

Land Acquisition Framework

Preparation Stage of the Vanuatu Climate Change Adaptation Project

Prepared for

Government of Vanuatu

Prepared by

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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

| | |
|------------------|---|
| DGMWR | Department of Geology, Mines and Water Resources |
| LAF | Land Acquisition Framework or Framework |
| LAAP | Land Acquisition Action Plan |
| LARF | Land Acquisition and Resettlement 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 for Disaster Risk Management and Climate Change |
| PCU | Project Coordination Unit |
| RWS | Rural Water Supply |
| V&A | Vulnerability and Adaptation |
| 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 |

1.0 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 Land Acquisition and Resettlement Framework (LARF or Framework) is developed for the project. The resettlement instrument is included in the Legal Agreement between the Bank and the Borrower. ¹

1.2 LARF

A LARF is developed for the project when the specific impacts relating to land take are not known in advance. The underlying principle of the LARF is to avoid/ minimise adverse impacts. The LARF 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 LARF 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.

¹ 'Involuntary Resettlement' powerpoint presentation Radhika Srinivasan, World Bank, <http://siteresources.worldbank.org>

The contents of the LARF 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 coordination unit (PCU)².

² Involuntary Resettlement' powerpoint presentation Radhika Srinivasan, ECSSD, World Bank,
<http://siteresources.worldbank.org>

2.0 Introduction

2.1 Development Objective

The development objective of the National Adaptation Project (NAP) is to improve the resilience of Vanuatu smallholders and communities to the impact of climate variability and change on food and household water security as well as livelihoods. The project will achieve this objective by improving the capacity of the national and provincial Government to:

- Select and distribute root crop planting material of diverse genetic composition;
- Partner with communities in providing clean and reliable water supply; and
- Partner with communities in promoting community-based adaptation, particularly in coastal areas.

2.2 Project Components

The project comprises of four components:

- Improved agricultural resilience;
- Rural water supply;
- Strengthening adaptive capacity in coastal areas; and
- Project management.

The approach is to build on successful pilots and programs already trialled by government and other agencies. The project balances investment with training and technical assistance, and provides important support to operating and maintenance costs. It emphasises community involvement and participation by the provincial authorities in Vanuatu. Overall, the focus of the project is to build resilience by rural communities to climate change and extreme weather events. A summary of the four components is provided below.

2.2.1 Component 1: Improved Agricultural Resilience

This component will build the capacity of Vanuatu Agricultural Research and Training Centre (VARTC) to collect, store and screen root crop cultivars to be distributed to farmers throughout Vanuatu, increase smallholder access to climate-resistant planting material through demonstration sites and plant distribution centres and provide advice on improved farming practices through farmer training.

This component builds on the work already in process by VARTC on establishing a collection of root crops (sweet potato, taro, yam and cassava) to widen the genetic diversity of planting material, with the assistance of national and international organisations such as the Farmer Support Agency (FSA), Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Live and Learn and others. A pilot project distributed the planting material to approximately 450 households in ten villages around Vanuatu, with positive results in terms of increased production, subsequent replanting, greater genetic diversity and taste acceptability.

Primary responsibility for implementing this component would rest with the project coordinator for Component 1 and the Department of Extension of the MALQFF. The VARTC would be responsible for the collection of root crop cultivars, cultivar screening, cultivar assessment and ensuring the planting material is available for the plant distribution centres. The Department of Extension would be responsible for the distribution of planting material in the plant distribution centres, establishing on-farm demonstration sites and following up on cultivar performance. In addition, NGOs have well established relationships with communities and are well-placed to assist in the implementation of the project as service providers under contract to the PCU.

2.2.2 Component 2 – Rural Water Supply

This component would increase access to safe water supplies in rural areas of Vanuatu by improving the ability of the Rural Water Supply (RWS) section of the Department of Geology, Mines and Water Resources (DGMWR) to work with water sector partners, such as donors, NGOs and church groups, to deliver a standard service to communities based on consistent guidelines and standards. This will ensure that water supply systems being installed meet newly updated basic national rural water supply standards and guidelines, support the expansion of rainwater harvesting and storage for 120 priority communities (20 in each province), and strengthen the capacity of the RWS as a facilitator of rural water security.

This component will build on the nation-wide inventory of water resources and existing water supply systems conducted by RWS and NZAID, which will form the basis for identifying priority communities to be assisted under this component.

Primary responsibility for implementing this component would rest with the project coordinator for Component 2 and the RWS. The RWS would be responsible for updating the standards and guidelines for rural water supply provision, distributing the updated standards and guidelines to water sector partners, identifying the priority communities for the small-scale rural water supply systems and the tender arrangements for installation of the rural water supply systems. Technical assistance from experts in the region would assist with the review and update of the standards and guidelines for rural water supply provision. RWS would work with and through water sector partners, including donors, NGOs, church groups and the private sector to deliver the rural water supply systems to the 120 identified communities. In addition, the component would use community labour and in-kind contribution to install tanks for rainwater harvesting and small pumping systems for groundwater and stream diversions. The NAP project coordinator would work closely with RWS staff to monitor the water sector reform and institutional reform process, contracting studies and any other relevant activities. The monitoring and evaluation officer in the NAP PCU would assist the RWS in preparing the monitoring and ongoing consultation plans.

2.2.3 Component 3 - Strengthening adaptive capacity in coastal areas

The component would assist the coastal communities at East Ambae in Penama province and Annelcauhat in Tafea province to identify their priority areas in terms of climate risk to focus on in a community-based adaptation plan and provide small community grants to implement actions that increase their ability to adapt to climate-related risks. This will assist in the development of a model for integrated community-based adaptation planning in Vanuatu in order to increase the capacity at a national and provincial level to facilitate community based adaptation. There is the possibility of expanding to additional coastal communities, which will be assessed during the mid-term review.

The priority risks identified in the community-based adaptation plans that would be financed through a community grant include: introducing climate-resilient crop varieties and techniques (as per component 1), food preservation and storage (such as solar dryers), improved reef/fisheries management to sustain fish supply or monitor for ciguatera outbreaks, improved livestock techniques (such as feed fermentation or animal husbandry), increased rainwater harvesting or storage (as per component 2), construction of composting pit latrine, improvements to school or health clinic structures, flood or erosion control (including planting of vegetation or the construction of small-scale retaining walls), small-scale aquaculture ponds or cages, copra drying shed and solar mobile phone charging stations.

Primary responsibility for implementing this component would rest with the project coordinator for Component 2, community-based adaptation facilitators and contracted existing resource NGOs. Community-based adaptation facilitators will be hired and trained as necessary to mobilise a local planning process, facilitate community consultations, identify vulnerabilities and root causes, develop possible solutions, develop community grant proposals and manage the various interventions financed through these community grants. NGOs will be responsible for the process of social mobilisation, participation and subproject implementation. Over time, a group of community professionals, like village facilitators and extension workers, will be identified from within the villages and trained by the project in order to build up human capital at the village level and function as a sustainable local technical resource for communities after the project. In all the targeted communities, people may be encouraged to form community based organisations that would provide a lead for the identification and implementation of adaptation and local development activities.

The project would also seek partnership arrangements with Centres of Excellence while approaches developed would be disseminated elsewhere in Vanuatu for possible replication and scale-up under other programs. This component will also require co-management support from the Government of Vanuatu and the provinces to facilitate the formulation and implementation of community based activities.

2.2.4 Component 4 – Project Coordination

Overall high-level coordination of the project would be the responsibility of the recently created National Advisory Board for Disaster Risk Management and Climate Change. Day to day project management responsibility would be undertaken by a PCU to be established within the Vanuatu Meteorology and Geo-Hazards Department (VMGD). Provision has been made for the project to support a full-time project manager, while the costs of a procurement specialist, an accountant and a monitoring and evaluation specialist would be shared with another WB project in Vanuatu. In addition, periodic international technical assistance would be provided to assist in capacity building.

The PCU would be responsible for:

- Coordinating the total work plan and budget for the Project each year;
- Providing continuous oversight and resolving problems in project implementation;
- Monitoring project progress and measuring impact;
- Ensuring environmental compliance;
- Audit of the project accounts;
- Financial management; and
- Procurement.

2.3 Project Requirement for Land Acquisition

A Land Acquisition Framework (without resettlement) has been adopted for this Project as the possible impacts and the extent to which the project will directly affect people in Vanuatu cannot be completely defined prior to approval of the project. Project development activities are related to the selection and distribution of root crop for planting material; providing clean and reliable water supply; and promoting community-based adaptation particularly in coastal areas, and are not expected to require land acquisition or resettlement of people. However, a Land Acquisition Framework (LAF) has still been prepared for this Project in the interests of good practice and to prevent delays in project implementation if land acquisition is required.

Table 1 below provides an overview of the activities proposed under Components 1 – 3 of the Project and whether land acquisition (voluntary or involuntary) would be a possible 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 – Improved Agricultural Resilience | |
| 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 in each of the provinces | Voluntary land acquisition may be a possibility |
| Establish the plant distribution centres for the dissemination of climate-resistant crops, such as the agricultural college, churches, high schools and other suitable locations | Not applicable |
| 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 |
| Build capacity of the Department of Extension of the MALQFF to facilitate and supervise provincial service delivery, other rural service providers and rural households. | Not applicable |
| Project Component 2 – Rural Water Supply | |
| Update rural water supply standards and guidelines for rural water supply provision | Not applicable |
| Improve access to and adoption of updated rural water supply guidelines and standards by water sector partners, including donors, NGOs, church groups and the private sector | Not applicable |

| Project Activity | Land Acquisition |
|--|--|
| Installation of small-scale rural water supply systems | Voluntary or involuntary land acquisition may be a possibility |
| Support to ongoing national water sector reform consolidation and strengthening (as it is expected that the RWS section would be transformed into the Department of Water as part of the water reform process during implementation of the proposed project) | Not applicable |
| Project Component 3 – Strengthening Adaptive Capacity in Coastal Areas | |
| Complete community Vulnerability and Adaptation (V&A) assessment | Not applicable |
| Prepare a community-based adaptation plan based on the V&A assessment findings | Not applicable |
| Carry out capacity building and awareness raising interventions to reduce individual and community vulnerability | Not applicable |
| Implement the community-based adaptation plan | Voluntary or involuntary land acquisition may be a possibility |
| Provide community grants to address the priority risks identified in the adaptation plans | Not applicable |
| Monitor the community-based adaptation plans | Not applicable |

Overall, many of the project activities under components 1 – 3 either take place on privately owned land or do not require land appropriation. Farmers 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 LAF 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 with implementation of project component 3 community adaptation plans) the LAF also includes guidelines for involuntary land acquisition. This Framework has been prepared in accordance with the provisions set out by WB OP4.12 and the laws of Vanuatu.

2.4 Institutional and Implementation Arrangements

Practical institutional arrangements for implementation of the LAF will be very important given the cross-sectoral nature of the activities involved. This will require close inter-agency coordination and collaboration among stakeholders. The following arrangements are proposed for implementation of the LAF:

Table 2 Institutional Arrangements for Implementation of LAF

| Responsible for | Implementing Agency |
|------------------------------|---|
| Census of Affected Persons | Position title and division TBD, Ministry of Land and Natural Resources |
| Valuation of Affected Assets | Position title and division TBD, Ministry of Land and Natural Resources |
| Handling of Compensation | Position title and division TBD, Ministry of Land and Natural Resources |
| Expropriation of Land | Position title and division TBD, Ministry of Land and Natural Resources |
| Project Grievances | PCU located in the VMGD for the National Advisory Board for Disaster Risk Management and Climate Change (NAB) |

3.0 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 system.³

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'

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 Board.⁴

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.

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

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 community.⁵

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 were 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.

The Government has allocated an annual budget of 200 Million Vatu for Government land acquisition projects. According to MLNR, if the budget is not spent the remaining amount accrues on top of this budget. In the event that the budget is not sufficient, the Government and Ministry executing a project, is responsible to find further finances to cover the necessary land acquisition budget requirement.

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 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).

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

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 Acquisition⁷

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 in favour of the WB OP4.12. 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*.

⁷ This gap assessment is based on the gaps and observations identified by the MIPU when developing a LAF for the Asian Development Bank (ADB) for the Port Vila Urban Development Project. The comparison included therein between ADB policies and the laws and practices of Land Acquisition and Resettlement used by the Government of Vanuatu have been drawn upon directly to provide the assessment included in this report. 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 ⁸ 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 land 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 Land Acquisition Plan and its implementation will require participation and consultation of vulnerable groups as set out in the Consultation and Disclosure section 6 of this LAF. |
| 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; or (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 valuation and Resettlement Plan implementation as per Vanuatu Law. 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 eligible 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 value of impacted land, structures, business/livelihoods and assets (see sample forms in Appendix B –Inventory of Assets). The 'cut-off' date for the Land Acquisition Plan will be the date when the inventory of affected people is completed and set out in the LAP. |

⁸ OP4.12 Involuntary Settlement, December 2001, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

| | WBOP4.12⁸ Provisions | Potential Gaps in Vanuatu Law | Bridging the Gap: Reconciliation Provisions |
|----|--|---|---|
| | | | 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. |
| 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 Land Acquisition Plans 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 | 1.1 Preparation of Land Acquisition Plans and their implementation shall be carried out with the participation and consultation of affected people and the PCU supported by relevant government agencies should land acquisition prove necessary. 1.2 Affected populations will be systematically informed and consulted about the Project, the rights and options available to them and proposed mitigation measures |
| 2. Compensation | 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 2.2 Affected land assets shall be replaced at their current market values, based on MLNR approval 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 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 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. 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 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 |
| 3. Government Planning | 3.1 Clear budget commitments are required for critical activities such as formal detailed physical surveys and administrative functions associated with compensation 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 |

⁹ These reconciliation provisions are drawn from Government of Vanuatu, June 2011. *Republic of Vanuatu: Port Vila Development Project, Resettlement Framework.*

4.0 Land Acquisition Procedures

4.1 Preparation of the Land Acquisition Plan

The PCU for the NAB will be responsible for preparing the Land Acquisition Plan (LAP), 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 LAF. Following initial assessment and screening in order to avoid or minimise impacts, the LAP 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 preparing Land Acquisition Plan are further detailed below and in Appendix E – Outline of Land Acquisition Action Plan:

4.1.1 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 minimise 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.

4.1.2 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 persons livelihoods to the same or better standard following implementation of the project.

4.1.3 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 Land Acquisition Plan will be the date when the inventory of affected people is completed and set out in the LAP. 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.

4.1.4 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 PCU for the NAB, MLNR and other relevant stakeholders.

4.1.5 Consultation and Disclosure

Consultation with both the community and Government is an essential part of the land acquisition scoping, planning and implementation process. LAPs 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 LAP. Further detail on the Consultation Process and Grievance Procedures is outlined in other sections of this LAF.

4.1.6 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 PCU 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 Land Acquisition Plan

4.2.1 Institutional Arrangements

The PCU located in the VMGD for the NAB will have the responsibility for:

- Preparing the land acquisition 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.

4.2.2 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 PCU 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 PCU 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 PCU to ensure that all the compensations and entitlements have been paid to and settled with affected persons prior to clearing the construction sites. The PCU 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.

4.2.3 Monitoring of Compliance with WB OP4.12 policies

Internal monitoring is the responsibility of the PCU 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 LAF.

4.3 Entitlement Framework, Valuation and Implementation

4.3.1 General Description of Potential Impacts

A Land Acquisition Framework (LAF) has been adopted for this Project as the possible impacts and the extent to which the project will directly affect people in Vanuatu cannot be completely defined prior to approval of the project. Project development activities are related to the selection and distribution of root crop for planting material; providing clean and reliable water supply; and promoting community-based adaptation particularly in coastal areas, and are not expected to require land acquisition or resettlement of people. However, a LAF has still been prepared for this Project in the interests of good practice and to prevent delays in project implementation if land is required.

Overall, the majority of the project activities either take place on privately owned land or do not require land appropriation. Farmers 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 LAF 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 with implementation of project component 3 community adaptation plans) the LAF also includes guidelines for involuntary land acquisition. This Framework has been prepared in accordance with the provisions set out by WB OP4.12 and the laws of Vanuatu.

4.3.2 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 LAP 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 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. |

| | Type of Losses | Entitled Person | Entitlement |
|----|--|--|---|
| 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 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 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 productive 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. |

| | Type of Losses | Entitled Person | Entitlement |
|---|-----------------|---|--|
| 8 | Loss of gardens | All affected persons including holders of land use certificate, customary rights holders, tenants and squatters(informal settlements) | <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 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; and
- The protocol for ownership will include the assessment of the donated portion of land as a proportion of the total ownership. A portion beyond 20% of ownership will require further investigation and assessment by an independent party to ensure voluntary donation arrangements are appropriate.

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 PCU for the NAB. The PCU will design and establish an internal monitoring system for land acquisition and resettlement by submitting the monitoring plan with the LAP 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 persons 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 PCU 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 PCU 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 PCU will prepare and submit to the WB quarterly monitoring reports on implementation of the LAP. 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 LAP 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 LAP 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 LAP.

At the end of the implementation of the LAP the EMA will prepare a compliance report. If found acceptable, based on this document and the specific LAP, 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 |
|---|--|
| 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) |
| Land Acquisition Plan (LAP) | Data from census with inventory of assets lost, entitlements, and socio-economic data, Dates 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 |

5.0 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 LAP 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 PCU 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.

6.0 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 LAP implementation. They will also identify with the affected persons any LAP implementation problems and undertake timely remedial actions in consultation with affected persons and their representatives.

The LAP 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 LAP preparation. This task will be carried out by the PCU 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 LAP, will be translated and disclosed to all affected parties in the local language(s), including Bislama, French and English, as needed. Copies of the LAP will be made available at a designated public office.

Furthermore, disclosure will be a condition to proceed to LAP 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 LAP completion and approval by the PCU for the NAB.
- The LAP 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 LAP 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 LAP will similarly be disclosed on the Government (or similar) Website. Monitoring reports on LAP implementation will also be disclosed locally and posted on Government (or similar) website.

¹⁰ Adapted from Chris Grant, 'Accessing land for public purposes in Samoa', in Making Land Work, Volume 2 Case Studies, http://www.ausaid.gov.au/publication/pdf/MLW_VolumeTwo_CaseStudy_13.pdf accessed 29 November 2011

Appendix A

Outline of a LAF Action Plan

Appendix A Outline of a LAF Action Plan

Once the sub-projects have been identified and involuntary land acquisition recognised as an impact of the sub-project, the PCU located in the VMGD for the NAB will be required to prepare a Land Acquisition Action Plan (LAAP). In preparing the LAAP, project staff will ensure that consultations with community members have occurred and the impacts on land use have been discussed (see discussion on Community Consultation Framework).

The scope and level of detail of the plan vary with the magnitude of land acquisition. The plan is based on up-to-date and reliable information about (a) the proposed compensation payment of adversely affected groups, and (b) the legal issues involved inland acquisition. The plan covers the elements below, as relevant. When any element is not relevant to project circumstances, it should be noted in the plan.

- i) **Description of the sub- project.** General description of the project and identification of the project area.
- ii) **Potential impacts.** Identification of: (a) the project component or activities that give rise to land acquisition (b) the alternatives considered avoiding or minimising land acquisition; and (c) the mechanisms established to minimise land acquisition, to the extent possible, during project implementation.
- iii) **Objectives.** The main objectives of the LAAP.
- iv) **Results of census socioeconomic surveys.** The findings of surveys to be conducted in the early stages of project preparation and with the involvement of potentially affected people, including:(a) the results of a census survey covering; (b) current occupants of the affected area to establish a basis for the design of the compensation payment to exclude subsequent inflows of people from eligibility for compensation assistance;(c) standard demographic and socio-economic characteristics of affected households,(d) the magnitude of the expected loss—total or partial—of assets, and the extent of impacts, physical or economic; (e) public infrastructure and social services that will be affected; and (f) social and cultural characteristics of affected communities, including a description of formal and informal institutions (e.g., community organisations, ritual groups, nongovernmental organisations (NGOs) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities.
- v) **Eligibility.** Definition of affected persons and criteria for determining their eligibility for compensation assistance, including relevant cut-off dates.
- vi) **Valuation of and compensation for losses.** The methodology to be used in valuing losses to determine their replacement cost; and a description of the proposed types and levels of compensation under local law and such supplementary measures as are necessary to achieve replacement cost for lost assets
- vii) **Income Restoration Measures.** Wherever the livelihoods are affected, appropriate measure for improvement or restoring of livelihoods including assistance during the transition period will be proposed which should be compatible with the cultural preference and skill of the affected people.
- viii) **Community participation.** Involvement of affected people for consultation with and participation of in the preparation and implementation; (b) a summary of the views expressed and how these views were taken into account in preparing the land acquisition plan; (c) a review of the alternatives presented and the choices made by affected persons wherever options available to them, including choices related to forms of compensation assistance.
- ix) **Implementation Arrangements:** The description of agencies responsible for implementation of compensation payment activities should be outlined and an assessment of the institutional capacity of such agencies and NGOs; and any steps that are proposed to enhance the institutional capacity of agencies and NGOs responsible for land acquisition implementation.
- x) **Grievance procedures.** Affordable and accessible procedures for redress of disputes arising from land acquisition; such grievance mechanisms should take into account the availability of judicial recourse.
- xi) **Implementation schedule.** An implementation schedule covering all payments of compensation and other applicable activities from preparation through implementation, including target dates for the achievement of expected and terminating the various forms of assistance. The schedule should indicate how the land acquisition activities are linked to the implementation of the overall project.

- xii) **Costs and budget.** Tables showing itemised cost estimates for all compensation payments and associated activities other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for land acquisition should be described.
- xiii) **Monitoring and evaluation.** Arrangements for monitoring of compensation payments activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank, to ensure complete and objective information; performance monitoring indicators to measure inputs, outputs, and outcomes for land acquisition activities; evaluation of the impact of land acquisition for a reasonable period after all development activities have been completed; using the results of resettlement monitoring to guide subsequent implementation.

Abbreviated Land Acquisition 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

Checklist for Land Acquisition Impacts

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

Inventory of Assets

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 (m ²) | Land to be acquired by type of use (m ²) | Loss of % of total land | No. and type of lost structures | Permanent structures (m ²) | Temporary structures (m ²) | Total land lost (m ²) | Loss of crops (fruit trees / other by no. and type) | Loss of other assets (specify type and no.) | Resident | Business | Income |
| | | | | | | | | | | | | | | |
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Appendix D

Template for Documenting Public Consultation Meeting

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

Sample Consent Form (Voluntary Donation)

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

Sample Consent Form (Agreement for Compensation)

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 _____