

Document of

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Report No: RES27493

RESTRUCTURING PAPER

ON A

PROPOSED PROJECT RESTRUCTURING
OF

TONGA CYLCONE IAN RECONSTRUCTION AND CLIMATE RESILIENCE PROJECT
IDA-54770, IDA-H9620 and TF-17580
May 28, 2014

TO THE

THE KINGDOM OF TONGA

June 15, 2017

Social, Urban, Rural and Resilience Global Practice
EAST ASIA AND PACIFIC

ABBREVIATIONS AND ACRONYMS

GoT	Government of The Kingdom of Tonga
MoFNP	Ministry of Finance and National Planning
MoI	Ministry of Infrastructure
PAD	Project Appraisal Document
PDO	Project Development Objective
PMU	Project Management Unit
RPF	Resettlement Policy Framework
TCIRCRP	Tonga Cyclone Ian Reconstruction and Climate Resilience Project

Regional Vice President:	Victoria Kwakwa
Country Director:	Michel Kerf
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THE KINGDOM OF TONGA
Tonga Cyclone Ian Reconstruction and Climate Resilience Project

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DATA SHEET

Tonga

Tonga Cyclone Ian Reconstruction and Climate Resilience Project (P150113)

EAST ASIA AND PACIFIC

Social, Urban, Rural and Resilience Global Practice

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Basic Information									
Project ID:	P150113			Financing Instrument:	Investment Project Financing				
Regional Vice President:	Victoria Kwakwa			Original EA Category:	Partial Assessment (B)				
Country Director:	Michel Kerf			Current EA Category:	Partial Assessment (B)				
Senior Global Practice Director:	Ede Jorge Ijjasz-Vasquez			Original Approval Date:	28-May-2014				
Practice Manager/Manager:	Abhas Kumar Jha			Current Closing Date:	30-Jun-2018				
Team Leader(s):	Michael Bonte-Grapentin - Artessa Saldivar-Sali								
Borrower:	Ministry of Finance and National Planning								
Responsible Agency:	Ministry of Infrastructure and Tourism								
Restructuring Type									
Form Type:	Full Restructuring Paper			Decision Authority:					
Restructuring Level:	Level 1								
Financing (as of 03-May-2017)									
Key Dates									
Project	Ln/Cr/TF	Status	Approval Date	Signing Date	Effectiveness Date	Original Closing Date	Revised Closing Date		
P150113	IDA-54770	Effective	28-May-2014	11-Jun-2014	01-Jul-2014	30-Jun-2018	30-Jun-2018		
P150113	IDA-H9620	Effective	28-May-2014	11-Jun-2014	01-Jul-2014	30-Jun-2018	30-Jun-2018		
P150113	TF-17580	Effective	28-May-2014	08-May-2015	08-May-2015	31-Dec-2016	30-Jun-2018		
Disbursements (in Millions)									
Project	Ln/Cr/TF	Status	Currency	Original	Revised	Cancelled	Disbursed	Undisbursed	% Disbursed

P150113	IDA-54770	Effective	USD	6.00	6.00	0.00	4.90	0.50	82
P150113	IDA-H9620	Effective	USD	6.00	6.00	0.00	5.61	0.00	94
P150113	TF-17580	Effective	USD	1.80	1.80	0.00	0.50	1.30	28

Policy Waivers

Does the project depart from the CAS/CPF in content or in other significant respects?	Yes []	No [X]
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Does the project require any policy waiver(s)?	Yes []	No [X]
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A. Summary of Proposed Changes

The proposed changes are:

(i) To revise the Project Development Objective (PDO) to accurately capture the intention of facilitating various forms of cyclone recovery, rather than providing rights to housing and land that did not exist prior to Cyclone Ian, and to amend the Results Framework accordingly. The proposed new PDO is also more specific about building the Recipient's capacity to recover from natural disasters, as a key aspect of resilience.

(ii) To more clearly identify and document a sub-set of households (unforeseen in the original description of project beneficiaries as set out in the Project Appraisal Document¹, (PAD)) and thus reflect the actual diversity within informal occupancy arrangements on the cyclone affected islands of Ha'apai. The sub-set comprises those households who have been screened as: (a) having met the agreed level-of-damage criteria to the houses, and (b) having lived in houses at the time of the cyclone (either originally built by themselves or built by the registered landholders) on land which was not registered to them but where they resided under informal and unrecorded arrangements with the private landholders. In this regard, the purpose is to record the acceptance and use by the Project of two updated Land Consent Forms that provide 4-year security of occupancy to reflect this actual diversity within informal occupancy arrangements on Ha'apai, and to provide secure occupancy for the purposes of recovery after the cyclone for these households. These new consent forms are required to be used for new houses to be constructed (totaling 41). While the new consent forms are required to apply prospectively from the date of the amendment letter, the government already applied the new consent form to the 41 houses currently under construction. The new consent forms will not be required to replace the original consent forms where an original consent form has already been agreed and executed between a land owner and occupant.

(iii) To amend Section I.B.4 of Schedule 2 to the Financing Agreement to require that those beneficiaries

¹ The PAD states that “*at the time of appraisal all project beneficiaries, in particular the most vulnerable, had not been fully identified, nor had the inventory of affected households been completed*” (paragraph 51). Based on available information, it was assumed that “*some 80 percent of lands now have clear land title in favor of project beneficiaries. For the remaining approximately 20 percent of project beneficiaries, the MLECCNR [Ministry of Lands] is working to identify the formal title holders and to confirm that beneficiaries have consent to remain on the allotment and construct a replacement house and/or water and sanitation facilities*”. During implementation it has been established that, of the 400 beneficiaries to receive new houses under the project, in fact only **40** percent (159 beneficiaries) have ‘clear land title’ and own both the land and the cyclone-damaged house, while the remaining **60** percent (241 beneficiaries) occupied houses under informal arrangements on either private or Crown/Noble land. Of these 241 beneficiaries, 113 resided informally on land owned (privately) by others. Moreover, of the 113 informal occupants on private land, not all had built and owned the cyclone-damaged house.

under informal arrangements (who are screened as meeting the damage criteria) to whom housing is provided under Parts 1(a) and 1(b) of the Project, are provided with security of occupancy for a reasonable period that is long enough to enable them to recover from the impacts of the cyclone, for a period detailed in the updated Resettlement Policy Framework (RPF). The legal basis for the new 4-year period is the Government of Tonga Cabinet Decision No. 730 (dated July 22, 2016), which authorizes the use of the revised consent forms. The revised consent forms confirm a minimum of 4-years security of occupancy for an occupant to live in a newly constructed house on land owned by a private third party. This is a period of 4 years' security of occupancy for houses build *in situ* on private land, and for the economic life of the house where *in situ* arrangements cannot be secured and alternative land is provided by the Recipient in accordance with the RPF.

The amendment to the Financing Agreement will provide resolution regarding conflicting understandings of security of occupancy for households in houses occupied under informal occupancy arrangements which are to be reconstructed on private land (i.e. land occupied but not owned by the beneficiary at the time of the cyclone). The proposed restructuring seeks to resolve these conflicting understandings by clarifying to which beneficiaries the currently worded Section I.B.4 of Schedule 2 to the Financing Agreement is applicable. Section I.B.4 requires the Recipient to “take all measures in its powers, and in accordance with RPF, to facilitate the provision of alternative land to any beneficiary for whom a house has been constructed under Parts 1(a) and (b) of the Project”. “Facilitate” was defined to mean that “the measures taken by the Recipient shall result in a Security of Occupancy provided/issued to said beneficiaries for a period of at least 30 years”. This applies in cases where consent to reconstruct *in situ* cannot be secured due to disputed informal arrangements between a beneficiary and a land owner, in which case the Recipient is required to provide ‘alternative land’ to beneficiaries where the housing can be constructed, and legally remain for the design life of the house of 30 years. While the Recipient had agreed under the Financing Agreement to take all measures to facilitate such security of occupancy, the Recipient has since then advised that despite extensive consultation, field work, political support and other initiatives to facilitate the required outcome, that it cannot facilitate 30 years’ security of occupancy to beneficiaries under informal occupancy arrangements on land they do not own, as this would be inconsistent with the country’s prevalent, customary informal occupancy arrangements. The proposed amendment will incentivize all parties to find *in situ* solutions, which will (i) provide 4 years to reestablish their lives after the cyclone and (ii) reduce the likelihood of the need to identify “alternative land” and the potential negative impacts associated with land acquisition. The proposed amendment will also provide clarification that the 30-year security of occupancy obligation of the Recipient is only applicable in those cases eligible for allocation of ‘alternative land’ provided by the Recipient in accordance with the terms of the RPF.

Change in Implementing Agency	Yes [] No [X]
Change in Project's Development Objectives	Yes [X] No []
Change in Results Framework	Yes [X] No []
Change in Safeguard Policies Triggered	Yes [] No [X]
Change of EA category	Yes [] No [X]
Other Changes to Safeguards	Yes [X] No []
Change in Legal Covenants	Yes [X] No []
Change in Loan Closing Date(s)	Yes [] No [X]
Cancellations Proposed	Yes [] No [X]
Change to Financing Plan	Yes [] No [X]
Change in Disbursement Arrangements	Yes [] No [X]

Reallocation between Disbursement Categories	Yes [] No [X]
Change in Disbursement Estimates	Yes [] No [X]
Change to Components and Cost	Yes [] No [X]
Change in Institutional Arrangements	Yes [] No [X]
Change in Financial Management	Yes [] No [X]
Change in Procurement	Yes [] No [X]
Change in Implementation Schedule	Yes [] No [X]
Other Change(s)	Yes [] No [X]
Appraisal Summary Change in Economic and Financial Analysis	Yes [] No [X]
Appraisal Summary Change in Technical Analysis	Yes [] No [X]
Appraisal Summary Change in Social Analysis	Yes [X] No []
Appraisal Summary Change in Environmental Analysis	Yes [] No [X]
Appraisal Summary Change in Risk Assessment	Yes [] No [X]

B. Project Status

The Project was approved on May 28, 2014, and became effective on July 1, 2014; it is scheduled to close on June 30, 2018. The October 2016 mission determined that the proposed revised PDO would be achievable before the Project closing date, with the following achievements already made to date:

- 3,726 direct project beneficiaries reached, exceeding the 2016 cumulative target value of 3,500 beneficiaries;
- 578 eligible households have accessed supported self-recovery (household-led) funding, representing 96 percent of the 2016 cumulative target value of 600 households;
- 703 project dwellings in Ha'apai have been rebuilt, (325) to withstand 70m/s wind speeds and Tonga Building Code seismic loading or (378) have been repaired and strengthened to an improved, build-back-safer standard. Civil works contracts for the final 79 replacement core houses for vulnerable households (unable to self-recover at the same pace as the larger community) are underway and scheduled for completion by mid-2017. Completion of all planned and approved 1,021 home rebuilds/repairs is expected by June 2017.
- Procurement is well underway for technical assistance to GOT to prepare a Tonga National Housing Recovery and Reconstruction policy and for documentation of GoT's experiences with post-disaster housing reconstruction over the past two decades.

Notwithstanding this progress, the initial phase of the project saw higher-than-budgeted construction costs for the 1-room and 2-room replacement houses, resulting from post-appraisal design modifications that were introduced to ensure that reconstructed houses in Ha'apai would resist wind speeds of 70m/s, in compliance with the Tonga Building Code. This, together with significant foreign exchange losses and the use of contractor-led reconstruction, has led to a funding shortfall that will necessitate a reduction in the scope of the originally planned water and sanitation services under Part 1(e), which GOT will now pursue with its own funding. No change in the project cost or financing plan is needed. Similarly, to ensure that the limited available resources are widely and more equitably distributed amongst all households on the affected islands, the Ministry of Infrastructure (MoI) is now more proactively encouraging household-led, Supported Self-Recovery for all remaining repairs to houses and community facilities, as set out in the original project documents. On-site technical assistance for repairs and retrofitting of homes and community facilities, and knowledge building of tradespeople, supervisors, and community leaders are being provided under the

project component on *Technical Assistance and Training for Enhanced Disaster and Climate Resilience*. Through a Level 2 restructuring approved on December 14, 2016, the closing date of TF-17580 was extended from December 31, 2016 to June 30, 2018 to align with the project closing date and to allow for continued implementation of the technical assistance component.

The project has been in problem status since December 2015. While the project has been implemented rapidly, significant challenges arose from:

- An initial lack of understanding within the implementing agency and Project Management Unit (PMU) of the criteria to be applied to determine the level of project support. This has now been resolved and agreed criteria are being applied.
- The lack of resolution regarding conflicting understandings of security of occupancy for beneficiaries in houses to be reconstructed on private land (owned by others), which will be addressed by the changes detailed in the proposed restructuring. The higher-than-budgeted construction costs and foreign exchange losses, which have prevented implementation of the planned water and sanitation services. The GOT has indicated that these will be implemented with counterpart funding (which is rated fully satisfactory).

There are currently no overdue audits, Interim Financial Reports, nor any other unresolved legal, fiduciary or safeguard issues.

C. Proposed Changes

Development Objectives/Results

Project Development Objectives

Original PDO

The project development objectives are to: (i) Restore housing, community facilities, and basic services to the affected population of Ha'apai; and, (ii) Strengthen the country's resilience to natural disasters.

Change in Project's Development Objectives

Explanation

The Project Development Objective is being revised to accurately capture the intention of facilitating various forms of cyclone recovery, rather than providing rights to housing and land that did not exist prior to Cyclone Ian. The proposed new PDO also is more specific about building the country's capacity to recover from natural disasters, as a key aspect of resilience.

Proposed New PDO

The objectives of the Project are to: (a) strengthen the climate resilience of housing and selected community facilities for the affected population of Ha'apai; and (b) strengthen the Recipient's preparedness to recover from future natural disasters.

Change in Results Framework

Explanation:

The Results Framework is being modified as follows: (a) redundant indicators are being deleted and targets are being corrected in view of the changes in appraisal; (b) a PDO-level result indicator is being revised to be more aligned with part (b) of the new PDO; and (c) an intermediate result indicator is being added to measure the project interventions in strengthening community facilities.

Compliance

Other Changes to Safeguards

Explanation:

The section “RPF Objectives” has been modified to more clearly explain that the RPF applies if (and only if) consent to reconstruct in situ is not obtained from the landowner (via the appropriate land consent form). The amended RPF also expands on the fact that the RPF safeguards people displaced by the acquisition of alternative land.

Change in Legal Covenants

Explanation:

Section I.B.4 of Schedule 2 to the Financing Agreement is to be revised to provide eligible vulnerable households under Part 1(a) of the project and eligible households under Part 1(b) of the project with housing for a reasonable period to enable them to recover from the impacts of the Cyclone. The current 30-year security of occupancy requirement that was agreed under the Financing Agreement for beneficiaries for whom houses have been constructed but who have no title to the land has been discussed in detail with the Recipient and private land owners, and determined to be unreasonable, unattainable for the Recipient, and inconsistent with customary informal occupancy arrangements between relatives, co-villagers, and acquaintances. Consultations conducted by the Bank project team and Safeguards staff have concluded that requiring security of occupancy for 30-years on private land (as opposed to Government owned land) would likely damage social capital, social cohesion, and coping mechanisms. This includes, among other things, the widespread informal occupancy arrangements that provide a mechanism to assist poorer relatives and acquaintances, and ‘house sitting’ arrangements used to provide a mechanism to safeguard property while the owner is living temporarily off-island. Another consequence of the 30-year requirement is that it discourages private land owners from assisting friends and relatives because they risk losing the exclusive right to possess and occupy their land in the event of subsequent natural disasters.

Section I.B.4 of Schedule 2 to the Financing Agreement is therefore to be revised to read:

“The Recipient shall, in accordance with the RPF, ensure that all beneficiaries for whom a house is to be constructed under Parts 1(a) and (b) of the Project, have security of occupancy of the land for the period of time detailed in the RPF.”

This section will be moved to Section I.D.7 of Schedule 2 to the Financing Agreement with the other safeguards covenants, and the definition of “Security of Occupancy” at paragraph 26 of the Annex to the Financing Agreement is to be deleted.

The proposed revised wording seeks to balance the issues outlined above with the need to provide eligible households with climate resilient housing for a reasonable period, long enough for them to recover from the impacts of Cyclone Ian. Following extensive discussions, the Recipient and the Bank project team have agreed that 4 years of secure tenancy is reasonable for beneficiaries and private land owners. The Recipient will make every attempt to find an in situ solution which would allow the replacement house to be constructed on the parcel of land where the beneficiary was living at the time of the cyclone for a reasonable period of time (at least four (4) years), to allow the beneficiary to recover from the impact of the cyclone. In this regard, the Recipient will facilitate the signature of the consent forms between persons for whom houses are to be built under Parts 1(a) and (b) of the project but who do not own the land on which the house

is to be built, and the owners of the land where the house is to be built. These consent forms will provide for security of occupancy for a period of at least 4 years, and a copy of these forms will be annexed to the RPF.

The Recipient will provide alternative land to persons for whom houses are to be built under Parts 1(a) and (b) of the project who are unable to obtain consent from the land owner and who themselves do not own the land. This provision of land will be in accordance with the RPF, and the tenant will be given the opportunity to formally register their interest in the alternative land with the Ministry of Lands, in accordance with Tongan law. The RPF has been updated to clarify details regarding the period of security of occupancy for persons who are provided with housing under Parts 1(a) or (b) of the project on alternative land. The purpose of providing alternative land is to ensure that the beneficiary has security of occupancy for a reasonable period of time. Unlike the 4-year period provided for in situ housing, this period of time will be defined by the economic life of the house (30 years), as this is required to protect the investment made by the Recipient in the house.

Ln/Cr/TF	Finance Agreement Reference	Description of Covenant	Date Due	Status	Recurrent	Frequency	Action
IDA-54770		Finance Agreement :Schedule 2, Section I.A.1: Task Force Group Description :The Recipient shall establish and thereafter maintain throughout the Project implementation period a Task Force Group, satisfactory to the Association, comprised of representatives of all Implementation Agencies and the Civil Society Forum, with responsibility for, inter alia, providing policy oversight and coordination of the Project. Frequency :CONTINUOUS		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.A.3: Transport Sector Consolidation Project Support Team Description :The Recipient shall maintain, throughout the Project implementation period, the Transport		Complied with	<input type="checkbox"/>		No Change

		Sector Consolidation Project Support Team(TSCP-PST) within MoI, with composition, terms of reference, and qualifications acceptable to the Association, to be responsible for procurement, accounting, and financial management under the Project. Frequency :CONTINUOUS					
IDA-54770		Finance Agreement :Schedule 2, Section I.A.4: Task Force Project Management Unit Description :The Recipient shall establish and thereafter maintain throughout the Project implementation period a Task Force Project Management Unit (TF-PMU) within the MoI, with adequate resources, staffing, and terms of reference satisfactory to the Association, to be responsible for the day-to-day implementation of the Project in Ha?apai and ensuring compliance of the Project with the Safeguards Instruments Frequency :CONTINUOUS		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.B.1 (a) (i): Project Manuals (POM) Description :The Recipient shall adopt a POM, setting forth detailed guidelines and procedures for the		Complied with	<input type="checkbox"/>		No Change

		implementation of the Project including in the areas of monitoring and evaluation, procurement, coordination among Implementation Agencies, safeguards, financial, administrative and accounting procedures, corruption and fraud mitigation measures, and such other arrangements and procedures. Frequency :CONTINUOUS					
IDA-54770		Finance Agreement :Schedule 2, Section I.B.1 (a) (ii): Project Manuals Description :The Recipient shall adopt a Supported Self-Recovery (SSR) Manual setting forth (a) detailed arrangements and procedures for implementation of SSR Activities under the Project, including the eligibility criteria and levels of assistance to be provided to eligible beneficiaries and communities; and (b) arrangements for the SSR Vouchers. Frequency :CONTINUOUS		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.B.2: Building Inspectors Description :The Recipient shall maintain, at all times during Project implementation period, at least six building inspectors with qualifications,		Complied with	<input type="checkbox"/>		No Change

		experience, and terms of reference acceptable to the Association. Frequency :CONTINUOUS					
IDA-54770		Finance Agreement :Schedule 2, Section I.B.3: Publication of Selected Beneficiaries Description :The Recipient shall: (a) select the eligible beneficiaries to receive either a constructed house or an SSR Voucher under in accordance with eligibility criteria and procedures set forth in the POM and the SSR Manual; and (b) by publicly display in all affected villages the list of selected beneficiaries, including the associated levels of assistance to be received by each beneficiary. Due Date :31-Aug-2014		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.B.4: Security of Occupancy Description :The Recipient shall take all measures in its powers, and in accordance with RPF, to ?Facilitate? the provision of alternative land to any beneficiary for whom a house has been constructed under the Project but who has no title to the land. ?Facilitate? means thatthe measures taken by the Recipient shall result in a security of Occupancy		Complied with	<input type="checkbox"/>		Revised

		provided/issued to said beneficiaries for at least 30 years. Due Date :30-Jun-2016					
IDA-54770		Finance Agreement :Schedule 2, Section I.B.4: The Recipient shall, in accordance with the RPF, ensure that all beneficiaries for whom a house is to be constructed under Parts 1(a) and (b) of the Project, have security of occupancy of the land for the period of time detailed in the RPF.		Expected soon	<input checked="" type="checkbox"/>	CONTINUOUS	Proposed
IDA-54770		Finance Agreement :Schedule 2, Section I.B.5: SSR Vouchers Description :The Recipient shall make available Supported Self-Recovery Vouchers to selected households or communities in accordance with the procedures elaborated in the Supported Self-Recovery Manual. Frequency :CONTINUOUS		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.B.6: Public Facilities Program Description :The Recipient shall ensure that the public facilities program is carried out in accordance with the Project Operations Manual. Frequency :CONTINUOUS		Complied with	<input type="checkbox"/>		No Change
IDA-54770		Finance Agreement :Schedule 2, Section I.B.7: Disposal of Debris Description :The Recipient shall: (a)		Complied with	<input type="checkbox"/>		No Change

		<p>require all households eligible for SSR Vouchers to collect and dispose of debris from their respective plots of land (b) ensure that all such debris removed in connection with the Project, is collected and disposed of by said households in accordance with the POM, EMP, and any applicable laws/regulations of the Recipient and (c) thereafter, remunerate each such household. Frequency :CONTINUOUS</p>					
IDA-54770		<p>Finance Agreement :Article IV, Paragraph 4.01 Description :The Association may suspend the Project if the GFDRR Grant Agreement has not become effective by December 31, 2014, unless adequate funds for the Project are available from other sources on terms and conditions consistent with the Recipient's obligations under the Financing Agreement. Due Date :31-Dec-2014</p>		Complied with	<input type="checkbox"/>		No Change

Appraisal Summary

Other changes – Change in Appraisal Summary

Explanation:

The PAD identified that the primary beneficiaries of the project were the approximately 6,618 residents (~1,258 households) of the cyclone-affected Ha'apai group of islands. Various levels of assistance would be provided by the project, on the basis of level of cyclone damage to the main house, and the assessed vulnerability of each household (i.e. individual capabilities to self-recover with materials and technical support, or households requiring more intensive project support primarily in the form of contractor-led house reconstruction).

In the remote outer island setting and urgency in the immediate aftermath of the devastating cyclone, project design did not have the benefit of household level data relating to individual house and land ownership; this information was expected to be determined on a case by case basis as part of the supported self-recovery roll-out and was proposed and budgeted for accordingly at the time of appraisal. On the limited available information, the assumption was made that all fully damaged houses had been lived in by households that had themselves originally constructed the houses - either on land that they themselves owned or with the permission of the land owners (private or Crown/Noble land), typically under family or kinship arrangements. (It should be noted that there is no market in rental housing per se in Tonga's outer islands). To protect project-funded assets and those households who had built the original house on land that they did not own, Land Consent Forms were introduced to register the landowner's consent for an eligible house- (but not land-) owner to reconstruct (with project support) a new house (if the original had been fully damaged) on the landowner's property. An associated legal covenant in the Financing Agreement required that GoT ensure that the Government would provide 'alternative land' with 30 years' security of tenure to any beneficiary on private land who was not able to obtain consent from the landowner for a new house to be constructed on that land.

During the course of project implementation, it has been identified that at the time of the cyclone, 21 households were living in houses that were fully damaged, but the occupying households neither owned the land nor the house at the time. These households were residing on the affected properties under informal arrangements, typically as family relatives or 'house-sitting' whilst the house/land owner was working or studying abroad, or were church officials and their families who rotate between islands in the course of their duties. In order to address this unforeseen situation, the Tonga Cabinet has adopted two new land consent forms in order to: (i) recognize the diversity of informal occupancy arrangements, and (ii) provide 4-year security of occupancy to these types of informal occupants. Four years is envisaged as sufficient time to allow such residents to either renew their private occupancy arrangements with the house owner or to find alternative accommodation, taking into account the social disruptions caused by the cyclone of 2012.

Appraisal Summary Change in Social Analysis

Explanation:

The Government is not able to itself provide open-ended security of occupancy on private land that it does not own. Doing so would amount to involuntary taking of land for which OP4.12 would apply. This did not form part of the project proposal and accordingly, the RPF does not have measures which would guide and control this form of land acquisition; instead its focus was (and is) on the provision of "alternative land" where *in situ* solutions cannot be arranged. Government and private land owners consider a requirement for open-ended security of occupancy on private land to be unreasonable, and inconsistent with the norms of customary informal occupancy arrangements between relatives, co-villagers, and acquaintances. Imposing a 30-year requirement on land owners would be very interventionist in nature and difficult to enforce. It would likely increase pressures on social capital, social cohesion, and coping mechanisms and lead to inequity between households. This includes, among other things, the widespread informal occupancy arrangements that provide a mechanism to assist poorer relatives and acquaintances, and 'house sitting' arrangements used to provide a mechanism to safeguard property while the owner is living temporarily off-island. Another consequence of the 30-year requirement is that it might discourage private land owners from assisting friends and relatives because they risk losing the exclusive right to possess and occupy their land in the event of subsequent natural disasters. However, following consultations on Ha'apai, the local stakeholders and the Government have agreed to a four year security of occupancy for affected and eligible people as is now provided for in the updated Land Consent Forms (Category 2A and 2B). The beneficiary will be guaranteed security of occupancy for four years to reside in the house on the private land, if the land owner (or land and house owner, as the case may be) voluntarily agrees. If a land owner (or land and house owner) does not consent to this, the beneficiary has the option to have the new house constructed on self-identified land or, if such land is not available, the Government will facilitate 'alternative land' for the

beneficiary household as provided for in the RPF².

If the land owner (or land and house owner) withdraws their consent before the end of the four-year period, the Government will facilitate protection of the rights of the beneficiary. The Government would work with the parties to define another solution which may include (i) mediating between the landholder and beneficiary to enable the beneficiary to continue to occupy the new house for the rest of the 4-year period; (ii) assist in relocating the house to a plot that is self-identified by the occupancy; or (iii) assist in relocating the house to a plot on 'alternative land' that is provided by GoT.

During Phase 1 of the project, 72 beneficiaries residing under informal occupancy arrangements on private land were eligible for and received new houses from the project, and are all still occupying the reconstructed houses. The Ministry of Lands has provided written confirmation that once Crown or Noble land is provided to a beneficiary to whom housing has been constructed under Part 1(a) or Part 1(b) of the project, that beneficiary may formally register their interest in that land with the Ministry of Lands.

The majority of households (81 percent) under informal occupancy arrangements (on land owned by somebody else) owned the cyclone-damaged original house. At the end of the 4-year minimum period of secure tenancy, the house owner may continue to live in the rebuilt house on the site where it was constructed.

If the landowner does not agree to this:

- i. The land owner may purchase the house at an appropriately depreciated value; or
- ii. The house owner undertakes to remove the building and vacate the land.

During the January, May, and October 2016 implementation support missions the task team, together with Government counterpart staff and the PMU, verified and recorded the informal occupancy arrangements of all affected households that have already received replacement houses under the project, or are eligible to do so. Introduction of the two new Land Consent Forms will more accurately reflect the diversity of the verified occupancy arrangements. The new Land Consent Forms and the updated Resettlement Policy Framework comply with the relevant Bank Safeguard Policy and are acceptable to the Bank. The RPF, which includes the updated land consent forms as an annex, has been disclosed in country. It was published on Infoshop on May 29, 2017.

Risks

During the first phase of the project, 72 new houses were provided for households that owned a cyclone-damaged house located on private land (owned by somebody else). In the large majority of cases, the owners of these cyclone-damaged houses are relatives of the land owners (98% of the beneficiary households in the first phase of the project, and 88% for the second phase). During the first phase of the project no land owner has withdrawn permission for either construction or occupancy of a reconstructed house on private land, and this is also not considered a likely risk moving forward. Should this risk eventuate however, the Government has agreed to work with the parties to define another solution as outlined above, which may include mediating between the landholder and beneficiary or assist in relocating the house to self-identified or 'alternative land' that is provided by GoT. Furthermore, the updated RPF will clarify the mitigation measures that would apply if land owners or land-cum-house owners do not consent to a four year security of tenancy

² **The RPF** specifies that *"It is possible that identified informal arrangements may be disputed by the registered title holder and/or that consent is not granted to repair/reconstruct on the land."* This is viewed as *"the key situation under which a resettlement risk would exist"*, and to mitigate this risk it is proposed that *"the GoT will consider other measures to provide security of occupancy to the beneficiary such as a lease or license agreement which can be created under Tongan law in favor of the beneficiary. The nature of this agreement would be subject to definition in a subsequent Abbreviated Resettlement Plan (ARAP).*

period for those who occupied a house on their land at the time of Cyclone Ian. If consent is not granted, there are two options: (i) if the occupiers/tenants can self-identify alternative land the replacement house will be constructed on such land, and (ii) if they do not have access to self-identified land, the Government will make alternative land available under a long-term lease agreement of 30 years (accessing such land may require land acquisition, something that has not yet taken place and is not anticipated).

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