

SFG3392 REV

Resettlement Policy Framework

Increasing Resilience to Climate Change and Natural Hazards (IRCCNH)

Prepared for
Government of Vanuatu

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4	April 2017	Resettlement Policy Framework Review Draft	Brian Phillips, IRCCNH PMU Manager.
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Definitions

Census

A field survey carried out to identify Displaced Persons in accordance with procedures, including criteria for eligibility to compensation and other rehabilitation measures, and consultations with Affected Persons.

Compensation

The payment in land, cash or other assets given in exchange for the taking of land and buildings, in whole or in part, and all fixed assets on the land and buildings.

Involuntary Land Acquisition

Is the taking of land by government for public purpose against compensation where the landowner must surrender their land involuntarily and has only the right to negotiate and appeal the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

Land

Refers to agricultural and non-agricultural land and any structures thereon whether temporary or permanent and which is required for the Project.

Replacement Cost

Means the method of valuation of assets which assists in determining the amount sufficient to replace lost assets and cover transaction costs, as follows:

- 'Replacement cost for agricultural land' means the pre-project or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected land, plus the costs of:
 - Preparing the land to levels similar to those of the affected land; and
 - Any registration and transfer taxes;
- 'Replacement cost for houses and other structures' means the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the costs of:
 - Transporting building materials to the construction site;
 - Any labour and contractors' fees; and
 - Any registration and transfer taxes.
- 'Replacement cost for land in urban areas' means the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes.

Voluntary Land Contribution

Refers to a process by which an individual or communal owner agrees to provide land or property for project-related activities. Voluntary Land Contribution is generally provided without Compensation. Voluntary contribution is an act of informed consent, made with the prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress.

Acronyms

ARAP	Abbreviated Resettlement Action Plan
DGMWR	Department of Geology, Mines and Water Resources
ESMF.....	Environmental and Social Management Framework
MAQFF	Ministry of Agriculture, Quarantine, Forestry and Fisheries
MFEM	Ministry of Finance and Economic Management
MLNR	The Ministry of Land and Natural Resources
NAB	The National Advisory Board on Climate Change and Disaster Risk Reduction in Vanuatu
PMU	Project Management Unit
RPF	Resettlement Policy Framework or Framework
VARTC	Vanuatu Agricultural Research and Training Centre
VMGD	Vanuatu Meteorology and Geo-Hazards Department
WB	World Bank
WB OP4.12	World Bank Operational Policy 4.12

1 LAND ACQUISITION AND WORLD BANK OP4.12 OBJECTIVES

1.1 World Bank OP4.12 Objectives

World Bank (WB) Policy OP4.12 is triggered when a WB investment causes involuntary taking of land that results in direct social and economic impacts, such as loss of shelter leading to relocation, loss of assets or access to assets, or loss of income sources or means of livelihood. The objectives of OP4.12 are:

- Avoid involuntary resettlement where feasible, or minimise it, exploring all viable alternative project designs;
- Consult affected persons meaningfully and provide opportunities to participate in planning and implementing resettlement programs; and
- Assist affected persons in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels.

OP 4.12 applies to all components of the project that require land that are directly and significantly related to the WB-assisted project, necessary to achieve its objectives, or planned to be carried out with the project. Measures for mitigating the impacts of involuntary land acquisition and resettlement as outlined in WB Policy OP4.12 include:

- Inform affected persons about their rights/ options pertaining to land acquisition/ resettlement;
- Provide prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project;
- Provide resettlement assistance for vulnerable affected people;
- Options can be 'land for land' if livelihoods are land-based or cash if land taken is a small fraction of the affected asset and residual land holdings are viable; and
- Compensation/resettlement implementation needs to be integrated into the project timetable.

When it is possible to determine scale of adverse impacts and affected population during project preparation and prior to appraisal a Resettlement Plan should be prepared. When it is not possible to identify precise site alignments or specific impacts/affected population during project preparation then a Resettlement Policy Framework (RPF or Framework) is developed for the project. The resettlement instrument is included in the Legal Agreement between the Bank and the Borrower.

1.2 RPF

A RPF is developed for the project when the specific impacts relating to land take are not known in advance. The underlying principle of the RPF is to avoid/ minimise adverse impacts. The RPF is an agreement between the Borrower and the WB that outlines that in cases of involuntary land expropriation, the Borrower will comply with national laws relating to land expropriation and WB OP4.12 on Involuntary Resettlement. The purpose of the RPF is to clarify land acquisition principles and organisational arrangements and ensure that where land acquisition is unavoidable, the borrower will consult project affected persons, compensate for lost assets at replacement costs and provide assistance to improve/ restore livelihoods and standards of living to pre-displacement levels in the event of displacement.

All land use will be voluntary, either through leases or land donation, wherever possible. Most of the investments are selected by beneficiaries, and the allocation of land will be part of participatory project design. All land access will start with consultations with the relevant land owners and alternatives to involuntary land acquisition will be prioritized. It is very unlikely that involuntary land acquisition will occur as a result of the project.

The contents of the RPF need to cover the following:

- Description of project components which trigger land acquisition;
- Legal framework reviewing borrower laws and Bank policy requirements on expropriation;
- Methods of valuing assets, eligibility criteria and entitlement matrix;
- Estimated land take/ population displacement;
- Organisational arrangements for the delivery of entitlements;
- Description of consultation process, grievance redress mechanisms, arrangements for funding, timeline; and
- Monitoring arrangements by the project management unit (PMU).

2 INTRODUCTION

The Increasing Resilience to Climate Change and Natural Hazards Project (IRCCNH) is a program of works for Vanuatu to improve the resilience of smallholders and communities to the impact of climate variability and change on food, household water security and livelihoods. The project has been effective since April 2013, but in February 2017 the Government of Vanuatu (GoV) requested a restructure to simplify the project and focus on community-level investments following Tropical Cyclone (TC) Pam.

The revised Project Development Objective is to strengthen disaster risk management systems and pilot investments in select villages in the Recipient's territory to increase resilience to the impacts of natural hazards and climate variability and change. The proposed support will focus on resilient livelihoods through increased access to fresh water and improved agricultural methods, and will be implemented by the Project Management Unit in the Vanuatu Metrology and Geo-hazards Department (VMGD).

The main project outcomes would be:

- a) Institutional strengthening of the PMU to build oversight and management capabilities for climate adaptation and disaster management projects/programs;
- b) Enhanced access/uptake by farmers of improved technologies and plant material providing for more sustainable and climate resilient agricultural production;
- c) Increased fresh water availability for rural communities through greater rainwater harvesting and storage capacity; and
- d) For at least two pilot coastal sites and two volcanic sites, increased community capacity to plan and implement disaster risk management and climate adaptation sub-projects/activities.

Achievement of the development objective will be assessed through the following indicators:

- Farmers in areas targeted under the project have adopted climate resilient food crop production practices (number);
- Households in areas targeted under the project satisfied with the quality and security of water supply (percent);
- Households in areas targeted under the project incorporating climate considerations in their decision making (number); and
- National and sub-national institutions targeted by the project have functioning disaster risk management arrangements (number).

This RPF supersedes the previous Land Acquisition Framework dated 20 March 2012. The rationale of applying a framework is that specific details of the project activities will only be known during project implementation. The purpose of a framework is to guide the VMGD on how to screen the activities and manage any issues during implementation.

An Environmental and Social Management Framework (ESMF), dated May 2017, covers aspects of the Project in relation to World Bank Safeguards Policy OP4.01 Environmental Assessment, OP4.04 Natural Habitats and 4.09 Physical Cultural Resources.

This document is **final version** and will form part of the legal agreements between GoV and the World Bank. It will be officially disclosed by both partners, and may be amended from time to time as agreed between the partners.

2.1 Project Background

Geographically Vanuatu is located in the "ring of fire" and at the centre of the Pacific "cyclone belt". This results in a relatively high frequency of volcanic eruptions, cyclones, earthquakes, tsunamis, storm surges, coastal and river flooding and landslides.

The impacts of climate change, including increased intensity of extreme events and changes to agricultural productivity and water availability, are already being felt across Vanuatu, and are projected to increase in the future. The results of climate scenario models suggest that average maximum temperature will increase, precipitation will most likely increase (or only slightly decrease), extreme temperatures will increase in frequency, extreme precipitation will increase in frequency, number of dry days will increase, sea level will rise and coral reefs will become marginal (leading to further coastal erosion).

Between March 12 and 14, 2015, Tropical Cyclone Pam (TC Pam) struck 22 islands of Vanuatu as an extremely destructive category 5 cyclone. The total economic damage and losses as a result of the cyclone was estimated to be approximately US\$450 million, which equates to approximately 64 percent of the country's GDP.

The impact of TC Pam on Vanuatu included severe and widespread damage, which was worst in Shefa and Tafea provinces, in particular on the larger islands of Tanna, Erromango and Efate and the smaller Shepard islands. Eleven fatalities were recorded in Tafea and Shefa provinces. As many as 65,000 people were displaced from their homes, around 17,000 buildings were damaged or destroyed, and the livelihoods of at least 80 percent of Vanuatu's rural population was compromised due to large scale destruction of crops.¹

The project has been effective since April 2013. The Project Management Unit (PMU) is operating at full capacity with all positions filled; construction of two Provincial Disaster Centers was completed in May 2016; a customized curriculum for Provincial Disaster Officers has been developed and the National Disaster Act reviewed; the construction of the housing to accommodate seismic sensors has been completed and seismic sensors procured; they are scheduled to be tested and installed by May 2017.

Under Component 2 (Increasing Community Resilience on Active Volcanic Islands and in Coastal Areas) (the proposed new Component name is 'Increasing Community Resilience in Areas Affected by Tropical Cyclone Pam') Government agencies have developed planning processes and methodologies for disaster risk management and climate adaptation. Micro-project identification and implementation has begun, including a draft micro-project manual.

Under Component 3 (Promotion of Improved Technologies for Food Crop Production and Resilience to Climate Change) VARTC has established field plantings on its main site on Santo (to represent the climate of the north of Vanuatu) and collaborated with a research institution for testing and multiplication near Port Vila (to represent the climate for the south of Vanuatu). In addition, improved food crop varieties have been tested and multiplied for distribution to farmers in various islands.

Under Component 4 (Rural Water Security: Increased Access to Secure Water Supply) water inventories for Torba and Penama provinces have been completed and 20 water tanks have been placed in identified sites in Efate. Further activities under the water component are now integrated with the micro-projects under Component 2.

2.2 Implementation Arrangements

The executing agency is the Ministry of Finance and Economic Management (MoFEM), and the fiduciary implementing agency is the VMGD, part of the Ministry of Climate Change Adaptation, Meteorology, Geo-Hazards, Disaster Management, Environment and Energy. Implementation is carried out by the Project Management Unit (PMU) within the department.

¹ Vanuatu Post Disaster Needs Assessment, Tropical Cyclone Pam, March 2015 (GoV).

2.3 Project Components

2.3.1 Component 1 Institutional Strengthening for Climate Change Adaptation and Disaster Risk management

Sub-Component 1.1: Strengthening of the NAB Project Management Unit (PMU) by building capacity in project management, procurement, financial management and monitoring and evaluation through: (i) the effective implementation of the Project and of the Japan Human Resources Development (PHRD) Grant², (ii) training for new or additional staff upon their assignment to the PMU, and (iii) the development of Operational Manuals to guide overall PMU operation, Subproject selection, formulation, and implementation.

Sub-Component 1.2: Strengthening the National Disaster Management Office by (i) reviewing the Recipient's National Disaster Management Act; (ii) developing a strategic plan and organizational structure; (iii) developing the capacity of newly recruited staff; (iv) facilitating learning and twinning with the national disaster management offices of the Solomon Islands and other Pacific Islands countries; (v) establishing fully equipped provincial disaster coordination centers and provincial disaster risk management and climate change adaptation plans in the provinces of Tafea and Torba; and (vi) developing volcano contingency plans for Tanna, Gaua and other high risk volcanic islands.

Sub-component 1.3: Strengthened Early Warning Systems by (i) establishing real-time data communication network linking the existing volcano, seismic and weather observing stations with the national data and warning center; (ii) strengthening multi-hazard standard operating procedures, and (iii) strengthen the capacity of the national multi-hazard warning and emergency operations center to manage and respond to disasters, especially from climate-related events.

2.3.2 Component 2: Increasing Community Resilience in Areas Affected by Tropical Cyclone Pam

This component will look at increasing the ability of national, regional and community-level stakeholders to work together to enhance disaster and climate resilience in rural communities by;

Subcomponent 2.1: Strengthened Methods, Processes and Protocols for Climate Change Adaptation and DRM to develop the ability of stakeholders at all levels. The component will include support on the development, preparation, delivery and monitoring and evaluation of micro-projects. Micro-projects are community level activities to be identified and implemented by the communities and/or provincial government, monitored and evaluated by VMGD in cooperation with villages and provincial governments

Subcomponent 2.2: Enhancing Community and Ecosystem-based Adaptation and Disaster Risk Management in Coastal Areas and on Active Volcanic Islands by implementing the methods, processes and protocols developed under Component 2.1 through the carrying out of Micro-Projects for communities affected by TC Pam.

2.4 Typologies of Micro-Projects

What types of activities are eligible for funding?

Eligible activities are those which help the community to reduce the risk of climate change and natural hazards. Only activities which have been identified through baseline surveys conducted by VMGD/PMU partners and endorsed by the Provincial Technical Advisory Commission (PTAC) and Provincial Secretary General will be eligible for funding. Micro-projects must also be consistent with the safeguards instruments of the project. Existing and relevant community plans endorsed by the local Area Council

² A complimentary project supported through the trust fund entitled "Disaster Risk Reduction Project".

and Provincial Secretary General may also be utilized to emphasise activities as identified by the baseline surveys.

Examples of appropriate community plans are:

- Provincial Disaster Plan (produced under the original IRCCNH – Component 1.2).
- Area Council Development Plan (produced under the original IRCCNH – Component 2.2).
- Community Risk Assessment and Action Plan (produced under the original IRCCNH – Component 2.2).
- Water Master Plan (produced under the original IRCCNH – Component 4).

Classification of Activities

The types of activities that can be funded can be classified under two broad categories:

1. Climate Change Adaptation Activities – Defined as those activities that reduce the vulnerability of communities or ecosystems to the impacts of climate change and climate-related risks.

Example:

- a. Installation of alternative water supply sources to minimise the risk of droughts,
- b. Cultivation or distribution of more resilient food crops to increasing temperatures.

2. Disaster Risk Reduction Activities – Defined as those activities that reduce the risk (i.e. likelihood or consequence) of natural disasters, other than those caused by climate change.

Example:

- a. Establishment of a ‘community safe house’ for use during disasters,
- b. Preparation and implementation of disaster response and contingency plans.

Alignment of Activities with Government Sectors

Activities must align with one or more government sectors. Key sectors are outlined in the National Adaptation Programme of Action (NAPA), Disaster Risk Reduction and Disaster Management National Action Plan (NAP) and the National Climate Change & Disaster Risk Reduction Policy.

Climate change and disaster risk activities in Vanuatu can generally be grouped into the following areas that align with existing government sectors. Examples include:

Activity	Government of Vanuatu Department (Sector)
Forecasting and monitoring of climate and geo-hazard information, awareness and early warnings.	Vanuatu Meteorological and Geo-Hazards Department (VMGD)
Disaster preparedness, response and recovery	National Disaster Management Office (NDMO)
Agriculture and food security	Department of Agriculture and Rural Development (DARD)
Water management	Department of Geology, Mines and Water Resources (DGMWR)
Transport	Public Works Department

Alignment with Government of Vanuatu Policies and Plans

This micro project scheme has been set up to help the Government of Vanuatu achieve its strategic development priorities, as set out in the National Sustainable Development Strategy (Priorities and Action Agenda, 2006 – 2015).

In particular, micro projects should address the priorities set out in the Priorities and Action Agenda, 2006 – 2015, National Adaptation Programme of Action (NAPA), Disaster Risk Reduction and Disaster Management National Action Plan (NAP), and the National Climate Change & Disaster Risk Reduction Policy. All micro projects must align with existing Government of Vanuatu policies and plans, provincial and area strategic development plans. For example:

- 'Planning Long, Acting Short'
- Ministry Corporate Plans
- Department Corporate Business Plans
- Provincial Council Corporate Business Plans
- Area Council Strategic Development Plans
- Other relevant government planning documents.

What is the maximum level of funding for a micro project?

The maximum level of funding for any one micro project is Vt 5 million. Additional funding could be made available if the initial investment falls significantly under the maximum ceiling, however additional activities must be consistent with priorities identified by the baseline surveys or as per eligibility criteria defined above.

2.5 Project Typologies

The initial consultations, baseline surveys and needs assessments following Cyclone Pam (from the studies and plans listed above) have identified the most likely typologies that will be funded:

1. Rainwater catchments – Structures to collect rainwater and tanks to store rainwater. Tap stands.
2. Gravity fed water supply systems – renovations of damaged schemes, scheme upgrades and extensions new systems. Water abstractions from streams or springs, gravity fed through pipelines to the villages, and the installation or replacement of water tanks. Tap stands and pipelines within the village. This may also include irrigation systems.
3. Feeder roads – small sections of existing unsealed tracks renovated with concrete to allow for all weather access to villages.
4. Climate-resilient crops and agricultural practices – farming support, including new varieties of crops and different farming techniques. Irrigation systems may be included.

2.6 Project Requirement for Land Acquisition

Table 1 below provides an overview of the activities proposed under Components 1 – 2 of the restructured Project and whether land acquisition (voluntary or involuntary) would be a potential requirement. Resettlement of people and their dwelling structures is not expected for this project and is not considered.

Table 1 Project Activities and Requirement for Land Acquisition

Project Activity	Land Acquisition
Project Component 1 – Institutional Strengthening for Climate Change Adaptation and Disaster Risk Management	
To establish a fully equipped provincial disaster coordination centers and provincial disaster risk management and climate change adaptation.	Government leased land will be prioritized (and proof of lease is required)

Project Activity	Land Acquisition
Strengthen Early Warning Systems by establishing real-time data communication network linking the existing volcano, seismic and weather observing stations with the national data and warning center.	Voluntary land use approval required for monitoring instruments.
Project Component 2 – Increasing Community Resilience on Active Volcanic Islands and in Coastal Areas	
Collection of root crop cultivars from both Vanuatu and internationally.	Not applicable
Screen cultivars for resistance to pests, diseases and climate change impacts.	Not applicable
Assessment of cultivar performance.	Not applicable
Establish on-farm demonstration sites for climate resistant crops	Voluntary land access likely
Establish the plant distribution centers for the dissemination of climate-resistant crops, such as the agricultural college, churches, high schools and other suitable locations.	Voluntary land access likely
Develop and roll out a farmer training to ensure the success of the dissemination of climate resistant crops	Not applicable
Distribution of cultivar planting material to key farmers	Not applicable
Installation of small-scale rural water supply systems – through tanks and structures for rainwater harvesting.	Voluntary land access likely
Reconstruction and rehabilitation work on existing gravity water fed systems through small pumping systems for groundwater.	Voluntary land access likely
Install the rural water supply system in the priority communities through stream diversions.	Voluntary land access likely
Sealing of feeder roads with concrete, and any other minor construction / infrastructure improvements.	Voluntary land access likely

Overall, many of the project activities under components 1 – 2 either take place on beneficiary land (Custom) or government leased land or do not require land appropriation. Communities and individual households may choose to donate land for the purposes of the project (for example to establish an on-site farm demonstration site) and for this reason this RPF includes a set of criteria that ensures land donation is voluntary and accessible by project beneficiaries for the duration of the project. In the unlikely event that other modes of acquisition are required – of land, structures or assets (for example Disaster Coordination Centers) - the RPF also includes guidelines for involuntary land acquisition if necessary. Involuntary land acquisition will be avoided and it is unlikely that the RPF will be used for this purpose. This Framework has been prepared in accordance with the provisions set out by WB OP4.12 and the laws of Vanuatu.

2.7 Institutional and Implementation Arrangements

Practical institutional arrangements for implementation of the RPF will be very important given the cross-sectoral nature of the activities involved. This will require close inter-agency coordination and collaboration among stakeholders. Sub-project screening by the VMGD PMU will identify whether the land requirements can be managed through voluntary lease or donation, or whether involuntary resettlement is required.

For voluntary leases, Government land leases or land donations for water pipes, roads, new buildings and building renovations etc., the VMGD PMU will manage the land negotiations.

For involuntary resettlement the VMGD PMU will manage the preparation of the Abbreviated Resettlement Action Plan, with the assistance of the Lands Department in the Ministry of Lands and

Natural Resources. Consultants may be required to fill capacity or resource limitations in the PMU or Lands Dept.

The Lands Department will assist the PMU to undertake the census of affected people, valuation of affected assets, handling of compensation and expropriation of land. The VMGD PMU will manage grievances.

3 LAND IN VANUATU

3.1 Land Tenure, Legal and Institutional Framework

Vanuatu is a collection of over 80 islands in the South Western Pacific Ocean. It has a population of approximately 240,000 people and 110 linguistically distinct cultures. The nation gained Independence in 1980 and has a Westminster style of government. Although the legal system is based on English, French and customary law, the State legal system largely adheres to the English common law system. Land is deeply important to Ni-Vanuatu and customary law has been a significant influence on Vanuatu's land tenure system. Unlike many other ex-colonies, the land and all associated rights were not vested in the Crown or Government, but in the native people as customary owners.

3.1.1 The Constitution

The Constitution came into force on 30 July 1980 and is the supreme law of Vanuatu and contains two sections which are relevant to land acquisition and resettlement. Chapter 5, Articles 29 - 32 of the Constitution refers to the National Council of Chiefs. Of relevance is Article 30 which recognises the National Council of Chiefs membership having the competence to discuss, and be consulted on, any issue related to customs, culture and its preservation. It is not a decision-making body but rather a high-level advisory group. Chapter 12 of the Constitution is devoted to land. Most discussions relating to land centred on Article 30 (in Chapter 5) and Articles 73 - 81 of Chapter 12.

Art 73: All land in the Republic of Vanuatu belongs to the indigenous custom owners and their descendants.

Art 74: The rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu.

Art 75: Only indigenous citizens of the Republic of Vanuatu who have acquired their land in accordance with a recognised system of land tenure shall have perpetual ownership of their land.

Art 78 (2): The Government shall arrange for the appropriate customary institutions or procedures to resolve disputes concerning the ownership of custom land.

Customary ownership, government controlled land, leases, and restrictions on land transfers are further detailed below.

Customary Ownership

Traditionally Ni-Vanuatu viewed owning the land and using the land as two separate things where individuals and small family groups could have individual usage rights to the land without 'ownership'. While customary rules for ownership vary across the country, ownership is normally entrusted to individuals or small family groups

Government Controlled Land

Chapter 12 of the Constitution begins by stating all land is owned by the customary owners, but it also allows the government to acquire land if it is in the public interest and to redistribute it to other customary owners. These provisions have been translated to regular domestic law.

Leased Land

Land can be leased for a period of up to 75 years. Leases are administered under the Land Leases Act by the Government on behalf of the customary owners. This system allows the government to oversee lease transactions in accordance with article 79 of the Constitution. Leases are evidenced by registration in the Land Leases Register and can be transferred, mortgaged, subleased or disposed of in a will subject to the Land Leases Act.

Restrictions of Land Transfer

Only Ni-Vanuatu and the government can own land and there is no system of freehold (at least rurally), so in that respect land sales and transfer are highly restricted. However the lease system allows individuals to deal with the land in a manner similar to a traditional common law system³.

3.1.2 Related Land Acts

There are more than ten Acts related to land acquisition and resettlement. The main Acts are further detailed below:

The Land Acquisition Act No. 5 of 1992 (Amendment Act No. 34 of 2000)

This is a law directly relevant to Land Acquisition and Resettlement. This Act gives the Minister for Lands and Natural Resources full discretionary powers to acquire land on the Government's behalf. It covers to an extent, that which will be compensated under the Act; compensation for damages made during the process of land valuation; compensation entitlements for land and for rents and business losses; basic rights for grievance and appeals; and notice periods. This Act does recognise market value compensation for land but is vague on compensation entitlements for rents and businesses, making it open to misinterpretation. There is well documented evidence as to how compensation is determined for land acquisition and structures. However, there is no published compensation method that could be identified determining how compensation is determined for losses in income to business and for vulnerable (female headed households, poor, elderly and landless) affected people.

Land Reform Act 35 (1980 and updated 1981, 1983, 1985, 1992 & 2000)

This Act specifies that all land titles will be customary or transferred to the traditional owners, whose percentage can be traced back locally to 200 years. It outlines specifically about indigenous owners and the non-indigenous land users. This Act, like the Land Acquisition Act is an important one to understand, when preparing a Resettlement Plan for involuntary land acquisition and resettlement.

Customary Land Tribunal Act No. 7 (2001)

This Act details the set-up of the Customary Land Tribunal at village, Island etc. level, its basic terms of reference, especially for dispute resolution and process for affected person to appeal the tribunal decision.

Valuation of Land Act No. 22 (2002)

This Act relates to the organisation of the 'Valuer General' Office and their role. The Act does not stipulate minimum approach to valuation of the land, which is more directly specified in the 'Land Acquisition Act'.

Furthermore, this Act is unclear about the role of the Valuer General office in terms of relocation/involuntary resettlement of households as well as valuation of structures, incomes and businesses.

Land Surveyors Act No. 11 (1984)

This is basically a code of conduct, or a terms of reference for registered land surveyors, whom must be registered through the Land Surveyors Board⁴.

³ Lydia Holt, Robert O'Sullivan, Sean Weaver, 'A Review of Land and Forestry Law in Vanuatu and Their Implications for Designing Forest Based Emission Trading Activities in Vanuatu'.

⁴ This overview of the land and legal Acts is drawn from Government of Vanuatu, June 2011. Republic of Vanuatu: Port Vila.

3.2 Traditional Methods of Negotiation and Grievance Procedures

When Vanuatu gained independence in 1980 all land was returned to the customary owners, and it was constitutionally guaranteed that the rules of custom form the basis of ownership and use of land. Customary land cannot be alienated or sold off and the Constitution requires the Government to arrange appropriate customary institutions and procedures to resolve disputes concerning the ownership of custom land.

Most of the time customary practices resolve disputes and government does not get involved. In 2001, the Customary Land Tribunal Act was passed to set up structures to deal with ownership and land boundary issues that build on existing structures of custom. In acknowledgement of the multiplicity of custom, chiefs of each area divided the country into custom areas and sub areas. If customary law has not resolved the dispute, people can apply to go to the village land tribunal, which may be joint if more than one village is involved. The meeting of the tribunal is widely advertised and there can be multiple parties to the dispute. The principal chief and two other chiefs or elders of each village involved form the village land tribunal. Presentation of each side's case proceeds without rules of evidence and there is considerable freedom as to questioning and who can speak. Lawyers are not permitted to participate.

The procedure can be stopped at any time if an amicable settlement is reached. If this does not occur by the end of the hearing then the tribunal members must use customary law to make a decision.

The decision can be appealed to another body – a different set of chiefs and elders from a wider region than just the village. The remit of the Tribunals to use custom is left loose, so as to allow for variation in different regions, and for custom to evolve. Legitimacy for the Tribunals decisions is derived from the power and legitimacy of the tribunal members as represented by their standing with the community⁵.

3.3 Gaps and Observations between OP4.12 and Vanuatu Land Management Practices

3.3.1 Current Land Acquisition and Management Practices

The majority of Government land acquisition in Vanuatu has been for smaller social services projects such as for village health facilities and educational institutions. For the Tanna airport project, the Government acquired land along the river at Freswota, in order to maintain a level of river protection and reduce urban encroachment issues. However, apart from this, land acquisition legislation and process have not been utilised.

Prior to developing an infrastructure project, issues around land acquisition are to be canvassed. These are reviewed by the Council of Ministers and either approved or rejected. There is no minimum standard that requires the projects to minimise land acquisition and impact on the community.

The Council of Chiefs, which is the peak body representing customary issues including land in Vanuatu at a national level, does not necessarily have an input at this or any other stage of the process. The Ministry of Land and Natural Resources (MLNR) is in the process of developing Customary Lands Tribunals in each Province to assist in settling customary land disputes. Customary lands identification is still an ongoing process given there are limited records to prove the longstanding (200 years) ties of people to a certain area of land.

Once an area of land is selected for a Government Project, a notice signed by the Minister of MLNR is provided to the customary owners/title holders and a public notice is erected in full public view. The notice

⁵ This section is based on an article by Anita Jowitt, Indigenous Land Grievances, Customary Land Disputes And Restorative Justice, Journal of South Pacific Law, Volume 8, 2004, Issue 2.

is made for a minimum of 30 days. After this period, the land is assessed and valued. The land valuation is stipulated by Law, but generally involves valuing of the following:

- Lease type: Residential/Agricultural/Commercial/Special Industrial.
- Location of property: From CBD, aesthetic view, amenities, water front, type of neighbourhood.
- Marketability: Number of properties marketed nearby in recent times and price range of those transactions.
- Physical Characteristics: Terrain, vegetation, soil type, improvements made size.
- Intangibles: Interest, customary and other resource rights attached.

According to the MLNR, valuations include both land and structures affected and may include value of income produced from land. However, this does not include 'non-land producing' incomes such as income from shop business.

Once the valuation has been made and signed by the minister, the owners have 30 days to file objections, at the same time, the MLNR must disclose information on the valuation and proposed land acquisition over a 30-day period by radio at least three times on separate occasions, in one national newspaper each week, on the main notice boards and on the land itself. Objections must be lodged within this 30 days period, and on decision by the minister, the objector, if dissatisfied, may appeal the minister's decision through the Supreme Court of Vanuatu. However, if the issues are related to tradition and custom, then the National Council of Chiefs may be consulted if necessary, although not compulsorily.

After a 30 day notice period, and as long as all conflict claims and complaints are resolved, the physical compensation processes can then commence. The MLNR is responsible for this process, monitored by the Ministry of Finance and Economic Management (MFEM).

However, problems in moving through this stage may include complaints about the process of valuation to compensation itself; and process of the assessment of disputes. This is generally supposed to be settled through the Customary Lands Tribunal or if unresolved through the Supreme Court system⁶.

3.3.2 Gap Assessment against WB Policy for Land Acquisition

An assessment has been undertaken to compare the policies and required measures outlined by the WB for Land Acquisition (WB OP4.12) and the laws and practices of land acquisition used by the Government of Vanuatu and as outlined in section 3.3.1 above. The WB policies and required measures that have been included in the assessment because they relate more to land acquisition (and not resettlement of displaced people) are:

- Policy Objectives 2(c); and
- Required Measures 8, 12, 14, 20.

Any differences between the laws and practices of the Government of Vanuatu and WB policies on Land Acquisition will be resolved so that both are complied with. A summary of the gap assessment is provided in Table 3 below.

⁶ This assessment of current approaches is drawn from Government of Vanuatu, June 2011. Republic of Vanuatu: Port Vila Development Project, Resettlement Framework.

Table 3 Comparison of Land Acquisition and Resettlement Policies in Vanuatu and WB OP4.12

	WBOP4.12 Provisions	Potential Gaps in Vanuatu Law	Bridging the Gap: Reconciliation Provisions
	REQUIRED MEASURES		
8	To achieve the objectives of this policy, particular attention is paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, indigenous peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.	The law and current practice does require the acquisition and relocation orders to be disclosed several times over radio and in the printed media over a 1-month period, as well as displayed on site. However, there is no recognition of vulnerable groups nor the consultation with or participation by affected persons at any part of the process, except in the case of people given the opportunity to make objections.	WB OP4.12 will be enforced in that the prepared ARAP and its implementation will require participation and consultation of vulnerable groups as set out in the ESMF.
12	Payment of cash compensation for lost assets may be appropriate where (a) livelihoods are land-based but the land taken for the project is a small fraction of the affected asset and the residual is economically viable; (b) active markets for land, housing and labor exist, displaced persons use such markets, and there is sufficient supply of land and housing; (c) livelihoods are not land-based. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.	Compensation is determined based on issues including land type, crops etc. However, this does not include non-land producing income such as income from shop business etc. It also does not necessarily require that compensation be provided and that conditions of the affected people be the same level or better than pre-project situation.	For this Project, compensation for losses by businesses and for employee's salaries will be considered in the entitlement. Land, assets and income losses is generally valued by the MLNR. MLNR will be used to assist in compensation as per Vanuatu Law and OP4.12. It is common practice for replacement income to be equivalent to 3 months.
14	Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project to determine who will be affected for assistance, and to discourage inflow of people ineligible for assistance.	The law and current practice does specify census requirements and protocols for managing inflow of ineligible people.	For this Project, a census of affected persons including inventory of losses and basic socio-economic information at household level will be undertaken. The inventory of losses will cover the values of impacted land, structures, business/livelihoods and assets (see sample forms in Appendix B – Inventory of Assets). The cut-off date for the ARAP will be the date when the inventory of affected people is completed and set out in the

	WBOP4.12 Provisions	Potential Gaps in Vanuatu Law	Bridging the Gap: Reconciliation Provisions
REQUIRED MEASURES			
			ARAP. Any new claimants after that cut-off date will not be included in the compensation process, unless there has been a clear change in scope of design of the project, leading to the requirement for an updated plan.
20	The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project.	Laws and practices in Vanuatu require that the Project budget consider and includes land acquisition costs.	Not required

3.3.3 Vanuatu and WB Land Acquisition Policy Provisions – Bridging the Gap

Based on the gap assessment of the laws and practices of Vanuatu and the WB policy requirements for Land Acquisition a number of additions have been made to the provisions set out under Vanuatu laws as outlined in section 3.3.1. This is to ensure consistency with the principles of the WB and for reference by NAB when preparing and implementing Abbreviated Resettlement Action Plans (ARAP) as may be required by this Project. The main gaps are around scope of consultation with affected populations and scope of compensation. Table 4 below provides a summary of the principles and policies that will apply to this Project in addition to the laws and practices of land acquisition currently undertaken in Vanuatu.

Table 4 Applicable Resettlement Principles Additional To Vanuatu Laws

Issue	Policy / Procedure Adopted by Vanuatu ⁹
1. Consultation	<p>1.1 Preparation of ARAP and their implementation shall be carried out with the participation and consultation of affected people and the PMU supported by relevant government agencies should land acquisition prove necessary.</p> <p>1.2 Affected populations will be systematically informed and consulted about the Project, the rights and options available to them and proposed mitigation measures</p>
2. Compensation	<p>2.1 Affected people shall be provided with compensation for their lost assets, incomes and businesses, and provided with rehabilitation measures sufficient to assist them to improve or at least maintain their pre-project standards, income levels and productive capacity</p> <p>2.2 Affected land assets shall be replaced at their current market values, based on MLNR approval</p> <p>2.3 Where significantly large or entire land holdings are affected by a project, the general mechanism for compensation for affected agriculture, residential or commercial land shall be through provision of 'land for land' arrangements of equivalent size and productivity and at location acceptable to the affected people if possible</p> <p>2.4 If a house or other structure is only partially being affected by the Project and the remaining structure is rendered unviable for continued use or in area less than the minimum relevant structure size under the prevailing standards, the affected people shall be entitled to surrender the entire structure and to compensation for the entire structure at full replacement cost without depreciation or deductions for salvaged material</p> <p>2.5 Affected people whose land or assets are temporarily taken by the works under the project shall be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The contractor shall also ensure that all temporarily acquired land and structures are returned in its pre-project state.</p> <p>2.6 Compensation of affected populations dependent on agricultural, land and natural resource based activities will be land-based or access-based (for those who rely on traditional accessibility to marine-based livelihood) wherever possible.</p> <p>2.7 Affected populations that stand to lose only part of their physical assets will not be left with a proportion that will be inadequate to sustain their current standard and convenience of living, such minimum size being identified and agreed during the resettlement planning process.</p>
3. Government Planning	<p>3.1 Clear budget commitments are required for critical activities such as formal detailed physical surveys and administrative functions associated with compensation.</p> <p>3.2 Community facilitates and infrastructure damaged due to the Project shall be restored or repaired as the case may be, at no cost to the community.</p>

4 LAND ACQUISITION PROCEDURES

4.1 Preparation of the Abbreviated Resettlement Action Plans (ARAP)

The PMU for the NAB will be responsible for preparing the ARAP in consultation with MLNR, MAQFF and other stakeholders. The severity of impact will determine the level of LAP required. In order for the scope, magnitude and budget of potential impacts of resettlement and land acquisition in relation to the Project interventions to be calculated, the processes outlined in this section will be followed, along with all conditions set out under this LPF. Following initial assessment and screening in order to avoid or minimize impacts, the ARAP will be developed which identifies, as a minimum, the following:

- A census survey of displaced persons and valuation of assets;
- Description of compensation and other assistance to be provided;
- Institutional responsibility for implementation and procedures for grievance redress;
- Arrangements for monitoring and implementation; and
- A timetable and budget.

Key elements required in ARAP are further detailed below and in Appendix E – Outline of Abbreviated Resettlement Action Plan:

Screening

Impacted areas will require screening for land acquisition impacts. A screening form (see sample forms Appendix A – Checklist of Land Acquisition Impacts) should be used at the time of detailed design in each area after site visit and initial consultations with potentially affected communities and businesses. This screening form will reflect if there are any land acquisition impacts that will need to be considered in engineering design to avoid or minimize impacts, and to determine if land acquisition Planning processes are triggered, where land acquisition cannot be avoided. Where screening identifies that a subproject will require land/acquisition, a socioeconomic assessment will need to be conducted.

Socio-economic Survey

A socio-economic survey of the affected persons is required in areas where land acquisition is likely. The data collected will assist in identifying the social impacts from land acquisition on the affected persons by documenting the poverty and social conditions of persons affected by the project, and identify vulnerable groups needing additional assistance. The information will be used for determining rehabilitation measures necessary for the restoration of affected person's livelihoods to the same or better standard following implementation of the project.

Census and Inventory of Losses

A Census of affected persons including inventory of losses and basic socio-economic information for all DP's at household level will be undertaken. The inventory of losses will cover the value of impacted land, structures, business/livelihoods and assets (see sample forms in Appendix B – Inventory of Displaced Persons and Assets). The 'cut-off' date for the ARAP will be the date when the inventory of affected people is completed and set out in the ARAP. Any encroachers after that cut-off date will not be included in the compensation process, unless there has been a clear change in scope of design of the project, leading to the requirement for an updated plan.

Funding and Compensation

The inventory of losses will be used to determine losses and scope for entitlement as well as the magnitude of social impact on the affected persons household. It can also be used to determine compensation entitlements using the Entitlement Matrix. Affected areas will be known by this time, so a list of affected people including an inventory of losses will be formulated and budget prepared. Final budget of compensation must be based on consultation with the affected persons (or a representative) and the PMU for the NAB, MLNR and other relevant stakeholders.

Consultation and Disclosure

Consultation with both the community and Government is an essential part of the land acquisition scoping, planning and implementation process. ARAPs should be developed in consultation with the affected persons, host area community (if relocation is required) and the relevant Government agencies. Records of all consultations with affected communities and people, host communities, NGOs and mass organisations, and relevant government agencies should be documented (see sample forms in Appendix F –Template for Documenting Public Consultation Meeting). A record of agencies, Community and affected persons consulted and issues discussed should be kept and included in the ARAP. Further detail on the Consultation Process and Grievance Procedures is outlined in other sections of this RPF.

Database and Information Management

All information concerning resettlement issues related to land acquisition, socioeconomic information of the affected land, structures, inventory of losses by individual affected person, compensation and entitlements will be entered onto a computer database by the PMU for the NAB. This database will form the basis of information for implementation, monitoring and reporting purposes and facilitate efficient management and monitoring of compensation distribution. The affected persons will be required to sign (a finger-print will also suffice) the inventory of losses form prepared and a Payments ID form at time of compensation distribution. The payments ID form will contain particulars of the census of losses and the agreed compensation amount to be provided to the particular displaced person (see sample forms in Appendix C for Voluntary Donation and Appendix D for Agreement for Compensation).

4.2 Implementation of the Abbreviated Resettlement Action Plans

4.2.1 Institutional Arrangements

The PMU will have the responsibility for:

- Preparing the abbreviated resettlement action plan, based on the detailed design of the project component that may involve land acquisition impacts, prior to construction commencement.
- Coordinating with relevant government agencies such as the MLNR regarding land ownerships, titles and compensations.
- Preparing an internal monitoring report to be submitted to the WB confirming compliance with WB OP4.12 and associated policies and measures.

Provision of Compensation

When the LP is prepared through identification of specific impacts and compensation costs, the affected persons will sign a document signifying their satisfaction on the compensation arrangement. The PMU will prepare a pro-forma document to be used for the settlement of obligation in land acquisition and compensation (see sample forms in Appendix C, D and F). Disbursement of cash will follow the approval of budgets for cash compensation. The PMU for the NAB will inform the affected persons of the schedule of fund release. They will also advise the affected persons to produce acceptable legal documents pertaining to their identification for claiming the compensation. It is the main responsibility of PMU to

ensure that all the compensations and entitlements have been paid to and settled with affected persons prior to clearing the construction sites. The PMU will arrange for the compensation to be dispersed directly to affected persons on presentation of identification. Affected persons will sign a document indicating the receipt of their compensation and entitlements.

Monitoring of Compliance with WB OP4.12 policies

Internal monitoring is the responsibility of the PMU but will be conducted with the assistance of other government agencies as required. Internal monitoring reports will be submitted to WB with the quarterly progress reports. External Monitoring will only be triggered in the case that there is a significant number of affected persons affected by the project. The details of Monitoring and Evaluation are discussed in further detail in other sections of this RPF.

4.3 Compensation and Rehabilitation Eligibility

Affected persons entitled to compensation or at least rehabilitation provisions under the project are:

- All affected persons losing land, garden, structures (for example, property fences), crops or income with or without title, formal lands use rights or traditional land use rights as a result of the Project intervention.
- Tenants whether registered or not.

The Entitlement Matrix outlined in Table 5 below provides for compensation and entitlements as described in the likely impacts of the Project. This Matrix will need to be adapted more specifically to the losses recorded when the ARAP is prepared. Note, in cases where title owners are absent, contested or passed away and where the next customary owner has not been legally named, compensation payments will be placed in a trust until the family decides on the recipient.

Table 5 Entitlement Matrix

	Type of Losses	Entitled Person	Entitlement
1a	Loss of Land – Commercial or residential	Title Holder (Land Owner)	<ul style="list-style-type: none"> - Current Market Value of affected land in cash compensation to be provided to the Land owner or through Government Trustee for future land owner claimant. - Loss of potential rent income value - Changing of title to reflect land transferred to Government and to reflect appropriate land use type (agricultural, residential etc), without cost to the land holders' account.
1b	Loss of Land- Agricultural	Legal owner(s) of land	<ul style="list-style-type: none"> - Current Market Value of affected land in cash Agricultural compensation to be provided to the Land owner or through Government Trustee for future land owner claimant. - Loss of potential rent income value. - Changing of title to reflect land transferred to Government and to reflect appropriate land use type (agricultural, residential etc), without cost to the land holder's account.
1c	Agricultural and commercial Land (Loss of land use) - Leaseholder	The Leaseholder – earning income through land-use for agriculture or business (e.g. Storage, vehicle parking etc.) purposes	<ul style="list-style-type: none"> - Cash payment for the interest on the loss of the profit from land use over the years remaining on the lease. - Change in the Lease removing land area from the leasehold, at no cost to the leaseholder including government administrative fees.
2a	Loss of Structures - Titleholders	Title Holder	<ul style="list-style-type: none"> - Replacement at the market cost
2b	Loss of structures - Tenant	Tenant	<ul style="list-style-type: none"> - Replacement at cost - Rebuilding assistance
2c	Loss of structures – Informal settlement	Non-title holder and non-tenant – squatting or informal settlement	<ul style="list-style-type: none"> - Structure replacement value to area required and land entitlement assistance - Social Assistance if fall below poverty

	Type of Losses	Entitled Person	Entitlement
			line.
3a	Loss of community or common property	Structure owners or users and cultural/religious structures and land	<ul style="list-style-type: none"> - Physical replacement of structure - Temporary facilities will be provided between time of demolishing and rebuilding of replacement structure - Assistance for religious and cultural rights will be provided for new structures.
4	Temporary Loss	Land/Structures owners/users	<ul style="list-style-type: none"> - Compensation for necessary losses during project period or period of loss. - Make good damaged land or structure caused by the subproject, immediately after installation of drainage/road maintenance in the area (within 5 days)
5a	Livelihood Losses – Crops (non-pasture)	Owners of crops and trees	<ul style="list-style-type: none"> - Tenants/landowners/communities compensated with replacement or equal value to temporary loss distributed in same proportions as leasing agreements
5b	Livelihood Losses – Tenants	Agricultural tenants losing income – including livestock, grass and fodder and other agricultural income	<ul style="list-style-type: none"> - Compensation for income loss during acquisition and resettlement process equal to replacement value of income, based on average from previous year. - Distribution will be in same proportions as leasing agreements.
5c	Livelihood Losses – business	Business owners losing income	<ul style="list-style-type: none"> - Temporary loss of business - Lump sum to equal value of income for period of loss determined based on previous yearly income. - Permanent Loss of business - Replace of structure and Land.
6	Trees	The Land-user – the land user, who is charged to develop the land as per instructions on the Lease.	<ul style="list-style-type: none"> - Wood trees – cash compensation based on value of wood volume x market value of the wood. - Fruit-Bearing trees: Compensation at Ministry of Agriculture Rate plus 5 year yield - Young trees, not yet to economically produce stage will be compensated at 2x sapling replacement cost (i.e. for one tree lost, 2 trees replaced).
7	Vulnerable Households	Affected Poor/elderly/disabled/female headed households and those whose impacts will induce them to fall on or below the poverty line.	<ul style="list-style-type: none"> - One additional cash allowance equal to market value of gross income.
8	Loss of gardens	All affected persons including holders of land use certificate,	<ul style="list-style-type: none"> - Compensation in cash at full market value for 1 annual harvest by default for impacts caused by use of

	Type of Losses	Entitled Person	Entitlement
		customary rights holders, tenants and squatters (informal settlements)	additional area foreseen to be damaged due to making space for construction works, replacement cost of gardens or small structures damaged. - Tenants, use rights holders will share compensation based on their contract.

4.4 Protocols for Voluntary Land Acquisition and Donation

Voluntary Land Acquisition (or Donation) refers to a process by which an individual or communal owner agrees to provide land or property for project-related activities. In general, Voluntary Land Contribution is undertaken without Compensation. Voluntary contribution is an act of informed consent, made with the prior knowledge of other options available and their consequences, including the right not to contribute or transfer the land. It must be obtained without undue coercion or duress.

Voluntary Land Acquisition or Donation requires a declaration by the individual, household or group that they are donating the use of the land for a specific purpose and a specific duration of time. It is provided freely and without compensation.

Voluntary land donation is only acceptable if the following safeguards are in place:

- Full consultation with landowners and any non-titled affected people on site selection;
- Voluntary donations should not severely affect the living standards of affected people;
- Any voluntary 'donation' will be confirmed through written record (see Appendix E) and verified by an Independent third party such as customary tribunal, NGO or legal authority;
- Adequate grievance redress mechanism should be in place;
- Land is made available to project beneficiaries for the duration of the project;
- Private households donating land should be direct beneficiaries of the investment; and
- Impacts should be minor, and less than 10% of total land / asset.

4.5 Supervision and Monitoring

As the land acquisition impacts are expected to be small and with limited impacts, only internal monitoring is envisaged. In the case that land acquisition impacts do become significant, for unforeseen reasons, then external monitoring would be undertaken.

4.5.1 Internal Monitoring

Internal Monitoring will be conducted by the PMU. The PMU will design and establish an internal monitoring system for land acquisition and resettlement by submitting the monitoring plan with the ARAP to WB at the time of the detailed design. The objectives of a monitoring program are:

- To ensure that the standard of living of affected persons are restored or improved;
- To monitor whether the timelines are being met;
- To assess if compensation, rehabilitation measures and income restoration support programs are sufficient; and

- To identify and mitigate any issues arising.

The range of activities and issues recorded and checked might include, but not be limited to:

- Staffing – adequacy, resources and competence;
- Land acquisition procedures;
- Income restoration calculations and compensation procedures;
- Public participation – arrangements and efficiency;
- Compensation payments, including timeliness of payments, coordination and valuations;
- Construction of replacement houses by displaced households (if any affected);
- Re-establishment of displaced households and business enterprises;
- Replacement of common facilities;
- Response of severely affected households, in particular, to resettlement and compensation packages;
- Re-establishment of income levels;
- Grievance redress committees – establishment and functioning; and
- Monitoring affected person's rehabilitation status to ensure that affected persons are not made worse off by the resettlement activity.

Monitoring will be carried out on a baseline, mid-term and end of land acquisition and compensation period and monitoring reports will be submitted to WB accordingly. The PMU will be responsible for determining if any follow-up actions are necessary and ensuring these actions are undertaken. Prior to distribution of compensation to the affected persons, the PMU will announce the compensation schedule dates to each affected party. No construction in the affected area will commence until the compensation has been fully completed.

The PMU will prepare and submit to the WB quarterly monitoring reports on implementation of the ARAP. The monitoring reports will be locally disclosed to concerned stakeholders.

4.5.2 External Monitoring

In case any project activity involves unexpectedly significant land acquisition and resettlement impacts, an External Monitor or External Monitoring Agency (EMA), approved by the WB, will be engaged and detailed arrangements will be included in the ARAP for respective project component. The EMA must be independent and can be a consultant, an NGO or academic institution. It is recommended that the monitor be sourced locally to carry out this activity. A budget item for EMA will be included in the ARAP for the specific sub-project on an intermittent input basis.

The EMA role will be to monitor the land acquisition process and verify that compensation have been implemented in accordance with the agreed ARAP.

At the end of the implementation of the ARAP the EMA will prepare a compliance report. If found acceptable, based on this document and the specific ARAP, the WB will provide to the EA a letter of no-objection for the initiation of civil works in areas with impacts. The EMA will also be involved in the complaints and grievance procedures to ensure concerns, if any, raised by affected persons and any affected parties are addressed satisfactorily.

Table 6 Monitoring Approach during Each Project Cycle

Project Cycle	Data for Monitoring
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Sub-Project Application	Land take for sub-projects; scale of resettlement, if any
Project Concept Development Technical & Social Review	Community consultations (date, number of participants, issues)
Abbreviated Resettlement Action Plans (ARAP)	Data from census with inventory of assets lost, entitlement and socio-economic data, Date of receipt, review and approval Dates of submission and approval Date of disclosure
Implementation	Delivery of compensation Data on grievance redress
Post-Implementation	Evaluation including assessment of economic rehabilitation/income restoration

5 COMPLAINTS AND GRIEVANCE

5.1 Introduction

The WB requires that appropriate and accessible grievance mechanisms be established for persons affected by involuntary land acquisition and their communities. Specifically, OP 4.12 requires that there should be affordable and accessible procedures for third-party settlement of disputes arising from land acquisition, and that grievance mechanism should take into account the availability of judicial recourse and community and traditional dispute settlement mechanisms.

In the Republic of Vanuatu, the affected people will be given several opportunities to review the survey results and compensation policies during the planning and implementation processes. In the course of the implementation, disputes may arise which require independent resolution. The affected people will be informed of their rights and the grievance redress mechanisms available to them. These mechanisms include traditional forms of conflict resolution, legal and political means.

Grievance and Complaints Procedures are set up to:

- Provide support to affected persons and affected parties on problems arising from land acquisition and associated impacts;
- Provide a means by which the various conflicting stakeholders may be consulted and negotiated agreement reached; and
- Specify names of and contact numbers of officers who will be responsible for handling grievance procedures.

5.2 Grievance and Complaints Procedures

The following levels of Grievance redress are adopted. The ARAP for relevant component/subproject will specify further details on the grievance redress mechanism.

Community Level

A community committee made up of DP representatives, community representatives and representatives of the customary owners shall be set up and will meet in the case a complaint is lodged¹⁰. A decision should be made within 7-days of the complaint being lodged. The committee will be chaired by the Village Chief. In the event that the Village Chief is a 'customary owner', the chair of the committee may be represented by the community's religious leader.

Project level

If not satisfied with the decision, the complainant has the option to appeal to the Project level, represented by the PMU located in the VGDM for the NAB. A decision must be made within 14 days of receipt of appeal.

Customary Land Tribunal

If not satisfied with the Project level decision, the complainant may choose to appeal to the Customary Land Tribunal, as per the current Land acquisition Law. Under the Law and current procedures in Vanuatu, the complaints procedure can last up to 30-days. The decision of the tribunal is generally final, unless the tribunal procedures are challenged.

Legal Procedures

Further appeal may be made through the Supreme Court of Vanuatu, only in the case that the Customary Tribunal procedures were faulty in the specific case.

6 PUBLIC CONSULTATIONS

6.1 Good Practice Approaches

Successful public consultation involves a range of activities that seek to maximise the trust and dialogue between the Government and the communities affected by land acquisition and resettlement, with the aim of reaching sustainable outcomes for all stakeholders. Key principles for public consultation include:

- Consulting widely and taking care to reach all affected people;
- Properly informing landowners of the consequences of land acquisition, the process and their rights;
- Negotiating with landowners before compulsorily acquiring land;
- Ensuring landowners have access to independent expert advice during the acquisition process;
- Ensuring there is coordination among government agencies;
- Ensuring objectivity in the valuation of land and that the land valuation industry is regulated; and
- Providing dispute resolution mechanisms for landowners¹⁰.

6.2 Public Consultation Process

The Vanuatu Government has developed a public consultation process that seeks to engage with affected individuals and communities, disclose information publicly and incorporate traditional and administrative / legal grievance dispute mechanisms.

6.2.1 Consultation

During project implementation, affected persons consultation and awareness will be ensured through regular consultation meetings. These will be used to ensure the community (both residents and businesses) is aware of the detailed design plans and ARAP implementation. They will also identify with the affected persons any ARAP implementation problems and undertake timely remedial actions in consultation with affected persons and their representatives.

The ARAP will be prepared at the end of the detailed design stage of project implementation, at which time resettlement impacts and DP consultation/information awareness will be conducted to ensure full stakeholder participation occurs in ARAP preparation. This task will be carried out by the PMU for the NAB who will be in charge of the land acquisition and compensation process under the laws of Vanuatu.

6.2.2 Disclosure

The Executive Summary of the ARAP, will be translated and disclosed to all affected parties in the local language(s), including Bislama, French and English, as needed. Copies of the ARAP will be made available at a designated public office. Furthermore, disclosure will be a condition to proceed to ARAP implementation, and will follow the requirements under the Laws of Vanuatu and WB requirements:

- A notice of intent to inquire land will be disclosed on the site for 30 days prior to ARAP completion and approval by the PMU for the NAB.
- The ARAP will be provided to the affected persons, and to the customary land holders (if any identified and have legal claim to the land) or the trustees.
- After ARAP is endorsed by the NAB and other government agencies and approved by WB, the land acquisition notice will be published in the newspaper, on radio and a notice placed on the site in order to comply with Vanuatu disclosure laws in full.

- The ARAP will similarly be disclosed on the Government (or similar) Website. Monitoring reports on implementation will also be disclosed locally and posted on Government (or similar) website.

Appendix A

Outline of an Abbreviated Resettlement Action Plan (ARAP)

Appendix A Outline of an Abbreviated Resettlement Action Plan

An abbreviated plan covers the following minimum elements:

- a) A census survey of affected persons and valuation of assets;
- b) Description of compensation assistance to be provided;
- c) Consultations with affected people about acceptable alternatives;
- d) Institutional responsibility for implementation and procedures for grievance redress;
- e) Arrangements for monitoring and implementation; and
- f) A timetable and budget.

Appendix B



Appendix B

Checklist for Land Acquisition Impacts

Sub-project Title:				
Location and Impact area:				
Date:				
Type of intervention:				
Probable Effects	Yes	No	Not known	Remarks
Acquisition of Land				
1. Will there be land acquisition?				
2. Is the site for land acquisition known?				
3. Is the ownership status and current usage of land to be acquired known?				
4. Will easement be utilised within an existing Right of Way (ROW)?				
5. Will there be loss of shelter and residential land due to land acquisition?				
6. Will there be loss of agricultural and other productive assets due to land acquisition?				
7. Will there be losses of crops, trees, and fixed assets due to land acquisition?				
8. Will there be loss of businesses or enterprises due to land acquisition?				
9. Will there be loss of income sources and means of livelihoods due to land acquisition?				
Involuntary restrictions on land use or on access to legally designated parks and protected areas				
10. Will people lose access to natural resources, communal facilities and services?				
11. If land use is changed, will it have an adverse impact on social and economic activities?				
12. Will access to land and resources owned communally or by the state be restricted?				
Any estimate of the likely number of persons affected by the Project? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, approximately how many?				
Are any of them poor, female-heads of households, young or vulnerable to poverty risks? <input type="checkbox"/> No <input type="checkbox"/> Yes				
Are affected persons from indigenous or ethnic minority groups? <input type="checkbox"/> No <input type="checkbox"/> Yes				

Appendix C



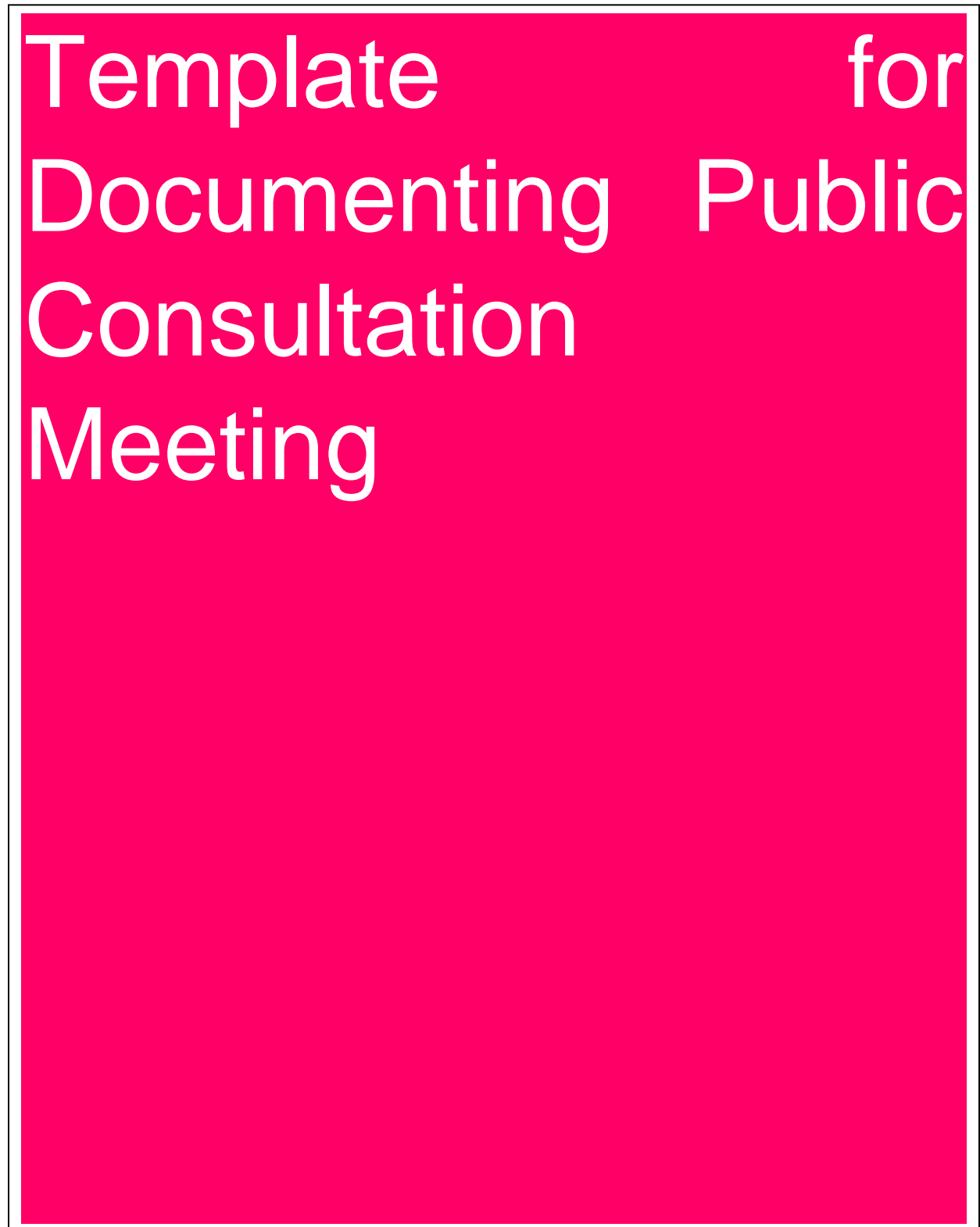
Appendix C

Inventory of Assets

Component: _____
 Village: _____
 District: _____
 Validity Date: _____

						Loss of Assets						Other Losses		
Survey No.	Name of HH or person with ownership	Number of people in HH	Total Land held in HH (m2)	Land to be acquired by type of use (m2)	Loss of % of total land	No. and type of lost structure	Permanent structures (m2)	Temporary structures (m2)	Total Land lost (m2)	Loss of crops (fruit trees/other by no. and type)	Loss of other assets (specify type and no.)	Resident	Business	Income

Appendix D



Appendix D Template for Documenting Public Consultation Meeting

BASIC INFORMATION	
PROJECT NAME:	
DATE AND VENUE	
PARTICIPANTS – NUMBER AND AFFILIATION	

Objectives of consultation: (i) please enumerate items for sharing of information, ii) seeking opinions, and/or decision/support).

Highlights of discussions (please, indicate source of comments/questions, etc)

Objectives	Supportive	Constraints	Agreements

Assessment and Conclusion (state here if the purpose of public consultation have been met, next steps needed)

Attachments:

Presentation materials:

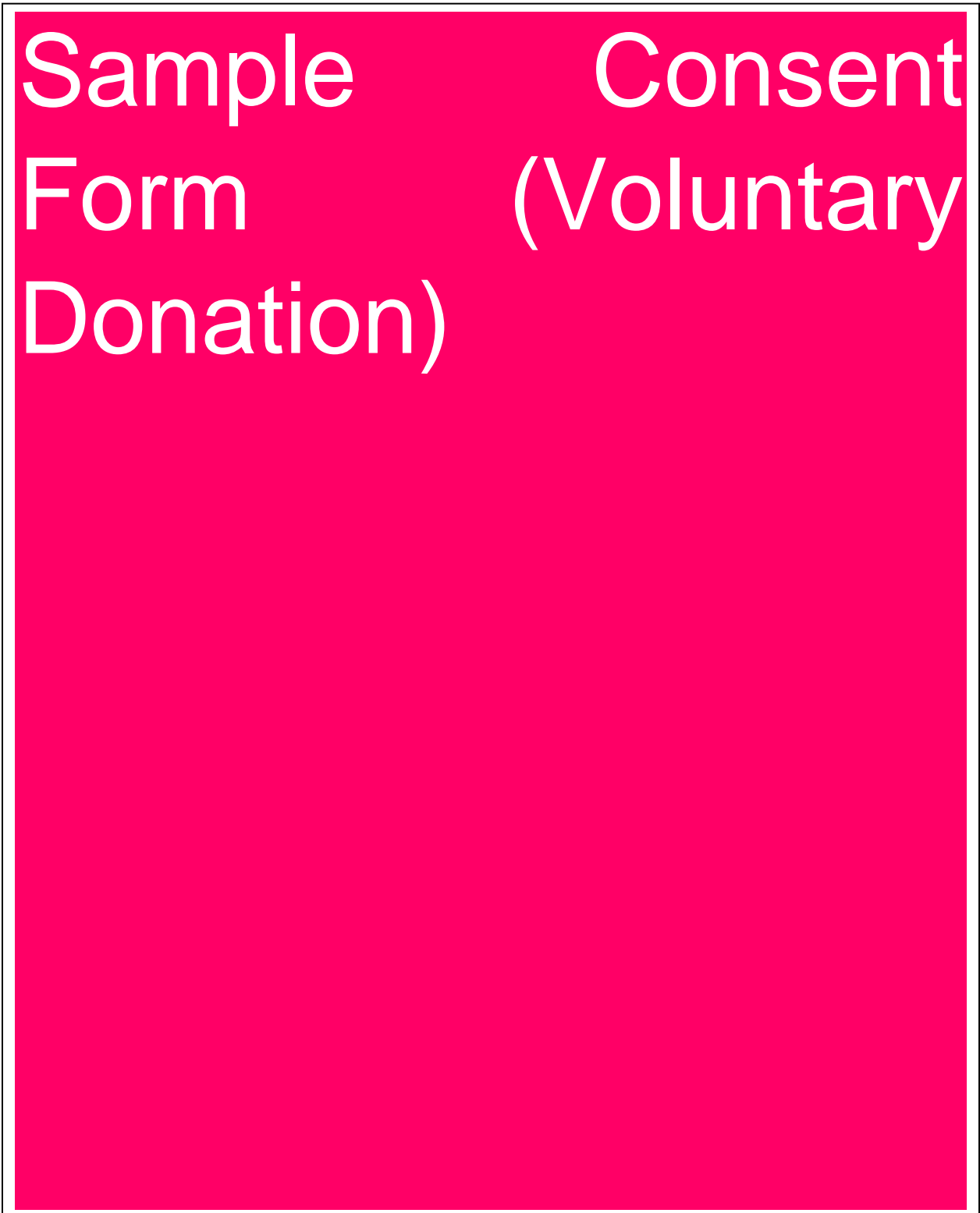
Attendance sheet:

Photos:

Invitees list and proof of received invitations:

Publications announcement of the Public Consultations and relevant records:

Appendix E



Appendix E Sample Consent Form (Voluntary Donation)

Date: _____

I/We: _____ male household head _____ female household head,

AND/OR person exercising custom over the affected

land _____

Resident/s of _____ Village in _____ District _____,

Declare that I/We/the group is voluntarily donating the use of (specify land, assets, location, size, type etc.)

For the purpose of: (specify activity)

For the duration of: (specify commencement date and duration)

Of My/Our own free will, I/We are waiving My/Our right to compensation of any kind for the specified duration of the activity.

Signed:

Male household head _____ Female household head _____

Person exercising Custom _____

Appendix F



Appendix F Sample Consent Form (Agreement for Compensation)

Date: _____

I/We _____ male household head _____ female household head,

OR Person exercising custom over the Affected Land

Resident/s of _____ Village in _____ District

Declare that I/We/the group are consenting to the use of (specify land, assets, location, type etc)

For the purpose of: (specify activity)

For the duration of: (specify commencement date and duration)

For the following agreed compensation arrangements (NB, use the back of form if needed):

Signed:

Male household head _____ Female household head _____

Person Exercising Custom _____