



# Solomon Islands Urban Water Supply and Sanitation Sector Project

## Resettlement Policy Framework





# Quality Information

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## Acronyms and Abbreviations

<b>ADB</b>	Asian Development Bank
<b>CoL</b>	Commissioner of Lands
<b>DP</b>	displaced person
<b>FTE</b>	fixed term estate
<b>IOL</b>	Inventory of losses
<b>LAO</b>	Land Acquisition Officer
<b>MLHS</b>	Ministry of Lands, Housing and Survey
<b>MFT</b>	Ministry of Finance and Treasury
<b>PE</b>	perpetual estate
<b>PMU</b>	Project Management Unit
<b>PPA</b>	Project Preparation Assistance
<b>RF</b>	Resettlement Framework
<b>RP</b>	Resettlement Plan
<b>SIA</b>	Social Impact Assessment
<b>SI</b>	Solomon Islands
<b>SPS</b>	Safeguards Policy Statement

<b>SW</b>	Solomon Water
<b>TA</b>	technical assistance
<b>UWSSSP</b>	Urban Water Supply and Sanitation Sector Project

## 1 Introduction

This Resettlement Policy Framework (RPF) addresses potential involuntary resettlement impacts of the Solomon Islands Urban Water Supply and Sanitation Development Sector Project (UWSSP).

The RPF describes the principles, policies, guidelines and procedures for identification and management of resettlement impacts through the identification, design and implementation of UWSSP subprojects. Where subprojects require involuntary land acquisition and resettlement, UWSSP will conduct a Social Impact Assessment (SIA) and prepare a Resettlement Plan (RP) to ensure that resettlement impacts are avoided, mitigated or minimized as far as possible. The scope and level of detail of each SIA and RP will vary depending on the magnitude and complexity of land acquisition and resettlement issues.

## 2 The Project

The UWSSP aims to increase access and quality of Solomon Water (SW) water supply and sanitation services in urban and peri-urban service areas. The Project is conducting initial preparation of a number of high priority projects identified in SW's 30 Year Strategic Plan and 5-year Action Plan, through technical assistance (TA) co-financed by the Asian Development Bank (ADB), the European Development Fund (EDF) and World Bank (WB).

The UWSSP is investigating the technical feasibility, economic and financial viability, social inclusiveness, and overall sustainability of developing water supply and sanitation infrastructure that satisfies the requirements of the government, ADB and WB. . The Project will also conduct due diligence on technical, economic, financial, institutional, governance, poverty and social impact, and safeguards for the ensuing loan.

### Project Description

The Project will improve access to water supply and wastewater services to urban and peri-urban areas through a number of outputs including: (1) secure and safe urban water supplies; (2) effective, efficient and safe urban sanitation services; (3) enhanced awareness of hygiene and water issues and sustained improved hygiene behaviour; and (4) SW is financially and technically sustainable. The expected outcomes from these outputs are "improved efficiency, accessibility and sustainability in water and sanitation services".

#### 2.1.1 Project Components

The UWSSP will comprise four components: (1) Urban Water Supply; (2) Urban Sanitation; (3) Water Conservation, Sanitation and Hygiene Awareness and Education; and (4) Institutional Strengthening and Project Management.

#### **Component 1. Urban Water Supply**

The Urban Water Supply component will aim to improve access and quality of safe water supply services in Honiara and selected provincial capitals. The activities financed under this component include : (i) increasing the number of



urban households in Honiara with access to climate and disaster resilient water supplies from 8,000 (or 56,000 people) to 13,700 (or 96,000 people) by 2027 ; (ii) reducing non-revenue water from its current level of 62 percent to 30 percent or less by 2027 ; and (iii) increasing SW water production capacity in Honiara by up to 5 MLD and improving SW water treatment capacity through the rehabilitation, replacement, or expansion of current sources and water treatment facilities, to meet water demand and ensure full compliance with drinking water guidelines across the city and until 2027. Investments will include: (a) in Honiara, (i) rehabilitation of existing water supply sources, and expansion of production and treatment systems, (ii) installation of water supply mains to expand and rehabilitate the water supply system, (iv) additional water storage capacity, (v) leak detection and pipeline repairs, (vi) installing bulk supply metering and expansion of SW's customer meter replacement program to install 7,500 pre-payment meters, and (vii) expanding SW's water supply networks to an additional 5,800 connections (about 40,000 people) in unserved areas, including in informal settlements; (b) in Auki, Gizo, Noro and Tulagi, rehabilitation and expansion of the existing water supply systems ; and (c) in Munda, development of a new water supply system. Engagement approaches (technological options, community mobilization, commercial strategy) in informal areas will be informed by the findings of the TA currently provided to SW by the Global Water and Sanitation Program (GWSP).

All activities will address the increasing water stress in Solomon Islands' urban areas – by increasing supplies of adequately treated water, decreasing physical losses and improving water storage capacity. They will therefore enhance the Solomon Islands' resilience to climate change and the overall sustainability of service provision, while improving energy efficiency (per m<sup>3</sup> delivered) through improved efficiency of service delivery.

### ***Component 2. Urban Sanitation***

The Urban Sanitation component will aim to improve quality and efficiency of sewerage and sanitation services in Honiara. The activities financed under this component include : (a) preparation of septage management regulations, preparation of business models for effective city wide fecal sludge management, and provision of technical advice to private fecal sludge collectors, (b) construction of a septage treatment facility under a five-year Design-Build-Operate contract to service the greater Honiara area, (c) replacing 15 existing wastewater outfalls into two new ones properly designed and constructed, (d) installation of sewers mains to expand and rehabilitate the Honiara trunk sewer system, e) construction of eight new sewage pumping stations and rehabilitation of three or four, and (f) expansion of sewerage services to cover about 2,500 people. Through this component, the Project will provide capacity to treat septage from 9,000 households (about 60,000 people) in the greater Honiara, which rely on onsite wastewater treatment and disposal methods. Additionally, sewage discharges from Honiara's sewer system (servicing about 10,000 people) will be subject to preliminary treatment and, by 2027, discharged into the sea at depths and distances that guarantee adequate water quality on the shore. This will reduce the current public and environmental health risks resulting from the discharge of untreated sewage to Honiara's foreshore and will benefit all residents of Honiara.

### ***Component 3. Water Conservation, Sanitation, Hygiene Awareness and Education***

The Water Conservation, Sanitation and Hygiene Awareness and Education component will enhance awareness of hygiene and water issues and sustained improved sanitation behaviour change. At least 20,000 persons are expected to gain increased knowledge of the benefits of improved sanitation and hygiene behaviours by 2027, with a significant share in informal settlements. These activities will be critical to support significant transformations in the population's water use and behaviour that are key to Project success. They will include the design and implementation of awareness and education programs aiming to change behaviours linked to sanitation, hygiene, menstrual hygiene management, and solid waste management in a nutrition-sensitive manner. Awareness activities will also focus on water supply issues, including water conservation and the importance of paying water and sanitation bills. Efforts to reduce per capita water demand will further help address water stress and enhance local resilience to climate change.

### ***Component 4. Institutional Strengthening and Project Management***

This component will aim to improve SW's financial, technical and operational sustainability so that by 2027, SW is expected to fully recover its annual operations and maintenance costs, asset depreciation costs, and debt servicing costs from user charges and SIG community service obligation payments. Activities to be financed under this component will include : (a) preparation and implementation of priority corporate policies, including Water Safety Plans ; (b) strengthening of financial and technical data management (including SCADA) ; (c) preparation and implementation of standard operational procedures ; (d) delivery of staff capacity building programs ; and e) support to the Project Management Unit (PMU), to be staffed with individual consultants.

The development of priority corporate policies will include the preparation of a disaster management plan, a climate change risk assessment and associated adaptation plan for SW's water supply and wastewater systems to address key climate change risks and a drought management plan. These activities will be critical to improve SW's resilience to the effects of climate change.

### **Project Beneficiaries**

Project beneficiaries will include much of the Honiara population (about 106,000), in addition to dwellers of other provincial capitals namely Auki (6,200), Gizo (6,100), Munda (2,700), Noro (4,000) and Tulagi (1,400), who will benefit from improved water and sanitation services through the Project. This includes households living in informal areas, which are particularly prevalent in Honiara, and to a lesser extent in Gizo. Upgrade from unimproved to improved water supply will mostly benefit new Honiara and Munda customers (up to 42,700 people) and part of Gizo's future customers (up to 4,000). Other beneficiaries with access to water supply, but of suboptimal quality, will now have access to 24/7, quality and resilient supply. About 2,500 people will gain access to improved sanitation system (sewerage), and the entire population of Honiara will benefit from improved fecal sludge management services. Dwellers in Honiara's coastal areas and seawater users (bathers, fishers) will enjoy a much-improved

seawater quality. Finally, SW's enhanced efficiency and financially viable service will also contribute to a more sustainable service across the country's urban areas.

## **Project Delivery**

The UWSSP will be delivered through a sector project modality and will consist of core and candidate subproject activities. Core subprojects will be agreed by the project partners during the project preparation phase. Candidate subprojects will be selected by SW during project implementation using eligibility criteria developed during the project preparation phase and comprising high priority investments and activities identified in Solomon Water 30 Year Strategic Plan, and a 5 Year Action Plan. Activities to deliver the project's outputs may include:

- new Kongulai surface water treatment and associated raw and treated water transmission infrastructure;
- augmenting trunk mains from the Mataniko and White River borefields to the existing water supply networks;
- augmenting reservoir capacity;
- rehabilitation and expansion of the Gizo water supply system;
- rehabilitating Honiara's sewer outfalls;
- construction of new pump stations at several locations to pump sewage to the existing outfalls at King George VI and Point Cruz;
- construction of a septage treatment facility to service the greater Honiara area.

## **3 Justification for Preparing a Resettlement Policy Framework**

Involuntary land acquisition in the Solomon Islands is highly sensitive, time consuming and can lead to social unrest and substantial project delays. Recognizing the complex and sensitive land acquisition arrangements in the Solomon Islands, the UWSSP will avoid to the greatest extent possible the need to use land other than government owned land or land owned by substantial land owners with whom equitable negotiations can be executed. In all cases, avoiding land acquisition and physical displacement<sup>1</sup> will be a factor in site selection and design.

Some Project land acquisition is anticipated for:

- the Lungga River water source intake, treatment facilities and transmission infrastructure;
- Honiara's sewer outfalls;
- new sewage pump stations and associated sewers in Honiara;
- a septage treatment facility for Honiara;
- augmentation of reservoir capacity at Panatina and Titingge.

None of these proposed subprojects is likely to cause significant physical or economic displacement. A Resettlement Policy Framework (RPF) is therefore the appropriate social safeguard instrument.

<sup>1</sup> Physical displacement means relocation, loss of residential land or loss of shelter (ADB SPS).

If involuntary land acquisition is unavoidable, however, a Resettlement Plan will be developed in accordance with ADB and WB policy and in agreement with the Solomon Islands Government.

## **Land Acquisition for the Project**

### **3.1.1 General Scope**

Project components have been specifically designed to minimize land acquisition. No significant physical relocation or loss of income is expected from Project implementation.

Land within the boundaries of Honiara and the Project areas to the south is titled under the Land and Titles Act, either as perpetual estate (PE) (equivalent to freehold) or under fixed term agreements (FTEs) with Commissioner of Lands (CoL). In addition, customary land may be required for water treatment plant and reservoir sites. The territory for the expected location of the Lungga River water source intake and treatment plant is held in two large parcels, by the Seventh Day Adventist Church and a private individual respectively. A negotiated land acquisition will be explored with these owners.

Land acquisition may be required for augmentation of reservoir capacity at Panatina and Titingge, depending on location and the amount of public land available adjacent to the existing site. Augmenting trunk mains will to the fullest extent practical be carried out within public road allowances. It is anticipated that expansion and rehabilitation of the Gizo water supply system can be implemented within public land. In these instances, ownership and occupation will be confirmed during preparation of resettlement plans, with squatters or other informal occupants (if any) identified.

Augmentation of reservoir capacity at Panatina and Titingge, and potentially the Honiara sewage pump stations and septage treatment facility, might engender permanent physical displacement.

Within public land and large tracts such as the Seventh Day Adventist Church property there can be minor agricultural uses, and project work can result in loss of crops and trees.

It is understood that existing water and sewer lines in Honiara may lie within private plots. During construction of works temporary physical and economic displacement may occur. This can also occur even in the case of water and sewer lines within road rights-of-way and other public land.

### **3.1.2 Honiara Sewer Outfalls**

The existing sewer outfalls in Honiara, three or four of which may be rehabilitated under the project, lie on the seabed and within the foreshore; i.e. the land between the high and low water marks.<sup>2</sup> Land within the city of Honiara is alienated, with PE title held by the Commissioner of Lands on behalf of the government, but the boundary of the city extends only to the high water mark. The foreshore area and seabed could therefore be customary land. In

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<sup>2</sup> Source: Joseph D Foukona, Foreshore, Guadalcanal Province Land Summit, 28-29 March 2018.

August 2017 two individuals were registered as PE owners<sup>3</sup> of the entire foreshore area and adjacent seabed, using the procedures of the Land and Titles Act for government acquisition of customary land.

The registration of this land in the names of these persons is highly questionable, but only the High Court has the authority to rectify the Land Register. An affected hotel owner has brought such an action. It is also possible the matter may be referred to the High Court by the government. In these circumstances an approach to the registered owner to negotiate access to the land should only be made if authorized by the Government.

## 4 Objectives and Policy Frameworks

The ADB and WB aim to avoid involuntary resettlement wherever possible; to minimize resettlement impacts by exploring project and design alternatives; to enhance, or at least restore, the livelihoods of displaced persons (DPs) relative to pre-project levels; and to improve the standards of living of the poor DPs and other vulnerable groups.<sup>4</sup> These principles involve a process of early identification of stakeholders and, in particular of DPs, frank and effective public disclosure of any known impacts; consultation and participation to avoid or mitigate negative impacts identified, and to ensure that no person or impact is overlooked; fair, transparent and timely intervention to support DPs during implementation, land acquisition and restoration of livelihoods; and commitment, where possible, to improve upon the status quo, particularly for those who may be vulnerable by reason of poverty, ethnicity, gender, age, disability, or social status.

The over-riding objective is to avoid any resettlement impacts via project design and implementation coupled with a robust and ongoing consultative process. To ensure that the project contributes to the objective of sustainable development, the UWSSP will adopt a comprehensive disclosure and consultation process that includes all stakeholders. The consultation process will reveal all foreseeable impacts and elicit concepts of how mitigation options and resettlement planning can contribute to DPs' aspirations for sustainable restoration or improvement of their livelihoods. In the unlikely event of loss of land, and/or land-based assets, the UWSSP will aim to replace like for like. If this is not possible, compensation will be provided for lost land, assets and income, and the costs of relocation and restoration of livelihoods will be met. Restoration includes not only physical assets, but also social and cultural assets. If there is a risk of disruption of these values, which are often disproportionately encountered by women, the DPs will contribute to selection of mitigation and resettlement options to ensure policy objectives are met.

This document provides a process of resettlement impact assessment, preparation of resettlements plans and the implementation of compensation and income restoration measures for DPs.

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<sup>3</sup> As trustees, but the registration does not reveal who are the beneficiaries. One of these owners has since passed away.

<sup>4</sup> Displaced persons are those who are physically displaced (relocation, loss of residential land, or loss of shelter) and/or economically displaced (loss of land, assets, access to assets, income sources, or means of livelihoods) (ADB SPS)

## **Finance Institutions' Policy Objectives**

### **4.1.1 ADB Safeguard Policy Statement**

The key principles of the ADB safeguard policy (2009) (ADB SPS) on resettlement are as follows:

1. Screen early the project's resettlement impacts and risks.
2. Carry out meaningful consultations with and participation of DPs, inform all DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups.
3. Establish a grievance redress mechanism to receive and facilitate resolution of DPs' concerns.
4. Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement or cash compensation at replacement value, as relevant, (ii) prompt replacement of assets, (iii) prompt compensation at full replacement cost, and (iv) additional revenues and services through benefit sharing schemes where possible.
5. Provide DPs with needed assistance, including: (i) if there is relocation, secured tenure to relocation and, better housing; (ii) transitional support and development assistance; and (iii) civic infrastructure and community services, as required.
6. Improve the standards of living of the displaced poor and other vulnerable groups to at least national minimum standards.
7. Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement.
8. Ensure that DPs without title are eligible for resettlement assistance and compensation for loss of non-land assets.
9. Prepare an RP elaborating on DPs' entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.
10. Disclose an RP in an accessible place and a form and language(s) understandable to DPs and other stakeholders.
11. Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits.
12. Provide compensation and other entitlements before physical or economic displacement.
13. Monitor and assess resettlement outcomes, their impacts on the standards of living of DPs.

### **4.1.2 World Bank Policy on Involuntary Resettlement**

World Bank resettlement policy starts from the principle of restoration or improvement of livelihoods at replacement cost, rather than current value, recognizing not only financial and physical assets, but also the environmental, social, and cultural assets of an individual, irrespective of gender, ethnic or social status, in the resettlement context. The Involuntary Resettlement policy (OP 4.12) enjoins avoidance and minimization of adverse impacts not only because it is less costly, but also because it avoids damage to the less tangible and hard-to-value aspects of livelihoods and

cultures. World Bank resettlement policy has a positive objective of sustainable development, with particular regard for the vulnerable.

## 5 Solomon Islands Legal and Regulatory Framework

### Framework Overview

The legislation governing the acquisition of land in the Solomon Islands is contained in the Lands and Titles Act 1970 (LTA). The LTA defines ownership arrangements, governs the management of land, and sets out procedures for the acquisition and lease of land. The LTA empowers the Commissioner of Lands (CoL) to be the custodian of Government land and to deal with its land interest on behalf of the Government. It also regulates the process of acquiring customary land and converting it into registered land and the transfer and lease of registered land.

Land in the Solomon Islands is either customary land or registered land (also referred to as alienated land, since it has been alienated from customary ownership). Approximately 87% of land in the country is still held as customary land and most natural resources (with some exceptions) belong to the landowners under custom. The LTA defines customary land as "any land (not being registered land, other than land registered as customary land, or land in respect of which any person becomes or is entitled to be registered as the owner of an estate pursuant to the provisions of Part III) lawfully owned, used or occupied by a person or community in accordance with current customary usage, and shall include any land deemed to be customary land by paragraph 23 of the Second Schedule to the repealed Act".

Land includes "land covered by water, all things growing on land and buildings and other things permanently fixed to land but does not include any minerals (including oils and gases) or any substances in or under land which are of a kind ordinarily worked for removal by underground or surface working".

Two predominant types of estate are provided for under the LTA: perpetual estates (commonly referred to as PE), and fixed term estates (commonly referred to as FTEs). The "perpetual estate" is akin to a free-hold estate and gives the right to occupy, use and enjoy the land in perpetuity, subject to the performance of any obligations, and subject to any restrictions that may be imposed under law. The Solomon Islands Constitution establishes that only a Solomon Islander, or other person as may be prescribed by Parliament, has the right to hold or acquire a perpetual interest in land. A "fixed term estate" provides for the right to occupy, use and enjoy the land and its produce for a fixed period of time (usually 75 years), subject to payment of any rent and the performance of any obligations and subject to restrictions that may be imposed. Lease estates in land, including long-term leases, are also increasingly common.

### The Constitution of Solomon Islands

Section 112 of the Constitution with respect to compulsory acquisition of customary land requires Parliament to provide:

- Before the land is compulsorily acquired, there must be prior negotiations with the owner of the land, right or interest.
- The owner must have a right of access to independent legal advice.
- So far as practicable the interest acquired shall be limited to an FTE.

Although Parliament has not provided for these safeguards in the LTA, the Minister of Lands and the CoL can take them into account in conducting land acquisition.

## **Customary Land**

In much of Solomon Islands there is no systematic authoritative record of customary ownership or tribal land boundaries. Land use, settlement, and community composition are dynamic in response to a number of social and physical influences. In many areas, including the Project sites, broad clans have in recent times divided into smaller sub-clan groups or lineages made up of family units.

Land ownership claims are made through reference to custom, particularly special knowledge of oral histories, custom stories, legends, etc., ancestors and lineages, the whereabouts of boundary markers (such as special landscape features, rocks, special trees, etc.), and the whereabouts of sacred (*tambu*) places, for example, places with special spiritual significance, ancestors' settlement sites, grave sites, and knowledge of their 'stories'.

The process for purchasing or leasing customary land is set out in Division 1 of Part V of the LTA:

- CoL must appoint a Land Acquisition Officer (LAO) to act as the Commissioner's agent.
- The LAO marks out the boundaries of the relevant land on the ground or on a map in such manner as to bring them to the notice of the persons affected.
- The LAO prepares a written agreement for the purchase or lease of the land with the people who claim to be the owners.
- The LAO gives public notice of the written agreement and organises a public meeting to determine whether the persons named in the agreement are the correct customary land owners.
- If there is no dispute at the meeting, and no other claimants, the LAO records this fact and sends a copy of the determination to the CoL.
- If there are rival claimants, the LAO must determine the rightful owners of the land and send a copy of his determination to the CoL and bring it to the attention of the originally identified parties and any claimants.
- An appeal of the LAO's determination can be made to the Magistrates Court within 3 months;
- The decision of the Magistrates Court can be appealed to the High Court on a question of law only.
- Once any appeals have been determined, or the period for appealing has expired, the agreement for sale or lease of the land in question can be implemented.
- Where the land is being leased, the CoL makes an order vesting PE in the persons named as lessors – commonly representatives of the customary land group found to own the land.



## Scope of the Power of Eminent Domain

The Solomon Islands Government's powers of involuntary land acquisition are set out in Division 2 of Part V of the *Land and Titles Act*. Division 2 gives the Minister of Lands the power to compulsorily acquire any customary or registered land where it is 'required for any public purpose'.<sup>5</sup> However, this broad power is circumscribed by protections provided in the Constitution: Section 8(1) of the Constitution allows an involuntary land acquisition to occur only where:

- the acquisition is "necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town or country planning or the development or utilisation of any property in such a manner as to promote the public benefit";
- there is reasonable justification for causing any hardship to the interest holders;
- the acquisition is done under a law which provides for reasonable compensation (including lump sum or instalments, and by cash or other form) in a reasonable time; and
- the acquisition is done under a law which provides interest holders with the option of appealing to the High Court with respect to their ownership, the legality of the acquisition, or the compensation payable.

The Constitution also requires Parliament to provide the following additional safeguards where customary land is compulsorily acquired (section 112):

- prior negotiations must take place with the owners;
- the owners shall have a right to access independent legal advice; and
- as far as practicable, the interest acquired shall be limited to a fixed term interest.

Although Parliament has not provided for these safeguards in the LTA, the Minister of Lands and the Commissioner of Lands can take these into account in conducting land acquisition.

### 5.4.1 Procedures for Involuntary Land Acquisition

The involuntary land acquisition process is set out in Division 2 of Part V of the LTA, taking account of the additional protections afforded in the Constitution. The legal process is as follows:

1. Landowner identification – While not a legal step, landowner identification is necessary to identify the owners of any customary land in order to conduct the prior negotiations required in the Constitution.
2. Prior Negotiation – Negotiations must be conducted with the owners of customary land before the land is acquired<sup>6</sup>
3. Declaration – the Minister of Lands declares that land is required for a public purpose. The declaration specifies the boundaries and extent of land required and the nature of the purpose for which the land is required;<sup>7</sup>

<sup>5</sup> Section 71(1) of the LTA

<sup>6</sup> Section 112(a) of the Solomon Islands Constitution

<sup>7</sup> Section 71 of the LTA

4. Publication – The declaration must be published in such manner as the Minister thinks fit. It is common practice to publish the declaration in the Government Gazette. It is upon publication that the land is legally acquired.<sup>8</sup> At this point owners have six months to appeal to the High Court to have the declaration quashed;<sup>9</sup>
5. Public Notification – following the declaration the Commissioner of Lands (COL) posts notices describing the declaration, its effect and the right to compensation;
6. Notification of owners – the COL serves written notice of the declaration to each owner or landowning group, or each person who appears to own, or to claim to own, the land. The identification of landowners above will also assist in this step.
7. Assistance to prepare claims – the Provincial Secretary for each Province assists claimants to prepare claims.<sup>10</sup>
8. Access to legal advice – the timing of access to the independent legal advice that must be provided to customary landowners is not specified in the Constitution but would be relevant to the preparation of compensation claims.<sup>11</sup>
9. Submission of claims – by persons or groups wishing to claim compensation for their rights and interests taken in the acquisition of the land. Claims must be submitted within 3 months of the acquisition (date of publication in gazette). For customary land these claims in effect should include some evidence of customary ownership as well as any evidence as to value<sup>12</sup>;
10. Valuation and payment of compensation – The COL considers the claims, accepts or rejects them, and makes an offer of compensation. Offers and rejections are to be issued within 3 months of receipt of the claim. While not a specified legal step, it is at this stage that the COL may seek advice from the Valuer General, or other valuer, to inform the amounts of compensation payable.
11. Compensation by land – Where the land that is acquired is customary land, the COL may make an offer of land in lieu of cash, with the approval of the Land Board and the endorsement of Cabinet. Landowners may choose to accept either the land or the cash equivalent.<sup>13</sup>
12. Acceptance or appeal – Claimants have 3 months from the COL's decision to appeal any rejection, or the amount of compensation offered, to the High Court. Where no appeal is lodged landowners are taken to have accepted an offer.
13. Provided there are no appeals in respect of the compensation amount and the offer is accepted, the COL shall cause payment to be made within 3 months of acceptance;<sup>14</sup> and

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<sup>8</sup> Section 75 of the LTA  
<sup>9</sup> Section 76 of the LTA  
<sup>10</sup> Section 74 of the LTA  
<sup>11</sup> Section 112(b) of the Solomon Islands Constitution  
<sup>12</sup> Section 79(1) of the LTA  
<sup>13</sup> Section 84 of the LTA (as amended in 2014)  
<sup>14</sup> Section 79(2) of the LTA

14. Notice to vacate – persons with an interest in the acquired land may continue to use and occupy the land until the COL gives them a notice in writing requiring them to vacate, but cannot develop the land without the COL's consent<sup>15</sup>;
15. Alteration of the Land Register – if there are no appeals and the declaration has not been quashed, the land may be registered to the COL on behalf of the Government.

Compensation (including compensation rent) for land compulsorily acquired under the LTA is provided as follows:

- An amount considered just having regard to the condition of the land and other relevant “matters and circumstances”, including loss in value of land retained by the owner.
- Valuation is determined as of the date of the declaration.
- In the case of customary land, other land can be provided in lieu of monetary compensation.

#### 5.4.2 The Law Governing Valuation

The Constitution allows for Parliament to provide for the “criteria to be adopted in regard to the assessment and payment of compensation for ... compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).”

Notwithstanding this power, Parliament has not provided express criteria. The LTA provides that the COL may offer such “*amount of compensation as he may think proper*”.<sup>16</sup> Where an offer of compensation is appealed, the High Court may award such compensation as “*in its absolute discretion thinks just*” with regard to the condition of the land on the date of acquisition and such other matters and circumstances the Court may consider relevant.<sup>17</sup>

Under the Constitution, the Acts of the United Kingdom Parliament of general application and in force on 1 January 1961 continue to apply in Solomon Islands where not inconsistent with national laws.<sup>18</sup> The relevant UK laws include the *Land Clauses Consolidation Act* and *The Acquisition of Land (Assessment of Compensation) Act 1919*.

Basic valuation principles stemming from these Acts include:

- “Equivalence” – an owner should be paid no more or less than he suffers as a consequence of the forced sale. The principle of equivalence can include an amount for disturbance or other incidental loss;
- Compensation to have regard for the development potential of the land, where land is undeveloped or under developed;
- Compensation cannot be based on the value of the land to the acquiring body;

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<sup>15</sup> Section 78 of the LTA  
<sup>16</sup> Section 79(2) of the LTA  
<sup>17</sup> Section 83 of the LTA  
<sup>18</sup> Section 76, Sch 3, Para 1 of the Constitution

- Any increase in value due to the underlying scheme for which the land is acquired must be disregarded (often referred to as the Pointe Gourde Principle).

To date, there have been no cases considering the applicability of these laws in the Solomon Islands.<sup>19</sup>

In addition to these broad principles, laws governing natural resource usage rights will also be relevant to the valuation of compensation. As discussed above, customary land rights include rights to some natural resources in accordance with customary law unless inconsistent with national legislation.

The value of profits from commercial timber should be taken into account in the valuation of land as trees are broadly considered 'owned' under custom. When determining the value of such resources to landowners, reference must be made to the *Forest Resources and Timber Utilization Act* which regulates the forestry industry and the sale of customary timber rights.

#### 5.4.3 Judicial Remedy

The LTA provides broad types of judicial remedy to those with an interest in compulsory acquired land. The first is the option to appeal the validity of the acquisition. An appeal against the validity of the acquisition must be made to the High Court within 6 months of the acquisition of the land (the publication of the Minister's notice in the Gazette). The primary ground for such an appeal is that the acquisition was not made for a public purpose. Only persons with an interest in the land have standing to appear under the LTA. The timeframe to hear such an appeal will vary. The two previous public purposes appeals suggest that a judgment at first instance will take between 8 -12 months from the date the appeal is lodged. Any appeal to the Court of Appeal can take a further 12 months.

The second judicial remedy is an appeal to the High Court against the COL's offer of compensation. This can be an appeal as to ownership or the COL's valuation. Any person who has submitted a claim for compensation will have standing to bring an appeal. The appeal must be lodged within 3 months of the COL's offer or rejection of their claim. It is open to the COL and Attorney General Chambers to settle a case out of Court and alternate dispute resolution procedures may be used to agree a disputed compensation amount.

For disputes over customary land, the Magistrates Court will determine whether the case can be dealt with through civil proceedings or whether the case is better handled through the customary process. If the case cannot be resolved after the Local Court hearing, it is presented before the Customary Land Appeal Court.

Disputes arising over alienated land are referred to the Magistrates Court and follow the procedure set out in the Land and Titles Act and Civil Code. Disputes over the award of compensation for resumed title, or where an FTE holder seeks compensation for unimproved land, are settled in the High Court.

<sup>19</sup> It is a question to be determined by the High Court as to whether the wide discretionary provisions of the LTA would be inconsistent with the application of English law in this regard.

## 6 Closing the Gap between ADB/ WB Policy and Solomon Islands Law

There are significant gaps between ADB and World Bank requirements and Solomon Islands law, although in some respects the practice may mitigate the effect of the gaps.<sup>20</sup> In particular, acquiring ministries carry out prior consultation with affected persons and groups prior to publishing the declaration that starts compulsory acquisition process.

Table 1 sets out the gaps and gap-filling measures.

**Table 1: Gap-Filling Measures**

ADB/ WB Requirements	SI Law	Gap-Filling Measures
Avoid involuntary resettlement wherever possible. Minimize involuntary settlement by exploring project and design alternatives.	No provision.	The RPF includes measures on avoiding or minimizing resettlement and its impacts.
Enhance or at least restore the livelihoods of DPs. Improve the living standards of the displaced poor and other vulnerable groups.	Only asset losses are compensated without regard to livelihoods. No special attention to poor and vulnerable groups.	The RPF includes measures on compensation at replacement cost for affected land/assets and to restore/improve living standard of DPs.
Screen the project early on to identify resettlement impacts and risks. Determine the scope of resettlement planning through a survey and/or census of displaced persons.	No provision.	The RPF includes measures on survey/census, cut-off-date, assessment of impacts and resettlement planning.
Carry out meaningful consultations with and participation of DPs, inform all DPs of their entitlements and resettlement options. Pay particular attention to the needs of vulnerable groups.	Constitution requires consultations re customary land. No reference in Land and Title Act.	The RPF includes measures on consultations with DPs, including vulnerable groups, during preparation and implementation of RPs.
Establish a grievance redress mechanism to receive and facilitate resolution of DPs' concerns.	Formal hearing and court proceedings only.	The RPF includes measures on project-specific grievance redress mechanism.
Improve, or at least restore, the livelihoods of all DPs through (i) land-based resettlement or cash compensation at replacement value, as relevant, (ii) prompt replacement of assets, (iii) prompt compensation at	Depreciation applied in valuation of structures. No requirement for benefit sharing.  Land-based resettlement possible in case of customary land and FTEs.	The RPF includes measures of on-site relocation, replacement of affected structures, compensation at full replacement cost. (The project is not amenable to benefit-sharing schemes.)

<sup>20</sup> See Solomon Islands: Strengthening Country Safeguard Systems in the Transport Sector: Equivalence Assessment and Legal Analysis of Solomon Islands Law, Final Report 19 June 2014 (ADB TA-8217-SOL).

ADB/ WB Requirements	SI Law	Gap-Filling Measures
full replacement cost, and (iv) additional revenues and services through benefit sharing schemes where possible.		
Provide DPs with needed assistance, including: (i) if there is relocation, secured tenure to relocation and, better housing; (ii) transitional support and development assistance; and (iii) civic infrastructure and community services, as required.	No provision.	The RPF includes measures for site relocation of affected structures, transitional allowances and restoration of civic infrastructure.
Improve the standards of living of the displaced poor and other vulnerable groups to at least national minimum standards.	No provision.	The RPF includes measures on restoration/improvement of livelihoods of DPs, including the poor and vulnerable groups.
Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement.	Consistent with SPS, except third-party verification of negotiated agreement is not required.	The RPF describes procedures for the negotiation with DPs, with agreements to be verified by a Third-Party Validator.
Ensure that DPs without titles are eligible for resettlement assistance and compensation for loss of non-land assets.	No provision.	The entitlement matrix provides for resettlement assistance and compensation for loss of non-land assets to DPs without titles.
Prepare an RP elaborating on DPs' entitlements, income and livelihood restoration strategy, institutional arrangements, monitoring and reporting framework, budget, and time-bound implementation schedule.	No provision.	The RPF requires Resettlement Plans to be prepared where subprojects involve involuntary physical or economic resettlement.
Disclose an RP in an accessible place and a form and language(s) understandable to DPs and other stakeholders.	No provision.	The RPF requires disclosure of RPs.
Conceive and execute involuntary resettlement as part of a development project or program. Include the full costs of resettlement in the presentation of project's costs and benefits.	No provision.	Land acquisition/resettlement costs will be included and financed by the Project.

ADB/ WB Requirements	SI Law	Gap-Filling Measures
Provide compensation and other entitlements before physical or economic displacement.	Not required.	To be provided.
Monitor and assess resettlement outcomes, their impacts on the standards of living of DPs.	Not required.	The RPF includes monitoring measures, including semi-annual safeguard monitoring reports.

## 7 The UWSSP Resettlement Policy Principles and Entitlements

The resettlement process will follow both the national laws and the ADB/ WB requirements. In case of any gap, the ADB/ WB requirements will apply. The Project's key resettlement principles are:

- Project design and location has and will continue to be explored to minimize land (and particularly non-Government land) requirements and consequential impacts on people.
- DPs will be consulted during project cycle. Effective mechanisms will be established for hearing and resolving grievances.
- To the fullest extent possible land acquisition will be achieved through a negotiated settlement. The Project will follow the process for negotiation of agreements as outlined in this RF.
- Appropriate support will be provided to land owners during negotiations to mitigate against any imbalance of power, information and experience between the two parties.
- Offers of compensation for land access and use will be fair and adequate and ensure that those people who entered into negotiated settlements will maintain the same or better income and livelihood status. An independent Third-Party Validator will be contracted to validate the fairness of the land acquisition process.
- The livelihoods of all DPs will be improved, or at least restored, through (i) land-based resettlement or cash compensation at replacement value, as relevant, (ii) prompt replacement of assets, and (iii) prompt compensation at full replacement cost.
- DPs will be provided with needed assistance, including: (i) if there is relocation, secured tenure to relocation and better housing; (ii) transitional support and development assistance; and (iii) civic infrastructure and community services, as required.
- The standards of living of the displaced poor and other vulnerable groups will be improved to at least national minimum standards.
- Absence of formal title will not be a bar to compensation and assistance and particular attention will be paid to any vulnerable groups.
- Payment will be made in advance of SW's possession of the land.
- The RP will be conceived as part of the project and its implementation will be financed by SW; and

- Relevant impacts including unforeseen losses and damages that may occur during civil works will be monitored and remedial steps taken as required according to ADB SPS and government pertinent laws.

The Project will follow eligibility and provisions in the RPF for compensating all types of losses resulting from land acquisition or restriction on land use or access. DPs will receive compensation at replacement cost, and other resettlement assistance such as shifting allowance. Titled DPs and customary landowners will receive compensation for land acquired by the project. Non-titled DPs are not eligible for compensation for land but will receive compensation for assets attached to land and other assistance as required. Households headed by women and other vulnerable households will receive further assistance.

### **Project Approach to Land Acquisition**

The RPF applies to the UWSSP, including any activities that may be considered 'linked' to the Project. Consultation and Grievance Redress Mechanism requirements apply throughout the Project, irrespective of land acquisition method applied. In most cases it is anticipated that the land required for project delivery will be obtained via negotiated arrangements – generally 'willing buyer-willing seller' or long-term leases; in which case specific requirements will apply. A RP will only be needed in the unlikely event of involuntary land acquisition being required for activities funded by the project.

Involuntary land acquisition may be required if additional land is required during subproject implementation and the pre-requisites for negotiated settlement are not satisfied, or where land acquisition is for some reason restricted and involuntary land acquisition processes need to be applied. This scenario is considered unlikely as Project components will be designed to avoid involuntary land acquisition, in close collaboration with the community.

Given the prevalence of customary (communal land) in the Solomon Islands, the following guidance is provided for the preparation of Abbreviated Resettlement Action Plans (ARAPs) for this project:

- ADB and WB policies and performance standards will be applied in full where involuntary land acquisition is required to allow project delivery.
- Alternatives to land acquisition will be considered. Especially where replacement land is scarce or non-existent, or where customary land tenure is deemed inalienable, negotiated agreements for long-term lease or alternative infrastructure siting will be considered.
- Where communal land must be acquired, collective compensation may be appropriate. Under such conditions, compensation may be used solely for appropriate community purposes, or be distributed equitably among community members. The RPs will describe arrangements for applying collective compensation.
- Individual users and occupants of acquired communal land will be identified in the census prepared for the RP and appropriate mitigation measures or negotiated agreements established to provide for restoration of their livelihoods or living standards.



- Where replacement land does not exist, it will be impossible to establish a technical valuation for replacement cost. The RP will describe alternative means used for valuation. This may include negotiated agreement with affected communities.
- If relevant, the RP will describe any changes that may occur regarding land use and tenurial arrangements for remaining communal land in Project-affected areas.
- The RP will describe a process by which conflicting claims to ownership or use rights will be addressed.

### **Determination of Compensation**

The Project requires that compensation for any land or assets lost as a result of Project development be compensated at replacement cost. Valuation will be carried out through MLHS Valuation Division. Two valuation reports will be prepared - one by the government valuer and one by an independent valuer - based on the size and condition of land, any improvements made to the land, and assessment in respect of the closest comparable values that are obtainable.

MLHS Housing Division publishes valuation rates for houses and commercial structures. Private buildings are valued at replacement rate plus relocation expenses. During RP preparation, the UWSSP Project Management Unit (PMU) will undertake a market rates appraisal to determine if the official rates applied will meet the threshold of undepreciated full replacement cost for any assets affected.

For removal of crops and trees, eligible owners will be compensated on the basis of the published schedules of the Ministry of Agriculture (Agricultural Extension Division) for root crops and tree crops and the Forestry Division for plantation trees and wood/timber trees. The rates for root crops are based on value of product per square meter and tree crops according to age, size and productivity of individual trees. The crop rate schedule is gazetted.

### **Eligibility Criteria**

Eligibility of an individual's entitlements under this RPF will relate to their:

- Loss of land, whether an owner, lessee or informal occupant:
  - DPs with formal legal rights are generally the customary owners of lands or those with PE or FTE titles recorded in the land register. This category may also include any leaseholders with formal legal rights as tenants.
  - Persons whose rights are not formal or legal, but whose claims on land or assets are recognized under national or customary laws, such as those having usufruct rights or informal leases on customary land. Where land records do not exist, documentation and testimony from community leaders would determine eligibility for compensation, replacement land, or other resettlement assistance.
  - Persons with no legal rights to land or assets at the time of assessment or census. This may include internally displaced people, squatters, or persons who depend upon the land they occupy for their

livelihoods. They have neither legal rights nor recognizable ownership claims, but if the project land acquisition destroys their livelihoods, they are considered DPs and are entitled to receive resettlement assistance.

- Loss of trees or other plants, whether on owned, leased or informally accessed land.
- Loss of land-based improvements – houses, shelters, business buildings, also irrespective of the ownership status of the land.
- Loss of access to commons and reserves, e.g., road reserves, whether or not legally encroached, and restricted areas.

Eligibility for loss of non-land assets, whether temporary or permanent, will be recognized for project- induced impacts on:

- An individual's business or income.
- Soil or water quality changes that impact the individual's livelihood activities in the direct or indirect impact area.
- Air, light or noise pollution, or restrictions on access to social or economic resources that impact property values and amenity.
- Access to resources due to quarrying operations.
- Any other assets or elements of livelihoods recognized in the Solomon Islands law and in WB World Bank Operational Policy that may be discovered during disclosure and consultation.

Persons demonstrating that they will suffer losses from any of these causes as at the cut-off date for entitlements will be regarded as eligible for resettlement assistance. Losses from encroachments or activities commenced after the cut-off date for the respective projects will not be eligible. Table 2 presents the entitlement matrix.

**Table 2: Entitlement Matrix**

Application	Entitled DPs	Entitlement
<b>PERMANENT LOSS OF LAND</b>		
Alienated land required for project construction	Registered owner (PE, FTE)	Cash compensation as agreed between SW and owner OR new FTE lease for replacement land.  Transaction costs. Transitional assistance where required.
Customary land required for project construction	Landowners and users	Replacement land of equivalent size and quality or cash compensation at replacement cost as agreed between SW and landowner group.  Transaction costs. Transitional assistance where required.
<b>LOSS OF STRUCTURE</b>		
Houses, commercial structures etc on land required for project construction	Registered owner	Cash compensation at undepreciated full replacement value without deduction for salvaged materials, and relocation assistance and shifting allowance.  The shifting/relocation allowance will be agreed between SW and the household/ DP on a case-by case basis. The shifting allowance will be adequate to cover (i) dismantling of the structure; (ii) transport of structure/housing materials salvaged and all household effects/commercial goods; and (iii) costs of alternative accommodation, if required, while the structure is being re-built.
Houses, commercial structures etc on road ROW or other public land	Owner of structure, regardless of legal status	Compensation will be provided for entire structure if remaining structure is no longer viable.  For commercial structure: compensation for business disruption.  Subsistence allowance if required.
<b>LOSS OF CROPS, TREES, ETC</b>		
Gardens, trees, crops, perennials, productive trees/plants	Owners of crops, trees, regardless of legal status	Compensation at replacement cost as determined by the Forest Division for timber trees and the Department of Agriculture for crops or productive plants/trees.  Provision of 30 days' notice to harvest standing seasonal crops. If harvest is not possible, cash compensation for crops (or share of crops) equivalent to prevailing market price.

Application	Entitled DPs	Entitlement
		<p>Cash compensation for perennial crops and fruit bearing trees based on annual net product market value multiplied by the number productive years.</p> <p>Cash compensation equivalent to prevailing market price of timber for non-fruit trees</p>
<b>LOSS DUE TO TEMPORARY OCCUPATION BY THE PROJECT</b>		
Alienated and customary land	Landowners, users	<p>Rent as negotiated with landowners. All temporary use of land will be through written agreement with the landowner/lease-holder and land will be returned to the landowners after rehabilitation to original or better condition.</p> <p>Possible compensation may include:</p> <ul style="list-style-type: none"> <li>i. Provision of 30 days' notice regarding construction activities, including duration and type of disruption.</li> <li>ii. Contractor's actions must ensure there is no income/access loss through provision of access etc.</li> <li>iii. Assistance to mobile vendors/hawkers to temporarily shift for continued economic activity.</li> <li>iv. For construction activities involving unavoidable livelihood disruption, compensation for lost income or a transitional allowance for the period of disruption, whichever greater</li> <li>v. Restoration of affected land, structure, utilities, common property resources.</li> </ul> <p>Compensation at replacement cost for damages within land used for project.</p> <p>The Project will ensure that DPs have uninterrupted access to their land and livelihood sources. In case of any unavoidable loss of access, DPs will be provided compensation for their losses at replacement cost.</p>
<b>VULNERABLE HOUSEHOLDS</b>		
Loss of assets (land, structures, trees, crops)	Identified through consultation with community leaders (households headed by women, elderly, disabled, poor)	Additional cash assistance depending on extent of disruption to vulnerable DP's means of livelihood. Amount to be specified in the RP.

Application	Entitled DPs	Entitlement
<b>UNFORESEEN OR UNINTENDED IMPACTS</b>		
Identified at final design phase		Unanticipated involuntary impacts will be documented and mitigated based on the principles provided in ADB's involuntary resettlement policy

## 8 SIA and the Preparation of Resettlement Plans

### Criteria for Screening and Selecting Subprojects

The PMU will screen each subproject to identify potential land acquisition and resettlement impacts, and enable the Project to adopt measures to avoid, mitigate or minimize the impacts.<sup>21</sup> The screening form attached as Annex 1 will be completed after site visits, and, as relevant, in consultations with potential DPs to understand land use/ownership arrangements.

Where the screening identifies that a subproject will require land acquisition and resettlement, a Social Impact Assessment (SIA) will be undertaken for the purposes of preparing a Resettlement Plan (RP).

In the case of a substantial landowner of high capacity, such as the Seventh Day Adventist Church, which is open to negotiation of an agreement to sell its land, an SIA and RP will not be required. Instead, a negotiated settlement will be sought in accordance with the ADB SPS.

### Social Impact Assessment and Resettlement Planning

Subprojects that involve involuntary land acquisition and resettlement will conduct a Social Impact Assessment (including census of DPs, inventory of losses (IOL), and socioeconomic survey) and to inform the preparation of an RP. The scope and level of detail of each SIA and RP will vary depending on the magnitude and complexity of land acquisition and resettlement issues. RPs will follow the outline set out in Annex 2.

Consultations will be carried out with DPs, and the IOL and DP census conducted, during subproject feasibility study and will be updated after detailed design. Consultation and surveys will be conducted in a participatory manner to estimate the losses and impacts. A cut-off date will be established as the date of the start of an IOL and publicized 1-2 weeks in advance. The landowners and users who have documented claims to affected land, crops, trees or structures at the cut-off date will be eligible for compensation and other entitlements.

The IOL will document the losses and impacts resulting from subprojects' land and asset acquisition. The DP survey will include questions about the socio-economic status of DPs in order to furnish information required for the elaboration of livelihood restoration and stabilization measures. The survey will cover the following:

<sup>21</sup> Preliminary subproject designs must indicate the type and extent of works.

- Information about DP/households – number of people in household; gender and age of head of household; tenure of land; ownership of assets; education of household members; livelihood activities (paid and unpaid); cash income; subsistence production;
- Loss of land – by type of land affected, i.e. residential, agricultural, commercial, fishpond etc.); total area of land (including other plots); area of land affected; tenure of land;
- Loss of other assets - by type, i.e. structures, crops and trees (type, area affected, number lost, etc.); time required to rebuild or relocate;
- Loss of, or impacts on livelihood activities – type, dependency, how impacted, restoration measures required; and
- Other impacts or losses.

Simple excel formatted sheet will be used to enter the survey data, which will subsequently be entered onto a database and analyzed to provide a profile of DPs; to describe the losses and impacts; and to assist in the calculation of compensation for the losses and impacts. Data will be disaggregated, as relevant, by gender, ethnic group and income group and the DP conditions, needs, and priorities will be analyzed to ensure that land acquisition and resettlement do not disadvantage women and other vulnerable groups.

RPs will be prepared in accordance with the policy, principles and planning and implementation arrangements set forth in this RPF. They will be based on accurate baseline land, asset, census and socioeconomic survey information, and establish appropriate mitigation measures (e.g., compensation at full replacement cost for loss of assets, transitional assistance for relocation, and transitional assistance for livelihood restoration, and transitional assistance for commercial enterprises) for all relevant categories of adverse impacts. RPs will also identify differential impacts on community sectors and ensure that land acquisition and resettlement do not disproportionately disadvantage women or other vulnerable groups.

Preparation of the RPs will begin as soon as it is determined that involuntary land acquisition is essential to complete any Project activities and will be finalized prior to the commencement of any works to carry out those activities. RPs will summarize the scope of land acquisition and resettlement; the socio-economic condition of DPs, including vulnerable groups; consultation process; legal and institutional framework; entitlements; and implementation arrangements. They will assign responsibility for preparation, implementation and monitoring of the RP (including responsibility for meeting all associated costs with implementation) and coordinate Project actions with any other agencies involved to ensure timely and effective RP implementation.

RPs will include sufficient budget for implementation of necessary mitigation and compensation and will specify source of funds. Budgets will be based on published rates from relevant government authorities and include additional grants, if required, to ensure that compensation rates for affected land and assets are at full replacement cost. RPs will include an implementation schedule linked with the subproject civil works to ensure that, wherever possible, civil works will not commence until compensation and assistance have been paid to DPs. Draft RPs will

be disclosed to DPs and other stakeholders and finalized incorporating comments from DPs. Final RP will be produced in English, with summaries in local language, as needed.

RPs will be endorsed by Solomon Water and submitted to ADB and WB for review and approval. An ADB/ WB 'no objection' will be required prior to implementation of any subproject safeguards.

## 9 Institutional responsibilities

### **Solomon Water**

Solomon Water has overall responsibility for management of the land acquisition and resettlement program. Project preparation assistance (PPA) consultants will undertake the surveys and prepare RPs with the help of SW and relevant authorities. SW will ensure that entitlements and measures in the RP are consistent with this RPF and suitable budgetary provisions are made for timely implementation of the RP. Solomon Water will coordinate with (Col) and Ministry of Land, Housing and Survey (MLHS) and other relevant government agencies in the land acquisition process.

#### 9.1.1 Existing Safeguards Capacity

The current SW management structure includes a Land Management/Property Officer, working on land acquisition, including regularisation of existing service infrastructure. Capacity building in safeguards for land acquisition and resettlement would take place in the consultant/officer's interaction with and support to the PPA consultants in the preparation of RPs.

Terms of reference for a Land Management Officer are set out in Annex 4.

#### 9.1.2 Project Management Unit

The PMU, assisted by PPA consultants, is responsible for preparation and implementation of the overall Project, including preparation and implementation of the land acquisition and resettlement safeguard requirements. In this regard PMU is responsible for the following activities:

- Screening and assessing subprojects.
- Preparing RPs for subprojects, if required, or Due Diligence Report to meet the project's requirements according to the safeguard policies of ADB and the government.
- Undertaking adequate consultations with and dissemination of relevant information to DPs, including public disclosure of draft and final RPs, in accordance with the RF.
- Ensuring that design engineers take into account safeguard issues and try to avoid or minimize social impacts through appropriate design. PPA consultants will brief technical design team in this regard.
- Addressing any project-related grievances of DPs and facilitating the resolution of disputes on land ownership.

- Undertaking public consultation to inform DPs of the subproject scope and schedule of the subproject activities, including land acquisition and compensation activities.
- Ensuring that safeguard requirements are included in the bidding documents for civil works contracts.
- Following the award of the civil works contract, arranging a briefing to the contractors to raise their awareness on safeguard requirements.
- Coordinating with relevant authorities including MLHS and CoL to ensure that land acquisition and compensation activities are completed prior to start of construction activities.
- Undertaking regular monitoring and reporting on implementation progress of safeguard plans.

### **Ministry of Land Housing and Survey**

The MLHS will provide necessary support to SW in carrying out land acquisition activities, particularly with respect to customary land. If a subproject requires acquisition of customary land, the CoL will on the request of the Minister appoint a Land Acquisition Officer (LAO) to undertake land acquisition. SW PMU assisted by the PPA consultants and LAO will identify land, landowners or lease-holders, participate in consultations, prepare declarations and notices as required, and undertake a land acquisition survey.

The Valuation Division of MLHS, headed by the Valuer General, is responsible for the valuation of land and buildings.

### **Third-Party Validator**

To ensure that land compensation offers in the negotiation process are fair and reasonable in the local context, Solomon Water will engage a Third-Party Validator to ensure that proposed prices are fair; to observe key stages of the negotiation process; intervene (if required); and record the negotiation process in order to ensure any imbalance of power or information between the parties is recognised and addressed and as a consequence a fair process is followed.

The Third-Party Validator will also participate in the grievance redress mechanism.

SW will engage the Third-Party Validator on a contract basis, based on an open and transparent procurement process. The Third-Party Validator will have experience and qualifications in law, land rights or negotiation. The validator must, although engaged by Solomon Water, be able to perform their role impartially. Appropriate candidates for the role may include lawyers or magistrates, or civil society organizations in related fields or roles.

Terms of Reference for the role of Third-Party Validator are provided in **Annex 3**.

Table 3 summarizes the roles and responsibilities of the respective agencies.



**Table 3: Resettlement Implementation – Roles and Responsibilities**

Agency	Roles and Responsibilities
Solomon Water	<p>Overall execution of the project</p> <p>Provides funds for land acquisition and resettlement</p> <p>Liaison with MLHS</p>
Solomon Water PMU	<p>Manages the social and resettlement aspects of the project</p> <p>Finalizes project decisions concerning land acquisition (in consultation with MLHS re customary land)</p> <p>Manages design and supervision of works</p> <p>Manages consultants on all matters dealing with resettlement and consultations</p> <p>Prepares and updates RPs/Due Diligence Report</p> <p>Discloses the RF and RPs/Due Diligence Reports</p> <p>Informs DPs, local authorities and interested others about the Project, including compensation details</p> <p>Coordinates with MLHS/CoL to initiate land acquisition process</p> <p>Prepares inventory of losses (IOL) and census of DPs</p> <p>Coordinates with MFT/Solomon Water to obtain budget and funds for compensation payments regarding alienated land: prepares and attends to execution of purchaser agreements; payment of purchase price; registration in Land Registry</p> <p>With civil contractor schedules and makes compensation payments for non-land assets</p> <p>Records the compensation payment process for monitoring and reporting</p> <p>Establishes grievance procedure as outlined in RPs</p> <p>Provides data and other information to external monitoring agencies</p> <p>Prepares completion report</p> <p>Solomon Water makes payments.</p>
Ministry of Land, Housing and Survey/ Commissioner of Lands	<p>Oversees and supports land acquisition and resettlement process as the national agency responsible for land acquisition</p> <p>Regarding customary and FTE land, through CoL completes land acquisition</p> <p>CoL appoints LAO</p> <p>Surveyor General carries out land survey or approves survey by Solomon Water engineers</p> <p>Valuer General confirms land valuations</p> <p>LAO finalises agreements and obtains execution by owners</p>

Agency	Roles and Responsibilities
	CoL registers transfers in Land Registry.

## 10 Consultation, Participation and Disclosure

### Consultation

Consultation will be undertaken during preparation and implementation of subprojects. PMU, primarily through the PPA consultants, will consult affected landowners, households, leaders, and representatives of communities to ascertain their needs and concerns about land and asset acquisition. DP surveys will be carried out in a participatory manner with heads of households having input into the estimate of losses and impacts. SW PMU will ensure participation of DPs in planning and implementation of the process, and specific consultations in relation to land and asset acquisition will be detailed in the RP. Individual meetings with directly affected households will also be undertaken and recorded in the RP.

In the case of customary land, these consultations and surveys will be coordinated with the LAO.

The first step in the consultation process is identification of stakeholders: a stakeholder analysis will be prepared to identify all affected DPs, customary leaders, landowner associations, local officials, (e.g. Provincial and City Administration), and NGOs.

The PMU will conduct consultation with stakeholders at different points in the preparation and implementation of subprojects. The PMU will utilize a variety of mechanisms, as appropriate considering the nature, scale and impact of the subproject, to consult with stakeholders and DPs during preparation and implementation of RPs including: (a) village meetings; (b) specific facilitated meetings with DPs including customary leaders, land owners and users; (c) separate meetings with women and vulnerable households; (d) key informant interviews with Government staff; (d) one-to-one socio-economic household surveys of women and men DPs and affected communities; (f) participatory compilation of the Inventory of Losses affecting DPs.

Detailed information on the consultation process at implementation stage will be included in each RP.

### Notification

Official notifications will be provided to landowners outlining the nature of the Project, the land acquisition requirements relevant to their land parcels, and the proposed process for negotiation. The notification will also advise owners of their entitlement to and suggestions for accessing impartial legal advice, will appraise them of the role of the Third-Party Validator, and will seek commencement of the negotiation process. At notification, relevant information from this RP will be provided to landowners and local government officials.

In the case of private land, this notification will be provided to registered landowners. In the case of customary land, the notification must be given in the manner most effective for the purpose of bringing it to the attention of all members of the customary group, and also made known to local members of the community. The notification will

include advertisement of a public meeting and set this as the date for raising any claims relevant to the site. A public meeting will be held, and all issues raised will be recorded.

## **Negotiation**

The timing and nature of negotiations will vary between sites, however they will be conducted adhering to the following principles:

- Adequate time and information will be provided to landowners to prepare for negotiations;
- Negotiations will be entered into in good faith;
- Due consideration will be given to all land owner requests;
- Those who entered into negotiated settlements will maintain the same or better income and livelihood status; and
- No party to the negotiation will be forced to arrive at an outcome.

Solomon Water will be responsible for the availability of two key elements of the negotiation process to ensure its fairness:

- Entitlement of landowners to receive relevant information.
- Arbitrate of ongoing disagreement
- Engagement by the project of a Third-Party Validator to validate the fairness of the negotiation process.

If the Third-Party Validator finds there is a lack of symmetry and fairness in the negotiation process, including uneven access to information, this should be resolved through application of the grievance mechanism.

Records of all negotiation activities will be prepared by PMU. The Third-Party Validator's report will be submitted firstly to Solomon Water and MLHS for comment, then to Ministry of Finance and Treasury and ADB for approval before implementation of agreements and entry to land.

## **Disclosure of the Resettlement Plan**

Solomon Water is responsible for RP disclosure. RPs will be disclosed to DPs and communities and posted on Solomon Water's and ADB's websites prior to the subproject's approval. They will be made available in English in accessible public locations. Solomon Water will also arrange to interpret and explain the key provisions in local language if needed.

## **11 Grievance Redress**

The Project will implement a Grievance Redress Mechanism (GRM) to receive and facilitate resolution of affected peoples' concerns, complaints, and grievances about the Project's performance, including those concerning environmental and social impacts and issues. The GRM will ensure that: (i) the basic rights and interests of every affected person are protected; and (ii) their concerns arising from Project performance during the phases of design, construction and operation activities are effectively and timely addressed. The GRM will need to ensure that any

concerns are addressed quickly and transparently, and without retribution to the affected parties. Any RP or other documentation prepared to meet the requirements of this RPF will include details of the GRM process.

In the early stages of engagement, Project stakeholders and affected communities will be made aware of:

- how they can access the GRM;
- who to lodge a formal complaint to;
- timeframes for response;
- that the process must be confidential, responsive and transparent; and
- alternative avenues of redress, where conflicts of interest occur.

The grievance process will ensure that no costs are imposed on those raising the grievances; 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.

Specific means of redress are available in disputes over land ownership or compensation, or for grievances related to Project construction impacts. These are discussed below.

### **Land Ownership Disputes**

In alienated land, ownership is generally clear under the land registry system. Where disputes over land ownership arise, however, disputing parties have recourse to the Magistrates Court under procedures set out in the LTA. Magistrates Court decisions may be appealed to the High Court on a question of law.

For disputes over customary land, there is an opportunity for resolution in the course of the acquisition process, involving consultations, public hearing and determinations of the LAO. If disputes are not resolved in this process, the Magistrates and Customary Land Appeal courts have jurisdiction.

Solomon Water/PMU will not be party to court cases between competing private parties as to land ownership or other claims to land.

### **Compensation and Other Disputes**

Most grievances related to compensation calculation and disbursement and other assistance are expected to be resolved at the PMU level. A mutually satisfactory resolution at this stage prevents the cost and delay of court proceedings. DPs will incur no costs in participating in good faith in the grievance redress procedure.

The complaints and grievance redress procedures will be outlined in the RPs prepared for particular subprojects to ensure stakeholder participation in the implementation process and to ensure there is a publicly acceptable forum with which to deal with any issues or complaints arising through land acquisition. Through public consultations, DPs will be informed that they have a right to seek redress through the Project complaints/ grievance resolution mechanism. The record of the grievance redress mechanism will be the subject of monitoring.

Subject to elaboration and adjustment in the RPs for particular subprojects, the grievance redress mechanism will apply the following procedure:

1. The complainant may, but is not required to, submit a complaint for resolution to the subproject office. Straightforward complaints may be resolved on the spot, with the complaint and its resolution recorded by subproject staff.
2. If the complainant is not satisfied with the outcome or chooses to initiate the complaint at a higher level, it is submitted to the PMU.
3. The complaint is referred to the Third-Party Validator and, in the case of customary land, to the head of the land-owning group. A RP may provide for a Community Advisory Committee representing DPs, which will participate in the grievance redress mechanism.
4. If the complaint concerns the valuation of land or buildings, it will also be referred to the land valuer.
5. The complaint is discussed among the complainant, Third-Party Validator, head of the land-owning group, representative committee, land valuer, and SW - PMU. The complainant may be assisted by a person of his/her choosing, including a lawyer, payment of whose reasonable fee is the responsibility of the project.
6. Decision on the grievance is made promptly by SW PMU in accordance with the grievance procedure and conveyed to the complainant.
7. PMU will record the complaint: date, complainant, grievance, attempts at resolution, outcome.
8. A complainant who is not satisfied with the outcome of the process will be advised of his/her right to take the matter to court, and any cost that will incur will be met by the disputing individual or group.

### **During Construction**

On-site complaints during construction will be directly addressed by the construction site supervisor. If the complaint is straightforward, the site supervisor will resolve the complaint immediately. If the complaint is complicated and outside the control of the site supervisor, it will be referred to the site supervisor's manager who will have two days to resolve the complaint and communicate the outcome to the affected person.

On-site complaints will be documented in a register that will be maintained at the local SW office, or at the subproject office if there is one. Details of the complaint will be recorded by date, name, contact address and reason for the complaint. A duplicate copy of the entry will be given to the complainant for their record at the time of registering the complaint.

Complaints will be responded to within the first 24 hours and then further updated if required to be provided every two days, until the complaint is resolved. The complaints register will show a record of who has been directed to deal with the complaint and the outcome of the complaint. The register will also record other details such as the date and time when the action was commissioned, complaint was resolved, when and how the complainant was informed of the decision. The register is then signed off by the person who is responsible for the decision and dated. The register will record all the issues raised and will be available during the monitoring of the Project. This is also a public document that SW will make available.

If the complainant is not satisfied with the on-site complaint resolution, they may refer their grievance to PMU.

## 12 Budget and financing

Land acquisition, compensation, resettlement, income restoration costs, and monitoring and reporting will be financed by Solomon Water. The budget for all such activities will be estimated during feasibility based on interviews with affected owners, occupants and communities, and on available information and experience as to market values of land and buildings and other costs. This information will be updated after the detailed survey and investigation, and further consultations with DPs. The Government will release sufficient budget for implementation of compensation, resettlement and rehabilitation activities in an appropriate and timely manner.

All DPs 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 RP budget will include contingency funds, i.e., at least 10% of estimated total costs. Compensation must be paid promptly and in full to the DPs. No deductions from compensation will occur for any reason. RPs will describe the procedures by which compensation funds will flow from UWSSP to the DPs.

RPs prepared under the Project will identify all costs of resettlement describing the valuation of land and assets and how replacement value or cost will be achieved. Costs will include compensation (including in-kind compensation); livelihood restoration, where this is required; costs of implementing the RP (including administration charges and contingency); and monitoring.

## 13 Monitoring and evaluation

RPs will set out a monitoring framework consistent with the generic indicators described in this RF. The progress of all aspects of land acquisition and RP implementation will be monitored, particularly the delivery of resettlement entitlements to DPs. The PMU will involve customary heads and Community Advisory Committees to assist with the monitoring, where appropriate. The monitoring will also cover DPs' satisfaction with consultation, timeliness of compensation payment, and restoration of livelihoods.

PMU will submit compensation completion reports on land acquisition and RPs to ADB, and the findings will be incorporated into the progress reporting of the PMU. ADB review missions will specifically check the progress of any resettlement and land acquisition undertaken for subsequent investments or subprojects.

The generic indicators for monitoring are set out in Table 4.

**Table 4: Generic Indicators for Monitoring**

Monitoring Issues	Monitoring Indicators
Budget and timeframes	<p>Are resettlement implementation activities being achieved against agreed implementation plan?</p> <p>Are funds for resettlement being allocated on time?</p> <p>Has SW received the scheduled funds?</p> <p>Have funds been disbursed according to the RP?</p>
Delivery of DP entitlements	<p>Have the DPs received entitlements for land, trees and structures in accordance with the entitlement matrix?</p>
Consultation, grievances and other issues	<p>Have resettlement information brochures/leaflets been prepared and distributed?</p> <p>Has the update RP been disclosed locally?</p> <p>Have consultations taken place as planned?</p> <p>Has a public meeting on the RP been held?</p> <p>Have any DPs used the grievance redress procedure? What were the outcomes?</p> <p>Have conflicts been resolved?</p>
DPs' satisfaction	<p>Are DPs satisfied with consultation, fairness and adequacy of compensation, and timeliness of compensation payment?</p>
Effect on livelihoods	<p>Have DPs' standards of living been restored or improved?</p>

## Annexes

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## Annex 1: Screening Form

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<b>Project Component:</b>		<b>Date:</b>		
<b>Location and impact area:</b>				
<b>Probable Land Acquisition and Resettlement Effects</b>	<b>Yes</b>	<b>No</b>	<b>Not Known</b>	<b>Remarks</b>
Will there be land acquisition?				
Are the ownership status and current use of the land to be acquired known?				
Will infrastructure be located within existing public roads or rights of way?				
Will there be loss of shelter and residential land?				
Will there be loss of crops, trees, or structures?				
Will there be business losses?				
Will there be loss of income sources or means of livelihood?				
Will there be involuntary restrictions on land use apply or on access to parks and protected areas?				
Will people lose access to natural resources, communal facilities and services?				
Will sensitive cultural or historic sites be affected?				
<b>Information on Displaced Persons</b>				
<p>Is there an estimate of the likely number of persons who will be displaced?</p> <p>[    ] No        [    ] Yes</p> <p>If yes, approximately how many? _____</p> <p>Is there an estimate of the likely number of vulnerable persons?</p>				

☐ No      ☐ Yes

If yes, approximately how many? \_\_\_\_\_

Category for Involuntary Resettlement Impacts\*:    A ☐    B ☐    C ☐

Name of Person Conducting the Screening:\_\_\_\_\_.

Date:\_\_\_\_\_.

Signature:\_\_\_\_\_.

\* The ADB classifies impacts as Category A when 200 or more persons experience major resettlement impacts either through being physically displaced from housing or losing 10% or more of their productive (income generating) assets. Such impacts on fewer than 200 persons are classified as Category B. Where no such impacts: Category C.

## **Annex 2 : Outline Resettlement Plan**

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A resettlement plan is required for all subprojects involving land acquisition and resettlement impacts. Its level of detail and comprehensiveness will be commensurate with the significance of potential resettlement impacts and risks.

A. **Executive Summary:** This section provides a concise statement of project scope, key survey findings, entitlements and recommended actions.

B. **Project Description:** This section provides a general description of the project, discusses projects components that result in land acquisition, involuntary resettlement, or both and identify the projects area.

It also describes the alternatives considered to avoid or minimize resettlement include a table with quantified data and provide a rationale for the final decision.

C. **Scope of Land Acquisition and Resettlement:** This section:

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

D. **Socioeconomic Information and Profile:** The section outlines the results of the Social Impact Assessment, the census survey, and other studies, with information and /or data disaggregated by gender, vulnerability, and other social groupings, including:

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

E. **Information Disclosure, Consultations, and Participation:** This section:

- i. identifies project stakeholders, especially primary stakeholders;

- ii. describes the consultation and participation mechanisms to be used during the different stages of the project cycle;
- iii. describes the activities undertaken to disseminate project and resettlement information during the project design and preparation for engaging stakeholders;
- iv. summarizes the results of consultations with displaced persons (including host communities), and discusses how concerns raised and recommendations made were addressed in the resettlement plan;
- v. confirms disclosure of the draft resettlement plan to displaced persons and includes arrangements to disclose any subsequent plans; and
- vi. describes the planned information disclosure measures (including the type of information to be disseminated and the method of dissemination) and the process for consultation with displaced persons during project implementation.

F. **Grievance Redress Mechanisms:** This section describes mechanisms to receive and facilitate the resolution of displaced persons' concerns and grievances. It explains how the procedures are accessible to displaced persons and gender sensitive.

G. **Legal Framework:** This section:

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

H. **Entitlements, Assistance and Benefits:** This section:

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

I. **Relocation of Housing and Settlement:** This section:

- i. describes options for relocating housing and other structures, including replacement housing, replacement cash compensation, and /or self-selection (ensure that gender concerns and support to vulnerable groups are identified);

- ii. describes alternative relocation sites considered; community consultations conducted; and justification for selected sites, including details about location, environmental assessment of sites, and development needs;
- iii. provides timetables for site preparation and transfer;
- iv. describes the legal arrangements to regularize tenure and transfer titles to resettled persons;
- v. outlines measures to assist displaced persons with their transfer and establishment at new sites;
- vi. describes plans to provide civic infrastructure; and
- vii. explains how integration with host populations will be carried out.

**J. Income Restoration and Rehabilitation:** This section:

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

**K. Resettlement Budget and Financial Plan:** This section:

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

**L. Institutional Arrangements:** This section:

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

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

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



## **Annex 3: Terms of Reference for Third-Party Validator**

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## **Terms of Reference for Third-Party Validator – Land Acquisition and Resettlement**

### **(National, 2-person months)**

#### **Background**

In pursuing its vision of “safe water for a healthy nation” Solomon Water has prepared a 30 Year Strategic Plan and 5-Year Action Plan, which embody its planned improvements to all aspects of delivering safe and reliable water supply and sewerage services in its urban areas of operations. From these strategic plans, a number of high priority projects have been identified for development, including the Urban Water Supply and Sanitation Sector Project (“the Project”).

Activities to deliver the Project’s outputs may include:

- (i) new surface water source and associated water treatment and raw and treated water transmission infrastructure on the Lungga River;
- (ii) augmenting trunk mains from the Mataniko and White River borefields to the existing water supply networks;
- (iii) augmenting reservoir capacity;
- (iv) rehabilitation and expansion of the Gizo water supply system;
- (v) rehabilitating Honiara’s sewer outfalls;
- (vi) construction of new pump stations at several locations to pump sewage to the existing outfalls at King George VI and Point Cruz;
- (vii) construction of a septage treatment facility to service the greater Honiara area.

Land acquisition will be required from owners and occupants at some if not all of the affected sites. A Resettlement Framework has been prepared and Resettlement Plans will be prepared for each subproject. Consultations with affected persons will be carried out with a view to negotiating agreements on compensation and other assistance. To ensure that these negotiations proceed in a fair and balanced manner, the project intends to engage the services of a third party validator to observe, record and validate that the negotiations have been undertaken and agreements have been concluded in accordance with the requirements of the Resettlement Plan.

In case the Third-Party validator finds that there is a lack of symmetry and fairness in the negotiation process, including uneven access to information, this should be resolved through application of the grievance redress mechanism set out in the Resettlement Plan.

#### **Scope of Work**

The Third-Party Validator will provide independent verification/validation of the conformance of the negotiation process with the Resettlement Plan between Solomon Water and each affected person or group. To achieve this, the tasks required of the validator will comprise;

- Reviewing the Project’s Resettlement Framework and Resettlement Plans.
- Attending initial consultations and negotiation meetings.
- Conducting meetings and interviews with landowners and other affected persons as required.

- Reviewing minutes of meetings and documentation of other consultations leading up to the conclusion of agreements.
- Reviewing complaints submitted under the Project's grievance redress mechanism and participating in the ensuing discussions.
- Validating that agreements are voluntary (through meetings or interviews as required)
- Validating that agreed compensation and other assistance is fair and reasonable.

Note that the Third-Party Validator must disclose any conflict of interest with affected persons.

### **Outputs**

A brief report documenting the results of the review and validation activities will be prepared and submitted to Solomon Water and Ministry of Finance and Treasury and will form part of the Project's reporting to Asian Development Bank.

### **Qualifications**

The Third-Party Validator should have experience and qualifications in law, land rights or negotiation. The validator must, although engaged by Solomon Water, be able to perform their role impartially. Appropriate candidates for the role may include lawyers or magistrates, or civil society organizations in related fields or roles.

## **Annex 4: Terms of Reference for Lands Management Officer**

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## **Terms of Reference for Land Management Officer – Land Acquisition and Resettlement**

### **(National, XX-person months)**

#### **Background**

In pursuing its vision of “safe water for a healthy nation” Solomon Water has prepared a 30 Year Strategic Plan and 5-Year Action Plan, which embody its planned improvements to all aspects of delivering safe and reliable water supply and sewerage services in its urban areas of operations. From these strategic plans, a number of high priority projects have been identified for development, including the Urban Water Supply and Sanitation Sector Project (“the Project”).

Activities to deliver the Project’s outputs may include:

- (i) new surface water source and associated water treatment and raw and treated water transmission infrastructure on the Lungga River;
- (ii) augmenting trunk mains from the Mataniko and White River borefields to the existing water supply networks;
- (iii) augmenting reservoir capacity;
- (iv) rehabilitation and expansion of the Gizo water supply system;
- (v) rehabilitating Honiara’s sewer outfalls;
- (vi) construction of new pump stations at several locations to pump sewage to the existing outfalls at King George VI and Point Cruz;
- (vii) construction of a septage treatment facility to service the greater Honiara area.

Land acquisition will be required from owners and occupants at some if not all of the affected sites. A Resettlement Framework has been prepared and Resettlement Plans will be prepared for each subproject. Consultations with affected persons will be carried out with a view to negotiating agreements on compensation and other assistance.

Solomon Water has established a Project Management Unit (PMU) responsible for implementing the Project, including acquisition of the necessary land in accordance with the Resettlement Framework (RF) and Resettlement Plans (RPs). A Land Management Officer is required to work within the PMU as the principal person responsible for land acquisition and resettlement activities.

#### **Scope of Work**

Under the direction of the Project Manager, the primary job purposes of this position are,:

1. Manage the land acquisition and resettlement aspects of the project.
2. Participate with ADB social safeguards specialists in planning and carrying out community consultations, social safeguards assessment and preparing mitigation measures, if applicable, on proposed subprojects.
3. Produce social safeguards reports including Due Diligence Reports, for compliance with RF and RPs.

The Officer will be required to:

1. Advise on project decisions concerning land acquisition (in consultation with MLHS re customary land)
2. Manage design and supervision consultants on all matters dealing with resettlement and consultations.
3. Prepare and update Due Diligence Reports.
4. Disclose the RF and RPs/Due Diligence Reports.
5. Inform DPs, local authorities and interested others about the project, including compensation details.
6. Coordinate with Ministry of Lands Housing and Survey and Commissioner of Lands to initiate the land acquisition process.
7. Update inventory of losses and census of affected persons.
8. Coordinate with Ministry of Finance and Treasury/Solomon Water to obtain budget and funds for compensation payments.
9. Regarding alienated land: prepare and attend to execution of purchaser agreements; payment of purchase price; registration in Land Registry.
10. With civil contractor schedule and makes compensation payments for non-land assets.
11. Record the compensation payment process for monitoring and reporting.
12. Establish, facilitate and monitor grievance procedures as outlined in RPs.
13. Provide data and other information to external monitoring agencies.
14. Prepares completion report.

## SECTION F: SELECTION CRITERIA

Minimum Qualification:

- Professional and recognized economics, engineering, environment or social sciences qualification, at least at diploma level
- Record of professional development in safeguards practices
- Training and communication competencies
- Data analysis and report writing capability
- Good interpersonal, verbal, written, communication and presentation skills

Experience in:

- Conduct of social safeguards assessments and exposure in safeguards practices
- Record of honesty and integrity

Knowledge of:

- Good understanding of safeguards issues, training, and processes applicable in the Solomon Islands
- Good knowledge of applicable policies, procedures and SIG requirements
- Awareness of safeguard issues associated with water/wastewater infrastructure works