislation, as well as Voluntary Land Donation and land use agreements for specific subprojects where applicable. The preparation of documents is the responsibility of LTA, which will be submitted for Bank review.

National Context

Samoa comprises two large islands – i.e. Upolu and Savai'i, two smaller inhabited islands, Manono and Apolima, and a number of smaller islands. These islands cover a total area of 2,800 km².

Samoa has an estimated population of 187,820 as of 2011²⁸, living in about 362 villages largely found along the coast. Traditional social structures and cultural institutions are very strong in Samoan society which is based on an *aigapotopoto* (extended family) system. Every *aigapotopoto* is headed by a head matai or Sa'o (holder of traditional title) who is responsible for family affairs, particularly in relation to land and titles²⁹. There are normally several matai in an extended family but there is one (and on the rare occasion two or more) head matai or Sa'o by virtue of the status of the chiefly title he/she holds. The extended family or *aigapotopoto* comprises several households or *aigapatino* of nuclear families of couples and their children who are part of the extended family but live in their own house, cultivate their own crops on extended family land and operate independently on a day-to-day basis. The *aigapatino* have shared responsibilities towards the extended family or *aigapotopoto* with respect to matters such as funeral, weddings, family gathering and feasts, and in some cases, church obligations. Many extended families make up a village.

Every village has a *fono* (council) that maintains law and order, provides direction for village development including land use. The *Fono* usually meets weekly, and consists of all the *matai* in the village. Every village has a *pulenu'u* (village mayor) who is the contact person and the conduit of information between the *Fono* and the Government, and a Sui o le *Malo*, a women's representative.

²⁸ Samoa bureau of Statistics, 2012.

²⁹ Most *aigas* have more than one chiefly title holder or *matai*, but there is always a recognized head chief or *Sa'o* that is the leader of the extended family usually by virtue of the status of the title he/she holds.

Of the country's total land area, 81 percent is held under customary ownership, 15 percent by government and 4 percent by freehold. While customary tenure guarantees ownership rights to all Samoans, it is often very difficult for development purposes to get agreement from all the different parties involved at any one time. Whenever customary land is affected by any form of development, disputes will invariably arise and cause delays to development projects, sometimes extended for certain periods of time. While the knowledge of customary land boundaries are handed down by word of mouth and are known to family members, the *pule* (authority) is often uncertain or disputed.

The main feature of land tenure is the significant percentage of communally owned land by villages and *aiga*. These lands are awarded through historic claims and by family genealogy and connections. Village lands comprises of (i) village controlled customary land which is normally the undeveloped hinterland that is used by all members of the village for hunting, firewood collecting, etc and (ii) extended family land or land allocated to each extended family for their houses, crops etc. Village land is governed by the Village *Fono*. Extended family land is allocated by the *Sa'o* in consultation with members of his extended family.

Justification for Land Acquisition and Resettlement Framework

The majority of activities implemented by the SCRTP will be located in existing road corridors and bring about significant community benefit through improved road safety and reduced flooding hazards and risks. This LARPF establishes the principles, objectives, procedures and rules to be used in the preparation of resettlement- related safeguard instruments. Some SCRTP activities include minor land acquisition for road realignment and drainage easements. Activities involving large-scale or *significant* involuntary resettlement (i.e. Category A) are not eligible for funding, which negates the need to prepare full-scale Resettlement Action Plans (refer to negative list Annex A of the ESMF). Therefore, only minor unavoidable land acquisition is eligible for subprojects identified as Category B, which require an ARAP.

Given the focus of the project is to enhance an existing road alignment, it is extremely unlikely that there will be any major demand for new land or encroachment outside the designated road reserve. Drainage from the road reserve into natural water-courses (i.e. public land) will be maximized to avoid the issue of securing or placing an easement on freehold, leasehold or customary land. However, there is potential for involuntary resettlement impacts to eventuate as a result of the Project. It is for this reason that the LARF has been prepared.

Fixed assets (crops, structures, fences, driveways, etc.) may be present on the land and need to be accounted for prior to construction commencing. Fixed assets or access to such assets may be lost as a result of the land purchase or donation and there is potential for adverse socioeconomic impacts to occur if this is not properly managed. The LARF exists to protect people's rights and ensure project activities are approached with full consideration of existing assets, with appropriate valuation of assets, and persons affected by economic displacement are duly compensated.

The Government of Samoa (GoS) has developed this Land Acquisition and Resettlement Framework (LARF) in accordance with principles, objectives, procedures and rules set out in the World Bank Operational Policy OP/BP 4.12 – Involuntary Resettlement. It establishes parameters for the conduct of land acquisition for the SCRTP, the preparation of *Abbreviated Resettlement Action Plan/s* (ARAP), as well as provisions for instances where land is donated to the project by landowners (refer to World Bank's Voluntary Land Donation Protocol [VLDP], Attachment A).

Objectives, Definitions and Key Principles

Objectives

The World Bank's OP4.12 on Involuntary Resettlement outlines the following objectives, which have been adopted in the preparation of this document and will govern the project implementation:

- Avoid or minimize involuntary resettlement where feasible;
- Assist affected persons in improving their former living standards, earning capacity and production levels or at least restoring them;
- Encourage community in planning and implementing resettlement; and
- Provide assistance to affected people regardless of the legality of title of land.

In World Bank-assisted projects, borrowers are expected to take all necessary measures to *avoid*, minimize, mitigate and compensate for adverse social impacts, including, but not limited to, those impacts associated with involuntary resettlement. Every viable alternative project design should be explored to avoid, where feasible, or minimize involuntary resettlement.

If involuntary resettlement cannot be avoided altogether, sufficient resources should be made available to conceive and implement resettlement activities as sustainable development programs, in close consultation with affected persons.

Affected persons should be assisted in their efforts to improve, or at least restore, their livelihoods and living standards to pre-displacement levels or levels prevailing prior to project implementation. This is accomplished primarily through: (a) compensation at **full replacement cost** for losses of assets (for example, land, unharvested crops, improvements on the land to be acquired, etc); and (b) provision of other forms of **assistance** for livelihood restoration or physical relocation, as necessary in accordance with OP 4.12.

Where the law of the GoS does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by the additional measures set out in this LARF.

Key Definitions

For the purpose of this LARF, "**involuntary resettlement**" refers to economic displacement as a result of project activities set out in Section B. In this context, "**displaced persons**" refers to persons who are affected by the voluntary acquisition of land resulting in:

- relocation or loss of shelter;
- loss of assets;
- loss of access to assets; or
- loss of means of livelihood as a direct result of loss of assets or access to assets.

"**Full Replacement cost**" is defined, under OP 4.12, as a method of valuation of assets that helps determine the amount sufficient to replace lost assets and cover transaction costs. Depreciation of structures and assets to be replaced is NOT taken into account to determine the compensation amount necessary to meet Full Replacement Cost for:

- *Agricultural land, produce or established gardens*: it is the pre-project or pre-displacement, whichever is higher, market value of food produce of equal productive potential or use located on the voluntarily acquired land, plus the cost of preparing alternative areas to harvest levels similar to those of the voluntarily acquired land, plus the cost of any registration and transfer taxes.
- *Houses and structures or assets*: it is the market cost of the materials to build a replacement structure or asset with an area and quality similar to or better than those of the existing asset/s, or to relocate the existing asset/s, plus the cost of transporting building materials to the construction site, plus the cost of any labour and contractors' fees, plus the cost of any registration and transfer taxes. In determining full replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset.
- *Land in urban areas*: Pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.

Where the laws of participating countries does not meet the standard of compensation at Full Replacement Cost, compensation under domestic law is supplemented by the additional measures set out in this LARPF.

Key Principles

OP/BP 4.12 establishes the key principles to be followed in resettlement planning and implementation. Of particular relevance for this LARPF are the following:

- Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- Wherever possible, project design and ARAP should be conceived as sustainable development programs, so that affected persons may benefit from the services and facilities created for, or by, project activities.
- All affected persons are provided prompt and effective compensation at full replacement cost for losses of assets (e.g., land, trees) attributable directly to the project (without depreciation or deduction for tax arrears, licensing or registration fees, or for any other purpose).
- Affected persons without a recognizable legal claim or right to the land they are occupying are provided with compensation for loss of assets, other land and resettlement assistance (example, cash, employment, etc).
- Methods by which displaced persons can pursue grievances will be established as necessary, and information regarding these grievance procedures will be provided to displaced persons.

Legal and Regulatory Framework

The LTA agree to carry out the project in accordance with this LARPF and OP4.12 and waive any national legal, regulatory provisions in contradiction to the requirements established in this LARPF, and to take actions necessary to ensure full and effective implementation of ARAPs prepared in accordance with the LARF. Legislation and policy relevant to the requirements of OP4.12 includes:

- *The Constitution*
- *Property Law Act 1952*

- *Taking of Land Act 1964*
- *Lands, Surveys and Environment Act 1989*
- *Land Titles Registration Act 2008 and regulations*
- *Survey Act 2010 and regulations*
- *Alienation of Customary Land Act 1965*
- *Land Transport Authority Act 2007*
- *Land Valuation Act 2010; and*
- *Samoa Code of Environmental Practice.*

The GoS has limited power of eminent domain, which is the power of the government to take private property and convert it for public purpose. The Samoan Constitution states that 'no property shall be taken possession of compulsorily and no right over interest in any property shall be acquired compulsorily' (Clause 14). Articles 13 and 14 acknowledge the right to reside, and provide protection from compulsory acquisition, while Articles 101 and 102 state that customary land cannot be alienated. However, the Constitution does allow for compulsory acquisition for public purposes and the following provisions apply:

- Payment within a reasonable time of adequate compensation;
- Right of access to the Supreme Court regarding the amount of compensation; and
- Right of appeal to the Supreme Court.

The key legislation in Samoa relevant to involuntary resettlement and compulsory land acquisition includes the Taking of Land Act 1964, Alienation of Customary Land Act 1965 and the Lands, Surveys and Environment Act 1989 (LSE Act), as well as the Codes of Environmental Practice (COEP).

The *Taking of Land Act 1964* establishes the taking of lands for "public purposes". The Act applies to the alienation of freehold and customary land, including land of this type that is currently under leasehold, and provides for the taking of land for public purposes. The Act provides the procedures for land acquisition, sets out the circumstances in which compensation is payable, methods for assessing such compensation and dispute resolution procedures. Section 7 empowers the state to take customary land or freehold land required for any public purpose. Furthermore, Section 3 provides that the state may declare any purpose to be a public purpose within the meaning of this Act. Once land is identified for acquisition reasonable notice is required to be given to the owner or occupier of freehold land or the *matai* who has the *pule* over customary land. Public notice of 28 days is allowed for any objections. If no written objection is received, the Minister may then proceed to take the land by Proclamation. This Act briefly refers to easements, where a proclamation is the basis for acquiring an easement. It also provides for compensation entitlements (s11, 25, 37).

The *Land Registration Titles Act 2008* (LTRA) regulates the property title registration system and rules for land transactions. Part 9 details easements and deed of restriction due to easements, and Part 13 outlines compensation by government. The terms in the LTRA provide for the rights and responsibilities of the dominant and servient tenements. This Act does not apply to customary land and only deals with private easements on freehold land (and easements in gross²⁴ are excluded). These involve what type of water is allowed to flow across or under the land, how the infrastructure (such as pits, stormwater pits, open channel drains) can be maintained and accessed, and what responsibility the dominant tenement has to restore the land to its original condition after any service or maintenance (Schedule 1). The terms also describe the

responsibility of the landowner (grantee) to minimize disturbance over the land and to restore the land, as nearly as practicable to its original condition. Section 67(3) allows a deed of restriction to be registered. Section 68-69 details rules for the release, modification and extinguishment of easements. Easements must be registered to be considered legally valid.

Part IX of the *Property Law Act 1952* deals with easements and provides for easements in gross (s122)²⁵; power of the courts to modify or extinguish easements (s127); and permission for the court to impose easement for encroachment (s129).

The *Survey Act 2010* (and regulations) requires existing and proposed easements (either easements in gross, or dominant or servient tenement) to be clearly shown on a survey plan (s19, 24).

Customary Land

Most of the land in Samoa is held under customary ownership and protected by the Constitution for the "customs and usages" of the people of Samoa. Customary land is held in the name of the matai or head of the family, who has the authority (pule) over the family land that is similar to a trustee. The matai determines the distribution of family land among members of the family for their use. It is believed that every Samoan has rights to land that will provide him with a means to earn a living and support his family. It is uncommon for a Samoan to be without rights to some land as a descendant of Samoan parents. It is also uncommon for a Samoan not to have access to alternative areas of land on which to relocate or to cultivate. However these rights to customary land are dictated by one's blood connections. Consequently, one does not have a choice about the location of customary land to which one is entitled. Alienation of customary land is possible by only two methods:

1. By lease of the land to a person determined by the *matai* of the family. The Minister of Lands is appointed by the *Alienation of Customary Land Act 1965* to act for and on behalf of all beneficial owners in signing a lease for registration. The Minister may grant a lease or licence of customary land for authorized purposes (which are defined). The maximum lease in aggregate for a public, commercial, business or religious purpose is 40 years.
2. By the *Taking of Lands Act 1964* for a "public purpose." The Lands and Titles Court is an independent Court specifically established to deal with customary lands and titles. Lawyers are not permitted to appear before this Court unless they are representing their personal interest in any customary land or title. The records of the Lands and Titles Court are accessible exclusively to the members and descendants or their heirs to the land or title. One can only access the records by providing proof to the Registrar of Lands and Titles that one is an "heir" to the land or a descendant of the family to which the land or title belongs. The register of customary land is not a public record.

²⁴ An Easement in Gross allows the dominant tenement of the easement to be an entity independent of land ownership. Section 65 of the LTRA does not specifically provide for the creation of Easements in Gross, although the rights implied for Easement in Gross are detailed in Schedule One of the Act.

²⁵ s122 Easement in gross permitted – an easement over land may be created without being attached or made appurtenant to other land, and such as easement shall run with and bind the land over which it is created, and all persons claiming title to that land by, through, or under the person creating the easement; and the easement so created shall be to all intents and purposes an incorporeal hereditament, and shall be assignable accordingly.

There are many instances where the authority or ownership of customary land is uncertain or disputed. Such disputes are referred to the Lands and Titles Court for decision about the *pule* over the land or title in dispute.

The Minister of Lands is appointed by the *Alienation of Customary Land Act 1965* to act for and on behalf of all beneficial owners in signing a lease for registration. The Minister may grant a lease or licence of customary land for authorized purposes (which are defined). The maximum lease in aggregate for a public, commercial, business or religious purpose is 40 years. The *Alienation of Customary Lands Act 1965* does not permit the creation of easements over customary land, but provides provisions for the granting of leases and licences.

Section 9 of the *Land Titles Registration Act 2008* is very clear that no provision of that Act is to be seen as disposing of any customary land. Under this Act, the Registrar has a duty to include land in the Register that becomes public land or freehold land or customary land leased or licensed under the provisions of the *Alienation of Customary Land Act 1965*. The Land Registrar is empowered by s15 of the *Land Titles Registration Act 2008* to register all public land, freehold land or customary land that is leased or alienated. There is also provision for the Registrar to record and register any customary land where the *pule* or authority over it has been established.

Freehold Land

Freehold land is registered under a deeds registration system established prior to Independence in 1962. The Register of freehold lands is a public record which can be accessed by the payment of a search fee. Freehold land is situated mainly within the Apia urban area and the outskirts of Apia. Freehold land is highly valued and the current market value of the land is determined by the price a willing buyer will pay for it and factors such as comparable land sales and the services and amenities accessible to the area in which the land is located. Residence on freehold land is not subject to the authority of the chiefs and orators of a village, even if it is located in a village.

Government Land

The Land Board established by the *Lands Surveys and Environment Act 1989* administers government land. Records of Government land estimated that the total area of Samoa comprised 725,000 acres with Government land at 85,630 acres. Land within three meters of a natural watercourse is public land over whose property it flows and maintenance of the watercourse is therefore the responsibility of the government.

The LSE Act provides a process for the alienation²⁶ of Government land²⁷, land administration and other matters such as environmental protection, wildlife conservation and coastal zones. Government land is a subclass of public land, which is not set aside for any public purpose and includes land which has become the property of the Government as ownerless property. There are a variety of controls under this Act on both leases and sales of Government land. Applications from the public are called for leases and tenders may be called for sales. The Minister may approve purchase of any land for public purpose (s23) or lease of government land for up to 20 years (s37). Leases have to be in the approved form and subject to the covenants and conditions imposed by the Land Board.

Gap Analysis

A gap analysis between national laws covering involuntary resettlement and the Bank's OP/BP 4.12, and the measures to bridge such gaps is detailed in Table 1, and will be completed when ARAPs are being prepared.

Table 1. Gap Analysis on National Laws and OP/BP4.12

WB Policy Requirements	Samoa Legislation	Gap Filling Measures
Involuntary resettlement should be avoided wherever feasible, or minimized, exploring all viable alternative project designs.	In Part IIA of the Taking of Land Act 1964 (TLA), Section 24F states that: “In the exercise of the powers conferred by this Part of this Act the Minister or his officers, workmen or others by his direction shall do as little damage as may be...”	The project design will seek to avoid physical and economic displacement. Where such impacts cannot be avoided, best efforts will be made to minimize impacts through design review. Acquisition of land will only be pursued once all viable alternatives have been considered.
Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.	TLA Section 14 stipulates public notification of the intention to take land and allows for objections to be lodged.	Affected persons will be meaningfully consulted throughout the preparation of implementation of resettlement plans. Any severely affected persons will be consulted on the development of mitigation measures for relocation or livelihood restoration.
Affect land and non-land property is required to be compensated at full replacement cost. ³⁰	TLA Part III Section 25 refers to the right for ‘full and just’ compensation for all affected people as the basis for determining the offered value of the affected land.	Compensation will be provided at full replacement cost. For land, compensation will be based on market value plus transaction costs. For structures, compensation will be sufficient to replace the affected structure without depreciation plus the cost of any transaction costs such as registration fees. For non-land property that can be feasibly moved, assistance will be provided to restore the affected property.
Persons eligible for compensation and assistance include: (a) with formal legal rights to land; (b) without formal legal rights but with valid claims to land/assets; and (c) without either (a) or (b) to the land they are occupying. Persons in category (c) are not entitled to compensation for affected land, but are entitled to compensation for non-land assets as well as assistance to resettlement and livelihood restoration if severely affected.	Eligible persons include only those with formal legal rights to land	Persons without recognized legal entitlement to affected land will be compensated and assisted with respect to non-land assets and will be entitled to resettlement and/or livelihood restoration assistance if they are severely affected.

³⁰ For land, replacement cost is the market value of land of equal productive value or use in similar location plus the cost of any registration and transfer taxes. For houses and other structures, replacement cost is the cost to build a replacement structure or to repair partially affected structures plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account. Compensation in kind can be considered in lieu of cash.

<p>Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p>The legislation allows for compensation but not transitional assistance.</p>	<p>Persons who are severely affected, in addition to compensation for lost assets, will be provided with transitional assistance to enable them to restore their living standards. Assistance provided to persons required to relocate, will be aimed at ensuring security of tenure of their replacement housing in a location of at least equivalent characteristics and advantages of location. Persons who suffer permanent loss of sources of income or productive resources of 20% or more will be provided with assistance aimed at restoring their income earning capacity.</p>
<p>Particular attention must be paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.</p>	<p>TLA Section 28 stipulates that a claim for compensation may be made by anyone and that for persons not capable of making a claim due to age or impairment that arrangements will be made in the form of trustees or guardians.</p>	<p>The resettlement surveys will identify vulnerable persons. The resettlement plans will set out measures to ensure their needs are considered and additional measures provided if they are severely affected to ensure restoration of their living standards.</p>
<p>The Borrower must establish a grievance mechanism to receive and address specific concerns about compensation and relocation, including a recourse mechanism designed to resolve disputes in an impartial manner.</p>	<p>Customary and formal grievance mechanisms exist. People given the opportunity to make objections through 28-day public notification period.</p>	<p>A Grievance Redress Mechanism (GRM) that is accessible and responsive will be established and operate for the duration of the project (Annex C).</p>

Valuation

The *Land Valuation Act 2010* deals with the practice of land valuations and licensing of valuers. Valuations for the same area of freehold or customary land tend to be guided by market value overall. Valuation methodology for compensation packages will be determined in accordance with national legislation and regulations and approved by the Bank. Valuation for compensation will be based on the principle of full replacement cost.

Freehold

The GoS does not undertake valuations of freehold land on an annual basis. Determination of compensation to be paid for freehold land is easily valued because it is regularly sold and conveyed, mortgaged as collateral for loans and its value is determined by the fluctuation of the open market of "willing buyer and seller". Land is valued according to the availability of amenities such as water, electricity and telephones, its proximity to amenities such as schools and hospitals and the comparable sales of land in the same area of similar size.

Customary

Customary land presents many difficulties for valuation because it cannot be sold, mortgaged or alienated other than by lease. Such land has never been subject to any rates or land tax payments (nor has freehold land), therefore, it is difficult to ascertain the "market value" of customary land other than by using the market value of freehold land as a basis. The *Taking of Lands Act 1964* states that compensation should be paid at the "market value" and in practice customary land value has been measured in comparison to the market value of freehold land in the same area.

Easements

The Principle Valuer in MNRE has the task, on a case by case basis, to assess the value of the proposed easements based on freehold sales with full use land rights and then making appropriate adjustments (if any) for the restrictions that the landowner will have over the narrow strips required for the drainage.

Asset Valuation

The LTA will be responsible for determining the replacement cost or market cost of structures, assets and items damaged or removed for the Project, and these will be detailed with justification in the Abbreviated Resettlement Action Plan (ARAP).

Preparing and Approving Safeguard Instruments

Table 2 lists the safeguard instruments required for subprojects that may involve involuntary resettlement, voluntary land access or donation. Compulsory acquisition of land will only be pursued once all viable alternatives have been considered and no other suitable sites exist.

Table 2 Safeguard instruments required under project scenarios

EA/SA identifies that there will be:	Safeguard instrument applied:
Minor involuntary resettlement - No Physical Displacement or less than 10% of productive assets are lost	Abbreviated Resettlement Action Plan (ARAP)
Moderate involuntary resettlement - Physical and/or Economic Displacement of less than 200 affected people or less than 10% of productive assets are lost	Abbreviated Resettlement Action Plan (ARAP)
Significant involuntary resettlement - Physical and/or Economic Displacement of more than 200 affected people and/or more than 10% of productive assets are lost	Normally a Resettlement Action Plan (RAP) would be required, but subprojects identified to result in <i>significant</i> involuntary resettlement will <u>not</u> be eligible for funding under SCRTP (see negative list Annex A in the ESMF)
Land gifted by private or customary landowner/s for project purposes	Voluntary Land Donation Protocol (VLDP) (Attachment 1)
Land access required on customary or private land (temporary or permanent)	Land Access or Land Use Agreement (LAA/LUA) (Attachment 2)
Small-scale involuntary land acquisition of customary or private land (short or long term)	Abbreviated Resettlement Action Plan (ARAP)

Responsibility for preparation, implementation and monitoring of safeguard instruments (including responsibility for meeting all associated costs with their implementation) rests with the LTA in collaboration with MNRE, who have responsibility for managing the land acquisition and involuntary resettlement process. As necessary, the LTA will exercise its authority to coordinate actions with any other agencies involved to ensure timely and effective ARAP implementation.

Preparation of safeguard instruments will commence as soon as once the specific location of facilities and infrastructure is known and it is determined that involuntary resettlement is required to carry out project activities and shall be finalized prior to implementation or commencement of any works. Safeguard instruments will include an assessment and validation of the impacts of land acquisition, in coordination and full consultation with all stakeholders. Draft safeguard instruments will be provided to the Bank as a condition of subproject approval.

As identified in Table 2 above, an ARAP, VLD or LAA/LUA will be required for activities requiring small-scale involuntary acquisition, voluntary land donation, access to specific sites, or rental or leasing of land.

If land use is changed or involuntarily lost through temporary occupation by the Project activities, rent as agreed between the Project and the leaseholder for an agreed term (time period) will be arranged. Agreement and record of payment will be documented in writing and maintained in the PMU.

For involuntary loss of assets (fences, driveway, kiosks, structures), gardens, trees, crops, hedges, perennials, and/or productive trees/plants, or other elements of livelihoods such as loss of business income due to the Project, compensation will be paid at a scheduled rate (current market value) by the GoS, or based on negotiation/agreements made with the owners.

Voluntary donations of land for project purposes will be made with informed consent, free from any coercion, and will not unduly affect the livelihood of the donor. The purpose and any terms of the donation will be recorded in writing with the signature of the owner (see Attachment 1).

Developing an Abbreviated Resettlement Action Plan (ARAP)

Responsibility for preparation, implementation and monitoring of ARAPs (including responsibility for meeting all associated costs with their implementation), in accordance with this LARPF, rests with the GoS. The agency in GoS with direct and overall responsibility for managing the involuntary land acquisition process in this project is MNRE in conjunction with the LTA. As necessary, these government agencies will exercise authority to coordinate actions with any other agencies and contractors involved to ensure timely and effective ARAP implementation.

Table 2 (above) identifies when an Abbreviated Resettlement Action Plans (ARAP) should be prepared. An ARAP(s) is required **when impacts are minor**, i.e. no persons are physically displaced, and/or less than 10 percent of their productive assets are lost. The OP4.12 states that an ARAP will apply when less than 200 people are displaced, however this is not applicable since the SCRTP will not result in physical displacement.

When to prepare an ARAP

Preparation of the ARAP begins as soon as it is determined that involuntary resettlement is essential to complete any of the project activities. The GoS will finalise one or more ARAPs upon completion of the final design and impacted sites are known. This will occur *prior* to the commencement of any works or implementation and shall be **finalized prior to the commencement of any works** to carry out said project activities.

ARAP Stages

Step 1: Project Screening for Involuntary Resettlement

Engineering designs will be screened for involuntary resettlement impacts and where impacts have been identified by LTA and the PMU, the plan will be revisited to avoid, or 'design out', such impacts. If this is not possible, an ARAP will be prepared (as outlined below).

Step 2: Preparation of Abbreviated Resettlement Action Plans (ARAPs)

The LTA will carry, or cause to be carried, out: (i) a census to identify and enumerate affected persons (i.e. census); and (ii) land and asset survey to identify and inventory residential or productive land and other assets to be affected. The surveys must cover 100 percent of the affected persons, landholdings and include an inventory of assets. The survey should also establish whether any commercial enterprises are affected. A 'cut off date' for the survey(s) will be established to avoid ongoing compensation claims and encroachment issues from outsiders. The cut off date will be the date the census begins unless otherwise notified by the LTA. Under OP4.12, any persons encroaching on the area after the cut off date are not entitled to compensation or assistance, however this will be at the discretion of LTA.

The person(s) responsible for developing the ARAP must ensure the process includes:

- Adequate consultation on the Project with affected persons;
- Affected persons being informed about their options and rights pertaining to involuntary acquisition and resettlement;
- Consulted and offered choices on technically and economically feasible alternatives;
- Provided prompt and effective compensation, regardless of their legal rights or lack of their land and assets, at full replacement cost for losses of land, building or fixed assets on the land and buildings taken by the Project;
- Offered support for a transition period if significantly impacted, based on a reasonable estimate of the time likely to be needed to restore their living standards, income earning capacity and production levels, or at least maintain them at pre-Project levels;
- Provided with assistance in addition to compensation measures described in (vi) above, such as land preparation, credit facilities, training, or job opportunities.

ARAPs will be prepared in consultation with the relevant pulenu'u and matai.

Step 3: ARAP Review

The Bank will prior review and provide no objection (N.O.) to ARAPs.

Step 4: Compensation entitlements

Section 7 sets out the eligibility criteria for compensation. All compensation for land, loss of livelihood/business, crops and/or assets shall be paid **at least four weeks prior** to the commencement date of civil works. Payments for uncollected land compensation due to lack of clarity of an authorized representative of a landowner shall be put in trust by the Minister of Lands.

Step 5: ARAP Implementation

Implementation will be carried out by MNRE's Land Management Division (LMD) in association with the LTA and any contractor.

ARAP Contents

An ARAP will be prepared in accordance with the policy, principles, planning and implementation arrangements set forth in this LARPF. The ARAP is based on accurate baseline information and establishes appropriate mitigation measures (e.g., compensation at full replacement cost for loss assets, transitional assistance for relocation/livelihood restoration/commercial enterprises) for all relevant categories of adverse impacts. The ARAP specifically addresses the following:

- Description of the project activity causing involuntary resettlement and explanation of efforts to avoid or minimize involuntary resettlement associated with the project (alternative project designs considered);
- Range and scope of potential adverse resettlement impacts;
- Socioeconomic survey and baseline census survey information;
- Review of relevant laws and regulations relating to land acquisition and involuntary resettlement;
- Description of asset valuation procedures and specific compensation rates (or alternative measures) for all categories of affected assets;
- Other assistance measures, if any, necessary to provide opportunities for livelihood restoration for displaced persons;
- Assistance to affected commercial enterprises;
- Eligibility criteria for compensation and all other forms of assistance;
- Relocation arrangements, if necessary, including transitional support;
- Resettlement site selection, site preparation, and measures to mitigate impacts on host communities, if necessary;
- Restoration or replacement of community infrastructure and other services;
- Land donation arrangements and documentation requirements, if relevant;
- Organizational arrangements for implementation;
- Consultation and disclosure requirements and arrangements;
- Resettlement implementation schedule;
- Costs and budget;
- Monitoring arrangements;
- Grievance procedures; and
- Summary entitlements matrix.

Based on the baseline surveys and in consultation with affected persons and *matai*, a time-bound action plan with budget shall be prepared. All compensation and assistance, must be provided to affected persons *before* construction commences. All recipients have the right to be informed of the method of valuation of their assets

Eligibility Criteria

“Affected persons” are eligible to receive compensation or assistance under the SCRTP. The social assessment (SA) will affected persons entitled to compensation whom are categorized according to land ownership and magnitude of impact as outlined in Table 3.

Table 3 Categories of Affected Person

Category of Affected Person	Eligibility for Compensation or Assistance
I. Those who have formal legal rights to land, building or fixed assets on the land and buildings taken by the Project (including customary and traditional rights recognized under the laws of the Borrower)	Eligible for compensation for land or assets they lose, and other assistance at full replacement cost ³¹ . Where persons are identified as losing more than 10 percent of their productive land area or assets, they receive additional assistance for livelihood restoration.
II. Those who do not have formal legal rights to land, building or fixed assets on the land and buildings taken by the Project at the time the census begins but have a claim to such land, building or fixed assets on the land and buildings taken by the Project (provided that such claims are recognized under the laws of the Borrower or become recognized through a process identified in the ARAP)	Eligible for compensation for land or assets they lose, and other assistance at full replacement cost. Where persons are identified as losing more than 10 percent of their productive land area (e.g., land used for cultivation or grazing), they receive additional Assistance for livelihood restoration.
III. Those who have no recognizable legal right or claim to the land, building or fixed assets they are occupying	Shall be provided assistance (in lieu of compensation for the land, buildings or other fixed assets being taken by the Project) sufficient to achieve the objectives set forth in this Framework, if they occupy the Project area prior to the census cut-off date.
IV. Those who are subject to involuntarily restriction of access to land or assets, or temporary closure of business	Shall be provided assistance (in lieu of compensation for the land, buildings or other fixed assets being taken by the Project). Where a commercial enterprise (e.g., shop or vendor) is required to close temporarily, the owner or operator is compensated for temporary loss of profits.
V. Persons who voluntarily consent to gifting land as donation for easement or Project purpose provided that it benefits their community	Compensation at replacement value for any asset lost by virtue of donated land (but compensation for loss of land does not apply).

³¹ The amount sufficient to replace lost assets and cover transaction costs. Depreciation costs are not taken into account. Agricultural, urban land, houses and structures are eligible for full replacement cost under OP4.12. Ministry of Works may be engaged to assist in the determination of cost of lost assets or structures if damaged or removed by the Project.

Entitlement

The payment of compensation should be negotiated and determined using the following matrix:

Land Use	Type of Loss	Nature of impact	Compensation measure
Agricultural or productive land on freehold or customary land	Involuntary acquisition	Permanent	Compensation based on replacement cost (market value plus transaction costs)
	Damage to, or loss, of assets, fences, driveways, garden hedges, trees, crops, etc	Permanent/Temporary	Compensation based on Ministry of Agriculture Schedule of Payments for crop damage for the current year. Moving assistance where applicable.
	Restriction of land use (easement)	Permanent	One-off fee to affected household
	Voluntary donation of land	Permanent	Compensation and/or moving assistance for crops, gardens, fences or other assets lost due to donation
	Removal of temporary structure	Temporary	Moving assistance
Residential or urban land on freehold or customary land	Involuntary acquisition	Permanent	Compensation based on market value
	Damage to, or loss, of assets, fences, driveways, garden hedges, kiosks, trees, crops, etc	Permanent/Temporary	Reinstatement or full replacement cost of removed assets or plants; Compensation for crops/edible plants based on Ministry of Agriculture Schedule of Payments for crop damage for the current year; Moving assistance where applicable.
	Restriction of land use (easement)	Permanent	One-off fee to affected household
	Voluntary donation of land	Permanent	Compensation and/or moving assistance for crops, gardens, fences or other assets lost due to donation
	Removal of temporary structure	Temporary	Moving assistance
Business or commercial property	Disruption to business due to works	Temporary	Compensation based on loss of income or profit (net average)
Community facilities (schools, recreation areas, cultural sites, utilities, etc)	Disruption to services	Temporary	Restored at no cost to the community in negotiation with the community

Compensation

The GoS bears responsibility for meeting all costs associated with involuntary resettlement. Any ARAPs prepared in accordance with this LARPF require a budget with estimated costs for all aspects of their implementation. All Affected Persons are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of resettlement planning, and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the ARAP budget shall include contingency funds, i.e. at least 10 percent of estimated total costs.

Compensation must be paid promptly and in full to Affected Person identified as eligible under the criteria presented above. No deductions from compensation will occur for any reason. The ARAP should describe the procedures by which compensation funds will flow from GoS to the displaced persons. The process for the payment of compensation will be as follows:

Step 1:

Establish a 'cut off date' for the census and land and asset survey to identify and enumerate affected persons and inventory residential or productive land and other assets to be affected. Compile a list of affected persons and associated assets.

Step 2:

LTA and MNRE LMD assess the list of affected persons and property in the ARAP and agree on compensation arrangements based on the extent to which the assets, crops and land affected.

Step 3:

Affected person/s, landowners or *matai* are offered a fair and just sum for compensation by MNRE LMD.

Step 4:

If the affected person(s) agree, compensation payment is made in the timeframe agreed to. If the affected person(s) disagree with the amount of compensation or conditions, the outcome will be determined by the Land and Titles Court

Voluntary Land Donation

Refer to the Bank's Voluntary Land Donation Protocol (VLDP) in Attachment 1. This is only to be applied to minor infrastructure (e.g. easements) that are of direct benefit to the landowner and community.

Implementation Process

A time-bound implementation schedule of all activities relating to involuntary resettlement shall be included in the ARAP. All compensation shall be paid **at least four weeks prior** to the commencement of civil works. If there is a delay of one year or more between land or asset valuation and payment of compensation, compensation rates will be adjusted for inflation purposes.

Overall responsibility for the implementation of this LARPF will reside with the LTA in Samoa. LTA will be assisted by Ministry of Natural Resources and Environment (MNRE), Ministry of Works, Transport and Infrastructure (MWTI), Ministry of Women, Community and Social Development (MWCSD) and the Ministry of Finance (MoF) in conjunction with the Design and Supervision Contractor.

Table 4 Responsibilities for involuntary land acquisition

<i>Task</i>	<i>Stakeholder Responsible</i>
Subproject design	LTA, Consultant
Public consultation and disclosure	LTA, MWCS D
Survey and marking of site/s	LTA surveyors
Inventory of losses	LTA, Consultant
Establish compensation rate prices	MNRE
Consultation and agreement on compensation	LTA, MNRE, affected persons
Prepare ARAP and land acquisition documentation	LTA, Consultant
Review and approve draft ARAP	WB
Update ARAP	LTA, Consultant
Approval and release of funds for compensation	Ministry of Finance
Verify affected persons	LTA, Pulenu'u
Land acquisition	MNRE LMD
Civil works and construction	Contractor
Grievance redress	LTA PMD
Monitoring and compliance	LTA PMD, PMU, WB
Restoration of lands (post-construction)	Contractor

Budget and Costs

Compensation will be paid to persons who have suffered temporary or permanent involuntary loss as a result of project activities. The LTA and MNRE bear responsibility for meeting all costs associated with the implementation of this LARPF and associated ARAPs. Any ARAPs prepared in accordance with this LARPF require a budget with estimated costs for all aspects of their implementation. All affected persons are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of resettlement planning, and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the ARAP budget shall include contingency funds, i.e. at least 10 percent of estimated total costs.

Compensation must be paid promptly one month prior to the commencement of works, in full to the affected person/s. No deductions from compensation will occur for any reason. The ARAP should describe the fiscal procedures by which compensation funds will flow from the LTA to the displaced persons.

Consultation and Disclosure Arrangements

See Annex C in ESMF.

Monitoring Arrangements

Monitoring arrangements will be established in the ARAP to assess the effectiveness of ARAP implementation in a timely manner. Monitoring includes review of progress in land acquisition, payment of compensation, provision of transitional assistance, and functioning of project grievance procedures. The ARAP should establish the frequency of monitoring activities. Monitoring should be conducted by an individual, firm, or community organization not directly affiliated with the IA or PMU. Any issues or problems associated with ARAP implementation that are observed in the monitoring process will be reported to the IA and the World Bank project team.

Prior to project completion, the monitoring process will assess whether livelihoods and living standards of displaced persons have been improved, or at least restored. If these objectives have not been achieved, the IA identifies, plans and implements supplemental measures necessary to achieve satisfactory outcomes.

Grievance Procedures

See Annex C in ESMF.

Attachment 1 Voluntary Land Donation Protocol

Background

This Voluntary Land Donation Protocol (VLDP) has been prepared by the World Bank for the purpose of due diligence. This annex includes a Land Commitment Letter to be used by the implementing agency in cases where land is being donated.

For cases where communities and/or individual landholders have offered to donate their land for the project because it is of benefit to the broader community, the World Bank's Voluntary Land Donation Protocol (VLDP) should be followed. The project team is to exercise their best judgment where voluntary land is offered, and conduct due diligence to avoid adverse impacts and reputational risks. Donations are usually based on the premise that the project benefit will offset or outweigh the loss of the land donated.

Voluntary donation of land by beneficiary households is acceptable where:

- It has been verified the donation did not result from any form of coercion or manipulation and is offered in good faith;
- The donation does not severely affect the living standards of the community and/or individual landholder responsible for the donation (i.e. impacts are marginal based on percentage of loss and minimum size of remaining assets);
- Alternatives and the viability of other locations or sites have been considered;
- The donation does not result in the displacement of households or cause loss of income or livelihood;
- The landholder/s making the donation will directly benefit from the project;
- Consultation has been conducted in an open and transparent manner and to a degree that the landholder/s can make an informed choice;
- The land is free from disputes regarding ownership; and
- Full and proper documentation of all consultations, meetings, grievances and actions taken to address grievances has been reviewed and made available.

To ensure that any land provided for the siting of subprojects is contributed voluntarily, in accordance with the requirements of the ESMF, two representatives of the land owners (family or clan) are asked to sign a Land Commitment Letter (see below). This certifies that the land is voluntarily donated for the purposes of the subproject and for the benefit of the community. The signature of the Letter is witnessed (as attested by their signature) by a suitable project representative (e.g. Project Manager).

Introduction

World Bank-assisted projects frequently require temporary or permanent use of land for siting of infrastructure or facilities. Where land is required, preference should be given to acquiring it on a voluntary basis (the "willing buyer, willing seller" approach). However, where this is not feasible, World Bank OP 4.12, Involuntary Resettlement, establishes the conditions and procedures that must be followed when acquisition of land on an involuntary basis results in the social and economic impacts identified in the policy.

In the PICs, access to land is sometimes achieved through a process of voluntary land donation (VLD). Such a process has been adopted in order to address – in a practical manner – some of the complex features of land ownership, use and administration in the PICs. Nevertheless, many of the risks associated with involuntary resettlement have the potential to affect the voluntary land donation process. Care needs to be taken in ensuring that the process is transparent, based on knowledge and consent and is accurately documented. This Protocol, which should be followed

in all cases of voluntary land donation, aims to address these issues, and assist project teams in minimizing the potential risks.

Land in Pacific Island Countries

The land situation in many of the PICs is complex. A number of factors contribute to this:

Many PICs do not have comprehensive formal procedures for land acquisition and, even where formal procedures exist, legal and institutional processes can be complex and time consuming;

Different systems of land use and property rights may exist on the same land;

Complex patterns of customary collective ownership may exist, which are inconsistent with private ownership, use rights, or de-facto possession;

These different, and sometimes conflicting, land systems can make it difficult to establish with certainty who has a right to own and use a specific parcel of land;

Such difficulties can make it difficult to reach a clear determination of the extent to which the informed consent of those who actually are affected by a transfer of land has been achieved; and

Local representation and negotiation processes can increase the risk of informal political or social pressure.

For the reasons identified above, any proposals for land acquisition or use in connection with a project – whether “willing buyer, willing seller,” involuntary acquisition or voluntary donation – needs to be carefully assessed.

The Basis for Using A VLD Approach

This section provides guidance to help determine²⁹:

Whether VLD is a suitable approach for a specific Bank-financed project.

Whether the proposed donation is voluntary or not.

In some circumstances, it is proposed that land required by the project be donated by individuals or the community on a voluntary basis. At the outset, two questions need to be answered:

Is land donation appropriate in the circumstances of this project?

Land donation is, generally, only suitable for community driven projects where the community (and each member owning or using the land) wishes to provide small amounts of land to support initiatives that will benefit the community. This is an important point to bear in mind in assessing whether voluntary donation is appropriate. The donation of land for medium to large scale infrastructure, particularly in cases where a government agency or entity that has a statutory obligation to provide the infrastructure and/or services for which the land is required, is not appropriate. Voluntary donation should be used only to support small- scale community infrastructure where impacts are minor, in consideration of other sites and whether alternatives have been screened out.

Is this donation voluntary?

In practice, determining whether a land transaction is voluntary or involuntary can be difficult. A useful starting point is OP 4.12, which defines “involuntary” as “actions that may be taken without the displaced person’s informed consent or power of choice.” Accordingly, in assessing whether a potential donation is voluntary, it is necessary to focus on whether the owner(s) or user(s) of the land understand:

- The exact demarcation of land boundary for the project’s use;
- What the land is going to be used for, by whom and for how long;
- That they will be deprived of the ownership or right to use the land, and what this really means;
- That they have a right to refuse to donate the land;
- Whether there are proposals which would allow other land to be used;
- What they will need to do to donate the land, and what costs are involved;
- The intergenerational effect of the donation on their family, what they can do if they (or their family or heirs) want the land back.

The issues above assume that it is straightforward to identify the owners or users of the land, and that there are no competing (or potential) competing claims to that land. Clearly this is not always the case. In many circumstances either: (a) the proposed use of the land means that voluntary donations are not appropriate; or (b) having examined all the relevant facts, it is difficult to determine – with a reasonable degree of certainty – that the donation is being made by the right parties and is truly voluntary. In these circumstances, OP 4.12 should be triggered and a RPF or RAP prepared, following the template set out in these PIC Procedures. In cases where there is any doubt as to whether the donation is truly voluntary, OP 4.12 should be triggered.

A. Limiting Potential Harm

This section provides good practice guidance to limit any potential harm associated with a proposed VLD. Examples of such good practice include, for example, the requirement that the donation of land will not cause any household relocation.

Over the years, a number of practices have developed in the Bank which seek to limit any potential harm associated with a proposed voluntary donation. These include that: (a) the proportion of land donated by any individual cannot exceed 10 percent of the potential donor’s land holding; and (b) the donation of land will not cause any household relocation. As discussed previously, voluntary donation should be used only to support small-scale community infrastructure, where the impacts are minor.

It is important to consider whether there are alternatives to land donation which would adequately support the project, such as the granting of rights of way or use for a specific period of time.

It is good practice to ensure that the documentation establishes a deadline to initiate project use of donated land. Any donated land that is not used for its agreed purpose by the agreed deadline is returned to the donor. However, where the land has already been legally transferred, this will frequently require further administrative processes, fees and taxes to return the land.

A further complication is that, in some cases of VLD, the donor of the land may request compensation or other benefits to be paid as a condition of the land transfer not in connection to the transfer of the land itself, but in relation to structures or other fixed assets on the land. This can lead to conflict with other

individuals also donating land, and has the potential to undermine the VLD process. A donor may also agree to transfer only part of the land required. Such requests need to be carefully evaluated at the outset and, if agreed, documented appropriately.

Due diligence and consultation, discussed in more detail below, is important. It is often not possible to implement the VLD unless adequate information is gathered regarding owners, users, legal requirements and community practices, and is available at the outset. Such information is important to ensure that the voluntary land donation is sustainable, and occurs without causing conflict in the community. In some circumstances, disputes can arise between the owner of the land, who wishes to donate, and the user(s), who do not; such issues need to be resolved in a transparent and equitable manner.

Process for Voluntary Donation

This section provides guidance on the process for VLD, namely on how to:

- Determine and document the appropriateness of VLD in the project context;
- Verify the requirements of the donation and the formalization of the donation;
- Carry out due diligence on the owners and users of land donated;
- Ensure appropriate consultation and disclosure;
- Establish informed consent of the person donating the land;
- Document the legal transfer of land donated; and
- Establish grievance redress mechanism.

This section outlines the process that should be followed once the threshold considerations set out in Section 1 have been considered, and it has been determined that it is appropriate for the land to be provided to the project by voluntary donation.

It is necessary to follow a clear process for the donation, and to prepare and maintain documents that demonstrate such process. Each step set out below should be addressed in the context of the specific project, and fully documented.

(i) Determine and document that VLD is appropriate in the circumstances of the project.

The team should record the reasons why it thinks that the donation of land is appropriate for the project. In certain cases, only some of the land the project requires will be donated or alternatives to land donation exist. The project team should identify (in as much detail as possible):

- What the land will be used for;
- How much land the project will require on both a permanent and temporary basis;
- How much of the land will be donated;
- What alternatives to donation exist (e.g., right of use, right of way);
- The terms of the donation;
- The identities of the parties who intend to donate;
- The beneficiary of the donation; and
- Any details that are relevant to why donation may be appropriate.

(ii) Verify the requirements to transfer, and formalise the transfer of, the land

It is important to understand the process that should be followed to transfer the land, and appropriate ways to formalize the transfer so as to achieve certainty for both the transferee of the land and the project. In many countries this will require consideration of the legal and administrative requirements but also,

particularly in the case of customary land, local and community processes. In some cases these will constitute two different but parallel (and overlapping) systems and a process will have to be established to ensure that the requirements of each system are satisfied. An important consideration will be how transparent the process and the decision making process actually is, and what can be done to enhance the process.

(iii) Conduct due diligence on who owns and uses the land

Given the specific issues surrounding land ownership and use in the PICs, it is important that the project team carries out careful due diligence to understand the type of land rights that exist in the project area, and to identify any particular issues relating to land ownership and use. Thereafter, a more specific due diligence must be conducted on each parcel of land proposed for donation to identify:

- The owner or owners of the land;
- The users of the land, or any parties that occupy the land (either physically or through ownership of an asset or conduct of livelihood or business activities on the land);
- Any competing claims of ownership or use;
- Structures and assets on the land;
- Any encumbrances on the land.

It is important to: (a) identify the right that is being transferred (an ownership right, a use right, a right of way, etc.); and (ii) check whether the transferee actually has the right s/he claims to have. In many circumstances where careful due diligence has not been carried out, significant conflict has arisen at a later stage when another party claims that they have the same or a competing right. In some circumstances – but not all – the transferee will have documentary evidence of such right. Where no such evidence exists, the due diligence can establish rights by speaking with local community officials and neighbours.

(iv) Disclosure and Consultation

The decision to donate must be taken on the basis of a full understanding of the project and the consequences of agreeing to donate the land. Accordingly, the parties that will be affected by the donation (the owners and users of the land) must be provided with accurate and accessible information regarding what the land will be used for, for how long, and the impact the donation will have on them and their families. It is important that prior written notification indicating the location and amount of land that is sought be provided and that its intended use for the project is disclosed.

Where the intention is to deprive the parties affected by the donation of the land permanently, or for a significant length of time, this must be made clear. It should be noted that in many communities the concept of alienation of land is uncommon and difficult to understand, and care needs to be taken to ensure that the implications of this are fully understood. It is also important to decide who else should be consulted about the proposed donation; for example, spouses and older children.

There should be a clear agreement as to which party will pay the costs associated with the donated land. This could include measurement costs, documentation and notarial fees, transfer taxes, registration fees. It should also include the costs of re-measuring/re-titling the transferee's remaining land and any new documentation relating to it.

(v) Establishing Informed Consent

It is crucial that the project team is confident that the decision to donate was taken in circumstances of *informed consent or power of choice*. As discussed earlier, this means being confident that the owner(s) or user(s) of the land understand:

- What the land is going to be used for, by whom and for how long;
- That they will be deprived of the ownership or right to use the land, and what this really means;
- That they have a right to refuse to donate the land;
- Whether there are alternatives to using this land;
- What they will need to do to donate the land (e.g., execute documents, get spousal consents, pay taxes);
- The effect of the donation on their family, and what they can do if they (or their family or heirs) want the land back.

The right to refuse must be a legitimate right, unconditional, and the potential transferee must be capable of exercising it in the local community and political context. For this reason, it is important to be sure that the decision to donate is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities. For collective or communal land, donation must be based upon the informed consent of all individuals using or occupying the land.

(vi) Documentation

It is necessary to distinguish between: (a) the agreement to donate the land; and (b) the document that carries out and evidences the legal transfer of the land. While it is important to have evidence of an intention and agreement to donate the land, it is equally important to ensure, where required and appropriate, that the land is legally transferred. While the process relating to the legal transfer of the land is frequently complicated and time consuming, it must be addressed. [In specific circumstances, for example where the land is being transferred to the community, it may not be necessary to legally transfer the land. However, experience indicates that lack of formal transfer can create significant uncertainty in the future, which impacts on the sustainability of the infrastructure and services, and can have a negative effect on community relations.]

The project team should:

- Identify the appropriate documentation, including the agreement to make the transfer and any legal documentation that may be required;
- Ensure that the agreement:
 - Refers to the consultation has taken place;
 - Sets out the terms of the transfer;
 - Confirms that the decision to transfer was freely made, and was not subject to coercion, manipulation, or any form of pressure;
 - Attaches an accurate map of the land being transferred (boundaries, coordinates);
 - Sets out who will bear the costs of the transfer (e.g., notarial fees, taxes, title issues) and documenting the residual land rights.
- Ensure that all necessary parties sign the documents, including obtaining consent from spouses and children over a certain age;
- Ensure that the transfer and title is registered or recorded; and
- Ensure that the land remaining after the donated land is excised is properly titled, registered or recorded.

It is also important to maintain a record of the process that has been followed. Such documents could include the following:

- The notification indicating the location and amount of land that is sought and its intended use for the project, with a record of when and where this was made public;
- Records of the consultations that were held and what was discussed;
- A copy of the due diligence that was conducted;
- Copies of each of the formal statements of donation, establishing informed consent as described above, and signed by each owner or user involved;
- Copies of all documents, registrations or records evidencing the legal transfer of the land; and
- A map, showing each parcel of land.

The project implementing agency should maintain a record with documentation for each parcel of land donated. Such documentation must be available for World Bank review, and for review in relation to any grievances that may arise.

(vii) Grievance Arrangements

Grievances may be referred to customary conflict mediation arrangements where they are not directly affiliated with traditional leaders who are a party to the donation process. Refer to Grievance Redress Mechanism (GRM) in Annex C.

LAND DONATION COMMITMENT LETTER TEMPLATE

Project: _____

Location: _____

Project Partner	Name	Organisation
Team Leader (PMU)		
Town, District or Provincial Officer		
Project Representative		

Dear Sir/Madam,

Re: LAND AVAILABILITY FOR THE PROJECT

This letter serves to confirm our commitment that land is available for the project. This land is given for the use of the _____.

The owners of the land in our community are Mr/Ms. _____ who with a second family/tribal member confirm our commitment by putting their hand hereto;

This piece of land (_____) is confirmed to be free from dispute and the Project Representative and subsequent committees appointed by the village to administrate the infrastructure are free to use the said land to provide/improve/expand the provision of the services directly provided by the infrastructure. The landowners fully agree that this commitment is irrevocable.

I / we hereby sign confirming that the above is true and correct:

Party	Name	Signature	Date
Landowner			
Landowner Representative			
Project Representative (verification)			

Attachment 2 Land Use Agreement

A Land Use Agreement (LUA) may be required where (i) subprojects or activities require access on a permanent or temporary basis to certain sites on customary land; (ii) no suitable alternative sites exist; (iii) customary landowners have agreed for the land to be used for a specific purpose for the benefit of the whole community; and/or (iv) any other situation where it may be deemed the most appropriate instrument for the local context.

The LUA does not apply when state- or privately-owned land will be utilized or needs to be acquired or leased (ARAP or national process to be followed in these circumstances). However, where formal land use or leasing agreement are being delayed due to circumstances outside the LTA's control, the LUA may provide a 'stop-gap' or temporary safeguard instrument, subject to approval by the Bank.

It is important that absentee landowners are engaged, and that a suitable witness (non-clan member) signs the agreement.

The process used to enter into the LUA is as follows:

- Share the rationale for the subproject and its proposed siting, and seek the granting of access of the necessary land by the landowning clan or household;
- Village representatives of the community, organize a meeting with the representatives of the specific clan/s who have customary ownership of the proposed land or access-way;
- Any persons with fixed physical assets on the land/proposed site, but not considered a landowner, is involved in meetings and their rights are taken into consideration;
- The meeting would discuss the proposed subproject with the landowning clan or household to reach an understanding that the subproject is for the benefit of the whole community and access of land (either permanent or temporarily) is required;
- The payment of access fees should be discussed and agreed in writing (if applicable);
- The landowners would be clearly notified that the agreement to allow land access should be completely voluntary and the specific timeframe should be mutually agreed too;
- If agreement to proceed is reached, then a LUA will be entered into between the clan, the other clans and the leader of the community;
- The LUA should be endorsed by the Village Mayor or equivalent;
- The signed LUA will be submitted as part of the subproject proposal.
- The LUA is submitted to the local magistrate (Commissioner of Oaths) or equivalent for certification.

Exit Strategy and Grievances

If all landowner parties are in disagreement about the land or conditions of LUA, or if landowners are excluded from initial discussions then the subproject will not proceed and the grievance process must be followed where relevant.

LAND USE AGREEMENT TEMPLATE

Project: _____

Location: _____

Project Partner	Name	Organisation
Team Leader (PMU)		
Town, District or Provincial Officer		
Project Representative		

Dear Sir/Madam,

1) We, the undersigned being the representatives of the hereby acknowledge that..... have the right under the native law and custom to make decisions on the land known as for the purpose of with the rights to the receive the proceeds of any development or other conducted on the said land. We certify that all members of the village agree to the truth of this certificate and that we are the persons authorized to sign it.

.....

Signature of Witness Full Name Signature

.....

Signature of Witness Full Name Signature

.....

Signature of Witness Full Name Signature

2) We, the undersigned being the representatives of clan of Village, District, hereby declare that;

(1) We have the right under customary law to allow access or use of the land for the purpose of (project name) and agree to allow access to to support this project (entity);

- (2) That we undertake not to interfere in any manner on any activities or developments undertaken by ouron the said parcel of land;
- (3) That we understand the use of natural resources located on the said land (edible or non edible plants/shrubs, sand, gravel, rocks, timber, water sources, bush materials and other organic matters) will not be used or will be removed for the purpose of the said project (circle one);
- (4) That we understand rental payment of will be made by for right of access to the said parcel of land (put nil if no rent is expected);
- (5) We commit ourselves in upholding the contents and the spirit of this agreement for so long as it remains in force;
- (6) We will undertake efforts to convey the contents of this agreement to members of the village/s or clan/s and to ensure that they so honour it.

SIGNATORIES

Name	Signature / Date	Role
		LTA
		Village Mayor
		Village Representative

3) WITNESSES

We, the undersigned being representatives of clan (who share the land boundary with clan) hereby declare that by Customary Law, we are rightful owners of the land known as “.....” located at Village District and that it has the right by customary law to transfer/ lease the said parcel of land.

NAME	SIGNATURE	DATE
.....
.....
.....

Made under our hands these agreements:

This _____ day of _____ 201_ at _____
 village _____ District _____ in _____.

Submitted to:

Pulenu`u at this location _____

Attachment 3 Land Access Agreement

SCRTP PROJECT

A Land Access Agreement is required between landowners and affected parties and the government for the purpose of formalizing or establishing **easements** related to road developments.

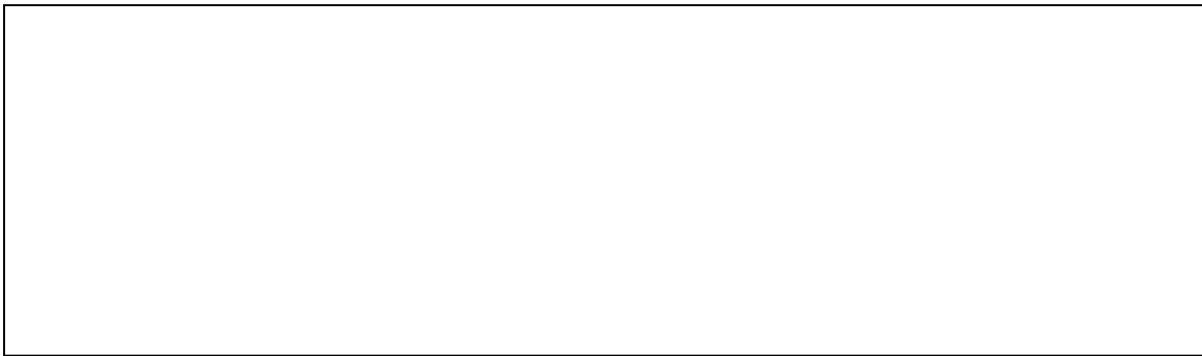
Location

Land Parcel Land Title Reference

or GPS Coordinates

Purpose

Sketch of servient tenement on land parcel (including assets, structures, crops, etc):



Duration.....

Type of Restrictions

Conditions

I/We, the undersigned, are the true representatives of the land parcel specified above, and have consulted all relevant parties with an interest in the land (whether they reside there or not, hold a formal lease or occupy the land);

I/We understand that easements located on the said land parcel are necessary to reduce flooding risk and hazard events;

I/We have agreed to the installation and/or formalization of easements and associated infrastructure on our land, in the agreed location;

I/We agree to keep easements clear and unobstructed at all times to ensure flood risk is minimized in the event of a tsunami, flood or other extreme weather event;

I/We will undertake routine maintenance of the easement and will allow access for the periodic and/or emergency maintenance on the said parcel of land provided that adequate notice has been given;

I/We will not interfere with or intentionally damage the infrastructure installed (as detailed below) on the said parcel of land;

I/We understand that any additional infrastructure beyond what is listed below is our responsibility and that the Government will not fund or maintain it; and

I/We commit ourselves, willingly and voluntarily, to upholding this agreement, without expectation of compensation now or in the future, because we understand this is a gift of direct benefit to our families, communities and local area with the purpose of reduced risk of flooding.

Conditions of access to servient tenement:

.....

Infrastructure

Details of infrastructure *funded by Govt*:

.....

.....

Ongoing Maintenance

Responsibility of landowner (detail of specific infrastructure)

.....

.....

Responsibility of LTA (detail of specific infrastructure)

.....

.....

Timeframe / scheduling arrangements

.....

.....

Party	Name	Signature	Date
Occupier of Land (if different from landowner)			
Landowner			
Landowner Representative (Matai)			
Pulenu'u			
LTA Representative			
Project Representative or Witness			

Annex E Chance Finds Procedure

There is a possibility that project activities may result in damage to physical cultural resources (PCR) unless identified early. A Chance Finds Procedure (CFP) will be detailed in EMPs. Activities that may occur in areas with possible PCR will specify procedures for identifying and avoiding impacts on this, including:

- Consultation with the appropriate authorities and local residents and communities to identify known or possible sites during the design of project activities;
- Siting of proposed activities to avoid identified sites (including protected areas and zones);
- The cessation of work until the significance of a 'find' has been determined by authorities or relevant experts; and
- Mitigation and management measures (e.g. buffer zones) for CFP in contracts.

Cultural property includes monuments, structures, works of art, or sites of significance points of view, and are defined as sites and structures having archaeological, historical, architectural, or religious significance, and natural sites with cultural values. This includes cemeteries, graveyards and graves.

The list of negative subproject attributes which would make a subproject ineligible for support includes any activity that would adversely impact cultural property. In the event that during reconstruction or construction sites of cultural value are found, the following procedures for identification, protection from theft, and treatment of discovered artifacts should be followed and included in standard bidding documents.

Chance find procedures will be undertaken as follows:

- a) Stop the construction activities in the area of the chance find;
- b) Delineate the discovered site or area;
- c) Secure the site to prevent any damage or loss of removable objects.
- d) Notify the supervisory Engineer who in turn will notify the responsible local authorities;
- e) Responsible local authorities and the relevant Ministry would be in charge of protecting and preserving the site before deciding on subsequent appropriate procedures.
- f) Decisions on how to handle the finding shall be taken by the responsible authorities and the relevant Ministry. This could include changes in the layout (such as when finding an irremovable remain of cultural or archeological importance) conservation, preservation, restoration and salvage.
- g) Implementation for the authority decision concerning the management of the finding shall be communicated in writing by the relevant Ministry.
- h) Construction work could resume only after permission is given from the responsible local authorities and the relevant Ministry concerning safeguard of the heritage.

These procedures must be referred to as standard provisions in construction contracts.

During project supervision, the Site Engineer shall monitor the above regulations relating to the treatment of any chance find encountered are observed. Relevant findings will be recorded in World Bank Supervision Reports and Implementation Completion Reports will assess the overall effectiveness of the project's cultural property mitigation, management, and activities, as appropriate.