Sri Lanka: North East Local Services Improvement Project

Environmental and Social Management Framework
Ministry of Economic Development

February 2014
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SRI LANKA: North East Local Services Improvement Project
Environmental and Social Management Framework (ESMF)

Amendment to the ESMF

The Ministry of Economic Development has requested the World Bank to provide co-financing assistance in support of additional activities related to the Project with a grant being received from the Australian Department of Foreign Affairs and Trade – DFAT - World Bank. Partnership for South Asia to continue the activities supported by the project. The project activities eligible for financing will remain as it is for the DFAT funds.

The same project activities as the parent project will be replicated to the adjoining conflict affected districts of Anuradhapura, Pollonaruwa, Puttlam and Monaregala. Anuradhapura and Pollonaruwa belong to the North Central province that borders the Eastern and Northern Province. Puttlam belong to the North western province and borders the Northern province while Monaragala belong to the Uva province and borders the Eastern province.

The project activities will remain the same, thus the following Environmental and Social Management Framework (ESMF) prepared for the project will remain the same and applicable to all project activities.
1. **Background**

1. The main development challenges, as emphasized in the Government’s 10 year Development Framework, Mahinda Chintana (MC) – Vision for a new Sri Lanka, are to accelerate growth, through increased investment in infrastructure, to achieve a more equitable development through assistance to the lagging regions, regions in Sri Lanka except the Western Province, and to strengthen public service delivery to ensure quality and performance of services to meet modern development needs. There is also a significant need for developing the North and East which have suffered disproportionally from the conflict and lack of investments. The MC notes the need for developing the North and East and also recognizes that the conflict has imposed a heavy economic cost in the North, East and adjoin districts, that the poverty situation there is more serious than in other parts of the country. The Government’s framework for interventions in the North and East are the three pillars: (i) integrating those displaced or affected by the conflict; (ii) resuming service delivery, including through investments in physical infrastructure; and (iii) strengthening the role of local governments.

2. Infrastructure is greatly dilapidated in the North and East with only 10-15% of the road surfaces intact. North and East lag behind the rest of the country in availability of economic infrastructure and access to markets. Only 46% of the population of North and East has access to safe drinking water compared to 62% of the rest of the country. The Bank aims to improve opportunities in the North and East and has identified integrated rural infrastructure development to address specific needs of service delivery as one of the key interventions.

3. The North East Local Services Improvement Project (NELSIP) will support Sri Lanka’s development strategy and peace process with particular focus on growth by improving local service delivery mechanisms in the conflict affected areas. Specifically, the project will strengthen the capacity of Pradeshiya Sabhas (PS) in the conflict-affected Northern and Eastern Provinces to deliver basic services to their citizens such as rural access, rural water, sanitation, street lighting, rural markets, intra & inter village infrastructure, and poverty reduction programs in an efficient and accountable manner. NELSIP is a multisectoral intervention, designed to strengthen accountability at the local level by promoting participatory and demand driven investment planning, budgeting, execution and maintenance of infrastructure at the PS level.

Having successfully being able to strengthen Pradeshiya Sabhas in the North and East, with the DFAT additional financing the project will be replicated in to the adjoining conflict affected districts of Anuradhapura, Pollonaruwa, Puttlam and Monaragala. Anuradhapura and Pollonaruwa belong to the North Central province that borders the Eastern and Northern Province. Puttlam belong to the North western province and borders the Northern Province while Monaragala belongs to the Uva province and borders the Eastern province. These areas due to their geographic location were also affected by the conflict indirectly.
1.1 Purpose

4. The main purpose of the Environmental and Social Management Framework (ESMF) is to identify potential environmental and social impacts early in the project cycle and to provide broad guidelines outlining measures, processes, institutional arrangements, procedures tools and instruments that need to be adopted by the project and integrated into project implementation to mitigate any adverse environmental or social impacts.

5. Projects and Programs financed with IDA resources need to comply with World Bank Operational Policies. Therefore, all activities funded under this project will be required to satisfy the World Bank’s safeguard policies, in addition to conformity with the relevant legislation of the Government of Sri Lanka (GOSL).

6. The investments in connective infrastructure will comprise a number of specific investments/sub-projects, the details and specific location of which would not be known at appraisal. Hence, in preparation of the proposed project the implementing agency has developed this Environmental and Social Safeguards Management Framework.

7. Consistent with existing national legislation, the objective of the Framework is to help ensure that activities under the proposed project will:
   
   (i) Protect human health;
   
   (ii) Prevent or compensate any loss of livelihood;
   
   (iii) Prevent environmental degradation as a result of either individual subprojects or their cumulative effects;
   
   (iv) Enhance positive environmental and social outcomes; and
   
   (v) Ensure compliance with World Bank safeguard policies.

8. The ESMF has been developed to ensure compliance with the World Bank’s environmental and social safeguard policies and the relevant provisions under the National Environmental Act (NEA), the Land Acquisition Act and the National Involuntary Resettlement Policy (NIRP) and associated regulations. The document provides the necessary background for environmental and social dimensions to be built into the design of the project in order to ensure that project implementation will take place in an environmentally and socially sustainable manner. To aid this process, the ESMF sets a framework of guidelines and procedures, which is intended to direct the process of planning and managing environmental and social concerns of project activities. The ESMF will serve as a template document, identifying potential risks and based on which specific social and environmental impact assessments will be conducted for specific project components or sub-components later in the
project cycle.

**Environmental Safeguard**

9. World Bank policies and guidelines, pertaining to environmental safeguards that may require consideration under this project are as follows:

   OP/BP/GP 4.01 Environmental Assessment
   OP/BP/GP, 4.04 Natural Habitats

10. The most likely safeguard policy to be triggered under this project will be OP/BP/GP 4.01 on Environmental Assessment. The other safeguard policy listed above has been identified and will be considered to ensure minimal adverse environmental impacts to natural habitats due to the project.

11. The purpose of conducting an environmental assessment (EA) is to identify environmental and social consequences of the proposed sub-projects or components, in order to:

   - Ensure the identification of potential environmental issues and social concerns early in the implementation of a proposed project to incorporate necessary safeguards in project design in order to prevent potential adverse impacts by determining appropriate mitigation and compensation measures;
   - Minimize risks and enhance positive impacts/benefits;
   - Avoid delays and extra costs which may subsequently arise due to unanticipated environmental and social problems;
   - Ensure that the concerns of residents and affected communities are addressed; and
   - Identify the potential for maximizing environmental resources management and socio-economic benefits to local communities within the scope of the sub-project.

12. The EA should cover physical-chemical, biological, socio-economic and cultural issues that are likely to arise during construction and operation activities as appropriate. The North East Local Service Improvement Project would provide budgetary support to Pradeshiya Sabhas (PSs) in the North and East to plan and implement local services to their respective communities. As of this stage, PSs have proposed following activities that will be implemented through this project:

   - Reconstruction of damages rural roads under PS;
   - Construction of rural drinking water supply and sanitation schemes;
   - Reconstruction of public building such as multipurpose community centers, markets, preschools, bus stands, dispensaries, etc.;
   - Construction or reconstruction of flood water drainage lines;
   - Construction of solid waste management schemes;
   - Rehabilitation of micro water ponds;
   - Promotion of group economic and income generating activities such as
brick-making, bakery, milk collection centers, etc.; and
- Provision of street lighting.

13. However, the details of the activities of each PS and details of the sites will be only identified during the planning process. The sites selection will be based on environmental sustainability criteria. All above sub projects and sites that will be identified will be requires to have a site specific EMPs. Prior to all new constructions (including points 2, 4 and 5 above) EAs have to be conducted and approved and mitigations measures agreed upon based on this framework. Therefore, the purpose of this document is to outline a framework for environmental assessment and management, providing details of potential environmental issues and guidelines on how to prepare Environmental Management Plans (EMPs), which will serve as the basis for undertaking site specific EAs. It is being submitted in lieu of a project EA and forms the basis for appraising the environmental aspects of the project. It will be made available for public review and comments in the Ministry of Nations Building..., North and East Provincial Councils, ACLGs and participating PSs and in IDA’s Public Information Center in accordance with BP 17.50 requirements of disclosure. Detailed EAs for sub-projects will be carried out in accordance with the framework by the implementing agency, conduction stakeholder consultations prior to finalizing and will be reviewed and cleared by the GOSL, as applicable under the national environmental legislation and other relevant legislations in the country and by IDA prior to the approval of disbursement of funds.

Social Safeguards

14. World Bank policies and guidelines, pertaining to social safeguards that may require consideration under this project are as follows:

OP/BP 4.10 Indigenous Peoples
OP/BP 4.11 Physical Cultural Resources
OP/BP 4.12 Involuntary Resettlement

15. Overall, the project is expected to have general positive and little or no negative social impact. The expected positive impact is improved delivery of public goods and services from Pradeshiya Sabhas (PSs) along with effective community involvement in the decision making process in managing resources. A separate Social Impact Assessment will be conducted prior to appraisal to assess (i) the overall direct and indirect social impact of the planned project activities on the general conflict potential in the two provinces, (ii) how local authorities have been functioning during the years of conflict, and implications hereof for the present project, and (iii) the perception of the role and function of the local authorities by the various stakeholder groups and their needs and future expectations. In view of this, in the ESMF only address strictly social safeguards issues per se.
.2 Project Description

16. The past three decades of conflict have hindered growth of the economies in the North and East. As of September 2007, 504,000 persons were internally displaced in Sri Lanka and 131,160 persons were reported as refugees in India and other countries. Loss of income added to displacement has aggravated poverty among people. Non-utilization of land and other natural resources, productivity loss due to uncertain social and economic conditions, and absence of investment have had severe negative impact on the economy. In the same way, infrastructure is greatly dilapidated in the North and East with only 10-15% of the road surfaces intact. The North and East lag behind the rest of the country in availability of economic infrastructure and access to markets. Only 46% of the population of North and East has access to safe drinking water compared to 62% for the rest of the country.

1.3 Overall Project Development Objective

17. Project development Objective is to improve the delivery of local infrastructure services by local authorities in the Northern and Eastern provinces and adjoining districts in an accountable and responsive manner.

1.4 Project components

18. The project consists of the following components:

1.4.1 Component 1: Fiscal Transfers:

19. The objective of this component is to support three forms of fiscal transfers: firstly a largely unconditional basic block grant to all the qualifying LA, and secondly a performance grant to the well performing LAs. These grants are the foundations, upon which the other components of the project are built, namely institutionalize accountability, strengthen local government capacity, evaluate performance and assist in the further articulation of the policy environment for local governance in Sri Lanka. The third form of fiscal transfer is for social protection where needed, to support the urgent needs of the resettled IDPs.

20. The grants will mainly cover the following local services:

- Village roads, bridges, culverts, cause ways etc. which will enhance transportation connecting more than one village

- Rural markets: Weekly markets, shops, stalls, common markets, storage etc.
• Rural electrification: Solar power for villages and providing generators for health centers and community functions.

• Social Infrastructure: Libraries, community centers, pre-schools, cemeteries, public parks, bus stands etc.

• Water Supply: Wells, Water tanks, water services, tube wells

• Sanitation: Public lavatories, urinals, lavatory pits, sewerage

• Health: Ayurvedic hospitals, mother and child care centers

• Environmental: Protection of water sheds and catchment areas

• Micro-hydro power schemes

• Other: play grounds, vehicle parks, cycle parks, boundary walls, watcher huts etc.

21. The grants will be disbursed in two equal installments in January and July of each financial year. Block grants will be made available to LAs in a phased manner. IDA will monitor the timely transfer of funds to the Bank accounts of the LAs. Non-IDA financed fiscal transfers to LA will continue through the existing disbursement system of routing funds through ACLG accounts. In time to come, this will also be streamlined and will become part of the national system.

1.4.1.1 Basic Block Grants:

22. The core fiscal transfer is the block grant. LAs that are qualified to receive the basic block grants will receive an average total block grant allocation of LKR 10 M in FY 2010, which will rise to an average of LKR 20 M by FY 2013 which may be supplemented by inflation adjustments. The basic block grant will be allocated on a formula based on population/land extent/number of displace people and investment on development activities within the LA area after Tsunami devastation regarded as sufficient to ensure equity in allocations between LAs in the North and East, with a minimum allocation of LKR 8 M to provide an incentive for LAs with small populations/ land extent to participate in the program. It is estimated that all 65 PSs and 9 UCs will become eligible for a basic block grant by the FY 2012 provided adequate funds are made available to the project.

23. Eligibility for the block grant will be earned and retained annually on a set of criteria which are given in LA project Implementation Plan (LAPIM). In addition to
the eligibility criteria, LAs will be required to hold quarterly community meetings for planning and budgeting, publicly and regularly disclose LA level and project specific information, and submit timely reports to ACLG. Compliance will be verified in the course of the annual independent monitoring process. Non compliance will result in funding being suspended. The risks of misuse will be addressed under Component 2, through requirements for participatory local planning, open budgeting, approval, auditing, and environmental and social management processes, complemented by central oversight. Component 3 provides support to LAs to build adequate fiduciary safeguards in the preparation of accounts and financial statements of expenditures and auditing of records.

24. Approvals for investments will be decentralized to LAs, but they will be required to introduce a high level of transparency in their operations through verifiable and regular reporting to CLG through ACLG. The Block grants will be invested only to implement the approved activities of the LA development plan. Block grants cannot be invested in infrastructure development without screening for compliance with environmental and social safeguards.

25. Compliance with grant procedures and conditions at LA level will be assessed through quarterly and annual reporting cycles, and monitored by the ACLG. Non compliance with grant conditions will result in the application of a clear set of sanctions related to the delay or withholding of grant releases as indicated below.

1.4.1.2 Performance Grants:

26. The performance grant will be allocated starting from FY 2011, but will be separate from the basic block grant. It will be available only to well performing LAs. LAs will be eligible, based on their performance including year to year improvements in revenue collection. LAs will receive an average annual performance block grant of LKR 10 million in FY 2011 which will rise to an average of LKR 20 million by FY 2013. This represents an increase of about 25% per annum. The initial performance block grant will be 25% of the basic block grant allocated to a LA based on population, land extent and degree of conflict damages. No additional spending restrictions will be placed on the use of the performance grant other than those associated with the block grant, although as a LA revenue source its allocation must be made in the annual LA budget process. CLG will manage the calculation, allocation, publication and disbursement of both grants, based on eligibility and compliance information received from the Auditor General, and the Deputy Chief Secretary (Finance) of the Provincial Council. CLG will submit the plan for activities to Project Coordinator for allocation of funds.
1.4.1.3 **Other Grants – Social Protection:**

27. The objective of this component is to pilot various Social Protection (SP) interventions including safety net programs in a limited number of LAs. LAs will be able to test a range of safety net programs aimed at different risk groups. The lessons from the implementation of this component will inform expansion of the SP Grants to other LAs. As part of this component, NELSIP will offer an opportunity to introduce a well designed targeting methodology and demand-driven safety net programs in 10 PSs and UCs in the East as a precursor for a larger SP program in the North and East in the future.

28. The first year SP grant will be given to LAs on a flat rate based on percentage of vulnerable population as defined by numbers of displaced and resettled people, asset damage, proportion of landless labourers, poor widows etc. Public workfare activities that are of immediate importance to communities will be given priority and implemented by the LAs using community-based methods. Vulnerable households will be categorized in to two: (i) households where there are no able bodied members (i.e., women with children, widows, disabled, elderly etc.), and (ii) households with able bodied members. The former will receive assistance through innovative programs designed by LAs. For the latter group of households, a public workfare program will be introduced. The targeted list of beneficiaries will be compiled and discussed at open meetings by the Praja Mandalaya and submitted to the LAs. All eligible households selected for participation in the workfare program will be given equal chance to benefit by using a rotating work schedule. The eligible activities, which are to be assisted under SP grant, will be decided by the LA advisory committee.

1.4.2 **Component 2: Institutionalizing Accountabilities:**

29. The program seeks to institutionalize accountability into existing systems based on a set of incentives associated with the basic and performance grants, and complemented by disclosure of information by LAs to both communities and to higher tiers of government. The project aims not only to increase local resources by making transfers in a predictable manner but also to make planning, budgeting, procurement, and expenditure more efficient, transparent and accountable. To this end, this component will strengthen upward and downward accountability systems at the LA and provincial council levels, and it will support: (a) transparent and independent annual financial audits of LAs; (b) social and technical audits of public expenditures to ensure effective use of funds in line with citizen expectations; (c) systems and processes to bring greater transparency in LA affairs and strengthen citizen voice in planning, budgeting and monitoring of public expenditures and local service delivery. Resources will also be provided to assess the impact and degree to which the implementation of the accountability framework and Governance and Corruption
(GAC) agenda have taken place - seen as a critical step for institutionalizing accountability within the local government system.

30. **Reporting and Monitoring.** The project will strengthen existing monitoring and reporting requirements of LAs by higher tiers of government, while providing incentives for downward accountability. The reporting format will include monthly and quarterly reports on the block grant. The format will include financial, procurement, environmental and social management reporting, as well as processes used for public consultation and information sharing. The monthly reports will be sent by the LA to the ACLG. ACLG will consolidate all of the LA monthly reports for the district and forward to CLG. Consolidated quarterly reports will be sent by the CLG to the Coordinating Unit at Gema Naguma Unit. In addition, monthly reports will be displayed on LA notice boards. NELSIP will use the GOSL standard formats for monthly and quarterly reporting at all levels. It is also expected that progress on the utilization of grants will be discussed at the ACLG monthly progress review meetings.

31. The release of successive installments of the block grant will be contingent upon receipt of regular quarterly reports by a specified date. (A simplified format for quarterly reporting will be developed.) The training and Information & Education Campaign’s (IEC) activities will train and orient LA members, staff and communities about the block grants, its conditions, and reporting requirements. Lack of clarity and training has been an important determinant of hitherto poor compliance. The MIS will be strengthened through the provision of technical assistance in the development of software, data entry and analysis. It will also ensure public access to the data by uploading project related data to its website. In addition, an annual report based on the reports received during the year will be prepared.

32. **Audit Strategy:** Independent external audits will ensure integrity of the public financial management and procurement systems at the LA level. The Auditor General (AG) of Sri Lanka has the mandate for carrying out the external audit of public sector entities and he/she will ensure financial assurance on the annual accounts of the LAs. The CLG will review the audit opinions and decide on the follow-up/remedial actions in a time-bound manner so that the results of the reviews will be linked to the disbursement cycle. A report will be submitted to the Deputy Chief Secretary/Finance (DCS/F) of the Provincial Council, with copy to the PC and MNBEID in order to decide on the continuing eligibility of the LAs to receive block grants under the NELSIP. DCS(F) will send the approval to CLG with copies to PC, MNBEID and Finance Commission. Social accountability strategies will be integrated into the fiduciary processes through the use of participatory monitoring techniques.

33. The existing audit arrangements at Local government level will be used by the project. In the case of LA, the audit scope is defined by the PS Act and in the
case of UC, Financial Rules and Orders for all Urban Development Council made by the Local Government Ordinance – 1939. As noted above, the LA level audits are presently carried out by the Auditor General (AG). Therefore, finances related to NELSIP will also be audited by the AG. Similarly, the project will seek the service of Provincial Audit Department also for this purpose. However, if there are delays in submitting the audit reports by the LA, the CLG with the consent of the Coordinating Unit at the GN Cell will assign an Independent Charted Accountancy firm to carry out an audit of the project accounts and report to the CLG and the Coordinating Unit.

34. All audit and financial reports related to NELSIP will be copied to the Provincial Audit Department.

35. Participation and Public Disclosure: Community voice will be strengthened at the local level through regular and reliable provision of information through open meetings, LA and PM notice boards displaying information on each infrastructure scheme/investment.

36. Grievance Redressal Mechanism for Citizens: Citizens will have three avenues to seek redress (i) open LA meetings; (ii) bi-weekly meetings of the Social Audit Committee of the LAs; and (iii) written complaint to Government Agent, Chief Secretary, or Project Coordinator. This process will not only increase transparency but it will also provide opportunities to increase levels of citizen engagement in the development process. The efficacy of this strategy will be closely monitored and evaluated during implementation, with corrections introduced as necessary.

1.4.3 Component 3: Building Capacities:

37. This project component will support all stakeholders involved in the implementation of grants provided by the project. It will provide information and capacity building support to the various actors involved in block grant implementation in particular, and local public expenditure management in general, and will assist the GOSL in identifying and developing a capacity building framework which will adequately meet emerging nationwide local government capacity development needs. To this end, this component will strengthen a number of institutions at the local, provincial and central government levels that are essential to an effective local government system. Specifically, this component will provide capacity building support to the national and provincial levels for activities related to overall coordination, implementation, monitoring and evaluation as well as to provide backstopping functions in key central support activities such as assessment of LA performance, review and control of the transfer system, monitoring, capacity development, and quality assurance.
• It will also strengthen the capacity of local government institutions in the North and East to implement the following subcomponents:

• Information, Education and Communication (IEC): The objective of this activity is to provide information to all LAs, local government officials, communities, and civil society on the size and conditions of access to the basic/performance/other grants as well as information on project progress. IEC will be implemented using selected service providers various media, NGOs, private communications companies, internal government channels. In addition, a series of district level workshops will be held annually to ensure the wide dissemination of project information. Resources will be provided to support the IEC campaigns. Activities will include: (i) design of the IEC material and core messages; (ii) training of trainers for service providers; (iii) media campaign; and (iv) assessment of IEC outcomes.

38. Training: The aim here is to develop a range of core training modules that will help qualified LAs access and manage block grants. It will also build capacity of non-qualifying LAs so that they can meet the requirements for accessing basic block grants.

1.4.4 Component 4: Policy Development and Evaluation:

39. This component will support a range of analytical and advisory activities aimed at strengthening the ability of central government to make effective policies related to local government. It will also support activities aimed at monitoring and evaluation of the outputs and impacts of the project.

40. In terms of policy analysis, a wide variety of information will become available as a result of the project on the effectiveness of local decision making. This component will support GOSL ability to "digest" this data and use it as an aid to decision-making. For the formal impact evaluation of NEL SIP block grants, three rounds of surveys are proposed – at baseline, at midterm, and at the end of the project period. Monitoring and audit data will be analyzed alongside the survey data for assessing impact. Formal evaluations of polices are intended to assist in making corrections to the technical design of the program as necessary and to lay the empirical groundwork for its possible future expansion. Knowledge generated from NEL SIP will also be able to influence decisions relating to the local governance system in Sri Lanka.

1.4.5 Component 5: Project Management:

41. This component will support agencies at the central and provincial levels that are involved in the day to day management of the project to procure necessary consultant and equipment support for the smooth implementation of the project.
In particular, this will include agencies such as the MNBEID at the central level, the offices of the CLG at the provincial level and ACLG offices at the district level. In addition, it will cover overall coordination, planning, implementation and learning at all levels. The component will support project planning and implementation by facilitating coordination and collaboration among the local government, political and administrative systems in the country.
2. Environmental Safeguards Policies and their Implementation

2.1 Government of Sri Lanka Environmental Regulations and Procedures

2.1.1 National Environmental Act

42. In 1981 GOSL passed the National Environmental Act (NEA) and in 1982, created the Central Environmental Authority (CEA) as a regulatory and enforcement agency. The CEA’s statutory and enforcement powers were strengthened significantly in 1988, by an amendment to the NEA. A cabinet level ministry to handle the subject of environment was created in 1990, with the appointment of a Minister of Environment to ensure that environmental issues will be given the required attention.

43. Under provisions of Part IV C of the NEA No. 47 of 1980 as stipulated in Gazette (Extra Ordinary) No. 772/22 dated June 24, 1993 GOSL made Environmental Assessment (EA) a legal requirement for a range of development projects. The list of projects requiring an EA is prescribed in the above Gazette notification. In addition, the Gazette notification includes a list of line ministries and agencies that are designated as Project Approving Agencies (PAA), with environmental assessment clearance functions delegated by the CEA. With the change of government in August 1994, and the resulting re-allocation of Ministries, a new list of PAAs were specified—under subject area rather than with the name of the Ministry, as listed originally—in Gazette (Extra Ordinary) No. 859/14 dated February 13, 1995.

44. Relevance of the proposed project to the NEA regulations can be considered under three sections (a) Housing and Building (b) Water Supply and (c) Disposal of Waste. According to the prescribed project categories falling under these three sections would be required to undergo an IEE/EIA. However, other prescribed projects requiring environmental assessments, listed in the same regulations that may have a relevance to the proposed project include; (i) Reclamation of land, wetland area exceeding 4 hectares; (ii) Conversion of forests covering an area exceeding 1 hectare into non-timber forest uses; (iv) Extraction of timber covering land areas exceeding 5 hectares; (v) clearing of land areas exceeding 50 hectares; and (vi) All projects and undertakings irrespective of their magnitude, if located partly or wholly within 100 meters from the boundaries of or within any area declared under the National Heritage Wilderness Act; the Forest Ordinance; 60 meters from a river or stream bank and having a width of 25 meters or more at any point of its course; any erodible area under the Soil Conservation Act (Chapter 540); any flood area declared under the Flood Protection Ordinance (Chapter 449) and any flood protection area declared under the Sri Lanka Land Reclamation and Development Corporation Act; within 100 meters from the high flood level contour of or within
a public lake as defined in the Crown Lands Ordinance (Chapter 454) including those declared under section 71 of the said Ordinance; any archeological reserve, ancient or protected monument as defined or declared under the Antiquities Ordinance (Chapter 188); any areas declared under the Botanical Gardens Ordinance; and within 100 meters from the boundaries of or within any areas declared as a Sanctuary under the Fauna and Flora Protection Ordinance.

45. The EIA approval/disapproval can be granted by the PAA with jurisdiction over the project activity, only with the concurrence of the CEA. However, the project proponent is not permitted to perform the functions and duties of a PAA. Therefore, in the event of a PAA becoming the project proponent, the CEA will designate an appropriate PAA. In instances where the project would fall within the purview of more than one PAA, the CEA will determine an appropriate PAA or serve as the PAA and will formally decide on the PAA depending on the scope and location of the project on a case by case basis.

46. According to GOSL procedure, all development activities require environmental clearance. In order to obtain such clearance, the project proponent has to fill in a Basic Environmental Information Questionnaire. The questionnaire requires information from the project proponent to enable the CEA to determine the level of environmental analysis required prior to providing approval for the project. Upon reviewing the questionnaire, the CEA determines whether the project requires an Initial Environmental Examination (IEE), or an Environmental Impact Assessment (EIA), or whether no further environmental analysis is required, depending on the nature of the potential impacts. The CEA review is based on the list of prescribed projects listed under provisions of Part IV C of the NEA No. 47 of 1980 as stipulated in Gazette (Extra Ordinary) No. 772/22 dated June 24, 1993. All prescribed projects have to be subjected to environmental assessments, either through IEEs or EIAs. The CEA also determines the PAA for the specific project.

2.1.2. Other Acts relevant for Environmental Assessment

47. In addition to the National Environmental Act, which is the most important legislation governing the process of EA, there are two other relevant legislations under which EA can be required.

48. Coast Conservation Act (CCA) No.57 of 1981 implemented by the Coast Conservation Department (CCD) and applicable to the coastal zone as defined in the Act. The coastal zone as it pertains to this project is considered to be 300 meters inland from the high water mark. Therefore, any road works within this zone falls under the jurisdiction of CCD. Director of the CCD has the discretion to request for an EIA/IEE from the project proponent if the initial screening reveals significant impacts in the coastal areas by the project. Once the type of
environmental analysis required is decided, a scoping committee comprising of
the relevant stakeholder agencies meet to discuss issues of the project after
which a draft ToR is prepared for review by the Coast Conservation Advisory
Council. The EA prepared accordingly by the project proponent is subsequently
reviewed by a Technical Evaluation Committee based on whose assessment
the Director can grant approval/disapproval for the project. The public
consultation process is similar to that of the NEA where the public has the
opportunity to comment on the proposed development within a period of 30 days
from time of notification, if it is an EIA.

implemented by the Department of Wildlife Conservation. This act specifies that
any development activity that takes place within one mile of the boundary of a
National Reserve declared under the Ordinance require an EIA/IEE. The FFPO
follows a similar process as the NEA in conducting scoping, setting the Terms of
Reference (ToR), preparation of EA, review of EA and public consultation and
disclosure. The decision of project approval or disapproval is finally granted by
the Director of the Department of Wildlife Conservation.

2.1.3 Regulations that provides directions to protect environment and its
resources

50. Sri Lanka is one of the leading countries in the South Asian region in enacting
environmental legislations. Its concern for environment dates back to over two
and a half millennia. The constitution of the Democratic Socialist Republic of Sri
Lanka under chapter VI Directive Principles of State policy & Fundamental
duties in section 27-14 and in section 28-f proclaim “The state shall protect,
preserve and improve the environment for the benefit of the community”, “The
duty & obligation of every person in Sri Lanka to protect nature and conserve its
riches” thus showing the commitment by the state and obligations of the
citizens. In addition there are number of regulations that are relevant to the
project and required to be adhered to during implementation:

51. Act No. 29 of 1964 – Water Resources Board Act: Main responsibilities under
this act highlighted are control, regulation and development including the
conservation and utilization of the water resources of the country. In addition,
the promotion of afforestation, control of soil erosion, prevention of the pollution
of rivers, streams and other water sources are also required to be considered.
Mainly, the Water Resources Board is the key player of the formulation of
national policies relating to the control and use of water resources of the
country, as well as coordination of projects undertaken by government
departments, local authorities and public corporations relating to the
conservation, utilization development of the subterranean water resources of the
country and the assessment of the possibilities, benefits and economic feasibilities of such projects.

52. Act No. 13 of 1949 – State Land Ordinance: The State Lands Ordinance provides necessary guidelines to:
- The protection of the source, course or bed of any public stream
- The protection of springs, reservoirs, lakes ponds lagoons, creeks, canals, aqueducts etc.
- The construction or protection of roads, paths, railways and other means of internal communication.
- The prevention of the erosion of soil.
- The preservation of water supplies.

53. In addition, section 75 of the State Land Ordinance highlights on riparian proprietors activities. The occupier of land or the bank of any public lake or public stream shall have the right to use the water in that lake or stream for domestic purpose and shall not be diverted through a channel, drain or pipe or by means of a pump or other mechanical contrivance but shall be removed in a bucket or other receptacle.

54. Act No. 22 of 1955 – Flood Protection Ordinance: This ordinance provides necessary provisions to acquisition of lands or building or part of any land or building is required for the purpose of flood protection.

55. Acts Nos. 25 of 1951 and amended on 29 of 1952 – Soil Conservation Act: The Soil Conservation Act makes provision for the conservation of soil resources for prevention or mitigation of soil erosion and for protection of land against damage by floods and droughts. It is possible to declare any area defined in the order to be an erodible area for the purpose of this act. Under this act, following main activities are prohibited:
- Clean weeding of land or other agricultural practices conductive to soil erosion.
- Use of land for agricultural practices within the water sources and banks of streams.
- Exploitation of forests and grass land resources and fire activities in declared area.

56. Act No. 15 of 1987 – Pradeshiya Sabhas Act: The section 12 (2) of the Pradeshiya Sabhas Act has authority to appoint a separate committee to advise the environmental matters. The section 105 of the same act shows the
prohibition of causing water or any stream pollution and related offences. The section 106 highlighted pollution caused by factories and relevant offences.

57. **Act. No. 33 of 1992 – Mines and Minerals Act:** The Geological Survey and Mines Bureau (GSMB) established under the Act No. 33 of 1992, Mines and Minerals Act. Under this act, mining falls within the purview of the GSMB. Mining and exploitation for minerals, including sand, must be licensed under the act by the GSMB. Mining licenses are issued only to a qualified individuals and companies registered to do business in Sri Lanka. Mining is not permitted within Archaeological Reserves and within specified distance of monuments. New mining licenses are subject to the EIA process, if the type and extent of mining is listed under the EIA regulations. Additionally, the GSMB has power to stipulate conditions including the taking of deposits and insurance for the protection of environment. Regulations made by the GSMB under the act cover a variety of environmental stipulations, criteria and conditions for licensing and operating mines. This also covers the disposal of mine wastes. The act also deals with the health, safety and welfare of miners. Reclamation of mines is a major problem in Sri Lanka and due to current practice requires the mining enterprise to make a deposit to cover costs of recovery. The deposit however is inadequate for the purpose. Large extents of mined areas, particularly areas mined for clay and sand remain open. Mining rights on public and private land are subject to licensing by the GSMB and all minerals wherever situated belonging to the state. The right to mine particular parcels of public lands may be subject to EIA procedures as well as to lease for permit conditions.

58. **Forest Ordinance of No. 17 of 1907 as amended by Act No. 23 of 1995:** The Forest Ordinance of Sri Lanka is the law for conservation, protection and management of forest and forest resources for the control of felling and transport of timber and forest related matters. The Forest Ordinance of No. 17 of 1907 amended by several Acts up to 1995 - Act 34 of 1951, No. 49 of 1954; No. 13 of 1966; No. 56 of 1979; No. 13 of 1982; No. 84 of 1988; and new act as No. 23 of 1995.

59. Under the section 4 of No. 23 of 1995 Forest Act, Minister in charge of the forest, has special power to order and declare any specified area of state land or the whole or any specified part of any reserve forest which has unique eco systems, genetic resources or a habitat of rare and endemic species of flora and fauna and micro organism and of threatened species or which need to be preserved in order to achieve an ecological balance in the area by preventing landslides and fire hazardous to human life, as a Conservation of Forest.

In addition, under the section 5 of this act, Forest Officer of a specified area has special power to stop any public or private way or water course in a reserved forest. It shall be lawful for the District Secretary to determine the amount of compensation
to be paid, in case that the water course injuriously affects the interests or one or more individuals to whom on that account compensation should be paid.

60. Under the section 6 of the Act No. 23 of 1995, following activities are prohibited:

   • Trespasses, or permits cattle to trespass;
   • Causes any damage by negligence in felling any tree, or cutting or dragging any timber;
   • Willfully strips off the bark or leaves from, or girdles, lop, taps, burns or otherwise damages, any tree;
   • Poisons water;
   • Quarries stone, burns lime or charcoal, or collects, or subjects to any manufacturing process, any forest produce;
   • Extracts coral or mollusk shells or digs or mines for plumbago, gems or other minerals;
   • In contravention of any regulations made by the Minister, pastures cattle, hunts, shoots, fishes or sets traps or snares or guns, or constructs or uses ambushes, or uses any explosive substance.

61. Under the section 12 of this act, the Minister has power to order and publish in the Gazette, constitute any portion of forest a village forest for the benefit of any village community or group of village communities, and may in like manner vary or cancel any such order. Every such order shall specify the limits of such village forest.

62. No. 13 of 2005 – Disaster Management Act: Under the Act No. 13 of 2005 of the Disaster Management Act, there is a provision to establish National Council for Disaster Management (NCDM). Major objective of this act is to protect human life, property and the environment of Sri Lanka. Therefore, this act plays key role to protect the environment. Major functions include NCDM, to formulate a National Policy and Program on the management of disasters which shall provide for the protection of life of the community and environment and the maintenance and development of disaster affected areas; the effective use of resources for preparedness prevention, response, relief, reconstruction and rehabilitation; the enhancement of public awareness and training to help people to protect themselves from disasters. Therefore, this act provides necessary guideline for the protection of human life, property and the environment of the country.

63. Law No. 2 of 1974 -National Water Supply and Drainage Board (NWSDB): The NWSDB is the principal agency for water supply and sanitation in Sri Lanka. It was established in January 1975 pursuant to the Law No. 2 of 1974. Prior to its
official mandate, the NWSDB started as a sub-unit, under the Public Works Department for Water Supply and Drainage. In 1965, it became a division under the Ministry of Local Government. From 1970, this division functioned as a separate department under the Ministry of Irrigation, Power and Highways and remained so until the Act was approved by the Parliament creating the NWSDB in 1975. General duties of the NWS&DB include: to develop, provide, operate and control an efficient, coordinated water supply and to distribute water for public, domestic or industrial purpose; to establish develop, operate and control an efficient, coordinated sewerage systems.

64. Act No. 11 of 2007 – Prevention of Mosquito Breeding Act: This Act passed for the purpose of ensuring the prevention and eradication of all mosquito borne diseases. Under this act, it shall be the duty of every owner or occupier of any premises to cause, (a) open tins, bottles, boxes, coconut shells, split, coconuts, tyres or any other article or receptacle found in or within such premises, capable of holding water, to be removed, destroyed or otherwise effectively disposed; (b) any well found in the premises and its surroundings to be maintained and kept in good repair so as to make it mosquito-proof and thereby prevent the breeding of mosquitoes; (c) any artificial pond or pool found in such premises to be emptied at least once in every week; (d) any casual collection of water within the premises which is conducive to mosquito breeding, to be regularly drained; (e) shrubs, undergrowth and all other types of vegetation, other than those grown for the purpose of food or those which are ornamental, found within or outside any building or structure within the premises used as a dwelling place which has become a breeding place for mosquitoes, to be removed; (f) the removal and destruction of the water plants having the botanical name *Pistia Stratiotes* and commonly known as “Diya Parandal”, “Kondepasei”, “Telpassy”, “Barawa-Pasi”, “Nanayaviraddi” and of any other water plant, or plants, found within the premises, which may facilitate the breeding of mosquitoes. Hence, this act placed to eradicate prevent the mosquito born diseases and mainly targeted on water sources.

2.2. World Bank Policies and Guidelines for Environmental Safeguards

2.2.1. OP 4.01 Environmental Assessment

65. The composite GOSL environmental clearance process, in principle, is consistent with World Bank environmental assessment and public disclosure requirements. The exception being the screening criteria adopted in the GOSL process under the NEA, where project thresholds are used to determine the type of clearance required and the content of public consultation. However, under the CEA the PAA can take a decision based on anticipated impacts even if the project does not fall into the listed categories and under the CCA and the FFPO the director has the discretion to request for an EA.

66. However, all activities under the proposed project will be subjected to the EA process regardless of the project threshold, prior to disbursement of funds.
Although the country’s experience on regulated EA procedure is still young, substantial progress has been made with regard to conducting and evaluating EIAs, in which the CEA has played a lead and commendable role. The country has also gained much through institutional strengthening (mainly the CEA) supported by the financial assistance from a number of bi-lateral and multi lateral donors. Therefore, no additional technical assistance is deemed necessary to build the capacity of the CEA for environmental clearance relevant to this project.

2.2.2. OP 4.04 Natural Habitats

67. As there is a potential to conduct new activities in ecologically sensitive areas, this OP has been triggered. The Bank does not support projects that, in the Bank’s opinion, involve the significant conversion or degradation of critical natural habitats. The Bank promotes and supports natural habitat conservation and improved land use by financing projects designed to integrate into regional and local development focused on conservation of natural habitats and the maintenance of ecological functions. Furthermore, the Bank promotes the rehabilitation of degraded natural habitats.

68. Bank-financed projects need to be sited on lands already converted (excluding any lands that in the Bank’s opinion were converted in anticipation of the project). The Bank does not support projects involving the significant conversion of natural habitats unless there are no feasible alternatives for the project and its siting, and comprehensive analysis demonstrates that overall benefits from the project substantially outweigh the environmental costs. If the environmental assessment indicates that a project would significantly convert or degrade natural habitats, the project needs to conduct an EA and include mitigation measures acceptable to the Bank. Such mitigation measures include, as appropriate, minimizing habitat loss (e.g., strategic habitat retention and post-development restoration) and establishing and maintaining an ecologically similar protected area. Other forms of mitigation measures are accepted only when they are technically justified.

2.3. Social Safeguard Policies and their Implementation in NELSIP

2.3.1 OP 4.12 Land Acquisition and Involuntary Resettlement:

69. The potential adverse social safeguard related impacts, as anticipated at this stage, would largely result from land acquisition and involuntary resettlement which may be required in connection with the PS investments in rural infrastructure such as rural access, rural water, sanitation, street lighting, rural markets, and intra & inter village infrastructure. Since the exact location of
project interventions are not known at appraisal, and will be determined on a continuous basis according to the annual grants received by the PS, the GOSL has prepared this Framework for Land Acquisition and Involuntary Resettlement, consistent with the requirements of the NIRP and OP/BP 4.12. In the event that land acquisition is unavoidable, the land acquisition process, consultation and compensation procedures and principles will be as per Sri Lankan Governmental policies and compliant with OP 4.12 (see Annex 1 for Guidelines).

70. **General Guidelines**

(a) Resettlement and land acquisition will be kept to a minimum, and will be carried out in accordance with these guidelines. Subproject proposals that would require demolishing houses or acquiring productive land should be carefully reviewed to minimize or avoid their impacts through alternative alignments. Proposals that require more than minor expansion along rights of way should be carefully reviewed. No land or asset acquisition may take place outside of these guidelines.

(b) These guidelines provide principles and instructions to compensate negatively affected persons to ensure that they will be assisted to improve, or at least to restore, their living standards, income earning or production capacity to pre-project levels regardless of their land tenure status.

(c) No sub-project affecting more than 200 people will be allowed. In compliance of the Bank’s Operational Policy 4.12, in case of less than 200 Project Affected People (PAPs), an abbreviated Resettlement Framework shall be followed in order to restore housing and issue economic compensation for loss of land and livelihood through a consultative and mutually agreeable process (see Guidelines in Annex 2, Attachment i)

71. **Eligibility & Mitigation Principles:** PAPs are identified as persons whose livelihood is directly affected by the project due to acquisition of the land owned or used by them. PAPs deemed eligible for compensation are:

(a) those who have formal legal rights to land, water resources or structures/buildings, including recognized customary and traditional rights;

(b) those who do not have such formal legal rights but have a claim to usufruct rights rooted in customary law; and

(c) those whose claim to land and water resources or building/structures do not fall within (a) and (b) above, are eligible to resettlement assistance to restore their livelihood. Absence of legal title will not be considered a bar to compensation for non-land assets created by the public land users. Vulnerability of the project-affected persons, in terms of economic, social and gender characteristics, will be identified and mitigated with appropriate policies.

Additionally:
(d) Where community-wide impacts are caused in the form of affecting community facilities, restricting access to common property resources, etc. the project will rebuild such facilities and provide for alternative access.

(e) The project executing agency and GoSL will bear the costs of implementing the ESMF

72. **Voluntary donation of land:** In case of voluntary land donation, the Project will ensure the following:
- that the land is free of any structures or assets;
- so small an area that its donation does not negatively impact the livelihood of the owner;
- the voluntary nature of donation is fully and independently verified;
- that the land is unencumbered, of squatters and conflicting claims;
- that community based mitigation measures are acceptable;
- that a grievance redressal system is in place;
- that the person(s) give up all claim to the donated land and that the land is transferred in the name of the Government/Department.

73. **Consultation Process:** The implementing agencies will ensure that all occupants of land and owners of assets located in a proposed subproject area are consulted. Community meetings will be held in each affected district and village to inform the local population of their rights to compensation and options available in accordance with these Guidelines. Stakeholder consultations will be an on-going activity during the planning and implementation stages of the project/subproject. Stakeholder consultation will be inclusive of all groups (particularly women, vulnerable groups and local minority groups), participatory and transparent. The Minutes of the community meetings shall reflect the discussions held, agreements reached, and include details of the agreement.

74. The project executing agency will ensure that all stakeholders are consulted and informed about the project’s expected impacts, proposed impact mitigation policies, and implementing process that would be followed. The implementing agency shall provide a copy of the minutes to affected people and confirm in discussions with each of them, their requests and preferences for compensation, agreements reached, and any eventual complaint. Copies will be recorded in the posted project documentation and be available for inspection during implementation support missions.

75. **Impacts and PAPs Eligible for Compensation Assistance**

The mitigation principles and impact mitigation modalities are operationalized by defining and categorizing the potential impacts/losses which will qualify for
mitigation. Besides these, any unforeseen impact, as and when encountered, will be mitigated with appropriate measures. The following will qualify for compensation:

- Unauthorized or informal users of public lands, such as squatters and encroachers, are not eligible for compensation for land, but for other losses covered by the mitigation policies.

- Business and Wage Income/ informal Users of public land: Vulnerable squatters and encroachers residing on public lands and undertaking income earning activities in the ROW will be assisted to cope with the change.

- Provision of alternative permanent place: Temporary encroachers who have been provided with a permanent place for business earlier will not be eligible for assistances.

- Structures on Public Lands: All built structures would be compensated at replacement cost.

- Unforeseen losses/impact including: All other losses/impacts that are not known but may get identified in PAP census will be mitigated with appropriate measures (where they qualify).

- For adverse impacts on community facilities, such as educational institutions, places of worship, graveyards, cremation grounds etc., no financial compensation will be paid directly to affectees, furthermore, Project Approving Authority will rebuild the affected facilities, or provide alternatives in consultation with the user communities. Similarly for loss of income earning opportunities or access to crucial common property resources, the project will provide alternatives to restore and improve their livelihood.

76. **Compensation Payment**

NELSIP, with financial support from GOSL and implemented through PS will pay all non land compensations/entitlements as laid out in the entitlement framework to all eligible affected persons/households. Furthermore, all compensations and assistance to PAPs must be paid in full prior to dispossession of affected assets in the project. For any land related impact (although not envisaged) compensation will be paid under the Land Acquisition Act and payments be made at market rates.

77. For addressing potential impact/loss categories, entitlement and entitled persons, a Compensation Entitlement Policy Matrix has been developed and included in Annex 1.

2.3.2. **OP/BP 4.11 Physical Cultural Resources**

78. The proposed operations pose limited risks of damaging physical cultural resources since subprojects will largely consist of small investments in
community infrastructure and minor public works. Further, the list of negative subproject attributes, which would make a subproject ineligible for support (Annex 2), includes any activity that would adversely impact cultural property. Nevertheless, the following procedures for identification, protection from theft, and treatment of discovered artifacts should be followed and included in standard bidding documents as provided in Annex 3.

2.3.3. OP/BP 4.10 Indigenous Peoples

79. Most communities of Indigenous Peoples in Sri Lanka live in remote locations in the East, such as in Muraththanai, Akkuranai, Minuminuththaveli, Paalchenai and Kathiraveli in the Batticaloa district and in Muthur East in Trincomalee, while the “Veddah” is found in bordering villages of the East. While OP/BP 4.10 does apply to these reasonably well defined groups in the interior of Sri Lanka, the issue of ethnic and religious affiliation is a larger factor in determining vulnerability at national and local level in the present Sri Lankan context. It is not expected that stand-alone Indigenous Peoples Development Plans (IPDP) will be justifiable, as the main investments in the NELSIP goes to small-scale rural connectivity infrastructure through the PS. In the present post-conflict environment special attention should be paid to avoid confounding inter-group conflict and animosities.

80. OP/BP 4.10 provides policy guidelines to: (i) ensure that indigenous people benefit from development projects; and (ii) avoid or mitigate potentially adverse effects on indigenous people caused by IDA assisted activities. Since identification of sub projects will be an ongoing process, it is not yet known whether indigenous communities will be involved in the project as beneficiaries or affected in any way. If it seems likely that any of these communities are to be directly impacted by any NELSIP sub-project, a diagnostic consultation will be undertaken at that point with the communities in question. The consultation will be undertaken by a qualified social scientist/institution, with knowledge of the traditions and culture of the Indigenous people, to ascertain their specific wishes and to minimize the possibility that interventions by the program and/or its contractors inadvertently create adverse effects within the communities. Based on the consultation report, NELSIP will decide the specific implementation modalities vis-à-vis these communities and will prepare a brief (1-2 page) written plan describing the consultative steps taken and the actions agreed upon and the reasons for these actions. The document will be shared with the WB and made available to the public.

81. The Terms of Reference of the social scientist doing the diagnostic “study” will be to visit and specifically talk to the community(s) involved to ascertain whether they want support and if so what will be the best way to provide it. This will take into account community sensibilities and not damage the fabric of the
community. The social scientist will provide recommendations for how best to deal with the community in a way which respects their traditions and culture.
3. Anticipated environmental impacts and mitigation

3.1 Main environmental issues in the northern and eastern provinces

82. With the reconstruction and resettlement activities that have already started and will be taking place in the near future, there is a high potential of negative environmental impacts taking place, unless appropriate measures are taken during the planning processes to mainstream environmental concerns into these development efforts. Currently, the following environmental issues can be identified in these areas:

- Loss and change of natural habitats due to human settlements and agriculture activities
- Destruction of forests and mangroves for military purposes, collection of firewood, construction of houses and fishing crafts
- Pollution due to inadequate and/or lack of sewage systems and solid waste management
- Destructive fishing in the coastal areas
- Contamination of groundwater due to agriculture intensification and poor drainage systems within human settlements impacting water quality
- Flooding due to poor drainage
- Poor sanitation among settlements
- Unplanned natural resource extraction
- Human-elephant conflict

3.2 Screening of potential environmental impacts and mitigation measures

83. As indicated earlier in the document, the PSs are yet to conduct their planning process and prioritization of activities that will be funded through this project. However, based on the preliminary list of potential activities that will be carried out by the PSs, the following environmental issues and impacts have been identified, which will need to be taken into consideration and will require mitigation measures when planning and implementation of these activities.

3.2.1 General Impacts

3.2.1.1 Impacts due to raw material extraction

84. Most of the proposed sub-project activities will require number of natural resources such as sand, timber, metal, clay, etc. in order to implement the activities thereby increasing the demand for these materials. This increased demand for raw material will invariably intensify mining and extraction from the environment. In addition, due to lack of consolidated planning for sustainable extraction of required quantities, it is difficult to assess the resultant environmental damage and their long-term implications. Therefore, it is
important to consider the cumulative impacts of natural resource extraction and follow the guidelines for extraction and management of the resources. All World Bank funded projects should not extract resources or carry out any activities within protected areas gazetted under the FFPO and forest reserves under the FO.

85. **Sand**: Sand is a key resource that is needed by the construction industry and is extracted on a commercial scale mainly from the country’s major rivers. The unregulated exploitation that has continued for long years has taken a heavy toll on the environment of some of the major rivers in the country such as Kelani, Mahaweli, Kalu, Deduru etc where seawater intrusion, collapse of river banks and sea erosion caused by reduced replenishment to beaches has caused serious repercussions leading the government to place a ban on sand mining in the western river basins. In addition to river sand, inland sand deposits, sand dunes and in a limited way beach sand deposits are used as other sources for extraction of sand in various parts of the country and the shortage of sand has been reported in many instances for reconstruction activities.

86. As can be seen, river sand is becoming scarce and it is important for the country to explore and develop offshore sand mining as an alternative to relieve the stress on rivers and inland deposits. Due to a lag in development activities in the north and east, the status of this mineral in terms of availability is not as bad as the rest of the country. However, it prudent to make a careful determination as to what sources available within district can be sustainably exploited without causing any irreversible impact on the valuable water resources given the plans for rapid development activities. The project will seek the intervention of the GSMB, which regulates all mining activities in the country, for the identification of such sources within the project area and for determining the extractable quantities from each source.

87. **Clay and gravel**: With a potential of significantly increased demand for bricks and tiles, consumption of clay will likely to increase rapidly. Clay mining requires a license from the GSMB or the DS in the area to whom GSMB has delegated powers, depending on the scale of operation. Approval from the Central Environmental Authority (CEA) is also needed in certain cases for clay mining. Similarly for construction activities including for rural roads, the demand for gravel will also increase. Gravel extraction needs local authority approval. The environmental impacts of clay mining and gravel extraction can be quite significant if post-mining rehabilitative work is not properly carried out. The mining pits destroy the landscape, cause erosion and provide breeding grounds for many disease causing pests.

88. The tile kilns also use large amounts of firewood. Tile production in the country is limited and is confined to a few areas where the clay with the required quality is available. In the last 2 years there has been a sharp and sudden increase in
the demand for clay tiles as roofing material (as Asbestos is not a preferred option although it is still being used) with the commencement of post-war and post-tsunami reconstruction. The use of the cement blocks instead of clay bricks has reduced the pressure on the natural resource. However, in the absence of a national plan to sustainably source the required amount, the impact of increased production on the environment is not known, as it has not been documented.

89. The project will take these aspects into consideration and ensure that material sourcing is facilitated through suppliers who are operating with the required licensing and where project is supporting such industries relevant licenses should be in place prior to commencement of any activity. Project should also plan for cumulative impacts as well as off site impacts due to clay extraction.

90. **Timber:** Sri Lanka’s limited and fast declining forest resource base is inadequate to meet the total timber requirements of the country. As a result, large amounts of imported timber are used in the local construction industry, originating mainly from countries in the Far East. There is also considerable amount of illegal logging taking place in our local forests as documented by various studies and raids carried out by the police and the Forest Department. The danger in sudden and large demand for a limited commodity such as timber, as created by the on-going huge reconstruction work in the country, which is invariably accompanied with significant price escalations, is that it puts pressure on the local forests and often paves the way for illegal supplies.

91. To leave such a situation unchecked could prove to be environmentally disastrous. The real impact on the local forest resources due to the large consumption of timber in the post-tsunami and post-war re-building is unknown as there has been no system of monitoring and documenting the sources and quantities supplied. The project must ensure that timber for the use of project work must be supplied through registered distributors and that if any person wishes to use trees in the home garden, such as Palmyra, Coconut, Jack etc., proper approvals must be obtained from the local administration or other relevant authority. Use of cost-effective imported timber should be promoted and facilitated by the project through the registered suppliers in the district. As an alternative, the project should also evaluate the possibilities of using pre-stressed aluminum or concrete frames for doors and windows for building construction if it proves to be more cost effective.

92. **Coral:** The project should not use lime produced from coral as this is prohibited and environmentally damaging. Alternatives such as dolomite should be used where necessary with permits from the GSMB and DS.

93. **Metal:** Quarry mining can be an environmentally damaging process if the necessary mitigatory measures are not adopted. Commercial scale quarry
mining requires a license from the GSMB and CEA while smaller scale operations are regulated through licenses issued by the DS in the area. The project must ensure that metal is sourced from approved quarries where one could reasonably assume that the licensing process ensures that the environmental concerns are taken into consideration.

3.2.1.2 Impacts on environmentally sensitive sites

94. The locations of sub-projects are crucial in determining the nature and magnitude of human-environment interaction. While reconstruction activities may have less potential to create negative impacts on sensitive areas, new construction activities will have high potential for negative impacts. Site finalization has not yet been carried out and therefore during site selection for activities, the EA must ensure that encroachment on environmentally sensitive areas such as forests, mangroves, lagoon, marshes, archeological reserves, river/stream/tank reservations, etc will not take place. The site specific EAs should propose alternative sites in the event of a site being selected in a sensitive areas.

3.3.1. Potential environmental issues of proposed sub-projects

3.3.1.1 Reconstruction of damaged rural roads under PS

95. Soil erosion, air pollution, noise pollution, excessive vibration, water pollution, flooding due to improper water and drainage management, impacts due to inappropriate spoil and debris management, encroachment into environmental sensitive, historical and cultural areas, over and inappropriate exploitation of natural resources, occupational safety issues, road accidents.

3.3.1.2 Construction of rural drinking water supply and sanitation schemes

96. Infiltration of pesticides and chemical fertilizers from the nearby agricultural areas (Further contamination can place these communities at high risk from chemical poisoning), chemical contamination of ground water (can lead to grave water shortages, particularly in arid areas as Mannar), eutrophication (due to totally covered concrete lid of wells), noise pollution (can be occurred due to the operation of the pump houses of the wells), construction related issues similar to rural roads works.

3.3.1.3 Reconstruction of public building such as multipurpose community centers, markets, preschools, bus stands, dispensaries, etc.
97. Encroachment into environmental sensitive, historical and cultural areas, over and inappropriate exploitation of natural resources, improper drainage and sewage systems causing flooding and pollution.

3.3.1.4. Construction or reconstruction of flood water drainage lines

98. Issues arising from inappropriate disposal of excavated sediments and construction materials and use of borrow pits for earth, possible environmental damage (waste, noise, mud, and dust at sites) caused by contractors during construction activities, disruption of hydrological regime, and disruption of local movement and access.

3.3.1.5. Construction of solid waste management schemes

99. Poor design and siting leading to negative impacts on ecologically sensitive habitats and their diversity, contamination of ground water, loss of sites of historical and cultural significance, nuisance issue in the community during operations, air and water pollution due to selection and use of inappropriate technologies.

3.3.1.6. Rehabilitation of micro water ponds

100. Disturbance to existing hydrological balance due to raising of embankment height to increase existing storage capacity, measures not taken to improve the watershed reducing the storage capacity of the pond, accelerated soil erosion and damage to local vegetation due to earth excavation and use of construction equipment, water-logging and stagnation in borrow-pits, and disposal of construction spoils and excavated material, impacts due to poor operation and negligence of maintenance, that would include impact on soil (inadequate drainage and water logging), incidence of water borne diseases (poor cleaning of canals, road side drains and maintenance of structures), damage to lands and public property (in the event an earthen tank embankment fails due to inferior design, poor quality of construction, poor operation and neglected maintenance), pollution of streams and wells by agrochemicals (fertilizers and pesticides), and spread of pests that affect agriculture and public health.

3.3.1.7. Promotion of group economic and income generating activities such as brick-making, bakery, milk collection centers, etc.

101. Brick-making: Deforestation, environmental degradation, spreading of infectious diseases (retaining of rainwater as well as runoff water in abandoned brick pits can serve as breeding ground of disease vectors as mosquitoes), spreading of Invasive Alien Species (IAS), air pollution (due to the emission of polluted air from brick kilns)
102. Bakery: Deforestation, environmental degradation, air pollution (due to the emission of polluted air).

103. Industries that depend partially or wholly on natural resources to establish as in the case of brick-making and operation as in the case of brick-making and bakery will likely to have issues such as over exploitation of natural resources, environmental degradation and pollution.
4. Methodologies and guidelines for Environmental & Social Safeguard Assessment of sub projects

104. All infrastructure sub projects should be assessed for environmental and social safeguards (ESS). The economic returns of sub projects should not be compensated for the negative environmental and social impacts they will have on the project sites and the immediate environment, as well as the wider environment.

105. Once planning process of the PSs have been completed and sub-projects and technologies have been identified, the project should prepare a set of guidelines to prepare EMPs to be incorporated as part of LAPIM.

4.1. Guidelines for preparation of Environmental Management Plans

106. Having identified the potential impacts of the proposed project activities, the next most important step of the EA process is the identification and development of measures aimed at eliminating, offsetting and/or reducing impacts to levels that are environmentally acceptable during implementation and operation of the project. EMPs provide an essential link between the impacts predicted and mitigation measures specified within the EA and implementation and operation activities. World Bank guidelines state that detailed EMP’s are essential elements for Category A projects. While there are no standard formats for EMPs, it is recognized that the format needs to fit the circumstances in which the EMP is being developed and the requirements, which it is, designed to meet. EMPs should be prepared after taking into account comments from both the GOSL (if relevant) and IDA as well as any clearance conditions. Annex C of OP 4.01 of the World Bank safeguards outlines the important elements of the EMP and guides its preparation. Given below are the important elements that constitute an EMP.

(a) Identification of impacts and description of mitigation measures: Firstly, Impacts arising out of the project activities need to be clearly identified. Secondly, feasible and cost effective measures to minimise impacts to acceptable levels should be specified with reference to each impact identified. Further, it should provide details on the conditions under which the mitigatory measure should be implemented (ex; routine or in the event of contingencies) The EMP also should distinguish between type of solution proposed (structural & non structural) and the phase in which it should become operable (design, construction and/or operational).

(b) Enhancement plans: Positive impacts or opportunities arising out of the project need to be identified during the EA process. Some of these opportunities can be further developed to draw environmental and social
benefits to the local area. The EMP should identify such opportunities and develop a plan to systematically harness any such benefit.

(c) Monitoring programme: In order to ensure that the proposed mitigatory measures have the intended results and complies with national standards and donor requirements, an environmental performance monitoring programme should be included in the EMP. The monitoring programme should give details of the following;
- Monitoring indicators to be measured for evaluating the performance of each mitigatory measure (for example national standards, engineering structures, extent of area replanted, etc).
- Monitoring mechanisms and methodologies
- Monitoring frequency
- Monitoring locations

(d) Institutional arrangements: Institutions/parties responsible for implementing mitigatory measures and for monitoring their performance should be clearly identified. Where necessary, mechanisms for institutional co-ordination should be identified as often monitoring tends to involve more than one institution.

(e) Implementing schedules: Timing, frequency and duration of mitigation measures with links to overall implementation schedule of the project should be specified.

(f) Reporting procedures: Feedback mechanisms to inform the relevant parties on the progress and effectiveness of the mitigatory measures and monitoring itself should be specified. Guidelines on the type of information wanted and the presentation of feedback information should also be highlighted.

(g) Cost estimates and sources of funds: Implementation of mitigatory measures mentioned in the EMP will involve an initial investment cost as well as recurrent costs. The EMP should include costs estimates for each measure and also identify sources of funding.

(h) Contract clauses: This is an important section of the EMP that would ensure recommendations carried in the EMP will be translated into action on the ground. Contract documents will need to be incorporated with clauses directly linked to the implementation of mitigatory measures. Mechanisms such as linking the payment schedules to implementation of the said clauses could be explored and implemented, as appropriate.
4.2 Consultation and public disclosure

107. Consultation with affected people and other stakeholders in preparing the EMP will be an integral part of all Category A projects. In addition, all documents need to be available all times to public throughout the project period.

4.3 Institutional Arrangements for conducting the Environmental Assessment

108. It is expected that each sub-project and site will be subjected to a separate environmental analysis as described above. The LAPIM will provide the institutional input that is required to manage and clear the environmental assessments. This will include the directions on when the sub-project proposal will be needed to be forwarded to the Project Approving Agency (PAA). On examination of the preliminary information submitted, the PAA will determine the type of assessment required and furnish the project proponent with the necessary ToR to conduct the impact assessment. World Bank approval of the TOR is required as well.

109. The project proponent through hired consultants will carry out the EA and submit the report to the PAA for review and subsequent approval. Approval from the PAA will be subjected to certain conditions, which will have to be implemented and monitored over the lifetime of the project. Upon receiving approval from the PAA, the EA will be forwarded to the World Bank for concurrence, prior to disbursement. Once the project is approved and implemented, monitoring of implementation progress of each sub-project will be carried out periodically by the project proponent, the PAA and the World Bank. Monitoring carried out by the project proponent will be more frequent and the progress will be fed back to the PAA and the World Bank. This type of frequent monitoring is very important for mid-course correction.

110. According to GOSL regulations, reconstruction and rehabilitation activities will not require an environmental assessment. Similarly new constructions will require an environmental assessment only if it falls into one of the prescribed categories. Since the sites are not yet known as yet, it is too early to comment on the level of analysis that the PAA will recommend. However, IDA safeguard policies require that all sub-projects and sites be subjected to an environmental assessment (as recommended in this document) and be cleared before fund disbursement takes place. The ESMF Coordinator at the national level and Environmental and Social Safeguards Officers at the district level will be directly responsible for all environment related work, take the lead role in initiating the processes described above and for obtaining GOSL and IDA concurrence for each EA, as relevant.
4.4 Environmental Safeguards Compliance Monitoring

111. The project will conduct an independent audit once in every two years from the date of project effectiveness to review environmental safeguards compliance. The ToR for the audit is provided in Annex
5. Safeguards Screening and Mitigation

112. The selection, design, contracting, monitoring and evaluation of subprojects will be consistent with the following guidelines, codes of practices and requirements:

- A negative list of characteristics that would make a proposed subproject ineligible for support, as indicated in Annex 1;
- Guidelines for land and asset acquisition, entitlements and compensation, presented in Annex 2;
- Procedures for the protection of cultural property, including the chance discovery of archaeological artifacts, and unrecorded graveyards and burial sites, provided in Annex 3;
- The requirement that confirmation is received through the Regional Mine Action Center that areas to be accessed during reconstruction and rehabilitation activities have been demined, presented in Annex 4;
- Relevant contractual clauses to be incorporated into contract documents presented in Annex 5; and
- Sample terms of reference to be used for independent environmental audit for environmental safeguards compliance, provided in Annex 6.
Annex 1: List of Negative Subproject Attributes

Subprojects with any of the attributes listed below will be ineligible for support under the proposed emergency reconstruction operations.

<table>
<thead>
<tr>
<th>Attributes of Ineligible Subprojects</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GENERAL CHARACTERISTICS</strong></td>
</tr>
<tr>
<td>Concerning significant conversion or degradation of critical natural habitats. Including, but not limited to, any activity within wildlife and forest reserves, national parks, conservation forests and sanctuaries.</td>
</tr>
<tr>
<td>Damages cultural property, including but not limited to, any activities that affect the properties inscribed in the World Heritage List and:</td>
</tr>
<tr>
<td>• Other archaeological and historical sites; and</td>
</tr>
<tr>
<td>• Religious monuments, structures and cemeteries.</td>
</tr>
<tr>
<td>Requires involuntary acquisition of land, or the resettlement or compensation of more than 200 people</td>
</tr>
<tr>
<td>Requiring pesticides that fall in WHO classes IA, IB, or II.</td>
</tr>
<tr>
<td>Affecting waters of riparian neighbors.</td>
</tr>
<tr>
<td><strong>Drinking Water Supply</strong></td>
</tr>
<tr>
<td>New or expanded of piped water schemes to serve 10,000 or more households.</td>
</tr>
<tr>
<td><strong>Sanitation</strong></td>
</tr>
<tr>
<td>New wastewater treatment plants to serve 10,000 or more households.</td>
</tr>
<tr>
<td><strong>Roads</strong></td>
</tr>
<tr>
<td>New primary roads and highways.</td>
</tr>
<tr>
<td><strong>Irrigation</strong></td>
</tr>
<tr>
<td>New irrigation and drainage schemes.</td>
</tr>
<tr>
<td><strong>Dams</strong></td>
</tr>
<tr>
<td>Construction of dams more than 5 meters high. Rehabilitation of dams more than 15 meters high.</td>
</tr>
<tr>
<td>Attributes of Ineligible Subprojects</td>
</tr>
<tr>
<td>-------------------------------------</td>
</tr>
<tr>
<td><strong>Power</strong></td>
</tr>
<tr>
<td>New power generating capacity of more than 10 MW.</td>
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<tr>
<td><strong>Oil and Gas</strong></td>
</tr>
<tr>
<td>New exploration, production or distribution.</td>
</tr>
<tr>
<td>Rehabilitation of production or distribution systems.</td>
</tr>
<tr>
<td><strong>Income Generating Activities</strong></td>
</tr>
<tr>
<td>Activities involving the use of wood for fuel or as raw material from natural habitats.</td>
</tr>
<tr>
<td>Activities involving the use of hazardous substances.</td>
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</tbody>
</table>
Annex 2: Guidelines for Land Acquisition under NELSIP

Where public lands are not available for infrastructure development, it might become necessary to acquire land and properties which belong to the private owners. In such circumstances resettlement of the owners and their homesteads can bring about negative impacts and issues. Some of the issues which need to be addressed are highlighted below in order to fall in line with the Bank’s policy:

The Land Acquisition Act (LAA) of 1950 seems to recognize the government’s accountability to the affected property owners, who could challenge a decision up to the Supreme Court and the Board of Review. While this may have been necessitated by the application and practices of the act, the process is very time consuming. Resolution of the court cases, where the appeals could go up to the Supreme Court and Board of Review, could take a relatively long time. But the act is not sufficiently clear about how they affect possession takeover\(^1\).

The procedure involved in Land Acquisition under the Land Acquisition Act is outlined in the table below:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Minimum period for task (weeks)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Request sent to the Land Ministry under the Section 2(1) of the Act</td>
<td>Project executing agency</td>
</tr>
<tr>
<td>2</td>
<td>Approval granted by the Minister</td>
<td>Minister of Land</td>
</tr>
<tr>
<td>3</td>
<td>Preparation of a perimeter survey plan</td>
<td>Survey Department</td>
</tr>
<tr>
<td>4</td>
<td>Publication of notice under Section 4</td>
<td>Ministry Lands</td>
</tr>
<tr>
<td>5</td>
<td>Inquiry under Section 4, if any objections are brought to the Minister’s notice. Notice issued giving date of inquiry (after giving sufficient time). Followed by the inquiry and submission of the report to the ministry of lands.</td>
<td>Acquiring officer</td>
</tr>
<tr>
<td>6</td>
<td>The Minister's decision to acquire</td>
<td>Minister of Lands</td>
</tr>
</tbody>
</table>

\(^1\) It is reported that some court cases have caused stoppage of the civil works under a component in the Southern Expressway project.
<table>
<thead>
<tr>
<th></th>
<th>the land to be published in the Government Gazette.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Preparation of the preliminary plan under the section 6</td>
<td>Survey Dept.</td>
</tr>
<tr>
<td>8</td>
<td>Publication of the notice that an inquiry will be held under section 7(1) and those interested to appear before the inquiring officer for an inquiry</td>
<td>Acquiring officer</td>
</tr>
<tr>
<td>9</td>
<td>Under the section 8, any person interested in respect of the land can deliver to the acquiring officer the names and addresses of the interested parties and nature of interest in the land and all other details as rent, profit etc.</td>
<td>affected persons</td>
</tr>
<tr>
<td>10</td>
<td>Inquiry under Section 9 by acquiring officer to ascertain the market value, compensation claims of the parties and interests. Valuation department to be requested to estimate the amount of compensation to be paid.</td>
<td>Acquiring officer</td>
</tr>
<tr>
<td>11</td>
<td>Decision of inquiry (under Section 10 - 1) of persons’ right to the lands. If claimant is not satisfied with the decision, the Acquiring Officer can make a reference to district court/primary court and defer the decision until the court order is made.</td>
<td>District court/ Primary court</td>
</tr>
<tr>
<td>12</td>
<td>The result of the inquiry under Section 9 and decision under Section 10 which is the final determination makes his award under 17- giving details of (1) Persons entitled to compensation (2) Nature of interests</td>
<td>Acquiring Officer</td>
</tr>
</tbody>
</table>
Some of the shortfalls and the difficulties with using the 1950 LAA for time-bound development projects are widely recognized by project execution agencies of GoSL and the donors supporting development projects in Sri Lanka. This led to formulation of a National Involuntary Resettlement Policy (NIRP), by taking into consideration the resettlement principles and guidelines of major donors, including the World Bank. Amendments to the 1950 LAA have also been recommended to complement provisions of the NIRP and facilitate preparation and implementation of the land-based development projects. The NIRP has been adopted by the government, but the amendments to the acquisition act remain to be incorporated. As a result, land acquisition remains as difficult as before, even though the NIRP is followed to plan resettlement activities. Under the circumstances, the land acquisition process to be followed in the proposed North East Local Services Improvement Project makes use of the country’s existing LAA, the NIRP and the Bank’s OP 4.12.

**Land Acquisition Principles**

In keeping with the resettlement objectives and to avoid or minimize potential disruptions to the peoples’ livelihood, land acquisition will be guided by the following principles.

- Alternative designs will be carefully considered to avoid or minimize land acquisition in general, and particular attention will be paid to using minimum of private lands, and as much of public lands as possible.
Sub-projects will be designed to avoid or minimize acquisition of buildings/structures that house business/commercial activities. Partial dismantling of business premises in small townships and other places will be done in consultation with the owners and in ways that would not threaten the structural stability of the remainder.

Where acquisitions make residuals of housing, commercial or agricultural plots economically or otherwise unviable, the landowners will be given the option to offer the entire plots for acquisition.

In all times possibility will be sought to find land from crown land and department of land will be consulted in all matters related to land acquisition.

Alternative designs will be considered not to affect objects and sites like places of worship, cemeteries, and buildings/structures that are considered socially and religiously important.

**Voluntary donation of land:** In case of voluntary land donation, the Project will ensure the following:

- that the land is free of any structures or assets;
- so small an area that its donation does not negatively impact the livelihood of the owner;
- the voluntary nature of donation is fully and independently verified;
- that the land is unencumbered, of squatters and conflicting claims;
- that community based mitigation measures are acceptable;
- that a grievance redressal system is in place;
- that the person(s) give up all claim to the donated land and that the land is transferred in the name of the Government/Department.

**Impact Mitigation Principles**

The mitigation principles and guidelines proposed below are based on the provisions adopted in the *National Involuntary Resettlement Policy* of Sri Lanka, and the Bank’s OP 4.12 on Involuntary Resettlement.

- Where displacement is unavoidable, resettlement of the PAPs will be planned and developed as an integral part of the project and will be implemented as a development program.
- Homestead-losers, including the households living on public lands without authorization, will be given the options of physical relocation in similar locations of their choice, or in designated resettlement sites, and will be assisted with relocation.
The relocation sites, wherever needed, will be selected in consultation with the potential resettlers, and will be provided with the social and community facilities similar to those used previously. All efforts will be made not to take the PAPs far away from their residual lands, if any, and the existing sources of income and livelihood.

For compensation and assistance, encroachers who have been regularized by GoSL, and those who have earned prescriptive rights to public lands they presently use, will be treated as landowners with legal titles to the lands.

Absence of legal title will not be considered a bar to compensation for non-land assets created by public land users².

Vulnerability of the PAPs, in terms of economic, social and gender characteristics, will be identified and mitigated with appropriate policies.

Where community-wide impacts are caused in the form of affecting community facilities, restricting access to common property resources, and the like, the project will rebuild such facilities and provide for alternative accesses.

The project executing agency will bear the costs of land acquisition and resettlement.

**Impact Mitigation Modalities**

Where the most preferred “land-for-land” option is not feasible³, the compensation for lands will be fixed at their replacement value, and for other affected properties at replacement costs or market prices. The following types of compensation/entitlement will be paid for losses expected to be caused by the project.

- Compensation for the acquired lands legally owned, or on which the current users are regularized or qualified to prescriptive right (by use of public lands for at least 10 years), which include residential plots, agricultural and other lands, will be paid at ‘replacement costs’ to be determined by the Land Resettlement Committees (LRCs) headed by the Divisional Secretaries.
- Replacement costs will include registration costs or stamp duties in cases replacement of the affected lands and other assets involve such costs, subject to actual replacement.
- Loss of houses/structures and other immovable assets of value, which are to be rebuilt, will also be compensated for at replacement costs.
- Loss of other assets like trees, which cannot be replaced, will be compensated for at current market prices at the time of first acquisition notification. Compensation for affected orchards and similar commercial plantations will take

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² According to the Land Acquisition Act, if a person keeps using public land for 10 years or more may earn ‘prescriptive right’ and may become eligible for compensation for the land as well.

³ Offer and acceptance of this option will consider factors like soil quality and productivity and distance from the affected landowners’ present places of residence. If such lands are situated too far away it may not feasible for them, especially the self-cultivators, to use the lands profitably.
into account the loss of investment and income. [PS/LRCs will use expert assistance and any available standards in determining the compensation.]

- Cut-off dates will be established to determine compensation eligibility of persons and their assets. These are the dates on which census of the affected persons and their assets will be taken. Assets like houses/structures and others which are created, and the persons or groups claiming to be affected, after the cut-off dates will be ineligible for compensation.
- Where acquisition causes displacement from homesteads, the project will encourage for and assist with self-relocation. Where self-relocation is infeasible, the project will arrange for lands to relocate, and provide for basic social and physical infrastructure.
- Owners of the affected businesses will be compensated for temporary loss of income based on net income for a reasonable period of time, or a one-time lump sum grant.
- Where rented businesses premises are affected, the business owners will be paid an ‘advance rent’ for a reasonable period of time, as determined by LRCs.
- Employees of the affected businesses, who have been continuously employed for a certain period of time up to the cut-off dates, will be compensated for temporary loss of income for a reasonable period of time.
- Loss of rental income from rented-out business and residential premises situated on private lands will be compensated for a reasonable period of time, as determined by LRCs. [Rental income loss from unauthorized premises situated on public lands will be ineligible for compensation.]
- The project will identify and implement policies to mitigate any adverse impacts that are unique to any project locations and have so far remained unknown.
- Compensations/entitlements due to the PAPs will be paid in full before they are evicted from the acquired private and public lands.

**Impacts and Impactees Eligible for Compensation/Assistance**

The mitigation principles and impact mitigation modalities stated in the preceding section are operationalized by defining and categorizing the potential impacts/losses which will qualify for mitigation. The losses/impacts listed below are only the likely ones and remains open to revision as the specific projects are selected and social risks screening and assessment are carried out. Any unforeseen impacts, as and when encountered, will be taken into account along with appropriate measures to mitigate them.

**Lands (All Kinds):**

All kinds of lands, such as agricultural, residential, commercial, fallow and any other kinds of lands acquired from private ownerships. The following land users will also qualify for compensation:

1. Where public lands, on which encroachers/users have been regularized, are acquired or taken back, the affected land users will be entitled to replacement costs of the lands.
2. Where public lands, on which the users qualify for prescriptive rights (for use for 10 years or more), are taken back, the affected land users will be entitled to replacement costs of the acquired lands.

3. Where public lands are taken back from legally authorized private users, the users will be entitled to the remaining lease value and entitlements for other losses in accord with the stipulated policies.

4. The unauthorized or informal users of public lands, such as squatters and encroachers, are not eligible for compensation for land, but for other losses covered by the mitigation policies.

5. Temporary displacement of mobile vendors and other vulnerable encroachers: The project will ensure that their livelihood is not affected by helping to relocate them during construction phase

**Built Structures:**

6. *Houses and Other Structures on Private Lands:* All built structures, such as living quarters and those used for other purposes, commercial and industrial premises, and brick-concrete built amenities like drainage, sanitation facilities.

7. *Houses and Other Structures on Lands Under Prescriptive Rights:* All built structures, such as living quarters and those used for other purposes, such as commercial and industrial premises.

8. *Houses and Other Structures on Public Lands:* All built structures, such as living quarters, commercial and those used for other purposes.

**Trees and Orchards:** Market price of all trees, including those in orchards, grown on private and public lands. The compensation for fruits and other crops will be assessed and paid in terms of seasonal and perennial characteristics.

**Fruits and Other Crops:** Compensation will be assessed based on the market value of the crops standing in the field and those found on trees by LRCs.

9. *Seasonal Crops:* Compensation of such crops will be paid for only one season.

10. *Perennial Crops:* For a reasonable period of time based on the year’s value of the crops grown on the acquired lands, as determined by LRCs.

**Rental Income:** Loss of rental income from houses/structures situated on private lands, for a reasonable period of time.

**Rented Business premises:** Businesses displaced from rented premises.

**Business and Wage Income:** Temporary loss of business and wage income by the owners and employees of businesses affected on private and public lands, for a reasonable period of time.

**Severe Impacts on Livelihood:** The persons/households, whose livelihood-irrespective of landownership status- is severely affected, would be assisted to with the changed circumstances.

**Community Facilities:** Affected educational institutions and other community facilities will be rebuilt by PS. [No compensation will be paid in cash].
Common Property Resources: PS will provide alternative access to or develop similar resources, whichever is appropriate. [No compensation will be paid in cash.]

Usufruct Rights: If such rights, which have been acquired by private citizens/groups through a formal agreement with the government, PS will pay for remainder of the lease value or fulfill the obligations agreed in the contract and any other entitlements in accord with the mitigation policies. [Where agreements are between private parties, the owner of the affected property will fulfill any obligations agreed between them.]

Unforeseen Losses/Impacts: All other losses/impacts that have remained unknown as of now, but identified in PAP censuses will be mitigated with appropriate measures.

Project Affected Persons (PAPs)
As follows from the proposed mitigation principles and modalities, the following persons/households/entities will be entitled to financial and other forms of compensation and assistance. It is to be noted that depending upon the types of losses a PAP may be entitled to more than one form of compensation.

Private Land and Other Property Owners: Legally-recognized owners of affected lands and other assets built and grown on the acquired lands. Legal owners will be identified by the Divisional Secretaries.

Regularized Encroachers: Those who have been regularized on the public lands acquired or taken back for the project, as determined by the Divisional Secretaries.

Persons with Prescriptive Rights on Public Lands: Those who have been using the public lands for at least 10 years, as identified by the Divisional Secretaries.

Informal Users of Public Lands (Squatters & Encroachers): Residing on public lands and/or using such lands for income earning purposes.

Owners and Employees of Affected Businesses: For a reasonable period of time, subject to certain conditions (See Impact Mitigation Modalities).

Rental Income Earners: From rented-out premises situated on private lands, for a certain period of time (Certain conditions will apply—see Impact Mitigation Modalities).

Owners of Businesses in Rented Premises: Where businesses housed in rented premises are displaced by the acquisition.

Persons with Usufruct Rights: Owners of business and other activities on formally leased-in public lands.

Community or Groups: Where local communities and groups are likely to lose income earning opportunities or access to crucial common property resources,
special development programs will be undertaken to provide alternatives to restore and improve their livelihood.

For *adverse impacts on community facilities*, such as educational institutions, places of worship, graveyards, cremation grounds, etc, no financial compensation will be paid directly to individual persons and groups. PS will itself rebuild the affected facilities, or provide alternatives in consultation with the user communities.

**Compensation Payment**

As the lands will be acquired by using the present acquisition act, the Divisional Secretaries will pay all mandated compensation to all affected persons recognized by LAA. PS will pay all other compensations/entitlements that have been stipulated beyond the jurisdiction of acquisition act, to all eligible affected persons/households, such as titleholders, regularized encroachers, prescriptive right holders, and informal public land users.

**Consultation and Information Dissemination**

The project executing agency, PS, will ensure that all would-be affected persons, titleholders, regularized encroachers and those who have earned prescriptive rights to public lands, and informal users (squatters) of public lands, are consulted about the impacts of the proposed acquisition and recovery of possession of the lands that may have been under unauthorized private uses; proposed impact mitigation policies; and the process that would be followed to implement them. Consultations will be carried out with all stakeholders and through community meetings, which will seek active participation of the local government and administration officials. Focus-group discussions will be carried out in particular with adversely affected persons/households.

Discussions will especially focus on the provisions of the acquisition act, vis-à-vis the rights and responsibility of the affected property owners; the impact mitigation policies and the measures that have been stipulated beyond the LAA; and the mechanisms adopted to implement them. Among other issues, consultation will include the following topics:

**Consultations**: Depth of consultation and discussions will depend upon PAPs’ present knowledge of the acquisition act and the necessity and interest to learn more about it. The discussions will at least cover the following:

- A brief overview of the 1950 Land Acquisition Act, with an emphasis on the *legal notices* under the sections that directly concern the landowners, and their legal rights.
- Types of affected persons as recognized by the LAA.
- Types of losses eligible for compensation under the LAA.
- Valuation of affected assets: preparation of the *compensation claims* at open market prices; inquiry into the claims by the Divisional Secretaries and further assessments by the Valuation Officers.
- Compensation payment process.
- Any other issues/topics concerning land acquisition and compensation.
**Resettlement:** In addition to the objectives of the resettlement program, the following topics will be discussed in greater details:

- Land acquisition principles
- Principles and modalities adopted for mitigation
- Affected persons/households and assets eligible for compensation
- Mitigation measures specific to losses/impacts, including physical relocation options, special grants stipulated for acquisition-induced vulnerability.
- Grievance Redress Mechanism – its function, procedure to lodge grievances, etc.
- Compensation payment process to be used by PS
- PS’s organizational structure engaged in RAP preparation and implementation.
- Any other issues/topic deemed useful to explain resettlement process.

Required documentation of these discussion meetings will consist of minutes with dates, venues, number of participants, issues/topics discussed, major feedback which may have policy implications in terms of unforeseen impacts and project design considerations, and any agreements that may have been reached. Documentations will be available during IDA supervision of the project.

**Grievance Redress Mechanism**

The LAA allows the persons with ‘interest’ in the acquired lands to challenge the decision of the acquiring officers (Divisional Secretaries) to the courts of law, such as District Courts and Supreme Court, and finally to the Board of Review. But those who are displaced from public lands do not have a right to bring their grievances to any institutional entities. Then there could be issues and grievances which would hardly qualify as legal, but they need to be resolved somehow. As such, the Bank policy requires the borrowers to establish mechanisms to deal with issues and grievances that might be raised by all affected persons, including the informal users of public lands. The procedure is meant to reduce the incidence of expensive and time consuming litigation involving minor issues among the landowners, and to give an opportunity to those not covered by the LAA. The general Grievance Redress Mechanism established under the project will process land related grievances.

The procedure will seek to resolve an issue quickly, amicably, and transparently out of courts in order to facilitate the land acquisition and compensation determination and payment processes, and save the PAPs from resorting to expensive and time-consuming legal actions. The decisions made by GRCs will be binding on the project execution agency. To instill confidence and trust in the procedure, the convener will ensure that all grievance decisions are made in formal hearings and that the individual GRC members are not contacted by the aggrieved PAPs or stakeholders in advance. The convener will have the authority to ensure impartiality, fairness and transparency. The GRC will record the details of the grievances and the reasons that led to acceptance or rejection of the particular grievances, and will make them available for review by the IDA supervision missions and other interested persons/entities.
Attachment 2(i)

Abbreviated Resettlement Framework,

In compliance of the Bank’s Operational Policy 4.12, in case of less than 200 Project Affected People (PAPs), the following abbreviated Resettlement Framework shall be followed in order to restore housing and issue economic compensation for loss of land and livelihood through a consultative and mutually agreeable process.

Principles

- all land should be surveyed and mapped and agreement reached with government on explicit eligibility cut-off date.
- where land is disputed or land ownership is not clear, the land will be surveyed and a map thereof issued to the affected families. In case of land disputes, attempts should be made to settle disputes prior to project start.
- customary and collective rights, e.g. to grazing land and commons, should be verified and documented through community-level consultations and local authorities. Customary and collective rights are also subject to compensation.
- compensation for land, housing and assets are based on principles of replacement cost and mutually agreeable solutions based on consultative approach with PAPs.
- where affected land provide income, the equivalent to the value of the crop lost will be given in compensation, based on the value of the harvests lost until the replacement crop (e.g. fruit trees) come into full production.
- if land forms basis for other income, the value of the income hereof will be subject to third party assessment
- if PAPs are squatters/informal settlers on the land, they will receive economic/material compensation to re-establish themselves elsewhere (e.g. on government land) without suffering damage to their livelihood or living standard.

Process

1. Survey of land and assets & census of Project Affected Peoples, including squatters and informal settlers:
   - the surveyed land and assets should be identified, marked and photographed, and by the defined eligibility cut-off date the areas should be secured against encroachers.
   - the Project Affected People should be identified and registered with full data and photographs
   - a compensation package should be developed (categories of impacts and appropriate entitlements to formal and informal settlers landholders and squatters), and
• initial consultations should be conducted to identify any salient issues or
  concerns impacting on affected people. Gender separate consultations
  should be conducted in order to properly ascertain the views of the women.

2. Calculation of individual entitlements. There should be continued consultations
  with the affected people regarding the project, land acquisition and compensation
  package in order to reach mutually agreeable solution to land/asset acquisition
  and/or shifting of house. In case any PAP refuses to shift, an abbreviated
  Resettlement Plan, compliant to OP 4.12, should be developed.

3. The compensation package and abbreviated Resettlement Plan should be
  submitted to the Bank for approval, using the formats included in the Safeguards
  Framework (Attachment 3 (ii-iv)

4. The acquisition process is only completed with the actual payment of
  compensation to Project Affected People and settlement of any grievances they may
  hold.
Annex 3: Protection of Cultural Property

1. Cultural property include monuments, structures, works of art, or sites of significance points of view, and are defined as sites and structures having archaeological, historical, architectural, or religious significance, and natural sites with cultural values. This includes cemeteries, graveyards and graves.

2. The proposed operation poses limited risks of damaging cultural property since subprojects will largely consist of small investments in community infrastructure and minor public works. Further, the list of negative subproject attributes, which would make a subproject ineligible for support (Attachment 1), includes any activity that would adversely impact cultural property. Nevertheless, the following procedures for identification, protection from theft, and treatment of discovered artifacts should be followed and included in standard bidding documents as provided in Attachment 1.

Chance Find Procedures

3. Chance find procedures will be used as follows:

(a) Stop the construction activities in the area of the chance find;
(b) Delineate the discovered site or area;
(c) Secure the site to prevent any damage or loss of removable objects. In cases of removable antiquities or sensitive remains, a night guard shall be present until the responsible local authorities and the Ministry of Cultural Affairs & National Heritage take over;
(d) Notify the supervisory Engineer who in turn will notify the responsible local authorities and the Ministry of Cultural Affairs & National Heritage immediately (within 24 hours or less);
(e) Responsible local authorities and the Ministry of Cultural Affairs & National Heritage would be in charge of protecting and preserving the site before deciding on subsequent appropriate procedures. This would require a preliminary evaluation of the findings to be performed by the archeologists of the Ministry of Cultural Affairs & National Heritage (within 72 hours). The significance and importance of the findings should be assessed according to the various criteria relevant to cultural heritage; those include the aesthetic, historic, scientific or research, social and economic values;
(f) Decisions on how to handle the finding shall be taken by the responsible authorities and the Ministry of Cultural Affairs & National Heritage. This could include changes in the layout (such as when finding an irremovable remain of cultural or archaeological importance) conservation, preservation, restoration and salvage;
(g) Implementation for the authority decision concerning the management of the finding shall be communicated in writing by the Ministry of Cultural Affairs & National Heritage; and
(h) Construction work could resume only after permission is given from the responsible local authorities and the Ministry of Cultural Affairs & National Heritage concerning safeguard of the heritage.
4. These procedures must be referred to as standard provisions in construction contracts, when applicable, and as proposed in section 1.5 of Attachment 6. During project supervision, the Site Engineer shall monitor the above regulations relating to the treatment of any chance find encountered are observed.

5. Relevant findings will be recorded in World Bank Project Supervision Reports (PSRs), and Implementation Completion Reports (ICRs) will assess the overall effectiveness of the project’s cultural property mitigation, management, and activities, as appropriate.

Background

Over two decades of fighting between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) has resulted in significant landmine and unexploded ordnance (UXO) contamination in the north and east of Sri Lanka. A ceasefire between the LTTE and the Government was declared on 22 February 2002. Fighting resumed in 2006, however, culminating in the abrogation of the ceasefire agreement on 3 January 2008. In May 2009, the Sri Lankan government declared Tamil Tigers defeated, and government control was reinstated in all areas of the country.

As of 31 July 2008, approximately 148 square kilometres in 10 districts in the north and east remained contaminated by mines and UXO, according to the Information Management System for Mine Action (IMSMA), but surveying is known to be incomplete.

The Sri Lanka National Mine Action Programme operates under the leadership of the National Steering Committee on Mine Action (NSCMA), chaired by the Ministry of Nation Building and Estate Infrastructure Development (MNBEID) which provides overall guidance to the programme, with District Mine Action Offices (DMAO) and District Steering Committees (DSCs) managing the operational coordination in the mine-affected districts.

At the district level, the NSCMA has delegated authority to lead mine action to government agents and district steering committees for mine action. UNDP-supported district mine action offices in the Jaffna, Vavuniya, Batticaloa and Trincomalee districts assist the government agents to coordinate operations, such as through task prioritization, quality assurance and quality control. Lands released for demining, and resettlement and recovery by the SLA are tasked to demining agencies by MNBEID, in consultation with the government agents. Clearance operations are conducted by the SLA and seven NGOs. These operations are coordinated by MNBEID while the UNDP monitors the mine-clearance operations, to make sure the work is done according to the International Mine Action Standards and to ensure that dangerous areas are free of landmines and explosive remnants of war before people are allowed access.

Procedures for mine clearance certification

The following procedures are designed to respond to the risks caused by the presence of mines in Sri Lanka, in the context of:

- **Community rehabilitation / construction works** to be identified and implemented by the communities themselves (for small projects of up to $100,000 each);
- **Small and medium-size works** to be identified by local authorities and implemented by local contractors (for projects up to $5m each);
- **Works to be implemented directly by Government departments/agencies**, without use of contractors;
- **Large works** to be implemented by contractors (for projects above $5m);

General comment applying to all following procedures: All risk assessment and clearance tasks shall be implemented in coordination with the National Steering Committee on Mine Action (NSCMA). These procedures may need to be amended in the future depending on evolving circumstances.

### Procedure for Community-Managed Works

**Applicability:** This procedure applies to community rehabilitation/construction works to be identified and implemented by the communities themselves (for small projects of up to $100,000 each).

**Overall approach:** The communities should be responsible for making sure that the projects they propose are not in mine-contaminated areas, or have been cleared by District Mine Action Offices operating under the District Steering Committee for Mine Action (DSCMA) and the Government Agent

**Rationale:** Communities are best placed to know about mined areas in their vicinity, and have a strong incentive to report them accurately as they will carry out the works themselves.

**Procedure:**

1. Communities are required to submit a reply to a questionnaire regarding the suspected presence of mines in the area where Bank-funded community-managed projects will be implemented. This questionnaire should be formally endorsed by the Government Agent/District Steering Committee for Mine Action. It will be a mandatory attachment to the project submission by the communities and should be signed by community representatives and the external project facilitator. Financing agreements with the communities should make clear that communities are solely liable in case of a mine-related accident.

2. If the community certifies that there is no *known* mine contamination in the area, the ministry responsible for the selection of projects should check with District Steering Committee for Mine Action whether any different observation is reported on MACA’s data base.

   - If DSCMA’s information is the same, the project can go ahead for selection. The community takes the full responsibility for the assessment, and external organizations cannot be made liable in case of an accident.
o If DSCMA’s information is different, the project should not go ahead for selection as long as DSCMA’s and community’s statements have not been reconciled.

3. If the community suspects mine contamination in the area,

   o If the community has included an assessment/clearance task in the project agreed to be implemented by DSCMA (or by a mine action organization accredited by NSCMA), the project can go ahead for selection.

   o If the community has not included an assessment/clearance task in the project, the project should not go ahead for selection as long as this has not been corrected.

   o Mine clearance tasks must be implemented by Sri Lanka army (SLA) or by a mine action organization accredited by NSCMA. Communities will be penalized (subsequent funding by World-Bank funded projects shall be reduced or cancelled) if they elect to clear mines on their own.

Procedure for Small and Medium-size Works Contracted Out

Applicability: This procedure applies to small- and medium-size works to be identified by local authorities and implemented by local contractors (for projects up to $5m each).

Overall approach: NSCMA (or a mine action organization accredited by NSCMA) should provide detailed information on the mine-related risks (either based on previously done and updated general survey or on a new general survey) before projects are considered for selection. Only project sites assessed to have a nil-to-low risk would be eligible for selection, unless they have been demined by SLA or by a mine action organization accredited by NSCMA.

Rationale: Neither local authorities nor local contractors have the capacity to assess the mine-related risks in a systematic way, while they may have incentives to underestimate them.

Procedure:

1. Prior to putting up a project for selection, a general survey should be carried out by NSCMA (or a mine action organization accredited by NSCMA) to assess mine-related risks in the area of the project (this should include checking information available in the NSCMA data base).

2. If NSCMA provides information suggesting a nil-to-low risk in the proposed project area, the project can go ahead for selection.

3. The contract between the responsible ministry and the contractor will include a clause stating that in case of an accident, legal liability would be fully and solely borne by the contractor.
4. If NSCMA assesses a potentially high risk in the area (whether due to the presence of mines or uncertainty),
   - If the project includes an assessment/clearance task agreed to be implemented by SLA or by a mine action organization accredited by NSCMA, it can go ahead for selection based on agreed funding modalities (clearance may be funded either under a contract with a Bank-funded project or under existing donor agreements with the mine action organization);
   - If the project does not include an assessment/clearance task, it should not go ahead for selection as long as this has not been corrected.

Procedure for Works to be implemented directly by Government Departments/Agencies, without use of contractors

Applicability: This procedure applies to works to be implemented directly by Government departments/agencies, without use of contractors.

Overall approach: NSCMA (or a mine action organization accredited by NSCMA) should provide detailed information on the mine-related risks (either based on previously done and updated general survey or on a new general survey) before works or installation of goods/materials are carried out in any given area. Work would only be allowed to proceed in areas assessed to have a nil-to-low risk, unless they have been demined by SLA or a mine action organization accredited by NSCMA.

Rationale: Government departments and agencies responsible for providing services currently do not have the capacity to assess the mine-related risks in a systematic way, and currently follow a process of consulting with NSCMA prior to carrying out activities.

Procedure:

1. Prior to carrying out work, the Government department/agency will consult with NSCMA to assess mine-related risks in the area (this should include checking information available in the NSCMA data base). If not already done, a general survey should be carried out by NSCMA (or by a mine action organization accredited by NSCMA) to assess mine-related risks in the area.

2. If NSCMA provides detailed information on mine-related risks which suggest a nil-to-low risk in the proposed area, the work can proceed. The Government would be solely liable in case of a mine-related accident.

3. If information provided by NSCMA cannot support the assessment of a nil-to-low risk in the proposed area (whether due to the presence of mines or uncertainty), works should not go ahead before NSCMA (or a mine action organization accredited by NSCMA) carries out the necessary further assessment and/or clearance for risks to be downgraded to nil-to-low, based on agreed funding modalities (clearance may
be funded either under a contract with a Bank-funded project or under existing donor agreements with the mine action organization).

Procedure for Large Works Using Contractors

**Applicability:** This procedure applies to large works to be implemented by large contractors (projects above $5m).

**Overall approach:** The main contractor should be responsible for dealing with mine-related risks, in coordination with the NSCMA.

**Procedure:**

1. As part of the preparation of the bidding documents, a general survey should be carried out by NSCMA (or a mine action organization accredited by NSCMA) on all the areas where contractors may have to work (broadly defined). This survey should provide detailed information on mine-related risks in the various areas allowing for an un-ambiguous identification of areas that have a nil-to-low risk of mine/UXO contamination and areas where the risk is either higher or unknown. The survey should be financed out of the preparation costs of the bidding documents.

2. All survey information should be communicated to the bidders (with sufficient legal caveats so that it does not entail any liability), as information for the planning of their activities (e.g., location of campsites, access roads to quarries).

3. Depending on the nature and location of the project and on the available risk assessment, two different options can be used.

**Option 1 – Mine-clearance activities are part of the general contract**

a. Based on the general survey results, a specific budget provision for mine action during construction is set aside as a separate provisional sum in the tender documents for the general contract.

b. As a separately identified item in their bid, the bidders include a provision for a further detailed mine assessment and clearance during construction.

c. On the instruction of the Supervision Engineer and drawing on the specific provisional sum for mine action in the contract, the contractor uses one of several nominated sub-contractors (or a mine action organization accredited by NSCMA) to be rapidly available on call, to carry out assessment prior to initiation of physical works in potentially contaminated areas, and to conduct clearance tasks as he finds may be needed. The Contractor may also hire an international specialist to assist him in preparing and supervising these tasks. The Contractor is free to chose which of the accredited sub-contractors to use, and he is fully
responsible for the quality of the works and is solely liable in case of accident after an area has been demined.

d. To avoid an "over-use" of the budget provision, the Contractor is required to inform the Supervision Engineer in writing (with a clear justification of the works to be carried out) well in advance of mobilizing the mine-clearing team. The Supervision Engineer has the capacity to object to such works.

Option 2 – Mine-clearance activities are carried out under a separate contract

a. Specific, separately-awarded contracts are issued for further surveying and/or clearing of areas with a not-nil-to-low risk (under the supervision of the Engineer) by specialized contractors (or a mine action organization accredited by NSCMA). The definition of the areas to be further surveyed / cleared should be limited to those areas where any contractor would have to work, and should not include areas such as camp sites and quarries/material sites which are to be identified by the Contractor during and after bidding of the works. As a result of these further surveys and possibly clearance works, mine-related risk in the entire contract area is downgraded to nil-to-low.

b. The contract with the general Contractor specifies the extent of the portion of the construction site of which the Contractor is to be given possession from time to time, clearly indicating restrictions of access to areas where the mine risk is not nil-to-low. It also indicates the target dates at which these areas will be accessible. Following receipt of the notice to commence works from the Engineer, the Contractor can start work in all other areas.

c. The general Contractor is invited to include in its bid an amount for mine-security, to cover any additional survey / clearance he may feel necessary to undertake the works.

4. In case of an accident, a Board of Inquiry is assembled by NSCMA to investigate on the causes of the accident and determine liabilities. Large penalties should be applied on the Contractor if the Board determines that the accident resulted from a breach of safety rules.

5. All parties involved in this process are required to closely coordinate with NSCMA and to provide the Government, local communities, NSCMA, DSCMA, as well as any interested party the full available information on mine-related risks that may reasonably be required (e.g., maps of identified minefields, assessments for specific areas).
Annex 5: Safeguards Procedures for Inclusion in the Technical Specifications of Contracts

I. General

1. The Contractor and his employees shall adhere to the mitigation measures set down and take all other measures required by the Engineer to prevent harm, and to minimize the impact of his operations on the environment.

2. The Contractor shall not be permitted to unnecessarily strip clear the right of way. The Contractor shall only clear the minimum width for construction and diversion roads should not be constructed alongside the existing road.

3. Remedial actions which cannot be effectively carried out during construction should be carried out on completion of each Section of the road (earthworks, pavement and drainage) and before issuance of the Taking Over Certificate:
   
   (a) these sections should be landscaped and any necessary remedial works should be undertaken without delay, including grassing and reforestation;
   (b) water courses should be cleared of debris and drains and culverts checked for clear flow paths; and
   (c) borrow pits should be dressed as fish ponds, or drained and made safe, as agreed with the land owner.

4. The Contractor shall limit construction works to between 6 am and 7 pm if it is to be carried out in or near residential areas.

5. The Contractor shall avoid the use of heavy or noisy equipment in specified areas at night, or in sensitive areas such as near a hospital.

6. To prevent dust pollution during dry periods, the Contractor shall carry out regular watering of earth and gravel haul roads and shall cover material haulage trucks with tarpaulins to prevent spillage.

II. Transport

7. The Contractor shall use selected routes to the project site, as agreed with the Engineer, and appropriately sized vehicles suitable to the class of road, and shall restrict loads to prevent damage to roads and bridges used for transportation purposes. The Contractor shall be held responsible for any damage caused to the roads and bridges due to the transportation of excessive loads, and shall be required to repair such damage to the approval of the Engineer.

8. The Contractor shall not use any vehicles, either on or off road with grossly excessive, exhaust or noise emissions. In any built up areas, noise mufflers shall be installed and maintained in good condition on all motorized equipment under the control of the Contractor.
9. Adequate traffic control measures shall be maintained by the Contractor throughout the duration of the Contract and such measures shall be subject to prior approval of the Engineer.

III. Workforce

10. The Contractor should whenever possible locally recruit the majority of the workforce and shall provide appropriate training as necessary.

11. The Contractor shall install and maintain a temporary septic tank system for any residential labor camp and without causing pollution of nearby watercourses.

12. The Contractor shall establish a method and system for storing and disposing of all solid wastes generated by the labor camp and/or base camp.

13. The Contractor shall not allow the use of fuelwood for cooking or heating in any labor camp or base camp and provide alternate facilities using other fuels.

14. The Contractor shall ensure that site offices, depots, asphalt plants and workshops are located in appropriate areas as approved by the Engineer and not within 500 meters of existing residential settlements and not within 1,000 meters for asphalt plants.

15. The Contractor shall ensure that site offices, depots and particularly storage areas for diesel fuel and bitumen and asphalt plants are not located within 500 meters of watercourses, and are operated so that no pollutants enter watercourses, either overland or through groundwater seepage, especially during periods of rain. This will require lubricants to be recycled and a ditch to be constructed around the area with an approved settling pond/oil trap at the outlet.

16. The contractor shall not use fuelwood as a means of heating during the processing or preparation of any materials forming part of the Works.

IV. Quarries and Borrow Pits

17. Operation of a new borrow area, on land, in a river, or in an existing area, shall be subject to prior approval of the Engineer, and the operation shall cease if so instructed by the Engineer. Borrow pits shall be prohibited where they might interfere with the natural or designed drainage patterns. River locations shall be prohibited if they might undermine or damage the river banks, or carry too much fine material downstream.

18. The Contractor shall ensure that all borrow pits used are left in a trim and tidy condition with stable side slopes, and are drained ensuring that no stagnant water bodies are created which could breed mosquitoes.
19. Rock or gravel taken from a river shall be far enough removed to limit the depth of material removed to one-tenth of the width of the river at any one location, and not to disrupt the river flow, or damage or undermine the river banks.

20. The location of crushing plants shall be subject to the approval of the Engineer, and not be close to environmentally sensitive areas or to existing residential settlements, and shall be operated with approved fitted dust control devices.

V. Earthworks

21. Earthworks shall be properly controlled, especially during the rainy season.

22. The Contractor shall maintain stable cut and fill slopes at all times and cause the least possible disturbance to areas outside the prescribed limits of the work.

23. The Contractor shall complete cut and fill operations to final cross-sections at any one location as soon as possible and preferably in one continuous operation to avoid partially completed earthworks, especially during the rainy season.

24. In order to protect any cut or fill slopes from erosion, in accordance with the drawings, cut off drains and toe-drains shall be provided at the top and bottom of slopes and be planted with grass or other plant cover. Cut off drains should be provided above high cuts to minimize water runoff and slope erosion.

25. Any excavated cut or unsuitable material shall be disposed of in designated tipping areas as agreed to by the Engineer.

26. Tips should not be located where they can cause future slides, interfere with agricultural land or any other properties, or cause soil from the dump to be washed into any watercourse. Drains may need to be dug within and around the tips, as directed by the Engineer.

VI. Historical and Archaeological Sites

27. If the Contractor discovers archaeological sites, historical sites, remains and objects, including graveyards and/or individual graves during excavation or construction, the Contractor shall:
a. Stop the construction activities in the area of the chance find.
b. Delineate the discovered site or area.
c. Secure the site to prevent any damage or loss of removable objects. In cases of removable antiquities or sensitive remains, a night guard shall be present until the responsible local authorities and the Ministry of Cultural Affairs & National Heritage take over.
d. Notify the supervisory Engineer who in turn will notify the responsible local authorities and the Ministry of Cultural Affairs & National Heritage immediately (less than 24 hours).
e. Contact the responsible local authorities and the Ministry of Cultural Affairs & national Heritage who would be in charge of protecting and preserving the site before deciding on the proper procedures to be carried out. This would require a preliminary evaluation of the findings to be performed by the archeologists of the Ministry of Cultural Affairs & National Heritage (within 72 hours). The significance and importance of the findings should be assessed according to the various criteria relevant to cultural heritage, including the aesthetic, historic, scientific or research, social and economic values.

f. Ensure that decisions on how to handle the finding be taken by the responsible authorities and the Ministry of Cultural Affairs & National Heritage. This could include changes in the layout (such as when the finding is an irremovable remain of cultural or archeological importance) conservation, preservation, restoration and salvage.

g. Implementation for the authority decision concerning the management of the finding shall be communicated in writing by the Ministry of Cultural Affairs & National Heritage; and

h. Construction work will resume only after authorization is given by the responsible local authorities and the Ministry of Cultural Affairs & National Heritage concerning the safeguard of the heritage.

VII. Disposal of Construction and Vehicle Waste

28. Debris generated due to the dismantling of the existing structures shall be suitably reused, to the extent feasible, in the proposed construction (e.g. as fill materials for embankments). The disposal of remaining debris shall be carried out only at sites identified and approved by the project engineer. The contractor should ensure that these sites (a) are not located within designated forest areas; (b) do not impact natural drainage courses; and (c) do not impact endangered/rare flora. Under no circumstances shall the contractor dispose of any material in environmentally sensitive areas.

29. In the event any debris or silt from the sites is deposited on adjacent land, the Contractor shall immediately remove such, debris or silt and restore the affected area to its original state to the satisfaction of the Supervisor/Engineer.
30. Bentonite slurry or similar debris generated from pile driving or other construction activities shall be disposed of to avoid overflow into the surface water bodies or form mud puddles in the area.

31. All arrangements for transportation during construction including provision, maintenance, dismantling and clearing debris, where necessary, will be considered incidental to the work and should be planned and implemented by the contractor as approved and directed by the Engineer.

32. Vehicle/machinery and equipment operations, maintenance and refueling shall be carried out to avoid spillage of fuels and lubricants and ground contamination. An 'oil interceptor’ will be provided for wash down and refueling areas. Fuel storage shall be located in proper bunded areas.

33. All spills and collected petroleum products shall be disposed of in accordance with standard environmental procedures/guidelines. Fuel storage and refilling areas shall be located at least 300m from all cross drainage structures and important water bodies or as directed by the Engineer.

VIII. HIV/AIDS Education

34. The Contractor shall ensure that detection screening of sexually transmitted diseases, especially with regard to HIV/AIDS, amongst laborers is actually carried out and will submit a certificate of compliance to the Head Construction Engineer.
Annex 6: Sample Terms of Reference for the Environmental Compliance Audit

Introduction
The NELSIP has a potential to develop sub-projects that will bring about negative environmental issues and therefore, all such sub-projects will be required to undergo Environmental Assessments (EA) and include Environmental Management Plans (EMPs). The EMPs are critical element of the sub-project proposals and ensuring compliance of these is key for (1) the parties responsible of this component including MNB..., Provincial Councils and PSs establish a mechanism to oversee that the EMPs are implemented, and (2) the World Bank be afforded the opportunity to be able to effectively determine whether obligations of effective implementation of EMPs are being carried out. In order to achieve this, it has been identified an independent environmental compliance audit will be conducted every two years.

Scope
The scope of the audit is and not limited to:

- Review the knowledge of various levels of planning, approving, implementing and monitoring parties including MNB, PCs, ACLGs and PSs of the environmental safeguards compliance requirements of this component and their responsibilities in implementing and/or monitoring EMPs.
- Review of procedures used to address environmental issues and compliance to the PSOM and environmental guidelines of Sri Lanka and the World Bank including ESMF
- Review relevant documentation such as (i) existence of appropriate and approved in a selected sample of sub-projects; (ii) existence of EMPs as per the generic guidelines in ESMF part of the sub-project proposals; (iii) presence of relevant environmental licenses, permits and/or approvals; (iv) quarterly progress reports by ESMF Coordinator and Environmental and Social Officers at district level, minutes of PS-ESC; (v) training records
- Review the work performed by PSs in reference to EMP implementation of the selected sub-projects.
- Conduct a training needs assessment to improve knowledge and compliance gaps

Audit Process
The audit process will include and not limited to:

- An opening meeting with the Project Director and ESMF Coordinator to discuss the proposed methodology of the audit process, request for relevant documentation such as ESMF and PSOM and required administrative support to conduct the audit
- Selection of a random sample of 25% participating PSs and 50% of the sub-projects within each selected PS for the audit.
- Organize and conduct the site visits with the support of SPO- Environmental and Social Safeguards to conduct interviews, review documentation, etc.
Follow-up audits will be conducted every two years with a newly selected sample. This sample may include samples selected earlier covering a maximum of 10% of the previous selections.

Audit reporting

- Based on the findings as given under the section scope, the consultant is expected to analyze the information focused mainly on the processes and provide an independent opinion of the level of compliance to safeguards requirements in planning, approving, implementing and monitoring environmental requirements and provide reasons for the proposed opinions.
- Indicate specifically if there are substantive knowledge gaps and where.
- Provide recommendations to improve the overall environmental safeguards process

The report will be initially prepared in English, but will be required to be translated into Sinhala and Tamil prior to disclosure and dissemination.

NOTE: Presentation of the findings and recommendations should not be based in individuals or individual work practices. The consultant should be completely independent in their analysis and should not be influenced by their interactions with project staff, beneficiaries and other stakeholders.

Audit report disclosure and dissemination

The final approved report in all three languages will be disclosed to the public and will be available for review at any given time in the GNF, Regional Facilitation Unit, District Facilitation Unit, and selected PSs and ZECs for a given audit. In addition, it will be disseminated to all participating PSs and ZECs as a document to be used as guidance to improve their own processes.

Qualifications of the consultant

- Experience in conducting environmental audits specifically for infrastructure development
- Familiar with environmental policies and regulations of the GOSL and the World Bank.
- Experience and/or excellent understanding of the PS system in Sri Lanka and community driven development.
- Expertise on environmental issues related to infrastructure development, linking communities and public institutions in the development process, institutional development to mainstream environmental safeguards implementation and monitoring and evaluation systems.
- Ability to conduct consultations in local languages and prepare the final report in all three languages.
- Advanced skills in effective communication, including community and public institutions.