

Vanuatu Infrastructure Reconstruction and Improvement Project (VIRIP)

Resettlement Policy Framework

**Ministry of Infrastructure and Public Utilities
Government of Vanuatu**

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Abbreviations

| | |
|-------|---|
| ARAP | Abbreviated Resettlement Action Plan |
| AP | Affected Person |
| CERC | Contingency Emergency Response Component |
| CPP | Consultation and Participation Plan |
| CPOs | Community Partnership Officers (of PWD) |
| DEPC | Department of Environmental Protection and Conservation |
| DGMWR | Department of Geology, Mines and Water Resources (of Ministry of Lands & Natural Resources) |
| EA | Environmental Assessment |
| EIA | Environment Impact Assessment |
| EMMP | Environmental Management & Monitoring Plan |
| EPC | Environmental Protection and Conservation (Act) |
| ESA | Environmental and Social Assessment |
| ESMF | Environment and Social Management Framework |
| ESMP | Environment and Social Management Plan |
| GDP | Gross Domestic Product |
| GoV | Government of Vanuatu |
| GRM | Grievance Redress Mechanism |
| IBC | Island Based Contractor |
| ILO | International Labour Organisation |
| IR | Involuntary Resettlement |
| MIPU | Ministry of Infrastructure & Public Utilities |
| MFEM | Ministry of Finance and Economic Management |
| MoET | Ministry of Education and Training |
| NRESP | National Recovery and Economic Strengthening Program |
| OP | Operational Policies (of the World Bank Operational Manual) |
| PCR | Physical Cultural Resources |
| PDNA | Post-Disaster Needs Assessment |
| PDO | Project Development Objective |
| PEA | Preliminary Environmental Assessment |
| PIC | Project Implementation Committee |
| PST | Project Support Team |
| PWD | Public Works Department |
| R4D | Roads for Development |
| RAI | Rural Access Indicators |
| RPC | Recovery Program Committee |
| RPF | Resettlement Policy Framework |
| STD | Sexually Transmitted Diseases |
| TC | Tropical Cyclone |
| TOR | Terms of Reference |
| VIRIP | Vanuatu Infrastructure Reconstruction and Improvement Project |
| VLD | Voluntary Land Donation |
| WB | World Bank |
| WRMA | Water Resources Management Act |

1 Introduction

This document sets out the approach to the compensatory mechanisms applicable under the Vanuatu Infrastructure Reconstruction and Improvement Project (VIRIP). These mechanisms range from agreed and standardised compensation rates for agricultural crops and legislated royalties for quarried materials and negotiated voluntary donations or compensation agreements through to a Resettlement Policy Framework (RPF) that sets out the principles, policies and procedures for involuntary land acquisition the Government of Vanuatu (GoV) and the World Bank (Bank) agree to employ these measures in the context of the Vanuatu Infrastructure Reconstruction and Improvement Project (VIRIP) (World Bank P156505). This document also refers to the VIRIP Grievance Redress Mechanism that will be used for all grievances under VIRIP which is published as a standalone document to be used for managing complaint and grievances that may arise under the project.

The exact nature of the investments, detailed design of the engineering works and precise siting of infrastructure works for the projects has not been determined, and will be decided taking in to account feedback from initial consultations with stakeholders and affected parties (APs). An RPF therefore been selected as the appropriate social safeguard instrument. The sub-project identification process will include confirmation that the small areas of land required will be provided via a negotiated settlement in preference to compulsory purchase. Because of the small scale nature of the infrastructure and that the local community will be the direct beneficiaries of the investments, negotiated settlement is expected to occur in most, if not all, situations.

An original draft version of the RPF was included in the project's Environmental and Social Management Framework (ESMF) originally prepared in 2015 with a separate document disclosed in Vanuatu which was the subject of consultation in Port Vila during the week of 4th – 8th April 2016.

This final version has been further revised and expanded to include all foreseeable compensatory instruments under VIRIP and forms part of the legal agreements between GoV and the World Bank. It will be officially disclosed by both partners for consultation and comment, and may be amended as agreed between the partners.

Any enquiries about this framework or its application may be sent to: safeguard@virip.org or telephone (00678) 22888.

2 Project Description

2.1 Background

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 were estimated to be approximately US\$450 million, which equates to approximately 64 percent of the country's GDP¹.

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 province. 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.²

In the wake of TC Pam, the Government of Vanuatu (GoV) officially declared a state of emergency for Shefa Province on March 15, 2015. Emergency response efforts were led by the government with the support of multiple humanitarian partners, international and national non-governmental organizations, international governments, donors and other partners. In order to gain an understanding of the scale of TC Pam's economic impact and assist in mobilizing the resources needed for recovery and reconstruction, GoV undertook a Post-Disaster Needs Assessment (PDNA) with the support of the World Bank and other development partners, which formed the basis of the National Recovery and Economic Strengthening Program (NRESP) that provides a framework to guide the recovery and reconstruction of all sectors affected by TC Pam. The estimated total recovery and reconstruction costs have been calculated as US\$316 million².

Vanuatu is expected to incur, on average, US\$48 million per year in losses due to earthquakes and tropical cyclones. In the next 50 years, Vanuatu has a 50 percent chance of experiencing another loss exceeding US\$330 million, and a 10 percent chance of experiencing a loss exceeding US\$540 million.³ This has far reaching implications for a range of sectors, including, housing, tourism, infrastructure, agriculture and commerce. Disaster events, such as TC Pam, have the potential to affect the entire economy, human and physical capital, and impact the long-term development of the country. Accordingly, extreme weather events, exacerbated by projected changes in climate, are increasingly recognized as a core development challenge for the country.

VIRIP will provide financial support to GoV through numerous targeted investments in small land transport structures, and to reconstruct schools and public buildings damaged by TC Pam. Not only will these investments provide for more reliable access to critical social services, markets, and facilities for remote and isolated rural communities, they will also inject much needed funding at the local level through Island-based contractors (IBCs), create possible business opportunities for members of those communities in the future maintenance of those assets, and provide skills training.

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

² Vanuatu Post Disaster Needs Assessment, Tropical Cyclone Pam, March 2015 (GoV).

³ PCRAFI Risk Profile, 2011.

2.2 Project Development Objectives and Parts

The project development objective (PDO) is to reconstruct and/or improve the disaster and climate resilience of selected public sector assets in provinces impacted by TC Pam and, in the event of an eligible crisis or emergency, to provide immediate and effective response in such eligible crisis or emergency.

The executing agency will be the Ministry of Finance and Economic Management (MFEM), and the Ministry of Infrastructure and Public Utilities (MIPU) will be the implementing agency. A Project Support Team (PST) will be established within MIPU to ensure the project is implemented in accordance with Bank policies and procedures.

2.3 Overview of the Project Parts

The project will reconstruct assets damaged by TC Pam, including land transport structures, schools and public buildings, and improve their resilience to disasters and extreme weather events. VIRIP will also finance technical assistance activities to design and supervise works, train and build capacity of public sector officials and private sector, and support implementation. To facilitate response during disaster events, a zero dollar Contingency Emergency Response component is included.

Part 1: Road Reconstruction and Improvement

This part will fund a range of roads works in provinces of Vanuatu that were affected by TC Pam to undertake spot improvements to land transport sector assets, such as small road structures and footpaths, and to improve the resilience of land transport sector assets. In addition, land transport assets that were not impacted by TC Pam can be built to more resilient standards to better withstand future extreme weather events.

Part 1(a): Improvement of Road Sector Assets

With few exceptions, rural roads in Vanuatu are generally in poor condition and many are not passable throughout the year. Few, if any, rural roads are engineered, and most are little more than tracks without gravel. Coastal roads are prone to flooding, bogging and storm surge, while inland roads have steep gradients with minimal or no drainage. All roads are vulnerable to landslips due to unstable soils. This part would fund spot improvements to existing roads, and in some remote locations, walking tracks, on several islands to repair cyclone damage and improve year-round accessibility to and for rural communities.

- a) Cyclone Damage. Although cyclone damage to roads was generally limited to washing out of bridge approaches and culverts due to excessive rainfall, there were also instances of severe, localized damage to exposed coastal roads and embankments from storm surges. Works would fund embankment repairs and strengthening seawalls.
- b) Rural Access Improvements. The types of road sector assets to be improved would typically be small structures in the form of drainage structures, including drifts and/or vented drifts on water crossings, pipe culverts, lined drains, or low-maintenance surfacing on steep grades in the form of concrete pavements or concrete “tire paths.” Funding would also be used for embankments across low-lying floodplains. In remote areas with no roads, walking tracks would be improved at critical locations with concrete steps or surfacing on steep grades and simple bridges over water crossings.

It is expected that land transport asset spot improvements would be implemented using two modalities:

Island-Based Contracting for Small Works. The Ministry of Infrastructure and Public Utilities (MIPU) is currently implementing the second phase of its Roads for Development (R4D) program, which is funded by the Australian Government and support island-based contractors (IBCs) with limited plant and resources to carry out small, low maintenance, reinforced concrete and masonry works on rural roads on four islands. There are between seven and ten IBCs on each island. Works carried out by the IBCs are generally closed or vented drifts at water crossings, pipe culverts with inlet and outlet structures, and surfacing over full or partial road width with lined side drains on steep gradients, all based on standard designs. R4D contracts are awarded in six-monthly rounds, or “cycles,” and are all less than VT 5 million (approximately US\$50,000).

Under VIRIP, a modality that closely mirrors the R4D model, but integrated into the local Public Works Department (PWD) structure, will be implemented in the four cyclone-affected provinces of Malampa, Penama, Shefa and Tafea. MIPU would select the islands where works will be carried out and employ existing IBCs trained under R4D on islands where the program is established. MIPU would also expand the framework to other islands, and include walking track improvements in remote areas. Prioritization of interventions will be based on a ranking process⁴ using agreed transparent criteria involving rural access indicators (RAI) and levels-of-service for potential improvements, and draw from PWD Divisional Annual Work Plans prepared by PWD’s provincial offices.

National Competitive Bidding for Larger Works. Cyclone damage repair of coastal road embankments would require large plant to transport and place rock revetments and other types of strengthening and resilience-enhancement measures. Similarly, drifts across larger water crossings and rock embankments across low-lying flood plains would be more suited to mechanised construction methods. Prioritization of interventions will be based on PWD Divisional Annual Work Plans using the same criteria as that for IBCs carrying out smaller works. Larger works will be packaged to make them attractive to national contractors.

Part 1(b): Design and Supervision

Funds will be utilized to design and supervise works to be carried out under Part 1 by contracting one firm to design and supervise all road sector improvements.

Part 2: School Reconstruction and Improvement

MoET has assessed the extent of damage from TC Pam to more than 70 primary and secondary schools in Tafea province, and estimated repair costs. Schools on Tanna Island received massive damage, mostly in the form of full or partial roof loss, but several buildings were completely demolished. The extent of damage to schools was directly correlated to the quality of construction, with well-constructed buildings that used quality materials and workmanship generally withstanding the impact

⁴ PWD recently introduced a Road Prioritization Tool for its 2016 budget planning and an access policy for its 2017 works planning.

of TC Pam. Many schools served as community shelters during the cyclone, and evacuation centres for weeks thereafter for families whose homes had been destroyed.

Part 2(a), (b) & (c)

This part will reconstruct classrooms and other school buildings damaged by TC Pam, and ensure that at least one building per school is designed and constructed to withstand a category 5 cyclone and appropriate seismic loading so that it can be used as an evacuation centre. Improved water supply and sanitation facilities may be included, as well as a basic protected kitchen/cooking area for use by evacuees.

This -part will reconstruct classrooms and other school buildings damaged by TC Pam, and ensure that at least one building per school is located, designed and constructed to cyclone seismic resilient standards appropriate to the location and outside of tsunami and storm-surge inundation areas so that it can be used as an evacuation centre. Improved water supply and sanitation facilities and other amenities would also be built to enable one school structure to serve as an evacuation center.

The reconstruction of school buildings will be based on MoET standard designs, and will maximise community involvement. All “evacuation center” certified buildings will be constructed using concrete blockwork/reinforced concrete sub-structures, and structural grade timber for roof structures. Ancillary buildings may be constructed with other materials, provided they meet relevant design standards and MoET performance and maintenance objectives.

The types of treatment are expected to be as follows:

New Structures. These might be classrooms, offices or staff housing that will be constructed from scratch. Existing buildings and structures will either be replaced or demolished, in order to meet MoET requirements for facilities.

Partial Reconstruction. Buildings that were partly destroyed, typically above the ring beam level, but which are assessed as structurally sound, will be reconstructed to an agreed cyclone-resilient design standard.

Retrofitting. Many buildings that were not seriously damaged urgently require retrofitting to replace roof sheeting or steel tie downs that are corroded, and roof timbers that are cracked or rotten.

Water Supply and Sanitation. Rainwater harvesting from roofs of reconstructed buildings will be maximized through collection and storage to facilitate an appropriate level of gender-separate toilet and hand washing facilities at reconstructed schools.

Part 2(d): Design and Supervision

Funds will be utilized to design and supervise works to be carried out under Part 2.

Part 3: Public Building Reconstruction & Improvement

Several public buildings, provincial and national government offices, workshop and associated buildings on TC Pam-affected islands suffered serious damage with partial or total destruction of individual structures or groups of buildings.

Part 3(a): Public Buildings

This part will fund the reconstruction of public buildings that were impacted by TC Pam, , through a prioritization and selection process to be developed by MIPU, agreed with the Bank, and endorsed by the Project Implementation Committee (PIC). Damage to public buildings was similar to that of schools, with roofs and steel frames fully or partially destroyed, and roof timbers missing.

Part 3(b): Design & Supervision.

Funds will be utilized to design and supervise works to be carried out under Part 3. As indicated above, it is expected that one firm would be contracted to design and supervise improvements to both schools and public buildings.

Part 4: Project Implementation and Technical Support

Part 4(a): Project Implementation Support

VIRIP funds will also be used to hire individual specialists to support project implementation. A Project Support Team (PST) will be established within MIPU to assist in managing VIRIP, and ensure that the Bank's fiduciary, safeguards and reporting requirements, including monitoring and evaluation, are met throughout the implementation period. Key staff will include a qualified project manager, a procurement specialist, a project accountant and safeguards specialist. In addition, it is anticipated that inputs from technical specialists, such as communication/community liaison, monitoring and evaluation specialists, or sectoral specialists, will be required from time-to-time. The services of a Finance Advisor to help set-up the financial management system for the project and provide periodic guidance to the project accountant may also be required. While other design and supervision consultants will be responsible for providing key technical inputs for bidding and evaluation processes (see Part 2(a)), PST staff will be responsible for finalizing bid documents prior to inviting bids. MIPU will be responsible for finalizing the evaluation and award process, in liaison with the State Law Office.

Operating costs, including for office refurbishment/renovation, rent, power, communications, and vehicle maintenance for PST and provincial PWDs, will also be financed under VIRIP, as will annual project audits.

Part 4(b) Sustainable Maintenance

The rural road network of Vanuatu, which is in excess of 2,100 km, has suffered from a chronic lack of preventative and periodic maintenance due to lack of available funding. This has resulted in the majority of the network remaining unmaintained and in very poor condition. There is a clear and urgent need to address this problem, not only to improve the condition of the network, and therefore accessibility for rural populations of Vanuatu, but also to protect and sustain investments that the government and donors make on improving road assets.

Part 4(c) Training and Capacity Building

Improvements to land transport sector assets will seek to expand the use of IBCs already identified, established and trained under the R4D program.

Funding will also be used to provide refresher training for existing IBCs and site inspectors on islands targeted for inclusion in this project, and specific training on construction costing and bidding.

Training and capacity building in the education sector is expected to be partially delivered through a “managing contractor” arrangement under Part 2(b). Training courses implemented in conjunction with the reconstruction program would be used to up-skill the local construction workforce and reinforce the importance of strong connections to ensure strong buildings. An accelerated program for “training of trainers” could be considered to assist experienced Ni-Vanuatu trades to train and manage teams of local workers. Quality control of materials used in the reconstruction program could be ensured through a centralized procurement process.

Funds would be used to develop a training and capacity building program on school infrastructure management. Because decision-making processes and the allocation of school funds lie directly with schools, efforts would focus on training school councils, principals and teachers about the benefits of regular preventative maintenance of schools and associated buildings. Improved maintenance of existing structures will help to protect the existing building stock and reduce its vulnerability to natural hazards. Developing maintenance manuals, will reinforce the importance of regular maintenance.

Part 5: Contingency Emergency Response

This zero-cost part will support preparedness and rapid response to eligible disasters, emergencies, and/or catastrophic events, if needed. Following the declaration of a disaster or state of emergency, it allows for reallocation of credit and grant proceeds from VIRIP parts under streamlined procurement and disbursement procedures, or a mechanism to channel additional funds, should they become available, as a result of an emergency. This will likely be done through a Contingency Emergency Response Component (CERC), which will serve as a contingent window, and provide a mechanism: (i) for quick disbursements to meet the immediate liquidity needs of Vanuatu following a disaster event in order to finance critical imports; or (ii) to finance emergency repairs and reconstruction works and associated services of public infrastructure.

2.4 Overview of Project Safeguards Instruments

There is a set of safeguards instruments for VIRIP to ensure all project activities avoid, minimise or mitigate and social or environmental impacts. These instruments comprise:

Environmental and Social Management Framework (ESMF). The ESMF sets out the principles, policies and procedures for environmental and social protection that the Government of Vanuatu (GoV) and the World Bank (Bank) agree to employ for VIRIP.

Resettlement Policy Framework (RPF). The RPF sets out the system of compensation for damage or loss of people or communities arising from the project or its sub-projects that the Government of Vanuatu (GoV) and the World Bank (Bank) agree to employ for VIRIP. The RPF system is based on Vanuatu legislation and current practices and either meets or exceeds the requirements of WB operating policy 4.12

Grievance Redress Mechanism (GRM). The GRM sets out the procedures for addressing complaints about any breaches of environmental or social protection and how these are to be resolved wherever possible. The GRM is a standalone document that is referenced in the ESMF and the GRM as well as the VIRIP Project Operations Manual.

Project Operations Manual (POM). The POM describes how the project proceeds and includes all stages of sub-project identification and design. The POM reflects and includes the means by which the ESMF, RPF and GRM are to be implemented in day to day practice. The POM is supported by various technical manuals to ensure that all relevant policies, procedures and rules that govern the project are implemented.

Safeguard Manual. This is the active set of documents and procedures held by PST and used through the project cycle to meet safeguards policy objectives and requirements. It comprises written procedures, checklists, templates, forms, training materials etc which are updated and revised on an ongoing basis in order to remain effective throughout the project.

3 Preparing the Policy Framework

3.1 Scope of this Policy Framework

This Policy Framework covers a full range of compensatory mechanisms spanning all foreseeable circumstances under the project from voluntary donation⁵ of resources through negotiated agreements to involuntary resettlement.

The RPF needs to take into account the project elements as set out in section 2.3 above and how sub-projects are to be identified and planned for. The RPF must also take into account current compensatory mechanisms for loss or damage to property as well as the Vanuatu system of land ownership and the legislative requirements for land leasing.

The exact nature of the investments, detailed design of the engineering works and precise siting of infrastructure works for the projects will be decided taking into account feedback from initial consultations with stakeholders and affected parties (APs). A Resettlement Policy Framework (RPF) has therefore been selected as the appropriate social safeguard instrument. The project subprojects will be screened so that any subproject requiring involuntary resettlement is referred to the RPF procedures.

3.2 Definitions

An **affected person** (AP) is a person that is adversely affected temporarily or permanently as a result of sub-project works under VIRIP.

A **displaced person** (DP) is a person that requires to physically relocate temporarily or permanently as a result of sub-project works under VIRIP.

A **complaint** is a statement (verbal or written) or expression of displeasure that an impact or effect arising from a sub-project is unsatisfactory or unacceptable to the complainant. For the purposes of this RPF, a complaint is a concern about a minor impact or effect that is short term, low in risk, often temporary, that typically does not require an investigation but does require a specific response to remove or remediate the unsatisfactory or unacceptable impact or effect. Unresolved complaints may become grievances if not dealt with appropriately and within a short (typically 2 days but a maximum of 14 days) timeframe. Complaints able to be dealt with or resolved immediately can be referred to as minor complaints.

A **grievance** is a statement about an action, impact or effect arising from a sub-project that adversely affects the rights, health and/or well-being of an affected person or people to the extent that it forms legitimate grounds for grievance and if upheld, may result in compensation, legal action or a change to the sub-project in order to resolve the grievance. For the purposes of this RPF, a grievance will require specific response and potentially formal intervention by supervisor or client for resolution and such resolution must be formally agreed and recorded. Grievances may be raised verbally or in

⁵ These resources may either be freely donated (at no charge) or freely negotiated (ie some sort of compensation offered).

writing but must be reported using the Grievance Complaint Form which must be completed in every instance.

All complaints about the project will be dealt with under the VIRIP Grievance Redress Mechanism

All grievances will be addressed by the VIRIP Grievance Redress Mechanism and a Grievance Complaint Form completed.

Grievances and compensation for (non-land) resources will be addressed using existing compensation rates developed by government agencies and currently in use for loss or damage due to infrastructure projects. However the following fundamental points regarding VIRIP project planning and implementation are to be noted:

1. No physical displacement is envisaged for sub-projects under VIRIP.
2. No land is expected to be acquired under VIRIP except by voluntary, negotiated agreement with suitable compensation as formally valued and provided for under legislation.
3. Should land be required to be compulsorily (involuntarily) acquired for any sub-projects then this will be undertaken in line with legislation and include suitable compensation based on formal valuation as required by Vanuatu law.

Additionally:

Any compensation for involuntary or voluntary loss of land will be paid by the Government of Vanuatu and follow an abbreviated resettlement action plan (ARAP). This policy framework describes the policies and procedures leading to development of an ARAP if required for a particular subproject.

The over-riding objective is to avoid any resettlement impacts via subproject identification, and effective infrastructure design.

To ensure that the projects contribute to the objective of sustainable development, MIPU plans a comprehensive disclosure and consultation process that includes all stakeholders as potentially affected parties. The consultation process with stakeholders and all APs will reveal all foreseeable impacts and will identify stakeholder proposals for mitigation options, equitable compensation options and resettlement planning can contribute to their aspirations for sustainable restoration or improvement of their livelihoods.

If there is unavoidable loss of land-based assets, the aim will be to replace like for like, and if this is not possible, to compensate for lost assets and income, and meet the costs of relocation and restoration of livelihoods. Restoration includes not only physical assets, but also social and cultural assets and the APs will contribute to selection of mitigation and resettlement options to ensure policy objectives are met.

4 Current Vanuatu compensation and resettlement systems for public works

4.1 Overview

In Vanuatu, all public infrastructure works, including associated resource extraction and use, take into account the fundamental right that under the nation's constitution all land in Vanuatu belongs to the indigenous custom owners and their descendants. In practice, this has led to a system of compensatory instruments (both legal and by convention) developed over time in order to supplement the more formal regulatory processes while at the same time acknowledging fundamental land rights. These have been established in order to ensure that resource owners are suitably compensated for loss of natural resources, including crops and forest products, quarried materials etc.

Compensation for minor or temporary loss - compensation rates for losses of food crops are set out by the Department of Agriculture under an Agricultural Compensation Policy (refer Annex D) and published rates used by PWD for the assessment of compensation payable to claimants whose crops are removed due to infrastructure projects. The Department of Forestry has developed a similar list of compensation rates and the current rates for both forest products and crops are included as Annex C. These rates are set by the agencies based on market rates for the produce. Damage or loss by contractors engaged on VIRIP will be based on these rates and recorded in the VIRIP GRM records. Such losses usually occur on land that is within an existing road corridor or leased by a third party but unused and crops are then planted by local residents.

Voluntary land donation – is typically given on a temporary basis or in exchange for reoccupation of land (for example in the case of a minor road realignment) however although voluntary in Vanuatu the arrangement may include monetary compensation for crops or trees on the land being donated. There is an expectation that, should the land no longer be used for the agreed purpose, then the donated land should be returned to the customary landowner. This expectation also holds for land that is compensated or compulsorily acquired.

Agreed (negotiated) compensation - where land is leased or agreement is in place for resource extraction, such as a quarry, it is common for unused portions for the quarry land to continue to be farmed until required for quarrying. In such circumstances customary owners still expect compensation for garden crops and fruit trees that are on the land and require to be removed by the ongoing quarry operations or road works in an existing road corridor.

Land ownership and use - disputes about land ownership are historically common in Vanuatu. Increasingly disputes about land ownership are separated from the established land use (for example an established school and grounds). This has led to a variety of mechanisms to ensure that royalties or rents are held in Trust usually by the government pending the settlement of the dispute through established legislative process and the legally recognised customary owners are identified through a complex combination of customary and formal processes.

Land use for schools - for schools, a form of formal community agreement has been established in order for schools to be established and is a necessary precursor to the legislated process for formal land lease creation that can take a considerable length of time (often several years). This form of community consultation requires all interested parties in the school land are required to sign their

agreement on a form that essentially is a community MOU. Agreement is sought and gained before works at the school can go ahead. When school grounds enter the land lease process, should the interested landowners still be in dispute then legislation allows for funds to be kept in trust pending the outcome of dispute. In this way schools can be established with full agreement of all parties, even if the actual ownership of the land is under dispute – ie the land use is agreed to separately for the land ownership. A summary of the process including community agreement forms that require signatures from community leader, all interested landowners and school representatives is included as Annex B.

Quarries - for quarried materials, a similar situation to schools takes place with extensive community consultation prior to the establishment of the quarry. It is common for royalties (set under the Quarries Act) to be paid into a trust fund pending the formal decision on the ownership of the land being quarried. In the case of quarries, land is not always leased and is instead returned to the landowners once being reinstated as agreed on the quarry agreement and management plan.

Roads - roads and road corridors are legally established under Land Reform Act-no such similar legislation exists for schools or public buildings with schools currently undergoing the process for leasing in line with land lease legislation described above. Public buildings are usually located on leased or government land and no public buildings will be repaired under Part 3 unless a land lease is in place.

4.2 Vanuatu Legal and Regulatory Framework

A number of Vanuatu legal instruments are relevant to resettlement planning and support compensatory and resettlement activities set out above.

The Constitution of the Republic of Vanuatu

The Vanuatu Constitution (1980) provides that -

- **LAND BELONGS TO CUSTOM OWNERS:** 73. All land in the Republic of Vanuatu belongs to the indigenous custom owners and their descendants.
- **BASIS OF OWNERSHIP AND USE:** 74. The rules of custom shall form the basis of ownership and use of land in the Republic of Vanuatu.
- **PERPETUAL OWNERSHIP:** 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.
- **NATIONAL LAND LAW:** 76. Parliament, after consultation with the National Council of Chiefs, shall provide for the implementation of Articles 73, 74 and 75 in a national land law and may make different provision for different categories of land, one of which shall be urban land.

Therefore land ownership and land rights are enshrined in the Constitution.

National Legislation

In order to ensure these constitutional rights are supported and protected the national land system of land laws is set up and administered to achieve these constitutional rights. The Government does this through legislation governing the use, lease and transfer of lands. This legislation comprises a series of comprehensive laws including the following:

- Alienated Land Act 12, 18 (1982).
- Customary Land Tribunal Act 7 (2001).
- Freehold Titles Act 13 (1994).
- Land Acquisition Act 5 (1992), 34 (Amendment) (2000).
- Land Leases Act 4 (1983), 32 (1985), 10 (1987), 30 (1988), 38 (1989), 24 (2003).
- Land Reform Act 31 (1980), 6 (1981), 10 (1983), 31 (1985), 6 (1992), 35 (2000).
- Land Survey Act (1984).
- Land Valuers Registration Act 23 (2002).
- Strata Titles Act 29 (2000).
- Valuation of Land Act 22 (2002).

New Land Laws

These new laws are primarily amendments to existing legislation in order to ensure equitable dealing in land and to ensure that the relevant customary land owners are recognised under law. It should be noted that creating land leases can take a considerable length of time, sometimes many years which will be another disincentive to compulsory acquisition for VIRIP sub projects.

These new laws comprise the following:

- Customary Land Management (Amendment) Act (2014).
- Land Reform (Amendment) Act (2014).
- Customary Land Tribunal (Repeal) Act (2014).
- Custom Land Management Act (2013).
- Land Leases (Amendment) Act (2013).
- Land Reform (Amendment) Act (2013).
- Sixth Amendment of the Constitution (2013).
- Public Roads Act (2013)

These laws set out the rights of custom owners, leaseholders and users of land.

4.3 Key Legislation relating to VIRIP

The key legislation concerning the potential need for resettlement or acquisition of land under VIRIP are:

Land Acquisition Act that sets out the detailed process for compulsory acquisition of land for public purposes. The Act set out compensation for the value of and or a lease and all improvements. It also requires that such land is leased and kastom owners suitably compensated as required under various land leases acts and amendments and that settlement is based on a formal valuation.

Land Reform Act 31 (1980) and subsequent amendments that states under Section 17 Public roads

(1) Public roads in existence or under construction on the Day of Independence shall vest on that Day in the Government on behalf of the people.

(2) No person other than the Minister may close a public road or take a toll from persons using a public road.

Land Leases Acts (including recent legislation) set out a clear and detailed process for the land lease process, including the identification and acknowledgement of the original customary owner(s). Appeal provisions are contained in the legislation and are often exercised. As referred to above, MOET has created a process that allows work to continue on schools while land ownership is disputed and the land lease process continues.

In order to ensure that agreements are in place for all selected schools under VIRIP, the project is supporting MOET with resource to obtain agreements for selected schools that do not yet have a lease, an agreement to lease (legislated term) or formal community agreement, signed by all interested landowners that the schools should be repaired.

Other legislation provides for compensation such as the Quarries Act that provides for royalty payments for landowners. The Commissioner of Mines sets the schedule of rates and these are currently being revised to ensure that compensation rates are fair and keep up with inflation. All VIRIP subprojects, even if materials are supplied from customary sources in locations without quarries, will be subject to assessment under the ESMF. Royalties will be paid to the landowner (or community for community resources) in the amounts provided for under the act at the time of their extraction. If land ownership is in dispute, the royalties will be held in trust pending the final determination of ownership under law.

4.4 Implementation

No land is expected to be acquired under VIRIP except by voluntary, negotiated agreement with suitable compensation as formally valued and provided for under legislation.

Compensation rates for losses of food crops will follow established conventions that are set out by the Department of Agriculture and used by PWD for the assessment of compensation payable to claimants whose crops are removed due to infrastructure projects. The Department of Forestry has developed a similar list of compensation rates for trees and tree crops.

Contractors - contractors will be bound by the requirements of this policy framework and are expected to negotiate fair market rates for temporary use of land for work camps etc. Land used by contractors is to be restored and requirements for this are contained in Environment and Social Management Plan (ESMP) for each project activity and reflected on the Contractor's ESMP (CESMP).

GRM – the VIRIP GRM is to be used for all disputes in the first instance. The GRM is a separate document and applies to all activities within the project. GRM awareness raising sessions are included as part of community consultation and pre-deployment awareness raising and training. GRM operations will be checked on a regular basis over the duration of the project activity including at community stakeholder meetings for every project activity.

Table 2 – Summary of Compensatory Mechanisms under VIRIP

| Mechanism | Circumstance/ Description | Implementation under VIRIP |
|---|---|---|
| Minor compensation | Compensation for minor or temporary loss of assets such as garden produce or damage to property by contractors | If loss results from planned project activities then compensation paid from project funds. If loss results from contract works, compensation paid by contractor. |
| Voluntary Land Donation | Temporary or permanent use of land for VIRIP activities. | Set out as detailed under Section 6 of this framework. May also include negotiated agreement or compensation for assets on the land donated. |
| Negotiated Agreement | Land or crops/assets on land to be donated. Purchase of land on the open market. Rent of land required for projects on a temporary basis (eg work camps). | |
| Statutory compensation | Quarry royalties Valuation of land and assets that is to be compulsorily purchased. | Minimum payable to customary owners based on Quarry Act. At a minimum to be formally valued as provided for under the Land Acquisition Act. |
| Compulsory Purchase (Involuntary resettlement) | Where land is to be compulsorily required for project purposes. This may include the donation of existing road reserve as part payment for land required for road re-alignment. | Follows Vanuatu Land Acquisition Act. ARAP to be developed in line with WB policy (OP 4.12) as detailed under Sections 5 & 7 of this framework. |

5 World Bank Operational Policy

The World Bank has operational policies (OP) including a series around safeguards (OP 4) to ensure that Bank funded projects minimise potential environmental and social impacts. The OP 4 series refers to both voluntary resettlement (land donation) and also involuntary resettlement in OP 4.12. However the OP4 series is largely silent on the negotiated settlement for the use of resources apart from referring to it as preferable to involuntary resettlement. An operational principle is that project proponents should “assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement”⁶. The general presumption is that a negotiated settlement means there will no adverse impact in terms of OP4.12 arising from the impacting activity.

OP 4.12 defines “involuntary” as “actions that may be taken without the displaced person’s informed consent or power of choice”. If a clear choice exists, and if land is not transferred, there is no land acquisition (compulsory or otherwise). Notwithstanding this, MIPU is aware of the potential perceived or real risks associated with this approach. Accordingly, an Abbreviated Resettlement Action Plan (ARAP) will be prepared to provide a full explanation of the design process, consultation process and an explanation of the land ownership and land management arrangements in the project area should land be required. Documentation of consultation and the legal agreements between the land owners and the GoV will be appended to the ARAP.

As can be seen for the previous sections, negotiated settlement is the norm in Vanuatu given the status of customary land ownership in Vanuatu and the corresponding lack of alternative sites for suitable resettlement as compensation. Based on an assessment carried out in 2013 by the World Bank, OP 4.10 Indigenous Peoples (IP) indicates that four defining characteristics should be present to trigger the IP policy and these characteristics are not present in Vanuatu. Accordingly, the policy is not triggered for the project. However, given the strong community-driven nature of the works both in the education and road sectors, extensive consultation and citizen engagement should be carried out. This is a typical approach to community-based work and encourages and facilitates effective implementation. The approach MoET and PWD will take is to engage with all people in the communities, through traditional methods such as *nakamals* (where all villagers attend). Such engagement will take place at activity identification stage and will continue throughout the activity duration until the activity works are completed and contractors demobilized.

OP 4.12 Involuntary Resettlement objectives are:

- (a) Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
- (b) Where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
- (c) Displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

⁶ OP4.00 Table A1 - Environmental and Social Safeguard Policies—Policy Objectives and Operational Principles

Therefore WB resettlement policy starts from the principle of restoration or improvement of livelihoods at replacement cost, rather than current value, recognising not only financial and physical assets, but also the environmental, social, and cultural assets of an individual, irrespective of gender, ethnic or social status, in the resettlement context. The Involuntary Resettlement policy prescribes avoidance and minimisation of adverse impacts not only because it is less costly, but also because it avoids damage to the less tangible and hard-to-value aspects of livelihoods and cultures. WB resettlement policy has a positive objective of sustainable development, with particular regard for the vulnerable.

5.1 The application of OP4.12 to VIRIP.

The application of OP 4.12 in Vanuatu presents an interesting set of options and approaches to involuntary resettlement. Of particular note to this project is section 12 of OP 4.12 which states:

“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.”

Under (a) in rural areas, given the scale and nature of the project activities, it is highly unlikely that land requirements would affect anything more than a small fraction of land not already located in an existing road corridor.

Under (b) as there is no “market” in customary land, the policy principle of “like for like” even in monetary terms for land replacement is not possible in Vanuatu as all land is already customarily owned. Therefore there is no alternative land available for displaced persons outside of the existing customary landownership frameworks (as all land in Vanuatu is leased from custom owners). Therefore compulsory land acquisition is only possible for involuntary resettlement which is subject to the Land Acquisition Act.

Essentially this means that voluntary land donation principles must prevail for VIRIP as, due to the appeal options under the Land Acquisition Act, the powers of the government for land acquisition for public purposes is only possible in the most unavoidable situations where no other alternative exist. As “do nothing” is an option in most if not all proposed rural road improvements under VIRIP, then involuntary (compulsory) land purchases will be avoided. However for urban road improvements the situation may differ as urban land is already leased and the Government takes the place of customary owner within municipal boundaries. In these circumstances, involuntary resettlement (through the Land Acquisition Act) may require the preparation of an ARAP and involuntary resettlement required.

The current cash compensation system already in place for infrastructure projects essentially operates as a voluntary arrangement for negotiated settlement for lost assets. However this compensatory system is limited to compensation for the loss of assets on the land rather than the involuntary loss of

the ownership of land itself. Section 12 as presented above is therefore likely to be met in terms of compensation of assets however it is possible that involuntary resettlement may occur and an ARAP requires to be prepared that will follow the laws of Vanuatu in particular the Land Acquisition Act.

5.2 Gap Analysis

Table 2 – Legal Gap Analysis

| Vanuatu Laws | World Bank Safeguard Policies | Gap-Filling Measures |
|--|---|---|
| There are current provisions and conventions to consult with potentially impacted people and identify compensatory mechanisms and come to negotiated agreements for the use of assets (non land). | OP 4.12 is largely silent on negotiated agreement for assets as it focuses on involuntary resettlement and equitable compensation. | Use Vanuatu systems for compensation and voluntary or negotiated land donation. |
| Convention requires payment for non land assets damaged or removed by works. | Voluntary land donation doesn't include payment for loss of assets | Use Vanuatu convention systems and compensated for lost or damaged assets. |
| Compulsory acquisition under the Land Acquisition Act requires consultation with all APs, | OP 4.12 requires that RPs must be prepared based on consultations with APs, and that poorer and vulnerable people are also consulted and informed of their entitlements and resettlement options. | ARAPs will be prepared in consultation with APs, including vulnerable groups, and disclosed by the PST; translated or summary versions will be available at the provincial, district and local level. Local chiefs whose members are affected will also receive a copy of the ARAP. |
| There are no provisions to improve or at least restore the livelihoods of all DPs under the Land Acquisition Act however there are options for appeal and all compensation is based on formal valuation. | It is necessary to improve or at least restore livelihoods of APs by a range of strategies targeted at APs. Nobody is to be worse off as a result of the development project. | Where such impacts will be experienced, ARAPs will include measures for improvement or at least restoration in living standards of APs to pre-project levels. |
| Very limited provisions to provide assistance/compensation to APs who lose access to non land assets. | Requires that APs are compensated for all losses, including non-land assets, at full replacement cost. | The project will follow the principle of replacement cost for compensation of affected assets. |
| There is no requirement for the monitoring and assessment of resettlement outcomes. | OP 4.12 requires that resettlement outcomes be monitored and assessed. | ARAPs will include indicators and baseline data to monitor impacts on living standards of APs. The monitoring reports will also be disclosed including to APs. |

6 Voluntary Land Donation under VIRIP

Voluntary Land Donation

Note for editors: *To meet World Bank safeguard policies, the principles governing voluntary donation are set out in this section. The contents of this section are essentially the same as that included within the original VIRIP ESMF (April 2015 and April 2016 versions) and it has been relocated to this framework for reasons of relevance and continuity.*

Voluntary land 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 however in the Vanuatu context some compensation may be required for the loss of assets on the land such as crops or trees. 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 coercion or duress.

Voluntary land donation requires a declaration by the individual, household or group that they are donating either the land or the use of the land, for a specific purpose and a specific duration of time. It is noted that VIRIP proposes permitting voluntary *use* of land but not *transfer of ownership*. This must include both women and men. It is provided freely and without compensation, and is acceptable only if the following safeguards are in place:

- 1) Full consultation with landowners and any non-titled affected people at the time of site selection (including the consultation with both women and men).
- 2) Voluntary donations should not severely affect the living standards of affected people based on the World Bank definition.
- 3) Any voluntary donation will be confirmed through written record and verified by an independent third party such as customary tribunal, non-governmental organization (NGO) or legal authority.
- 4) Adequate grievance redress mechanism should be in place.

If involuntary acquisition cannot be avoided, a Resettlement Action Plan is to be prepared according to the principles in the Resettlement Policy Framework.

Compensation for Voluntary Land Donation

In Vanuatu it is common for compensation to be offered for assets on land being donated voluntarily. Essentially a form of negotiated agreement, in Vanuatu it is considered reasonable for a land donor to be compensated for these assets. The scale of compensation is well established and used widely for this purpose and also for compensation in the case of accidental damage or loss. The policy is contained in Annex D, these rates are established through the departments of Agriculture and also Forestry (Annex C) and most often used by the PWD for compensation of crops lost through road and related infrastructure works.

Table 3 - An assessment of the key aspects of Voluntary Land Donation

| Key consideration | Application to this project |
|--|---|
| What the land is going to be used for, by whom and for how long? | The land will be used by local communities for schools, water supplies, sanitation, roads, drainage and other infrastructure. Benefits are primarily to the local community. |
| Will they be deprived of the ownership or right to use the land? What does this really mean? | No transfer of land ownership will take place. Land use rights will however be agreed and transferred to the GoV for a specific use. Based on ongoing consultation the proposal will be refined to reduce impacts on land, structures and crops. MIPU (or MOET as appropriate) will undertake consultation with affected communities during project implementation. |
| Do they have the right to refuse to donate the land? | Yes. If the community does not request (or want) the infrastructure, it would have every right to say so, and refuse to let the GoV to use the land. |
| Are there proposals which would allow other land to be used? | A key aspect of project implementation will be options assessment which will be undertaken in close consultation with the affected/beneficiary communities. Options will be appraised by both the relevant subproject Contractor and Supervising Engineer and communities to develop and agree and preferred outcome. |
| What would the community need to do to donate the land, and what costs are involved? | The communities would sign an agreement allowing the relevant GoV Ministry to use the land for the purpose of the investment project. All costs of the negotiations would be borne by the project with the compensation paid by the Government of Vanuatu. |
| What effect may the donation have on their family? What can they do if they (or their family or heirs) want the land back? | Once the beneficiaries have agreed to the voluntary land donation arrangement, there would be no ability to get the land back for another purpose until the land lease expires. |

A draft form for Voluntary Land Donation is attached as Annex A.

A draft form for Voluntary Land Donation for Schools is attached as Annex B.

7 Involuntary Resettlement - Abbreviated Resettlement Plan

E. Preparing and Approving ARAP

The ARAP is expected to be applied primarily in two instances:

1. If additional land is required and the landowner is not a beneficiary of the project and the pre-requisites for negotiated settlement are not satisfied.
2. in an instance where, for example, land access had been negotiated and agreed but then the land owner rescinds this agreement once the sub project has commenced; thereby compromising project outcomes

An Abbreviated Resettlement Plan (ARAP) will be developed for any such instance as per Operational Policy 4.12 for Involuntary Resettlement, Annex A, paragraph 22. The ARAP will form part of the agreement between the GoV and the World Bank and will be referenced in bidding and contract documents.

C. Objectives, Definitions and Key Principles

The guiding principles for the ARAP are that involuntary resettlement is to be avoided or minimised. APs should be better off or at least as well off as before the project. All persons affected by the project are to be consulted throughout the project, have the opportunity to participate in planning, and to share in project benefits. The project should contribute to sustainable development.

These principles entrain a process of early identification of stakeholders, and in particular of APs; frank and effective public disclosure of any known impacts; consultation and participation to avoid or mitigate negative impacts identified, and to ensure that no person or impact is overlooked; fair, transparent and timely intervention to support APs during implementation, resettlement and restoration of livelihoods; and commitment where possible to improve upon the status quo, particularly for those who may be vulnerable by reason of poverty, ethnicity, gender, age, disability, or social status.

In the event that the ARAP becomes necessary, the following will preparation will be undertaken:

- Responsibility for preparation, implementation and monitoring of ARAPs (including responsibility for meeting all associated costs with their implementation), in accordance with this RPF, rests with the GoV.
- The agency in the GoV with direct and overall responsibility for managing the land acquisition and involuntary resettlement process in this project is to be determined. As necessary, GoV will exercise its authority to coordinate actions with any other agencies involved to ensure timely and effective ARAP implementation.
- Preparation of the RAP/ARAP begins as soon as it is determined that involuntary resettlement is essential to complete any of the project activities and shall be finalized prior to the commencement of any works to carry out said project activities. The VIRIP PST will carry out, or cause to be carried out, a census survey to identify and enumerate Displaced Persons and to identify and inventory land and other assets to be required. The census survey must cover 100% of the displaced persons. The

census survey also establishes whether any displaced persons are significantly affected by loss of productive land, whether any commercial enterprises are affected, or whether any households will be required to physically relocate.

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

- i. Description of the project activity causing involuntary resettlement and explanation of efforts to avoid or minimize involuntary resettlement associated with the project (alternative project designs considered).
- ii. Range and scope of potential adverse resettlement impacts.
- iii. Socioeconomic survey and baseline census survey information.
- iv. Review of relevant laws and regulations relating to land acquisition and involuntary resettlement (see section above on legal and regulatory framework for more details).
- v. Description of asset valuation procedures and specific compensation rates (or alternative measures) for all categories of affected assets.
- vi. Other assistance measures, if any, necessary to provide opportunities for livelihood restoration for displaced persons.
- vii. Assistance to affected commercial enterprises.
- viii. Eligibility criteria for compensation and all other forms of assistance.
- ix. Relocation arrangements, if necessary, including transitional support.
- x. Resettlement site selection, site preparation, and measures to mitigate impacts on host communities, if necessary.
- xi. Restoration or replacement of community infrastructure and other services.
- xii. Land donation arrangements and documentation requirements, if relevant.
- xiii. Organizational arrangements for implementation.
- xiv. Consultation and disclosure requirements and arrangements.
- xv. Resettlement implementation schedule.
- xvi. Costs and budget.
- xvii. Monitoring arrangements.
- xviii. Grievance procedures.
- xix. Summary entitlements matrix.

F. Eligibility Criteria

Criteria Defining Displaced Persons

Eligibility of an individual for resettlement assistance will relate to their:

- Loss of land, whether an owner, lessee or informal occupant.
- Loss of trees or other plants, whether on owned, leased or informally accessed land.

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

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

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

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

Nature of Impacts

The foreseeable impacts cannot be identified at this early stage in the project; an assessment of the nature of impacts will be included in any subsequent ARAP.

H. Communal Land Acquisition – Guiding Principles

The following resettlement planning process will be reviewed and established:

- a) Alternatives to land acquisition are considered. Especially where replacement land is scarce or non-existent, or where customary land tenure is deemed inalienable, negotiated agreements for long-term lease, even for alternative infrastructure siting, should be considered.
- b) Where communal land must be acquired, collective compensation may be appropriate. Under such conditions, compensation is used solely for appropriate community purposes, or is distributed equitably among community members. The ARAP describes arrangements for usage of collective compensation.
- c) Individual users and occupants of acquired land are identified in the census prepared for the ARAP and the ARAP describes mitigation measures or negotiated agreements providing for restoration of their livelihoods or living standards.

d) Where replacement land does not exist, it will be impossible to establish a technical valuation for replacement cost. The ARAP describes alternative means used for valuation. This may include negotiated agreement with affected landowners and communities.

e) Where negotiated agreements for land valuation, for long-term lease, or for provision of remedial assistance to users or occupants of acquired land, are to be established, the resettlement plan describes the methods by which affected communities are involved in the negotiations, and methods by which terms of negotiated agreements are fully disclosed to them, in a manner accessible to the affected community.

f) If relevant, the ARAP describes any changes that may occur regarding land use and tenurial arrangements for remaining land in project-affected areas.

g) The ARAP describes a process by which conflicting claims to ownership or use rights will be addressed.

I. Implementation Arrangements

Implementation arrangements such as a time-bound implementation schedule of all activities relating to involuntary resettlement shall be included at the development of an ARAP. Payment of compensation should be completed at least one month prior to involuntary resettlement. If there is a delay of one year or more between land or asset valuation and payment of compensation, compensation rates will be adjusted for inflation purposes. Arrangements, including the impacts of delay will be disclosed to bidders and contractors.

J. Budget and Costs

The PST bears responsibility for meeting all costs associated with involuntary resettlement. Any ARAPs prepared in accordance with this RPF require a budget with estimated costs for all aspects of their implementation. All displaced persons are entitled to compensation or other appropriate assistance and mitigation measures, regardless of whether these persons have been identified at the time of resettlement planning, and regardless of whether sufficient mitigation funds have been allocated. For this reason, and to meet any other unanticipated costs that may arise, the RAP/ARAP budget shall include contingency funds, i.e., at least 10% of estimated total costs. Compensation must be paid promptly and in full to the displaced person. No deductions from compensation will occur for any reason. The ARAP should describe the procedures by which compensation funds will flow from PST to the displaced persons.

K. Consultation and Disclosure Arrangements

Disclosure and consultation on the RPF

Disclosure does not equate to consultation (and vice versa) as disclosure is about transparency and accountability through release of information about the project. A copy of this draft ESMP should be made available on the WB Infoshop and GoV websites, and hard copies available at MIPU office in Port Vila, and Council offices in project areas.

Disclosure and consultation on the ARAP

The ARAP must describe measures taken to consult with displaced persons regarding proposed land acquisition, transitional assistance, relocation arrangements, and other arrangements, and summarizes results of those consultations. The PST also discloses the ARAP- both the draft and final versions – to the displaced persons and the general public in the project area, in a language and location accessible to them. Disclosure of the draft ARAP should occur at least one month prior to Bank review. Disclosure of the final ARAP occurs following WB acceptance.

L. Monitoring Arrangements

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

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

M. Grievance Procedures

VIRIP has a GRM as a standalone document. The GRM offers remedies appropriate to the scale of the grievance. The GRM, including availability of redress, and information about how to access it, will be discussed during consultations with community stakeholders and the public.

ANNEX A - Voluntary Land Donation (or Land Lease) Form – Road Infrastructure Assets and/or Access

This form or an equivalent document is to be used to record the consent of landowners who offer private land for a community good. The essentials of voluntary donation are that the donors have been freely consulted prior to the donation, were not pressured or coerced, that the donation will not affect a significant proportion (more than 10%) of their productive assets, and that they have the right to refuse and to lodge a complaint if they have a grievance about the process.

Consent Form for Voluntary Donation

I/We: _____ male household head _____ female household head,
and/or person(s) exercising customary rights over land described as (legal description, GPS
coordinates if available) _____
in

Village _____

Island _____

Province _____

hereby declare that I/we/the group are the owners/users of the land required for (description):

I/we are voluntarily donating the use of land and or/ land-based assets (land area, type of assets
/trees/crops etc) _____

for the purpose of: (specify activity)

We agree to this purpose from (date) _____ for as long as the purpose is served *or* until (specify
end date, typically the life expectancy of the facility) _____

I/we make this donation 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.

OR

I/we make this donation of My/Our own free will. I/We are requiring compensation for the following
assets: [LIST WITH AMOUNTS OF AGREED COMPENSATION] .

I/We affirm that we have been fully and freely consulted and informed about the activity prior to agreement, have not been subject to any form of coercion, understand that I/we have the right to refuse, and to seek redress for any grievance concerning this transaction.

Signed:

Male household head _____ /Female household head _____

Chief or Local Custom Authority _____

Representative of concerned Government Agency _____

Date:

Annex B - Community Form for Use of School Grounds and for School Works

GOVERNMENT
OF THE REPUBLIC
OF VANUATU



GOUVERNEMENT
DE LA REPUBLIQUE
DE VANUATU

DEPARTMENT OF EDUCATION

Corporate Services Division
Private Mail Bag 028
Port Vila, Vanuatu

DEPARTEMENT DE L'EDUCATION

Division des Affaires Corporate
Sac De Courier Privé 028
Port Vila, Vanuatu

COMMUNITY AGREEMENT

School Name: _____

Folem miting we i bin tekem ples bitwin *Ministry of Education, Facilities Unit* mo mifala ol komuniti long

Deit _____ long _____ vilij

_____ island, long _____ Province

- Mifala ol Chif, mo ol Lanona, mo ol Risos ona, mo ol nara Komuniti Lidas i saenem agreement ia blong talem se mifala i sapotem skul project, mo mifala i akri blong kivhan long wok blong projek folem eni arrangement we School Council i mekem.
- Mo talem se mifala i agree se kontrakta i save yusum sanbij mo korel long ol sites blong mifala long ful taem we projek blong bildim school i stat kasem i taem i finis.
- Mo mifala oli save wok blong komuniti i stap olsem:
 - Profait fri san, mo corel, mo wota.*
 - Klinim bus.*
 - Unlodem ol materials mo karem iko long skul.*
 - Provaidem storage spec mo security blong lukautem gud.*
 - Dikim foundation.*
 - Help blong mekem roof mo trus.*

| Chifs | Vilij | Sikniture | Deit |
|-------|-------|-----------|------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
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| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |
| 6. | | | |

Chairman of School Council

Sign _____ Date. _____

Women Representative

Sign _____ Date. _____

Youth Representative

Sign _____ Date. _____

Representative blong MoE Facilities Unit

Sign _____ Date. _____

Witness by: Headmaster/Headmistress

Sign _____ Date. _____

Annex C – GoV Guidelines for Valuation of Forest Products

Guidelines for Valuation of Forest Products

The “true” value of forest products vary from place to place within the country depending on:

- Different uses people make of these products.
- The dependency of the people on the product
- The abundance of the resource and
- The cost involved in establishing and maintaining the resources.

Hence for products that is non-commercial but is valuable subsistence-wise the following set of valuation is only a minimum. The local forest officer who should be familiar with the particular area should be in a better position to decide on a higher monetary value of the product where he sees fit.

1. Commercial Species

a) Planted

| Product Type | Age | Value in Vatu |
|----------------------|---|---|
| Hardwood Seedlings | < 3 yrs old > 3 yrs < 8 yrs old > 8 yrs old or > 10 cm dbh | 1,000 per plant 5,000 per plant 5,000 + current market value (per cubic meter basis in round logs or sawn timber – less production costs). |
| Softwood Seedlings | < 2 yrs old > 2 yrs < 6 yrs old > 6 yrs old or > 10 cm dbh | 1,000 per plant 5,000 per plant 5,000 + current market value (per cubic meter basis in round logs or sawn timber – less production costs.) |
| Sandalwood Seedlings | < 1 yr old > 1 yr < 5 yrs old > 5 yrs < 10 yrs old 10 yrs < 20 yrs old > 20 yrs old | 1,000 per plant 5,000 per plant 12,000 per tree 24,000 per tree 10,000 per tree + current market value of sandalwood (per kilogram basis) |
| Rattan | < 1 yr old > 1 yr < 5 yrs old 5 yrs old | 1,000 per plant 3,000 per plant 3,000 per stem + current market value |

(b) “Naturally” Growing

| Product Type | Dbh (cm) | Value in Vatu |
|--------------|----------|---------------|
| | < 10 cm | 0 |

| | | |
|-----------------------------|---|--|
| Hardwood/Softwood Seedlings | 10 cm or more | priced at current market value (per cubic meter basis in round logs or sawn timber – less production costs) |
| Sandalwood | < 1 yr old > 1 yr old < 5 yrs old > 5 yrs old < 10 yrs old > 10 yrs old < 20 yrs old > 20 yrs old | 500 per plant – if maintained 2,500 per plant – if maintained 12,000 per tree 24,000 per tree 10,000 per tree plus current market value of sandalwood (per kilogram basis) |
| Rattan Wildings | Marketable size | 0 200 per stem |

- NB:** (a) Maximum production costs are estimated at VT. 28,000/m³ for hardwood spp and. 23,000 for W/wood and other such species (e.g. Gyrocarpus amricanus, etc...)
- (b) To estimate the value of sawn timber in a round log, we assume 45% recovery of the log volume.

2. Non-Commercial Species.

Most trees/shrubs that have no value commercially are either planted or looked after for subsistence or traditional uses. The value of such plants (if the need arises to compensate for damages) would have to be decided upon by the local Forest Officer upon consultation with the people of the area. Once again, this is where the Forest Officer has to take into consideration the use of the plant, the frequency of use or the demand of the plant and the abundance of the resource.

3. Non Timber Forests Products (NTFP)

Non Timber Forest Products include plant (tree) parts such as leaves, fruits, bark, roots and tubers, orchids and may also cover insects. Up until then there is not much commercial use for such products except for a number of fruits and nuts and Bean tree seeds. Hence there is not much research or available information on the commercial values of most NTFPs that the country has. However, as a guide for Forests Officers, values of such products could be determined though with reference to:

- (a) whether or not such products are domesticated and the establishment and maintenance costs involved
- (b) whether or not they are being managed out in the wild
- (c) whether or not the utilization of such resource is for commercial purposes
- (d) be it consumed subsistence-wise, the frequency of use, or, how reliant the people are on the product; or
- (e) the market value be it used for commercial purposes
- (f) the average annual yield, and
- (g) the number of years estimated for the particular product to serve the owner, taking into account the fact that this nation is prone to natural disasters such as cyclones, earthquakes and volcanic eruptions. **[Further and maybe, detailed information on values of specific NTFP types could be done in future when there is a clear distinction on which products are covered, or, controlled by the Department of Forests which are taken care of by the Agriculture Department and which come under the Environment Unit].**

4. Resources removed during logging operations.

For damages done during road construction in a logging operation, the field Forest Officer would have to ensure that commercial trees are utilized to the minimum standards allowed, otherwise the resource owner should not lay claims, if the operation is executed according to the plan.

The resource owner should not lay compensation claims for trees, poles, quarry or other such resources extracted for the construction of roads, bridges or jetties in an area he has contracted to the logging company or for the construction of roads, bridges or jetties to access the said contract area. The resource owner would, however, have to be made aware of this before he signs the contract or Timber Rights Agreement to the company. Resource owners who have not contracted any resource to the company but acknowledge that the roads, bridges or jetties built by the company would be of benefit to them as well, may not have to lay claims for their resources used for the construction of such infrastructure. However, they would have to be consulted before any resource could be extracted from their land.

5. Flora removed for community development.

The valuation rates previously discussed are for trees/plants damaged through negligence. However, those that have to be removed to give room for rural infrastructure such as roads, schools, power lines and TVL tower construction, etc., would have to be given deeper consideration as such are for the benefit of the community as a whole. The provincial authority, chiefs and other community leaders concerned would have to play an important role to explain to the resource owners involved that compensation in such cases may be to a lesser extent, or, may not be necessary at all. One must always bear in mind that nothing can be provided free of charge. Therefore, people would have to be prepared to sacrifice resources – in whatever form they may be – in order to gain something.

APPENDIX

Commercial Species.

Though almost all Vanuatu tree species are known scientifically as hardwoods, the definition of hard wood in this context refers to the physical strength of the wood and the rate at which they grow and their rotation age. Most softwood grows fast while the harder ones are slow.

1. List of Vanuatu Softwoods.

Waet wud
Melektri
Octomeles
Gyrocarpus
Navasvas
Sterculia
Evodia
Elaeocarpus
Nandadai

2. List of Vanuatu Hardwoods.

Natora
Namalaus
Nangai
Nakatambol
Stinkwud
Nandao
Nakoka
Kauri
Bisa
Bintri
Tamanu
Palaquim
Nanduledule
Candle nut
Namamau
Namariu and all other commercial trees that are not included in the softwood list above.

Annex D – GoV Agricultural Compensation Policy



GOVERNMENT OF VANUATU



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Monday 20th March, 2017

SUBJECT: AGRICULTURE COMPENSATION POLICY

This note serves to inform users of the Agricultural Compensation Policy, that crop price estimates mentioned in the policy is based on social/ custom; ecological; market and nutritional values, made for particular circumstances only. Such situation is to help Department staff assess damages to crops in cases where a government infrastructure project such as roads, airports etc...anticipated would incur damages to crops and that it requires estimated costs to crop damage.

It must be noted that the Department of Agriculture & Rural Development. (DARD), is not responsible in regards to users of the price estimates and it is up to the farmers' discretion whether to use the price as an example or that he/ she will not.

Thanks for your understanding,



Antoine Ravo
Director
Department of Agriculture & Rural Development

Annex E - VIRIP Grievance Redress Mechanism (GRM)

The VIRIP GRM is set out in the following pages as the last appendix to this ESMF. The GRM may be revised over time so to check for the latest version, please contact the VIRIP Project Support Team by email to: Safeguard@virip.org or telephone (00678) 22888.



Abstract

project works under the Vanuatu Infrastructure and Improvement Project (VIRIP)

MARCH 2018

Republic of Vanuatu: Vanuatu Infrastructure Reconstruction and Development Project

Financed by:

The World Bank

The Government of Vanuatu

Notice

This manual was produced for the Director General of the Ministry of Infrastructure and Public Utilities of Vanuatu (MIPU) for the specific purpose of the Vanuatu Infrastructure Reconstruction and Improvement Project.

This manual may not be used by any person other than by the MIPU's express permission.

Any enquiries about this manual or its application may be sent to: safeguard@virip.org or telephone (00678) 22888.

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Abbreviations

| | |
|--------------|---|
| ARAP | Abbreviated Resettlement Action Plan |
| AP | Affected Person |
| CLO | Community Liaison Officer (Contractor) |
| CPO | Community Partnership Officer (PWD) |
| DEPC | Department of Environmental Protection and Conservation |
| ESMP | Environment and Social Management Plan |
| GoV | Government of Vanuatu |
| GRM | Grievance Redress Mechanism |
| GRS | Grievance Redress Service (World Bank service) |
| IBC | Island Based Contractor |
| IR | Involuntary Resettlement |
| MIPU | Ministry of Infrastructure & Public Utilities |
| MOET | Ministry of Education and Training |
| NGO | Non-Government Organisation |
| OP | Operational Policies (of the World Bank Operational Manual) |
| PEO | Provincial Education Officer |
| PIC | Project Implementation Committee |
| PST | Project Support Team |
| PWD | Public Works Department |
| RPF | Resettlement Policy Framework |
| SC | Supervising Consultant |
| VIRIP | Vanuatu Infrastructure Reconstruction and Improvement Project |
| VLD | Voluntary Land Donation |
| WB | World Bank |

1. Grievance Redress Mechanism (GRM): Introduction

This document provides guidance for the management of complaints and grievances under Vanuatu Infrastructure Reconstruction and Improvement Project (VIRIP). The purpose is to provide a suitable, centralized mechanism (GRM) for VIRIP that can also be applied to meet the World Bank's safeguard requirements.

Originally contained in the VIRIP Environmental and Social Management Framework (ESMF), this GRM has been revised and expanded so it can be released as a standalone document that covers both complaints and grievances under VIRIP for easier use and reference. A copy of this GRM is contained in the Annexes of the VIRIP's other safeguards frameworks documents; the Resettlement Policy Framework (RPF) and the ESMF. In the event of any differences between versions, this, the standalone version of the GRM will take precedence.

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

2. GRM Principles

A Grievance Redress Mechanism (GRM) is proposed to address any complaints and grievances arising during the course of implementing the project. Members of the public may perceive risks to themselves or their property, or have concerns about the environmental performance of the project. Any concerns or grievances should be addressed quickly and transparently, and without retribution to the affected person (AP) or Complainant.

Primary principles are that all complaints and grievances are resolved as quickly as possible. It therefore follows that the resolution of complaints and grievances should be at the lowest possible level for resolution.

All minor land or property related complaints that can be resolved, should be resolved immediately on the site. The focus of the GRM is to resolve issues in a customarily appropriate fashion at community level and record details of the complaint, the complainant and the resolution.

GRM Objectives

The GRM has the following objectives:

1. Establish a prompt, easy to understand, consistent and respectful mechanism to support the receiving, investigating and responding to complaints or grievances from community stakeholders;
2. Ensure proper documentation of complaints or grievances and any corrective actions taken; and
3. Contribute to continuous improvement in performance of VIRIP through the analysis of trends and lessons learned.

GRM Definitions

An **affected person** (AP) is a person that is adversely affected temporarily or permanently as a result of sub-project works under VIRIP.

A **complaint** is a statement (verbal or written) or expression of displeasure that an impact or effect arising from a sub-project is unsatisfactory or unacceptable to the complainant. For the purposes of this RPF, a complaint is a concern about a minor impact or effect that is short term, low in risk, often temporary, that typically does not require an investigation but **does** require a specific response to remove or remediate the unsatisfactory or unacceptable impact or effect. Unresolved complaints may become grievances if not dealt with appropriately and within a short (typically 2 days but a maximum of 14 days) timeframe. Complaints able to be dealt with or resolved immediately can be referred to as minor complaints.

A **grievance** is a statement about an action, impact or effect arising from a sub-project that adversely affect the rights, health and/or well-being of an affected person or people to the extent that it forms legitimate grounds for grievance and if upheld, may result in compensation, legal action or a change to the sub-project in order to resolve the grievance. For the purposes of this RPF, a grievance will require specific response and potentially and formal intervention by supervisor or client for resolution and such resolution must be formally agreed and recorded. Grievances may be raised verbally or in

writing but must be reported using the Grievance Report Form which must be completed in every instance.

3 World Bank Requirements

The grievance process is based upon the premise that:

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

The VIRIP PST will manage the overall GRM, utilizing formal, informal and traditional grievance procedures suitable to the Vanuatu context. Generally, complaints and grievances will be resolved at the community level as much as possible under the management of the contractors and the Supervising Consultant (SC) representative. Assistance may be offered by the Ministry of Infrastructure and Public Utilities (MIPU) primarily through its Public Works Department (PWD) through the use of the local PWD Community Projects Officer (CPO) or in the case of complaints or disputes to do with school grounds, the Ministry of Education and Training (MOET) School Principal or the MOET Provincial Education Officer (PEO).

Grievances may be firstly referred to customary conflict mediation arrangements where appropriate, with the assistance of the Area Chief or so long as they are not directly affiliated with leaders who are party to the grievance. If the issue cannot be resolved at this level, it will be raised to the next level and so on.

The GRM aims to address all complaints received, regardless of whether they arise from real or perceived issues. Any stakeholder (man or woman) who considers themselves affected by the project activities will have access to this procedure at no cost or threat of any negative repercussions.

The statutory rights of the Complainant to undertake legal proceedings remain unaffected by participation in this process. The structures of the GRM will include women's representatives to allow female stakeholders to more easily make complaints or lodge grievances. The use of representatives is also available to any affected party and may be used in situations where the affected party cannot represent themselves (for example when the affected party is a child or disabled). Representatives can include but are not limited to women, youth, Church or Non-Government Organisation (NGO) representatives as seen as appropriate by the affected party.

4 Overview of the GRM Implementation

For all complaints and grievances associated with the project the following mechanisms will be used.

All **complaints** about the project will be dealt with as presented within this VIRIP Grievance Redress Mechanism and should be recorded even if resolved immediately.

All **grievances** will be addressed by the VIRIP Grievance Redress Mechanism and a Grievance Complaint Form completed and forwarded to the PST.

Grievances involving compensation for (non-land) resources will be addressed using existing compensation rates developed by government agencies and currently in use for loss or damage due to infrastructure projects. These processes and compensation rates are set out in the VIRIP RPF.

Arrangements for Complaints and Grievances

Complaints

In practice, **complaints** can be made to anyone involved in VIRIP or perceived to be in authority including Ministers, Members of Parliament, Provincial Authorities, MIPU or VIRIP Officers. Irrespective of the initial receiver of the complaint, the following will happen for Contractor related Complaints:

- All Complaints will be communicated to and registered by the Contractor's nominated representative usually the Contractor's Community Liaison Officer (CLO) in the site daybook immediately upon receipt, including details of the Complainant, attempts to resolve the complaint, the resolution of the complaint and outcome.
- The complaints record or daybook will be made available for inspection by any authorised representatives of MIPU, including the SC.
- The Contractor will inform the MIPU representative or SC within 2 days of all complaints received including those that have been resolved.
- The SC supported by CPO or others may also assist the contractor in resolving a complaint.
- The Contractor will have a maximum of one week to resolve the complaint and convey a decision to the Complainant. The complaint and decisions on its resolution can be heard and agreed at the relevant local nakamal. Once resolved, the resolution should be entered accordingly into the site daybook and the SC informed of the outcome and details included in the next Contractor's report for review and analysis by PST.
- Should the Contractor or the Complainant not be satisfied with the proposed resolution of an issue or any aspect of communication around the issue, the matter will then be passed to the relevant PWD Divisional Manager or Provincial Education Officer as applicable and the PST for resolution.

- If the complaint escalates, that is becomes more serious over time or it appears that the Complainant may have a grievance as defined above or the complaint cannot be resolved through initial intervention and efforts by PST; **it must be recorded as a grievance and the procedure for grievance redress be followed.**
- Regular community representative meetings will be held for all VIRIP sub-project activities. These meetings will include consideration of all aspects of the VIRIP sub-project and include discussions on nuisance, analysis of complaints and confirmation of steps to prevent or reduce nuisance and confirmation that all complaints have been resolved. Inherent causes of complaints that cannot be resolved by changes to work practices or simple on-site solutions require to be referred to the PST for resolution.
- Any other complaints not necessarily relating to the Contractor shall be dealt with in the first instance by the CPO and or PWD Divisional Manager or Provincial Education Officer as applicable and recorded and sent to PST.
- Results of complaints records and meetings across VIRIP subprojects will be reviewed regularly by the PST to identify opportunities to reduce impacts of project activities and reduce complaints.

Grievances

- **All** grievances must be referred by the SC or Contractor directly to the MIPU or PWD or MOET representative for resolution and details recorded using a Grievance Report Form (refer Annex A).
- When a grievance is reported, it will be referred to the PST SS or Project Manager/Coordinator who will report the incident to the Chairman of the PIC who may delegate this responsibility to a suitable Officer until the grievance is resolved. The GRM process, responsibilities and timeframes is set out in the next section.

Important Notes

- Concerns, complaints and grievances from affected women, children or other disadvantage groups in the community may be raised by a representative on an AC's behalf and in the same manner as a community complaint or grievance.
- Concerns, complaints and grievances to do with the Contractor's activities within school grounds under VIRIP Part 2 shall be raised by the School Principal and dealt with in the same manner as a community complaint or grievance.
- Should a dispute arise that cannot be resolved and it is serious enough to prevent the project works taking place, then work will stop and the Contractor will be instructed to stop work on that element of the contract until the matter is resolved. This resolution may include handling through legal processes.

Community Consultation

The Contractor, supported by either PWD, MOET or SC will confirm with project stakeholders (including community representatives) details of the project works taking place. An agreement will

be sought that sets out the controls and measures to be adopted by the Contractor to minimise socio-environmental impacts of the project including but not limited to:

- Hours of work
- Noise
- Air Quality
- Waste management
- Location of construction camps
- Traffic management
- Public Health and Safety

The agreement will also identify and nominate the community representatives who are authorised to speak on behalf of the community members.

Regular meetings will take place between the Contractor, PWD, MOET or SC representative and community representatives. The purpose of these meetings is to review that all minor complaints have been resolved and identify and if possible resolve any ongoing complaints or grievances.

All works under VIRIP are subject to an Environmental and Social Management Plan (ESMP) that has a set of conditions to be met by the Contractor. Any breaches of the ESMP conditions will also be entered into the daybook at the relevant site(s) and the resolution of the breach will be recorded.

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

Disclosure

In order for it to function as intended, the potential complainants must be aware of how to access the GRM. Therefore it is important that the GRM and how it functions are presented to potentially impacted parties. Key details requiring to be disclosed include:

- **How to make complaint**
This includes the different methods of making a complaint or grievance (face to face, phone, email, through intermediary or representative).
- **Contact details**
Where to complain to which will include contact details of people responsible for the specific sub-project as well as PST.
- **Responsibilities**
Who is responsible for recording and resolving a complaint, (includes the responsibility of the complainant to be accurate and specific about their complaint). Timeframes for responding to complainant.

A summary of the GRM, including the information above will be displayed at every VIRIP work site and will also be distributed to communities in Bislama as well as English or French.

5 Grievances Procedure

The grievance resolution process includes four key stages – (i) Receive; (ii) Investigate/Enquire; (iii) Respond and Resolve; and (iv) Follow up/Close Out.

The intention is to resolve a complaint as quickly and at as low a level as possible to avoid a minor issue becoming a significant grievance. Unresolved complaints may be treated as grievances only if, in the opinion of the PIC Chairman that they fall within the definition of grievance under VIRIP.

Irrespective of the stage of the process, a Complainant has the opportunity to pursue the grievance through the court as is his or her legal right. A Complainant also has the right of recourse to the World Bank's Grievance Redress Service (GRS) at any time throughout the grievance resolution process.⁷

Receive

Relevant personnel in each project site (SC and Contractor) will be required to accept formal grievances and ensure avenues for lodging grievances are accessible to the public and affected persons. Avenues will include: face to face with the contractor, government representative or community representative, by telephone or in writing to the above or via email.

The first point of contact for all potential grievances from community members is usually the Contractor or CPO or School Principal. The grievance may be made directly by the aggrieved party or through the local chief or a community women's representative or for matters relating to school operations or on school grounds, the school Principal.

A grievance may also be made by directly to anyone involved in VIRIP or perceived to be in authority including Ministers, Member of Parliament, Provincial Authorities, MIPU or VIRIP Officers however the grievance must be passed to the Contractor for it to be formally recorded and received into the GRM.

Irrespective of the source, the Contractor will record all grievances on the Grievance Report Form (Annex A) and inform the SC immediately passing a copy of the form to the SC. Depending on the circumstance, SC may also fill out the Grievance Report Form with the Contractor. The grievance will be acknowledged within two days to the Complainant confirming that the grievance has been received and is under investigation.

Investigate / Enquire

The SC will investigate the details of and grounds for the grievance with assistance from the DM or PST if required. Additional support or information may be gathered from any other sources in order to more clearly describe the cause and effects of grievance, its level of urgency or severity and its relationship to VIRIP.

⁷ GRS can be found at <http://pubdocs.worldbank.org/en/223151434995262110/GRS-2015-Brochure-web.pdf>

The SC may require that a community representative (chief or women's representative) supports the grievance in order to assist investigations and confirm details of the grievance.

Investigations may include site visits and meetings to determine: the scale and impact of the grievance and what options there may be for appropriate responses or resolutions.

Respond and Resolve

After investigation, all grievances will be responded to by VIRIP representative directly to the Complainant within one week after the completion of the investigation to discuss and identify potential resolutions. If additional time is needed, the Complainant will be advised of this in advance. Any other representatives that may be required by either the SC, PST or the Complainant to be present in order to provide input to developing an appropriate response or resolution.

The severity of each grievance and subsequent course of action shall be determined by the relevant supervisor (contractor or engineer). If the issue is easily resolvable, (for example a grievance covered under compensation mechanisms under the RPF), the responsible parties should endeavor to address the issue directly on site. If the grievance is a more complex issue, it may require additional meetings and further investigation, and may need to be managed by the PST rather than the SC.

If a grievance is dismissed as groundless or resolved at any stage, the Complainant will be informed of their rights in taking it to the next stage. A copy of the decision is to be given to the Complainant in writing and a further copy sent to next level of authority to inform them of the complaint.

The records shall be kept and filed into the Grievance database managed by the PST. All responsible parties involved in the GRM process are to keep complete records of their activities. These records of the grievance redress mechanism will be monitored by the SC and PST and included in regular project reports.

If an agreement is not reached between the Complainant and the PST, the grievance will be escalated to the PIC for review and a final decision. If necessary, further action will be taken to resolve the issue. If the Complainant is still dissatisfied with the outcome, they may be referred to the legal process or use the RPS which is available at any stage to the Complainant. However courts should be the last avenue for addressing grievances.

Follow up/Close Out

A grievance is **closed out** when no further action can be or needs to be taken. All grievances should be **closed out** within the initial 30 days or as soon as possible thereafter and after all reasonable attempts to resolve the grievance have been attempted.

The response should communicate findings of the investigation and resolution, and seek approval from the Complainant. If the Complainant is satisfied with the outcome then the grievance is closed out and they provide their signature (or fingerprint) on the agreement as confirmation.

Should the Complainant either reject or appeal the outcome then the closure status will be recorded

Closure status will be entered into the Grievance database as follows:

- **Resolved** – resolution has been agreed and implemented and signed documentation is evidence of this.
- **Unresolved** – it has not been possible to reach an agreed resolution and the case has been authorised for close out by the PIC.
- **Abandoned** – cases where the attempts to contact the Complainant have not been successful for two months following receipt of formal grievance.

All grievances will be reviewed for opportunities to help identify and reduce future, similar occurrences across VIRIP subprojects.

Table: VIRIP Grievance Process below outlines the timeframes for each stage of the Grievance process.

| Timeframe | Stage |
|---------------|--|
| Within 1 day | <ul style="list-style-type: none"> • Grievance reported to Contractor through nominated person by Complainant or community representative (School Principal for issues on school property) or if received via PST immediately upon receipt. • Contractor with support of SC prepares Grievance Report Form providing full details of the alleged grievance. |
| Within 2 days | <ul style="list-style-type: none"> • SC investigates and confirms details of the grievance and ensures that details are entered onto the Grievance Report Form. • SC confirms subject of the complaint is still relevant and contacts PST. • SC sends Grievance Report Form to PST. • PST logs grievance into the GRM register. |
| Within 7 days | <ul style="list-style-type: none"> • PST informs PIC Chairman and confirms who will have delegated authority to resolve grievance. • PIC delegate and PST representative meets with relevant parties, village leaders etc. • Depending on nature or severity of the grievance PIC delegate and PST representative attempt to identify acceptable resolutions. • Confirm resolution with Affected Party (or representative) and seek their approval or confirmation that the grievance is resolved. • Grievance closed out by PST in writing, PIC Chairman informed. |

| | |
|---------------------------------------|---|
| 30 days | <ul style="list-style-type: none"> • If unresolved then Grievance including an update of all actions to date is or referred to PIC for further action. • Database updated by PST. |
| As soon as possible thereafter | <ul style="list-style-type: none"> • PIC undertakes further action. • If grievance remains unresolved the grievance can be closed out by PIC on behalf of the project. • Database updated by PST. • Complainant may initiate legal process through courts or through the GRS. |

6 Institutional Arrangements

Project Support Team (PST)

The PST will be responsible for managing the GRM including updating the grievance database to track the progress of formal grievances for the duration of projects. This involves coordinating between key agencies on a regular basis.

The PST PMC is responsible for final oversight of community consultation and grievance management.

The PST SS responsible for initial oversight of community consultation and grievance management and will administer the grievance database.

Nominated PST staff will regularly update the grievance database in consultation with key agencies where Grievance Report Forms have been completed.

All project-related grievances should be captured in the database regardless of the agency they were raised with. For Part 1 sub projects, the PWD Divisions (Community Project Officers) and SC should be involved in the resolution of all project-related grievances that sit within their key functions. CPOs may also shall support other key agencies such as MOET and Provincial Education Officers (PEOs) for Part 2 Schools with adequate resources and staffing as necessary to ensure grievances are effectively resolved.

Project Implementation Committee (PIC)

The PIC membership contains the relevant agency membership for identification and confirmation of options for resolution from a GoV agencies perspective. This includes access to legal advice from the State Law Office.

The PIC Chairman will direct the PST to deal with all grievances in an appropriate manner and if necessary delegate members or others to assist or intervene directly in resolution activities.

Community Project Officer (CPO)

The Community Project Officers are PWD officers based in the provinces. Their responsibilities include community liaison for roading works in the provinces. For all Part 1 sub projects, the CPOs or equivalent, along with PST representatives will identify relevant community stakeholders potentially affected by project works. Because of the CPO role, it is anticipated that many complaints not made directly to contractor may be made via the CPO. The CPO, along with the SC will be responsible for clarifying complaints and verifying that agreed solutions to complaints are agreed to and implemented. CPOs may assist the resolution of complaints and grievances under Parts 2 (Schools) and Part 3 (Public Buildings) if required.

Affected Person or Complainant

The affected person (AP) or Complainant has the responsibility to fairly represent their concern and to do so through a community representative (women, church, youth or other) as well as through customary (Chiefs) or formal channels.

Community representatives

The community representatives have the responsibility to accurately and fairly represent the AP or Complainant's concerns as described to them. The community representatives for each community (either in a geographical location or of a particular interest such as women's or church representative) will be identified in advance as part of awareness raising and disclosure of the GRM and other VIRIP subproject elements to local communities.

Contractors

Contractors will be briefed on the GRM and are expected to follow its requirements as part of the oversight of their subprojects. The Contractor's representative (typically Site Engineer or CLO) will attend community sessions on GRM and safeguards awareness or training run by MIPU representatives.

The Contractor is responsible for logging all complaints and other safeguards non-compliance incidents in the site daybook (or equivalent) for inspection by the SC or MIPU representative. The Contractor is also responsible for ensuring that all minor complaints are dealt with and resolved directly without any undue delays.

7 Awareness raising and disclosure of the GRM

The PST will inform the PWD Divisions, MOET, the relevant provincial government agency representatives Provincial Government Councils, local councils of Chiefs, local Chiefs, communities, project teams, contractors and key agencies on the GRM.

Communities and potentially affected persons will be advised of the GRM in the early stages of engagement on a proposed subproject, and be made aware of:

- The potential impacts of the project and how these impacts are to be minimised;
- How they can access the GRM (i.e. key people and complaint forms);
- Who to speak to and how to make a complaint;
- Who to speak to and how to lodge a grievance;
- The timeframes for each stage of the process;
- The GRM being confidential, responsive and transparent; and
- Alternative avenues of dispute resolution where conflicts of interest exist.

8 Conclusion and Application of the GRM

This GRM is intended to be used throughout the VIRIP. While every effort has been made to ensure that the provisions of this GRM will lead to the equitable resolution of grievances arising from project activities, it is recognised that amendments may be required to the GRM in order for it to work across multiple projects in both roading, schools and public buildings.

It is intended that the GRM be reviewed if or when necessary to ensure that it can deal with a complex range of sub-projects in a m

.anner that is appropriate and suits the social, cultural and legal situation in Vanuatu.

Once this document is publicly disclosed all the arrangements for dealing with complaints and grievances under VIRIP as set out under this GRM will be implemented.

A. Grievance Report Form

GRIEVANCE REPORT FORM

Received by: _____

Date Received: _____

Reported by: _____

Database ID: _____

Responsible Agency: _____

Staff Name: _____

Location: _____

| | Village | First Name, Last Name/ Prefers to be anonymous | Contact Details |
|-------------------------------------|---------|--|-----------------|
| Complainant(s) Or Representative | | | |
| Chief | | | |

Acknowledged by: _____

Date Acknowledged: _____

Description of Concern:

.....

Category:

Compensation / Land Access / Inadequate Notification/ Disruption to Business or Property / Property Damage / Irrigation / Boundary Dispute / Environmental Damage / Construction Activities / Safety Risk /Traffic / Other

Proposed Resolution or Feedback:

.....

Complainant satisfied with process? Yes No Why not?.....

Complainant satisfied with outcome? Yes No Why not?

Print Name (Complainant): _____

Signed (Complainant): _____ Date: _____

Signed (Recipient): _____ Date: _____

Copied to: _____

