GOVERNMENT OF THE KINGDOM OF LESOTHO

MINISTRY OF PUBLIC WORKS AND TRANSPORT

RESETTLEMENT POLICY FRAMEWORK STUDY

Compensation and Resettlement Policy Framework for the Transport Sector

Prepared for:

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ABBREVIATIONS AND ACRONYMS

CPI  Consumer Price Index
CRPF  Compensation and Resettlement Policy Framework
DCA  Department of Civil Aviation
DRR  Department of Rural Roads
DTT  Department of Traffic and Transport
EA  Enumeration Area
EIA  Environmental Impact Assessment
EMP  Environmental Management Plan
FGD  Focus Group Discussion
GOL  Government of Lesotho
IDA  International Development Association
ITP  Integrated Transport Programme
LFCD  Lesotho Fund for Community Development
LHDA  Lesotho Highlands Development Authority
LHWP  Lesotho Highlands Water Project
LSPP  Lesotho Department of Lands, Surveys and Physical Planning
MCC  Maseru City Council
MLG  Ministry of Local Government
MNB  Maseru Northern By-Pass Road
MMH  Mafeteng - Mohale’s Hoek Road Rehabilitation
MOHSW  Ministry of Health and Social Welfare
MOPWT  Ministry of Public Works and Transport
NES  National Environmental Secretariat
OP 4.12  (World Bank) Operational Policy 4.12 on Involuntary Resettlement
RAP  Resettlement (Action) Plan
RPF  Resettlement Policy Framework
RRMP  Road Rehabilitation and Maintenance Project
RRSS  Roma – Ramabanta – Semonkong – Sekake Road
SDA  Selected Development Area
SIA  Social Impact Assessment
TOR  Terms of Reference
TSP  Transport Sector Programme
VDC  Village Development Committee
EXECUTIVE SUMMARY

Introduction
(CRPF Section 1)

The Government of Lesotho (GOL) has prepared a Transport Sector Programme (TSP) that provides for the development/maintenance of transport services, infrastructure and administration in Lesotho. The TSP aims to support Government's objective of achieving economic growth, improving service delivery, strengthening democracy and reducing poverty. As part of the TSP, an Integrated Transport Programme (ITP) has been identified which is designed to provide financial and technical support for transport sector improvements for the period 2004 to 2010. Funds for the ITP will be provided by GOL, as well as through a credit from the International Development Association (IDA).

Many of the proposed and future transport sector projects will induce social impacts such as land acquisition and population displacement, especially where infrastructure development is envisaged. GOL's aim, consistent with IDA requirements, is to ensure that appropriate policies and procedures are in place to address any negative social impacts that may occur on transport sector projects, including those initiated under the ITP. This will be achieved through:

- formalising a Compensation and Resettlement Policy Framework (CRPF); and
- the preparation of Resettlement Plans (RAPs) for all future transport sector projects in which resettlement is required, in line with the above Policy Framework and the requirements of project-specific Environmental Impact Assessments (EIAs) and Environmental Management Plans (EMPs).

A CRPF is a statement of the policy, principles, institutional arrangements and procedures to be followed in projects involving involuntary resettlement. Its aim is to clarify resettlement principles, organisational arrangements and design criteria to be applied to subsequent projects. Amongst others, it details:

- the principles and objectives governing resettlement preparation and implementation;
- the process for preparing and approving subsequent project resettlement plans;
- eligibility criteria for defining various categories of displaced and affected persons;
- methods of valuing affected assets;
- grievance redress mechanisms;
- arrangements for the funding of resettlement;
- consultation/participation mechanisms during project planning, implementation and monitoring;
- monitoring requirements and arrangements.

Resettlement Plans (RAPs) for specific projects (e.g. construction of a road) are subsequently prepared within the framework of the CRPF.

Objectives, Legislation and Principles Governing Resettlement
(CRPF Section 2)

This CRPF has been prepared by the Ministry of Public Works and Transport (MOPWT) to guide resettlement and compensation issues on transport sector projects. Against the background of local legislation and practices, as well as international best practice, the following principles have been developed to guide the management of involuntary resettlement on transport sector projects:
**Principle 1:** Resettlement and land acquisition will be avoided or minimised.

**Principle 2:** Ongoing and meaningful consultation with affected households/communities will occur.

**Principle 3:** Affected persons will be assisted to at least restore, and preferably to improve, their livelihoods.

**Principle 4:** Vulnerable groups and severely project-affected persons will be specifically catered for.

**Principle 5:** Host communities will be considered as project-affected parties.

**Principle 6:** Land acquisition/resettlement planning, budgeting and implementation will be an integral part of the project.

**Principle 7:** A database of affected persons will be established.

**Principle 8:** Grievance and monitoring procedures will be put in place.

**Principle 9:** Legal obligations will be complied with.

**Principle 10:** Provided that the stipulations of the CRPF and all legal requirements have been observed, the assistance of enforcement authorities may be enlisted to implement land acquisition procedures.

---

**Preparation and Approval of Resettlement Plans**  
(CRPF Section 3)

Resettlement Plans (RAPs), undertaken in accordance with the CRPF guidelines, will be required for all transport sector projects where the involuntary acquisition of land results in relocation or loss of shelter, loss of assets or access to assets, or loss of income sources or means of livelihood. The scope of a RAP will depend on the extent of the impact, primarily the number of affected persons.

Where land acquisition and involuntary resettlement will occur on a project, it will be the responsibility of MOPWT, in conjunction with the specific proponent/agency, to ensure that a RAP is prepared. The following actions will be undertaken during project identification, preparation and detailed design:

- determining and assessing the likely extent of land acquisition and resettlement, and considering the viability of alternatives that could reduce population displacement. This activity would be undertaken through a social screening exercise during the identification and conceptualisation of a project, and by means of a subsequent SIA (as part of an EIA);
- preparing a detailed Terms of Reference (ToR) for a RAP, clearly describing the nature and extent of land acquisition and involuntary resettlement, on the basis of the SIA/EIA findings;
- commissioning the RAP, either in-house or through the appointment of consultants.

All RAPs will be approved by MOPWT, and submitted to the National Environmental Secretariat (NES) for official and public review. Where the project is donor-funded, the RAPs will also be submitted to the funding agency/agencies for their review and comment. Where a project requires the relocation of more than 100 persons to individually selected sites, or of a community to a designated resettlement site, the approval of the RAP by the funding agency will normally be required.

---

**Eligibility Criteria**  
(CRPF Section 5)

Through the acquisition of private and (in some cases) community assets, civil works projects may affect property owners and their dependants, and community groups. In peri-urban and urban areas it is highly likely that tenants will also be affected, through having to vacate their rented accommodation in buildings acquired by a project.

Project impacts would thus manifest at individual level, and possibly also at group level. The unit of entitlement at individual level would be men and women who suffer one or a combination of the following losses directly attributable to a project:
• residential and cultivation land;
• residential buildings, structures and improvements;
• commercial buildings, structures and improvements;
• income sources and income-earning capacity;
• temporary loss of land or income sources; and
• rented accommodation (tenants).

Projects may also have negative impacts on groups, for instance, a reduction in, or constrained access to, grazing, and impacts on water supply systems. Where these impacts occur, they will be mitigated under the project.

**Cut-Off Date for Entitlements**  
(CRPF Section 5)

It will be necessary to publicly declare a cut-off date for entitlements for each project where such entitlements are made available because of land and asset acquisition and other social impacts. This is necessary to protect both the project and genuinely affected people from invasions of the project area or other attempts at speculative gains.

A moratorium will also be declared, on a mutually agreed date, on the construction of new buildings/structures in the project displacement area, apart from routine maintenance activities.

**Valuation Methods and Considerations**  
(CRPF Section 6)

The CRPF details a recommended approach for the valuation and compensation of:

• privately-owned buildings, improvements and residential/business land;
• community and government buildings and assets;
• cultivation land; and
• crops and trees.

With regard to private assets, an important consideration is that compensation should be at replacement cost. It is also recommended that affected persons should be given written notice of the intent to acquire their properties not less than 120 days prior to the intended acquisition date, and furthermore, that GOL will not take possession of any private property prior to the full payment of compensation entitlements and, where applicable, initiation of relocation arrangements.

A number of other measures are recommended to support household re-establishment and livelihood restoration, including:

• household and business displacement allowances;
• a rent allowance for displaced tenants; and
• assistance with physical evacuation.

Each transport sector agency responsible for preparation of a project RAP will also be required to ensure that project-specific entitlements are discussed with affected households and their representatives. The aim of this exercise will be:

• to describe asset acquisition on the project;
• to describe the methods that will be used for the valuation of affected assets;
• to define the various categories of affected households;
• to describe entitlements for asset losses for each category of affected household, including potential resettlement options;
• to recommend the process to be followed for the declaration of a moratorium/cut-off date on further developments in the project development area;
• to discuss household re-establishment measures, as well as special provisions for vulnerable groups.
Organisational and Implementation Arrangements
(CRPF Section 7, 8, 9 and 10)

As the coordinating authority, MOPWT will assume overall responsibility for the commissioning and implementation of RAPs. MOPWT will ensure that the following actions are implemented for each project involving land acquisition and involuntary resettlement:

- implementation of procedures to minimise adverse social impacts (acquisition of land and buildings) throughout the planning, design and implementation phases;
- implementation of procedures for the recording of all project-affected persons, by means of census and asset verification and quantification exercises;
- establishment of procedures for the co-ordination of resettlement and compensation activities on the various projects;
- establishment of community participation structures (e.g. consultative forums), where required;
- implementation of information dissemination campaigns;
- capacity-building initiatives where required to create a supportive environment for the implementation of RAP activities;
- co-ordination with other government line agencies and non-governmental organisations to ensure effective delivery of compensation, mitigation and other support measures.

An important principle of the CRPF is that persons will have the right to be consulted and to participate in decision-making throughout the course of a transport sector project that affects their lives. Consultation and participation will occur during:

- project preparation and planning;
- project implementation; and
- as part of monitoring and evaluation exercises.

It will be necessary to monitor and report on the effectiveness of the implementation of project RAPs, including physical progress with resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts. The following mechanisms are proposed as a basis for monitoring plans to be included in subsequent project RAPs:

- internal (performance) monitoring;
- standardised (quantitative) socio-economic monitoring;
- participatory (qualitative) socio-economic monitoring.

Funding Arrangements
(CRPF Section 11)

An important CRPF principle is to ensure that land acquisition and involuntary resettlement, and the associated costs, are included as integral components of transport sector projects. These include:

- costs for the replacement/compensation of affected assets (direct costs);
- costs associated with household rehabilitation/support measures;
- costs associated with the implementation, management and monitoring of the resettlement process.

On all transport sector projects, the first of these (direct costs) will normally be paid by GOL. The second cost component (rehabilitation/support measures) can be covered through the funds provided through loans/credits of funding organisations such as the IDA. Some items of the third component (implementation, management and monitoring) may similarly be funded from the loans of funding organisations.
1. INTRODUCTION

1.1. BACKGROUND

The Government of Lesotho (GOL) has prepared a Transport Sector Programme (TSP) that provides for the development/maintenance of transport services, infrastructure and administration in Lesotho. The TSP aims to support Government’s objectives of achieving economic growth, improving service delivery, strengthening democracy and reducing poverty. As part of the TSP, an Integrated Transport Programme (ITP) has been identified, which is designed to provide financial and technical support for transport sector improvements for the period 2004 to 2010. Funds for the ITP will be provided by GOL, as well as through a credit from the International Development Association (IDA). This Resettlement Policy Framework study is being undertaken as part of the IDA-funded Road Rehabilitation and Maintenance Project, in preparation for the ITP.

The TSP sets out a comprehensive plan of works to be undertaken within each of the following transport sector components:

- Road Development: maintenance, rehabilitation, upgrading and construction works on national, urban and rural roads, including bridge rehabilitation and construction works;
- Road Transport: improvements in road transport administration and road safety programmes;
- Air Transport: maintenance of the international airport (Moshoeshoe 1) and rural aerodromes, as well as the reconfiguration of the terminal building at Moshoeshoe 1 to improve airport security measures;
- Rail Transport: upgrading of the rail terminal in Maseru and possible extension of rail lines;
- Institutional Reform and Capacity Building: continuation of sector institutional reforms, as well as the implementation of initiatives to improve the capacity of road contractors.

As the Sector Coordinator as well as the legal Road Authority, the Ministry of Public Works and Transport (MOPWT) will act as the principal ITP coordinating agent. MOPWT departments that are anticipated to play an important role in the implementation of specific projects are:

- the Roads Branch (roads of national and international importance);
- the Department of Rural Roads (roads of local importance in rural areas);
- the Department of Traffic and Transport (road transport policies, administration systems and safety regulations); and
- the Department of Civil Aviation (DCA).

The Ministry of Local Government (through Local Authorities such as the Maseru City Council) is an important role player with regard to roads in cities and urban areas.\(^1\)

Considerable investment is planned in the road sub-sector during the six years detailed in the TSP. For instance, allowance is made for:

- rehabilitation and strengthening of some 300 km of paved roads and 300 km of gravel roads under the control of the Roads Branch;
- upgrading of some 200 km of gravel road under the control of the Roads Branch to paved road standards, at a rate of 35 km annually;
- rehabilitation of approximately 600 km of gravel roads under the control of DRR, at a rate of some 100 km annually;

\(^1\) The Lesotho Highlands Development Authority also undertakes road construction, improvement and maintenance under the Lesotho Highlands Water Project. These roads, which are generally located in the LHWP project areas and required for project operations or as mitigation measures, are ultimately the responsibility of MOPWT.
• upgrading and improvement of approximately 300 km of roads under the control of DRR to gravel road standards, at a rate of approximately 54 km annually;
• rehabilitation of approximately 60 km and upgrading of approximately 80 km of urban roads in the country’s 11 urban centres, at a rate of some 10 km (rehabilitation) and 14 km (upgrading) annually;2
• in other sectors, maintenance, rehabilitation and some upgrading of infrastructure are anticipated.

1.2. SOCIAL IMPACTS AND SAFEGUARDS

Many of the proposed and future transport sector projects will induce social impacts, especially where infrastructure development is envisaged. Table 1-1 lists the civil works that may be carried out as part of the TSP where land acquisition and resettlement may be likely.

Table 1-1: Anticipated Land Acquisition and Resettlement from TSP Civil Works

<table>
<thead>
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<th>Component</th>
<th>Potential Social Impact</th>
<th>Degree of Impact</th>
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<tr>
<td>Construction of the Maseru Northern Bypass</td>
<td>Land acquisition; relocation of +150 buildings</td>
<td>High</td>
</tr>
<tr>
<td>Rehabilitation of roads of national importance</td>
<td>No land acquisition or resettlement</td>
<td>Low</td>
</tr>
<tr>
<td>Upgrading of roads of local/regional importance</td>
<td>Mainly work along existing tracks</td>
<td>Medium</td>
</tr>
<tr>
<td>Upgrading of roads of national importance</td>
<td>Some isolated re-alignments expected</td>
<td>Medium</td>
</tr>
<tr>
<td>Rehabilitation of roads in the 11 urban centres</td>
<td>Some re-alignment and resettlement</td>
<td>Medium</td>
</tr>
<tr>
<td>Investigation into provision of roadside trading facilities</td>
<td>Very limited land acquisition</td>
<td>Low</td>
</tr>
<tr>
<td>Bridge rehabilitation and improvement programme</td>
<td>Changes to approaches or abutments</td>
<td>Low</td>
</tr>
<tr>
<td>Airport and aerodrome maintenance and rehabilitation</td>
<td>Very limited land acquisition</td>
<td>Low</td>
</tr>
<tr>
<td>Rail terminal/container depot</td>
<td>Very limited land acquisition</td>
<td>Low</td>
</tr>
</tbody>
</table>

The most significant socio-economic impacts are therefore expected to occur in the road development sub-sector. For example, road improvements could improve the mobility of people resident within a road’s region of influence, and create a potential for diversification of local economic activities. Negative social impacts could occur through the loss of private assets within a road reserve/corridor of impact, disturbances to household subsistence and livelihood, as well as through less-quantifiable effects on vulnerable social categories and groups.3

GOL’s aim, consistent with IDA requirements, is to ensure that appropriate policies and procedures are in place to address any negative impacts (e.g. asset losses and involuntary resettlement) that may occur on transport sector projects, including those initiated under the ITP.

The World Bank’s policy on involuntary resettlement (Operational Policy 4.12 and Annex A), considered to be the international benchmark, defines a range of resettlement instruments in terms of which social impact safeguards can be planned and provided. A Resettlement Policy Framework (RPF) is one such instrument, and is normally prepared for sector investment programmes where

2 The following three road projects have been identified as possible projects to be undertaken in the first phase of ITP: Maseru Northern Bypass (new road construction); Roma-Ramabanta-Semonkong-Sekeke (upgrading and new road construction); Mafeteng-Mohale’s Hoek (road rehabilitation).
3 Other TSP developments (e.g. improved road safety programmes) will also have social impacts, and in some cases fairly significant social benefits. These types of benefits are anticipated to accrue over time to the population as a whole, and they are therefore less direct than the impacts which households affected by road developments will experience.
subsequent projects may lead to involuntary resettlement. The purpose of a RPF is "to clarify resettlement principles, organisational arrangements and design criteria to be applied to subprojects to be prepared during project implementation." It is a "statement of the policy, principles, institutional arrangements and procedures" to be followed in projects involving resettlement.

A RPF is required to cover the following items:

- the project and components for which land acquisition and resettlement are required;
- principles and objectives governing resettlement preparation and implementation;
- the process for preparing and approving subsequent project resettlement plans;
- population displacement estimates and likely categories of displaced persons (to the extent possible);
- eligibility criteria for defining various categories of displaced and affected persons;
- a review of the fit between local (borrower) land acquisition legislation/practices and the Bank's policy requirements, and proposals to address any divergence between them;
- methods of valuing affected assets;
- organisational procedures for delivery of entitlements;
- the implementation process, linking resettlement implementation to the civil works;
- grievance redress mechanisms;
- arrangements for the funding of resettlement;
- consultation and participation mechanisms during project planning, implementation and monitoring;
- monitoring requirements and arrangements.

Resettlement Plans (RAPs) for specific projects (e.g. road sections) are subsequently prepared within the framework of the RPF. The RAPs do not need to include the agreed principles, procedures and processes in the RPF, but are limited to:

- a baseline census and socio-economic survey of the persons affected by the project;
- specific compensation standards;
- policy entitlements related to any additional impacts identified through the census/survey;
- descriptions of resettlement sites;
- descriptions of programmes for the restoration/improvement of livelihoods and standards of living;
- resettlement implementation schedules; and
- detailed resettlement cost estimates.

1.3. AIMS, METHODS AND STRUCTURE

This Compensation and Resettlement Policy Framework (CRPF) has been prepared to ensure that these involuntary resettlement safeguards are in place for all transport sector projects. Specifically, it describes:

- the approach that will be followed in identifying and minimising adverse socio-economic impacts caused by transport sector projects;
- the principles that will govern the mitigation of unavoidable socio-economic impacts; and
- guidelines for completing RAPs that may be required for subsequent projects.

The CRPF will be applicable to all transport sector projects, irrespective of the source of funding or the implementing agency.

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4 The Bank includes all the following project processes and outcomes in the term "involuntary resettlement": displacement and relocation of people from land or productive resources, loss of shelter, loss of assets or of access to assets important to production, and loss of income sources or means of livelihood, whether or not the affected persons must move to another location.

5 World Bank OP 4.12, p 5.

6 World Bank: Generic Terms of Reference for a Resettlement Policy Framework.

7 The term 'compensation' is included since the document deals with both resettlement and compensation for affected assets.
The preparation of the CRPF entailed:

- a study of relevant local legislation, reports and documents;
- the documentation of current land acquisition practices for the road sector in Lesotho;
- discussions and workshops with MOPWT officials;
- interviews with other government officials and stakeholders with an interest in the project;
- a stakeholder workshop to discuss key resettlement principles and procedures for the transport sector;
- interviews with a sample of households who will be affected by construction of the Maseru Northern By-Pass (included in the 1st year programme of the ITP) to obtain their concerns, suggestions and inputs;
- a public review period of 60 days;
- ongoing consultation with World Bank officials to ensure compliance with the Bank's safeguard requirements.

The CRPF is broadly structured according to the outlines proposed in OP 4.12 and in the Bank's Generic Terms of Reference for a Resettlement Policy Framework.
2. OBJECTIVES, LEGISLATION AND PRINCIPLES GOVERNING RESETTLEMENT

2.1. OBJECTIVES

The CRPF has been prepared with reference to GOL legislation and to international best practice, as embodied in the World Bank’s policy on involuntary resettlement (OP 4.12). The power of eminent domain is recognised in Lesotho: Government may acquire private property for public use, provided that just compensation is paid for such acquisition. International best practice emphasises the need to avoid or minimise involuntary resettlement on development projects. Where the acquisition of private property is unavoidable, involuntary resettlement should be an integral part of project design and preparation (World Bank OP 4.12).

Since property acquisition and resettlement is bound to occur on transport sector projects, the overall objective of the CRPF is to ensure that the following adverse impacts are addressed:

- loss of land and other privately-owned assets;
- adverse impacts on subsistence/livelihood or income-earning capacity; and
- collective adverse impacts on groups/social categories who because of their social position may be vulnerable to changes brought about by project activities, or who may be excluded from its benefits.

The development of principles and processes to achieve this objective has taken place within the framework of local legislation and practices, and international resettlement safeguarding requirements.

It should be noted that it is not the objective of this CRPF to identify and deal with environmental and other socio-economic impacts, as these are required to be identified and mitigated under Sector Environmental Assessments and specific Environmental Impact Assessments.

2.2. LOCAL LEGISLATION AND PRACTICES

2.2.1. Constitution of Lesotho

Article 17 of the Constitution of Lesotho stipulates the “prompt payment of full compensation” for the compulsory acquisition of (movable and immovable) property for public purposes. It also grants persons with an interest in or right over property which is compulsorily acquired the right to have direct access to the High Court for “the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled”, as well as for the purpose “of obtaining prompt payment of that compensation.”

2.2.2. The Roads Act, 1969

The Roads Act of 1969 provides for the “locating, constructing, opening, maintaining, protecting, deviating, working and closing of roads.” MOPWT officials consider the Act, which has not been amended since it was promulgated, to be outdated and at variance with current land allocation and management practices.

Sections 4, 5, 6 and 8 provide for the declaration of road reserves for the purposes of road construction, maintenance and protection. Section 8 states that the width of a road reserve will not be
more than "one hundred feet wide" unless otherwise required. Section 5 (3) (a) states that "no person shall construct or maintain any road unless a road reserve has been declared by the Minister in respect of that road."

Section 25 provides for compensation for any direct damage resulting from road construction or maintenance "to dwellings, buildings, gardens, plantations, crops, cultivated trees or lands under irrigation (not being land which is capable of irrigation but not actually under irrigation)." Other than food gardens and land under irrigation, compensation is not paid for land. However, MOPWT officials confirmed that compensation is now paid for all types of residential and cultivation land loss, partly because of the influence exerted by the compensation practices applied on the Lesotho Highlands Water Project. Section 25 of the Act further states that the compensation payable "shall be determined by agreement between the parties." Where agreement cannot be reached "the matter shall be referred to a single arbitrator" as agreed between the parties or as nominated by the "Resident Magistrate or Acting Resident Magistrate of Maseru." The provisions of Section 25 also apply where storm water from road drains causes damage to property.

Other provisions of the Act confer the following rights and responsibilities to a road authority:

- the right to erect fences and gates on the boundaries of a road reserve as deemed necessary;
- the right to cut down and remove trees and vegetation within the road reserve for the purposes of road construction and maintenance. Trees/vegetation that have been removed remain the property of the former land occupier, while those not required to be moved become the property of the road authority;
- the right to "make openings in fences and walls, and to make roads to quarries and other places, provided that on completion of the work the road authority shall at its expense restore such fence or wall and close such road if required;"
- the responsibility to "securely fence, fill in or otherwise make safe, any quarry or other excavation made in the course of the work and which may be a source of danger."

2.2.3. The Land Act, 1979

The Land Act, 1979 (as amended) is presently the principal legislation through which property is acquired for public purposes. Part V of the Act details the declaration of selected development areas (e.g. reservoirs) and agricultural development areas, Part VI deals with acquisition of land required for public purposes, and Part IX with the granting of public servitudes for the construction or supply of public utility works or services.

Key stipulations with regard to the acquisition of land are:

- the publication of a notice in the Government Gazette, containing information on the area in question, the names of affected persons, and the date on which the property is required;
- a copy of the notice being served to the affected property owner prior to the publication in the Gazette; and
- ownership of the affected properties reverting to the State on publication of the Gazette, or subject to a declaration notice, reverting to the State not later than six months after the publication of the declaration notice in the Gazette.

Sections 56 to 59 deal with compensation issues. A period of three months from the date of the declaration notice is provided for the submission of compensation claims. In its original form, Section 56 stated that "in assessing compensation, regard shall be had only:

(a) to the value which the property might have been expected to realise if it had been sold on the open market by a willing seller at the time of publication of the declaration notice;
(b) to the expenses incidental to any necessary change of residence or of place of business."

8 Government Gazette Vol. XXXIV of 1989 contains two schedules of roads in Lesotho, detailing the road number, start and end points, length (in km) and road reserve (in metres).
Paragraph (b) has remained unchanged, but paragraph (a) was modified by the Land (Amendment) Order, 1986 to read as follows:

(a) to the value of the property as certified by the Government valuer having regard to the present and replacement value.”

Provision is made for extension of the time within which compensation claims may be made, as well as for recourse to other legal avenues where agreement cannot be reached on the compensation amount or where compensation payments have not been made within six months of the submission of a claim. An affected land occupier may also request the acquisition of his entire landholding where his remaining landholding is less than 500m².

With regard to public servitudes, Section 72 (1) states that “the body to whom the servitude is granted shall, subject to section 73, be liable to compensate the grantee of the title for any damage to the land in the exercise of the servitude.” The exclusions in Section 73 for which compensation is not payable include land and movable property that have been restored or replaced, civil works that do not interfere “substantially with the enjoyment of the land”, as well as a loss arising out of road construction “which does not deprive the allottee of more than one-tenth of the area of land, and the remainder continues to be suitable for use for the purpose for which the land was granted.”

2.2.4. Revision of Legislation

2.2.4.1. Land Code and Draft Land Bill

A Commission of Inquiry (the Land Policy Review Commission) was appointed in December 1999 to assess land reform issues and to formulate a national land policy. The Commission Report was tabled in September 2000 which included recommendations pertaining to, inter alia, systems of land tenure, qualification to hold title to land, fallow land and under-utilised state land, surveying/mapping/registration of land, commercial and block farming, and land administration and management. The report also contained a proposed National Land Policy.

A Land Code and Draft Land Bill is currently being prepared by officials of the Ministry of Local Government (MLG). Apart from incorporating the Land Act, the Draft Land Bill is anticipated to contain comprehensive land acquisition and land transaction regulations, as well as land administration and management requirements. The Draft Bill is expected to be available for public comment by the end of 2003.

2.2.4.2. Mines and Minerals Bill

This Bill, once enacted by Parliament, will repeal and replace the Mining Rights Act of 1967. The Bill is important for transport sector developments in that it is anticipated to contain regulations pertaining to:

- the commissioning and operation of excavation areas such as borrow pits;
- compensation for damages to lawfully occupied land, to private property and to disturbances of rights; and
- environmental obligations; e.g. the rehabilitation of decommissioned excavation areas.

2.2.5. Land Acquisition Practices

2.2.5.1. Roads Branch

The Roads Branch is responsible for roads of international and national importance. The acquisition of assets for road construction is guided by the Land Act, 1979 (as amended) and undertaken in terms of procedures that have been developed by the Roads Branch:
For new roads, consultants are appointed to conduct Environmental Impact Assessments (EIAs), and engineering studies. After the selection of the final route, consultants are appointed to undertake feasibility studies and final engineering designs. These studies normally include a land acquisition plan which details the land and assets located in the road reserve, together with recommendations on which properties should be acquired. Ownership details are generally (but not always) recorded. A similar land acquisition exercise is undertaken in the case of road upgrading projects.

Following the finalisation of the engineering studies, a local land/property consultant is appointed to undertake a valuation and compensation determination exercise, more or less according to the following steps:

1. A community meeting (pitso) is held to explain the purpose of the exercise.
2. Using the land acquisition information generated in the engineering study, the alignment and impacts are confirmed with representatives from the chief/local authority. Discrepancies and borderline cases are discussed and agreed with the Roads Branch (and the engineering consultant if available).
3. An inventory of affected buildings is undertaken, including measurements and recording of building materials and condition. Land acquisition figures from the engineering report are used, but the consultant is required to confirm actual losses with the contractor and land owner.
4. A valuation report is prepared, which details individual losses and compensation entitlements. A disturbance allowance (currently M1,500) is also paid, irrespective of the type of loss.
5. Following the Road Branch's approval of the valuation report, the property consultant discusses their compensation entitlements with each affected owner. A compensation form, which details the losses and compensation calculations, is signed by the owner and the chief/local authority. The affected owners are also required to sign a letter which states that they agree to allow the contractor on to the site while compensation payments are being processed.
6. The completed compensation forms are returned to the Roads Branch for cross-checking and approval.

Following the completion of the compensation determination exercise, the payment of compensation entitlements is initiated. Wherever possible, payments and expropriation are completed before the contractor accesses the site. Households are allowed to salvage reusable materials.

Losses and damages that occur within the road reserve are mitigated/compensated by MOPWT, including building losses suffered by persons with no legal claim to the land (e.g. informal stalls). The contractor is generally responsible for losses and damages occurring outside the reserve.

The owners of buildings in the road reserve that are not required to be moved are informed of their right to remain or to move and be compensated for their losses. Should they choose to remain, they would still qualify for compensation in the event of future acquisition. Households that are displaced are required to make their own arrangements for new sites and replacement housing. Where necessary, temporary accommodation (corrugated iron huts) is provided until replacement houses are ready for occupation.

Disagreements over compensation entitlements are firstly solved between the owner, the property consultant and the Roads Branch. If the matter remains unresolved, the owner may lodge a complaint with the Land Tribunal or subsequently with the Low and High Courts.

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9 In terms of the Environment Act, 2001 EIAs are required for *inter alia* major roads, all roads in scenic, wooded or mountainous areas and for bridges.
10 The Land and Property Acquisition Office of the Roads Branch, which earlier undertook valuations and compensation negotiations, is currently not staffed.
11 As stated earlier, the current practice is to pay compensation for land losses.
A common problem in this process appears to be the fact that contractors fail to inform households in time that their properties will be accessed and damaged (e.g. fencing). Furthermore, disturbed areas are often not properly rehabilitated. Households also complain of late compensation payments, of buildings that have allegedly been cracked by construction activities, and of flooding caused by storm water from road drains.

### 2.2.5.2. Department of Rural Roads

The Department of Rural Roads (DRR) is responsible for the rural road network. As stated earlier, the construction of these roads is often undertaken as a community initiative, with funds obtained from the LFCD and international funding organisations/donors such as IDA, EU and Ireland Aid. The DRR generally employs the following approach:

Community participation is an important component. Communities motivate for the construction of a road (although District Councils prioritise these motivations, as well as upgrading needs), they participate in the selection of the alignment and they provide, and are paid for their, labour.

Roads constructed in this manner do not require high technical designs or wide road reserves (maximum 12 m).

To avoid cultivation land and buildings, road alignments follow existing tracks as far as possible. Buildings are always avoided but land losses do occur. Since land required for road construction is generally donated, discussions and negotiations are held with the chief and landowner before the project commences.

Road construction, upgrading and rehabilitation are mainly undertaken by small-scale contractors, and supervised by DRR. The contractor and DRR are responsible for the mitigation of disturbances and damages – for example, the removal and replacement of fencing.

### 2.2.5.3. Other Local Practices

Land acquisition also occurs through the declaration of Selected Development Areas (SDAs), as provided for in Part V of the Land Act. SDAs are declared for development purposes – e.g. reservoirs and housing developments. Affected people are either offered replacement land to be used for the same purpose as previously (as in the case of residential development) or compensated “for any loss incurred through being deprived of his land.” Complications arise when landowners in peri-urban areas, in an attempt to gain financial benefits prior to the implementation of the development, subdivide their cultivation land and sell it for residential or commercial use to unsuspecting buyers. Or landowners previously moved from an SDA (with or without adequate compensation) return to the SDA, facing the risk of being treated as illegal occupants of a government-declared site.

The compensation procedures used on the LHWP have had a significant effect on land acquisition practices. LHDA's legal obligations to project-affected people are referred to in the LHWP Treaty and in the LHDA Order of 1986. Following these obligations, a Compensation Policy and associated rates were approved in 1997 (and revised in 2002). Affected people are entitled to compensation for all private assets (buildings, land, production from fruit trees), for a range of resettlement support measures, as well as for compensation for the loss of/constrained access to communal resources (grazing, brushwood, medicinal plants, useful grasses, wild vegetables.).

Not only does the Policy include items that are often not compensated for (i.e. communal resources), but the LHWP rates are also higher than those used elsewhere. People affected by other developments have become aware of these discrepancies: for instance, the Land Policy Review

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12 Chiefs traditionally administered land on behalf of the King, and issued Form C certificates in the process of land allocation to individuals. Since independence new laws regulating land management have been introduced which have limited the land allocation powers of chiefs. It is commonly stated that the power struggle between chiefs and the institutions elected to manage the land has led to the mismanagement of land. The report of the Land Policy Review Commission states that the Commission had heard “overwhelming evidence that in urban as well as peri-urban areas chiefs collaborate with field owners to convert agricultural land into residential or commercial land illegally, using back-dated Form Cs.”
Commission states that “in recent times people have indicated that they want LHDA compensation rates to be used as they are relatively higher than the others. In some cases people who were given compensation some years back have come back claiming more compensation as soon as they discover that LHDA is paying more compensation.”

Property consultants employed in the road sector state that LHDA has set high standards. This has lead to dissatisfaction amongst households affected by MOWPT roads whose neighbours were earlier affected by LHWP infrastructure. As stated earlier, the decision to compensate for land acquisition on roads is partly due to these LHWP influences.

2.3. INTERNATIONAL POLICIES AND GUIDELINES

The World Bank’s involuntary resettlement safeguarding regulations and requirements are the international benchmark. These are described in the following Bank documents:

- Operational Policy 4.12 (OP 4.12) - Involuntary Resettlement;
- OP 4.12 (Annex A) - Involuntary Resettlement Instruments;

2.3.1. Objectives

The overall objectives of OP 4.12 are:

- to avoid or minimise involuntary resettlement, by exploring “all viable alternative project designs”;
- where population displacement is unavoidable, to conceive and execute resettlement activities as “sustainable development programs.” This means that displaced persons should be “meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs”;
- to assist displaced persons “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.”

OP 4.12 goes on to state that the policy covers “direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by the involuntary taking of land resulting in:

- relocation or loss of shelter;
- loss of assets or access to assets; or
- loss of income sources or means of livelihood, whether or not the affected persons must move to another location.”

Key resettlement measures stipulated by OP 4.12 are that displaced persons are:

- “provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project;
- provided assistance (such as moving allowances) during relocation; and
- provided with residential housing or housing sites.”

It is further specified that “taking of land and related assets may take place only after compensation has been paid and, where applicable, resettlement sites and moving allowances have been provided.”

2.3.2. Eligibility and Entitlements

OP 4.12 identifies three categories of affected persons:

(a) “those who have formal legal rights to land, including customary and traditional rights recognised under the laws of the country”;
(b) "those who do not have formal legal rights to land, but have a claim to such land or assets provided that such claims are recognised under the laws of the country or become recognised through a process identified in the resettlement plan." This is further explained: "Such claims could be derived from ... continued possession of public lands without government action for eviction (that is, with the implicit leave of the government)"); and (c) "those who have no recognisable legal right or claim to the land they are occupying."

With regard to entitlements it is stated that:

- category (a) and category (b) persons should be compensated for the land they lose, as well as provided with other agreed-upon assistance;
- category (c) persons should be provided with resettlement assistance in lieu of compensation for the land they occupy as well as other assistance as necessary, if they have occupied the area prior to an agreed cut-off date for entitlements.

The policy regulation is that all three categories should be provided with compensation for loss of assets other than land.

2.4. GUIDING PRINCIPLES ON TRANSPORT SECTOR PROJECTS

The following guiding principles have been prepared for the transport sector. The principles are consistent with international involuntary resettlement safeguards, while also incorporating local legislation and practices. All transport sector projects will be bound to these principles.

Principle 1: Resettlement and land acquisition will be avoided or minimised.

The overriding principle will be that involuntary resettlement on transport sector projects will be avoided or minimised wherever feasible, by exploring all viable alternative project designs. Where land acquisition and involuntary resettlement occur, it will be documented in the RAP why this is unavoidable. Efforts to reduce the extent of involuntary resettlement will also be demonstrated.

In the road sector, the practice of not strictly enforcing the regulation pertaining to the clearance of road reserves has often reduced the extent of involuntary resettlement. However, this practice has significant implications for human safety, for the maintenance of road reserves, and for land tenure arrangements. Therefore, from the date of the publication of the CRPF the reserves of all new roads will be publicly declared and officially acquired for road construction and maintenance. All persons affected by the declaration of reserves, and who meet the eligibility requirements, will be compensated for their losses in accordance with the CRPF stipulations.

MOPWT will ensure that the reserves of newly constructed roads remain free of encumbrances, and persons who occupy the reserves illegally will be informed in writing of their illegal status and instructed to vacate the reserve.

Principle 2: Ongoing and meaningful consultation will occur.

Persons whose livelihoods and standards of living will be adversely affected by project activities - whether through involuntary resettlement, loss of assets or through being deprived of resources - have the right:

- to be informed in time of project proposals and implementation schedules;
- to be consulted on possible measures to restore their livelihoods, and to participate in the final selection and design of such measures; and
- to be informed of displacement and land acquisition dates sufficiently in advance of actual implementation.

This principle will be adhered to on all transport sector civil works projects where land acquisition and involuntary resettlement will occur. Consultation and participation will occur throughout the project cycle, with three major stages envisaged:
• consultation/participation during project preparation and planning (e.g. census and individual/household questionnaire surveys, group and community meetings, asset inventories);
• consultation/participation during project implementation (e.g. group and community meetings);
• consultation/participation during monitoring and evaluation (e.g. participatory monitoring and evaluation).

Because consultation needs and requirements are context specific, the RAPs will assess and report on the most appropriate approach to be followed for each project. Where considered necessary, consultation forums will be established to supplement traditional consultation mechanisms such as *pitosos*. Where they are established, these forums will be given official recognition within the project's institutional framework.

**Principle 3: Affected persons will be assisted to at least restore, and preferably to improve, their livelihoods.**

The pre-project livelihoods of affected persons will be restored, and preferably improved, through:

• the prompt provision of fair and equitable compensation for the loss of assets directly attributable to the project;
• the provision of housing support (cash or replacement housing) and residential site support (replacement site or cash) where physical relocation is required;
• the provision of relocation support measures (e.g. evacuation and displacement allowances) where physical relocation is required.

This principle will apply to all transport sector projects. The current DRR practice (on their own and LFCD roads) of securing land for the construction/upgrading of rural roads by means of donations will be amended so as to fully quantify all compensation due for asset loss and resettlement, in accordance with this CRPF. Where the donation of right of way by the community is agreed, this will be done in the full knowledge of the values of such donation, and in a way that recognises the contribution of the individuals directly affected.

Where the physical relocation of 30 or more households to a specific resettlement site occurs under a specific project, the resettlement will be conceived as a development plan. In addition to the above provisions, the following measures will be implemented:

• preparation of the resettlement site prior to physical relocation, including land preparation and infrastructure provision where necessary;
• the completion of replacement housing (self-built or provided) prior to physical relocation;
• the provision of transport for the movement of people and belongings;
• the provision of interim settling-in rations or subsistence allowances;
• development support measures to assist with livelihood restoration.

**Principle 4: Vulnerable groups and severely project-affected persons will be specifically catered for.**

Particular attention will be paid to collective adverse impacts on groups/social categories, such as the elderly and physically disabled and households below the poverty line, who because of their social position may be vulnerable to changes brought about by project activities or excluded from its benefits. Members of these groups are often not able to make their voice heard effectively, and account will be taken of this in the consultation and planning processes, as well as in the establishment of grievance procedures.

Persons who are defined as severely project-affected persons will qualify for additional reestablishment support measures.

An important vulnerable social category may be households headed by orphaned children. Where such households are affected, measures will be implemented under the project to ensure that their compensation entitlements and well-being are properly managed and catered for.
**Principle 5: Host communities will be considered as project-affected parties.**
The relocation of a large resettler community to a receiving area is not anticipated to occur under transport sector projects. Nevertheless, where it does, the host community will be considered a project-affected party and compensated according to the same principles for any losses incurred as a result of resettlement activities. They will also be encouraged to participate in the planning and implementation of project-related activities in their area.

**Principle 6: Land acquisition/resettlement planning, budgeting and implementation will be an integral part of the project.**
To ensure that land acquisition and involuntary resettlement are integral components of transport sector projects, the following approach will be adopted:

- Land acquisition and resettlement costs will be built into the overall project budget as an upfront cost.
- An institutional framework will be developed as an integral part of the TSP and specific projects to ensure that appropriate social impact management mechanisms are set up and maintained during implementation. These mechanisms and arrangements will ensure that compensation, resettlement and household re-establishment are carried out timeously and effectively.
- Land acquisition and resettlement schedules will be integrated with project civil works schedules, and construction will commence only after acquisition procedures have been successfully initiated.

**Principle 7: A database of affected persons will be established.**
A database of affected persons will be established for all transport sector civil works projects where land/property acquisition and population displacement occurs. This database will include:

- an inventory of landholdings and non-retrievable improvements (buildings and structures) to determine fair and reasonable levels of compensation or mitigation.
- a census detailing household composition and demography, and other relevant socio-economic characteristics.

The asset inventories will be used to determine and negotiate entitlements and to assist with the identification of severely project-affected persons, while the census information is required to monitor household re-establishment. The information obtained from the inventories and census will be entered into a computerised database to facilitate planning, implementation and monitoring.

**Principle 8: Grievance and monitoring procedures will be in place.**
Accessible grievance procedures will be implemented, with particular concern for the situation of vulnerable groups.

Monitoring procedures will be implemented to assess the effectiveness of land acquisition, compensation and resettlement procedures. Monitoring will be an ongoing activity, employing mechanisms such as internal (performance) monitoring, standardised (quantitative) socio-economic monitoring and participatory (qualitative) socio-economic monitoring.

**Principle 9: Legal obligations will be complied with.**
MOPWT will review the Draft Land Bill when it is published to ensure compatibility between the CRPF and the Bill. Where necessary, the CRPF will be amended to incorporate improved land acquisition principles/procedures contained in the Bill. MOPWT will also review other new legislation (e.g. the Mines and Minerals Bill) that may have a bearing on transport sector projects, and amend the CRPF where necessary.

All transport sector projects will comply with the regulations of the Environment Act, 2001.
Principle 10: Provided that the stipulations of the CRPF and all legal requirements have been observed, the assistance of enforcement authorities may be enlisted to implement land acquisition procedures.

The CRPF provisions are designed to ensure the fair treatment of persons affected by transport sector projects. Amongst others, this includes prompt payment of fair and equitable compensation for affected assets, the provision of relocation support measures, and grievance/dispute redress mechanisms that include appeals to the Minister of Public Works and Transport and the country's courts.

Where all of the CRPF provisions have been complied with, where the grievance redress mechanisms have been exhausted in favour of the implementing agency, and provided that all legal requirements have been observed, then land acquisition procedures may be implemented with the assistance of law enforcement authorities.
3. PREPARATION AND APPROVAL OF RESETTLEMENT PLANS

3.1. THE NEED FOR PROJECT RESETTLEMENT PLANS

The CRPF is designed to provide the framework for dealing with any land acquisition and involuntary resettlement issues that may arise from the implementation of transport sector projects. For this reason it can only indicate in which sub-sectors land acquisition is likely to occur. The identification of actual land acquisition requirements and affected persons will occur as part of the preparation of a particular project.

RAPs will be required for all projects where land acquisition and involuntary resettlement is necessary. The CRPF safeguarding requirements will obviously not be triggered for other projects, although it must be shown for these projects (through the screening and assessment procedures required by the Environment Act, 2001) that no land acquisition or involuntary resettlement will occur.

RAPs will be required for all projects where the involuntary acquisition of land results in relocation or loss of shelter, loss of assets or access to assets, or loss of income sources or means of livelihood. The scope of a RAP will depend on the extent of the impact, primarily the number of affected persons.

It is envisaged that land acquisition requirements and the need for resettlement safeguards will be identified and refined through the following cycle:

**Project Identification: Concept/Pre-Feasibility Stage**

Early identification of potential adverse social impacts, and efforts to reduce involuntary resettlement, should be undertaken through review of census, district and other socio-economic information, interviews with key stakeholders, and the incorporation of social considerations into screening exercises of potential project alternatives.

**Project Preparation: Feasibility Stage**

During the feasibility stage, a Social Impact Assessment (SIA) should be undertaken as part of a project EIA. This would include scoping exercises, identification of the potentially affected population, detailed site investigations, consultations with interested and affected parties, socio-economic (quantitative) surveys and qualitative research (e.g. focus group discussions, and other participatory research). The social research would contribute to the determination of baseline conditions and the selection of the preferred project configuration. Depending on the type of project and the extent of social impacts, it may be possible to prepare a detailed RAP (where final figures on land acquisition and population displacement are available) or only an outline/draft RAP (where only estimates are available).

**Project Preparation: Detailed Design Stage**

A detailed RAP will normally be completed during this stage, covering the topics as listed in Section 3.2.2. An important component of the RAP is a census of affected persons/households and an inventory of their affected assets. For some projects it may be necessary to extend the inventory to cover the entire landholdings of affected persons, in order to determine the magnitude of land acquisition at individual level and to decide on the need for additional support measures for any severely affected persons.
3.2. PREPARATION OF RESETTLEMENT PLANS

3.2.1. Responsibility

Where land acquisition and involuntary resettlement will occur on a project, it will be the responsibility of MOPWT, in conjunction with the specific agency, to ensure that a RAP is prepared. The following actions will normally be undertaken:

- determining and assessing the likely extent of land acquisition and resettlement, and considering the viability of alternatives that could reduce population displacement. This activity would be undertaken through a social screening exercise during the identification and conceptualisation of a project, and by means of subsequent SIAs.
- preparing a detailed ToR for a RAP, clearly describing the nature and extent of land acquisition and involuntary resettlement;
- commission the RAP, either in-house or through the appointment of consultants.

3.2.2. Scope and Requirements

Once an approved CRPF is in place, a RAP does not need to include the principles, procedures and processes contained in the CRPF. Annex B provides further information on the contents of a RAP, which would include the following as a minimum requirement:

Baseline Census and Socio-Economic Surveys

Baseline census and socio-economic surveys of the persons affected by the project, will record household demographic information (age, gender, educational levels, economic status, residential status, etc.), socio-economic characteristics (e.g. income and expenditure patterns), concerns and suggestions about the project, and compensation/resettlement preferences.

Depending on the magnitude of land acquisition/involuntary resettlement, focus group discussions and other forms of participatory appraisal should be undertaken to provide qualitative assessments of:

- land tenure and transfer systems, to understand the impact of the project on land tenure arrangements;
- patterns of social interaction in affected communities;
- the importance of social networks and social support systems, and how these systems will be affected by the project;
- the impact of the project on local economic activities;
- the impact of the project on public infrastructure and social services.

Estimate of Losses/Asset Inventories

Inventories will eventually be required of the assets (land, buildings/structures, trees and other natural resources) affected by the project. Depending on the type of project and the extent of land acquisition, the full landholdings of affected persons may have to be recorded, to permit determination of the percentage land loss, and consequent resettlement eligibility and entitlement.

The nature and scope of the project will determine the timing of the asset inventories and valuation exercises. In some cases it may be possible to complete the entire inventory and valuation exercise as part of the RAP, but in most instances the RAP will only provide as accurate as possible estimate of the expected losses, while stipulating the asset recording and valuation activities to be carried out in subsequent project phases.

On some projects the asset inventory/valuation exercise could include the signing-off of entitlements between the developer and the affected owner, but in most cases this would be undertaken as a separate task in terms of a specific action plan described in the RAP.
Additional Policy Entitlements
Any policy entitlements related to additional impacts identified through the SIA/RAP research that have not been covered in the CRPF will be described in the RAP.

Specific Compensation Rates and Standards
Based on the valuation methods described in the CRPF, the RAP will specify compensation standards and the process for determining/finalising compensation rates.

Resettlement Measures and Sites
A description will be required of the resettlement to be undertaken on the project. In some cases affected households may prefer to relocate individually to new sites that they have identified (e.g. in urban areas), and would require only assistance with the registration of titles and with their physical evacuation. In others, households may have to be relocated to a designated resettlement site. In this case, the RAP will describe the process that was followed in identifying the site, host community considerations, requirements and schedules for site preparation, infrastructure development and service provision, an action plan for physical relocation, and arrangements for the transferring of titles to resettlers.

Livelihood Restoration Measures
The RAP will detail the support measures required in the period immediately following relocation, as well as the measures necessary for the restoration of livelihoods.

Implementation Arrangements and Cost Estimates
A detailed implementation schedule, linked to that of the civil works programme, will be prepared. Specific organisational requirements and arrangements will be detailed. A budget, showing itemised cost estimates for all land acquisition and resettlement activities, will be prepared.

3.3. REVIEW AND APPROVAL OF RESETTLEMENT PLANS
All RAPs will be approved by MOPWT, and submitted to the National Environmental Secretariat (NES) for official and public review.

The RAPs will also be submitted to the funding agency/agencies for their review and comments. Where a project requires the relocation of more than 100 persons to individually selected sites, or of a community to a designated resettlement site, the approval of the RAP by the funding agency will probably be required.
4. SOCIO-ECONOMIC CONTEXT

4.1. SALIENT SOCIO-ECONOMIC FEATURES

Lesotho is a small, land-locked country of some 30,300 km², with a population of just over two million people. The rugged mountain area, which comprises about two-thirds of the country, is sparsely populated, with people living in scattered villages and in a few regional centres. The remaining one-third of the country consists of a foothills/lowlands strip where about 70% of the country's population lives.¹³

The country is often divided into the following ecological zones for planning and assessment purposes: urban, lowlands, foothills and mountains. The country has ten districts and 14 officially designated towns, of which the capital, Maseru, is the largest. Although the majority of the population is recorded as living in rural areas, there are strong links with urban areas in Lesotho and in the adjacent urban areas of South Africa.

Lesotho’s economy grew substantially during the early- to late-1990s, because of factors such as the country’s strong linkages with the South African economy (particularly the mining industry), the development of the Lesotho Highlands Water Project in partnership with South Africa, and the development of the textile industry in urban areas such as Maseru and Maputsoe.

Nevertheless, rural livelihoods remain precarious, with few households able to survive solely on their agricultural endeavours. However, the historical context of constrained/intermittent access to cash income has rendered rural households more dependent on cultivation land and natural resources than may otherwise have been the case. Under these conditions, rural agricultural is an essential but insufficient factor in household survival. The general experience of rural households is therefore reliance on multiple livelihood strategies:

"frequently involving the migration of some members to urban areas. For decades the main form of migration involved young men who were recruited to the mines of South Africa and migration by other family members to the lowlands to be near transport links to the mines. By the mid-1990s, recruitment had come to an end with the number of Basotho mineworkers dropping from over 120,000 in the mid-1980s to less than 50,000 by 2002. Since then, a new form of internal migration is taking place, driven by the rapid development of the textile industry in Maseru. This time, however, the work is available almost exclusively to women, with over 36,000 [in 2003] employed in Maseru and Maputsoe."

Urban areas in the lowlands have therefore continued to grow. This growth has often been unmanaged, with Maseru displaying the worst effects of urban sprawl. Such unplanned development has occupied former agricultural land, and buffer strips have been used for roads.

Other areas experiencing rapid urbanisation can be found in the growing commercial centres of Maputsoe, Teyateyaneng, Mafeteng and Mohale's Hoek. These centres can be described as regional commercial and service-related centres, with growing population thresholds that are part of a larger corridor of increasing activity along the length of the Lowlands. While Maputsoe's close ties to the RSA have given it the necessary impetus to attract growing levels of commercial and industrial activity, centres such as Teyateyaneng, Mafeteng and Mohale's Hoek have grown in importance due to their roles as service centres to surrounding lowland agricultural areas.

4.2. HOUSING AND SERVICES

Residential properties vary in type and quality. Rondavels (round structures often constructed from clay, mud and timber lacing, with a thatched roof) are the dominant form of housing in the mountain areas. In the urban and peri-urban areas, and progressively also in the foothill areas, 'flats' are the dominant housing form. Flats are single or multi-roomed structures constructed with cement blocks with a flat corrugated iron roof.

The renting of property to tenants has become an important form of income in many of the urban and peri-urban areas. Rental property is commonly called malaene, consisting of a single-level multi-roomed structure, the rooms of which are rented out to tenants.

The type of water supply available to households depends on factors such as geographical location and income status. Most households have access to communal standpipes/hand pumps, while springs are also common sources. For the entire country, access to piped water on residential sites is low, with this form of water supply being limited to some of the urban areas. Since 1990, the percentage of households without clean water has decreased steadily.

Many of the people in the rural areas do not have toilet facilities, partly because the soils in the mountain areas are often too shallow for a pit latrine to be dug. Where toilet facilities are available, pit latrines are the most common. Flush toilets are mostly limited to urban areas, but here as well pit latrines/VIPs dominate.

Most households use paraffin and/or candles for lighting. In the urban areas, access to electricity is increasing significantly, through the use of a pre-paid card system. Wood and shrubs are commonly used in the rural areas for fuel. Other fuel sources include paraffin, dung, gas, coal and electricity.

4.3. LAND AND LIVESTOCK

The principle that all land is vested in the nation (Sechaba) is fundamental to concepts of land tenure and use in Lesotho. Individual rights of access to land are a prerogative of citizenship and until recently, rights to land could not be bought and sold.

The Land Act of 1979 essentially divided Lesotho into two areas, namely rural areas where land is allocated or granted (initially by Chiefs, but currently by Village Development Committees) but where title cannot be registered or transferred, and urban areas where title can be registered in the form of leases. Subsequent amendments to the Land Act allow a person who has been granted residential land in a rural area to apply to the Commissioner of Lands for a lease in respect of that land.

As indicated earlier, subsistence agriculture is an important contributor to the livelihood to many households. As would be expected, ownership of agricultural fields is lowest in urban areas, higher in the foothills/lowlands areas and highest in the mountain areas. A range of crops and vegetables are cultivated, with maize being the most common crop.

Small-scale farming in Lesotho faces harsh realities which are contributing to a growing inability of the country to feed itself. Constraints to rural crop and horticultural development include:

- generally harsh climatic conditions;
- poor returns on dry-land crop farming and hence, the importance of migrant and formal sector labour returns;
- the resultant shortage of able-bodied farm labour and healthy oxen at critical times;
- overworked soils, the high cost of chemical fertilisers and the use of manure for energy;
- the poor adoption of improved farming methods;
- the shortage and inefficient use of tools and traction;
- storage losses;
- poor fencing and protection against grazing animals;
- poor water supply and storage.
Livestock raising is an important component of local economic activities, particularly in the highlands and foothills/lowlands areas. Livestock kept by households includes cattle, goats, sheep, pigs and fowls. Livestock provides meat, milk, eggs and a cash income. Cattle are an integral part of cropping activities, providing draught power and producing organic fertiliser. Horses and donkeys are important transport and pack animals, particularly in the highlands.

As with crop and horticultural production, a number of constraints affect the development of animal husbandry. These include:

- overstocking and overgrazing despite a long history of range-management in Lesotho;
- constraints on animal care, and on improved breeding practices;
- high levels of stock theft in the country.

### 4.4. POTENTIAL SOCIAL IMPACTS

Large-scale developments such as those planned for the transport sector, particularly civil works projects, will inevitably induce social impacts. These will include impacts on private, communal and public property, as well as other less quantifiable social impacts. Some of these impacts are listed below.

<table>
<thead>
<tr>
<th>Category</th>
<th>Impact</th>
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</thead>
<tbody>
<tr>
<td>Private property</td>
<td>• Loss of cultivation land, residential plots</td>
</tr>
<tr>
<td></td>
<td>• Loss of trees and crops</td>
</tr>
<tr>
<td></td>
<td>• Loss of houses, stores/shops/stalls, fencing</td>
</tr>
<tr>
<td></td>
<td>• Impacts on graves</td>
</tr>
<tr>
<td>Community property</td>
<td>• Loss of rangeland and other useful natural resources</td>
</tr>
<tr>
<td></td>
<td>• Loss of schools, churches, other buildings, water supply points</td>
</tr>
<tr>
<td>Government property</td>
<td>• Loss of land used by Government Departments</td>
</tr>
<tr>
<td></td>
<td>• Loss of Government buildings</td>
</tr>
<tr>
<td>Potential social effects</td>
<td>• Positive/negative changes to subsistence levels, income-generating capacity and household livelihoods</td>
</tr>
<tr>
<td></td>
<td>• Changes to movement patterns; improved or constrained access to services/facilities</td>
</tr>
<tr>
<td></td>
<td>• Community strife (pressure on resources, socially destabilizing effects)</td>
</tr>
</tbody>
</table>

Most of the transport sector projects involving social impacts of this nature will occur in the road sub-sector. Many of the roads in Lesotho are gazetted, and each gazetted road has a road reserve. The reserves (generally 20m or 30m wide) are flexibly implemented and managed, and are consequently often not free of encumbrances. For instance, houses located at a safe distance from the roadway within the road reserve are as a rule not acquired or moved. Furthermore, land within road reserves is sometimes used for business purposes in urban areas (e.g. roadside stalls) or for crop cultivation in rural areas. Road upgrading and rehabilitation are therefore likely to lead to displacement of people, buildings and economic/subsistence activities from road reserves.

The TSP also includes some new road construction (e.g. the Maseru Northern Bypass), as well as upgrading to gravel road standards of sections of earth tracks (e.g. Semonkong to Sekake). Land acquisition will occur on these roads through the declaration of road reserves.

Construction, upgrading and maintenance work will also occur in the rural road network (i.e. roads which connect rural villages with major roads and centres). New rural roads are normally requested by communities, through motivations submitted to the Lesotho Fund for Community Development.

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14 A road reserve comprises the roadway, other components such as road shoulders and drains, as well as an adjacent land area required for safety or future upgrading purposes.
Since road construction is undertaken as a community-based initiative, compensation has not in the past been paid for land losses. To minimise impacts, villagers participate in the finalisation of the road alignment.

For all transport sector projects, land acquisition and resettlement figures will be determined as the projects are selected and finalised. A Resettlement Plan (RAP) will be prepared for each project, or combination of projects if practical, where land acquisition and resettlement will occur, according to the principles and processes detailed in this CRPF. Amongst others, the RAPs will detail land acquisition and resettlement figures as established through a census, socio-economic survey and asset inventory.

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15 The LFCD is a GOL community development initiative, funded by the royalties from the Lesotho Highlands Water Project. TSP documentation indicates that rural communities have to date requested LFCD funding for approximately 1800 km of new rural roads, of which nearly 100 km has been constructed/upgraded and incorporated into the rural road network.
5. **ELIGIBILITY CRITERIA**

Two important requirements on projects involving land acquisition and involuntary resettlement are:

- to define project-affected persons and the criteria for determining their eligibility to the various entitlements available under the project; and
- to establish a cut-off date for eligibility to entitlements, or a moratorium on further developments within the project area after a specific date.

This section describes the approach that will be followed on transport sector projects with regard to eligibility for project compensation, resettlement and support entitlements.

### 5.1. CATEGORIES OF AFFECTED PERSONS

Through the acquisition of private (and in some cases) community assets, civil works projects may affect property owners and their dependants, and community groups. In peri-urban and urban areas it is highly likely that tenants will also be affected, through having to vacate their rented accommodation in buildings acquired by a project.

Project impacts would thus manifest at individual level, and possibly also at group level. The unit of entitlement at individual level would be men and women who suffer one or a combination of the following losses directly attributable to a project:

- residential and cultivation land;
- residential buildings, structures and improvements;
- commercial buildings, structures and improvements;
- income sources and income-earning capacity;
- temporary loss of land or income sources; and
- rented accommodation (tenants).

This category also includes the household members of the person suffering any of the abovementioned losses. For compensation against the loss of privately-held assets and resources, the unit of entitlement will be the owner/household head. For rehabilitation assistance, the unit of entitlement will be the household. For example, in some cases household subsistence and survival strategies may be disrupted through the loss of land or business enterprises. In these cases, rehabilitation measures will be extended to all adult household members to support household livelihood restoration.

On linear projects such as road developments (where large-scale resettlement is generally unlikely) it is often relatively easy to determine resettlement eligibility. A household or business will require relocation if its structure is located in the road reserve. On non-road projects, eligibility for resettlement is not always clear-cut, where households not located in the project's displacement area but suffering significant land losses may qualify for resettlement. This is unlikely to occur on transport sector projects but where it does the following criteria will apply:

- Households who lose 50% or more of their landholdings will qualify for resettlement.
- Because the 50% criterion potentially ignores or simplifies complex socio-economic processes, other context-specific criteria will be applied to properly assess the resettlement eligibility of households losing less than 50% of their landholdings.\(^{16}\)

\(^{16}\) For example, a household that loses 50% of its relatively large landholding would automatically qualify for resettlement, whilst one that loses 40% of its small landholding would not, even though its remaining landholding is below a subsistence requirement.
Projects may also have indirect, less-quantifiable or unforeseen effects on groups living in the vicinity of the project area (e.g., adjacent to a road reserve). Positive impacts may occur spontaneously or require co-operation between different government agencies. Potential negative impacts may include a reduction in, or constrained access to, natural resources, impacts on water supply systems, or changes to local employment practices. Where these impacts occur, they will be mitigated under the project. As stated earlier, special attention will also be given to social categories and groups who because of their social position may be vulnerable to the changes brought about by project activities, or who may be excluded from its associated benefits.

5.2. **CUT-OFF DATE FOR ENTITLEMENTS**

It will be necessary to publicly declare a cut-off date for entitlements for each project where such entitlements are made available because of land and asset acquisition and other social impacts. This is required to protect both the project and genuinely affected people from speculative incursions into the project area or other attempts at speculative gains.

The following approach will be followed on all projects requiring land acquisition or with other forms of social impact:

- Where land acquisition will occur on a new development, the Gazette notification required in terms of the Land Act, 1979 will be taken as the cut-off date. It will be necessary to undertake a recording of all human habitation and activities in the project area prior to the publication of the notification, by means of the RAP census survey or a separate recording if a RAP has not yet been commissioned.

- Where land acquisition will occur on an existing development (e.g., road upgrading within an already declared road reserve), the RAP census survey will be taken as the cut-off date for project entitlements. Persons occupying the area after this date will not be eligible for project entitlements.

- The onus will be on a person who was not recorded in the census but who claims to have been in the area prior to, or at the time of, the census to prove that he/she qualifies for project entitlements.

- An enumerated tenant who voluntarily vacates his/her rented accommodation more than two months prior to the implementation of the physical relocation programme will not qualify for any project entitlements, while a tenant who occupies rented accommodation in the project displacement area after the census, but not less than three months prior to the implementation of the relocation programme, will be eligible.

- A moratorium will be declared, on a mutually agreed date, on the construction of new buildings/structures in the project displacement area, apart from routine maintenance activities. The moratorium date will be the date of the final asset verification exercise, provided that the date is not more than six months prior to the start of physical relocation.

- Local authorities will be mandated early in the process to assist project authorities with the management of the project area so as to prevent/minimise the possibility of speculative incursions.
6. VALUATION METHODS AND PROCEDURES

6.1. VALUATION METHODS

Valuation of affected assets on MOWPT developments is currently being undertaken by local property consultants. The following emerged from discussions with these consultants:

- The Land Act, 1979 is considered to be inadequate, since it does not provide a legal procedure and sufficient guidance for the valuation exercise.
- LSPP does not have a set of compensation rates for different categories of assets, although some guidance is provided. However, LSPP is understaffed and lacks the capacity to provide sufficient guidance and support in the valuation process.
- In urban and peri-urban areas, the valuation consultant has to rely on the “informal land market” and his/her own judgement to arrive at land values. In isolated rural areas it becomes difficult to establish land values.
- There is a need for a body/association of valuation consultants that can set annual standards in conjunction with LSPP.
- There is a concern that project budget allowances for the valuation of properties are inadequate, reflecting an apparent official view that these studies are of minor significance in the larger scheme of things.

Whilst the latter concern will be addressed in the project RAPs, there is a need to formalise valuation standards and procedures. A valuation task team will consequently be established to periodically deliberate and review valuation standards/procedures. The task team will amongst others consist of representatives from the following organisations:

- MOWPT;
- LSPP;
- Attorney General’s Office / Law Office;
- Property valuation consultants;
- NGOs.

The compensation considerations listed in Section 6.2 can provide the basis for the initiation of the work of the task team.

Each transport sector party responsible for preparation of a project RAP will also be required to ensure that project-specific entitlements are discussed with affected households and their representatives. The aim of this exercise will be:

- to describe asset acquisition on the project;
- to describe the methods that will be used for the valuation of affected assets;
- to define the various categories of affected households;
- to describe entitlements for asset losses for each category of affected household, including potential resettlement options;
- to recommend the process to be followed for the declaration of a moratorium/cut-off date on further developments in the project development area;
- to discuss household re-establishment measures, as well as special provisions for vulnerable groups.
6.2. VALUATION AND COMPENSATION CONSIDERATIONS

6.2.1. Buildings, Improvements and Residential/Business Plots

(a) Owners of houses and structures who are recorded in a project development area prior to the official cut-off date will be compensated in cash, at replacement cost, for full or partial loss of buildings/structures.

Where a community is relocated to a designated resettlement site, displaced households will have a choice of cash compensation to construct their own housing, or the provision of replacement housing by the project.

<table>
<thead>
<tr>
<th>Replacement cost for buildings and structures is defined as:</th>
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<tbody>
<tr>
<td>• the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure;</td>
</tr>
<tr>
<td>• plus the cost of transporting building materials to the construction site;</td>
</tr>
<tr>
<td>• plus the cost of any labour and contractor’s fees;</td>
</tr>
<tr>
<td>• plus the cost of any registration fees and/or transfer duties.</td>
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</tbody>
</table>

In determining the replacement cost, depreciation of the asset and the value of benefits to be derived from the project is not taken into account.

(b) Owners will have the right to salvage materials from the affected buildings. The value of salvaged materials will not be deducted from the final compensation amount.

(c) Owners of houses and commercial establishments to be relocated will receive displacement allowances. Displaced occupants of rented accommodation will receive a rental allowance (see Section 6.2.6).

(d) Displaced households and owners of displaced businesses who own the affected plot will be assisted with the identification of suitable replacement residential or business plots in the vicinity, or paid cash compensation (at replacement value) for the lost plot. The loss of a portion of a residential or business plot, which does not necessitate the displacement of the household or the business, will be compensated in cash.

<table>
<thead>
<tr>
<th>Replacement cost for urban residential/business land is defined as:</th>
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<tbody>
<tr>
<td>• the pre-displacement market value of land of equal size and use;</td>
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<tr>
<td>• with similar or improved public infrastructure facilities and services, and located in the vicinity of the affected land;</td>
</tr>
<tr>
<td>• plus the cost of any registration fees and/or transfer duties.</td>
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</tbody>
</table>

(e) Informal traders and squatters on public land will not be compensated for building/structure losses, but will be assisted to move their operations. Where possible, they will be assisted with the identification of alternative sites.

6.2.2. Cultivation Land

(a) Land owners will be compensated for all permanent cultivation land losses at replacement cost. This will be in the form of cash compensation (e.g. where displaced households are relocated close to their current dwellings so that they continue to have access to their remaining cultivation
land), or the provision of replacement land (e.g. on projects that would require the relocation of households to a designated resettlement site).

**Replacement cost for cultivation land is defined as:**

- the pre-project or pre-displacement (whichever is higher) market value of land of equal productive potential or use located in the vicinity of the affected land;
- plus the cost of preparing the land to levels similar to those of the affected land;
- plus the cost of any registration fees and/or transfer duties.

(b) Encroachers using public land for the cultivation of crops will not be entitled to compensation for land losses. Where possible, they will be assisted with the identification of alternative cultivation land or opportunities.

(c) A non-displaced landowner who loses more than 75% of his/her total landholding, will have the option to relinquish the remainder of that landholding, in return for cash compensation at replacement cost, or assistance with the identification and purchase of replacement land.

(d) As stated in Section 5.1, on some projects involving resettlement it may be necessary to classify households according to the percentage of land loss to determine resettlement eligibility. Where this is required, the following approach will be followed:

- Households who lose 50% or more of their landholdings will qualify for resettlement.
- Because the 50% criterion potentially ignores or simplifies complex socio-economic processes, other context-specific criteria will be applied to properly assess the resettlement eligibility of households losing less than 50% of their landholdings.

(e) It is not envisaged that transport sector projects will have a significant impact on communal land (e.g. grazing land). However, where such land is acquired by a project, appropriate support programmes will be introduced to mitigate these impacts. Where they are required, these support programmes will be funded out of the project.

### 6.2.3. Crops and Trees

(a) Construction works will as far as possible be planned to allow for the harvesting of standing crops before land is acquired permanently or temporarily. Where crops cannot be harvested or the destruction of crops is unavoidable, cash compensation will be paid for the loss of crops to land owners and encroachers using public land prior to the cut-off date. Rates will be based on the loss of a season's production.

(b) If the land in question was cultivated according to a sharecropping arrangement at the time of acquisition, compensation for the lost crops will be apportioned according to the arrangement. However, persons with secondary land rights (such as sharecroppers or renters) will not be entitled to any compensation for the loss of the land.

(c) Compensation will be paid for the loss of future production from individually-owned trees. Compensation for fruit-bearing and non-fruit-bearing trees will be at net present value calculated for the productive life.

(d) All resources from privately-owned trees that are felled (e.g. timber/fuelwood) will remain the property of the concerned owner.
6.2.4. **Community and Government Buildings/Infrastructure**

(a) Affected community buildings and facilities will be repaired to their previous condition or replaced in areas identified in consultation with affected communities and the relevant authorities. This includes schools, churches, community halls, water points, trails/footpaths, crossings and footbridges.

(b) Consultation and coordination will occur between government ministries regarding impacts on government assets caused by transport sector projects. To minimise impacts, MOPWT will undertake complementary planning with other ministries to facilitate coordination of planned developments.

6.2.5. **Social Impact Management Measures**

(a) MOPWT will ensure that appropriate measures are implemented to address any other social impacts induced by transport sector projects. This will be achieved through the commissioning of project social impact assessments and resettlement plans, the incorporation of social impact management measures into civil works documentation, and the preparation of environmental management plans. Social impact management measures would include:

- measures to minimise impacts on, or the severance of access to, community resources and facilities;
- agreements between landowners and contractors for the temporary occupation of land;
- measures to limit the extent of site clearance;
- measures to minimise noise, dust and related construction impacts;
- early warning systems at blasting areas;
- fencing of high risk construction sites to prevent accidents;
- measures to control speed limits for construction vehicles;
- procedures for assessing and compensating construction-related impacts (e.g. structures cracked by blasting operations);
- land protection and rehabilitation measures.

6.2.6. **Rehabilitation Measures**

(a) In addition to compensation for asset losses, the following allowances will be paid to eligible persons:

- households other than tenants who are required to relocate will receive a Housing Displacement Allowance, the value of which will be determined in consultation with the concerned persons;
- owners of commercial enterprises who are required to relocate will receive a Business Displacement Allowance, the value of which will be determined in consultation with the concerned persons;
- the allowances stipulated above will be paid severally;
- displaced households of rented accommodation will receive a Rental Allowance, the value of which will be determined during detailed resettlement planning.

(b) Apart from the provision of displacement allowances, severely affected and vulnerable groups will additionally be supported through the following measures:

- advice regarding project impacts, compensation alternatives and risks, and resettlement options (where required); and
- advice on alternative subsistence and livelihood strategies, and assistance (through MOHSW) to gain access to poverty alleviation/social welfare programmes.
6.2.7. Evacuation Allowance

(a) Apart from informal traders, squatters on public land and tenants, the project will be responsible for covering the costs of the physical movement of people, livestock, and property. This will be in the form of:

- an evacuation allowance (e.g. for households electing “voluntary self-relocation” to new residential sites identified by themselves, as would happen on road developments in urban areas), or
- the provision of transport and physical relocation by the project (e.g. for households relocated to a designated resettlement site).

6.3. NOTIFICATION OF ACQUISITION AND PAYMENT OF COMPENSATION

(a) Affected persons will be given written notice of the intent to acquire their properties not less than 120 days prior to the intended acquisition date.

(b) GOL will not take possession of any private property prior to the full payment of compensation entitlements and, where applicable, initiation of relocation arrangements.

Households electing for “voluntary self-relocation” to new residential sites identified by themselves will be paid their full compensation entitlements sufficiently in advance of their relocation dates to allow them to make evacuation arrangements. The same arrangement will apply to households who are resettled as a group to a designated resettlement site, if they opt to construct their own replacement housing. Where they opt for the provision of replacement housing by the project, they will not be moved until their new housing is ready for occupation.

(c) Certificates of compensation will be issued to each entitled person, who will be required to sign an acknowledgement of their acceptance of the compensation amount as full and final payment for their losses.

(d) All government taxes and duties related to the acquisition and registration of affected and new assets will be the responsibility of the project.
7. ORGANISATIONAL ARRANGEMENTS AND IMPLEMENTATION

7.1. ORGANISATIONAL ARRANGEMENTS

7.1.1. Overall Responsibility for Implementation

As the coordinating authority, MOPWT will assume overall responsibility for the commissioning and implementation of RAPs. MOPWT will ensure that the following actions are implemented by the implementing agency for each project involving land acquisition and involuntary resettlement:

- implementation of procedures to minimise adverse social impacts (acquisition of land and buildings) throughout the planning, design and implementation phases;
- implementation of procedures for the recording of all project-affected persons, by means of census and asset verification and quantification exercises;
- establishment of procedures for the co-ordination of resettlement and compensation activities on the various projects;
- establishment of community participation structures (e.g. consultative forums), where required;
- implementation of information dissemination campaigns;
- capacity-building initiatives where required to create a supportive environment for the implementation of RAP activities;
- co-ordination with other government line agencies and non-governmental organisations to ensure effective delivery of compensation, mitigation and other support measures.

7.1.2. Management of Resettlement

To ensure the effective implementation of these actions, a Resettlement Desk will be established within MOPWT. The Resettlement Desk will be responsible for overall planning, co-ordination and management of resettlement and community participation activities. In undertaking its functions the Resettlement Desk will, for each project, give particular attention to the following:

- procedures for undertaking and completing census and asset verification exercises;
- establishment of a database of affected persons/households;
- integration of construction, land acquisition and compensation activities;
- procedures for tracking compliance to CRPF and RAP requirements;
- establishment of procedures for ongoing internal monitoring and review of projects progress reports;
- procedures for the prompt implementation of corrective actions and the resolution of grievances; and
- establishment of consultative forums where required.

7.1.3. Coordination With Other Ministries and Agencies

The Resettlement Desk will develop a programme of interaction with other government departments to ensure effective land acquisition, compensation and implementation of mitigation measures. The key government departments with which programmes of complementary planning actions will be developed are:
Over the next six years (i.e. the TSP implementation period) a variety of officials, often from different agencies and districts, will be involved in the implementation of resettlement-related activities. Therefore, apart from the coordination of activities with officials from these different ministries, departments and agencies, there is also a need for awareness-raising within line agencies that may have a role to play in the implementation process. An orientation programme will be undertaken to make responsible agencies and staff aware of the policy requirements of the CRPF and subsequent project RAPs. This programme will be integrated with the overall TSP timetable, as well as with individual project schedules, to ensure the availability of informed officials to assist with the timely implementation of resettlement-related tasks.

7.1.4. NGO Participation

On projects with significant social impacts, MOPWT will assess the possibility of involving suitably qualified and experienced NGOs in aspects of the resettlement and rehabilitation activities. Where their participation is appropriate, NGOs will be appointed (and paid out of project funds) to assist with:

- project information campaigns to ensure transparency of procedures;
- community-level consultations about entitlements, reinvestment of compensation and alternative income-generating opportunities;
- enabling affected persons to gain access to government and non-governmental poverty alleviation and development programmes; and
- participatory monitoring and evaluation exercises.

7.2. IMPLEMENTATION PROCESS

The implementation process will require activities at both programme (TSP) and project level, with implementation activities at programme level scheduled first, to ensure effective coordination of subsequent project activities. The key activities envisaged at each of these two levels are summarised in Table 7.1 below.

Table 7-1: Key Activities in the Implementation Process

<table>
<thead>
<tr>
<th>Programme Level</th>
<th>Establish Resettlement Desk within MOPWT.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Undertake orientation/training within MOPWT on involuntary resettlement safeguards (CRPF and RAPs).</td>
</tr>
<tr>
<td></td>
<td>Disseminate information on involuntary resettlement safeguards (CRPF and RAPs) to other ministries and line agencies, supported by awareness-raising workshops where necessary.</td>
</tr>
<tr>
<td></td>
<td>Initiate procedures within MOPWT for the establishment of proper databases of project-affected persons (asset acquisition and resettlement management system).</td>
</tr>
<tr>
<td></td>
<td>Incorporate social impact management specifications into civil works documentation.</td>
</tr>
<tr>
<td></td>
<td>Develop a plan of complementary actions with relevant government line agencies for effective delivery of mitigation and rehabilitation measures.</td>
</tr>
</tbody>
</table>
Project Level

- Undertake early identification of potential adverse social impacts during project identification and screening, and identify/assess ways of minimising these impacts.
- Undertake SIA during project preparation to contribute to the determination of baseline conditions and the selection of the preferred project configuration.
- Where possible, confirm final project impact area.
- Commission preparation of a RAP.
- Strengthen or establish mechanisms for local consultation, participation and grievance resolution.
- Undertake baseline census, socio-economic survey and initial recording of potentially affected assets.
- Declare cut-off date to entitlements (where possible).
- Establish database of affected persons.
- Where displacement of people will occur, identify resettlement options, including potential group resettlement sites if required.
- Finalise project design and impact area.
- Where required, update census information.
- Undertake final verification and valuation of project-affected assets.
- Declare cut-off date to entitlements (definite).
- Where required, prepare designated resettlement site (housing, services, etc.).
- Synchronise resettlement schedule with civil works programme.
- Revisit affected persons with realistic project time-frame, and for finalisation of choices amongst compensation and resettlement options.
- Finalise compensation and resettlement packages.
- Issue evacuation notices.
- Implement land acquisition/transfer procedures and effect compensation payments.
- Implement physical relocation/evacuation programme.
- Provide resettlement and rehabilitation support where necessary.
- Implement internal and external monitoring programmes.
8. GRIEVANCE REDRESS MECHANISMS

Since some transport sector projects will deal with the acquisition of private property, the lodging of grievances and disputes is inevitable. It is therefore important to have grievance redress mechanisms to allow affected persons to raise any concerns about the land acquisition and compensation process.

The following approach will be adopted on all transport sector projects with regard to disputes over compensation awards:

- **Stage 1:** Any person aggrieved by compensation payments made or not made by MOWPT in connection with the acquisition of his/her land, housing or other assets or rights by the project shall lodge a written grievance to the MOPWT Resettlement Desk. Local authority representatives (e.g. Traditional Authority; VDC) may be brought into the discussions to facilitate the process. The entire grievance resolution process will be recorded, and a copy made available to the aggrieved person.

- **Stage 2:** Should the grievance not be resolved at this level, the aggrieved person may lodge an appeal with the Minister of Public Works and Transport.

- **Stage 3:** If the aggrieved person is not satisfied with any determination by the Minister, the grievance may be brought to the High Court of Lesotho.

- **Stage 4:** If the aggrieved person is not content with the ruling of the High Court the claim may be brought to the Appeal Court, whose decision will be final.

Grievances over other matters should in the first instance be raised and solved with the relevant MOWPT line official and the local authority structure. If the grievance cannot be solved, it should be lodged in writing with the MOPWT's Resettlement Desk for resolution. The entire grievance resolution process will be recorded, and a copy made available the aggrieved person.
9. CONSULTATION AND PARTICIPATION

An important principle of the CRPF is that persons will have the right to be consulted and to participate in decision-making throughout the course of a transport sector project that affects their lives. Consultation and participation will occur during:

- project preparation and planning;
- project implementation; and
- as part of monitoring and evaluation exercises.

9.1. PROJECT PREPARATION AND PLANNING

Consultation will occur during all parts of the project preparation and planning cycle. In the earlier stages of project planning (i.e. identification and conceptualisation), consultation will mainly be limited to discussions with key stakeholders, such as local authorities and key informants, since the configuration of the project – and therefore the identification of affected persons – would not as yet have been finalised. These discussions will be recorded and become part of the project’s documentation. During subsequent preparation and planning phases the consultation process will be progressively diversified to include community pitsos, individual household interviews, group discussions and other SIA techniques.

During RAP preparation, consultation and participation will include at least the following:

- Start-up pitsos, to introduce the project, explain potential impacts and obtain agreement for the research and fieldwork.

- Interviews with affected persons and other interested parties, to indicate the possible extent of land/asset acquisition, to obtain their views, concerns and preferences, and to gather baseline socio-economic information.

- Where a significant number of households are affected, focus group discussions will be conducted with community representatives to explore and assess:
  
  - patterns of social interaction and organisation in the community, and the likely impact of the project on social networks and support systems;
  - potential impacts on local economic activities and the communal natural resource base;
  - the impacts on community infrastructure and services;
  - viable compensation/mitigation measures.

Where large-scale land acquisition occurs in a rural setting, additional rural appraisal techniques will be employed to further facilitate participatory assessment of project impacts on household subsistence and livelihood.

- Concluding pitsos, to discuss the results of the research and further planning activities and schedules.

As stated earlier, the participation needs and requirements of each project will be context specific. Some projects will affect relatively small numbers of households, or will be located in urban areas with urban forms of social organisation. The participation strategy for these projects will be different from projects affecting relatively large numbers of households, or from projects located in isolated rural areas. It will therefore be inappropriate to recommend a blanket participation framework to be applied uniformly to all transport sector projects.
At the commencement of fieldwork, each RAP will assess and propose the participation approach to be followed, given the project's social setting and impacts. The emphasis will be on using existing local institutions and structures wherever possible. Where deemed appropriate, project-specific consultation forums will be established, in conjunction with local institutions, to supplement existing structures. In all instances the establishment of such forums/project committees will be undertaken in a sensitive and informed manner.

**9.2. PROJECT IMPLEMENTATION**

Community *pitsos*, group discussions, liaison with local authorities/institutions and (where established) consultative forums will be the main form of community participation during implementation of projects where large-scale land acquisition will occur. The aim of participation during this stage will be:

- to involve affected communities and local authority structures in the planning and execution of resettlement activities, thereby promoting collective organisation and decision-making;
- to ensure ongoing dissemination of resettlement and compensation information and schedules to affected households.

Where project-specific institutions are established, their function will be:

- to represent the residents of settlements in their areas of operation;
- to advise their "constituencies" of all project-related matters (e.g. resettlement schedules, compensation agreements, construction job opportunities);
- to participate in negotiations on resettlement and compensation issues;
- to cooperate with project and government officials in the implementation of resettlement activities, and with the resolution of grievances and implementation problems.

Additionally, consultation at individual/household level will occur throughout project implementation to determine resettlement preferences and compensation entitlements and packages. On projects where only a small number of households are affected (less than 30), consultation will mainly occur at this individual/household level.

In all instances, individual and group/community discussions will be recorded and become part of the project’s documentation.

**9.3. PROJECT MONITORING AND EVALUATION**

Project monitoring requirements, and the participation of affected persons in these activities, will depend on the nature and scale of land acquisition and resettlement:

- On projects where these impacts are small, monitoring will be limited to consultations with affected individuals/households to discuss their reestablishment and any problems that have occurred or are occurring that they require to be addressed.

- On projects with significant social impacts, the participation of affected persons and communities in monitoring and evaluation will occur through formal activities such as quantitative socio-economic monitoring surveys and participatory monitoring and evaluation.

These activities, and the participation of affected persons, are further detailed in Section 10.
10. MONITORING REQUIREMENTS

It will be necessary to monitor and report on the effectiveness of the implementation of project RAPs, including physical progress with resettlement and rehabilitation activities, disbursement of compensation, effectiveness of consultation and participation, and the sustainability of livelihood restoration efforts.

The overall objective of monitoring should be to provide feedback on the implementation process, and to identify problems and successes as early as possible in this process so that timely adjustment of implementation arrangements can be made. The range of land acquisition and resettlement activities that will require monitoring include:

- asset acquisition and compensation;
- preparation of resettlement sites;
- construction of replacement housing;
- reestablishment of displaced households and businesses.

The following mechanisms are proposed as a basis for monitoring plans to be included in subsequent project RAPs:

- internal (performance) monitoring;
- standardised (quantitative) socio-economic monitoring;
- participatory (qualitative) socio-economic monitoring.

10.1. INTERNAL MONITORING

Internal monitoring is a management function by which physical progress against milestones established in the RAP will be measured. Output indicators associated with performance milestones will be monitored. Progress will be measured against the schedule of required actions included in the RAP. Internal monitoring reports will be prepared at regular intervals (e.g. monthly, quarterly, annually), beginning with the commencement of implementation activities.

<table>
<thead>
<tr>
<th>Table 10-1: Examples of Output (Performance) Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Number and success of public meetings and consultations.</td>
</tr>
<tr>
<td>- Completion of census and socio-economic surveys.</td>
</tr>
<tr>
<td>- Completion of site identification and selection process.</td>
</tr>
<tr>
<td>- Establishment of required institutional structures.</td>
</tr>
<tr>
<td>- Appointment of staff and provision of logistical support to resettlement officials.</td>
</tr>
<tr>
<td>- Operation of compensation, grievance and other necessary procedures.</td>
</tr>
<tr>
<td>- Disbursement of compensation payments.</td>
</tr>
<tr>
<td>- Acquisition of alternative land for resettler households.</td>
</tr>
<tr>
<td>- Construction of household and related infrastructure.</td>
</tr>
<tr>
<td>- Replacement of communal infrastructure and services.</td>
</tr>
<tr>
<td>- Physical relocation of displaced persons.</td>
</tr>
<tr>
<td>- Provision of assistance to resettlers.</td>
</tr>
<tr>
<td>- Compilation/submission of monitoring and evaluation reports.</td>
</tr>
</tbody>
</table>

10. Monitoring Requirements
10.2. STANDARDISED (QUANTITATIVE) MONITORING

Where large-scale resettlement occurs on a project, it will be important to monitor the socio-economic status of affected communities. Socio-economic status should be tracked against baseline conditions of the population prior to resettlement (i.e. as established through the census and socio-economic studies prior to RAP completion).

A number of simple, objectively verifiable quantitative indicators should be established for measuring the impact of physical relocation upon the health and welfare of the affected population.

Socio-economic monitoring would typically be conducted on an annual basis, using standardised survey instruments, and should preferably be scheduled to occur at the same time of year as the original baseline survey(s) to enable meaningful trend analysis.

Table 10-2: Examples of Quantitative (Impact-Related) Indicators

<table>
<thead>
<tr>
<th>Social impact:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demographic changes (e.g. changes to residential status of household members).</td>
</tr>
<tr>
<td>Education levels (e.g. school enrolment).</td>
</tr>
<tr>
<td>Changes to status of women, children and vulnerable groups.</td>
</tr>
<tr>
<td>Changes to land use and tenure patterns, and associated impacts.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Health impact:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth rate, death rate, infant mortality rate.</td>
</tr>
<tr>
<td>Incidence of communicable and preventable diseases (e.g. diarrhoea, HIV, TB).</td>
</tr>
<tr>
<td>Access to primary and other health care.</td>
</tr>
<tr>
<td>Access to potable water.</td>
</tr>
<tr>
<td>Changes to nutritional status of households.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Economic impact:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment levels.</td>
</tr>
<tr>
<td>Crop output and production costs.</td>
</tr>
<tr>
<td>Household asset profiles.</td>
</tr>
<tr>
<td>Landholding sizes.</td>
</tr>
<tr>
<td>Security of tenure of affected households.</td>
</tr>
<tr>
<td>Income and expenditure levels, and consumption patterns.</td>
</tr>
<tr>
<td>Changes to livestock farming practices.</td>
</tr>
<tr>
<td>Success of livelihood restoration initiatives (subset of specific indicators).</td>
</tr>
</tbody>
</table>

10.3. PARTICIPATORY (QUALITATIVE) MONITORING

Where large-scale resettlement occurs on a project, a community-based participatory monitoring component is a useful tool to gauge the effectiveness of the RAP in meeting the needs of the affected population. This monitoring component will utilise qualitative indicators, identified in consultation with the affected groups. An inclusive problem-solving approach will be followed, using local experiences and realities as the basis for solutions.

Facilitators from the implementing agency, non-governmental organisations (NGOs), community structures and other stakeholders will be trained to enable them to assist affected communities to:

- develop their own criteria for acceptable standards of living;
- assess their pre-project (baseline) standard of living in terms of their own criteria;
- monitor their own progress towards recovering their pre-project standard of living;
- evaluate the effectiveness of mitigation measures;
- develop their own solutions to outstanding problems; and
- communicate their findings to the implementing agency, requesting remedial action where required.
The outcome of this process would be an assessment of the affected people's attitudes, perceptions, views and fears regarding both general and specific elements of the RAP implementation process. Given the participatory nature of the programme, there would be a continual process of metamorphosis and learning, with new ideas and concerns integrated and incorporated into the implementation process.

This form of monitoring could be conducted both by the implementation agency (regularly) and by an external monitoring agency (periodically).

### Table 10-3: Examples of Qualitative (Community-Derived) Indicators

- Attitudes to key resettlement initiatives (e.g. adequacy of compensation)
- Perceptions and suggestions relating to negative project impacts (e.g. crime).
- Perceptions and suggestions relating to positive project impacts (e.g. access to services).
- Disturbances to social practices and fabric (e.g. influx of jobseekers).
- Pressure on the work of local authorities.
- Satisfaction with the consultation and participation process.
- Host community reaction and concerns regarding presence of resettlers.

### 10.4. EXTERNAL EVALUATION

It is envisaged that missions of the funding agencies/donors would contribute to external evaluation exercises. This would consist of the examination of the various monitoring reports, visits to the affected site(s) and consultations with the affected population on a random basis to verify the success of the RAP implementation process.

In addition to the various indicators assessed by the other forms of monitoring listed above, external evaluation would consider process and sustainability indicators.

### Table 10-4: Examples of Process and Sustainability Indicators

**Process:**
- Level of commitment of project authority (e.g. funding, staffing, transparency).
- Capacity of primary implementing agent.
- Capacity of government agencies and NGOs to fulfil their respective roles.
- Appropriateness of the consultation and participation process.

**Sustainability:**
- Degree of autonomy of affected community leadership structures.
- Development of unsustainable dependencies (e.g. ongoing project maintenance of services).
- Sustainability of natural resource utilisation patterns in project and host areas.

The implementing authority's monitoring costs will be funded out of the budget determined and established in the RAP.

Further examples of the range of indicators and variables to be covered by the various monitoring activities are given in **Annex C.**
11. FUNDING ARRANGEMENTS

11.1. COSTS AND FUNDING CONSIDERATIONS

International experience shows that land acquisition and involuntary resettlement can cause severe social and economic impacts unless properly mitigated. Furthermore, unless included as an upfront project cost, these components are often under-budgeted and marginalized during project implementation. This often leads to delays or inadequacies in the implementation of the resettlement programme, with concomitant delays in the overall implementation of the project and consequences for the restoration of the livelihoods of affected persons.

An important CRPF principle is therefore to ensure that land acquisition and involuntary resettlement, and the associated costs, are seen as integral components of transport sector projects. These costs include:

- costs for the replacement/compensation of affected assets (direct costs);
- costs associated with household rehabilitation/support measures;
- costs associated with the implementation, management and monitoring of the resettlement process.

On all transport sector projects, the first of these (direct costs) will normally be paid by GOL. The second cost component (rehabilitation/support measures) can be covered through the funds provided through loans/credits of funding organisations such as the IDA. Some items of the third component (implementation, management and monitoring) may similarly be funded from the loans of funding organisations.

11.2. BUDGETS FOR RESETTLEMENT PLANS

Each RAP will contain a consolidated overview of the estimated costs associated with the implementation of the RAP. This will consist of an itemised budget estimate for resettlement implementation, including the costs of:

- compensation for affected assets;
- household rehabilitation/livelihood restoration measures;
- management and administration;
- contingencies; and
- monitoring and evaluation requirements.

The RAP will indicate the funding sources for each item, and the RAP budget will be included in the overall project cost.

Values for compensation amounts and other support measures will be adjusted annually, based on the Consumer Price Index (CPI).
### 12. ANNEX A: ENTITLEMENT MATRIX FOR LOSSES ON TRANSPORT SECTOR PROJECTS

<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. BUILDINGS/STRUCTURES AND RESIDENTIAL/BUSINESS PLOTS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 1.1 Loss of residential and business structures | Property owner | (a) Cash compensation, at replacement cost, for full or partial loss of housing and business structures.  
(b) Cash compensation for full or partial loss of other improvements (e.g. fencing). | • Materials may be salvaged with no deduction from compensation.  
• Displaced households will receive a housing displacement allowance as described in Section 5.1. Owners of displaced commercial establishments will receive a business displacement allowance as described in Section 5.2. Loss of structures other than houses and commercial establishments does not entail payment of a displacement allowance.  
• Notice to vacate will be served at least 120 days prior to acquisition date.  
• Compensation for all losses payable prior to acquisition. Where displacement occurs, payments to be made in accordance with RAP schedule to allow displaced households sufficient time to make relocation arrangements.  
• To ensure fair compensation, determination of rates will be done not more than 6 months prior to property acquisition.  
• All transfer costs/taxes will be the responsibility of the project. |
| | Tenant | (a) Where a tenant has constructed his/her own housing or business structure on land rented from another person, cash compensation, at replacement cost, for full or partial loss.  
(b) Cash compensation for full or partial loss of other improvements (e.g. fencing) erected by tenant. | |
| | Informal trader/  
Squatter on public land | (a) Informal traders/squatters recorded in the project’s displacement area prior to the official entitlement cut-off date will not be compensated for building/structure losses, but will be assisted to move their operations.  
(b) Squatters who occupy the project impact area after the cut-off date do not qualify for project entitlements. | |
| 1.2 Loss of rented accommodation | Tenant | (a) Rental allowance as defined in Section 5.1. An enumerated tenant who voluntarily vacates his/her rented accommodation more than two months prior to the implementation of the physical relocation programme will not qualify for a rental allowance, while one who occupies rented accommodation in the project displacement area after the census, but not less than three months prior to the implementation of the relocation programme, will be eligible. | • Compensation for building/structure payable to owner. |
### Annex A: Entitlement Matrix

<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
</table>
| 1.3 Loss of residential/business plots | Property owner | (a) Cash compensation, at replacement value, for partial loss of residential or business plot.  
(b) Cash compensation, at replacement value, for loss of entire residential or business plot, or provision of suitable replacement plot in the vicinity, if available. | • Formal resettlement planning will be undertaken where more than 10 households from one settlement/residential area are displaced.  
• Where household displacement and relocation to a designated resettlement site occur, other re-establishment measures to be specified in the project RAP. |
| Informal trader/Squatter on public land | | (a) Where possible, assistance with identification of alternative residential/business sites. | • Where project and local authorities consider the impact on a squatter to be severe, he/she will qualify for rehabilitation assistance as specified in Section 5.3. |

## 2. CULTIVATION / ARABLE LAND

<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
</table>
| 2.1 Permanent loss of cultivation land | Property owner | (a) Cash compensation at full replacement cost, or assistance with the identification and allocation of suitable replacement cultivation land.  
(b) Where household displacement and relocation to a designated resettlement site occurs, assistance with land preparation and access to other reestablishment measures as specified in the project RAP. | • Notice to vacate will be served at least 120 days prior to acquisition date.  
• Compensation for all losses payable prior to acquisition.  
• All transfer costs/taxes will be the responsibility of the project. |
| 2.2 Temporary loss of cultivation land | Property owner | (a) Compensation for crop losses for the duration of temporary occupation.  
(b) Compensation for other disturbances and damages caused to property. | • A temporary occupation contract should be signed with the affected landowner, specifying:  
  o period of occupation;  
  o formula for the calculation of production losses (the market value of crops normally produced on the land) and annual inflation adjustments;  
  o frequency of compensation payment; and  
  o land protection and rehabilitation measures. |
| 2.3 Loss of access to public land | Encroacher (using public land for cultivation) | (a) Illegal occupants of public land do not qualify for compensation for land losses.  
(b) Where possible, assistance with identification of alternative cultivation land or opportunities. | • Where project and local authorities consider the impact on an encroacher to be severe, he/she will qualify for rehabilitation assistance as specified in Section 5.3. |
<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. OTHER PRIVATELY-OWNED RESOURCES</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Loss of non perennial crops</td>
<td>Person farming the land, whether owner-cultivator, lessee or sharecropper</td>
<td>(a) Net value of crops where harvesting is not possible. (b) If the land in question was cultivated according to a sharecropping arrangement at the time of acquisition, compensation to be apportioned according to the arrangement.</td>
<td>• Affected persons to receive advance notice to harvest crops, if applicable.</td>
</tr>
<tr>
<td>Encroacher using public land</td>
<td>(a) Encroacher using public land for cultivation prior to the cut-off date will receive compensation for crops (net value of crops) where harvesting is not possible.</td>
<td>• Affected persons to receive advance notice to harvest crops, if applicable. (b) Encroachers who occupy the project impact area after the cut-off date do not qualify for project entitlements.</td>
<td></td>
</tr>
<tr>
<td>3.2 Loss of privately-owned trees and perennial crops</td>
<td>Property owner; other evidence of ownership</td>
<td>(a) Net value of crops where harvesting is not possible. (b) Fruit trees utilised mainly for own consumption: compensation for future production losses at net present value, calculated for the productive life of the various tree species. (c) Commercial orchards: compensated at commercial rates. (d) The owner will have the rights to all other resources (timber; firewood) from privately-owned trees that are felled.</td>
<td>• Affected persons to receive advance notice to harvest crops, if applicable.</td>
</tr>
</tbody>
</table>

4. PUBLIC AND COMMUNAL FACILITIES AND RESOURCES

| 4.1 Buildings and structures | Local community Government departments/ parastatal organisations | (a) Affected community buildings and structures to be repaired to at least previous condition, or replaced in areas identified in consultation with affected communities and relevant authorities. (b) Inter-ministerial coordination regarding impacts on government assets. | • Community buildings and structures include: schools, churches, community halls, water points, trails/footpaths and bridges. (b) Complementary planning to occur between ministries/departments to facilitate coordination of planned developments and to minimise impacts of transport sector projects on government property. |
| 4.2 Land and other natural resources | Local community or user groups | (a) Where significant losses occur to grazing land and other useful natural resources, mitigation measures to be implemented in consultation with the appropriate line agencies (e.g. Ministry of Agriculture). (b) Restoration of access to community resources. | |

Annex A: Entitlement Matrix
### 5. Assistance with Household Re-establishment/Livelihood Restoration

<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
</table>
| 5.1 Displacement of household | Property owner | (a) Housing displacement allowance for loss of residential accommodation.  
(b) Evacuation allowance for removal of belongings, or moving to be done by project. | • The housing displacement allowance will be determined in consultation with the affected persons.  
• All allowances will be paid at the time of serving the notice to vacate. |
| Tenant | (a) Rental allowance for loss of rented accommodation. | • The rental allowance will be determined during detailed resettlement planning. |
| 5.2 Displacement of commercial enterprise | Property owner | (a) Business displacement allowance for loss of commercial establishment.  
(b) Evacuation allowance for removal of belongings, or moving to be done by project. | • As for housing displacement allowance. |
| 5.3 Other disturbances to livelihood | Vulnerable social categories/groups | (a) Advice on alternative subsistence and livelihood strategies, and assistance (through MOHSW) to gain access to poverty alleviation/social welfare programmes. | • Inter-ministerial/departmental consultation will be necessary to ensure effective delivery of community development products and to avoid duplication. |

### 6. General Awareness

<table>
<thead>
<tr>
<th>TYPE OF LOSS</th>
<th>ENTITLEMENT UNIT</th>
<th>DESCRIPTION OF ENTITLEMENTS</th>
<th>IMPLEMENTATION GUIDELINES</th>
</tr>
</thead>
</table>
| 6.1 All project impacts | Persons in and proximate to project impact area. | (a) Advice on project impacts; construction schedules and acquisition dates; valuation, compensation and grievance resolution mechanisms; construction employment procedures; and local development initiatives. | • This will be done through the periodic distribution of information sheets and a structured consultation process.  
• Cooperation with other GOL ministries and departments to support effective resource utilisation and community development. |

Note: Rates for compensation items and allowances will be adjusted annually for price escalation, using the Consumer Price Index.
13. ANNEX B: GENERIC TERMS OF REFERENCE FOR A RESettlement PLAN

1 INTRODUCTION

(a) Provide a brief description of the overall programme of which the project under consideration is a component.
(b) Briefly sketch the country's socio-economic environment.

2 PROJECT DESCRIPTION

2.1 Overall Description

(a) Briefly describe the project and its rationale, and include maps/drawings where possible.
(b) Summarise all the components of the project.
(c) Briefly sketch the project's socio-economic context – e.g. whether located in urban or rural area; nature of local economy, etc.

2.2 Land Acquisition and Resettlement

(a) Provide details of the project components for which land acquisition and resettlement are required.
(b) Provide details of land acquisition/resettlement estimates, and note the accuracy of these estimates - e.g.:
   • when were the estimates made/how current are they?;
   • how were the estimates made/on what methods are they based?
(c) Indicate the status of the land acquisition process – what has been done and what still needs to be undertaken.

2.3 Consultation

(a) Indicate the status of the consultation process:
   • are affected persons aware of the project?;
   • what level of consultation has been achieved?;
(b) Indicate the remaining consultation activities/requirements.

3 OBJECTIVES OF THE CONSULTANCY

(a) Set out the objectives of the study; e.g.:
   • Involuntary resettlement may cause severe long-term hardship, impoverishment, and environmental damage unless appropriate measures are carefully planned and carried out. Lesotho's Ministry of Public Works and Transport has a policy (the Compensation and Resettlement Policy Framework) to which all projects involving involuntary resettlement must comply. The objectives of the Policy Framework include that:
     o resettlement and land acquisition will be avoided or minimised where feasible;
     o ongoing and meaningful consultation with affected households/communities will occur;
     o affected persons will be assisted to at least restore, and preferably to improve, their livelihoods;
     o vulnerable groups and severely project-affected persons will be specifically catered for;
     o host communities will be considered as project-affected parties;
land acquisition/resettlement planning, budgeting and implementation will be an integral part of the project.

The specific objective of the study is to prepare a Resettlement Plan for the project to comply with the stipulations of the Compensation and Resettlement Policy Framework.

(b) Indicate how the study fits into the larger project planning cycle.

4 LAWS, REGULATIONS AND INFORMATION SOURCES

(a) Specify the legislation, policies and other documents that the consultants should be aware of in preparing their proposal, e.g.:

- MOPWT's Compensation and Resettlement Policy Framework;
- The Land Act, 1979 (or new legislation);
- The Road Act, 1969;
- The Constitution of Lesotho;
- Policies, regulations and guidelines of funding agencies such as the World Bank.
- Reports already compiled for the project under consideration. It is important to indicate how these reports can be accessed by the consultants when preparing their proposals.

5 SCOPE OF SERVICES

(a) Describe the specific issues to be covered/key tasks to be undertaken by the consultant. This would normally include the following:

- Baseline census and socio-economic surveys of the persons affected by the project, to record household demographic information (age, gender, educational levels, economic status, residential status, etc.), socio-economic characteristics (e.g. income and expenditure patterns), and the peoples' concerns and suggestions about the project, as well as their compensation/resettlement preferences.

- Qualitative research and other forms of participatory appraisal to provide qualitative assessments of:
  - land tenure and transfer systems, to understand the impact of the project on land tenure arrangements;
  - patterns of social interaction in affected communities;
  - the importance of social networks and social support systems, and how these systems will be affected by the project;
  - the impact of the project on local economic activities;
  - the impact of the project on public infrastructure and social services.

- Estimate of Losses/Asset Inventories. Inventories will eventually be required of the assets (land, buildings/structures, trees and other natural resources) affected by the project. Depending on the type of project and the extent of land acquisition, the full landholdings of affected persons may have to be recorded, to permit determination of the percentage land loss, and consequent resettlement eligibility and entitlement. The nature and scope of the project will determine the timing of the asset inventories and valuation exercises. In some cases it may be possible to complete the entire inventory and valuation exercise as part of the RAP, but in most instances the RAP will only provide as accurate as possible estimate of the expected losses, while stipulating the asset recording and valuation activities to be carried out in subsequent project phases. On some projects the asset inventory/valuation exercise could include the signing-off of entitlements between the developer and the affected owner, but in most cases this would be undertaken as a separate task in terms of a specific action plan described in the RAP.
- Any policy entitlements related to additional impacts identified through the research that have not been covered in the CRPF should be described in the RAP.

- Based on the valuation methods described in the CRPF, the RAP will specify compensation standards and the process for determining/finalising compensation rates.

- A description of the resettlement to be undertaken on the project, including a description of resettlement measures, site selection, preparation and relocation, housing, infrastructure and social services, and the integration of resettlers with any host community.

- The RAP should describe the support measures (if necessary) in the period immediately following relocation, as well as the measures necessary for the restoration of livelihoods.

- A detailed implementation schedule, linked to the civil works programme, should be prepared. Specific organisational requirements and arrangements will be detailed.

- A budget, showing itemised cost estimates for all land acquisition and resettlement activities, should be prepared.

(b) An outline of a typical Resettlement Plan is included in Annex C of the CRPF.

6 CONDITIONS OF THE CONSULTANCY

6.1 Duration of Services

(a) Indicate the probable contract start date, as well as team mobilisation requirements.

(b) Indicate the key dates that other project activities are scheduled to occur (e.g. detailed engineering design, project appraisal by funding agency) so that the resettlement activities can be integrated into the overall project schedule.

6.2 Team Composition / Expertise Required

(a) State the anticipated expertise/skills that will be required to successfully undertake the assignment:

- E.g.: The assignment will require the consultancy team to have expertise and skills in at least the following areas:
  - resettlement planning;
  - socio-economic surveys;
  - social impact assessment;
  - agricultural economics;
  - property valuation, etc.

(b) State the likely composition of the team to undertake the assignment:

- E.g.: It is anticipated that the consultancy team for the assignment will consist of the following specialists and support staff:
  - Resettlement Specialist/Team Leader (xx months);
  - Social Impact Assessment/Socio-Economic Survey Specialist (xx months);
  - Property Valuation Specialist (xx months);
  - Agricultural and Livestock Specialist (xx months);
  - GIS Specialist (xx months);
  - Fieldwork Coordinator (xx months) and fieldworkers (xx months).
6.3 Reporting Requirements

(a) State the names and contact details of the MOPWT official/s who will supervise and coordinate the assignment.

(b) State the nature of any advisory or steering committee in place/to be established to oversee the project and provide guidance.

6.4 Deliverables and Timetable for Outputs

(a) List each deliverable that will be required, including reporting format and language, number of copies required, deadlines/target dates, and review procedures. Deliverables are likely to include:

- Inception Report – e.g.: The Consultant will submit an Inception Report (10 copies) within two weeks of commencement of the assignment. The Inception Report will give an account of team mobilisation, initial progress with the assignment and actual/potential constraints. It will also report on methodological and programming considerations for the rest of the assignment.

- Progress Reports – e.g.: The Consultant will submit brief monthly reports (10 copies), summarising progress with the assignment against the programme and budget, and discussing any problems and potential programme deviations requiring resolution.

- Draft Resettlement Plan – e.g. The Consultant will submit a Draft Resettlement Plan (10 printed copies and an electronic copy in MS Word) for review no later than xx weeks after commencement of the assignment.

- Final Resettlement Plan - e.g. The Consultant will submit a Final Resettlement Plan (10 printed copies and an electronic copy in MS Word) no later than xx weeks after receipt of the consolidated comments from MOPWT on the Draft Resettlement Plan.

(b) State that all reports, documents and drawings prepared by the Consultant and paid for under the assignment will become the property of the Government of Lesotho upon completion of the services.
14. ANNEX C: OUTLINE OF A RESETTLEMENT PLAN

This Annex provides an outline of a typical Resettlement Plan (RAP) where a Resettlement Policy Framework (RPF) is in place. Since the resettlement principles, procedures and processes are described in the RPF, the subsequent individual RAPs prepared for specific transport sector projects do not need to refer in detail to these components. The RAP is a plan for treating a given set of people affected by a specific project, and which is consistent with the principles and requirements of the RPF.

RAP Outline

1. Introduction/
   Project Background
   - Brief description of project and its components.
   - Reference to resettlement safeguards and RPF principles.
   - Objectives of the RAP.
   - Summary of methodology used in preparation of RAP.

2. Potential Impacts
   - Identification of project components that will require land acquisition and resettlement.
   - Description of planning efforts to avoid/minimise resettlement, as well as mechanisms to minimise resettlement during project implementation.
   - Description of other direct social impacts that will require mitigation (e.g. public/community infrastructure and services).
   - Magnitude of expected loss of assets, including extent of displacement.

3. Consultation and Participation
   - Description of the consultation and participation strategy that was used during RAP preparation, highlighting the views and concerns of the affected population and how these were accommodated in the preparation of resettlement measures.
   - Description of the participation strategy that will be used in subsequent project phases, including measures to ensure representation of vulnerable social categories/groups.

4. Baseline Census and Socio-Economic Surveys
   - The findings of a census and socio-economic survey of persons who will be directly affected by project activities, including:
     o current occupants of the affected area (property owners, tenants, illegal occupants/squatters);
     o demographic and socio-economic features of the affected population (age-gender distribution, employment status, production systems, livelihoods, etc.);
     o information on any vulnerable social categories/groups that may require special support measures.
   - Procedures for updating baseline census/socio-economic information prior to resettlement.
   - The results of any other assessments/studies – e.g. land tenure, common property resources, health status/ issues, current/planned development interventions, roles of local authorities, community-based organisations and non-governmental organisations.
5. Losses and Entitlements

- Description of the asset and estimated economic losses that will occur on the project (land, trees and other natural resources, buildings/structures, income sources/means of livelihood).
- Where accurate determination of losses is not possible during RAP preparation, a description of the procedures to be followed in subsequent project phases to determine losses.
- With reference to the RPF, confirmation of entitlements and eligibility to entitlements, as well as a description of any additional entitlements not specified in the RPF.
- Preparation of entitlement matrix summarising the categories of affected persons and entitlements.
- Description of process for declaring a cut-off date to entitlements and a moratorium on further developments in the project-affected area.
- With reference to the RPF, confirmation of valuation methodology, as well as a description of the compensation rates and standards, or the process to be followed for the finalisation of rates and standards.
- Description of the process to be followed for the detailed valuation of affected properties/assets, for the compilation of asset inventories, and for the determination and finalisation of resettlement and compensation packages.

6. Resettlement and Restoration Measures

- Description of the compensation packages to be provided to the various categories of affected persons.
- Description of resettlement measures – e.g. self-relocation to individually identified sites, group relocation to a designated resettlement site.
- Where relocation to a designated resettlement site will occur, a description of:
  - the process used for the identification of the preferred resettlement site;
  - the physical characteristics of the site, including opportunities and constraints associated with resettlement to the site, and host community considerations;
  - the action plan required for the physical preparation of the site (e.g. institutional, technical and engineering arrangements; feasibility studies undertaken or required);
  - the process for procuring, allocating and developing residential, business and agricultural sites;
  - the legal arrangements for the transferring of titles to resettlers and the regularisation of tenure;
  - the measures to prevent possible land speculation or an influx of other persons to the resettlement site.
- Description of plans for the provision of replacement housing – e.g. cash compensation, owner-construction or project provision of replacement housing.
- Description of plans to provide infrastructure and/or to restore access to services and facilities.
- Description of evacuation and relocation assistance to be provided to resettlers.
- Description of any additional household re-establishment/livelihood restoration measures that may be required to achieve the objectives of the RAP. Questions to answer:
  - are the compensation/resettlement measures sufficient to restore livelihoods? what additional measures are necessary?
  - will resettlement require a change in livelihoods which may require substantial time for preparation and implementation?
  - how will impoverishment risks be addressed?
  - how will resettlers be assisted to make informed choices between alternative livelihood restoration strategies?
  - what are the main risks for the successful implementation of the resettlement plan?
7. Implementation Arrangements

- With reference to the RPF, describe the organisational arrangements for the management of the resettlement:
  - identify/describe the agency responsible for overall management and coordination of resettlement activities;
  - identify the agencies that will be responsible for delivery of resettlement measures and provision of services;
  - identify/describe inter-departmental and inter-agency complementary planning actions;
  - describe role of resettlers and local authorities in the implementation process;
  - describe requirements to enhance the capacity of implementing agencies, local authorities and resettlers to successfully execute their responsibilities.

- Describe the implementation process:
  - list and briefly describe the chronological steps (and target dates) in implementation of the resettlement;
  - prepare an implementation schedule of activities to be undertaken as part of the resettlement implementation (e.g. Gantt chart);
  - describe the linkages between resettlement implementation and initiation of civil works for each of the project components.

- With reference to the RPF, confirm grievance redress mechanisms:
  - process for registering and addressing of grievances;
  - details regarding registering of complaints, response time, communication mechanisms, etc.;
  - appeal mechanisms and provisions to approach civil courts.

8. Costs and Budget

- Provide:
  - clear statement of financial responsibility and authority;
  - tables showing itemised cost estimates for all resettlement activities, including provision for inflation and contingencies;
  - timetables for expenditures/flow of funds;
  - a description of the sources of funding for the various budget items.

9. Monitoring and Evaluation

- Describe internal monitoring requirements and process:
  - define and provide a list of key monitoring indicators to be used for internal monitoring;
  - describe institutional and financial arrangements;
  - describe frequency of reporting and content for internal monitoring;
  - describe process for integrating feedback from internal monitoring into implementation.

- Describe external monitoring/evaluation requirements:
  - describe financial arrangements for external monitoring and evaluation, including process for awarding and maintenance of contracts for the duration of resettlement;
  - describe methodology for external monitoring;
  - define key indicators for external monitoring, focusing on outputs and impacts;
  - describe frequency of reporting and content for external monitoring;
  - describe process for integrating feedback from external monitoring into implementation.
15. ANNEX D: MONITORING INDICATORS

This annex lists typical indicators that can be used in a resettlement monitoring programme.

<table>
<thead>
<tr>
<th>Subject</th>
<th>Indicator</th>
<th>Variable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>Acquisition of land</td>
<td>• Area of cultivation land acquired for developments</td>
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<td></td>
<td></td>
<td>• Area of communal land acquired for developments</td>
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<td></td>
<td></td>
<td>• Area of private land acquired?</td>
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<td></td>
<td></td>
<td>• Area of government land acquired?</td>
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<tr>
<td>Buildings/Structures</td>
<td>Acquisition of buildings</td>
<td>• Number, type and size of private buildings acquired</td>
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<td></td>
<td></td>
<td>• Number, type and size of community buildings acquired</td>
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<td></td>
<td></td>
<td>• Number, type and size of government buildings acquired</td>
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<tr>
<td></td>
<td>Acquisition of other structures</td>
<td>• Number, type and size of other private structures acquired</td>
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<tr>
<td></td>
<td></td>
<td>• Number, type and size of other community structures acquired</td>
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<tr>
<td>Trees and Crops</td>
<td>Acquisition of trees</td>
<td>• Number and type of private trees acquired</td>
</tr>
<tr>
<td></td>
<td>Destruction of crops</td>
<td>• Crops destroyed by area, type and ownership</td>
</tr>
<tr>
<td>Compensation, Re-establishment and Rehabilitation</td>
<td>Compensation and re-establishment of affected owners/individuals</td>
<td>• Number of households affected (buildings, land, trees, crops)</td>
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<tr>
<td></td>
<td></td>
<td>• Number of owners compensated by type of loss</td>
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<td></td>
<td></td>
<td>• Amount compensated by type and owner</td>
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<td></td>
<td></td>
<td>• Number of replacement houses constructed</td>
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<td></td>
<td></td>
<td>• Size, construction, durability and environmental suitability of replacement houses</td>
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<tr>
<td></td>
<td></td>
<td>• Possession of latrines</td>
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<td></td>
<td></td>
<td>• Water supply access</td>
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<td></td>
<td></td>
<td>• Number of replacement businesses constructed</td>
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<tr>
<td>Re-establishment of community resources</td>
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<tr>
<td>Hazards and Disturbances</td>
<td>Introduction of nuisance factors</td>
<td>• Number of households affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)</td>
</tr>
<tr>
<td>Social/Demographic</td>
<td>Changes to household structure</td>
<td>• Household size (births, deaths, migration in and out)</td>
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<tr>
<td></td>
<td></td>
<td>• Age distribution</td>
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<td>• Gender distribution</td>
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<td></td>
<td></td>
<td>• Marital status</td>
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<td></td>
<td></td>
<td>• Relationship to household head</td>
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<td></td>
<td></td>
<td>• Status of &quot;vulnerable&quot; households</td>
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<tr>
<td></td>
<td>Population migration</td>
<td>• Residential status of household members</td>
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<tr>
<td></td>
<td></td>
<td>• Movement in and out of the homestead (place and residence of homestead members)</td>
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<td></td>
<td>Changes to access</td>
<td>• Distance/travel time to nearest school, health centre, church, shop, village</td>
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<td></td>
<td>Changes to health status</td>
<td>• Nutritional status of resettled household members</td>
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<tr>
<td></td>
<td></td>
<td>• Number of people with disease, by type (STDs, diarrhoea, malaria, ARI, immunizable disease)</td>
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<td></td>
<td></td>
<td>• Mortality rates</td>
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<td></td>
<td></td>
<td>• Access to health care services (distance to nearest facility, cost of services, quality of services)</td>
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<td></td>
<td></td>
<td>• Utilization of health care services</td>
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<td></td>
<td>• Disease prevention strategies</td>
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<tr>
<td></td>
<td></td>
<td>• Extent of educational programmes</td>
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<td></td>
<td></td>
<td>• Latrine provision at schools (school child population per VIP on site)</td>
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<td></td>
<td>Changes to educational status</td>
<td>• Literacy and educational attainment of household members</td>
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<tr>
<td></td>
<td></td>
<td>• School attendance rates (age, gender)</td>
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<tr>
<td></td>
<td></td>
<td>• Number, type of educational establishments</td>
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<tr>
<td></td>
<td>Changes to status of women</td>
<td>• Participation in training programmes</td>
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<tr>
<td></td>
<td></td>
<td>• Use of credit facilities</td>
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<td></td>
<td></td>
<td>• Landholding status</td>
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<td></td>
<td></td>
<td>• Participation in project-related activities and enterprises</td>
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<tr>
<td>Subject</td>
<td>Indicator</td>
<td>Variable</td>
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<tr>
<td>Household earning capacity</td>
<td>Ownership of capital assets, possession of consumer durables</td>
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<td></td>
<td>Ownership of equipment and machinery</td>
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<td></td>
<td>Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops)</td>
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<td></td>
<td>Landholding status (tenure)</td>
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<td></td>
<td>Redistribution of cultivation land</td>
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<td></td>
<td>Changes to livestock ownership: pre- and post disturbance</td>
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<td></td>
<td>Value of livestock sales, and imputed value of barter transactions</td>
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<td></td>
<td>Consumption of own livestock production</td>
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<td></td>
<td>Employment status of economically active members</td>
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<tr>
<td></td>
<td>Skills of household members</td>
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<td></td>
<td>Earnings/income by source, separating compensation payments</td>
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<tr>
<td></td>
<td>Changes to income-earning activities (agriculture) – pre- and post-disturbance</td>
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<td></td>
<td>Changes to income-earning activities (off-farm) – pre- and post-disturbance</td>
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<tr>
<td></td>
<td>Amount and balance of income and expenditure</td>
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<td></td>
<td>Realisation of household income restoration plans (components implemented, net income achieved)</td>
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<td></td>
<td>Possession of bank and savings accounts</td>
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<td></td>
<td>Access to income-generating natural resource base (wood, grass, sand, stones)</td>
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<tr>
<td>Changes in social organisation</td>
<td>Organisational membership of household members</td>
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<td></td>
<td>Leadership positions held by household members</td>
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<tr>
<td>Population influx</td>
<td>Growth in number and size of settlements, formal and informal</td>
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<td>Growth in market areas</td>
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<td></td>
<td>Influx of people into project area</td>
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<tr>
<td>Consultation</td>
<td>Consultation programme operation</td>
<td>Number of local committees established</td>
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<tr>
<td></td>
<td></td>
<td>Number and dates of local committee meetings</td>
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<td></td>
<td>Type of issues raised at local committees meetings</td>
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<td></td>
<td></td>
<td>Involvement of local committees in project planning</td>
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<td></td>
<td>Involvement of GOL Ministries</td>
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<tr>
<td></td>
<td></td>
<td>Number of participating NGOs</td>
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<tr>
<td>Grievances resolved</td>
<td>Number of grievances registered, by type</td>
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<tr>
<td></td>
<td>Number of grievances resolved</td>
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<td></td>
<td>Number of cases referred to court</td>
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<tr>
<td>Training</td>
<td>Operation of training programme</td>
<td>Number of local committee members trained</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Number of affected population trained in project-related training courses</td>
</tr>
<tr>
<td>Management</td>
<td>Staffing</td>
<td>Number of implementing agencies by function</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Number of GOL ministry officials available by function</td>
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<td></td>
<td></td>
<td>Number of office and field equipment, by type</td>
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<tr>
<td>Procedures in operation</td>
<td>Census and asset verification/quantification procedures in place</td>
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<tr>
<td></td>
<td></td>
<td>Effectiveness of compensation delivery system</td>
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<td></td>
<td></td>
<td>Number of land transfers effected</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Co-ordination between local community structures and GOL agencies</td>
</tr>
</tbody>
</table>

Annex D: Monitoring Indicators

15-2
16. ANNEX E: EXTRACTS FROM OPERATIONAL POLICY 4.12

This Annex provides a summary of Operational Policy (OP) 4.12 and Bank Procedures (BP) 4.12 to give a sense of the resettlement-related actions that the World Bank requires of its borrowers.

Policy Objectives:
1. Involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative project designs.
2. 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.
3. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs.
4. 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.

Impacts Covered:
5. The Policy covers direct economic and social impacts that result from Bank-assisted investment projects and caused by:
   - the involuntary taking of land resulting in:
     o relocation or loss of shelter;
     o loss of assets or access to assets;
     o loss of income sources or means of livelihood, whether or not the affected persons must move to another location;
   - the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

Required Measures:
6. A resettlement plan and/or a resettlement policy framework covering the following:
   - displaced persons are informed about their options and rights pertaining to resettlement;
   - displaced persons are consulted, offered choices among, and provided with technically and economically feasible resettlement alternatives;
   - displaced persons are provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.
7. If the impacts include physical relocation, the resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are:
   - provided assistance (such as moving allowances) during relocation;
   - provided with residential housing, or housing sites, or, as required, agricultural sites for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the old site.
8. The resettlement plan or resettlement policy framework may also include measures to ensure that displaced persons are:
   - offered support after displacement for a transition period, based on a reasonable estimate of the time likely to be needed to restore their livelihood and standards of living;
   - provided with development assistance such as land preparation, credit facilities, training or job opportunities.
9. Particular attention must be paid to the needs of vulnerable groups among the displaced, especially those below the poverty line, the landless, the elderly, women and children.

10. Displacement or restriction of access should not occur before necessary measures for resettlement are in place:
   - provision of compensation;
   - assistance required for relocation;
   - provision of resettlement sites with adequate facilities.

11. Preference should be given to land-based resettlement strategies for displaced persons whose livelihoods are land-based:
   - These strategies may include resettlement on public land or on private land acquired or purchased for resettlement.
   - Whenever replacement land is offered, resettlers are provided with land for which a combination of productive potential, locational advantages, and other factors is at least equivalent to the advantages of the land taken.
   - If land is not the preferred option of the displaced persons or sufficient land is not available at a reasonable price, non-land-based options built around opportunities for employment or self-employment should be provided in addition to cash compensation for land and other assets lost.
   - The lack of adequate land must be demonstrated and documented to the satisfaction of the Bank.

12. Payment of cash compensation for lost assets may be appropriate where:
   - 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; or
   - active markets for land, housing, and labour exist, displaced persons use such markets, and there is sufficient supply of land and housing; or
   - livelihoods are not land-based.

13. Cash compensation levels should be sufficient to replace the lost land and other assets at full replacement cost in local markets.

14. Displaced persons and any host communities receiving them should be provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing, and monitoring resettlement.

15. In new resettlement sites or host communities, infrastructure and public services should be provided as necessary to improve, restore, or maintain accessibility and levels of service for the displaced persons and host communities.

16. Patterns of community organization appropriate to the new circumstances should be based on choices made by the displaced persons.

**Eligibility for Benefits:**

17. The borrower should conduct a census to identify the persons who will be affected by the project.

18. The borrower should develop a procedure for establishing the criteria by which displaced persons will be deemed eligible for compensation and other resettlement assistance.

19. Displaced persons may be classified in one of three groups:
   - Category 1 - those who have formal legal rights to land;
   - Category 2 - those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets under the laws of the country or become recognized through a process identified in the resettlement plan;
   - Category 3 - those who have no recognizable legal right or claim to the land they are occupying.
20. Categories 1 and 2 are provided compensation for the land they lose, and other necessary assistance. Category 3 is provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance as necessary, to achieve the objectives of the policy.

21. Persons who encroach on the area after a cut-off date established by the borrower and acceptable to the Bank are not entitled to compensation or any other form of resettlement assistance.

22. All categories of people are provided compensation for loss of assets other than land.

Resettlement Planning, Implementation and Monitoring:

23. A resettlement plan is required for all operations that entail involuntary resettlement.


25. The resettlement plan, policy framework and/or process framework (the "resettlement instruments") comprise the strategy for achieving the objectives of the policy and covers all aspects of the proposed resettlement.

26. Resettlement planning includes early screening, scoping of key issues, the choice of resettlement instrument.

27. The scope and level of detail of the resettlement instruments vary with the magnitude and complexity of resettlement.

28. The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in project design.

29. The full costs of resettlement activities necessary to achieve the objectives of the project are included in the total costs of the project. The costs of resettlement, like the costs of other project activities, are treated as a charge against the economic benefits of the project; and any net benefits to resettlers (as compared to the "without-project" circumstances) are added to the benefits stream of the project. Resettlement components or free-standing resettlement projects need not be economically viable on their own, but they should be cost-effective.

30. The borrower ensures that the Project Implementation Plan is fully consistent with the resettlement instrument.

31. As a condition of appraisal of projects involving resettlement, the borrower provides the Bank with the relevant draft resettlement instrument and makes it available at a place accessible to displaced persons and local NGOs, in a form, manner, and language that are understandable to them.

32. Once the Bank accepts this instrument as providing an adequate basis for project appraisal, the Bank makes it available to the public through its InfoShop.

33. The borrower is responsible for adequate monitoring and evaluation of the activities set forth in the resettlement instrument.

Resettlement Instruments:

34. A draft resettlement plan is a condition of appraisal. Where impacts on the entire displaced population are minor or fewer than 200 people are displaced, an abbreviated resettlement plan may be agreed with the borrower.

35. For sector investment operations that may involve involuntary resettlement, a resettlement policy framework is required. The framework estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.

36. For projects involving restriction of access the borrower provides the Bank with a draft process framework that conforms to the relevant provisions of this policy as a condition of appraisal. In addition, during project implementation and before enforcing the restriction, the borrower prepares a plan of action, acceptable to the Bank.
Assistance to the Borrower:

37. The Bank may at a borrower’s request support the borrower and other concerned entities by providing:

- assistance to assess and strengthen resettlement policies, strategies, legal frameworks, and specific plans at a country, regional, or sector level;
- financing of technical assistance to strengthen the capacities of agencies responsible for resettlement, or of affected people to participate more effectively in resettlement operations;
- financing of technical assistance for developing resettlement policies, strategies, and specific plans, and for implementation, monitoring, and evaluation of resettlement activities; and
- financing of the investment costs of resettlement.

38. The Bank does not disburse against cash compensation and other resettlement assistance paid in cash, or against the cost of land (including compensation for land acquisition). However, it may finance the cost of land improvement associated with resettlement activities.
17. ANNEX F: INFORMATION SOURCES

1 ORGANISATIONS CONSULTED

Ministry of Local Government – Building Control Division
Ministry of Local Government – Department of Lands, Surveys and Physical Planning
Ministry of Local Government – Land Management and Administration Project
Ministry of Public Works and Transport – Department of Rural Roads
Ministry of Public Works and Transport – Roads Branch
Maseru City Council – Works Section
Maseru City Council – Planning Section

Lesotho Fund for Community Development
Lesotho Highlands Development Authority

European Union
Ireland Aid
World Bank

Lesotho Council of NGOs
Transformation Resource Centre

Africon Lesotho
Lesotho Land and Property Consultants
Oxbow Land and Property Consultants
Tselane Consulting Engineers

Traditional Authorities and households affected by the Maseru Northern Bypass

2 SOURCES CONSULTED


Lesotho Highlands Development Authority. Resettlement and Development Plan, Phase 1B (Mohale Dam).

Lesotho Highlands Development Authority. *Compensation Procedures and Rates; Part 1 (Procedures).*

Lesotho Highlands Development Authority. *Compensation Procedures and Rates; Part 2 (Rates).*


